

**RESOLUTION NO. 11275**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE REPEALING RESOLUTION NO. 11108 AND ALL AMENDMENTS THERETO AND APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ORANGE AND THE ORANGE FIRE MANAGEMENT ASSOCIATION CONCERNING WAGES, HOURS, AND OTHER CONDITIONS OF EMPLOYMENT EFFECTIVE JULY 1, 2019 THROUGH JUNE 30, 2023**

**WHEREAS**, the City of Orange, hereinafter referred to as “City”, and the Orange Fire Management Association, hereinafter referred to as “Association”, have met and conferred in accordance with the 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 July 1, 2019 through June 30, 2023 and the City Council desires to repeal Resolution No. 11108 and all amendments thereto for said employees, as set forth in the Memorandum of Understanding, hereinafter referred to as “MOU”; and

**WHEREAS**, on June 11, 2019, the City Council of the City of Orange adopted Resolution No. 11167, A Resolution of the City Council of the City of Orange Establishing a Letter of Understanding between the City of Orange and the Association effective July 1, 2019; and

**WHEREAS**, on July 14, 2020, the City Council of the City of Orange adopted Resolution No. 11251, A Resolution of the City Council of the City of Orange Establishing a Side Letter Agreement between the City and the Association effective July 1, 2020 through June 30, 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 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, 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:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

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Pamela Coleman, City Clerk, City of Orange



**Exhibit A**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE CITY OF ORANGE**

**AND**

**THE ORANGE FIRE MANAGEMENT  
ASSOCIATION**

**JULY 1, 2019 THROUGH JUNE 30, 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, the City of Orange, hereinafter referred to as "City", for the purpose of meeting its obligations under the Meyers-Milias-Brown Act (Government Code Section 3500 et. seq.), Employee Relations Resolution No. 3611 and this Memorandum of Understanding, hereinafter referred to as "MOU", has recognized the Orange City Fire Management Association, hereinafter referred to as "Association", as the majority representative of the Unit of Representation comprised of management classifications of the Fire Department as set forth in Exhibit 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.

**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 hereby to join and/or participate in protected Association activities or to refrain from joining or participating in protected activities in accordance with the Employer-Employee Relations Resolution and Government Code Section 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 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.

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## **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 in Exhibit A.

**SECTION 2. SALARIES.** Salaries and their effective dates for employees covered by this MOU are as listed in Exhibit A. The salary ranges shall be identified by number, and the steps by the letters A to F.

#### **SECTION 3. HOURLY RATE.**

- A. **Suppression Personnel.** For all employees who have a weekly work schedule of 55.9 hours, the equivalent hourly rate of pay shall be the monthly rate times twelve (12) divided by 2906 annual hours.
- B. **All Other Personnel.** 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 2080 annual hours.

**SECTION 4. BEGINNING RATES.** Fire Battalion Chiefs, including those appointed to a temporary position, will begin at C Step, with a minimum of one (1) year of service required before advancing to each proceeding step. However, on the request of the Fire Chief under whom the employee will serve, and with authorization of the Human Resources Director, such employee, upon appointment to a Fire Battalion Chief position, may be placed at step higher than C, 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 the 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 discharge eliminates the accumulated length of service of such employee for the purpose of this MOU. Such employee 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 RANGE.** The following regulations shall govern salary advancement:

- A. **Merit Advancement.** Employees shall be considered for advancement through the salary range in yearly increments. Advancement through the salary range may be

granted only for continuous, meritorious and efficient performance, and continued improvement by the employee in the effective performance of duties. 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:

The Fire Chief 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 will be provided to the Fire Chief.

- B. Special Merit Advancement. When an employee demonstrates exceptional ability and proficiency in the performance of duties, the Fire Chief 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 the Fire Chief's recommendation, approve and effect such special merit advancement.
- C. Length of Service Required After A Merit Advancement is Denied. When an employee is not approved for a merit advancement to the 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 6, Subsection A.

## SECTION 7. PROBATIONARY PERIOD AND PROMOTION.

- A. Probationary Period for New Employees. The probationary period for new employees shall be for a period of one (1) year (365 days) from date of hire in order to demonstrate suitability for the job. The employee shall attain regular status in the classification upon successful completion of the probationary period. For good cause, with the approval of the Human Resources Director, the Fire Chief may extend such probationary period.
- B. Probationary Period for Promoted Employees. An employee who is promoted to a classification shall serve a probationary period during which the employee shall have an opportunity to demonstrate suitability for the job. The probationary period shall be one (1) year (365 days) from the date of promotion or date of hire for lateral appointments. For good cause, with the approval of the Human Resources Director, the Fire Chief may extend such probationary period up to an additional six (6) months. The employee shall attain regular status in the classification upon successful completion of the probationary period. An employee who does not satisfy the standards of the class during the probationary period, shall be notified, in writing. Such notice shall include the reasons for such action. If regular status in the class is not achieved, such employee shall be demoted to the appropriate step in the former classification unless the reasons warrant termination from City employment.



- C. Probationary Period for Temporarily Promoted Employees. The probationary period for employees temporarily promoted to the position of Fire Battalion Chief shall be one (1) year (365 days) from the date of the temporary promotion. If there is a break in serving as a Temporary Fire Battalion Chief which is more than one (1) year (365 days) from the date of the temporary promotion, then the probationary period starts over. If there is a break in serving as a Temporary Fire Battalion Chief which is less than one (1) year (365 days) from the date of the temporary promotion, then all time served as a Temporary Fire Battalion Chief will count toward the probationary period, if said employee is formally promoted.
- D. Salary for Promoted Employees. When an employee is promoted to a position in 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, the employee may be placed in that appropriate salary range as will grant the employee an increase of at least one (1) salary step. At the discretion of the Fire Chief and the Human Resources Director, an employee may be granted a salary step increase of up to three (3) salary steps upon promotion.

SECTION 8. DEMOTION. If, pursuant to the provisions of this MOU, an employee is demoted 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.

SECTION 9. ASSIGNMENT PAY.

- A. Deputy Chief. Fire Battalion Chiefs assigned as Deputy Chief by the Fire Chief shall receive a sixteen percent (16%) salary increase over the base pay of the Fire Battalion Chief position. This form of pay, also referred to as “Lead Worker/Supervisor Premium”, shall be reported to California Public Employees’ Retirement System (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).
- B. Training Officer. Fire Battalion Chiefs assigned as Training Officer shall receive a twelve percent (12%) salary increase above the Fire Battalion Chief’s base pay. This form of compensation, also referred to as “Safety Officer Training/Coordinator 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)(c).
- C. All special assignments shall be made or revoked at the discretion of the Fire Chief.

**SECTION 10. BILINGUAL PREMIUM.** Employees covered by this MOU may be assigned by the Fire Chief, with approval of the Human Resources Director, to a bilingual assignment. The Fire Chief 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 \$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 Fire Chief, the Human Resources Director, or 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 pursuant to this Section. 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 pursuant to CalPERS Regulations, Section 571.1(b)(3).

**SECTION 11. LONGEVITY PAY.** Employees shall be eligible to receive a monthly Longevity Pay according to the chart below. Years of service will be defined as the total number of years of service with the Orange City Fire Department. This form of compensation, also referred to as “Longevity Pay”, shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(1), and pensionable compensation for New Members pursuant to CalPERS Regulations, Section 571.1(b)(1).

<b>Years of Service</b>	<b>Monthly Premium</b>
15	\$200.00
20	\$400.00
25	\$600.00

## **ARTICLE IV**

### **WORK WEEK – WORK SCHEDULE**

**SECTION 1. SUPPRESSION PERSONNEL.** Fire suppression employees will work an average work week of 55.9 hours.

**SECTION 2. ALL OTHER PERSONNEL.** All other employees will work a work week of forty (40) hours [four (4) consecutive ten (10) hour days]. The meal period will be considered time worked as provided by the Fair Labor Standards Act (FLSA) for employees on this 4/10 work schedule.

**SECTION 3.** Fire suppression employees shall be assigned to a 48/96 work schedule. The 48/96 work schedule consists of three (3) Shifts (A, B, and C), with each Shift scheduled to work two

(2) consecutive twenty-four (24) hour shifts commencing at 0700, followed by four (4) consecutive twenty-four (24) hour shifts off.

SECTION 4. The work cycle for suppression employees will be eight (8) days within a twenty-four (24) day work period.

## **ARTICLE V**

### **OVERTIME CALL BACK PAY – SHIFT EXCHANGE**

SECTION 1. COMPENSATORY OVERTIME. Compensatory time shall be paid as follows:

- A. For fire suppression employees who work an average work week of 55.9 hours, compensatory time shall accumulate at the premium rate of one and one-half (1½) hours of compensatory time for each one (1) hour of overtime actually worked in excess of the employee's regularly scheduled working hours for a twenty-four (24) day work period.
- B. For employees who work an average work week of forty (40) hours, compensatory time shall be accumulated at the premium rate of one and one-half (1½) hours of compensatory time for each one (1) hour of overtime actually worked during the employee's regular work week.
- C. Only time actually worked shall count in the computation of overtime, except for call back in accordance with Section 6 of this Article.
- D. Compensatory time for overtime will be accumulated in one-quarter (¼) hour increments. Where an employee works less than one-quarter (¼) hour of overtime per day, the employee shall not receive compensatory time for overtime of less than one-quarter (¼) hour. In order to be entitled to compensatory time, such compensatory time must be authorized by the Fire Chief or duly authorized designee. All compensatory time, except holiday compensatory time, shall be subject to a 240 hour cap at any given time. Any compensatory time accrued over 240 hours shall be automatically paid to the employee in the following pay period. Accumulated compensatory time not taken off in the calendar year in which it was earned may be carried over to the next year up to a maximum of eighty (80) hours. Any accumulated compensatory time carried over to a succeeding calendar year must be used during the calendar year or it shall be automatically paid on the first pay period of the new calendar year.
- E. Upon promotion to Fire Battalion Chief, the City shall pay 100% of all prior compensatory time earned at the Fire Captain salary rate to the employee.

SECTION 2. PAYMENT UPON SEPARATION. Employees shall be entitled to receive payment for all accumulated compensatory time upon their separation.

SECTION 3. USAGE OF COMPENSATORY TIME PREVIOUSLY EARNED. Accumulated compensatory time off may be taken by an employee upon reasonable notice and prior approval of the Fire Chief. In any instance involving the use of a fraction of a day's compensatory time, the minimum charge to the employee's compensatory time account shall be one-quarter (¼) hour.

SECTION 4. OVERTIME (PAID OVERTIME). Compensatory time shall be paid at the regular rate of pay or equal time off, when authorized by the Fire Chief or duly authorized designee.

- A. Overtime shall be paid at the regular rate of pay and paid during the pay period in which it was earned. For employees with an average work week of 55.9 hours, premium pay shall be calculated at one and one-half (1½) times the employee's regular rate of pay for actual hours worked in excess of 182 hours during a twenty-four (24) day work period. Hours eligible for premium pay shall equal regular hours, plus overtime hours worked, minus leave time (sick leave, vacation, compensatory time off), minus 182. This form of pay, also referred to as "Fair Labor Standards Act", shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(5), and pensionable compensation for New Members pursuant to CalPERS Regulations, for Section 571.1(a)(4). Premium pay shall be paid in the pay period in which the twenty-four (24) day work period ends. Compensatory time may be accrued in lieu of receiving pay for those hours eligible for premium pay.
- B. For employees with an average work week of forty (40) hours, premium pay shall be calculated at one and one-half (1½) times the employee's regular rate of pay for the actual hours worked in excess of forty (40) hours in a seven (7) day work week. Hours eligible for premium pay shall equal regular hours plus overtime hours worked minus leave time (sick leave, vacation, compensatory time off), minus forty (40). Premium pay shall be paid in the pay period in which it was earned. Compensatory time may be accrued in lieu of receiving pay for those hours eligible for premium pay.

SECTION 5. Nothing herein is intended to limit or restrict the authority of the City to require any employee to perform overtime work.

SECTION 6. CALL BACK PAY.

- A. When a fire suppression employee is required to report back to work after completing a normal work shift, and having left City premises and/or work locations, the fire suppression employee shall receive a minimum of three (3) hours of compensatory time as call back pay. Forty (40) hour employees will receive two (2) hours minimum as compensatory time for call back pay. Call back compensatory time shall be paid at the premium rate of time and one-half of pay or equal time off, when authorized by the Fire Chief or duly authorized designee.

- B. During times of disaster, when so proclaimed by the Mayor of the City, overtime for all fire employees shall be computed as though the fire employee worked a forty (40) hour week.

#### **SECTION 7. SHIFT EXCHANGE.**

- A. Employees shall have the right to exchange shifts when the change does not interfere with the operation of the Fire Department, except in the case of emergency. No obligation shall accrue to the City as a result of the operation of this provision.
- B. It shall be the responsibility of the individual who has agreed to work to report for duty, or, if unable to report for duty, make arrangements for a replacement. In the event the employee is unable to find a replacement, the City may hire an overtime replacement and charge the vacation or compensatory time of the individual who was unable to report for duty.

**SECTION 8. REIMBURSEMENT FROM CALIFORNIA OFFICE OF EMERGENCY SERVICES (CAL-OES).** The City will compensate its employees overtime in accordance with the current MOU, portal to portal, while in the course of their employment and away from their official duty station and assigned to an emergency incident, in support of an emergency incident, or pre-positioned for emergency response.

### **ARTICLE VI**

#### **HEALTH BENEFITS**

**SECTION 1. HEALTH INSURANCE.** The City contracts with the 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 towards 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 on January 1<sup>st</sup> to the amount set by the CalPERS Board of Administration.

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Effective Date	Monthly Contribution
January 1, 2019	\$1,655.00
January 1, 2020	\$1,730.00
January 1, 2021	\$1,805.00
January 1, 2022	\$1,880.00
January 1, 2023	\$1,955.00

- B. Any premium amount in excess of the amounts designated in Subsection A necessary to maintain benefits under any benefits plan selected by the employee shall be borne solely 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. If an employee chooses not to be enrolled in a health plan through the City, the employee must provide proof of other medical insurance (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 Department. Based upon determination that medical insurance coverage is in full force and effect, eligible employees hired before March 29, 2020 shall receive the monthly amount stipulated in Subsection A above as a waiver amount. Employees hired on or after March 29, 2020 who elect to waive medical insurance shall receive \$500.00 per month as a waiver amount. In the event the employee loses eligibility (with documentation) for the waiver, the employee shall 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.
- E. Retired Annuitant. The City shall contribute toward the payment of premiums under the CalPERS Health Benefits Plan to each eligible retiree annuitant of CalPERS to the extent required by law, which is 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 towards a \$75,000.00 life insurance benefit. The City shall have the right to change life insurance carriers and administer the life insurance benefits provided herein.

**SECTION 3. DISABILITY INSURANCE.** The City shall make a contribution to the Orange City Firefighters, Inc. Local 2384 of the International Association of Fire Fighters, AFL-CIO, of \$54.05 per month per regular full-time employee of the Orange Fire Management Association to be applied toward a long-term disability insurance benefit plan offered by the Orange City Firefighters and selected by the Orange Fire Management Association. Such plan shall be open to all Fire Management employees and the Association shall hold the City harmless, defend, and

indemnify the City for any claims regarding the administration or payment of claims under any Association or Union sponsored plan.

## **ARTICLE VII**

### **EDUCATIONAL REIMBURSEMENT, PROFESSIONAL DEVELOPMENT, AND INCENTIVE PROGRAMS**

**SECTION 1. EDUCATIONAL REIMBURSEMENT.** The City will reimburse employees for the cost of tuition, textbooks, parking fees, and health fees required for approved college courses, and courses certified through California State Fire Training at the Federal, State, and Local level. An approved course is one designed to directly improve the knowledge of the employee relative to an employee's specific job and must be approved by the Fire Chief and the Human Resources Director prior to registration. Full reimbursement up to the amount specified below will be provided based upon completion of the approved course(s) with a final grade of C or better or a Pass in a pass/fail course. Educational reimbursement payments to an employee shall not exceed \$1,500.00 in one (1) fiscal year. The employee must still be employed by the City when the course is completed.

**SECTION 2. PROFESSIONAL DEVELOPMENT.** The City agrees to allow employees to receive reimbursement of up to \$800.00 out of the \$1,500.00 Educational Reimbursement incentive allotted per fiscal year for activities which aid in their professional development. Reimbursable professional development activities include the following:

- 1) Attendance at job-related professional conferences and seminars;
  - 2) Payment of membership dues in community and professional organizations;
  - 3) Purchase of job-related professional journals, books, and other written materials which further their knowledge and improve their effectiveness in their duties.
- B. Participation and/or purchase must be approved in advance by the Fire Chief and the Human Resources Director.
- C. The intent of the above benefit is to recognize and encourage employees to pursue educational and public relations oriented activities beyond those normally budgeted for by their departments and in which they are directed to participate. Approved activities are those which may be expected to further their knowledge of their jobs and the Orange community and which contribute to their improved effectiveness. Individual departments may continue to budget funds for employee 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 the employee's knowledge.

**SECTION 3. EDUCATIONAL INCENTIVE PROGRAM.** The City agrees to establish the following educational incentive program payable on a monthly basis for employees in the bargaining unit.

<b>Education Level</b>	<b>Monthly Incentive</b>
AA Degree	\$200.00
BA/BS Degree	\$400.00
MA/MS Degree	\$600.00

This form of pay, 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 4. URBAN SEARCH AND RESCUE CERTIFICATION.** The City shall provide an Urban Search and Rescue (USAR) certification incentive of \$75.00 per month for qualified employees, as approved by the Fire Chief. This certification incentive shall become effective on the first day of the pay period following submission of proof of certification. This form of pay, 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(a)(2).

**SECTION 5. CHIEF OFFICER CERTIFICATION.** The City shall provide a Chief Officer certification incentive of \$150.00 per month for qualified employees. This certification incentive shall become effective on the first day of the pay period following submission of proof of certification. This form 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(a)(2).

**SECTION 6. CALIFORNIA INCIDENT COMMAND CERTIFICATION SYSTEM (CICCS).** The City shall provide a \$100.00 per month incentive for employees who are certified as a CICCS Strike Team Leader. This certification incentive shall become effective on the first day of the pay period following submission of proof of certification. This form 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(a)(2).

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## **ARTICLE VIII**

### **UNIFORMS**

**SECTION 1.** The City of Orange shall purchase uniforms for all regular uniformed members of the Fire Department. All uniforms thus purchased shall remain the property of the City of Orange. Total expenditures for the Fire Department shall not exceed \$800.00 per fiscal year per uniformed officer. 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.

**SECTION 2.** All safety equipment, including protective clothing or devices required of employees in the performance of their duties, shall be furnished by the City. All safety equipment purchased by the City shall remain the property of the City.

## **ARTICLE IX**

### **HOLIDAYS**

**SECTION 1.** Employees shall receive the following paid holidays in accordance with this Article:

- 1) January 1<sup>st</sup> (New Year’s Day)
- 2) The third Monday in February (Presidents’ Day)
- 3) The last Monday in May (Memorial Day)
- 4) July 4<sup>th</sup> (Independence Day)
- 5) The 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 Day)
- 9) One-half day before Christmas (Christmas Eve) – [regular employees receive five (5) hours and suppression employees receive six (6) hours – see Section 3]
- 10) December 25<sup>th</sup> (Christmas Day)
- 11) Two (2) Floating Holidays

**SECTION 2.**

- A. Fire suppression employees who work an average work week of 55.9 hours shall receive holiday pay in lieu of holiday time off. The employee shall have the option annually to have holiday pay paid out in one of two ways: receive the holiday hours in pay for each occurrence in the pay period that the holiday falls within, or, holiday hours shall be accrued and paid-off twice a year, with the pay-offs occurring in the pay period that includes Memorial Day and the pay period that includes Thanksgiving Day.
- B. One (1) working day equals twelve (12) hours for suppression employees.

- C. Fire employees who have a regular forty (40) hour work week shall receive ten (10) hours off with pay for such holidays.
- D. As set forth in this MOU, the terms “holiday pay” or “holiday pay in lieu of time off” shall be defined as cash compensation in the same amount the affected employee would have received had the employee taken the holiday off with pay, which would include the employee’s base pay, plus premiums that qualify as special compensation as defined in the California Public Employees’ Retirement Law (PERL). This form of pay, also referred to as “Holiday Pay”, shall be reported to CalPERS as special compensation, and is therefore compensation earnable for Classic Members pursuant to CalPERS Regulations, Section 571(a)(5), and pensionable compensation for New Members pursuant to CalPERS Regulations, Section 571.1(a)(4).
- E. Any accumulated holiday compensatory time accrued in excess of 120 hours per calendar year shall be automatically paid to the employee on the first pay period of the new calendar year.

SECTION 3. For those employees whose regular work week is forty (40) hours, in the event any of the above holidays, except Christmas Eve, fall on a Sunday, the following Monday will be deemed a holiday. When any of the above holidays fall on a Saturday, except Christmas Eve, the preceding Friday will be deemed a holiday. If Christmas Eve falls on a Saturday or Sunday, forty (40) hour employees shall be credited with an additional one-half (1/2) day.

SECTION 4. Should an employee whose regular work week is forty (40) hours be required to work on a holiday listed in Section 1 above, the employee shall receive holiday pay and straight time pay for all hours worked on the holiday or the equivalent time off as compensatory time. Work on a holiday must be approved by the Fire Chief. Employees shall receive no other compensation for working a holiday.

SECTION 5. Should any of the holidays listed above fall during the employee's vacation period, the employee shall receive holiday pay for such holidays, which will reduce the charge made against the employee's accumulated vacation.

SECTION 6. For employees who work an average work week of forty (40) hours, the two (2) floating holidays shall be taken at the convenience of the City with approval of the Fire Chief or duly authorized designee.

- A. Employees promoted into this bargaining unit after January 1<sup>st</sup> shall receive a prorated portion of the two (2) floating holidays during their first calendar year in this bargaining unit.
- B. The floating holiday hours are not accumulative and shall be forfeited should they not be used during the year they are earned.

- C. Employees under this Section whose employment ends with the City prior to using their floating holiday hours shall receive cash reimbursement for said floating holiday hours.

## **ARTICLE X**

### **VACATION**

**SECTION 1.** Employees accrue paid vacation as indicated in Appendix A.

- A. **SCHEDULE 1:** For Fire Battalion Chiefs who work an average work week of 55.9 hours.
- B. **SCHEDULE 2:** For Fire Battalion Chiefs who work a regular work week of forty (40) hours.

**SECTION 2.** Vacation shall be taken at the convenience of the City with the approval of the Fire Chief.

- A. Where possible, such vacation should be taken annually and not accumulated from year to year.
- B. Vacation not in excess of the equivalent amount earned in the immediately preceding twenty-four (24) month period may be accumulated.
- C. Employees shall not accumulate vacation in excess of the equivalent amount earned in the immediately preceding twenty-four (24) month period. Such excess not taken by the employee shall be automatically paid to the employee.

**SECTION 3.** An employee may convert up to fifty percent (50%) of current annual vacation accrual into pay in lieu of time off with pay. Such conversion may occur once per calendar year.

**SECTION 4.** Employees who separate employment with the City shall be paid for accrued and unused vacation, if any, and the prorated portion of their final 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 XI**

### **OTHER LEAVES OF ABSENCE**

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

- A. After all available leave benefits, including vacation, compensatory time, and other leave benefits have been completely used, a regular employee, not under suspension, may make written application to the Fire Chief for a leave of absence without pay. No such leave will be considered absent a written application from the employee requesting leave.
- B. If the Fire Chief 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, and in some cases retirement, or any other benefits shall accrue to any employee on leave of absence without pay, except as denoted in Subsection D below and under the City's Family Care and Medical Leave Act (FMLA) / California Family Rights Act (CFRA) and Pregnancy Disability Leave (PDL) policies. 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 medical, dental, vision, life, disability and other insurances may be continued during a leave of absence without pay, provided direct payment of the total premium by the employee is made through and as prescribed by the Payroll Division of the City. The City will pay up to six (6) months of the Flexible Benefit Plan contribution towards insurance premiums for employees who are on an approved long-term disability leave.
- E. At the end of such leave, if the employee desires additional leave, written application must be made through the Fire Chief to the Human Resources Director at least ten (10) days before the end of the leave, stating the reasons why the additional leave is desired and why it would be in the interest of the City to grant such leave of absence. If such additional leave is merited and would still preserve the interest of the City, the Human Resources Director may approve such extension of the leave of absence for a period up to, but 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 employee shall be considered to have resigned from employment with the City.
- G. An employee on a leave of absence without pay 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 Fire Chief may be subject to termination.
- I. Any employee who falsifies the reason for the request for said leave of absence, or extension thereof, may be terminated.

- J. Employees granted such leave on the same basis for pregnancy, childbirth, and other medically-related conditions shall retain all seniority rights.
- K. Forms setting forth the benefits available and other pertinent information shall be maintained for distribution in the Human Resources Department.

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

- A. Jury Duty. When required to serve on a jury while on duty, employees shall have paid time off for a period of actual service required on the jury. Employees shall receive their regular pay while serving on jury duty during their regular working hours, provided all jury fees paid to the employee are turned over to the City, with the exception of automobile expenses allowed. Once an employee has completed jury service, the employee must provide the Certificate of Jury Service to the supervisor to qualify for jury duty compensation.
- B. Witness Service for the City. If an off-duty employee is called as a witness on behalf of the City, the employee shall receive overtime pay. As a condition of receiving pay while serving as a witness for the City, employees shall be required to submit to the City any witness service fees received.
- C. Upon completion of Jury Duty and/or Witness Service for the City, the employee shall contact the Fire Chief, or duly authorized designee, to reconcile the remainder of the employee's work shift.

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, be credited, and accumulated in accordance with the following:

- A. For employees who work an average work week of 55.9 hours, twelve (12) hours of sick leave will accrue for each month of continuous service.
- B. For employees who work a regular work week of forty (40) hours, eight (8) hours of sick leave will accrue for each month of continuous service.
- C. All non-benefited employees shall accrue sick leave as required by State law.
- D. For employees who work an average work week of 55.9 hours, sick leave will be charged at the rate of one (1) shift [twenty-four (24) hours] for each work shift an employee is absent.

- E. For employees who work a regular work week of forty (40) hours, sick leave will be charged at the rate of one (1) day [ten (10) hours] for each work day an employee is absent.
- F. In any instance involving the 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.

**SECTION 5. SICK LEAVE USAGE.** Any employee eligible for sick leave shall be granted such leave for the following reasons:

- A. Personal illness or physical incapacity resulting from causes beyond the employee's control, including pregnancy, childbirth, and other medically-related conditions.
- B. Medical, dental, and vision appointments during working hours, when authorized by the Fire Chief or duly authorized designee.
- C. Family Sick Leave. Employees who work a regular work week of forty (40) hours may charge up to forty-eight (48) hours per calendar year to sick leave for reasons of illness or injury of any employee's immediate family. Employees who work an average work week of 55.9 hours may charge up to seventy-two (72) hours per calendar year to sick leave for reasons of illness or injury of an employee's immediate family. "Immediate 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 (under the same roof), and any parent, substitute parent, parent-in-law, spouse, registered domestic partner, child, brother, sister, grandchild, or grandparent of the employee, regardless of residence.
- D. 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 may be applied only to absence caused by illness or injury (including industrial illness or injury as set forth in Section 7 of this Article) of an employee and may not extend to absence caused by illness or injury of a member of the employee's family, except as set forth in Subsection C above.
- F. The Fire Chief shall be responsible for control of misuse of sick leave benefits if such absence exceeds four (4) consecutive working days for forty (40) hour work week employees or three (3) consecutive twenty-four (24) hour shifts for suppression employees. An employee may be required, as a condition for receiving sick leave pay, to furnish a certificate of illness issued by a licensed physician or nurse, or other satisfactory evidence of illness, in writing.
- G. The Association shall cooperate with the Fire Chief in efforts to ensure sick leave benefits are used appropriately.

- H. Service Retirement. Upon retiring from City service and entering CalPERS as a Retired Annuitant, an employee with a minimum of five (5) years of continuous service to the City shall receive pay for fifty percent (50%) of all accrued and unused sick leave hours.
- I. Service Retirement Pending Industrial Disability Retirement. Following the City's receipt of CalPERS' determination correspondence granting an employee's industrial disability retirement pursuant to CalPERS retirement law, all accrued and unused sick leave shall be paid to the employee.
- J. Industrial Disability Retirement. Following the City's receipt of CalPERS' determination correspondence granting an employee's industrial disability retirement pursuant to CalPERS retirement law, all accrued and unused sick leave shall be paid to the employee. Or, in the alternative, at the employee's timely written request submitted to the Fire Chief, the effective date of the employee's retirement may be delayed by applying some or all of the employee's remaining unused sick leave for service credit, in accordance with Public Employees' Retirement Law. Any unused sick leave not applied for service credit shall be paid to the employee.
- K. 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 is received from the estate of the decedent employee.

SECTION 6. BEREAVEMENT LEAVE. Employees shall be entitled to take up the following amount of paid bereavement leave per incident under 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 a member of the employee's immediate family. "Immediate family" is used in this MOU as limited to any relation by blood, marriage, or adoption, who is a member of the employee's household (under the same roof), and any parent, substitute parent, parent-in-law, legal guardian, spouse, registered domestic partner, child, brother, sister, grandparent, grandparent-in-law, grandchild, brother-in-law, sister-in-law, aunt, or uncle of the employee, regardless of residence.
- B. Days of absence due to bereavement leave shall not exceed three (3) working days per incident for forty (40) hour employees, or two (2) twenty-four (24) hour shifts per incident for 55.9 hour employees. Bereavement leave shall not accrue and must be used within one (1) year of initial incident date.
- C. An employee on bereavement leave shall inform the immediate supervisor of that fact, and the reasons therefore, as soon as possible. Failure to do so within a reasonable period of time may be cause for denial of bereavement leave with pay for the period of absence. The City may require proof of the relationship as a condition to payment

of bereavement leave. Employees wishing to take additional time off for bereavement may use sick leave, vacation, or compensatory time, with approval of the Fire Chief.

SECTION 7. WORKERS' COMPENSATION. Workers' Compensation benefits will be provided as follows:

- A. Safety Employees. Salary continuance for safety employees will be provided in accordance with the current State of California's Division of Workers' Compensation laws and regulations.
- B. Modified Light Duty Work Programs. An employee may be eligible for a temporary modified light duty assignment while recovering from an injury or illness. The availability of the assignment depends on the restrictive nature of the injury or illness and the availability of light duty. The assignment is subject to approval of the Human Resources Director and Fire Chief.
- C. Course of Employment. Should it be determined by the employee's doctor, or a doctor agreed upon 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 or that the employee is not temporarily or permanently incapacitated or disabled as a result of the injury or illness, 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 pursuant to above.
- D. Physician Pre-Designation. Before a work related injury, an employee may elect to pre-designate a qualified medical provider if done in accordance with the State of California's Division of Workers' Compensation.
- E. Fringe Benefits. An employee receiving benefits pursuant to Labor Code Section 4850 or temporary disability will continue to receive the City's contribution to the employee's benefit premiums, such as medical plan, dental plan, and vision plan. All authorized deductions will continue as though the employee is on regular work status. If the employee is no longer eligible to receive temporary disability benefits, the employee shall be responsible for paying the benefit premiums. Any contributions to the employee's benefits not paid pending the determination of whether an injury/illness is job-related and compensable shall be paid retroactively if compensability is determined and accepted by the City.
- F. An employee receiving temporary disability payments in accordance with the current State of California Division of Workers' Compensation laws and regulations may use accumulated leave (including sick leave, vacation, compensatory time, etc.) to supplement temporary disability payments to reach the amount equal to the employee's full regular pay until the employee's leave balances reach zero, at which time, the employee would no longer be able to supplement the temporary disability payments.



## **ARTICLE XII**

### **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 for employees.

**SECTION 2. Safety Retirement Formula – New Members.** Safety employees who are New Members of CalPERS as defined by California Government Code Section 7522.04(f) are subject to the 2.7% @ age 57 retirement formula as set forth in California Government Code Section 7522.25(d). These New Members are subject to the three (3) year final compensation measurement period set forth in California Government Code Section 7522.32. These New Members shall contribute fifty percent (50%) 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(c). In all other respects, New Members shall be subject to the terms and requirements of Public Employees' Pension Reform Act (PEPRA).

Effective the pay period beginning June 21, 2020 through June 19, 2021, these 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).

**SECTION 3. Safety Retirement Formula – Classic Members.** Safety employees who are not defined as New Members as outlined in Section 2 above are defined as Classic Members of CalPERS and are subject to the 3% @ age 50 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 as set forth in California Government Code Section 20042. These Classic Members shall contribute as member contributions ten percent (10%) of their compensation earnable, on a pre-tax basis.

Effective the pay period beginning June 21, 2020, these Classic Members shall pay an additional two percent (2%) of compensation earnable, for a total of twelve percent (12%), on a pre-tax basis, towards the City contribution pursuant to the cost sharing arrangement set forth in California Government Code 20516(f).

**SECTION 4. 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 pay any portion of the employer portion that exceeds \$6.00 monthly.

**SECTION 5. RETIREMENT HEALTH SAVINGS PLAN.** All Fire Management employees are required to participate in the plan by converting the value of the following forms of compensation, on a tax-deferred basis, into their savings account:

- A. 100% of eligible accrued Sick Leave cashout value at separation from service in accordance with Article XI, Section 5, Subsection H; and
- B. 100% of eligible accrued Vacation Leave cashout value at separation from service; and
- C. 100% of eligible accrued Other Leave cashout value at separation from service.

## **ARTICLE XIII**

### **TRAVEL AND BUSINESS EXPENSE REIMBURSEMENT**

**SECTION 1.** The City has established a Travel and Business Expense Reimbursement Policy (Administrative Policy 4.13) to reimburse City employees when conducting City business, attending business or professional conferences, training seminars, or other travel on authorized City business.

Any employee who is required to travel in the performance of their duties or to attend an authorized meeting or conference or otherwise incurs expenses relating to the conduct of City business shall be reimbursed for reasonable expenses incurred for transportation, meals, lodging, and incidentals as outlined in this Administrative Policy.

## **ARTICLE XIV**

### **SAFETY STANDARDS**

**SECTION 1.** The City and its employees agree to comply with all applicable Federal, State and Local laws, as well as 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. HEALTH FITNESS STANDARDS.** In an effort to improve and maintain the physical and mental wellbeing of all fire safety employees, and to reduce the frequency and severity of work related injuries and illnesses, the Association and the City agree to the following Health Fitness Standards:

- A. **Smoking and Vaping:** As a condition of employment, employees shall refrain from smoking and/or vaping on duty. Employees will be encouraged to become, or remain, non-smokers/non-vapers and be provided with information and/or training to assist such effort, and the City may provide medical assistance as required.
- B. **Physical Fitness:** The City shall allow and encourage employees to participate in recognized physical fitness programs while on duty which shall not conflict with the Department's ability to provide services or previously scheduled activities.

- C. Physical Examinations: The City shall provide optional physical examinations that meet or exceed National Fire Protection Association recommendations for all employees. The results of all exams, except that which is required by law, shall be confidential between the examining physician and the employee.

**SECTION 3. PHYSICAL FITNESS INCENTIVE PROGRAM.** Employees may receive up to \$395.00 per fiscal year towards reimbursement for items A and/or B below.

- A. Membership in a health/fitness club.
- B. Participation in a weight loss/stop-smoking/wellness/fitness program.

## **ARTICLE XV**

### **NO STRIKE – NO LOCKOUT**

**SECTION 1. PROHIBITED ASSOCIATION CONDUCT.** The Association, its officers, agents, representatives, and members agree that during the term of this MOU, they will not cause or condone any strike, walkout, slowdown, or any other concerted job action by withholding or refusing to perform services. A violation of this Section by any employee shall constitute just cause for discharge pursuant to Article XVII.

**SECTION 2. PROHIBITED CITY CONDUCT.** The City agrees that it shall not lockout 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 the 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. ASSOCIATION RESPONSIBILITY.** In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited in Section 1 of this Article, the Association shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this MOU, and request that all such persons immediately cease engaging in the prohibited conduct and return to work.

If the Association acts in good faith to meet its responsibilities as set forth above, the Association, its officers, agents, representatives, and its members shall not be liable for damages for prohibited conduct engaged in by employees who are covered by this MOU in violation of Section 1 of this Article.

**SECTION 4.** The City shall have the right to bring suit for damages and/or equitable relief in the Courts for breach of this Article.

## **ARTICLE XVI**

### **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 existed prior to the execution of this MOU. The sole and exclusive rights and responsibilities 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 the 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 and organization of any service or activity conducted by the City and expand or diminish services.
- D. To determine the nature, manner, means, and technology of services to be provided to the public.
- E. To determine methods of financing.
- F. To determine types of equipment or technology to be used.
- G. To determine and/or change the location of facilities, methods, technology, means, and size of the workforce 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 subject to negotiations as required by law.
- K. To establish and modify productivity and performance programs and standards.
- L. To discharge, suspend, demote, or otherwise discipline, employees for just cause, subject to procedural due process pursuant to Article XVII.

- M. To determine job classifications and to reclassify employees and to determine job classifications to be assigned to the Association as a result of a new operation subject to negotiations as required by law.
- N. To hire, transfer, promote, and demote employees for non-disciplinary reasons in accordance with this MOU.
- O. To determine standards for selection, training, and promotion of employees pursuant to current City policy.
- P. To establish employee performance standards including, but not limited to, quality and quantity standards; and to require compliance therewith.
- Q. To promulgate reasonable rules and regulations to maintain order and safety in the City which are not in contravention with this MOU.
- R. To maintain order and efficiency in its facilities and operations.
- S. To take any and all necessary action to carry out the mission of the City in emergencies as set forth in Article XXI, Section 4.

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 a significant number of employees in 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.

SECTION 3. MUTUAL RESPONSE AGREEMENTS. The City shall continue those mutual response agreements outside the City limits that are currently in effect and to subcontract and enter into agreements with other cities or agencies for the purpose of providing a multi-purpose training facility and communications centers. The City agrees to negotiate with the Association regarding the impact of any joint training agreement or any new mutual response agreements and/or modifications to current agreements.

## **ARTICLE XVII**

### **DISCIPLINE AND DISCHARGE – RULES AND REGULATIONS**

SECTION 1. The City shall have the right to discipline and discharge employees for just cause.

SECTION 2. Employees shall not be disciplined or discharged for reasons which are arbitrary, and/or capricious, and/or invidiously discriminatory.

SECTION 3. In order to implement the provisions of the Firefighters Procedural Bill of Rights Act (FBOR), as set forth by California Government Code Section 3250 et seq., in harmony with the provisions of the MOU between the City and the Association, the parties hereby agree as follows:

- A. The City shall comply with the provisions of the FBOR as set forth in Government Code Section 3250 et seq.
- B. Disciplinary actions subject to the grievance procedure set forth in Article XX shall include discipline as defined by the FBOR. If the discipline is of a nature that entitles an employee to a hearing under the FBOR, that hearing shall be conducted in conformance therewith. The parties agree that the arbitrator selected pursuant to the procedures in Article XX shall act in the capacity of the hearing officer and conduct the hearing in accordance with the FBOR.
  - 1) The Department and the Association shall endeavor to appraise each other of potential disciplinary issues and investigations as soon as appropriate.
  - 2) Employees subject to investigatory interviews may be accompanied by a representative and/or legal counsel if requested, as long as legal counsel is reasonably available and does not cause any significant delay of the investigation.
- C. Any hearing on a grievance alleging a violation of the FBOR shall be conducted in conformance with the procedure set forth in this Section.

## **ARTICLE XIX**

### **PAYCHECK INFORMATION**

SECTION 1. ASSOCIATION DUES DEDUCTIONS. The City shall deduct Association dues and supplemental benefit payments from employee paychecks on a bi-weekly basis. Effective upon the date of promotion from the Union MOU into the Association MOU, the Union dues collected on behalf of the promoted employee shall cease.

SECTION 2. INDEMNIFICATION. The Association agrees to hold the City harmless and indemnify the City against any claims, causes of action, lawsuits arising out of the deductions or transmittal of such funds. The Association shall notify the City within ten (10) calendar days of any discrepancy concerning 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. DIRECT DEPOSIT. Employees are required to participate in the City's direct paycheck deposit program.

## **ARTICLE XX**

### **GRIEVANCE AND ARBITRATION PROCEDURES**

SECTION 1. GRIEVANCE DEFINED. A grievance shall be defined and limited to a dispute or controversy between an employee, or a group of employees, and the Association and/or the City regarding the application or interpretation of this MOU, City Personnel Rules and Regulations, and/or departmental rules, regulations, or practices.

SECTION 2. PROCEDURAL DUE PROCESS. Concerning pre-disciplinary matters, the grievance procedure shall not act as a substitute for procedural due process rights for individual employees.

SECTION 3. APPLICATION OF PROCEDURE. All grievances shall be adjusted in accordance with the procedure set forth in this Article and shall constitute the exclusive means and procedure for the settlement and disposition of all grievances. Employees may process their own grievance provided that any of the grievance is not inconsistent with the terms of this MOU, and a representative has been given an opportunity to be present at all grievance proceedings, including adjustment of the grievance. The grieving party must state in writing the remedy sought to resolve the grievance.

SECTION 4. TIMELY FILING AND PROCESSING OF GRIEVANCES. Any grievance not filed within the time limit set forth herein shall be barred and waived. Any grievance not timely processed through the next step of the grievance procedure shall be considered resolved in accordance with the prior answer of the City.

#### SECTION 5. STEPS OF GRIEVANCE PROCEDURE.

- A. Step I. A grievance must be filed, in writing, with the Fire Chief, or duly authorized designee, within twenty (20) calendar days from the time which the grievant knew, or in the exercise of reasonable diligence should have known, of the event giving rise to the grievance. Within ten (10) calendar days of receipt of the grievance, the Fire Chief, or duly authorized designee, shall meet with the grievant and grievant's representative and submit a written response thereto.
- B. Step II. If the grievant is not satisfied with the decision of the Fire Chief, or duly authorized designee, or if the grievant has not received a written decision within the time specified, the grievant may file a written appeal with the City Manager, or duly authorized designee, within ten (10) calendar days of the answer or such time when the answer was due. Within five (5) calendar days of receipt of written appeal, the City Manager, or duly authorized designee, shall meet with the grievant and the

grievant's representative, and shall submit a written response thereto within ten (10) calendar days of receipt of the written appeal.

## **ARTICLE XXI**

### **SCOPE AND APPLICATION OF MEMORANDUM OF UNDERSTANDING**

**SECTION 1. SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING.** It is the intent of the parties hereto that this MOU shall supersede all prior MOUs or contrary City contracts and, when approved by the City Council, shall govern the entire relationship between the City and the Association.

**SECTION 2.** This MOU is subject to amendment only by subsequent written agreement between, and executed by, the parties hereto.

**SECTION 3. TERMS SEVERABLE.** If any provision of this MOU, or the application of such provision, should be rendered or declared invalid by any court action or by reason of any existing or subsequently-enacted legislation, the remaining parts or portions of the MOU shall remain in full force and effect.

**SECTION 4. EMERGENCY WAIVER.** In the event of circumstances beyond the control of the City as a result of a declared emergency, national disaster, or similar circumstances, provisions of this MOU, and/or the Personnel Rules or Regulations of the City, and/or departmental rules and policies shall be suspended for the duration of such emergency. After the emergency is declared over, the City shall immediately meet and confer with the Association regarding the impact on employees of the suspension of these provisions in the MOU and/or City and/or departmental rules and policies.

## **ARTICLE XXII**

### **TERM OF MEMORANDUM OF UNDERSTANDING**

The term of this MOU shall commence on July 1, 2019 and shall continue in effect until June 30, 2023.

## **ARTICLE XXIII**

### **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 the 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 XXIV**

### **RATIFICATION AND EXECUTION**

The City and the Association have reached an understanding as to certain recommendations to be made to the City Council for the City and have agreed that the parties hereto will jointly urge said Council to adopt a new wage and salary resolution which will provide for the changes contained in said joint recommendations. The City and the Association acknowledge that this MOU shall not be in full force and effect until 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**

#### **ORANGE FIRE MANAGEMENT ASSOCIATION**

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

By: \_\_\_\_\_  
Robert J. Stefano, President

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

By: \_\_\_\_\_  
Sean deMetropolis, Vice President

By: \_\_\_\_\_  
Erin Hodges, Senior Human Resources Analyst

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

Approved as to form:

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

## **APPENDIX A**

### **VACATION BENEFITS SCHEDULE 1**

Fire Battalion Chiefs who work fire suppression shall accrue vacation on the following basis:

#### **ACCRUAL RATE: 12.56 HOURS = 1 DAY**

<b>Years of Service</b>	<b>Hours per Year</b>	<b>Days per Year</b>	<b>Shifts per Year</b>
1	138.0	11.00	5.75
2	141.3	11.25	5.88
3	157.0	12.50	6.54
4	172.7	13.75	7.20
5	188.0	15.00	7.83
6	194.3	15.50	8.10
7	200.6	16.00	8.36
8	206.9	16.50	8.62
9	213.2	17.00	8.88
10	219.5	17.50	9.15
11	225.8	18.00	9.41
12	232.1	18.50	9.67
13	238.4	19.00	9.93
14	244.7	19.50	10.20
15	251.0	20.00	10.46
16	257.3	20.50	10.72
17	263.6	21.00	10.98
18	269.9	21.50	11.25
19	276.2	22.00	11.51
20	282.5	22.50	11.77
21	288.8	23.00	12.03
22	295.1	23.50	12.30
23	301.4	24.00	12.56
24	307.7	24.50	12.82
25	314.0	25.00	13.08
26	320.3	25.50	13.35
27	326.6	26.00	13.61
28	332.9	26.50	13.87
29	339.2	27.00	14.13
30	345.5	27.50	14.40

Except, however, if the fire suppression hours should drop below 55.9 hours per week, vacation accrual shall be subject to meet and confer.

## **APPENDIX A (CONTINUED)**

### **VACATION BENEFITS SCHEDULE 2**

Fire Battalion Chiefs who work a regular work week of 40 hours shall accrue vacation on the following basis:

<b>Years of Service</b>	<b>Approx. Workdays per Month</b>	<b>Hours per Month</b>	<b>Workdays per Year</b>
1	0.917	07.333	11.00
2	0.938	07.500	11.25
3	1.042	08.334	12.50
4	1.146	09.167	13.75
5	1.250	10.000	15.00
6	1.292	10.334	15.50
7	1.333	10.667	16.00
8	1.375	11.000	16.50
9	1.417	11.334	17.00
10	1.458	11.667	17.50
11	1.500	12.000	18.00
12	1.542	12.334	18.50
13	1.583	12.667	19.00
14	1.625	13.000	19.50
15	1.667	13.334	20.00
16	1.708	13.667	20.50
17	1.750	14.000	21.00
18	1.792	14.334	21.50
19	1.833	14.667	22.00
20	1.875	15.000	22.50
21	1.917	15.334	23.00
22	1.958	15.667	23.50
23	2.000	16.000	24.00
24	2.042	16.334	24.50
25	2.083	16.667	25.00
26	2.125	17.000	25.50
27	2.167	17.334	26.00
28	2.208	17.667	26.50
29	2.250	18.000	27.00
30	2.292	18.334	27.50

## **EXHIBIT A**

### **ORANGE FIRE MANAGEMENT ASSOCIATION MONTHLY SALARY RANGES**

#### **EFFECTIVE DECEMBER 24, 2017**

**1.75% 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>
Fire Battalion Chief	674.5	10309	10836	11387	11968	12579	13220

#### **EFFECTIVE JUNE 23, 2019**

**4.0% 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>
Fire Battalion Chief	682.5	10728	11277	11850	12455	13091	13758

#### **EFFECTIVE JUNE 21, 2020**

**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>
Fire Battalion Chief	686.5	10944	11504	12089	12706	13354	14035

#### **EFFECTIVE JUNE 20, 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>
Fire Battalion Chief	690.5	11165	11736	12332	12962	13623	14318

#### **EFFECTIVE JUNE 19, 2022**

**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>
Fire Battalion Chief	694.5	11390	11972	12581	13224	13898	14606