

**RESOLUTION NO. 11278**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE REPEALING RESOLUTION NO. 11059 AND APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ORANGE AND THE WATER DIVISION EMPLOYEES' ASSOCIATION, CONCERNING WAGES, HOURS, AND OTHER CONDITIONS OF EMPLOYMENT EFFECTIVE JANUARY 1, 2020 THROUGH AND INCLUDING DECEMBER 31, 2023**

**WHEREAS**, the City of Orange, hereinafter referred to as "City", and the Water Division Employees' Association, hereinafter referred to as "Association", have met and conferred in accordance with requirements of the Meyers-Milias-Brown Act; and

**WHEREAS**, the City and the Association have reached agreement on wages, hours, and other terms and conditions of employment effective January 1, 2020 through December 31, 2023 and the City Council desires to repeal Resolution No. 11059 and amendments thereto for said employees, as set forth in the Memorandum of Understanding, hereinafter referred to as "MOU"; and

**WHEREAS**, on December 10, 2019, the City and the Association adopted Resolution No. 11198, A Resolution of the City Council of the City of Orange Establishing a Letter of Understanding Between the City of Orange and the Water Division Employees' Association effective January 1, 2020; and

**WHEREAS**, on August 11, 2020, the City and the Association adopted Resolution No. 11261, a Resolution of the City Council of the City of Orange Establishing a Side Letter Agreement between the City of Orange and the Water Division Employees' Association effective July 1, 2020 through December 31, 2023; and

**WHEREAS**, the City and the Association agreed to incorporate the provisions contained in the Side Letter Agreement noted above into a new MOU once both parties had an opportunity to review and concur on any and all language changes included in the new MOU.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Orange that the attached MOU is approved and incorporated by reference as Exhibit A as though fully set forth herein.

**ADOPTED** this 10<sup>th</sup> day of November 2020.

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Mark A. Murphy, Mayor, City of Orange

**ATTEST:**

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Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA   )  
COUNTY OF ORANGE    )  
CITY OF ORANGE        )

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 10<sup>th</sup> day of November, 2020 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

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Pamela Coleman, City Clerk, City of Orange



**Exhibit A**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE CITY OF ORANGE**

**AND**

**THE WATER DIVISION EMPLOYEES'  
ASSOCIATION**

**JANUARY 1, 2020 THROUGH DECEMBER 31, 2023**

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## **ARTICLE I**

### **RECOGNITION OF ASSOCIATION**

**SECTION 1.** Pursuant to the provisions of the Employer-Employee Relations Resolution No. 3611 of the City of Orange, hereinafter referred to as "City", for the purpose of meeting its obligations under the Meyers-Milius-Brown Act (Government Code Section 3500 et. seq.), Employer-Employee Relations Resolution No. 3611 and this Memorandum of Understanding, hereinafter referred to as "MOU", has recognized the City of Orange Water Division Employees' Association, hereinafter referred to as "Association", as the majority representative of the employee classifications listed within Appendix A. As majority representative, the Association is empowered to act on behalf of all employees who hold positions in classifications covered by this MOU whether or not they are individually members of the Association, when City rules, regulations, or law affecting wages, hours or other terms and conditions of employment are amended or changed.

**SECTION 2.** Any modification or interpretation of the rights of the parties concerning recognition set forth above shall only be established in accordance with Federal and/or State law.

## **ARTICLE II**

### **NON-DISCRIMINATION**

**SECTION 1.** The parties mutually recognize and agree to protect the rights of all employees herein to join and/or participate in protected Association activities in accordance with the Employer-Employee Relations Resolution and Government Code Sections 3500 et. seq.

**SECTION 2.** In accordance with Federal and State law, the City and the Association agree that they shall not discriminate against any employee on the basis of actual or perceived race, color, national origin, religion, sex, gender, gender identity, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, pregnancy, childbirth or related medical condition, status as a covered veteran, or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994) or any other lawfully protected class. The City and the Association shall reopen any provision of this MOU for the purpose of complying with any final order of a Federal or State agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this MOU in compliance with Federal or State anti-discrimination laws.

## **ARTICLE III**

### **SALARIES**

**SECTION 1. BASIC COMPENSATION PLAN.** A basic compensation plan is established for all employees covered by this MOU, who are now employed, or will in the future be employed, in any of the designated classification titles listed in this MOU and its attachments.

SECTION 2. SALARIES. Salaries and their effective dates for employees covered by this MOU are listed in Appendix A. The salary and wage schedules shall constitute the basic compensation plan consisting of six (6) steps or rates of pay in each range. The respective ranges shall be identified by number and the steps by the letters A to F. The listed salary and wage schedules are based on a forty (40) hour work week.

SECTION 3. HOURLY RATE PART-TIME EMPLOYEES.

- A. For all employees who have a regular weekly work schedule of forty (40) hours, the equivalent hourly rate of pay shall be the monthly rate times twelve (12) divided by 2,080 annual hours. The hourly rate for persons employed on a regular part-time or temporary basis in an equivalent classification shall be determined in the same manner. In determining the hourly rate as herein provided, compensation shall be made to the nearest half ( $\frac{1}{2}$ ) cent.
- B. Regular part-time employees who are scheduled to work on an average of at least twenty (20) hours per week on a year-round basis may be considered for advancement to the next higher step upon completion of hours of employment equal to the minimum number of months of service required by full-time employees. 1,040 hours of regular part-time employment shall equal six (6) months' service.

SECTION 4. BEGINNING RATES. A new employee of the City shall be paid the rate shown in Step A in the range assigned to the classification for which the employee has been hired, except that on the request of the Department Head under whom the employee will serve, and with the authorization of the Human Resources Director, such employee may be placed at any step depending upon the employee's qualifications.

SECTION 5. SERVICE. The word service as used in this MOU, shall be defined to mean continuous, full-time service in an employee's present classification, service in a higher classification, or service in a classification allocated to the same salary range and having generally similar duties and requirements.

A lapse of service by any employee for a period of time longer than thirty (30) calendar days by reason of resignation or for any length of time due to discharge eliminates the accumulated length of service time of such employee for the purpose of this MOU. Employees re-entering the service of the City shall be considered as a new employee, except that the employee may be re-employed within one (1) calendar year and placed in the same salary step in the appropriate compensation range as the employee was at the time of the separation of employment.

SECTION 6. ADVANCEMENT WITHIN SALARY RANGES. The following regulations shall govern salary advancement:

- A. Merit Advancement. An employee shall be considered for advancement through the salary range based only on continuous, meritorious, and efficient service, and continued improvement by the employee in the effective performance of the duties of the position. If merited, advancement through the salary range shall occur in yearly increments. A merit increase shall become effective on the first day of the pay period following completion of

the length of service required for such advancement. Such merit advancement shall require the following:

- 1) The Department Head shall file with the Human Resources Director a Personnel Action Form and a completed Performance Evaluation form recommending the granting or denial of the merit increase and supporting such recommendation with specific reasons therefore. If denied by the Human Resources Director, the reason for denial will be provided to the Department Head.
- B. Special Merit Advancement. When an employee demonstrates exceptional ability and proficiency in the performance of duties, the Department Head may recommend to the Human Resources Director that said employee be advanced to a higher pay step without regard to the minimum length of service provisions contained in this MOU. The Human Resources Director may, on the basis of a Department Head's recommendation, approve and effect such advancement.
- C. Length of Service Required When Advancement is Denied. When an employee is not approved for advancement to the next higher salary step, the employee may be reconsidered for such advancement at any subsequent time. This reconsideration shall follow the same steps and shall be subject to the same action as provided in Section 6A.

SECTION 7. REDUCTION IN SALARY STEPS. Any employee who is being paid on a salary step higher than Step A may be reduced by one or more steps for disciplinary reasons upon the recommendation of the Department Head with the approval of the Human Resources Director.

SECTION 8. BILINGUAL ASSIGNMENT. Employees covered by this Resolution may be assigned by the Department Head, with approval of the Human Resources Director, to a bilingual assignment. The Department Head shall determine the number of bilingual assignment positions which are necessary based upon a demonstrable need and frequency of use. Employees on bilingual assignment shall receive an additional \$140.00 per month for the duration of the assignment. Employees receiving bilingual assignment compensation may be required to take and pass a proficiency test on an annual or as needed basis as determined by the Human Resources Department. No permanency or seniority may be obtained in a bilingual assignment and such assignment may be revoked at any time by the Human Resources Director or a duly authorized designee. No employee shall be required to perform a Bilingual Assignment on a regular basis or employ bilingual skills on a regular basis who is not receiving bilingual pay. This form of pay, also referred to as "Bilingual Premium", shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(4), and pensionable compensation for New Members and pursuant to CalPERS Regulations, Section 571.1(b)(3).

SECTION 9. SHIFT PREMIUM. All employees who are assigned to shifts that start between 12:00 p.m. and 6:00 a.m. shall receive a two percent (2%) premium based upon the employee's base salary for all hours worked. Employees who are assigned shifts that start between 6:00 a.m. and 12:00 p.m. are not entitled to this compensation. This form of compensation, also referred to as "Shift Differential", shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section



571(a)(4), and pensionable compensation for New Members and pursuant to CalPERS Regulations, Section 571.1(b)(3).

SECTION 10. CERTIFICATION PREMIUMS.

- A. Upon proof of permanent/non-interim certification of a State of California Department of Health Services Water Distribution Operator Certification:
  - 1. Employees who possess a Grade I Water Distribution Certificate (D-1) shall receive a flat \$75.00 per month premium.
  - 2. Employees who possess a Grade II Water Distribution Certificate (D-2) shall receive a flat \$100.00 per month premium.
  - 3. Employees who possess a Grade III Water Distribution Certificate (D-3) shall receive a flat \$150.00 per month premium.
  - 4. An employee who possesses two (2) or more of the above certifications is eligible to receive only the highest grade-certificate premium. There shall be no pyramiding of certificate premiums.
- B. Upon proof of permanent/non-interim certification of a State of California Department of Health Services Water Treatment Certification:
  - 1. Employees who possess a Grade 2 Water Treatment Certificate (T-2) shall receive a flat \$75.00 per month premium.
  - 2. Employees who possess a Grade 3 Water Treatment Certificate (T-3) shall receive a flat \$150.00 per month premium.
- C. An employee who possesses two (2) or more of the above certifications is eligible for cumulative premium compensation.
- D. The above forms of compensation, also referred to as "Educational Incentive" shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(2), and pensionable compensation for New Members pursuant to CalPERS Regulations, Section 571.1(b)(2).

SECTION 11. SPECIAL ASSIGNMENT. The Public Works' Water Division shall establish two (2) special assignments as Welders. Public Works' Water Division employees covered by the terms and conditions of this MOU may be so assigned at the discretion of the Department Head or a duly authorized designee. Water Division personnel so assigned and performing these and related duties shall receive \$100.00 per month during the period of such special assignment. This form of compensation, also referred to as "Gas Maintenance Premium", shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(4), and pensionable compensation for New Members pursuant to CalPERS Regulations, Section 571.1(b)(3).

### Special Assignment Guidelines.

- A. Water Division personnel assigned to positions specified in Section 11 above shall move on a step-to-step basis without changing anniversary date.
- B. All special assignments to positions set forth in Section 11 above of Water Division employees shall be made or revoked at the discretion of the Department Head or a duly authorized designee.
- C. There is no period of probation required in a special assignment and no permanency or seniority may be obtained in a special assignment. A regular full-time or part-time employee in a classification retains that current classification during special assignments.

**SECTION 12. CRANE OPERATOR.** The Public Works' Water Division shall establish special assignments as Crane Operators. Public Works Water Division employees covered by the terms and conditions of this MOU may be so assigned at the discretion of the Department Head or a duly authorized designee. Water Division personnel so assigned and performing these and related duties shall receive \$50.00 per month during the period of such special assignment. An employee who possesses a crane operator certification, but is not so assigned, will not receive this special assignment pay. An employee not so assigned shall not be directed to perform crane duties. This form of compensation, also referred to as "Heavy/Special Equipment Operator Premium", shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(4), and pensionable compensation for New Members and pursuant to CalPERS Regulations, Section 571.1(b)(3).

**SECTION 13. PERFORMANCE EVALUATIONS.** Any dispute as to the contents of the performance evaluation shall first be discussed with the immediate supervisor. If not resolved, the employee may appeal the disputed evaluation through the appropriate chain of command up to the Department Head whose decision shall be final and binding.

Notwithstanding the paragraph above, in the event a substantial disagreement regarding the content of the performance evaluation continues, the employee may submit a clarifying memorandum within thirty (30) calendar days which shall become a part of the Performance Evaluation and shall be filed with the Performance Evaluation in the employee's personnel file in the Human Resources Department.

## **ARTICLE IV**

### **WORK WEEK**

**SECTION 1.** The regular work week for all employees covered by this MOU shall be forty (40) hours per week.

**SECTION 2.** The department shall discuss proposed changes in the established work schedule with the affected employees prior to the implementation of the change.

## **ARTICLE V**

### **PROBATION**

An employee initially appointed to a classification shall serve a probationary period of twenty-six (26) pay periods during which the employee shall have an opportunity to demonstrate suitability for the job. With the approval of the Human Resources Director, the Department Head may, for just cause, extend the probationary period up to an additional thirteen (13) consecutive pay periods. The employee shall attain regular status in the classification upon successful completion of the probationary period or any extension of the probationary period. An employee who does not satisfy the standards of the classification during the probationary period shall be notified, in writing, and termination or demotion proceedings shall be initiated. A newly hired probationary employee shall not be entitled to appeal a termination or a demotion, except as is provided by law.

Employees serving an initial probationary period are not eligible to compete for closed/promotional recruitment processes.

## **ARTICLE VI**

### **PROMOTION**

**SECTION 1. SALARY STEP ASSIGNMENT.** When an employee is promoted to a position of a higher classification, the employee may be assigned to Step A in the appropriate range for the higher classification; provided, however, that if such employee is already being paid at a rate equal to or higher than Step A in the appropriate range for the higher classification, the employee may be placed in the step in that appropriate salary range as will grant the employee an increase of at least one (1) but no more than three (3) salary steps, at the discretion of the Department Head and the Human Resources Director.

**SECTION 2. ELIGIBILITY LIST.** When an eligible employee remains in higher bands of a current eligibility list, and a Department Head selects an eligible employee in a lower band, upon request, the eligible employee in the higher band will be notified of the reasons for non-selection.

## **ARTICLE VII**

### **DEMOTION**

When an employee is demoted for disciplinary reasons to a position in a lower classification, the new salary rate shall be assigned to the appropriate salary range for the lower classification and the salary rate shall be reduced by at least one (1) step.

## **ARTICLE VIII**

### **REASSIGNMENT OF COMPENSATION RANGES**

**SECTION 1.** Any employee who is employed in a classification which is allocated to a different pay range shall retain the same salary in the new range as previously held in the prior range, and shall retain credit for length of service acquired in the previously held step toward advancement to the next higher step in the new salary range; provided, however:

- A. That if such retention shall result in the advancement of more than one step in the old pay range, the Human Resources Director may, at the time of reassignment, place the employee in a step which will result in an increase of only one step.
- B. That if the reassignment is to a lower compensation range, the F step of which is lower than the employee's existing rate of pay at the time of reassignment, the employee shall continue to be paid at the existing rate of pay until such time as the position shall be reassigned to a compensation schedule which will allow for further salary advancement, or until such time as the employee is promoted to a position assigned to a higher compensation range.
- C. That if the reassignment is to a lower compensation range, the F step of which is higher than the existing rate of pay, the employee shall be placed in that step of the lower compensation range which is closest to, but no lower than, the existing rate of pay.

## **ARTICLE IX**

### **WORKING OUT OF CLASS**

**SECTION 1.** The City may work employees out of classification for up to ten (10) consecutive working days without additional compensation.

**SECTION 2. ACTING TIME PAY.** An employee shall receive acting time pay, as further defined below, at Step A of the higher class, or five percent (5%) above the employee's regular salary, whichever is greater, for work performed in the higher classification on the eleventh (11<sup>th</sup>) consecutive working day out of class, and for each consecutive day thereafter an employee works out of class. The Department Head or a duly authorized designee shall assign the employee to work out of classification but shall notify the Human Resources Director prior to the assignment.

- A. **Temporary Upgrade Pay.** When an employee is working out of classification due to an incumbent's approved leave of absence, said employee shall receive Temporary Upgrade Pay. Temporary Upgrade Pay, as defined by California Code of Regulations 571(a)(3), is "compensation to employees who are required by their employer or governing board or body to work in an upgraded position/classification of limited duration."

The above form of compensation shall be reported to CalPERS as special compensation and therefore compensation earnable. However, Temporary Upgrade Pay will not be

reported to CalPERS as pensionable compensation for New Members hired on or after January 1, 2013, as defined by the Public Employees' Pension Reform Act of 2013 (PEPRA).

- B. Out-of-Class Appointment. Out-of-class appointments shall only be made for positions vacated due to voluntary resignation, promotion, demotion or termination. Gov. Code section 20480 of the Public Employees' Retirement Law (PERL) defines an "out-of-class appointment" to mean an appointment to an upgraded position or higher classification by an employer or governing board or body in a vacant position for a limited duration. For purposes of this section, a "vacant position" refers to a position that is vacant during recruitment for a permanent appointment. A vacant position does not refer to a position that is temporarily available due to another employee's leave of absence (see "Temporary Upgrade Pay" above).

SECTION 3. ELIGIBILITY PERIOD. During the ten (10) consecutive working day eligibility period before an employee is entitled to receive acting time pay, absence for compensatory time and/or vacation shall break consecutiveness and cause the ten (10) consecutive working day eligibility period to start over. Absences for regularly scheduled holidays, regular days off, jury duty, and/or verifiable sick leave shall not constitute a break in consecutiveness for acting pay eligibility.

SECTION 4. PROMOTION FROM ACTING INTO PERMANENT POSITION. An employee who is promoted from an acting position to that same position on a permanent basis shall receive credit for time served while acting in that position, towards any applicable probationary period for the permanent position, up to a maximum of six (6) months.

## **ARTICLE X**

### **OVERTIME/COMPENSATORY TIME/CALL BACK**

SECTION 1. ENTITLEMENT FOR OVERTIME. All employees shall be entitled to overtime compensation for all hours worked in excess of forty (40) hours per week within the employee's regular work week.

#### SECTION 2. OVERTIME OR COMPENSATORY PAYMENT.

- A. Overtime shall be paid either in the form of pay at the employee's regular hourly rate or equal time off. The method of payment of overtime, either in cash or equivalent time off, must be authorized and approved by the Department Head.
- B. If the return to work is scheduled at least twenty-four (24) hours prior, then the employee shall receive a minimum of two (2) hours of overtime. If the return to work is not scheduled at least twenty-four (24) hours prior, or unscheduled, then the employee shall receive the minimum two and one-half (2 ½) hours as noted in Section 12A of this Article.

SECTION 3. OVERTIME ACCUMULATION. Overtime shall be accumulated at the rate of one (1) hour of compensatory time for each one (1) hour of overtime worked except for callback pay and premium overtime (time and one-half). Callback time shall be accumulated in accordance with Sections 12 and 14. Premium overtime shall be accumulated in accordance with Section 10.

Only time actually worked (except callback) shall count in the computation of overtime, except that for the term of this agreement, the time off for holidays falling in any work week, Monday through Friday, or callback in accordance with Sections 12 and 14, shall be counted towards the computation of overtime. However, any fatigue pay hours, as determined and used pursuant to the Public Works Department Policy, shall count in the computation of overtime, and in the event of a City Hall Holiday Closure (during the Christmas/New Year's Holiday), any paid leave hours (i.e., vacation, compensatory time, holiday or sick leave) used during the Holiday Closure shall also count in the computation of overtime. If an employee works what would be their regularly scheduled hours during the Holiday Closure, then the employee shall not use any paid leave hours for the hours of work performed. If an employee works outside of their regularly scheduled hours during the Holiday Closure, then such hours will be counted on top of any paid leave hours when calculating the total hours worked for purposes of overtime.

SECTION 4. COMPENSATORY TIME ACCUMULATION. Compensatory time for overtime shall be accumulated in no less than one-quarter ( $\frac{1}{4}$ ) hour per day increments. When an employee works less than one-quarter ( $\frac{1}{4}$ ) hour per day of overtime, the employee shall not receive compensatory time for overtime of less than one-quarter ( $\frac{1}{4}$ ) of an hour per day worked.

SECTION 5. ELIGIBILITY. In order to be entitled to overtime, such overtime must be authorized by the Department Head or a duly authorized designee.

SECTION 6. MAXIMUM COMPENSATORY TIME ACCRUAL. Any accumulated compensatory time accrued in excess of eighty (80) hours per calendar year shall be automatically paid in the first pay period of the new calendar year.

SECTION 7. USE OF COMPENSATORY TIME.

- A. Accumulated compensatory time off may be taken by an employee upon reasonable notice and prior approval of the Department Head or a duly authorized designee.
- B. Accumulated compensatory time off shall be taken by an employee when directed by the Department Head or a duly authorized designee; provided, however, that the Department Head or a duly authorized designee gives an employee at least ten (10) days' notice prior to the date compensatory time off is to be taken.
- C. In approving and directing compensatory time off, the Department Head or a duly authorized designee will, as far as practicable, attempt to accommodate employee convenience to the degree possible in light of the operational requirements of the department.

SECTION 8. PREMIUM OVERTIME COMPENSATION. If in the event of circumstances beyond the City's control (such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or other similar circumstances), an employee is required to hold over on a normal work

shift, and to jointly work with another employee who has been called back pursuant to Sections 12 or 14 herein, then such employee shall be entitled to premium overtime compensation (time and one-half).

SECTION 9. Nothing herein is intended to limit or restrict the authority of the City to require any employee to perform overtime work.

SECTION 10. Whenever two (2) or more premium compensation (time and one-half) rates or overtime rates may appear to be applicable to the same hour or hours worked by any employee, there shall be no pyramiding or adding together of such premium (time and one-half) or overtime rates and only the higher applicable rate shall apply.

SECTION 11. When an employee is promoted to a higher classification not covered by this MOU, all compensatory time previously earned shall be paid in cash at the time of the promotion and at the employee's current rate of pay prior to promotion.

SECTION 12. CALLBACK PAY.

- A. If, after completing a normal work shift, and after having left City premises and/or the employee's work location, an employee is required to be called back to work, the employee shall be compensated at the rate of one and one-half (1½) times the employee's equivalent hourly base rate for each hour compensated as callback. An employee shall be compensated for a minimum of two and one-half (2½) hours callback compensation or the equivalent time off at one and one-half (1½) times the actual hours worked, regardless of whether the employee actually works less than two and one-half (2½) hours. This provision applies even though an employee's regular work week is not completed, but shall not apply to employees who are continuing on duty for their normal work shift. Section 14 below denotes compensation provided when an employee is eligible for both callback pay and standby pay.
- B. If the return to work is scheduled at least twenty-four (24) hours prior, then the employee shall receive a minimum of two (2) hours of overtime. If the return to work is not scheduled at least twenty-four (24) hours prior, or unscheduled, then the employee shall receive the minimum two and one-half (2½) hours as noted above.

SECTION 13. STANDBY PAY. Employees, assigned by Management to standby status after their regular work hours, will receive two (2) hours per day (Mondays through Fridays) of standby pay at their straight time hourly rate, or three (3) hours per day for Saturdays, Sundays, and Holidays, days where the City closes services (i.e., Holiday Closure), and regular days off (i.e., the employee's scheduled Friday off as part of the 9/80 schedule). Employees must be capable of performing all duties that would be required if called back to work.

SECTION 14. CALLBACK PAY PLUS STANDBY PAY. Employees who are called back to work pursuant to Section 12 above, and who are assigned by Management to standby status after their regular work hours pursuant to Section 13 above, will receive two (2) hours per day (Mondays through Fridays) of standby pay at their straight time hourly rate, or three (3) hours per day for Saturdays, Sundays, and Holidays plus a minimum of two and one-half (2½) hours call back pay at their straight time hourly rate. Call back incidents of over two and one-half (2½) hours worked shall be paid at the straight time hourly rate. Actual call back hours worked pursuant to this section

shall count as time worked toward the forty (40) hours for qualifying for premium (time and one-half) overtime under Fair Labor Standards Act (FLSA).

## **ARTICLE XI**

### **HOLIDAYS**

**SECTION 1. HOLIDAY DESIGNATION.** Employees covered by this MOU shall receive the following paid nine (9) hour holidays, except item number nine (9) below:

- 1) January 1<sup>st</sup> (New Year's Day)
- 2) Third Monday in February (Presidents' Day)
- 3) Last Monday in May (Memorial Day)
- 4) July 4<sup>th</sup> (Independence Day)
- 5) First Monday in September (Labor Day)
- 6) November 11<sup>th</sup> (Veterans Day)
- 7) Fourth Thursday in November (Thanksgiving Day)
- 8) Fourth Friday in November (day after Thanksgiving)
- 9) One-half day before Christmas, if December 24<sup>th</sup> falls on a Monday through Thursday (Christmas Eve; 4.5 hours)
- 10) December 25<sup>th</sup> (Christmas Day)
- 11) Nine (9) hours of floating holiday time

**SECTION 2. FLOATING HOLIDAY.** The nine (9) hours of floating holiday will accrue at the beginning of the pay period which includes January 1<sup>st</sup> of each year, and is required to be utilized by December 31<sup>st</sup> of the year for which it was provided. Employees hired after January 1<sup>st</sup> of each year shall receive a prorated portion of the nine (9) hours. Floating holiday hours shall be taken at the convenience of the City with approval of the Department Head. Probationary employees are provided with, and are eligible to use, Floating Holiday and Holiday Hours according to the guidelines established in this Article, and/or, with approval of the Human Resources Director.

Employees who terminate employment with the City shall receive any remaining portion of their floating holiday in cash reimbursement.

**SECTION 3. HOLIDAYS ON CERTAIN DAYS OF THE WEEK.** In the event any of the above holidays falls on a Sunday, except the one-half (½) day before Christmas, the following day will be taken in lieu of the actual date on which the holiday falls. When any of the above holidays fall on a Saturday, except one-half (½) day before Christmas, the preceding Friday will be taken in lieu of the actual date on which the holiday falls. When any of the above holidays falls on an employee's regularly scheduled day off during the week, except the one-half (½) day before Christmas, the employees' holiday bank will be credited with nine (9) hours of holiday compensatory time. Accumulated holiday compensatory time must be used by the employee by June 30<sup>th</sup> of the same fiscal year in which it was accumulated or be forfeited.

**SECTION 4. ELIGIBILITY TO RECEIVE HOLIDAY PAY.** In order to be eligible to receive holiday pay, an employee must have worked, or be deemed to have worked because of an approved absence (e.g., sick leave, vacation, or compensatory time), the employee's regularly scheduled day



before and regularly scheduled day after the holiday. Should an employee fail to work the employee's regularly scheduled day before and after the holiday, or if the employee is on an approved leave of absence without pay, the employee shall not be entitled to holiday pay.

SECTION 5. HOLIDAY DURING VACATION. Should one of the holidays listed above fall during an employee's vacation period while an employee is lawfully absent with pay, the employee shall receive holiday pay and no charge shall be made against the employee's accumulated vacation.

SECTION 6. COMPENSATION FOR HOURS WORKED ON OBSERVED CITY HOLIDAYS.

- A. All employees required to work on a holiday listed above shall receive, with the approval of their supervisor, holiday pay plus straight time pay for hours worked on the holiday, or time off equal to the number of hours the employee actually worked on the holiday. Employees who work in excess of their regular number of hours on a holiday listed above, shall receive double time pay for all such hours actually worked. Employees shall receive no other compensation whatsoever for working on a holiday with the exception of the following: Any Association employee required to work on the following days shall receive two and one-half (2½) pay for all hours worked on: Independence Day (July 4<sup>th</sup>), Thanksgiving Day, and Christmas Day (December 25<sup>th</sup>), regardless of the date observed by City Hall employees.
- B. Employees who's regularly scheduled day off falls on the holiday or day observed in lieu of the holiday as set forth in this Article shall receive nine (9) hours of compensatory holiday time. Such holiday time must be taken by the end of each fiscal year in which it was accumulated.

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## **ARTICLE XII**

### **VACATION**

**SECTION 1. VACATION ACCRUAL.** All full-time, regular employees accrue paid vacation as follows:

<b>Years of Service</b>	<b>Vacation Hours Per Year</b>	<b>Years of Service</b>	<b>Vacation Hours Per Year</b>
1	80	16	164
2	96	17	168
3	104	18	172
4	112	19	176
5 through 10	120	20	180
11	128	21	184
12	136	22	188
13	144	23	192
14	152	24 or more	200
15	160		

**SECTION 2. VACATION USAGE AND ACCUMULATION.** Vacation shall be taken at the convenience of the City with the approval of the Department Head or a duly authorized designee. Vacation should be taken annually and not accumulated from year to year, when possible. Vacation hours not in excess of the equivalent number of hours earned in the immediately preceding twenty-four (24) month period may be accumulated with the permission of the Department Head and the Human Resources Director. Employees shall not accumulate vacation in excess of the equivalent number of hours earned in the immediately preceding twenty-four (24) month period. No vacation hours shall be accrued in excess of the equivalent number of hours earned in the immediately preceding twenty-four (24) month period. Probationary employees accrue vacation, but may not use vacation until the successful completion of an initial probationary period, except in the event of a City Hall Holiday Closure with the approval of the Human Resources Director.

**SECTION 3. VACATION CONVERSION.** An employee may convert up to fifty percent (50%) of current annual vacation accrual into cash in lieu of time off with pay. An employee requesting such a conversion must meet the eligibility requirements as set forth in Section 2, above, and may so convert twice in a fiscal year, however, the total amount converted per fiscal year shall not exceed fifty percent (50%) of the employee's annual accrual. Employees serving their initial probationary period shall not be eligible for vacation conversion.

For Fiscal Year 2020-21 only, the vacation conversion shall be suspended except for those employees that will reach their vacation maximum accrual in the following pay period, in which case the employee shall be permitted to convert fifty percent (50%) of the vacation leave the employee would normally accrue in that fiscal year.

SECTION 4. VACATION PAY-OUT UPON TERMINATION. Eligible full-time and part-time regular employees who terminate their employment with the City shall be paid for all accrued vacation, if any, and the prorated portion of their final vacation accrual. Prorated vacation shall be on the basis of one-twelfth (1/12) of the employee's annual vacation pay for each full month of service.

## **ARTICLE XIII**

### **PART-TIME AND TEMPORARY EMPLOYEE ELIGIBILITY FOR FRINGE BENEFITS**

SECTION 1. DEFINITIONS. Nothing contained in this section guarantees a specified number of hours per day or days per week or weeks per year or months per year of work to any City employee. Employees who are not defined as full-time employees may be defined as follows:

- A. Regular part-time employees shall be those employees scheduled in the budget to work twenty (20) or more hours per week on a year-round basis (52 weeks minus approved leave).
- B. Temporary part-time employees shall be those employees scheduled in the budget to work less than twenty (20) hours per week on a year-round basis (52 weeks minus approved leave).
- C. Seasonal employees shall be those employees who are scheduled in the budget to work on less than a year-round basis, regardless of total hours worked.

SECTION 2. REGULAR PART-TIME EMPLOYEES. Entitlement to fringe benefits are based upon a proration of hours.

- A. Regular part-time employees shall receive fringe benefits in proportion to the number of hours the employee is scheduled to work per the City's approved budget, to the normal forty (40) hour week on an annual basis.

The annual schedule for all regular part-time employees shall be the schedule that is included in the City's approved budget or a schedule that is designated by Management at the commencement of the employee's employment with the City.

- B. This proration shall apply to the following fringe benefits: holiday pay, vacation, sick leave, flexible benefit plan contribution, retirement contribution, and disability insurance.
- C. Regular part-time employees may receive step increases provided they work the actual number of hours a full-time employee would have had to work in order to be entitled to progress to the next step of the salary range.

**SECTION 3. TEMPORARY AND SEASONAL EMPLOYEES.** Temporary and seasonal employees shall be entitled to receive no fringe benefits provided for in this MOU or in any resolution of the City, except those stated in Article XVIII, Section 2 of this MOU, or unless otherwise provided by Federal and/or State Law.

## **ARTICLE XIV**

### **LEAVES OF ABSENCE**

**SECTION 1. LEAVE OF ABSENCE WITHOUT PAY.** For all regular employees as described herein, the following Leave Without Pay procedure shall apply:

- A. After all available leave benefits, including vacation, compensatory time, and other leave benefits have been completely used, an employee, not under suspension, may make written application to the Department Head for leave without pay. No such leave will be considered absent a written application from the employee requesting leave.
- B. If the Department Head and the Human Resources Director agree that such leave is merited and in the interest of the City, leave may be granted for a period not to exceed six (6) months following the date of expiration of all other allowable leave benefits.
- C. No employment or fringe benefits such as sick leave, vacation, health insurance, retirement, or any other benefits shall accrue to any employee on leave of absence without pay except as denoted under the Family and Medical Leave Act (FMLA) section below. During such leave in excess of five (5) working days, no seniority shall be accumulated.
- D. Subject to and consistent with the conditions of the group health, life or disability plans, coverage may be continued during a leave of absence without pay, provided direct payment of the total premium is made by the employee as prescribed by the Payroll Division of the City. The City will pay up to six (6) months of the Flexible Benefit Plan contribution for employees who are on long term disability leave.
- E. At the end of such leave, if the employee desires additional leave, written application must be made through the Department Head to the Human Resources Director at least ten (10) days before the end of the six (6) month period stating the reasons why the additional leave is required and why it would be in the best interests of the City to grant such a leave of absence. If such additional leave is merited and would still preserve the best interests of the City, the Human Resources Director may approve such extension of the leave of absence for a period not to exceed an additional six (6) months.
- F. If the employee does not return to work prior to or at the end of such leave of absence or extension of leave of absence, the City shall consider that the employee has terminated employment with the City.

- G. An employee on leave of absence must give the City at least seven (7) days' written notice of intent to return to work prior to returning to work.
- H. Any employee who engages in outside employment during said leave of absence without prior notification and approval of the Human Resources Director and Department Head may be subject to termination.
- I. Any employee who falsifies the reason for request for said leave of absence may be terminated for falsifying a request of absence or extension thereof.
- J. Such leave shall be granted on the same basis for pregnancy, childbirth, and other medically related conditions, except that such an employee shall retain all seniority rights.
- K. Forms setting forth the benefits available or such other pertinent information shall be maintained for distribution in the Human Resources Department.
- L. Management will allow an employee to take a leave of absence without pay during a City Hall Holiday Closure without having to exhaust all accrued leave benefits on the books. During said closure, employees will not see a reduction in benefits, including no loss of eligibility for holiday pay if leave without pay hours are used during the closure (i.e., The day after Christmas and/or working day before the New Year's day.)

## SECTION 2. JURY DUTY AND WITNESS SERVICE FOR THE CITY.

- A. Jury Duty. When required to serve on a jury, all employees shall have time off for a period not to exceed thirty (30) calendar days for each jury duty summons which an employee responds to per calendar year. Employees shall receive their regular pay for the period of actual service required on the jury, provided all jury fees paid to the individual employee are turned over to the City, with the exception of automobile expenses allowed. A full-time employee who works a rotating schedule, who is summoned for jury duty, shall be placed on a day-shift until jury duty has concluded; the employee will be excluded from required overtime while performing jury duty.

If an employee is required to call in for jury service and the court does not need the employee's service, the employee is expected to report to work. Once an employee has completed jury service, the Certificate of Jury Service must be provided to the immediate supervisor to qualify for jury duty compensation.

- B. Witness Service for the City. If an employee is called as a witness, on behalf of the City, the employee shall receive normal pay for time spent by the employee serving as a witness for the City. Employees shall be required to pay any witness fees that accrue to the employee for witness service to the City as a condition of receiving normal pay while serving as a witness for the City.

SECTION 3. MILITARY LEAVE OF ABSENCE. If an employee is deployed or required to attend military training, the employee shall be entitled to military leave of absence under the

provisions of State law found in applicable sections of the California Military and Veterans' Code. Employees must provide a copy of their military orders to the Human Resources Department to qualify for a military leave of absence. Any exceptions to this provision shall be considered on a case-by-case basis, with final approval of the Human Resources Director.

SECTION 4. SICK LEAVE. Sick leave shall accrue and be charged in accordance with the following:

- A. For employees working a regular forty (40) hour week, eight (8) hours of sick leave will accrue for each month of continuous service. Probationary employees may use accrued sick leave during the probationary period.
- B. All non-benefited employees shall receive sick leave as required by State law.
- C. Sick leave will be charged at the rate of one-quarter ( $\frac{1}{4}$ ) hour for each one-quarter ( $\frac{1}{4}$ ) hour of work an employee is absent.
- D. Any employee eligible for sick leave with pay may use such leave for the following reasons:
  - 1) Medical, dental, and vision appointments during work hours when authorized by the Department Head or a duly authorized designee; and/or
  - 2) Personal illness or physical incapacity resulting from causes beyond the employee's control, including pregnancy, childbirth and other medically related conditions.
  - 3) For an employee who is a victim of domestic violence, sexual assault, or stalking, for the purposes described in Labor Code sections 230(c) and 230.1(a).
- E. Sick Leave Application. Sick leave may be applied only to an absence caused by illness or injury of an employee except as provided in Section 5 below.
- F. Sick Leave Charged. In any instance involving use of a fraction of a day's sick leave, the minimum charged to the employee's sick leave account shall be one-quarter ( $\frac{1}{4}$ ) hour, while additional actual absence of over one-quarter ( $\frac{1}{4}$ ) hour shall be charged to the nearest one-half ( $\frac{1}{2}$ ) hour. Sick leave shall only be used for the purposes stated, and the Department Head shall be responsible for control of employee abuse of the sick leave privilege. Employees may be required to furnish a certificate issued by a licensed physician or other satisfactory written evidence of illness to establish the employee's entitlement to sick leave payment.
- G. Maximum Accumulation of Sick Leave. Employees shall be allowed to accumulate sick leave to a maximum of 960 hours. Sick leave hours in excess of such maximum shall be forfeited.
- H. Retirement from City Service and Entering CalPERS as a Retired Annuitant. Upon retiring from City service and entering CalPERS as a Retired Annuitant, an

employee shall receive no pay for the first sixty (60) days of accrued sick leave (0 - 480 hours), but shall receive twenty-five percent (25%) pay for the first thirty (30) days of accrued sick leave after the first sixty (60) days of accrued sick leave (481- 720 hours), and fifty percent (50%) of all accrued sick leave thereafter (721- 960 hours). In lieu of receiving pay, 100% of the eligible accrued Sick Leave cashout value upon retirement shall be contributed into the employee's Retirement Health Savings Plan (RHSP) Trust account, in accordance with Article XVI, Section 5, below.

- I. Death of an Employee. Upon the death of an employee while employed by the City, 100% of all accrued sick leave benefits shall be paid to the beneficiary of the deceased employee. Payment will be made when proper authorization for payment is received from the estate of the decedent employee.
- J. Sick Leave Conversion.
  - 1) Eligible employees with sick leave usage of 0.0 to 36.0 hours per payroll calendar year will have the option to convert thirty (30) hours of their unused sick leave to vacation in the first pay period of the following year.
  - 2) Employees with sick leave usage of 36.25 to 45.0 hours per payroll calendar year may convert twenty (20) hours of unused sick leave to vacation in the first pay period of the following year.
  - 3) Employees must have a minimum balance of 140 hours of sick leave available after conversion.
  - 4) Sick leave used under FMLA shall not be counted towards an employee's sick leave conversion to vacation total.

SECTION 5. FAMILY LEAVE. In accordance with the California Family Sick Leave and Paid Sick Leave Acts, an employee is allowed up to forty-eight (48) hours of family leave per calendar year for family related illness or injury, which shall be charged against the employee's accumulated sick leave. Family as used in this subsection is limited to any relation by blood, marriage or adoption who is a member of the employee's household (living at the same address); and any parent, substitute parent, parent-in-law, spouse, registered domestic partner, child, brother, sister, grandchild or grandparent of the employee, regardless of residence. Benefited part-time employees are allowed to use up to one-half (½) of their annual accrual of sick leave for family leave purposes.

SECTION 6. BEREAVEMENT LEAVE. Regular full-time employees shall be entitled to take up to three (3) days of paid bereavement leave per incident in accordance with the following terms and conditions:

- A. Bereavement leave may only be used upon the death or critical illness where death appears to be imminent of the employee's immediate family. "Immediate family" as used in this subsection, shall be limited to any relation by blood, marriage, or adoption who is a member of the employee's household (living at the same address)

and any parent, legal guardian, parent-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, spouse, registered domestic partner, child, brother, or sister of the employee regardless of residence.

- B. Days of absence due to bereavement leave shall not exceed three (3) working days per incident-and shall not be deducted from the employee's accumulated sick leave. An employee on bereavement leave shall inform the immediate supervisor of the fact and the reasons therefore as soon as possible. Failure to inform the immediate supervisor, within a reasonable period of time, may be cause for denial of bereavement leave with pay for the period of absence.

**SECTION 7. WORKERS' COMPENSATION.** Association employees who incur a work-related injury or illness will be eligible to receive Workers' Compensation benefits according to the State of California's Division of Workers' Compensation (DWC) laws and regulations.

- A. Temporary Disability Leave. An Association employee shall be granted Temporary Disability in accordance with the current State Workers' Compensation laws and regulations. When an Association employee is eligible to receive Temporary Disability payments, the City will contribute additional compensation to allow the employee to receive 100% of their regular rate of pay, or provide full salary continuance, for the first thirty (30) days starting from the first day of Temporary Disability. The employee will then receive eighty percent (80%) of salary for up to an additional 335 calendar days. Temporary Disability in excess of 365 days will be provided subject to current State Workers' Compensation laws and regulations.
- B. Course of Employment. Should it be determined by the treating physician, or the employee's doctor, or an agreed doctor by both parties, or an Administrative Law Judge through the Workers' Compensation Appeals Board, that an employee's illness or injury did not arise in the course of the employee's employment with the City and/or that the employee is not temporarily incapacitated, then the employee's accrued, or if insufficient, future sick leave, shall be charged to reimburse the City for any payments made to the employee.
- C. Physician Pre-Designation. Before a work-related injury, an employee may elect to pre-designate a qualified medical provider if done in accordance with Workers' Compensation laws and regulations.
- D. Fringe Benefits. An employee receiving Temporary Disability benefits will continue to receive the City's contribution to the employee's medical, dental, vision and other applicable insurances. All authorized deductions will continue as though the employee is on regular work status. If the employee has exhausted Temporary Disability benefits, the employee shall be responsible for paying the full premium for the employee's medical, dental, vision, and other applicable insurances.

**SECTION 8. FAMILY AND MEDICAL LEAVE ACT (FMLA).** Federal and State laws require the City to provide family and medical care leave for eligible employees. The following provisions set forth employees' and employer's rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the City's Employee



Handbook. Any provisions not set forth in the Employee Handbook are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act (FMLA) of 1993 and the regulations of the California Fair Employment and Housing Commission implementing the California Family Rights Act (CFRA) (Government Code Section 12945.2). Unless otherwise provided, "Leave" under this Article shall mean leave pursuant to the FMLA and CFRA. An employee's request for leave is subject to review and final approval of the Human Resources Director.

- A. Amount of Leave. Eligible employees are entitled to a total of twelve (12) work weeks of leave during any twelve (12) month period. An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.
- B. Calculating the 12-Month Period. The twelve (12) month period for calculating leave entitlement will be a "rolling period" measured backward from the date leave is taken and continues with each additional leave day taken. Thus, whenever an employee requests leave, the City will look back over the previous twelve (12) month period to determine how much leave has been used in determining how much leave an employee is entitled to.
- C. Use of Other Accrued Leaves While on Leave. If an employee requests leave for any reason permitted under the law, the employee is not required to exhaust all accrued leaves if the employee is applying for State Disability Insurance or Paid Family Leave. The employee may make a request to be placed on a leave without pay in order to qualify for these State benefits. Employees may elect to supplement these benefits with the following accruals: sick, vacation, holiday, and other compensatory accruals. If an employee requests leave for a serious health condition, in addition to exhausting accrued leave, the employee must also exhaust sick leave. The exhaustion of accrued leave will run concurrently with FMLA.
- D. Required Forms. Employees must fill out required forms, available in the Human Resources Department, including: Request for Family Medical Leave; Medical Certification; Authorization for Payroll Deductions for Benefit Plan Coverage Continuation During Family/Medical Care Leave; and the Fitness-for-Duty to Return from Leave (if applicable).

SECTION 9. CALIFORNIA STATE DISABILITY INSURANCE (SDI) LEAVE. Association members who lose wages when they are unable to work due to a non-work-related illness, injury, pregnancy, or childbirth may be eligible for SDI benefits. The weekly benefit amount is approximately sixty percent (60%) to seventy percent (70%) of wages earned five (5) to eighteen (18) months before your claim start date. This formula is created by the State of California Employment Development Department (EDD). An employee must be unable to work due to a disability for at least eight (8) calendar days to collect SDI benefits. An employee may apply for SDI benefits by completing the Claim for Disability Insurance Benefits (DE 2501 form) online or by mail with the EDD.

- A. Amount of Leave. Eligible employees may collect up to fifty-two (52) weeks of full SDI Benefits, or the amount of wages in the employee's base period, whichever is less.

- B. Use of Other Accrued Leaves While on Leave. If an employee requests leave for any reason permitted under the law, the employee is not required to exhaust all accrued leaves if the employee is applying for SDI or Paid Family Leave. The employee may make a request to be placed on a leave without pay in order to qualify for these State benefits.
- C. Coordination of Benefits. Employees may elect to supplement SDI benefits with the following accruals in order to receive up to 100% of the employees normal gross weekly wages for the benefit period: sick, vacation, holiday, and other compensatory accruals. It is the employee's responsibility to ensure they are not receiving more than 100% of their normal gross wages when supplementing with paid time off and the employee must submit the benefit statement received from EDD to the City's Payroll Division.

## **ARTICLE XV**

### **FRINGE BENEFIT ADMINISTRATION**

SECTION 1. ADMINISTRATION. The City reserves the right to select the insurance carrier or administer any fringe benefit programs that now exist or may exist in the future during the term of the MOU.

SECTION 2. SELECTION AND FUNDING. In the administration of the fringe benefit programs, the City shall have the right to select any insurance carrier or other method of providing coverage to fund the benefits included under the terms of this MOU, provided that the benefits of the employees shall be no less than those in existence as of implementation of this MOU.

SECTION 3. CHANGES. If, during the term of this MOU, any change of insurance carrier or method of funding for any benefit provided hereunder occurs, the City shall notify the Association prior to any change of insurance carrier or method of funding the coverage.

## **ARTICLE XVI**

### **HEALTH BENEFITS**

SECTION 1. HEALTH INSURANCE. The City contracts with CalPERS to make available those health insurance benefits provided under the Public Employees' Medical and Hospital Care Act (PEMHCA).

- A. Flexible Benefits Plan. The City shall provide a Section 125 Flexible Benefits Plan for active full-time and part-time eligible employees and pay the following monthly amounts to provide funds for optional health plans, dental plans, vision plans, health care reimbursement, dependent care, or cash as established by the Internal Revenue Service. The following amounts include the minimum amount required under PEMHCA, which is \$139.00 per month (\$143.00 for 2021). This contribution shall be adjusted annually each January 1 to the amount set by the CalPERS Board of Administration.

Effective Date	Single	2-Party	Family
January 1, 2020	\$1,020.00	\$1,420.00	\$1,670.00
January 1, 2021	\$1,045.00	\$1,470.00	\$1,745.00
January 1, 2022	\$1,070.00	\$1,520.00	\$1,820.00
January 1, 2023	\$1,095.00	\$1,570.00	\$1,895.00

- B. Any amounts in excess of the amounts designated in Section 1A necessary to maintain benefits under any benefits plans selected by the employee shall be borne by the employee.
- C. An employee cannot be enrolled in the CalPERS Health Benefits Plan if a spouse is enrolled in the same agency or enrolled in an agency with CalPERS Health, unless the employee (or the spouse) is enrolled without being covered as a family member.
- D. An employee may choose not to be enrolled in the Health Benefits Plan. If an employee chooses not to be enrolled in the health plan, the employee must provide proof of group medical insurance coverage (e.g., coverage under a spouse's employer's plan) that is compliant with the Affordable Care Act (ACA), as determined by the Human Resources Director. Based on determination that group medical insurance coverage is in full force and effect, employees hired prior to January 1, 2020 shall receive \$995.00 per month toward the Flexible Benefits Plan. Employees hired after January 1, 2020 who elect to waive the City's medical insurance shall receive \$400.00 per month.
- E. In the event the employee loses group medical insurance (with documentation), the employee may re-enroll in the CalPERS Health Benefits Plan pursuant to their rules and regulations. Failure to do so within sixty (60) days, shall result in the City seeking reimbursement of said contributions.
- F. Retired Annuitant Contribution. The City shall contribute toward the payment of premiums under the CalPERS Health Benefits Plan to each eligible retired annuitant of CalPERS, to the extent required by law, a contribution of \$139.00 per month (\$143.00 for 2021). This contribution shall be adjusted annually on January 1<sup>st</sup> to the amount set by the CalPERS Board of Administration.

**SECTION 2. LIFE INSURANCE.** The City shall contribute the full premium toward a \$40,000.00 life insurance policy for each benefited employee.

**SECTION 3. LONG TERM DISABILITY INSURANCE.** The City shall provide a long-term disability plan that pays sixty percent (60%) of salary after a sixty (60) day elimination period to a maximum of \$4,000.00 per month.

**SECTION 4. STATE DISABILITY INSURANCE (SDI).** The City of Orange has entered into a contract with the State of California for an SDI plan concerning employees in the Association.

- A. In order to apply for SDI, a claim form must be obtained from EDD. The "Claim Statement of Employee" form must be completed by the employee and the employee's doctor must complete the "Doctor's Certificate" section before the claim can be processed. The employee should be aware that if SDI benefits are received for time paid as sick leave by the City, the employee will be responsible for reimbursing the City by payroll deduction for the amounts paid by both the City and SDI, and sick leave balances will be adjusted accordingly. The employee shall provide the Payroll with proof of any payments received pursuant to SDI.
- B. When a claim is received, the SDI Office will request the necessary information to determine the employee's eligibility. Benefits may begin with the day after the seventh (7<sup>th</sup>) calendar day waiting period of disability or the first (1<sup>st</sup>) day of hospitalization. An employee may be paid for the waiting period if their disability exceeds twenty-one (21) days.
- C. Benefits are coordinated between the City of Orange and State Disability and the employee is paid allowance benefits based on their present rate of pay and the SDI benefit schedule. Employees may request to go on leave without pay or supplement SDI without exhausting accruals first.

**SECTION 5. RETIREMENT HEALTH SAVINGS PLAN (RHSP) TRUST.** The City shall establish an RHSP trust. In lieu of receiving pay, 100% of eligible accrued Sick Leave cashout value upon retirement from City service and entering CalPERS as a Retired Annuitant in accordance with Article XIV, Section 4H above.

## **ARTICLE XVII**

### **EDUCATIONAL ASSISTANCE AND WELLNESS PROGRAM**

**SECTION 1. PROGRAM REQUIREMENTS.** The City will reimburse employees for training costs associated with certifications and the cost of tuition, textbooks, health fees, and parking fees required for approved community college and college courses. An approved course is one designated to directly improve the knowledge of the employee relative to the specific job, and must be approved by the Department Head and the Human Resources Director prior to registration. Reimbursement will be based upon the final grade received. A final grade of C or better qualifies the employee for 100% reimbursement up to the amount specified in Section 2.

**SECTION 2. PAYMENTS.** Educational assistance payments to an employee shall not exceed \$600.00 in any one (1) fiscal year and the individual must still be employed by the City when the course is completed to qualify for reimbursement.

**SECTION 3. PROFESSIONAL DEVELOPMENT.** The City agrees to allow reimbursement to employees of up to \$300.00 of the \$600.00 allotted per fiscal year for activities that aid in their professional development. Reimbursable activities include the following:

- 1) Attendance at job-related professional conferences, trainings and seminars; and
- 2) Payment of membership dues and renewal fees in community and professional organizations; and
- 3) Purchase of job-related professional journals, books, and other written materials, which further their knowledge and improve their effectiveness in performing their duties.

Participation and/or purchase must be approved in advance by the Department Head and the Human Resources Director.

This Professional Development benefit aims to encourage and enable employees to voluntarily pursue educational and public relations oriented activities beyond those normally budgeted for by their departments and in which they are directed to participate.

Individual City departments may continue to budget funds for staff attendance at professional conferences and seminars, for payment of professional membership dues, and for the purchase of books, journals, and related written materials, which enhance employee knowledge. Costs associated with work travel, lodging, meals (or per diem), parking, or other costs as defined in Article XX of this MOU are not eligible for reimbursement under this section.

**SECTION 4. WELLNESS REIMBURSEMENT.** The City agrees to allow reimbursement to employees of up to \$375.00 of the \$600.00 allotted per fiscal year towards reimbursement for items 1, 2 and/or 3 below. Requests must be approved, prior to purchase or participation, by the Human Resources Director.

- 1) Membership in a health/fitness club;
- 2) Participation in a weight loss/stop smoking/wellness/fitness program; and
- 3) Fitness equipment (home gym equipment).

The City will not reimburse employees for any of the above listed activities for family/dependent health related expenses.

## **ARTICLE XVIII**

### **RETIREMENT**

**SECTION 1.** The City participates in the California Public Employees' Retirement System (CalPERS). This participation shall include, but is not limited to, the following retirement benefits:

- A. New Members. Miscellaneous employees who are New Members of CalPERS as defined by California Government Code Section 7522.04(f) are subject to the 2% @ age 62 retirement formula as set forth in California Government Code Section 7522.20. These New Members are subject to the three (3) year final compensation measurement period as set forth in California Government Code Section 7522.32. These New Members shall contribute half of normal cost of retirement as determined by CalPERS from their pensionable compensation, on a pre-tax basis, as set forth in California Government Code Section 7522.30. In all other respects, New Members shall be subject to the terms and requirements of PEPRA.

Effective the pay period beginning January 3, 2021 through January 1, 2022, New Members shall temporarily pay an additional two percent (2%) of pensionable compensation, on a pre-tax basis, towards the City contribution pursuant to the cost sharing arrangement set forth in California Government Code 20516(f).

- B. Classic Members. Miscellaneous employees who are not defined as New Members as outlined in Section A above are defined as Classic Members of CalPERS and are subject to the 2.7% @ age 55 retirement formula as set forth in Section 21362.2 of the California Government Code. These Classic Members are subject to the one (1) year final compensation measurement period set forth in California Government Code Section 20042. These Classic Members shall contribute eight percent (8%) of their compensation earnable, on a pre-tax basis.

Effective the pay period beginning January 3, 2021 through January 1, 2022, these Classic Members shall temporarily pay an additional two percent (2%) of compensation earnable, on a pre-tax basis, towards the City contribution pursuant to the cost sharing arrangement set forth in California Government Code 20516(f).

SECTION 2. PART-TIME EMPLOYEES. Part-time employees not covered under CalPERS shall participate in a defined contribution retirement plan in lieu of Social Security contributions. The City shall contribute three and three-fourths percent (3.75%) of the employee's eligible earnings toward the retirement plan. Part-time employees shall contribute three and three-fourths percent (3.75%) of their eligible earnings toward the retirement plan.

SECTION 3. 1959 CALPERS SURVIVOR BENEFIT. The City provides the 1959 CalPERS Survivor Benefit at the Fourth Level Option (California Government Code Section 21574) for all covered employees. Employees shall pay their \$2.00 monthly contribution through payroll deduction. The City shall pay the employer portion subject to the following limit: in the event the employer portion exceeds \$6.00 monthly, employees shall pay any portion of the employer portion that exceeds \$6.00 monthly.

## **ARTICLE XIX**

### **MISCELLANEOUS**

SECTION 1. RIDESHARE INCENTIVE PROGRAM. An employee may receive \$30.00 per month and eight (8) hours of paid time off (to a maximum accrual of sixteen (16) hours) every six

(6) months for carpooling, using public transportation, biking, walking, or other approved modes of transportation to commute to and from the worksite. To qualify for these incentives, an employee must use one (1) of the above modes of transportation a minimum of seventy percent (70%) of commuting time.

SECTION 2. UNIFORMS. The City retains the absolute right to establish a uniform policy for any of its departments.

SECTION 3. WORK SHOE ALLOWANCE. Employees are required to wear safety shoes with steel toes while on duty. Inspection of the worksite will be made on a regular basis to ascertain compliance to the safety shoe program.

- A. Allowance. The City will contribute up to \$450.00 on a fiscal year basis per employee toward a work shoe allowance.
- B. Applicability. The Work Shoe Allowance will be applicable towards the purchase of steel-toe safety boots (ANSI standards approved), arch supports, insoles and water conditioner.

SECTION 4. EYEGLASS REPLACEMENT. The City will pay for replacement of employee's eyeglasses that are lost or damaged in the course of work. Damaged eyeglasses will be turned into the City in order for the employee to be entitled to reimbursement. The City will not reimburse an employee for more than one (1) pair of lost or damaged eyeglasses per fiscal year.

SECTION 5. CLOTHING REIMBURSEMENT ALLOWANCE.

- A. Allowance. The City shall contribute up to \$150.00 per employee toward the clothing reimbursement allowance per fiscal year. All uniforms thus purchased shall remain the property of the City of Orange. This form of pay, also referred to as "Uniform Allowance", shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(5); however, this form of pay is not pensionable compensation for New Members.
- B. Reimbursement Request. Employees may submit a request for reimbursement once per fiscal year.
- C. Clothing. The City shall reimburse employees for the following articles of clothing which are to be worn on the job; blue work pants (including but not limited to blue jeans, Dickies, Red Kap), white crew socks, white walking socks, and two (2) pairs of shorts per year.

The following articles of clothing are not considered reimbursable clothing under this MOU: polo shirts, T-shirts, jackets, windbreakers, dress socks, dress slacks, and other types of clothing not specifically reimbursable under the above guidelines.

SECTION 6. BREAKS. Employees are entitled to two (2) fifteen (15) minute breaks, unless an emergency requires continued work, as determined by the employee's supervisor. An employee shall be permitted to take one (1) break during the first half of the work shift and one (1) break during the second half of the work shift. Breaks shall be scheduled to ensure that public counters and telephones are covered at all times during the regular working day and are designed to provide

a period of relaxation and/or nutrition during each half of the working day. If a break is not taken, it shall not be accumulated, but shall be lost and not charged in the future to the City.

SECTION 7. DIRECT DEPOSIT. City employees are required to participate in the City's direct paycheck deposit program.

## **ARTICLE XX**

### **TRAVEL EXPENSE ALLOWED**

SECTION 1. MILEAGE REIMBURSEMENT. Expense claims for the use of private automobiles must be authorized and submitted through the Department Head, to the Accounts Payable Division of the Finance Department for reimbursement. Such use, where mileage is reimbursed, will be reimbursed at the rate per mile allowed under the current IRS regulations.

SECTION 2. OUT-OF-CITY TRAVEL. If the estimated expense of contemplated travel out of the City is too great to expect the employee to finance the trip and be reimbursed upon return, the City Manager may authorize advance payment of the estimated amount of the travel expense to the employee.

- A. Economy class airfare will be considered standard for out-of-town travel.
- B. Use of personal cars for out-of-City trips, within the State, may be approved by the City Manager when use of commercial transportation is not available or practical. If an employee prefers to use a personal car, the employee may be reimbursed mileage expenses as long as the expenses do not exceed the amount of the cost of the commercial transportation.
  - 1) The rate per mile allowed under the current IRS regulations shall be approved for use of personal cars when City cars are not available.

SECTION 3. TRANSPORTATION AND EXPENSE CHARGES. Expenses for air, rail, or public transportation will be allowed whenever such transportation is necessary to conduct City business. In addition, the following expenses and charges will be allowed, whenever necessary, for conducting City business.

- A. Expense will be allowed for adequate lodging. Hotel accommodations shall be appropriate to the purpose of the trip, and must be approved by the Department Head.
- B. Telephone charges will be allowed for official calls.
- C. Expenses for meals will be reimbursed according to Administrative Policy Number 4.13.



## **ARTICLE XXI**

### **SAFETY AND HEALTH**

**SECTION 1.** The City and its employees agree to comply with all applicable Federal, State, and Local laws as well as any City policies which relate to health and safety. In addition, the City and the Association agree to actively pursue the continuation of safe working procedures and environments.

**SECTION 2. SAFETY EQUIPMENT.** All protective clothing or protective devices required of employees in the performance of their duties shall be furnished without cost to the employees by the City.

## **ARTICLE XXII**

### **CITY MANAGEMENT RIGHTS AND RESPONSIBILITIES**

**SECTION 1.** The City reserves, retains, and is vested with, solely and exclusively, all rights and responsibilities of Management which have not been expressly abridged by specific provisions of this MOU or by law to manage the City, as such rights and responsibilities existed prior to the execution of this MOU. The sole and exclusive rights of Management, as they are not abridged by this MOU or by law, shall include, but not be limited to, the following rights:

- A. To manage the City generally and to determine issues of policy.
- B. To determine the existence or non-existence of facts which are the basis of the Management decision.
- C. To determine the necessity of organization of any service or activity conducted by the City and expand or diminish services.
- D. To determine the nature, manner, means, and technology, and extent of services to be provided to the public.
- E. To determine methods of financing.
- F. To determine the types of equipment or technology to be used.
- G. To determine and/or change the facilities, methods, technology, means, and size of the work force by which the City operations are to be conducted.
- H. To determine and change the number of locations, relocations, and types of operations, processes, and materials to be used in carrying out all City functions including, but not limited to, the right to contract for or subcontract any work or operation of the City.
- I. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments.

- J. To relieve employees from duties for lack of work, economic conditions, or similar non-disciplinary reasons.
- K. To establish and modify productivity and performance programs and standards.
- L. To discharge, suspend, demote, or otherwise discipline employees for proper cause.
- M. To determine job classifications and to reclassify employees and to determine the job classifications to be assigned to the Association.
- N. To hire, transfer, promote, and demote employees for non-disciplinary reasons in accordance with this MOU.
- O. To determine policies, procedures, and standards for selection, training, and promotion of employees.
- P. To establish employee performance standards including, but not limited to, quality and quantity standards; and to require compliance therewith.
- Q. To maintain order and efficiency in its facilities and operations.
- R. To establish, modify, and promulgate reasonable rules and regulations which are not in contravention with this MOU to maintain order and safety in the City.
- S. To take any and all necessary action to carry out the mission of the City in emergencies.

SECTION 2. Except in emergencies, or where the City is required to make changes in its operations because of the requirements of law, whenever the contemplated exercise of Management's rights shall impact on a significant number of employees of the Association, the City agrees to meet and confer in good faith with representatives of the Association regarding the impact of the contemplated exercise of such rights prior to exercising such rights, unless the matter of the exercise of such rights is provided for in this MOU or in Personnel Rules and Salary Resolutions and Administrative Policies, which are incorporated in this MOU. By agreeing to meet and confer with the Association as to the impact and the exercise of any of the foregoing City Rights, Management's discretion in the exercise of these rights shall not be diminished.

## **ARTICLE XXIII**

### **EMPLOYEE ORGANIZATIONAL RIGHTS AND RESPONSIBILITIES**

SECTION 1. ASSOCIATION DEDUCTIONS. The City shall deduct Association dues and supplemental benefit payments from employee paychecks on a bi-weekly basis. The City shall process these deductions based on the information certified to be current by the Association. The total amount of deduction shall be remitted by the City to the Association within ten (10) calendar days of each applicable payday.

**SECTION 2. INDEMNIFICATION.** The Association agrees to hold the City harmless and indemnify the City against any claims, causes of actions, or lawsuits arising out of the deductions or transmittal of such funds to the Association, except the intentional failure of the City to transmit to the Associations monies deducted from the employees pursuant to this Article or caused by the Association's negligence. The Association shall notify the City within ten (10) calendar days of any discrepancy concerning Association dues or other payroll deductions pursuant to this Article. If the Association does not notify the City of any discrepancy within ten (10) calendar days, the City shall be relieved of any asserted discrepancy.

**SECTION 3. NEWLY HIRED EMPLOYEES.** The City will provide the Association with a list of any new hires into the bargaining association within thirty (30) days of receipt of a request for such list by the Association.

**SECTION 4. BULLETIN BOARDS.** The Association shall have the right to use bulletin boards on City premises for the purpose of posting announcements and Association information. The City will furnish bulletin board space on one (1) existing bulletin board to be selected by the Association at each location where there are five (5) or more employees. The bulletin boards shall be used for the following subjects only:

- A. Recreational, social, and related Association news bulletins.
- B. Scheduled Association meetings.
- C. Information concerning Association elections and the results thereof.
- D. Reports of official Association business, including Association newsletters, reports of committees, or the Board of Directors.
- E. Any other written material which first has been approved and initiated by the designated City representative at each facility. The designated City representative must either approve or disapprove a request for posting within twenty-four (24) hours, excluding Saturday, Sunday, and legal holidays, from the receipt of the material and the request to post it. The designated City representative shall not unreasonably withhold permission to post.

**SECTION 5.** Except as limited by specific and express terms of this MOU, the Association hereby retains and reserves unto itself all rights, powers, and authority, confirmed on and vested in it by the laws and Constitution of the State of California and/or United States of America.

## **ARTICLE XXIV**

### **GRIEVANCE PROCEDURE**

**SECTION 1. DEFINITION OF GRIEVANCE.** A grievance shall be defined as a timely complaint by an employee or group of employees of the Association concerning the interpretation or application of specific provisions of this MOU or of the Rules and Regulations governing personnel practices or working conditions of the City. An employee complaint concerning their own discipline shall be processed in accordance with Article XXV.

SECTION 2. BUSINESS DAYS. Business days means those days in which the City's administrative offices are open.

SECTION 3. TIME LIMITS FOR FILING WRITTEN FORMAL GRIEVANCES. The time limits for filing written formal grievances shall be strictly construed, but may be extended by mutual agreement evidenced, in writing, and signed by a duly authorized representative of the City and the grieving party. Failure of the grieving party to comply with any of the time limits set forth hereunder shall constitute waiver and bar further processing of the grievance. Failure of the City to comply with time limits set forth in this Section shall automatically move the grievance to the next level in the Grievance Procedure. The grieving party may request the assistance of the Association in presenting a grievance at any level of review or may represent themselves.

SECTION 4. INFORMAL GRIEVANCE PROCESS. An employee must first attempt to resolve a grievance on an informal basis by discussion with an immediate supervisor without undue delay. Every effort shall be made to find an acceptable solution to the grievance by these informal means at the most immediate level of supervision. At no time may the informal process go beyond the division head concerned. In order that this informal procedure may be responsive, all parties involved shall expedite this process. In no case may more than ten (10) business days elapse from the date of the alleged incident giving rise to the grievance, or when the grievant knew or should have reasonably become aware of the facts giving rise to the grievance and the filing of a written formal grievance with the Human Resources Director of the City, with a copy to the Department Head in which the employee works. Should the grievant fail to file a written grievance within ten (10) business days from the date of the incident giving rise to the grievance, or when grievant knew or should have reasonably become aware of the facts giving rise to the grievance, the grievance shall be barred and waived.

SECTION 5. FORMAL GRIEVANCE PROCESS, HUMAN RESOURCES DIRECTOR, DEPARTMENT HEAD. If the grievance is not resolved through the informal process, and the written grievance is filed within the time limits set forth above, the grievant shall discuss the grievance with the Human Resources Director and the Department Head. The Human Resources Director and the Department Head shall render a decision and comments, in writing, regarding the merits of the grievance and return them to the grievant within ten (10) business days after receiving the grievance.

SECTION 6. FORMAL GRIEVANCE PROCESS, CITY MANAGER. If the grievance is not resolved in Section 5 above, or if no answer has been received from the Human Resources Director and Department Head within ten (10) business days from the presentation of the written grievance to the Human Resources Director and Department Head, the written grievance shall be presented to the City Manager, or a duly authorized designee, for determination. Failure of the grievant to take this action will constitute a waiver and bar to the grievance, and the grievance will be considered settled on the basis of the last Management grievance response. The City Manager, or a duly authorized designee, shall render a final decision on the merits of the grievance and comments, in writing, and return them to the grievant within ten (10) business days after receiving the grievance. After this procedure is exhausted, the grievant, the Association, and the City shall have all rights and remedies to pursue said grievance under the law. The City shall instruct its supervisors on the proper use and implementation of this grievance procedure and every reasonable

effort shall be made by the employee and the supervisor to resolve the grievance at the informal step.

## **ARTICLE XXV**

### **DISCIPLINARY APPEALS PROCEDURE**

**SECTION 1. DISCIPLINARY APPEALS.** Any employee who has obtained regular status, and any promotional probationary employee shall have the right to appeal any termination, suspension, reduction in salary, or non-probationary demotion. The right to appeal shall not apply to probationary, non-benefited part-time, temporary, or seasonal employees covered by this MOU. Verbal or written reprimands, probationary demotions, performance evaluations, and denial of merit increases are not subject to appeal. However, an employee may submit a written rebuttal to any verbal or written reprimand. In addition, the employee may also request said reprimand be withdrawn from their official Personnel record after one (1) year. However, such removal shall be at the complete discretion of the Human Resources Director.

**SECTION 2. MANAGER'S FORMAL DISCIPLINARY APPEALS PROCESS.** An employee desiring to appeal a supervisor/manager's decision to take disciplinary action shall have up to ten (10) business days after receipt of the notice of intent to discipline to file either a verbal or written appeal to the Department Head. If, within the appeal period, the employee does not file an appeal, unless good cause for the failure is shown, the disciplinary action shall be considered final and shall take effect as prescribed. If the employee does file a notice of appeal within the appeal period, the Department Head shall consider the merits of said appeal prior to implementation of any disciplinary action. In the event the Department Head upholds the disciplinary action, said action shall be implemented immediately.

An employee may appeal the Department Head's decision to the City Manager or, at the City Manager's discretion, to a duly authorized designee, as long as such designee is not a manager from the department of the employee filing said appeal. An employee may appeal any termination, suspension, reduction in salary, or non-probationary demotion to the City Manager or a duly authorized designee. Any request for an appeal to the City Manager shall be submitted in writing to the Human Resources Department within ten (10) business days of the Department Head's decision. Failure to do so shall render the discipline final and constitute a waiver of any further administrative or judicial appeals. The appeal to the City Manager may be either in the form of a written appeal or an oral presentation. Termination appeals may be further processed in accordance with the provisions of Section 3 below.

**SECTION 3. FORMAL PROCESS FOR TERMINATIONS, ADVISORY HEARING OFFICER.** A non-probationary terminated employee may request a full evidentiary hearing within fifteen (15) business days of the date of any notice of termination. Failure to request a hearing within the fifteen (15) day period constitutes a waiver of the hearing. In lieu of a hearing, a terminated employee may submit a written response to the City Manager within the fifteen (15) day period. Requests for extensions to file a written response must be made within the fifteen (15) day period. If a hearing is requested to challenge the imposition of termination, a full evidentiary hearing shall be held by a Hearing Officer who shall render an advisory decision.

If the parties cannot agree on the identity of the Hearing Officer, the parties shall procure from the State Mediation and Conciliation Service a list of seven (7) qualified Hearing Officers. Each party shall alternately strike one (1) name from the list until only one (1) person remains, who shall be the Hearing Officer. The determination as to which party strikes first shall be made on a random basis.

- A. Fees for retaining the Hearing Officer and other costs related to conducting the hearing, for example employing a court reporter, shall be shared equally by the City and the employee. The City and the employee shall each be responsible for securing and paying for their respective representation at the hearing, if any.
- B. The Hearing Officer shall determine whether good cause exists for the imposition of the termination and, if not, the appropriate degree of discipline. The decision of the Hearing Officer is remitted to the City Manager for final disposition.
- C. The City Manager, or a duly authorized designee, shall render a final decision on the Hearing Officer's comments and recommendation, in writing, and return them to the employee within ten (10) business days after receiving the Hearing Officer's findings.
- D. After this procedure is exhausted, the employee and the City shall have all rights and remedies to pursue said appeal under the law.

## **ARTICLE XXVI**

### **NO STRIKE-NO LOCKOUT**

**SECTION 1. PROHIBITED ASSOCIATION CONDUCT.** The Association, its officers, agents, representatives and/or members agree that during the term of this MOU, they will not cause or condone any strike, walkout, slowdown, sick-out, or any other job action by withholding or refusing to perform services.

**SECTION 2. PROHIBITED CITY CONDUCT.** The City agrees that it shall not lock out its employees during the term of this MOU. The term "lockout" is hereby defined so as not to include the discharge, suspension, termination, layoff, failure to recall, or failure to return to work of employees of the City in the exercise of its rights as set forth in any of the provisions of this MOU or applicable ordinance or law.

**SECTION 3.** Any employee who participates in any conduct prohibited in Section 1 above may be subject to termination by the City.

**SECTION 4.** In addition to any other lawful remedies or disciplinary actions available to the City, if the Association fails, in good faith, to perform all responsibilities listed in Section 5 below, the Association Responsibility, the City may suspend any and all of the rights, privileges, accorded to the Association under the Employee Relations Resolution and this MOU, including, but not limited to, suspension of recognition of the Association, grievance procedure, right of access, the use of the City's bulletin boards, and facilities.

## **SECTION 5. ASSOCIATION RESPONSIBILITY.**

- A. In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited in Section 1 above, the Association or its duly authorized representatives shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this MOU, and they should immediately cease engaging in conduct prohibited in Section 1 above, and return to work.
- B. If the Association performs all of the responsibilities set forth in paragraph A above, its officers, agents, and representatives shall not be liable for damages for prohibited conduct performed by employees who are covered by this MOU in violation of Section 1 above.

## **ARTICLE XXVII**

### **ASSOCIATION REPRESENTATIVES**

**SECTION 1.** The City agrees to recognize the five (5) representatives selected by the Association.

**SECTION 2.** The Association agrees to limit to three (3) the number of representatives plus any paid the Association consultants authorized by the Association as meet and confer representatives.

**SECTION 3.** The Association shall have the responsibility to notify the City, in writing, of the names of its duly authorized representatives. The City shall have no obligation to recognize or deal with any employee as a representative unless on the designated representative list.

**SECTION 4.** Representatives shall not log compensatory time, overtime, or any other premium (time and one-half) pay for time spent performing any function as a representative.

**SECTION 5.** The Association representatives shall be allowed to use City available facilities to hold meetings. In addition, each representative shall be allowed nine (9) hours per fiscal year of City time for the purpose of attending representatives' meetings. The Association will make advanced notification to a designated management representative as to the time and date of such meetings and names of persons attending on release time.

## **ARTICLE XXVIII**

### **LAYOFF PROCEDURE**

When a layoff or reduction in force is necessary, the layoff procedures set forth in Resolution No. 8179, as incorporated below, shall be used as the established layoff policy and procedure.

**SECTION 1. PURPOSE.** The purpose of this policy is to establish and communicate the City's procedures when a layoff or reduction in force is necessary.

SECTION 2. SCOPE. All Association employees are subject to reduction in force at the direction of the City Manager.

SECTION 3. POLICY. The City retains the right to abolish any position, reduce the work force and layoff employees when it becomes necessary due to economic conditions, organizational changes, lack of work, or because the necessity for a position no longer exists. Whenever possible, the City will advise the Association of their intent at least ten (10) calendar days in advance of the effective date. The City's layoff policy provides the following criteria to be followed during a reduction in force.

SECTION 4. PROCEDURE.

A. Order of Reductions in Force (Layoff and Demotion). Within a department and by classification, the order of layoff or demotion shall be as follows:

- 1) Temporary employees (19 hours or less);
- 2) Initial probationary employees;
- 3) Regular part-time employees (20 or more hours, but less than 40 hours);
- 4) Regular full-time employees (40 hours).

For purposes of this procedure, the Water Division will be considered a department.

B. Layoffs.

- 1) Layoffs shall be based on City-wide seniority, except, negative performance during the past three (3) years will be considered to determine the order of layoff. Negative performance and disciplinary actions will include the following:
  - a) Denial of merit increases;
  - b) Suspension without pay;
  - c) Extensions of probationary periods;
  - d) Disciplinary demotions to lower level positions;
  - e) Disciplinary reductions in pay;
  - f) Performance evaluations.

Reports containing significant, negative written comments indicating improvement needed and warning of further consequences to follow if improvement fails to occur. Only those reviews forwarded to the Human Resources Department for inclusion in the official personnel file will be considered.

A single negative disciplinary action will not reduce the employee's seniority. However, additional disciplinary actions will reduce the employee's seniority by two (2) years for each additional occurrence, for a possible reduction of six (6) years. If denial of a merit increase and extension of a probationary period occur at the same time, they will be considered as one disciplinary action.



- 2) The order of layoff shall be established by the Human Resources Director, including seniority and results of review of performance evaluations and prior disciplinary actions.
  - 3) The order of layoff will be the least senior employee as determined by the procedure above.
  - 4) Prior to the establishment of the final order of layoff, the Human Resources Director shall furnish affected employees a copy of the "Proposed Order of Layoff." Notice will be hand delivered to employees whenever possible.
  - 5) If the employee wishes to contest the application of the criteria set forth in this policy to their position on the list, the employee may appeal with any supporting materials to the Human Resources Director. This request should be directed to the Human Resources Director within seven (7) calendar days following the establishment and distribution of a "Proposed Order of Layoff" list. The employee will be allowed representation during the appeal process.
  - 6) After meeting with all employees wishing to be heard with respect to their position on the layoff list, the Human Resources Director or a duly authorized designee shall establish the "Final Order of Layoff" list. The decision of the Human Resources Director or a duly authorized designee shall be final and not subject to the grievance process or further appeal.
- C. Written Notice. Employees to be laid off shall be provided written notice at least ten (10) calendar days in advance of the layoff date. Notice will be hand delivered to the employee whenever possible. If personal delivery is not possible, the notice will be sent by certified mail to the last known residential address.
- D. Transfer or Demotion in Lieu of Layoff.
- 1) Whenever employees are to be laid off, they may transfer or demote to another vacant position in their own department or other departments providing that:
    - a) The positions are at the same or lower level;
    - b) Positions are authorized, budgeted, and the City intends to fill the vacancies;
    - c) The employee meets the qualifications of the new position as determined by the Human Resources Director.
  - 2) Whenever employees are to be laid off, they may demote to lower level, filled positions within their department providing they:
    - a) Formerly held or supervised the lower level position within the classification series;
    - b) Employee meets or can reasonably meet qualifications for the new position as determined by the Human Resources Director or can

reasonably meet the qualifications within one (1) month following appointment;

- c) Posses greater seniority to displace a lower level worker;
- d) Request in writing a demotion to the previously held or supervisory position within ten (10) calendar days of receiving the notice of layoff or voluntary demotion. A voluntary demotion shall not reflect as a negative action in the employee's personnel file.

#### E. Re-employment Lists.

- 1) Regular employees in good standing who are laid off or demoted shall have their name placed on a departmental re-employment list for the last classification previously held. Names shall be placed on the list in inverse order of seniority (last released - first rehired). Vacancies the department desires to fill will be offered first to eligibles on the departmental reemployment list.
- 2) Other hiring departments who have vacancies the City desires to fill will give priority consideration to those employees whose names appear on the re-employment list. If these employees are not selected for rehire, the reason for non-selection must be approved by the Human Resources Director.
- 3) Names of qualified individuals shall remain on re-employment lists for a period not to exceed two (2) years from the date of layoff. Individuals who qualify for rehire but do not respond to written notification to the last known address on file within ten (10) calendar days or who refuse two (2) job offers shall have their names removed from the re-employment list. Once rehired, employee names are removed from all reemployment lists.

SECTION 5. NON-DISCRIMINATION IN REDUCTION IN FORCE. Layoffs and demotions, which result from a reduction in force, shall be made without regard to an employee's actual or perceived race, color, national origin, religion, sex, gender identity, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, martial status, age, sexual orientation, citizenship, pregnancy, childbirth or related medical condition, status as a covered veteran, or service in the uniformed services (as defined by the Uniformed Services Employment and Re-employment Rights Act of 1994) or any other lawfully protected class.

## **ARTICLE XXIX**

### **SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING**

It is the intent of the parties hereto that the provisions of this MOU shall supersede all prior agreements and memorandums of agreement, letters of understanding, or memorandums of understanding, or contrary salary and/or personnel resolutions or Administrative Codes, provisions of the City, oral and written, expressed or implied, between the parties, and shall govern the entire relationship and shall be the sole source of any and all rights which may be asserted hereunder. This MOU is not intended to conflict with Federal or State law.

## **ARTICLE XXX**

### **WAIVER OF BARGAINING DURING TERM OF MEMORANDUM OF UNDERSTANDING**

During the term of this MOU, the parties mutually agree that they will not seek to change, negotiate, or bargain with regard to wages, hours, benefits, and terms and conditions of employment, whether or not covered by this MOU or in the negotiations leading thereto, and irrespective of whether or not such matters were discussed or were even within the contemplation of the parties hereto during the negotiations leading to this MOU. Regardless of the waiver contained in this Article, the parties may, however, by mutual agreement, in writing, agree to meet and confer about any matter during the term of this MOU.

## **ARTICLE XXXI**

### **EMERGENCY WAIVER PROVISION**

In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, wind, insurrection, civil disorder, national emergency, or similar circumstances, provisions of this MOU or the Personnel Rules or Resolutions of the City, which restrict the City's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is declared over, this MOU will be reinstated immediately. The Association shall have the right to meet and confer with the City regarding the impact on employees of the suspension of the provisions in the MOU during the course of the emergency.

## **ARTICLE XXXII**

### **MEMORANDUM OF UNDERSTANDING TERMS SEVERABLE**

Should any provision of this MOU be found to be inoperative, void, or invalid by a court of competent jurisdiction, or by enactment of Federal or State legislation, all other provisions of this MOU shall remain in full force and effect for the duration of this MOU.

## **ARTICLE XXXIII**

### **TERM OF MEMORANDUM OF UNDERSTANDING AND NO LAYOFF OR FURLOUGH**

**SECTION 1.** The term of this MOU shall commence on January 1, 2020 and shall continue in full force and effect until December 31, 2023.

**SECTION 2.** The City hereby agrees that it shall not layoff any Association employees for an eighteen (18) month period expiring December 31, 2021.

SECTION 3. The City hereby agrees that it shall not furlough any Association employees for a twelve (12) month period expiring June 30, 2021.

**REST OF PAGE LEFT BLANK INTENTIONALLY.**

## **ARTICLE XXXIV**

### **RATIFICATION AND EXECUTION**

The City and the Association acknowledge that this MOU shall not be in full force and effect until ratified by the Association and adopted by the City Council of the City of Orange. Subject to the foregoing, this MOU is hereby executed by the authorized representatives of the City and the Association and entered into this 10<sup>th</sup> day of November 2020.

#### **City of Orange**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Will Kolbow, Assistant City Manager

By: \_\_\_\_\_  
Monica Espinoza, Human Resources Director

By: \_\_\_\_\_  
Cody Kleen, Human Resources Analyst II

By: \_\_\_\_\_  
Aaron Schulze, Senior Administrative Analyst

#### **Water Division Employees' Association**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Terry Remyn, President

By: \_\_\_\_\_  
Mario Valdez, Vice President

By: \_\_\_\_\_  
Victor Campos, Treasurer

By: \_\_\_\_\_  
Nathan Gosselin, Secretary

Approved as to form:

By: \_\_\_\_\_  
Gary A. Sheatz, City Attorney

## **APPENDIX A**

### **WATER DIVISION EMPLOYEES' ASSOCIATION MONTHLY SALARY RANGES**

#### **EFFECTIVE JUNE 26, 2016**

#### **2.0% Across the Board Salary Increase**

<b>Classification Title</b>	<b>NEW RANGE</b>	<b>STEP A</b>	<b>STEP B</b>	<b>STEP C</b>	<b>STEP D</b>	<b>STEP E</b>	<b>STEP F</b>
Senior Water Meter Service Wkr	493	4170	4382	4606	4841	5087	5347
Skilled Maintenance Wkr -Water	490	4108	4317	4537	4769	5012	5267
Water Maintenance Leadworker	510	4538	4770	5013	5269	5538	5820
Water Maintenance Worker I	451	3382	3554	3735	3926	4126	4336
Water Maintenance Worker II	471	3736	3927	4127	4338	4559	4791
Water Meter Service Worker I	459	3519	3699	3887	4086	4294	4513
Water Meter Service Worker II	479	3888	4087	4295	4514	4744	4986
Water Plant Operator I	484	3987	4190	4404	4628	4864	5112
Water Plant Operator II	504	4405	4629	4865	5114	5374	5648
Water Yard Storekeeper	481	3927	4128	4338	4559	4792	5036

#### **EFFECTIVE JANUARY 5, 2020**

#### **3.0% Across the Board Salary Increase**

<b>Classification Title</b>	<b>NEW RANGE</b>	<b>STEP A</b>	<b>STEP B</b>	<b>STEP C</b>	<b>STEP D</b>	<b>STEP E</b>	<b>STEP F</b>
Senior Water Meter Service Wkr	499	4296	4515	4746	4988	5242	5509
Skilled Maintenance Wkr -Water	496	4232	4448	4675	4914	5164	5427
Water Maintenance Leadworker	516	4676	4915	5166	5429	5706	5997
Water Maintenance Worker I	457	3485	3662	3848	4045	4251	4468
Water Maintenance Worker II	477	3850	4046	4252	4469	4697	4937
Water Meter Service Worker I	465	3626	3811	4005	4210	4424	4650
Water Meter Service Worker II	485	4006	4211	4426	4651	4888	5138
Water Plant Operator I	490	4108	4317	4537	4769	5012	5267
Water Plant Operator II	510	4538	4770	5013	5269	5538	5820
Water Yard Storekeeper	487	4046	4253	4470	4697	4938	5189

## **APPENDIX A (CONTINUED)**

### **WATER DIVISION EMPLOYEES' ASSOCIATION MONTHLY SALARY RANGES**

#### **EFFECTIVE JANUARY 3, 2021**

#### **2.0% Across the Board Salary Increase**

<b>Classification Title</b>	<b>NEW RANGE</b>	<b>STEP A</b>	<b>STEP B</b>	<b>STEP C</b>	<b>STEP D</b>	<b>STEP E</b>	<b>STEP F</b>
Senior Water Meter Service Wkr	503	4383	4606	4841	5088	5348	5620
Skilled Maintenance Wkr -Water	500	4317	4538	4770	5013	5268	5537
Water Maintenance Leadworker	520	4770	5014	5269	5538	5821	6118
Water Maintenance Worker I	461	3554	3736	3926	4127	4337	4558
Water Maintenance Worker II	481	3927	4128	4338	4559	4792	5036
Water Meter Service Worker I	469	3699	3887	4086	4294	4513	4744
Water Meter Service Worker II	489	4087	4296	4515	4745	4987	5241
Water Plant Operator I	494	4191	4404	4629	4865	5112	5374
Water Plant Operator II	514	4629	4866	5114	5375	5650	5937
Water Yard Storekeeper	491	4129	4339	4560	4793	5037	5293

#### **EFFECTIVE JANUARY 1, 2023**

#### **3.0% Across the Board Salary Increase**

<b>Classification Title</b>	<b>NEW RANGE</b>	<b>STEP A</b>	<b>STEP B</b>	<b>STEP C</b>	<b>STEP D</b>	<b>STEP E</b>	<b>STEP F</b>
Senior Water Meter Service Wkr	515	4653	4890	5140	5402	5677	5967
Skilled Maintenance Wkr -Water	512	4583	4818	5063	5322	5594	5878
Water Maintenance Leadworker	532	5065	5323	5595	5880	6180	6495
Water Maintenance Worker I	473	3773	3966	4168	4381	4605	4839
Water Maintenance Worker II	493	4170	4382	4606	4841	5087	5347
Water Meter Service Worker I	481	3927	4128	4338	4559	4792	5036
Water Meter Service Worker II	501	4339	4561	4793	5038	5295	5565
Water Plant Operator I	506	4449	4675	4914	5165	5428	5705
Water Plant Operator II	526	4916	5166	5430	5707	5998	6303
Water Yard Storekeeper	503	4383	4606	4841	5088	5348	5620