

**MEMORANDUM OF UNDERSTANDING  
RELATING TO EMPLOYEES IN THE FIRE MANAGEMENT REPRESENTATION  
UNIT**

**2020–2023**

**ORANGE COUNTY FIRE AUTHORITY**

**AND**

**ORANGE COUNTY FIRE AUTHORITY CHIEF OFFICERS ASSOCIATION**

**FOR THE**

**FIRE MANAGEMENT UNIT**

**This Memorandum of Understanding sets forth the terms of agreement reached between the Orange County Fire Authority and the Orange County Fire Authority Chief Officers Association, as the Exclusively Recognized Employee Organization for the Fire Management Unit for the period beginning July 1, 2020, through June 30, 2023. Unless otherwise indicated herein, all provisions shall become effective July 1, 2020.**

## **IMPLEMENTATION**

This Memorandum of Understanding constitutes a mutual recommendation that was officially ratified by majority vote of the members of the Orange County Fire Authority Chief Officers Association (OCFACOA) and approved by the Orange County Fire Authority Board of Directors.

## TABLE OF CONTENTS

	<b>Page</b>
<b>DEFINITIONS</b> .....	<b>6</b>
<b>ARTICLE I                    WORK HOURS, OVERTIME, AND PREMIUM PAY</b> .....	<b>9</b>
Section 1.            Work Hours .....	9
Section 2.            Treatment of Salary and Benefits for Employees Assigned to Staff Positions and Fire Division Chiefs .....	11
Section 3.            Treatment of Salary and Benefits for Employees Assigned to a Shift Duty Week .....	11
Section 4.            Overtime.....	11
Section 5.            On-Call Pay and Call-Back Pay.....	12
Section 6.            Rest Period from Out-of-County Assignment.....	13
Section 7.            Flex Time .....	13
<b>ARTICLE II                    PAY PRACTICES</b> .....	<b>14</b>
Section 1.            Compensation for Employees .....	14
Section 2.            Pay for New Employees .....	14
Section 3.            Annual Merit Review Program.....	14
Section 4.            Salary on Promotion.....	15
Section 5.            Salary on Reduction .....	15
Section 6.            Salary on Reemployment .....	16
<b>ARTICLE III                    EMPLOYEE PROVISIONS</b> .....	<b>17</b>
Section 1.            Employee Rights .....	17
Section 2.            Time Off for Selection Procedures.....	17
Section 3.            Probation.....	17
Section 4.            Performance Evaluation .....	18
Section 5.            Shift Exchange Policy.....	19
Section 6.            Tobacco Products .....	19
<b>ARTICLE IV                    EMPLOYMENT PROVISIONS</b> .....	<b>20</b>
Section 1.            Temporary Promotion.....	20
Section 2.            Status of Limited-Term Employees.....	20
Section 3.            Reemployment of Employees on Disability Retirement .....	21
Section 4.            Reemployment of Regular Employee .....	21
Section 5.            Employees Transitioned From Other Agencies .....	21
Section 6.            Non-Discrimination Clause .....	21
Section 7.            Assignment of Staff Fire Battalion Chiefs to Fire Prevention .....	22
<b>ARTICLE V                    LEAVE PROVISIONS</b> .....	<b>23</b>
Section 1.            Sick Leave.....	23
Section 2.            Bereavement Leave .....	27
Section 3.            Authorized Leave Without Pay .....	27
Section 4.            Jury Duty Leave .....	28
Section 5.            Witness Leave.....	28
Section 6.            Workers' Compensation Leave .....	28
Section 7.            Parenthood Leave .....	29
Section 8.            Family and Medical Care Leave/California Family Rights Act Leave and Pregnancy Disability Leave.....	29
Section 9.            Catastrophic Leave .....	30
Section 10.            Vacation .....	31

<b>ARTICLE VI</b>	<b>HOLIDAYS.....</b>	<b>36</b>
Section 1.	Holidays Observed .....	36
Section 2.	Shift Fire Battalion Chiefs .....	36
Section 3.	Staff Fire Battalion Chiefs and Fire Division Chiefs .....	36
<b>ARTICLE VII</b>	<b>REIMBURSEMENT PROGRAMS.....</b>	<b>38</b>
Section 1.	Mileage Reimbursement .....	38
Section 2.	Tuition Reimbursement .....	38
<b>ARTICLE VIII</b>	<b>DISCIPLINARY AND PREDISCIPLINARY ACTIONS.....</b>	<b>39</b>
Section 1.	Reprimand or Denial of Performance Salary Increase.....	39
Section 2.	Proposed Disciplinary Action for Dismissal, Suspension, Demotion or Reduction in Pay .....	39
Section 3.	Right of Appeal for Dismissal, Suspension, Demotion or Reduction in Pay .....	40
Section 4.	Appeals to Arbitration .....	41
Section 5.	General Provisions .....	41
<b>ARTICLE IX</b>	<b>GRIEVANCE PROCEDURE .....</b>	<b>44</b>
Section 1.	Scope of Grievances .....	44
Section 2.	Basic Rules .....	44
Section 3.	Submission of Grievances.....	44
Section 4.	Employee Representation .....	45
Section 5.	Time Off for Processing Grievances.....	45
Section 6.	Formal Grievance Steps.....	45
Section 7.	Referrals to Mediation .....	46
Section 8.	Referrals to Arbitration .....	46
Section 9.	General Provisions .....	46
<b>ARTICLE X</b>	<b>LAYOFF PROCEDURE .....</b>	<b>48</b>
Section 1.	Order of Layoff .....	48
Section 2.	Notification of Employees .....	48
Section 3.	Voluntary Reduction in Lieu of Layoff .....	49
Section 4.	Status on Reinstatement .....	49
<b>ARTICLE XI</b>	<b>ON-THE-JOB INJURIES, WORKERS' COMPENSATION.....</b>	<b>51</b>
Section 1.	Disability Payments and Leave .....	51
Section 2.	Exposure to Contagious Diseases .....	51
<b>ARTICLE XII</b>	<b>SAFETY .....</b>	<b>52</b>
Section 1.	General Provisions .....	52
Section 2.	Safety Inspection.....	52
Section 3.	Safety Representative .....	53
Section 4.	Resolution of Safety or Health Complaints .....	53
Section 5.	Abatement of Violations .....	53
<b>ARTICLE XIII</b>	<b>INSURANCE.....</b>	<b>54</b>
Section 1.	CalPERS Health Care .....	54
Section 2.	Health Plan Enrollment.....	56
Section 3.	Other Insurance Coverage .....	56
Section 4.	Retiree Medical Insurance Grant ("Defined Benefit Plan").....	57
Section 5.	Defined Contribution Plan for Retiree Medical Benefits .....	59
Section 6.	Physical Examination .....	59

Section 7.	Optional Benefit Plan (OBP).....	59
Section 8.	OCFACOA Supplemental Retiree Medical Plan .....	61
<b>ARTICLE XIV</b>	<b>UNIFORMS, PROPERTY, SERVICES, AND EQUIPMENT .....</b>	<b>62</b>
Section 1.	Uniforms .....	62
Section 2.	Turnout Clothing and Equipment .....	62
<b>ARTICLE XV</b>	<b>RETIREMENT .....</b>	<b>63</b>
Section 1.	Eligibility .....	63
Section 2.	Final Compensation .....	63
Section 3.	Cost-of-Living Adjustments.....	63
Section 4.	Retirement Formulas and Employee Contributions .....	63
<b>ARTICLE XVI</b>	<b>DEFERRED COMPENSATION .....</b>	<b>65</b>
<b>ARTICLE XVII</b>	<b>ASSOCIATION RIGHTS .....</b>	<b>66</b>
Section 1.	Payroll Deductions .....	66
Section 2.	Employee Information Listing .....	66
Section 3.	Use of Authority Facilities .....	66
<b>ARTICLE XVIII</b>	<b>SEPARABILITY .....</b>	<b>67</b>
<b>ARTICLE XIX</b>	<b>MANAGEMENT RIGHTS.....</b>	<b>68</b>
<b>ARTICLE XX</b>	<b>RECOGNITION .....</b>	<b>69</b>
<b>ARTICLE XXI</b>	<b>TRANSFER OF FUNCTIONS .....</b>	<b>70</b>
<b>ARTICLE XXII</b>	<b>COMPENSATION .....</b>	<b>71</b>
Section 1.	Base Salary Adjustments .....	71
Section 2.	Range Adjustment.....	71
Section 3.	Specialty Pay .....	71
	A. Bilingual Pay .....	71
	B. Educational Incentive Pay.....	72
	C. Staff Assignment Pay .....	73
	D. Duty Officer Compensation .....	73
	E. EMT Certification or Paramedic License Requirement and Pay .....	73
	F. Longevity Pay .....	74
<b>CONTRACT SIGNATURES .....</b>		<b>75</b>
<b>APPENDIX A</b>	<b>BARGAINING UNIT CLASSIFICATIONS.....</b>	<b>76</b>
<b>APPENDIX B</b>	<b>SIDE AGREEMENTS.....</b>	<b>77</b>

## DEFINITIONS

The following terms as used in this Memorandum of Understanding shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

**ASSOCIATION** shall mean the Orange County Fire Authority Chief Officers Association (OCFACOA).

**AUTHORITY** shall mean the Orange County Fire Authority (OCFA). The Authority is a joint powers agency that was created to discharge the functions of the Orange County Fire Department and which—effective March 1, 1995—became a successor organization to the Orange County Fire Department.

**BASE RATE OF PAY** shall mean an employee's hourly rate of pay as determined by where they are in the employee's range.

**BOARD** shall mean Board of Directors of the Authority.

**BOARD OF RETIREMENT** shall mean the Board of Retirement of the Orange County Employees Retirement System (OCERS).

**CONTINUOUS SERVICE** shall mean employment in a regular position which has not been interrupted by resignation, discharge, or retirement. An authorized unpaid leave of absence shall not constitute a break in continuous service. For those employees who transitioned from the County of Orange to Authority employment prior to September 1, 1995, continuous service shall include prior continuous service with the County of Orange.

**COUNTY** shall mean the County of Orange and special districts governed by the Board of Supervisors.

**DEPARTMENT** shall mean a Department within the Authority such as Business Services, Operations, Fire Prevention, and Support Services.

**DEPARTMENT HEAD** shall mean an executive manager of the Authority who is responsible for a department within the Authority (for example, Deputy Chief, Assistant Chief or Director).

**DESIGNATED STAFF POSITION** shall mean all staff employees assigned to a forty (40) hour workweek as a Fire Battalion Chief under a staff assignment and also include the three shift (fifty-six hour average workweek) Fire Battalion Chiefs regularly assigned to the Emergency Command Center (ECC). With the exception of the three shift Fire Battalion Chiefs regularly assigned to the ECC positions, all other employees assigned to a fifty-six hour average workweek are not included in the definition of designated staff position.

**DUTY WEEK** shall mean a fifty-six (56) hour average duty workweek.

**ELIGIBLE FORMER EMPLOYEE** means an employee who meets the coverage and participation requirements set forth in the Retiree Medical Plan at the time of his/her termination of employment with the Authority.

**ELIGIBLE RETIREE** means a retiree who is receiving a monthly retirement allowance from the Orange County Employees Retirement System (OCERS), who meets the coverage and participation requirements set forth the Retiree Medical Plan, and whose coverage has not been terminated under the Retiree Medical Plan.

**EMERGENCY** means an unforeseen circumstance requiring immediate action, a sudden unexpected happening, an unforeseen occurrence or condition, or a pressing necessity.

**EMPLOYEE** shall mean a person employed by the Authority and covered by terms of this Memorandum of Understanding, except where the natural construction of this Memorandum of Understanding indicates otherwise.

**FIRE CHIEF** shall mean the person who is the principal officer or employee of the Authority.

**FIRE MANAGEMENT UNIT** shall mean positions designated under the Fire Management Unit as specified in Appendix A.

**FISCAL YEAR** shall mean a period from July 1 through June 30.

**FLSA** – shall mean the Fair Labor Standards Act.

**FLSA Work Period** – shall mean the 14 day period for staff employees (which overlaps the pay period) as described by the FLSA for fire protection employees and the 24 day period for shift employees used to determine the period used to measure hours worked by the Fire Authority in the applicable 48/96 work schedule. Although employees in this unit are overtime exempt under FLSA, the Authority still uses a work period per Section 7(k) of the FLSA in calculating their hours worked.

**FULL-TIME EMPLOYEE** shall mean a regular, limited-term or probationary employee who, upon hire or starting in the position, is reasonably expected to average thirty (30) or more hours of service per week [i.e. one hundred thirty (130) hours per month].

**HUMAN RESOURCES DIRECTOR** shall mean the Assistant Chief/Human Resources Director or his/her designee.

**LIGHT DUTY ASSIGNMENT** shall mean an assignment of duties, not normally performed by an employee's classification, but necessitated by the employee's injury or illness.

**LIMITED-TERM POSITION** shall mean a position, which the Authority has determined has no anticipated long-range funding or has uncertain future funding.

**MOU** shall mean Memorandum of Understanding.

**OCFA** shall mean the Orange County Fire Authority.

**OCFACOA** shall mean the Orange County Fire Authority Chief Officers Association.

**PART-TIME EMPLOYEE** shall mean a regular, limited-term, or probationary employee who, upon hire or starting in the position, is reasonably expected to average at least twenty (20) hours of service per week.

**PAY PERIOD** is the regularly recurring two week period over which employee's time is recorded and paid.

**PERSONAL EMERGENCY** shall mean an unforeseen event or circumstance of a serious nature, which is beyond an employee's control and which necessitates the employee's absence from Authority duty. This includes, but is not limited to, those events and circumstances requiring the employee's prompt attention to avoid possible financial loss to, or damage to the health of, either the employee or a member of his/her household.

**PRACTICABLE** means economically feasible or reasonably able to accomplish.

**PROBATIONARY EMPLOYEE** shall mean an employee who is serving a probation period and is employed in a regular or limited-term position.

**PROMOTION** shall mean the movement of a regular, limited-term, or probationary employee from one (1) class to another class where the maximum step on the new salary range is at least higher than the maximum rate of the old salary range.

**RATING YEAR** shall mean that time period considered in the preparation of annual performance evaluations under the Annual Merit Review Program.

**REDUCTION** shall mean the movement of a regular, limited-term, or probationary employee from one (1) class to another class where the maximum step of the new salary range is lower than the maximum rate of the old salary range.

**REEMPLOYED EMPLOYEE** shall mean an employee who is hired back by the Authority in accordance with the eligibility requirements identified in the OCFA Selection Rules and Appeals Procedure.

**REGULAR EMPLOYEE** shall mean an employee who is not on probation and is employed in a regular or limited-term position.

**REGULAR POSITION** shall mean a position established on a permanent year-round basis requiring work on a regular schedule unless otherwise authorized by minute order of the Board.

**SENIORITY** shall mean total continuous full-time equivalent service as a regular employee unless the context herein indicates otherwise.

**SERVICE** for the purpose of determining benefits under the Retiree Medical Insurance Grant shall mean service for the Authority and shall include service for the County of Orange, if the employee/retiree transitioned directly from County employment to Authority employment and has been continuously employed by the Authority from March 1, 1995, until retirement.

**SHIFT EMPLOYEE** shall mean an employee assigned to a fifty-six (56) hour average duty work week as a Fire Battalion Chief. For such employees, their regular shift is 24 hours.

**SOP** shall mean Standard Operating Procedure.

**STAFF EMPLOYEE** shall mean an employee normally assigned to a forty (40) hour workweek as a Fire Battalion Chief under a staff assignment.



# ARTICLE I

## WORK HOURS, OVERTIME, AND PREMIUM PAY

### **Section 1. Work Hours**

- A. The Work Period and Hours Regularly Assigned Per Calendar Week and Pay Period.

1. Battalion Chiefs Assigned to Shift Duty Work

Battalion Chiefs assigned to shift duty work (the 56 hour average workweek) shall be based on a three (3) platoon schedule. The work period is a twenty-four (24) day FLSA work period in accordance with Section 7(k) of the FLSA. Notwithstanding the FLSA work period, all employees in this unit qualify as exempt from overtime as provided by the FLSA. Any overtime provided in this MOU is per this MOU, not the FLSA.

2. Employees Not Assigned to the 56 Hour Average Workweek – Staff Employees

The workweek for employees (Battalion Chiefs and Division Chiefs) who are not assigned to the average of 56 hour workweek shall be 40 hours per week. The work period for such employees shall be fourteen (14) calendar days in accordance with Section 7(k) of the FLSA. These employees shall be entitled to two (2) regularly scheduled consecutive calendar days off. The FLSA work period shall run concurrently with the pay period.

The Authority agrees to give these employees a seven (7) calendar day advance notice of a shift change whenever practicable.

- B. 48/96 Work Schedule For Employees Assigned to the Average 56 Hour Workweek

All employees assigned to the average of a 56 hour workweek are assigned to the 48/96 work schedule – two shifts on followed by four shifts off. If the shift schedule for particular calendar year shows that the same shift would be scheduled to work on December 24 and 25<sup>th</sup>, the Association will advise the Authority how it wants the shifts changed prior to printing of the shift calendar for that year which typically occurs in November. The change will be accommodated as long as shifts being changed are in the same 24-day FLSA work period, do not cause one shift to work three shifts in a row and do not go into the next calendar year.

- C. 9/80 or 4/10 Work Schedules for Employees Assigned to Staff Positions

1. Based on operational needs, the Authority shall determine which staff positions are eligible to work a 4/10 work schedule. Otherwise the work schedule shall be a 9/80 work schedule.
2. If a position is eligible to work a 4/10 work schedule, the employee occupying the position will be given the option to select the 4/10 work schedule or remain on his/her current 9/80 work schedule.

3. Both parties agree that the Authority retains the right to terminate the 4/10 work schedule at any time based on operational needs. If that occurs, the employee will begin working a 9/80 work schedule.
4. Both parties agree that the Authority retains the right to selectively terminate an employee's 4/10 work schedule, if the Authority determines employee is not performing to expected standards and a 9/80 work schedule is warranted.

D. Work Schedule While Attending Training as a Student

1. Shift employees who attend approved training within Orange County, or within reasonable travel distance of Orange County, on their normal duty day, shall receive their normal pay. They are expected to return to their duty station after class or arrange for time off, in advance, through normal procedure. The Authority will backfill for the employee for the period of training plus reasonable travel time. The Authority will make reasonable effort to release an employee who wishes to use his/her own compensated time off rather than return to duty.
2. Shift employees who attend approved training within Orange County, or within reasonable travel distance of Orange County, on their assigned off-duty day, shall be compensated for actual classroom time.
3. Staff employees attending approved training shall be considered on-duty and will be compensated at one and one-half (1.5) times the employee's base hourly rate for any time worked in excess of their normal duty hours.
4. When an employee is attending approved training that is not within Orange County, or within a reasonable travel distance of Orange County for a period of time consisting of four (4) or less consecutive calendar days, the employee's normally assigned fifty-six (56) hour shift shall remain the same. On employee's assigned off-duty day, they shall be compensated for actual class time plus reasonable travel time.
5. When an employee is attending approved training that is not within Orange County, or within reasonable travel distance of Orange County for a period of time consisting of five (5) or more consecutive calendar days, the employee will be reassigned to a forty (40) hour workweek for the duration of the training. The Authority shall ensure that there is no loss of hours or compensation from the employee's normal salary due to the change from a fifty-six (56) hour average duty week to a forty (40) hour workweek. On employee's assigned off-duty day, they shall be compensated for actual class time plus reasonable travel time.
6. Employees will be granted mileage reimbursement for either in-county or out-of-county training, as per the Authority's mileage reimbursement policy, when an Authority vehicle is not available. When applicable, the cost of air travel to the same location will determine the amount to be reimbursed (instead of mileage) at the discretion of the Authority.

**Section 2. Treatment of Salary and Benefits for Employees Assigned to Staff Positions and Fire Division Chiefs**

Employees assigned to staff positions and Fire Division Chiefs shall receive compensation at a biweekly rate within the range assigned to the class in which they are employed. Computation for salary, vacation, sick leave, specialty pay, and retirement benefits shall be based upon eighty (80) hours per 14-day FLSA work period. Employees assigned to staff positions or Fire Division Chief for less than a full work period shall have their computation of salary and benefits prorated.

**Section 3. Treatment of Salary and Benefits for Employees Assigned to a Shift Duty Week**

- A. A Battalion Chief assigned to a shift duty week shall be compensated at the equivalent of an average fifty-six (56) hour duty week for all salary and benefits described within this MOU. Computations for salary, vacation, sick leave, premium pay, overtime pay, retirement benefits, and specialty pay shall be based upon the average weekly hours of fifty-six (56) hours per week.
- B. During major emergencies, all activities related to the emergency are considered to be suppression assignments for both shift employees and forty (40) hour workweek employees, except that duties performed by forty (40) hour workweek personnel during their regularly assigned hours will be compensated at the employee's regular hourly rate.

**Section 4. Overtime**

- A. Employees in this unit can be required to work overtime. Every effort will be made to provide advance notice when possible.
- B. Payment for Overtime
  - 1. Overtime for all Division Chiefs and staff Battalion Chiefs assigned to a forty (40) hour workweek (who are subject to the 14-day FLSA work period) shall be compensated at time and one half (1.5). Shift employees assigned to a fifty-six (56) hour average duty week (who are subject to the 24-day FLSA work period) shall be compensated at the fifty-six (56) hour average duty week equivalent. All the overtime is paid in accordance with this MOU, not the FLSA as these employees qualify as exempt from overtime per the FLSA. To the extent that travel time related to an overtime event is compensable, it shall be paid as overtime.
  - 2. For Shift Battalion Chiefs, fringe benefits, merit eligibility dates, and probation periods shall be calculated on the basis of a fifty-six (56) hour average duty week. Overtime outside the basic fifty-six (56) hour average duty week shall not be used to earn benefits or to count toward probation or merit increase periods.
  - 3. When a shift Battalion Chief is assigned on his/her scheduled day off to work a non-shift overtime assignment, the overtime rate for that non-shift overtime assignment shall be as provided for forty (40) hour workweek employees. Such overtime shall not be used to earn benefits or to count toward probation or merit increase periods.

**Section 5. On-Call Pay and Call-Back Pay**

A. On-Call Pay

1. When an employee is assigned on-call duty , as directed by the Assistant Chief of Operations or his/her designee, the employee shall be informed in advance whenever practicable, of the dates and inclusive hours of such assignment; the employee shall be compensated at one-fourth (1/4) his/her base rate of pay rate for such assignment. When called backed, employees shall not receive on-call pay during the hours called back.
2. On-call duty requires the employee so assigned to (1) be reachable by telephone or other communications device, (2) be able to report to work in a reasonable time, and (3) refrain from activities that might impair his/her ability to perform assigned duties.
3. When an employee has been placed on-call on his/her scheduled day off because he/she is required to be a witness in a matter directly related to his/her assigned duties as an Authority employee or as an employee for a fire agency that was transitioned into the Authority and such employee is not a party to the litigation, the employee shall be compensated at one-fourth (1/4) of his/her base hourly rate.

B. Call-Back Pay

1. When a shift employee returns to work because of an Authority request made after the employee has completed his/her normal work shift and left the work station, the employee shall be paid a minimum of five and six-tenths (5.6) hours plus any hours of work in excess of five and six-tenths (5.6) hours in which the employee continuously engaged in work for which he/she was called back.
2. When a staff Battalion Chief or Fire Division Chief returns to work because of an Authority request made after the employee has completed his/her normal work shift and left the work station, the employee shall be paid a minimum of four (4) hours plus any hours of work in excess of four (4) hours in which the employee is continuously engaged in work for which he/she was called back.
3. When a shift employee returns to work as provided above, and such return occurs two (2) hours or less before the established starting time of the employee's next shift, he/she shall be compensated for two and eight-tenths (2.8) hours.
4. When a staff employee returns to work as provided above, and such return occurs two (2) hours or less before the established starting time of the employee's next shift, he/she shall be compensated for two (2) hours.
5. Call-back for staff employees shall be paid at time and one half, except that call-back to perform suppression activities shall be paid at the 56 hour rate – the employee's staff rate divided by 1.4.

**Section 6. Rest Period from Out-of-County Assignment**

- A. An employee traveling greater than eight (8) hours on a return trip from an out-of-county assignment, and scheduled to work that same day, will not be required to work the remainder of the shift, to allow for an appropriate rest period before returning to his/her next assigned shift. The employee shall be compensated for the remainder of the shift.

**Section 7. Flex Time**

- A. Division Chiefs and Staff Fire Battalion Chiefs

These employees will accumulate flex time for additional hours worked in the performance of normal work assignments (attending meetings, teaching after normal business hours or attending to OCFA business on days not normal scheduled to work. These additional work hours shall be compensated in Flex Hours at 1.5 times the hours worked. There is no limit on the amount of flex hours that can be accumulated. These hours can be used at the employee's discretion for time off. Flex hours have no cash value and cannot be cashed out at any time, including at separation. This provision is not applicable to hours worked in a suppression capacity, during emergency incidents, or during the employee's lunch hour.

- B. Shift Fire Battalion Chiefs

For these employees, when working outside of their regular shift on non-suppression hours (attending meetings or for OCFA business on days not normally scheduled to work) they may elect to receive non-suppression overtime pay or flex time hours. The overtime will be paid at time and one half or the flex time hours will be calculated at two times the number of hours worked. If flex time is requested, there shall be no limit on the amount of hours accumulated. These hours can be used at the employee's discretion for time off. Flex hours have no cash value and cannot be cashed out at any time, including at separation. This provision is not applicable to hours worked in a suppression capacity or during emergency incidents.

- C. Flex time accumulation and use will be documented on each employee's time slip or in the OCFA Staffing System and subject to the approval of the employee's supervisor.

**ARTICLE II**

**PAY PRACTICES**

**Section 1. Compensation for Employees**

- A. Employees shall receive compensation on a salary basis at the biweekly rate for the range and step assigned to the class in which they are employed.
- B. Employees who are absent from work for less than a day shall be required to use applicable accrued leave to cover the absence.

**Section 2. Pay for New Employees**

- A. The Human Resources Director may authorize the appointment of employees at any rate up to the mid-point of the salary range. Such appointment may be made only when, at the discretion of the Human Resources Director, there is a direct and measurable benefit to the Authority for such appointment.
- B. The Fire Chief may authorize the appointment of employees at any rate within the salary range. Such appointment may be made only when, at the discretion of the Fire Chief, there is a direct and measurable benefit to the Authority for such appointment.

**Section 3. Annual Merit Review Program**

- A. The Annual Merit Review Program establishes the award of performance salary increases to eligible employees until they reach the top of the range for their classification. The Annual Merit Review Program shall be administered as follows:
  - 1. Merit increase eligibility dates shall be the first of the pay period following the completion of fifty-two (52) weeks from the last merit increase eligibility date. This assumes the employee is working in the same classification. If the employee receives a promotion, a new merit eligibility date (which requires a new 52 weeks to be eligible for a merit increase) will be established. For example, if an employee received a merit increase or was promoted on Friday October 9, 2020, the employee would be eligible for a merit increase on Friday, October 8, 2021.
  - 2. Employees may be rated "Substandard," "Standard," or "Above Standard."
  - 3. Performance salary increases shall be awarded as follows:

<b>Rating</b>	<b>Performance Salary Increase</b>
Substandard	None
Standard	2.75% increase but not to exceed the top of the salary range
Above Standard	5.5% increase but not to exceed the top of the salary range

B. Eligibility for Annual Merit Review Program

An employee hired or promoted into a classification in this Unit shall be eligible to receive a performance salary increase at the completion of his/her first performance rating year period of employment or promotion and each year thereafter.

**Section 4. Salary on Promotion**

A. Except as modified by Section 4.B of this Article, an employee who is promoted shall receive the following:

For employees promoting into a Fire Management Unit classification, the greater of either a five and five-tenths percent (5.5%) increase over the salary received prior to the promotion or seventeen and five-tenths percent (17.5%) higher than the biweekly base-salary assigned to the top step of the salary range for a Fire Captain. Salary shall include base-salary, Staff Assignment Pay and all qualified specialty pays received prior to the promotion. Qualified specialty pays are those pays which are not offered to classifications in this bargaining unit including but not limited to the following; *Hazmat Pay, Paramedic Pay, USAR, Tech Truck Pay, and the difference between the EMT Pay received prior to promotion, compared to the EMT Pay that will be received after promotion.*

For employee's promoting from Battalion Chief to Division Chief, the employee's new rate of pay will be calculated using the employee's base rate (which includes staff assignment pay) whether currently in a staff position or having previously served in a staff position for at least one year.

B. Any other provision of this MOU notwithstanding, an employee who is promoted to Fire Division Chief may receive a salary increase of up to fifteen percent (15%) when authorized by the Fire Chief upon recommendation of the Human Resources Director.

**Section 5. Salary on Reduction**

A. Disciplinary Reductions— When a Division Chief is demoted the employee's salary shall be reduced to the top of the salary range assigned to the lower class:

B. Non-Disciplinary Reductions

1. When a regular or limited-term employee in good standing is reduced to a position in a lower class for non-disciplinary reasons, the employee shall receive top of the salary range assigned to the lower class.

2. When a probationary employee, an employee who has been on a temporary promotion, or a regular employee who was promoted to a limited-term position at the direction of the Fire Chief is reduced to a class not previously occupied by the employee, the employee's salary shall be determined by the Human Resources Director.

- C. When a promotional probationary employee is reduced to a class the employee occupied in good standing, the employee shall have the salary status he/she would have achieved if the employee had remained in the lower class throughout the period of his/her service in the higher class.

**Section 6. Salary on Reemployment**

- A. A person who is reemployed in a Fire Management Unit classification in which he/she held regular status and who was separated in good standing may, upon approval of the Human Resources Director or his/her designee, be appointed at a rate higher than the recruiting rate—but no higher than the rate the person received at the time of separation unless the appointment is at an advanced rate pursuant to Section 2.B of this Article.
- B. A former Fire Management Unit employee on paid retirement of the Authority may be reemployed for not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, in any one (1) fiscal year in a position requiring special skills and knowledge and may be appointed to the position at any step on the salary range.



## ARTICLE III

### EMPLOYEE PROVISIONS

#### **Section 1. Employee Rights**

Employees shall not be adversely impacted by the Authority for exercising any rights or benefits provided in this MOU.

#### **Section 2. Time Off for Selection Procedures**

With the approval of the Fire Chief, an employee shall be entitled to necessary time off with pay to participate in examinations, and interviews required by the Human Resources Director during working hours for the purpose of determining eligibility for movement to another class in the Authority service.

#### **Section 3. Probation**

##### A. New Probation

##### 1. Full-Time Employee

A new or reemployed employee—who has been out of Authority service for more than two (2) years in a regular or limited-term position—shall be subject to a fifty-two week probationary period. For example, if an employee was hired on Friday October 9, 2020, his/her probationary period ends at 11:59 p.m. on Thursday October 7, 2021.

##### B. Promotional Probation

1. An employee who is promoted shall be placed on promotional probation except as provided in Section 3.B.2 and 3.B.3 of this Article. A full-time employee shall be subject to a fifty-two (52) week promotional probationary period. For example, if an employee was promoted on Friday October 9, 2020, his/her probationary period ends at 11:59 p.m. on Thursday October 7, 2021.
2. When an employee who has been on a temporary promotion or a regular employee who was promoted to a limited-term position at the direction of the Fire Chief is reduced to a class the employee formerly occupied, the employee shall serve the remainder of any uncompleted probationary period in that classification.
3. Notwithstanding any other provision of this MOU, when an employee who has been on temporary promotion to a Fire Management Unit classification is promoted to that same classification without returning to his/her former class, the time served in the temporary promotion shall be credited towards the promotional probationary period.

##### C. Failure of Probation

1. New Probation

- a. An employee on new probation may be released from service at any time without right of appeal or hearing.

2. Promotional Probation

- a. An employee on promotional probation may be rejected at any time without right of appeal or hearing
- b. When an employee fails his/her promotional probation, the employee shall have the right to return to his/her former class.
- c. When an employee is returned to his/her former class under the provisions of this Section, the employee shall serve the remainder of any uncompleted probationary period in the former class.
- d. An employee who fails promotional probation shall receive a performance evaluation stating the reason for failure of promotional probation.

D. General Provisions

- 1. When the Fire Chief or his/her representative passes an employee on probation, that determination shall be based upon a written performance evaluation and, when practicable, shall be discussed with the employee.

E. Extension of Probation Periods

- 1. An employee who is out for fifteen (15) calendar days or more during his/her probation period shall have the probation period extended by the length of the leave of absence beyond fifteen (15) days.
- 2. Upon the recommendation of the Assistant Chief/Department Head or his/her designee or at the request of the employee with the concurrence of the Assistant Chief/Department Head or his/her designee, the probationary period of an employee may be extended for a period not to exceed one hundred eighty (180) calendar days. If probation is extended, the employee will be notified in writing and before the initial probation period ends.

**Section 4. Performance Evaluation**

- A. The Authority shall maintain a system of employee performance ratings designed to give a fair and equitable evaluation of the quantity and quality of work performed by an employee. Such ratings shall be prepared and recorded in the employee's personnel file for all employees. Performance evaluations will occur at least once each year. In addition for employees on probationary status, performance evaluations will occur at least once near the middle of the probationary period.

- B. The Authority shall discuss with the employee the specific ratings—prior to such ratings being made part of the employee’s personnel file.
- C. When a performance evaluation is recorded in the personnel file of an employee, a copy of such evaluation, together with any attachment relating thereto, shall be given to the employee. The employee shall have thirty (30) days to attach a response to the evaluation.

**Section 5. Shift Exchange Policy**

- A. Time exchanges may be voluntarily undertaken between two (2) employees upon approval of the employees’ immediate supervisors prior to such exchange of time.
- B. Responsibility for arrangement for the repayment of such time rests with the employees involved.
- C. No obligation shall be placed upon the Authority for repayment of time voluntarily traded or repaid between employees.

**Section 6. Tobacco Products**

All employees who were hired into OCFA’s Firefighter Unit after September 1, 2016, and who are subsequently promoted into the Chief Officers Association after July 1, 2020, are not permitted to use tobacco products on duty.

## ARTICLE IV

### EMPLOYMENT PROVISIONS

#### **Section 1. Temporary Promotion**

- A. A Battalion Chief who is assigned on a temporary basis as a Division Chief or a Division Chief who is temporarily assigned as an Assistant Chief shall be promoted on a temporary basis provided he/she meets the qualifications of the position—when such employee has been assigned to the higher class for one hundred twenty (120) consecutive regularly scheduled hours (subject to waiver by the Fire Authority) of work. The employee may request to be not be so assigned. In such a case, the temporary promotion will end within five (5) working days.
- B. A regular or probationary employee who was not at the top of their salary range upon temporary promotion or limited-term promotion at the direction of the Fire Chief shall have the same merit increase eligibility date they would have had if the employee had remained in the lower class. If the employee is granted a merit increase in the lower class, their promotional rate of pay shall be adjusted in accordance with Article II, Section 4.

#### **Section 2. Status of Limited-Term Employees**

- A. All limited-term employees shall be subject to the same hiring standards and shall earn all benefits, except those contained in the LAYOFF PROCEDURE, which accrue to employees in regular positions.
- B. A regular employee who transfers, promotes, or reduces to a limited-term position on a voluntary basis and not at the direction of the Fire Chief shall become a limited-term regular employee.
- C. Limited-term employees hired under programs that involve special employment standards shall serve a new probation period upon transfer to permanent funded positions. Upon transfer to permanent positions, such employees shall maintain their original hire date for purposes of vacation and sick leave accrual, retirement, and layoff. The requirement that such employees serve a new probation period may be waived with the approval of the Human Resources Director. Limited-term employees not hired under programs that involve special employment standards shall, upon transfer to permanent funded positions, maintain their original hire date for purposes of vacation and sick leave accrual, retirement, layoff, and new employee probation.
- D. When funding ceases for a limited-term position or when the position is no longer necessary, the limited-term position shall be abolished and the incumbent shall be removed from the payroll, except as provided in Section 2.E. of this Article.
- E. Regular employees who transfer, promote, or reduce to limited-term positions at the direction of the Fire Chief shall retain their former status and retain their layoff benefits in their former layoff unit. The Fire Chief

shall make such an order in writing prior to the date of transfer or promotion or reduction.

**Section 3. Reemployment of Employees on Disability Retirement**

- A. The Authority shall counsel and advise employees retired for disability about reemployment opportunities with the Authority.
- B. Employees retired for physical disability who, within two (2) years from date of retirement or date their disability retirement is discontinued, request and qualify for positions in the Authority service shall be placed on the eligibility list with respect to such positions. They shall be placed on such List in chronological order of retirement, following the last person on layoff status. They shall remain on such List for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:
  - 1. A person appointed to a regular position in the Authority service shall be removed from the List.
  - 2. A person who, on two (2) separate occasions, rejects or fails to respond within three (3) workdays to offers of employment in a class for which he/she is qualified shall be removed from the List.
  - 3. A person who, on three (3) separate occasions, declines referral for interviews in a class for which he/she is qualified shall be removed from the List.

**Section 4. Reemployment of Regular Employee**

A regular employee who leaves Authority employment and is reemployed within fifteen (15) calendar days shall be deemed to have been on Authority Leave for such period of time.

**Section 5. Employees Transitioned From Other Agencies**

Except as otherwise modified in this MOU, the Authority shall hire employees being transitioned to the Authority in accordance with the terms and conditions of the previously negotiated Agreement (Appendix B). The Authority agrees that during the term of this MOU, it shall meet and confer with the Association on the impact of any provisions deemed necessary to modify with the addition of any particular agency.

**Section 6. Non-Discrimination Clause**

The Authority and the Association agree that neither of them shall discriminate against any employee because of any legally recognized protected classes addressed by state and/or federal law or for participating in or refusal to participate in protected, concerted Union activities.

**Section 7. Assignment of Staff Fire Battalion Chiefs to Fire Prevention**

- A. A current staff Fire Battalion Chief position assigned to Fire Prevention shall be filled by either 1) a Fire Battalion Chief who possesses the knowledge, skills, and ability to perform the functions of the position and who meets the minimum qualifications set forth in a classification specification for the position; or 2) by a civilian (non-OCFACOA) employee who possesses the knowledge, skills, and ability to perform the functions of the position or who meets the minimum qualifications set forth in a classification specification for the position. When the position is filled by a Fire Battalion Chief, that position shall be represented by the OCFACOA. When the position is filled by a civilian employee, that position shall be represented by the Orange County Fire Authority Management Association OCFAMA.

When filling a vacancy in the above position, first consideration shall be given to an existing Fire Battalion Chief, or a Fire Battalion Chief candidate who is on a current Fire Battalion Chief promotional eligible list, recognizing that final determination on filling the position in Inspection Services with a Fire Battalion Chief or civilian employee is a management right based upon the needs and position compatibility/suitability.

A classification specification shall be maintained for the position of Fire Marshal (Inspection Services) that shall specify the knowledge, skills, and abilities and minimum qualifications necessary to perform the functions of the position. When modifications are made to the classification specification, the OCFA shall provide the OCFACOA with opportunity for review and input prior to such modifications.

- B. In addition to the identified position listed above, the parties agree that the following list of staff positions shall be filled/held by a Fire Battalion Chief:
- Emergency Medical Services
  - Training and Safety
  - Training and Safety/Recruitments/Promotions
  - Air Operations
  - Investigations
  - Wildland Pre-Fire Management
  - Emergency Command Center (three positions)

**ARTICLE V**

**LEAVE PROVISIONS**

**Section 1. Sick Leave**

A. Accumulation of Sick Leave—shall be in accordance with the following schedules:

**Staff Battalion Chiefs (Except the BCs Assigned to a 56-hour workweek in the Emergency Command Center) and Fire Division Chiefs**

YEARS OF COMPLETED CONTINUOUS SERVICE	HOURS OF CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE	ANNUAL ACCRUAL
From date of employment but less than 3 years	1 through 6,240.00 regularly scheduled hours	0.0347 hours for each regularly scheduled work hour paid	Approximately 72 hours per year
After 3 years	6,240.01 or more regularly scheduled hours	0.04963 hours for each regularly scheduled work hour paid	Approximately 103 hours per year

**Shift Battalion Chiefs (Including the BCs Assigned to a 56-hour Workweek in the Emergency Command Center)**

YEARS OF COMPLETED CONTINUOUS SERVICE	HOURS OF CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE	ANNUAL ACCRUAL
From date of employment but less than 3 years	1 through 8,736.00 regularly scheduled hours	0.0347 hours for each regularly scheduled work hour paid	Approximately 101 hours per year
After 3 years	8,736.01 or more regularly scheduled hours	0.04963 hours for each regularly scheduled work hour paid	Approximately 144 hours per year

For the purpose of this Section, each biweekly pay period—for which a full-time staff employee or full-time Fire Division Chief receives his/her full biweekly salary—shall be considered the equivalent of eighty (80) regularly scheduled paid hours. A full-time shift employee equivalent shall be one hundred twelve (112) regularly scheduled paid hours.

- B. Employees will earn sick leave at the end of a pay period assuming they were in paid status for the entire pay period.
- C. Permitted Uses of Sick Leave

1. Sick leave may be applied to:
  - a. Absence necessitated by an employee's personal illness, injury, or disability due to pregnancy or childbirth.
  - b. Medical and dental office appointments when absence during working hours for this purpose is authorized by the employee's supervisor.
  - c. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by the Authority that the presence of the employee on duty would endanger the health of others.
  - d. Absence when the employee's presence is needed to attend to the serious illness of a member of his/her immediate family. For each occurrence, such absence shall be limited to a maximum of twenty-four (24) working hours for staff employee assigned to a forty (40) hour workweek or two (2) twenty-four (24) hour shifts for shift employees assigned to a fifty-six (56) hour average duty workweek. Additionally, once each calendar year, an employee may use up to one-half (0.5) of his/her annual Sick Leave accrual rate. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, registered domestic partner, child, stepchild, grandchild, grandparent, or legal ward.
2. Illness while on paid vacation shall be charged to Sick Leave rather than vacation only under the following conditions:
  - a. The employee provides information (without having to identify a diagnosis) that the illness or injury precluded the effective use of vacation and would prevent the employee from performing his/her normal duties.
  - b. The employee must notify his/her supervisor within four (4) calendar days of the beginning of the illness or prior to the end of his/her vacation, whichever is sooner, to request that his/her illness on vacation be charged to Sick Leave.
  - c. The Authority shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
  - d. Upon the employee's return to work, the employee must furnish the Authority with a certificate signed by a licensed physician, a registered nurse, or recognized health care provider stating the period of disablement.
3. Absence from duty because of personal emergencies shall be limited to a maximum of sixteen (16) working hours for staff employees assigned to a forty (40) hour workweek or one (1) shift for shift employees assigned to a fifty-six (56) hour average duty week during the fiscal year.



D. General Provisions

1. In any use of Sick Leave, an employee's account shall be charged to the nearest quarter hour.
2. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other Authority-approved evidence of illness, injury, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. Sick Leave Cash Out:

a. At Retirement or an Employee's Death During Employment:

Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused sick leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Sick Leave Paid For</u>
Less than 5 years	None
5 but less than 10	25%
10 but less than 15	50%
15 but less than 20	75%
20 or more	100%

Years of service as used herein shall be the equivalent of full-time continuous service in a regular position. Employees who elect to take deferred retirement shall not be eligible for any benefits provided by this paragraph.

b. Sick Leave Cash-Out During Employment:

For calendar year 2020, not more than once during the fiscal year, an employee who has accumulated unused sick leave in excess of three hundred twenty (320) hours shall, upon request, receive a payoff for up to one-third (1/3) of all his/her accumulated sick leave, provided that the remaining balance is not reduced below three hundred twenty (320) hours. The percentage of sick leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a of this Article. The employee's sick leave balance shall be reduced by the total number of hours elected and approved for payoff by the employee prior to the application of the eligible percentage described in Section 1.D.3.a of this Article.

By December 15 of each year (starting on December 15, 2020 for cash out in 2021), an employee who has accumulated unused sick leave in excess of 320 hours may do either of the following:

- i. Request that up to one-third of the balance above 320 hours, but no more than the maximum permitted by IRS Code, be placed into the employee's deferred compensation account either with the pay day for pay period 14 or pay period 26; or
- ii. Make an irrevocable election to cash out up to ninety-six (96) hours of accrued sick leave for staff employees and one hundred and thirty-four (134) hours of accrued sick leave for shift employees, that will be earned in the following calendar year, at the employee's base rate of pay. In the following year, the employee can receive the cash for the sick leave he/she irrevocably elected to cash out in either two (2) separate increments of up to forty-eight (48) hours each for staff employees or sixty-seven (67) hours each for shift employees or one (1) increment of up to ninety-six (96) hours for staff employees and thirty-four (134) hours for shift employees.

The employee would be paid what they elected to cash out up to sixty-seven (67) hours for shift employees or up to forty-eight (48) hours for staff employees on both the pay day for pay periods fourteen (14) and twenty-six (26) or the employee can elect to be paid up to one hundred and thirty-four (134) hours for shift employees or up to ninety-six (96) hours for staff employees on the pay day for pay period twenty-six (26).

The percentage of sick leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a of this Article.

- c. Notwithstanding the provisions of Section 1.D.3.b of this Article, an employee who has given irrevocable written notice of his/her intent to retire at least thirty (30) calendar days, but no more than sixty (60) calendar days prior to the effective date of his/her retirement, may request that a payoff of his/her accumulated sick leave be made to his/her deferred compensation account with the Authority to the maximum amount permitted by law and to the extent permitted under the provisions of Section 1.D.3.a of this Article. Such payoff shall be made prior to the effective date of the employee's retirement.

#### 4. Sick Leave Accrual Upon Re-employment:

When a former employee is reemployed in a regular or limited-term position, the Human Resources Director may apply the total period of previous continuous Authority service for the purpose of determining sick leave earning rates.

## **Section 2. Bereavement Leave**

- A. Upon request, employees shall receive necessary time off with pay, not to exceed three (3) days in any one (1) instance, for bereavement leave

related to the death of a member of their immediate family. Employees assigned to a fifty-six (56) hour average duty week shall receive up to three (3) consecutive calendar days. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent, grandchild, or dependent adult or child for whom the employee is the legal guardian.

**Section 3. Authorized Leave Without Pay**

A. Authority Leave

1. Upon request, an employee may be granted an Authority Leave Without Pay for a period of time not to exceed fifteen (15) calendar days. The granting of such Leave shall be at the discretion of the Fire Chief, except in cases where an authorized unpaid leave has been authorized pursuant to Sections 3.B.3 and Section 9.A.1 of this Article. The Fire Chief may require that all previously earned accumulated compensatory time and Flex Time be used prior to granting such Leave. The use of earned vacation prior to the obtaining of Leave shall be at the option of the employee.

B. Authorized Unpaid Leave of Absence

1. An employee may request an unpaid leave of absence for up to one year. The Authority has discretion to evaluate the request and determine whether to grant it or not. The Authority may require an employee to use accrued leaves for all or a portion of the requested leave.
2. An employee shall give notice two (2) weeks prior to the date he/she wants to return to work. If an employee does not give the required notice prior to the date he/she wants to return to work, the Authority shall not be required to return the employee to work until the employee gives such notice; however, the Authority may waive the notice or reduce the notice period at its discretion.
3. The Department Head/Assistant Chief shall indicate on the request for Leave of Absence his/her recommendations as to whether the request should be granted, modified, or denied and shall promptly transmit the request to the Human Resources Director. The Human Resources Director shall render a decision within thirty (30) days of when the request is submitted to him/her. If the Human Resources Director approves the request, a leave approval letter will be prepared and sent to the employee, Payroll/Timekeeping Staff, and the Department Head/Assistant Chief.
4. An authorized unpaid leave of absence shall not be deemed a break in Authority service.

**Section 4. Jury Duty Leave**

- A. An employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's regular pay-rate for those

hours of absence due to the jury duty, which occur during the employee's regularly scheduled working hours, An employee who calls the court while at work and finds out that he/she must report to jury duty the next day must continue to work the shift but will be relieved from duty with sufficient time to arrive at the court for jury duty in the morning. If the employee is scheduled to be on duty on the day he/she is on jury duty, whether he/she must return to his/her shift after the jury service will be determined on a case-by-case basis.

**Section 5. Witness Leave**

- A. An employee who is called to answer a subpoena as a witness for court appearances or administrative proceeding during the employee's work hours, except where the employee is a litigant or where the subpoena is related to the employee's employment with another employer who the Fire Authority did not assume fire protection duties from, shall be compensated at his/her regular pay rate for all hours of absence from work due to answering the subpoena, provided the employee shows proof of such subpoena and deposits witness fees received for such hours, exclusive of mileage, with the Finance Manager. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

**Section 6. Workers' Compensation Leave**

- A. When an injury is determined to be job-related, a regular, limited-term, or probationary employee shall be placed on Workers' Compensation Leave upon exhaustion of 4850 benefits.
- B. Workers' Compensation Leave shall continue until the employee does one (1) of the following:
1. Is determined to be physically able to return to work by an Authority-designated physician; or
  2. Is determined to be physically able to return to work with medical restrictions that the Authority can accept; or
  3. Accepts employment outside the Authority; or
  4. Accepts employment in another Authority position; or
  5. Has been found to have maximum medical improvement and is not rehabilitated as provided by law; or
  6. Has retired pursuant to appropriate Government Code provisions.

An employee who does not return to work within two (2) weeks of the end of his/her Workers' Compensation Leave pursuant to this provision, shall be considered to have automatically resigned his/her employment with the Authority.

- C. An employee on Workers' Compensation Leave and/or 4850 Leave must give notice two (2) weeks prior to the date he/she wants to return

to work. If an employee does not give two (2) weeks' notice prior to the date he/she wants to return to work, the Authority shall not be required to return the employee to work until such notice is given; however, the Authority may waive the notice or reduce the notice period at its discretion.

- D. For employees on Workers' Compensation Leave, merit increase eligibility dates, probation periods, and performance evaluation dates shall be treated as if the employee were on an authorized unpaid leave.

**Section 7. Parenthood Leave**

- A. An employee shall be granted—upon request—a Parenthood Leave Without Pay of up to six (6) months in connection with the birth or placement for legal adoption of a child, provided the employee meets the following conditions:

1. The requested Leave is commenced within six (6) months before or after the date of birth or placement for legal adoption of the child
2. Sufficient documentation of such birth or placement for legal adoption of a child is submitted with the request for Leave
3. Such employee has completed new hire probation
4. All accrued vacation and compensatory time have been applied toward the absence

- B. Unless otherwise required by law, employees shall not be eligible for more than one (1) such Leave within any twelve (12) month period.

- C. Parenthood Leave shall not be credited toward continuous service.

- D. For employees on Parenthood Leave, merit increase eligibility dates, probation periods and performance evaluation dates shall be treated as if the employee were on an authorized unpaid leave.

**Section 8. Family and Medical Care Leave/ California Family Rights Act Leave and Pregnancy Disability Leave**

The Authority will comply with the provisions of both the Federal Family and Medical Care Leave Act and the California Family Rights Act, and the California Pregnancy Disability Leave Law. Posters setting forth the employee's rights under the law are posted at all workplaces in the Fire Authority.

**Section 9. Catastrophic Leave**

- A. Eligibility for Donations – To receive Catastrophic Leave Donations, an employee or his/her immediate family member (immediate family member is defined as father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, child, step-child, grandparent, registered domestic partner or legal guardian) must:

1. Have a catastrophic medical condition that will require the employee to be on unpaid Leave.
2. Exhaust all accrued sick leave, vacation, and compensatory time.
3. Submit to the employee's Department Head/Assistant Chief (or his/her designee) a written request for donations accompanied by a medical statement from the employee's or family member's attending physician. The attending physician's statement must verify the employee's need for an extended Medical Leave or the need for the employee to take Leave to care for a member of his/her immediate family. It must include an estimated time the employee will be unable to work. The employee may voluntarily include information about the nature of the illness for those who are considering donating.

B. Request for Additional Donations

1. Employees who receive donations under this procedure and who exhaust all donated Sick Leave may request an additional donation period subject to the provisions of this Article.

C. Donation Procedure

1. Upon receipt of a valid request for donations on a form from an eligible employee, the Department Head/Assistant Chief (or his/her designee) shall post a notice of the eligible employee's need for donations on the Authority e-mail system, bulletin boards, or other means of notification accessible to employees; confidential medical information (unless voluntarily provided by the employee) shall not be included in the posted notice.
2. Employees shall be provided a two (2) week period to submit their donations; donations received after the submission period shall not be processed.
3. All donations shall be voluntary.
4. Employees may donate vacation or compensatory time to the eligible employee's catastrophic leave bank; Sick Leave may not be donated.
5. Donations must be a minimum of two (2) hours and cannot exceed eight (8) hours per staff employee (forty [40] hour workweek) or a minimum of three (3) hours, but cannot exceed twelve (12) hours per shift employee (fifty-six [56] hour average duty week); all donations must be made in whole hour increments.
6. All donations shall be irrevocable.

Note: Donation authorizations that do not contain all the above information shall not be processed.

7. At the close of the donation period, the Finance e Division shall verify the hourly rate of the donating employee and confirm that each donating employee has accrued time balances sufficient to cover the designated donation.
8. The Finance Division shall process all donations at one (1) time; no additional donations shall be processed.
9. The Authority shall convert the donated time to dollars at the hourly rate of the donor. The dollars shall then be converted to accrued vacation and Sick Leave, as described herein, at the hourly rate of the recipient of the donation. Donated converted hours shall first be added to the recipient's accrued vacation, to the maximum permitted under this Article. The balance of the donated converted hours shall then be added to the recipient's Sick Leave account. These donated vacation and Sick Leave hours shall be available for use during the recipient's Catastrophic Leave. If any donated hours remain at the end of the recipient's Catastrophic Leave, they shall remain available for the sole use of the recipient. If the recipient dies during the Catastrophic Leave, all unused donated time shall be converted to dollars at the hourly rate of the recipient and paid to the recipient's surviving spouse or estate in the same manner as any monies due for vacation and/or compensatory time.
10. An employee who is on a Leave Without Pay at the time he/she receives a Catastrophic Leave donation shall be treated as if on an authorized unpaid leave of absence for purposes of probation and merit increase eligibility.

**Section 10. Vacation**

A. Accumulation of Vacation

1. Accumulation of vacation shall be in accordance with the following schedules:

**Staff Battalion Chiefs (Except the BCs Assigned to a 56-hour workweek in the Emergency Command Center) and Fire Division Chiefs**

YEARS OF COMPLETED CONTINUOUS SERVICE	EQUIVALENT HOURS OF COMPLETED CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE	ANNUAL ACCRUAL
0 to 3 years	1 through 6,240.00 regularly scheduled hours	0.0577 hours for each regularly scheduled hour paid	Approximately 120 hours per year

After 3 years but less than 10 years	6,240.01 through 20,800.00 regularly scheduled hours	0.077 hours for each regularly scheduled hour paid	Approximately 160 hours per year
After 10 years	20,800.01 or more regularly scheduled hours	0.0962 hours for each regularly scheduled hour paid	Approximately 200 hours per year

**Shift Battalion Chiefs (Including the BCs Assigned to a 56-hour Workweek in the Emergency Command Center)**

YEARS OF COMPLETED CONTINUOUS SERVICE	EQUIVALENT HOURS OF COMPLETED CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE	ANNUAL ACCRUAL
0 to 3 years	1 through 8,736.00 regularly scheduled hours	0.0385 hours for each regularly scheduled hour paid	Approximately 112 hours per year
After 3 years but less than 10 years	8,736.01 through 29,120.00 regularly scheduled hours	0.0577 hours for each regularly scheduled hour paid	Approximately 168 hours per year
After 10 years	29,120.01 or more regularly scheduled hours	0.077 hours for each regularly scheduled hour paid	Approximately 224 hours per year

2. Each biweekly pay period—for which a full-time staff employee or full-time Fire Division Chief receives his/her full biweekly salary—shall be considered the equivalent of eighty (80) regularly scheduled paid hours. Each biweekly pay period—for which a full-time shift employee receives his/her full biweekly salary—shall be considered the equivalent of one hundred twelve (112) regularly scheduled paid hours.

**B. Vacation Credit**

1. Employees will earn vacation at the end of a pay period assuming they were in paid status for the entire pay period.

**C. Maximum Allowable Vacation Credit**

1. For full-time staff Battalion Chiefs working forty (40) hour workweek, maximum accruals at any one (1) time with less than ten (10) years of full-time continuous service shall be three hundred twenty (320) hours. The maximum allowable vacation credit at any one (1) time for a staff Battalion Chief or Fire Division Chief with ten (10) or more years of full-time continuous service shall be four hundred (400) hours. All vacation hours earned in excess of the maximum allowable vacation credit shall be paid in the pay period earned.



2. For full-time shift Battalion Chief working a fifty-six (56) hour average duty week, maximum accruals at any one (1) time with less than ten (10) years of full-time continuous service shall be four hundred forty-eight (448) hours. The maximum allowable vacation credit at any one (1) time for a full-time shift employee with ten (10) or more years of full-time continuous service shall be five hundred sixty (560) hours. All vacation hours earned in excess of the maximum allowable vacation credit shall be paid in the pay period earned.

D. General Provisions

1. Additional vacation earned during the period of vacation may be taken consecutively with the approval of the Fire Chief.
2. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
3. Vacations shall be scheduled for employees insofar as practicable while meeting staffing levels on the basis of employee requests. In cases of conflict among requests, vacation assignments will be made on the basis of seniority.
4. No employee shall be required to return to work for the Authority in any capacity during the time of his/her paid vacation from Authority service, except in cases of emergency.
5. An employee separating from Authority service for reasons other than retirement shall be paid for all accrued vacation in a lump sum payment.
6. For calendar year 2020, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to fifty-six (56) hours each for shift employees or forty (40) hours for staff employees and Fire Division Chiefs each or one (1) increment of up to one hundred twelve (112) hours for shift employees or eighty (80) hours for staff employees and Fire Division Chiefs. An employee who is within fifteen (15) hours for staff Battalion Chiefs and Fire Division Chiefs twenty-one (21) hours for shift employees of the applicable maximum allowable vacation credit may request to be paid for one (1) additional increment of up to one hundred (112) hours for shift employees or eighty (80) hours for staff employees and Fire Division Chiefs in each fiscal year. For purposes of this payout, it must occur in a full pay period starting on or after July 1<sup>st</sup> of the current fiscal year requested and paid out prior to the full pay period ending June 30<sup>th</sup>.

Effective for calendar year 2021 and every year thereafter: By December 15 of each year (the first year being 2020), an employee may make an irrevocable election to cash out up to one hundred and twelve (112) hours for shift employees or eighty (80) hours for staff employees of accrued vacation leave which will be earned in the following calendar year at the employee's base rate of pay. In the following year, the employee can receive the cash for the vacation

leave he/she irrevocably elected to cash out in either two (2) separate increments of up to fifty-six (56) hours for shift employees or forty (40) hours for staff employees each or one (1) increment of up to one hundred and twelve (112) hours for shift employees or eighty (80) hours for staff employees. The employee would be paid fifty-six (56) hours for shift employees or forty (40) hours for staff employees on both the pay day for pay periods fourteen (14) and twenty-six (26) or the employee can elect to be paid one hundred and twelve (112) hours for shift employees or eighty (80) hours for staff employees on the pay day for pay period twenty-six (26). However, if the employee's vacation balance is less than the amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount of leave the employee has accrued at the time of the cash out.

The employee may alternatively choose to have the value of up to one hundred and twelve (112) hours for shift employees or eighty (80) hours for staff employees of vacation which the employee can otherwise cash out placed into the employee's deferred compensation account. If the employee chooses that option (as opposed to taking cash) the maximum hours (in dollars) the employee can defer to his/her deferred compensation account cannot exceed the maximum permitted by the IRS Code.

In addition to the above, starting in calendar year 2021, an employee who has an "unforeseen emergency" (defined as an unanticipated emergency that is caused by an event beyond the control of the employee and that would result in severe financial hardship to the employee if early withdrawal were not permitted) shall be entitled to make a request to the Director of Human Resources for a payoff of accrued vacation leave. The amount of vacation leave which may be paid off is limited to the amount necessary to meet the emergency. The maximum payoff the employee can receive for an emergency is limited up to one hundred and twelve (112) hours for shift employees or eighty (80) hours for staff employees of all his/her accrued vacation leave.

If an employee makes an irrevocable election to cash out vacation leave in the following calendar year and uses vacation leave in that subsequent year, the vacation leave used will come from vacation leave the employee had earned prior to January 1 of the year the employee has elected to cash out vacation leave. This is to ensure that assuming an employee had a vacation leave balance prior to January 1, the vacation leave used will not result in a reduction in the amount of vacation leave the employee will be eligible to cash out.

If, during the year when an employee has made an irrevocable election to cash out vacation leave, he/she was on leave without pay and did not earn the vacation leave expected, the employee will still be able to cash out the vacation leave the employee did earn even if reduced by the leave without pay.

7. No scheduled vacation shall be canceled, except in cases of emergency.

E. Vacation Time for Transitioning Employees

When presenting another agency a proposal for fire protection services, the Authority may offer the agency the opportunity to purchase up to forty (40) hours for staff or fifty-six (56) hours for shift employees of vacation for each employee transitioning to the Authority.

## ARTICLE VI

### HOLIDAYS

#### **Section 1. Holidays Observed**

A. Employees shall observe the following holidays:

- New Year's Day
- Martin Luther King Jr.'s Birthday
- Lincoln's Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

#### **Section 2. Shift Fire Battalion Chiefs (Including the BCs Assigned to a 56-hour Workweek in the Emergency Command Center)**

A. Holiday Compensation

1. For each holiday listed in Section 1.A of this Article, a shift Battalion Chief shall receive twelve and six-tenths (12.6) hours of holiday pay in addition to their regular compensation. 2.
2. These employees shall be paid their holiday pay on the pay day following the pay period that the holiday occurs.
3. Employees who are in pay status during Pay Period #4 of each fiscal year, during the term of this MOU, shall be provided seven and one half (7.5) hours of paid leave time at the end of the pay period.
4. An employee must be paid for all or a portion of both the regularly scheduled working assignment immediately prior to a holiday and the regularly scheduled working assignment immediately after that holiday in order to receive holiday pay.
5. An employee who elects paid Authority retirement on a holiday shall be paid for the holiday.

#### **Section 3. Staff Fire Battalion Chiefs (Except the BCs Assigned to a 56-hour workweek in the Emergency Command Center) and Fire Division Chiefs**

A. Holiday Compensation

1. For each holiday listed in Section 1.A of this Article, employees scheduled to work, but permitted to take the day off, shall be paid for the number of hours the employee is regularly scheduled to work that workday computed at the employee's base hourly rate
2. When a holiday listed in Section 1.A of this Article falls on the employee's regularly scheduled day off, the employee shall receive eight (8) hours of holiday pay computed at the employee's base hourly rate.
3. When a holiday falls on a Sunday, the next day, Monday, shall be observed as the holiday.
4. When either Christmas Day or New Year's Day falls on a Saturday, the Friday immediately preceding each day shall be observed as the holiday.
5. Employees shall be paid their holiday pay on the pay day following the pay period that the holiday occurs.
6. Employees who are on a pay status during Pay Period #4 of each fiscal year, during the term of this MOU, shall be provided for five (5) hours of paid leave time at the end of the pay period.
7. An employee must be paid for all or a portion of both the regularly scheduled working assignment immediately prior to a holiday and the regularly scheduled working assignment immediately after that holiday to receive holiday pay.
8. An employee who elects paid Authority retirement on a holiday shall be paid for the holiday.

B. Compensation for Work on Holidays

1. An employee who is required to work on a holiday shall, in addition to his/her regular pay, receive holiday pay for each hour worked on a holiday at a rate of one and five-tenths (1.5) times the employee's base hourly rate.

C. Holidays that fall during an employee's vacation period shall not be charged against the employee's vacation balance.

## ARTICLE VII

### REIMBURSEMENT PROGRAMS

#### **Section 1. Mileage Reimbursement**

- A. Subject to the current vehicle rules and regulations established by the Board, an employee who is authorized by the Fire Chief to use a private automobile in the performance of his/her duties shall be reimbursed for each mile at the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  
- B. An employee who is required by the Authority to furnish a privately-owned vehicle for the performance of his/her duties on Authority time shall receive a minimum of ten dollars (10) in any month in which the actual mileage reimbursement would otherwise be less than ten dollars (10). The minimum shall not apply in any month:
  - 1. In which the employee has not actually worked eighty (80) hours for staff employees and Fire Division Chiefs or one hundred twelve (112) hours for shift employees.
  - 2. Unless the employee claims the ten dollar (10) minimum and the Authority certifies that the employee was required to use a privately owned vehicle on Authority business.

#### **Section 2. Tuition Reimbursement**

- A. Employees performing their jobs satisfactorily shall be eligible for tuition reimbursement at a maximum of one thousand two hundred fifty dollars (1250) each fiscal year. Eligibility shall be in accordance with Authority policy.

## ARTICLE VIII

### **DISCIPLINARY AND PREDISCIPLINARY ACTIONS**

#### **Section 1. Reprimand or Denial of Performance Salary Increase**

- A. No employee shall receive a written reprimand, except for just cause.
- B. A written reprimand may be appealed as follows:

Upon receipt of a written reprimand an employee may, within fourteen (14) calendar days of receipt of such reprimand, file a request with the Human Resources Director, Fire Division Chief, Assistant Chief, or Deputy Chief for a meeting. The Human Resources Director shall schedule a meeting with the Fire Chief and/or his/her designee to hear the employee's presentation. After hearing the employee's presentation, Fire Chief and/or his/her designee shall issue a written determination within fourteen (14) calendar days. The written determination shall be the final administrative decision subject to review per Code of Civil Procedure section 1094.5.

#### **Section 2. Proposed Disciplinary Action for Dismissal, Suspension, Demotion or Reduction in Pay**

- A. Notice of Intent for Dismissal, Suspension, Demotion or Reduction in Pay A written notice of intent to discipline shall be served on the employee at least fourteen (14) calendar days prior to the effective date of the proposed action. Such written notice shall contain:
  - 1. A description of the proposed action and its effective date(s)
  - 2. A statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based
  - 3. Copies of material on which the proposed action is based
  - 4. A statement of the employee's right to respond—either orally or in writing—prior to the effective date of such proposed action
  - 5. A statement of the employee's right to representation
  - 6. A statement of the employee's right to appeal should such proposed action become final.
  - 7. A statement that the employee shall have at least fourteen (14) calendar days in which to request an oral response (i.e., a *Skelly* meeting) or to provide a written response.

If the employee chooses to provide a written response, the Fire Chief and/or his designee shall issue a written determination within fourteen (14) calendar days of receipt of that response. If the employee timely requests to provide an oral response (i.e., a *Skelly*

meeting) they may make the request to the Human Resources Director, Assistant Chief or Deputy Chief. The Human Resources Director shall schedule a meeting with the Fire Chief and/or his/her designee to hear the employee's presentation.

- B. Pre-Disciplinary (i.e., Skelly) Meeting: An employee who requests to provide an oral response (i.e., a *Skelly* meeting), has the following rights:
1. An employee shall be given reasonable time off without loss of pay to attend the pre-disciplinary meeting.
  2. An employee may represent himself/herself, may be represented by the Association or by a representative of his/her choice in the pre-disciplinary meeting.
  3. An employee and his/her representative shall receive written notice sustaining, modifying, or canceling a proposed dismissal, suspension, demotion or reduction in pay within fourteen (14) calendar days of the pre-disciplinary meeting.
  4. Should a proposed dismissal, suspension, demotion or reduction in pay become final, an employee shall have the right to appeal such action pursuant to Section 3 of this Article.

**Section 3. Right of Appeal for Dismissal, Suspension, Demotion or Reduction in Pay**

- A. Following the receipt of a Notice of Discipline for a dismissal, suspension, demotion or reduction in pay, employees have the right to appeal as set forth below. Failure of the employee to timely appeal shall signify that the employee has waived his/her right to further process the appeal, and the disciplinary action shall stand as issued. Failure by the Authority representative to timely respond under this Article shall permit the employee to appeal using this procedure.
- B. Employees shall have fourteen (14) calendar days from the date of service of the Notice of Discipline in which to file the appeal. The time limit to appeal may be extended by mutual agreement between the Authority representative and employee or his/her representative.
- C. All appeals (as described below) must be filed with the Human Resources Director or the employee's Fire Division Chief or Assistant Chief, Deputy Chief, or Fire Chief. If the appeal is submitted to the employee's Fire Division Chief or Assistant Chief/Fire Chief, a copy shall be forwarded to the Human Resources Director. Submission of the appeal may be via mail, hand delivery, fax or email; postmarks shall be accepted. All appeals must be received in writing, including by email, no later than 11:59 p.m. on the last day to appeal.

**Section 4. Appeals to Arbitration**



- A. An employee who appeals a dismissal, suspension, demotion or reduction in pay is appealing to have an arbitrator conduct a hearing to hear the appeal.
- B. Finding of Facts and Remedies
  - 1. An arbitrator may sustain, modify, or rescind an appealed disciplinary action as follows and subject to the following restrictions:
    - a. All Disciplinary Actions

If the arbitrator finds that the disciplinary action was taken for just cause, he/she shall then determine if the disciplinary action imposed on the employee was appropriate based on his/her assessment of the charges that were proven by a preponderance of the evidence. The arbitrator shall have the right, and the responsibility, to modify the discipline if, in his/her opinion, it is not appropriate.
    - b. Suspension, Demotion or Reduction in Pay

If the action is modified or rescinded, the appellant shall be entitled to restoration of pay and/or fringe benefits in a manner consistent with the arbitrator's decision and consistent with Section C below.
    - c. Dismissals

If the arbitrator finds that the order of dismissal should be modified or rescinded, the appellant shall be restored to a position in his/her former class subject to back pay and benefits in a manner consistent with the arbitrator's decision and consistent with Section C below.
- C. Restriction on Remedies - Restoration of pay and benefits shall be subject to deduction of all unemployment insurance, applicable taxes and withholdings, and outside earnings the appellant received since the date of discharge.

**Section 5. General Provisions**

- A. If the Association is representing or financially supporting the employee in their appeal, the cost of the arbitrator shall be shared equally between the Authority and the Association. If the Association is neither representing the employee nor financially supporting their appeal, the cost of the arbitrator shall be paid for by the Authority.
- B. Appeal hearings by an arbitrator shall be private.
- C. Arbitration appeal hearings for suspensions of less than forty (40) hours (if assigned to a staff position or as Fire Division Chief) or less than two (2) twenty-four (24) hour shifts (if assigned to a shift position) shall be limited to one (1) day, unless both parties agree that a longer hearing is

necessary. Both parties shall be allotted equal time during arbitration hearings involving such suspensions.

- D. The arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree upon an arbitrator, a list of seven (7) arbitrators shall be obtained from the California State Mediation and Conciliation Service, or some other agreed upon source. Then, each party shall alternately strike one (1) name from the list until only one (1) name remains. The Association shall strike the first name.
- E. Except for hearing appealing a termination, an employee shall not suffer loss of pay for time spent as a witness at an arbitration hearing held pursuant to this procedure. The number of witnesses requested to attend and their scheduling shall be reasonable and scheduled in advance.
- F. At the hearing, both the Association and the Authority shall have the right to be heard and to present evidence. The following rules shall apply:
  - 1. Testimony shall be provided under oath.
  - 2. Each party shall have these rights: (1) to call and examine witnesses, (2) to introduce exhibits, (3) to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, (4) to impeach any witness regardless of which party first called the witness to testify, and (5) to rebut the evidence against the witness. If the employee does not testify in his/her own behalf, the employee may be called and examined as if under cross-examination.
- G. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are not or hereafter may be-recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.
- H. The Authority shall be allowed to have at least one (1) employee who may be called upon to testify as a witness present at the arbitration hearing at all times.
- I. The decision of the arbitrator shall be final and binding on all parties.
- J. No employee shall be compelled to submit to a polygraph examination. No disciplinary action shall be taken against an employee for refusing to submit to a polygraph examination; nor shall any comment be anywhere recorded indicating that an employee offered to take, took, or

refused to take a polygraph examination, unless otherwise agreed to in writing by the parties; nor shall any testimony or evidence of any kind regarding an employee's offer to take or refusal to take or the results of a polygraph examination be admissible in any proceeding pursuant to this MOU, unless otherwise agreed to in writing by the parties.

## ARTICLE IX

### GRIEVANCE PROCEDURE

#### **Section 1. Scope of Grievances**

- A. A grievance may be filed if the Association or one of its members believes the Authority has violated, misapplied, or misinterpreted any provision of this MOU or any Authority procedures that implement specific provisions of this MOU in the areas of overtime, intradepartmental transfers, vacations, and shift exchanges.

#### **Section 2. Basic Rules**

- A. If an employee does not present a grievance or does not appeal the decision rendered regarding his/her grievance within the time limits, the grievance shall be considered resolved.
- B. If an Authority representative does not render a decision to the employee within the time limits, the employee may, within fourteen (14) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any management representative that he/she does not have the authority to resolve the grievance, he/she may refer it to the next step in the procedure. By mutual agreement of the Authority and the Association, Step 1 of the grievance procedure may be waived.
- D. Upon prior written consent of the parties (i.e., the representatives of the Authority and the employee or his/her representative), the time limits at any step in the procedure may be extended.
- E. Every reasonable effort shall be made by the employee and the Authority to resolve a grievance at the lowest possible step in the grievance procedure.
- F. The Association shall have the right to a representative present throughout the grievance process.
- G. To encourage candid discussion and compromise in attempting to resolve grievances, the Authority and the Association agree the grievance files of the respective parties shall be confidential.

#### **Section 3. Submission of Grievances**

- A. Any employee or group of employees shall have the right to present a grievance. The Association shall have the right to file grievances on behalf of the general membership; however, when the Association files a grievance on behalf of the general membership, it shall provide the Authority with the names of individuals who have been adversely affected. The Association has the right to grieve issues that solely affect the rights of the Association.
- B. If any two (2) or more employees have essentially the same grievance, they may, and if requested by the Authority must, collectively present and pursue their grievance if they report to the same immediate supervisor.

- C. If the grievant is a group of more than three (3) employees, the group shall, at the request of the Authority, appoint one (1) or two (2) employees to speak for the collective group.

**Section 4. Employee Representation**

- A. An employee may represent himself/herself or may be represented by the Association in the formal grievance procedure.
- B. Authorized grievance representatives shall be designated by the Association to represent employees for purposes of grievance procedures. The Association shall notify the Human Resources Director of the names and titles of such representatives. This notice shall be updated each time a change in designated representative(s) occurs.

**Section 5. Time Off for Processing Grievances**

- A. Reasonable time off without loss of pay shall be given to:
  - 1. An employee who has a grievance, in order to attend a meeting with his/her supervisor or other person with authority to resolve the matter.
  - 2. An authorized grievance representative, in order to attend a meeting with the represented grievant's supervisor or other person with authority to resolve the grievance, or to obtain facts concerning the action grieved through discussion with the grievant or other employees.
- B. A grievant must get permission from the person to whom he/she she reports before leaving his/her job to perform any work related to the grievance. Permission will be granted if the demands of the job do not prevent it at that time. If that is the case, the employee's supervisor will grant such permission at a reasonable time in the near future.

**Section 6. Formal Grievance Steps**

- A. The grievance procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter, unless waived by mutual consent or as otherwise provided herein.
- B. All Step 1 and Step 2 grievances must be submitted to the Human Resources Director, Submission may be via email, mail, hand delivery or fax; no later than 5:00 p.m. on the last day allowable under the provisions of this Article.
  - 1. STEP 1: Fire Division Chief or Assistant Chief
    - a. A grievance must be filed within fourteen (14) calendar days from the occurrence that gives rise to the grievance. A Step 1 grievance shall be heard by a Fire Division Chief or Assistant Chief (if the grievant is a Fire Division Chief). In those cases where the Fire Division Chief is the immediate supervisor and is the subject of the grievance, the Fire Division Chief and the Assistant Chief meet with the grievant within fourteen (14) calendar days.

- b. Such submission shall be in writing and shall state the nature of the grievance and the suggested solution.
- c. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant.

2. STEP 2: Assistant Chief

- a. If the grievance is not settled under Step 1, it may be appealed in writing to the Human Resources Director within fourteen (14) calendar days after receipt of the written decision from Step 1. Within fourteen (14) calendar days after receipt of the written grievance appeal the appropriate Assistant Chief shall meet with the grievant and his/her representative. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant and his/her representative.

**Section 7. Referrals to Mediation**

- A. As an alternative to proceeding directly to arbitration after completion of Step 2, the parties may mutually agree to submit a grievance to mediation. A request for mediation may be presented in writing to the Human Resources Director within fourteen (14) calendar days from the date a decision was rendered at Step 2. A request for mediation shall automatically suspend the normal processing of a grievance until the mediation process is completed. The Authority shall respond to a request for mediation within fourteen (14) calendar days. The mediation process shall be optional, and any opinion expressed by the mediator shall be informal and shall be considered advisory. Should the mediation process not be successful, within fourteen (14) calendar days after completion of the mediation process, an arbitration request may be filed pursuant to Section 8 of this Article.

**Section 8. Referrals to Arbitration**

- A. If a grievance is not resolved under Step 2 or mediation, an arbitration request may be submitted in writing by the Association to the Human Resources Director within fourteen (14) calendar days from the date a decision was rendered at Step 2 or the completion of the mediation process. As soon as practicable thereafter—or as otherwise agreed to by the parties—an arbitrator shall hear the grievance.

**Section 9. General Provisions**

- A. The cost of an arbitrator shall be shared equally in all cases by the Authority and the appealing party.
- B. Grievance hearings by an arbitrator shall be private.
- C. The arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree upon an arbitrator, a list of seven (7) arbitrators shall be obtained from the California State Conciliation Service or some other agreed upon source and, each party shall alternately strike one (1) name from the list until only one (1) name remains.

- D. Both parties agree to provide any documents (except for rebuttal documents) they plan to offer into evidence at least 14 days in advance of the grievance appeal hearing.
- E. An employee shall not suffer loss of pay for time spent as a witness at an arbitration hearing held pursuant to this procedure. The number of witnesses requested to attend and their scheduling shall be reasonable and scheduled in advance.
- F. At the hearing, both the Association and the Authority shall have the right to be heard and to present evidence. The following rules shall apply:
  - 1. Testimony shall be provided under oath.
  - 2. Each party shall have these rights: (1) to call and examine witnesses, (2) to introduce exhibits, (3) to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, (4) to impeach any witness regardless of which party first called the witness to testify, and (5) to rebut the evidence against the witness. If the employee does not testify in his/her own behalf, the employee may be called and examined as if under cross-examination.
- G. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions and irrelevant and unduly repetitious evidence shall be excluded.
- H. The Authority shall be allowed to have at least one (1) employee who may be called upon to testify as a witness present at the arbitration hearing at all times.
- I. The decision of the arbitrator shall be final and binding on all parties.

## ARTICLE X

### LAYOFF PROCEDURE

#### **Section 1. Order of Layoff**

- A. The Authority may abolish a position because of change in duties or organization or shortage of work or funds, which may require the layoff of one (1) or more employees. When a layoff is implemented, employees shall be laid off in an order based on consideration of:
1. Employment status
    - a. All new probationary employees and employees on temporary promotion shall be removed from the class.
  2. Past performance
    - a. Any employee whose last regularly scheduled performance evaluation was rated "Substandard" and who has received a subsequent interim performance evaluation rated "Substandard" shall be subject to layoff before employees subject to Section 1.A.3 of this Article.
  3. Length of continuous service
    - a. After all new probationary employees, employees on temporary promotion, and employees subject to layoff under Section 1.A.2 of this Article have been removed from a classification within a layoff unit, the employee with the lowest number of service hours within the classification shall be subject to layoff first. When two (2) or more employees have the same number of service hours in the classification, the employee with the lowest number of total service hours shall be subject to layoff first.
    - b. Employees transitioned to the Authority from another public fire service agency in Orange County, pursuant to a contractual agreement for the Authority to provide fire services previously provided by the other public fire service agency, may be provided service hours for their employment with the other public fire service agency, for layoff purposes, to the extent permitted by the Agreement set forth in Appendix B.
- B. Layoffs shall be made by class within the Authority.
- C. If a layoff is going to be made in a class from which an employee has left through a temporary promotion, the employee on temporary promotion shall be returned to his/her former class and shall be subject to layoff in accordance with this procedure.

#### **Section 2. Notification of Employees**

- A. Written notice of layoff shall be given to an employee or sent by mail to the last known mailing address at least fourteen (14) calendar days prior to the effective



date of the layoff. Notices of layoff shall be served on employees personally at work, whenever practicable.

- B. It is the intent of the parties that the number of layoff notices initially issued shall be limited to the number of positions by which the workforce is intended to be reduced. Additional notices shall be issued as other employees become subject to layoff as a result of employees exercising reduction rights under Section 3 of this Article.
- C. The notice of layoff shall include (1) the proposed effective date of the layoff, (2) the employee's hire date, (3) the employee's service hours, (4) the employee's rights under Section 3 of this Article, and (5) the right of the employee to advise the Authority of any objection to the content of the layoff notice prior to the proposed effective date of the layoff.

**Section 3. Voluntary Reduction in Lieu of Layoff**

- A. An employee who is subject to layoff may request a reduction to a lower class provided the employee possesses the minimum qualifications for the class, has served in and passed probation in that class with the Authority or a predecessor employer, and passes any required performance tests. The reduction shall be made if there is a vacant position in the layoff unit or an incumbent in the lower class in the layoff unit has fewer service hours than the employee requesting the reduction. In the latter case, the incumbent in the lower class with the fewest number of service hours shall be subject to layoff.
- B. Employees who receive notice of layoff shall have five (5) calendar days to notify the Authority in writing of their intent to exercise rights under this Section.
- C. Failure by an employee to respond to the Authority pursuant to this Section shall result in a rebuttable presumption that the employee does not intend to exercise any right of reduction to a lower class and that the employee's hire date stated in the layoff notice was correct.
- D. No employee action or inaction referred to in this Section shall be considered a waiver of an employee's right to file grievances concerning any matter within the scope of the grievance procedure.

**Section 4. Status on Reinstatement**

- A. An employee who has been laid off under the provisions of this Article and subsequently reinstated within a two (2) year period from the date of his/her layoff shall receive the following considerations and benefits:
  - 1. All sick leave credited to the employee's account when laid off shall be restored.
  - 2. All service hours held upon layoff shall be restored.
  - 3. All prior service shall be credited for the purpose of determining Sick Leave and vacation earning rates and service awards.
  - 4. The employee shall be placed in the salary range as if the employee had been on a Leave of Absence Without Pay.

5. The probationary status of the employee shall be as if the employee had been on a Leave of Absence Without Pay, except that a probation period shall be established as determined by Article III, Section 3 if reinstatement is in a higher class or an occupational series different from that employed in at the time of layoff.
- B. When an employee is reduced under the provisions of this Article and is subsequently reemployed in a class higher than the one from which the employee was reduced, the employee shall be deemed returned to the class from which the employee had been reduced as provided above and the employee's salary, probation period, and merit increase eligibility date shall be determined by treating the employee as though he/she is being promoted from such class.

## ARTICLE XI

### ON-THE-JOB-INJURIES, WORKERS' COMPENSATION

#### **Section 1. Disability Payments and Leave**

##### A. Exhaustion of 4850 Benefits

1. When an employee has exhausted all rights and benefits provided by California Labor Code Section 4850 and he/she continues to be unable to return to work due to an injury or disease arising out of and in the course of Authority employment, such employee shall be treated in the following manner:
  - a. He/she shall be entitled to all benefits provided by California Workers' Compensation Law; and
  - b. He/she shall be placed on Workers' Compensation Leave; and
  - c. All sick leave, compensatory time, and vacation shall be added—at the employee's option—to the workers' compensation temporary disability benefit, if eligible for such benefit, which shall equal one hundred (100) percent of the employee's base salary until such accruals are exhausted; or
  - d. If the employee is not eligible for temporary disability or exhausts his/her temporary disability benefit—at the employee's option—such accruals shall be continued until they are exhausted. An election to continue accruals shall be irrevocable
  - e. Upon exhaustion of all sick leave, compensatory time, and vacation, the employee shall not accrue sick leave or vacation for the remainder of Workers' Compensation Leave
  - f. The probation period of any employee who receives workers' compensation benefits shall be extended by the length of time he/she receives such benefits, except that the first fifteen (15) consecutive calendar days of benefits shall be considered Authority service for completion of the probation period.
  - g. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of Authority seniority and determination of sick leave and vacation earning rates.

#### **Section 2. Exposure to Contagious Diseases**

- A. Whenever an employee is compelled by direction of an Authority-designated physician to be absent from duty due to on-the-job exposure to a contagious disease, the employee shall receive regular compensation for the period absent from duty.

## ARTICLE XII

### SAFETY

#### **Section 1. General Provisions**

- A. The Authority shall make reasonable efforts to provide and maintain a safe place of employment. Employees shall be alert to unsafe practices, equipment, and conditions and shall report any such unsafe practices, equipment, or conditions to their immediate supervisors.
- B. Any employee who either does not receive an answer to a safety-related question from his/her supervisor within three (3) calendar days or receives an answer the employee deems unsatisfactory, may directly contact the designated Authority Safety Officer.
- C. Any employee who is directed to perform a task that the employee, in good faith, feels is unsafe may request an immediate investigation from the designated Authority Safety Officer. During the period the designated Authority Safety Officer is conducting an investigation, the employee shall be assigned to other work at no loss of earnings. If the task is ruled to be safe by the designated Authority Safety Officer, the employee shall be required to perform the duties assigned.
- D. In accordance with OCFA Standard Operating Procedures, the Authority shall establish guidelines to notify the investigative team, which shall include a designated Association representative, of the existence of a serious injury or fatality involving an employee and to secure the scene until such time as the investigative team can conduct an investigation of the serious injury or fatality. This would involve securing the equipment directly involved, the immediate area to the incident, and the apparatus directly involved.
- E. The Authority shall furnish all equipment that is necessary for employees to perform their jobs in a safe manner.
- F. Wherever practicable, the Authority shall provide the necessary first aid kits in Authority facilities.
- G. Wherever practicable, the Authority shall provide first aid training for one (1) employee at each new work location.

#### **Section 2. Safety Inspection**

- A. During an inspection of Authority facilities conducted by the appropriate State agency for the purpose of determining compliance with the California OSHA requirements, an Association designated employee shall be allowed to accompany the inspector while the inspector is on site. The employee so designated shall suffer no loss of pay when this function is performed during the employee's regularly scheduled work hours.

#### **Section 3. Safety Representative**

- A. The representative of the Association who serves as the co-chairperson of the Authority's Safety & Occupational Health Committee, may be selected by the Association to meet at least once a month, upon request, with the designated Authority Safety Officer and/or the Authority's Operations Training and Safety Officer to discuss matters affecting employee health and safety.
- B. A safety representative who has received a complaint involving a possible health and safety violation shall be given reasonable time off without loss of pay to gather appropriate information on such complaint, provided that:
  - 1. The safety representative obtains permission from the immediate supervisor prior to performing such duty.
  - 2. The safety representative shall not be allowed to leave the worksite if in the opinion of the immediate supervisor it will unduly interfere with the work of the unit. However, the Authority shall make every attempt to grant such time off as soon as it is feasible to do so.
- C. When an authorized safety representative must go into another section or unit to gather said information, the safety representative shall be permitted to do so provided that:
  - 1. The safety representative checks in and checks out with the supervisor of the unit; and
  - 2. The safety representative does not unduly interfere with the work of the unit.

**Section 4. Resolution of Safety or Health Complaints**

If a safety or health complaint is not satisfactorily resolved, the safety representative may request to meet with the designated Authority Safety Officer to resolve the complaint. If the complaint is not resolved, a grievance may be filed.

**Section 5. Abatement of Violations**

In any instance in which the Authority is cited for a violation of California OSHA, the Authority shall abate the cited hazard to health or safety within the abatement period required.

## ARTICLE XIII

### INSURANCE

#### **Section 1. CalPERS Health Care**

- A. The Authority shall continue to maintain its contract with the California Public Employees Retirement System (CalPERS) for employees' health care coverage.
- B. The Authority shall contribute towards the payment of health care premiums, under the CalPERS Health Benefits Plan, on behalf of each eligible active employee and each eligible retiree, an equal contribution as set forth in California Government Code 22892 (GC §22892) and the Public Employees' Medical and Hospital Care Act (PEMHCA). Eligible active employees include the following:
- i. Full-time regular, limited-term or probationary employees who, upon hire or starting in the position, are reasonably expected to average thirty (30) or more hours of service per week [i.e. one hundred thirty (130) hours per month]; and
  - ii. Part-time regular, limited-term or probationary employees who, upon hire or starting in the position, are reasonably expected to average at least twenty (20) hours of service per week.

- C. The Authority shall provide to each eligible employee, as defined in Section 1.B of this Article, a health flex contribution to purchase health benefits under its Section 125 of the Internal Revenue Code ("Cafeteria Plan):

1. The Authority shall provide to each full-time (regular, limited-term, or probationary) employee, as defined in Section 1.B.1 of this Article, a health flex contribution of the greater of:

Employee Only Coverage: 100% of the health plan premium selected by the employee.

Employee + Dependent Coverage: 75% of the health plan premium selected by the employee.

If 100% of the cost of the employee only plan exceeds the cost of 75% of the two party or family plans actually selected by the employee, then an employee may elect dependent coverage and receive a contribution from the Authority of the cost of the employee plan (i.e., the greater amount).

This amount shall include the contribution towards the employee's Cafeteria Plan as set forth in GC §22892 and PEMHCA. Any balance of the employee's health care premium selection not covered by the health flex contribution shall be deducted from the employee's paycheck. The health flex contribution shall not be cashed out or applied to non-health benefits (for example, dependent care).

The Authority shall provide to each part-time (regular, limited-term, or probationary) employee, as defined in Section 1.B.2 of this Article, a health flex contribution as follows:

Employee Only Coverage: 50% of the health plan premium selected by the employee.

Employee + Dependent Coverage: 37.5% of the health plan premium selected by the employee.

This amount shall include the contribution towards the employee's Cafeteria Plan as set forth in GC §22892 and PEMHCA. Any balance of the employee's health care premium selection not covered by the health flex contribution shall be deducted from the employee's paycheck. The health flex contribution shall not be cashed out or applied to non-health benefits (for example, dependent care). Health care coverage and other benefits provided as part of the Cafeteria Plan shall be terminated for any employee whose normal workweek is reduced to less than twenty (20) hours.

- D. Eligible Opt-Out Arrangement: Upon providing reasonable evidence of alternative coverage as required by the ACA's Eligible Opt Out Arrangement rules (below), other than an Authority funded or administered plan, a full-time or part-time employee as defined in Section 1.B. of this Article, shall be entitled to a fifty-five (55) dollars biweekly in taxable cash, in lieu of the amount provided in Section 1.C.1 or 1.C.2., as applicable, of this Article.

Pursuant to the Affordable Care Act (ACA) Employer Mandate "affordability" determination, an Eligible Opt-Out Arrangement requires the following for employees who opt-out of employer-provided health coverage and receive cash in lieu:

1. Employee must provide reasonable evidence that the employee and each member of the employee's expected tax family (individuals the employee expects to claim personal exemption deduction) have or will have minimum essential coverage (other than coverage in the individual market, whether or not obtained through Covered California) during the period of coverage to which the opt-out arrangement applies;
2. The opt-out payment may not be made if the employer knows or has reason to know that the employee or any other member of the employee's expected tax family does not have or will not have the alternative coverage;
3. The evidence of alternative coverage must be provided every plan year to which the eligible opt-out arrangement applies; and
4. The reasonable evidence, which can be a simple attestation by the employee, must be provided no earlier than a reasonable period of time before the plan year begins.

- E. The Authority may reopen negotiations if there are changes that occur in connection with the Affordable Care Act.

## **Section 2. Health Plan Enrollment**

- A. Newly hired eligible employees must enroll for coverage in health plans within the first sixty (60) days of employment. If the employee fails to enroll within the first sixty (60) days of employment, he/she must either wait until the next open enrollment period or ninety (90) days after submission of a late enrollment form. Health plan coverage shall become effective the first day of the month following submission of the Health Benefits Enrollment form to the Authority.
- B. Employees, who are terminated due to disciplinary action or reduction in force or who voluntarily resign from employment, may continue their health care coverage until the end of the month following the month in which the employee is terminated.
- C. Two (2) full-time employees married to each other who elect coverage in the same health plan shall be enrolled as employee and dependent. Such employees shall have the full cost of coverage for employee and dependents paid by the Authority. Employees shall not, however, be enrolled simultaneously in an Authority health care plan and a health plan administered by the Orange County Professional Firefighters Association, Local 3631, as either an employee or dependent.

## **Section 3. Other Insurance Coverage**

- A. The Authority shall provide to all employees the following:
  - 1. Short-term disability insurance coverage, at no cost to the employee, to provide, after sick leave is exhausted, sixty (60) percent of salary per month for up to one (1) year for a certified non-occupational injury or illness. Coverage shall also provide for continuation of the Authority's share of premiums for health, dental, and life insurance benefits while the employee is on leave for Non-Occupational Disability for up to one (1) year from the effective date of disability.
  - 2. Long-term disability insurance coverage, at no cost to the employee, to provide up to sixty (60) percent of salary per month.
  - 3. Life insurance and accidental death and dismemberment insurance, at no cost to the employee, shall be provided at amounts based upon the employee's annual base salary, rounded to the next closest ten thousand dollars (\$10,000) and adjusted annually on each January 1, if required.
    - a. Employees shall have the option to purchase additional life and accidental death and dismemberment coverage, including dependent coverage.
  - 4. Dental and orthodontia insurance coverage, at no cost to the employee, for the employee and dependents.
  - 5. Vision care insurance coverage, at no cost to the employee, for the employee and dependents.



6. The Authority shall administer a Dependent Care Assistance Program that allows employees to take advantage of a salary reduction program to pay for dependent care as permitted in the Internal Revenue Code.

**Section 4. Retiree Medical Insurance Grant ("*Defined Benefit Plan*")**

**A. Retiree Medical Insurance Grant**

1. The Authority shall administer a Retiree Medical Insurance Grant plan, which will also be referred to herein as a "defined benefit plan," for employees who have retired or terminated from Authority employment and who meet the eligibility requirements as set forth in Section 4.B of this Article.
2. Upon paid Authority retirement, an eligible retiree who has enrolled in a "qualified health plan" (as defined in the Authority Retiree Medical Plan effective January 1, 1997) or in Medicare as stated in the Retiree Medical Plan and required by the "qualified health plan" shall receive a Retiree Medical Insurance Grant.
3. An eligible former employee who terminated from Authority service prior to retirement, who is fifty-five (55) years of age or older, and who is enrolled in a recognized health plan or Medicare as stated in the Retiree Medical Plan and required by the "recognized health plan" shall receive a Retiree Medical Insurance Grant.
4. The Retiree Medical Insurance Grant may be applied only towards the cost of retiree and dependent coverage in a "qualified health plan," as reimbursement for a portion of the cost of eligible former employee and dependent coverage in a recognized health plan and/or Medicare premiums as provided in Sections 4.A.4.a, 4.A.4.b, and 4.A.4.c, of this Article.
  - a. Effective January 1, 2020, the Retiree Medical Insurance Grant shall be an amount based on twenty seven dollars and seventy four cents (\$27.74) per month for each full year of service to a maximum of six hundred and ninety-three dollars and fifty cents (\$693.50) per month. On January 1 of each calendar year, the amount of such Retiree Medical Insurance Grant shall be adjusted by the average percentage increase in Authority health plan premiums no later than the effective dates of such increase, not to exceed five (5) percent per year. In no case shall the Retiree Medical Insurance Grant exceed the actual cost of the health insurance and/or Medicare premiums.
  - b. All Authority employees who retire from the Authority and become eligible for a Retiree Medical Insurance Grant shall be provided a one (1) time opportunity of at least thirty (30) days to enroll in an Authority "qualified health plan" and shall have ninety (90) days after attaining age sixty-five (65) to enroll in Medicare. Should a retiree fail to enroll in either a "qualified health plan" or Medicare during the aforementioned periods or should he/she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Retiree Medical Insurance Grant.

- c. All former employees who did not retire from the Authority and who are eligible for a Retiree Medical Insurance Grant shall not receive the Grant until such employees reach age fifty-five (55) and request the Authority to commence distribution of the Grant no later than ninety (90) days from the former employee's 55th birthday. Upon such request, the eligible former employees must show proof of enrollment in a recognized health plan. A reimbursement for a portion of the cost of premiums will be provided to the eligible former employees in accordance with the Retiree Medical Plan provisions. The eligible former employees will be required to provide the Authority with a copy of the premium bill and cancelled check or other recognized proof of payment for reimbursement.

B. Eligibility Requirements for Retiree Medical Insurance Grant

1. Retiree must be actively retired from the Authority and receiving a monthly retirement allowance from the Orange County Employees Retirement System (OCERS). An eligible former employee must be at least age fifty-five (55) and enrolled in a recognized health plan.
2. Only employees hired before January 1, 2007, shall be eligible to participate in the Retiree Medical Insurance Grant Plan.
3. Retiree or eligible former employee must have retired or terminated employment with the Authority with at least one (1) year~~s~~ of service (2,080 hours), except as provided in Section 4.B.3.a, b, and c of this Article.
  - a. A retiree of the Authority who receives a service-connected disability retirement from OCERS shall be eligible for a Retiree Medical Insurance Grant equal to either ten (10) years of service or actual years of service, whichever is greater.
  - b. A retiree who receives a non-service connected disability retirement shall be eligible for a Retiree Medical Insurance Grant based on actual years of service.
  - c. A separated employee who is less than fifty-five (55) years of age or is under normal retirement age who has requested a service or non-service connected disability retirement shall not be eligible to receive the Retiree Medical Insurance Grant until a determination of disability status is made by the Board of Retirement.
4. All eligible retirees, eligible former employees, and enrolled dependents who are age sixty-five (65) or older must be enrolled in Medicare Part B in order to be eligible for the Retiree Medical Insurance Grant. All eligible retirees, eligible former employees, and dependents who are entitled to Medicare Part A coverage without a premium must be enrolled in Medicare Part A to be eligible to receive the Retiree Medical Insurance Grant.
5. Deferred Retirement
  - a. An employee who, upon separation from Authority employment, is eligible for paid retirement and elects deferred retirement must defer participation in the Retiree Medical Insurance Grant until such time as

he/she becomes an active retiree. .However, in order to be eligible for health care coverage provided by CalPERS, retirement must not be deferred for more than one hundred twenty (120) days after the employee separates from Authority employment.

- b. An employee with one (1) year of employment (2,080 hours), who is not eligible for paid retirement at the time he/she separates from Authority service and elects deferred retirement status, shall not become eligible for participation in the Retiree Medical Insurance Grant until he/she becomes fifty-five (55) years of age.
6. For purposes of this Section, a full year of employment shall mean those regular hours of employment the employee worked as a regular, limited-term, and/or probationary employee. Two thousand eighty (2,080) regular hours, exclusive of overtime, shall equal one (1) full year of employment for a staff employee or Fire Division Chief. Two thousand nine hundred twelve (2,912) hours, exclusive of overtime, shall equal one (1) full year of service for a shift employee.

C. Employee Contribution

1. All employees-hired before January 1, 2007, shall contribute four percent (4%) of their base rate of pay, through a payroll deduction to be applied to the Plan.

D. Survivor Benefits

1. A surviving dependent who qualifies for a monthly retirement allowance shall be eligible for fifty percent (50%) of the Retiree Medical Insurance Grant authorized for the retiree.
2. A surviving eligible retiree or eligible former employee who qualifies for a monthly retirement allowance and who was married to a retiree or eligible former employee who was also eligible for a Retiree Medical Insurance Grant shall receive the survivor benefit described in Section 4.D.1 of this Article or his/her own Retiree Medical Insurance Grant, whichever is greater. Such retiree shall not be eligible for both Retiree Medical Insurance Grants.

**Section 5. Defined Contribution Plan for Retiree Medical Benefits**

- A. The Authority will provide only to regular, limited-term, and probationary employees hired on or after January 1, 2007, a "defined contribution plan."
- B. All employees hired on or after January 1, 2007, will be required to contribute four percent (4%) of base rate of pay to the Plan. Employees will not be permitted to contribute more than four percent (4%) of base salary towards the Plan.
- C. Employees hired before January 1, 2007, shall not be eligible to participate in the Plan. Eligibility for plan participation is based on the employees most recent date of hire with the Authority.

**Section 6. Physical Examination**

- A. The Authority shall provide for a full-time employee a voluntary annual physical examination by an Authority-designated physician at no cost to the employee.

**Section 7. Optional Benefit Plan (OBP)**

- A. The Optional Benefit Plan is a cash allotment which allows employees the option to take the benefit as taxable cash and/or apply the allotment to the cost of non-taxable benefits as described in the Authority's Section 125 Cafeteria Plan, based on personal preferences.
- B. Each eligible employee shall be entitled to select benefits at a cost to the Authority not to exceed the amounts shown in Sections 8.B.1 and 8.B.2 of this Article.
  - 1. For employees in the Fire Division Chief classification, the OBP amount shall be two thousand one hundred dollars (\$2,100) each calendar year period.
  - 2. For employees in the Fire Battalion Chief classification, the OBP amount shall be one thousand nine hundred dollars (\$1,900) each calendar year period.
- C. The purpose of the OBP is to provide options to individual employees to best meet the needs of themselves and dependents while relieving the employee of external influences that might impair his/her performance.
- D. OBP shall be administered in accordance with the stated purpose. To be eligible, each employee must file an Intent to Participate form in accordance with provided instructions. If an employee does not file an Intent to Participate form prior to the commencement of the OBP, the employee's eligibility date shall be the first of the month following the date the employee files the Intent to Participate form. The amount available to the employee shall be prorated based on month(s) of eligibility. An employee's designations are irrevocable, unless he/she has a change in family status. Eligible expenses must be incurred during an OBP period in which an employee is eligible and has sufficient fund balance to cover the expense. Claims may be filed at anytime during the plan period, and all claims must be filed no later than two (2) months following the close of the OBP period. Upon approval and required written authorization, payment shall be made.
- E. An employee is eligible to receive the OBP, provided he/she is continuously employed in a full-time capacity. Employees hired or promoted after the commencement of an OBP shall be eligible for the OBP on a prorated basis the first day of the month following the twenty-eighth day in the unit.
- F. Any portion of the optional benefit not incurred within the OBP period shall remain Authority funds.

**Section 8. OCFACOA Supplemental Retiree Medical Plan**

The Authority will deduct from all employees an amount from their base salary to be deposited into a Supplemental Retiree Medical Plan Trust administered by the Orange County Professional Firefighters Association. This action shall be taken in accordance with the OCFACOA Supplemental Retiree Medical Plan Agreement found in Appendix B of this Memorandum of Understanding.



## ARTICLE XIV

### UNIFORMS, PROPERTY, SERVICES, AND EQUIPMENT

#### **Section 1. Uniforms**

- A. Except as provided in Section 1.B of this Article, the Authority shall provide and replace as required—but shall not launder or dry clean—the following:
1. Required uniforms, including protective clothing and station work shoes; and
  2. Wildland boots.
- B. When an employee requests a station work shoe and/or a required wildland boot, other than those provided by the Authority pursuant to Section 1.A of this Article, the Authority may—at its sole discretion—authorize such employee to purchase an alternative Authority-approved station work shoe and/or wildland boot. In such cases, the employee shall be reimbursed for his/her cost of purchasing the Authority-approved station work shoes to a maximum of seventy dollars (\$70) per pair of station work shoes and/or one hundred twenty-five dollars (\$125) per pair of wildland boots.

#### **Section 2. Turnout Clothing and Equipment**

- A. The Authority shall provide, replace as required, and maintain the following:
1. Turnout clothing and equipment;
  2. Necessary cooking, food refrigeration, and housekeeping equipment, including cooking and eating utensils; and
  3. Necessary community linen supplies and blankets, including laundry.
  4. A cold weather uniform jacket approved by the Authority.

## **ARTICLE XV**

### **RETIREMENT**

#### **Section 1. Eligibility**

Employees in the Unit are included in the Orange County Employees Retirement System as determined by their date of entry into eligible service.

#### **Section 2. Final Compensation**

“Final Compensation” For Legacy Members of OCERS, in accordance with Government Code Section 31462(a) "Final compensation" means the average annual compensation earnable by a member during any three years elected by a member at or before the time he or she files an application for retirement, or, if he or she fails to elect, during the three years immediately preceding his or her retirement. If a member has less than three years of service, his or her final compensation shall be determined by dividing his or her total compensation by the number of months of service credited to him or her and multiplying by 12.

#### **Section 3. Cost-of-Living Adjustments**

Members' normal cost-of-living contributions shall be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Board of Retirement and the Board of Supervisors.

#### **Section 4. Retirement Formulas And Employee Contributions**

##### **A. Retirement Formula:**

1. Employees Hired Prior to June 30, 2012: These Employees shall receive the three percent at fifty (3% at 50) retirement formula as per California Government Code Section 31664.1.
2. Employees Hired On or After July 1, 2012 Who Are Not Defined As “New Members” Under the Public Employees’ Pension Reform Act of 2013: These Employees shall receive the three percent at fifty-five (3% at 55) retirement formula as per California Government Code Section 31664.2.

##### **B. Employee Contributions To the Retirement System**

1. Employees shall pay the maximum required member contribution based on age of entry to OCERS, as required by OCERS.
2. The contributions provided above shall continue during the employee’s employment with the Authority, or until such time that the employee qualifies under GC 31664.1(c).

##### **C. For Employees Hired on or After January 1, 2013 who are considered “New Members” Within the Meaning of PEPRA.**

1. The retirement formula will be the “2.7% at 57” retirement formula per Government Code Section 7522.25(d), utilizing the average three highest

years of compensation per Government Code Section 7522.32. Pensionable compensation, including employee contributions and other pension related conditions are governed by the provisions of the law.



## ARTICLE XVI

### **DEFERRED COMPENSATION**

An employee in a regular or limited-term position may, at his/her request, participate in the Authority's Deferred Compensation Plan.

#### **Advisory Deferred Compensation Committee**

The parties shall maintain a standing joint labor/management advisory committee to oversee the deferred compensation program (which includes retiree health savings). The committee shall include two representatives from the Association. The committee chairperson shall be the current fiduciary of the OCFA deferred compensation plan. Meetings will be scheduled for January and July or on an as needed basis. The general purpose will be to review and make recommendations on the following matters:

1. Review and provide input on selection of independent deferred compensation consultants.
2. Review and provide input on the consultant's fund lineup recommendations.
3. Review and provide input on new plan features being offered.
4. Review and provide input on customer service and internal educational workshops for plan participants.
5. Review and provide input on service delivery of the current service contract.
6. Review and provide input on the future competitive bidding process for deferred compensation.

## ARTICLE XVII

### ASSOCIATION RIGHTS

#### **Section 1. Payroll Deductions**

- A. Membership dues of Association members in the Fire Management Unit shall be deducted by the Authority from the pay warrants of such members. The Authority shall promptly transmit the dues so deducted to the Association on a monthly basis.
- B. The Association shall notify the Authority, in writing, as to the amount of dues uniformly required of all members of the Association.

#### **Section 2. Employee Information Listing**

- A. The Authority shall provide the Association once every 120 days with a complete and current listing of all employees in the Fire Management Unit. Such listings shall include employee name, job classification, section, base hourly rate, hire date, personal email and phone number contacts. However, employees can opt-out of providing their personal email and phone numbers to the Association.

#### **Section 3. Use of Authority Facilities**

- A. The Association may, with the approval of the Human Resources Director, hold meetings of its members on Authority property during non-working hours, provided request is made to the Human Resources Director as to the specific location and dates of the meeting prior to such meeting.

## ARTICLE XVIII

### SEPARABILITY

In the event that any provision of this MOU is declared invalid by any court of competent jurisdiction, such decision shall not invalidate the entire MOU it being the express understanding of the parties and the Association that all other provisions not declared invalid shall remain in full force and effect.

## ARTICLE XIX

### MANAGEMENT RIGHTS

Any of the rights, powers, or authority the Authority had prior to the signing of this MOU are retained by the Authority, except those specifically abridged, delegated, or modified by this MOU, provided that such management rights do not restrict employees from filing grievances as provided in the grievance procedure.

## **ARTICLE XX**

### **RECOGNITION**

Pursuant to the Employee Relations Resolution of the Orange County Fire Authority and applicable State law, the Orange County Fire Authority Chief Officers Association is the exclusively recognized employee organization for the Fire Management Unit as identified in Appendix A.

## ARTICLE XXI

### TRANSFER OF FUNCTIONS

In the event the Authority plans to enter into any agreement with another public employer, which involves the transfer of functions now being performed by employees in the Fire Management Unit, the Authority will advise such public employer of the existence and terms of this MOU. The Authority shall consult with the Association in a timely manner to discuss the impact on employees in the Fire Management Unit of such transfer functions.

## ARTICLE XXII

### COMPENSATION

#### **Section 1. Base Salary Adjustments**

There shall be no base salary increase during the term of this 2020-2023 MOU.

#### **Section 2. Range Adjustment**

##### A. Fire Battalion Chief

1. The base salary of the classification of Fire Battalion Chief shall be at least seventeen and five-tenths percent (17.5%) higher than the base salary of the top step of the salary range for Fire Captain.
2. The top of the salary range of Fire Battalion Chief shall be at least twenty-seven and five-tenths (27.5%) percent above the top step of the salary range of Fire Captain. Adjustments to the range, when required, shall be made within the pay period that the range drops below the percentage stated in this provision.

##### B. Fire Division Chief

1. The bottom of the salary range for Fire Division Chief shall be equal to and be maintained at the top of the salary range for Fire Battalion Chief.
2. The top of the salary range of Fire Division Chief shall be equal to and be maintained at approximately thirteen and seventy-five-hundredths (13.75) percent above the bottom of the salary range. Adjustments to the range, when required, shall be made within the pay period that the range drops below the percentage stated in this provision.

#### **Section 3. Specialty Pay**

##### A. Bilingual Pay

1. Qualified employees who meet the following criteria, shall receive an additional twenty-five (25) cents per hour (approximately forty-three [43] dollars per month) for all hours actually paid:
  - a. An employee must be conversant in one (1) of the pre-designated languages to qualify to receive bilingual pay:
    - Spanish
    - Vietnamese
    - Korean
    - American Sign Language
  - b. Other languages may qualify on a case-by-case basis.
  - c. The employee must be approved by the Human Resources Director as per Standard Operating Procedures.

2. Bilingual pay shall apply to workers' compensation and be considered as part of the employee's base pay for the earning of other benefits as provided by law.
3. A bilingual employee may be called upon to speak or translate a second language at any time, as Authority needs dictate.
4. An employee shall not be eligible to receive bilingual pay for more than one language.

B. Educational Incentive Pay

1. An employee who has satisfactorily completed the equivalent of sixty (60) college-level semester units or has obtained a California State Fire Marshal Chief Officer Certification (or Chief Fire Officer after January 1, 2017) shall receive educational incentive pay of two and one half percent (2.5%) of the employee's base salary per month, prorated on an hourly basis for all regular hours paid.
2. An employee who has satisfactorily completed the equivalent of sixty (60) college-level semester units and has also obtained a California State Fire Marshal Chief Officer Certification (or Chief Fire Officer after January 1, 2017) shall receive educational incentive pay of five percent (5%) of the employee's base salary per month, prorated on an hourly basis for all regular hours paid.
3. An employee who has obtained a Bachelor's degree or higher, or has obtained a National Fire Academy Executive Fire Officer Certification (or Executive Chief Fire Officer after January 1, 2017), shall receive educational incentive pay of seven and one-half percent (7.5%) of the employee's base salary per month, prorated on an hourly basis for all regular hours paid.
4. The maximum attainable educational incentive pay is seven and one-half percent (7.5%) of base salary per month.
5. Educational incentive pay is not applied to overtime/backfill hours.
6. To receive educational incentive pay, the employee must:
  - a. Submit a written request to receive the educational incentive pay, and;
  - b. Submit proof of qualification satisfactory to the Human Resources Director (grade cards, transcripts, and/or other verification from an accredited college-level educational institution shall constitute satisfactory proof of qualification).
7. Payment of the educational incentive pay shall begin with the pay period following verification of the employee's eligibility.
8. The educational incentive pay shall apply to workers' compensation and be considered as part of the employee's base pay for the earning of other benefits as provided by law.



C. Staff Assignment Pay

1. A Fire Battalion Chief assigned as a staff employee or in a designated staff position shall receive staff assignment pay of ten percent (10%) of the employee's base salary per month during such assignment, prorated on an hourly basis for all regular staff hours paid. A shift employee assigned to a light duty assignment shall not be eligible for staff assignment pay.
2. Staff assignment pay shall apply to workers' compensation and be considered as part of the employee's base pay for the earning of other benefits as provided by law.

D. Duty Officer Compensation

1. The classification of Fire Division Chief shall be assigned as Duty Officer and shall receive duty officer compensation of seven and one half percent (7.5%) percent of the employee's base salary per month, prorated on an hourly basis for all regular hours paid. When a Fire Division Chief is substantially unable to respond to call back and perform the required duties of Duty Officer, he/she shall not receive the duty officer compensation. Temporary assignment and approved leaves shall not be considered as restricting receipt of duty officer compensation.
2. Duty officer compensation shall apply to workers' compensation and be considered as part of the employee's base pay for the earning of other benefits as provided by law.

E. EMT Certification or Paramedic License Requirement and Pay

Any employee newly promoted or hired into the bargaining unit after July 1, 2020, must maintain a California Emergency Medical Technician (EMT) Certification or paramedic license. If a newly hired employee does not have the certification or license, that employee shall have six (6) months in which to obtain it.

Any employee newly promoted or hired into the bargaining unit after July 1, 2020, who loses their certification or license shall be provided six (6) months in which to re-obtain it, provided however, the employee shall not receive the pay set forth in this section during the period when their certification or license was not valid.

Any employee who was in the bargaining unit on July 1, 2020, who maintains a California EMT Certificate or paramedic license, shall receive the pay described below. These employees shall not be required to maintain the certification or license, and shall not receive the pay unless and until they are certified or licensed.

The Authority will provide recertification opportunities for all members of the unit.

Effective with the pay period including July 1, 2020, employees will receive, in addition to their regular salary, four and one half percent (4.5%) of each employee's base salary for their regularly scheduled hours (i.e., not for

overtime hours) once they have received (and provide proof of receipt) of their EMT Certification and/or paramedic license.

Effective with the pay period including July 1, 2021, employees, will receive, in addition to their regular salary, an additional one and three quarters' percent (1.75%) for a total of six and one quarter percent (6.25%) percent of each employee's base salary for their regularly scheduled hours (i.e., not for overtime hours) once they have received (and provide proof of receipt) of their EMT Certification and/or paramedic license.

Effective with the pay period including July 1, 2022, employees, will receive, in addition to their regular salary, an additional one quarter of one percent (.25%) for a total of six and one half percent (6.5%) percent of each employee's base salary for their regularly scheduled hours (i.e., not for overtime hours) once they have received (and provide proof of receipt) of their EMT Certification and/or paramedic license.

EMT Certification or Paramedic License pay shall apply to workers' compensation and be considered as part of the employee's base pay for the earning of other benefits as provided by law.

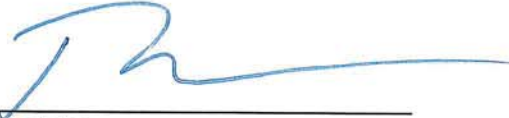
F. Longevity Pay

Effective July 1, 2022, employees shall receive three percent (3%) of their base pay for their regularly scheduled hours (i.e., not for overtime hours) as longevity pay at the commencement of their third year in a bargaining unit position.

Longevity Pay shall apply to workers' compensation and be considered as part of the employee's base pay for the earning of other benefits as provided by law.

CONTRACT SIGNATURES

Orange County Fire Authority  
Chief Officers Association



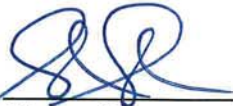
Tim Perkins  
Chief Officers Association President



Mike Summers  
Director



Robert Capobianco  
Director



Shane Sherwood  
Director



Dave Phillips  
Business Agent

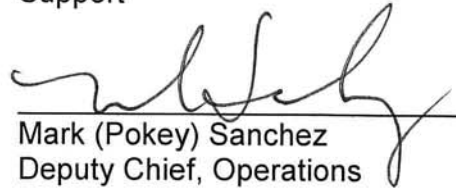


Robert Wexler  
Labor Negotiator

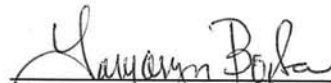
Orange County Fire Authority



Lori Zeller  
Deputy Chief, Administration and Support



Mark (Pokey) Sanchez  
Deputy Chief, Operations



Tamaryn Boston  
Human Resources Manager



Peter J. Brown  
Labor Negotiator

## APPENDIX A

### BARGAINING UNIT CLASSIFICATIONS

Classes included in the Fire Management Unit as of July 1, 2020:

5805	Fire Battalion Chief Suppression
5806	Fire Battalion Chief Staff
5807	Fire Division Chief

## APPENDIX B

### SIDE AGREEMENTS

- OCFACOA Supplemental Retiree Medical Plan Agreement
- Transition of Employment Agreement

**OCFACOA SUPPLEMENTAL RETIREE MEDICAL PLAN AGREEMENT  
BETWEEN  
ORANGE COUNTY FIRE AUTHORITY CHIEF OFFICERS ASSOCIATION,  
ORANGE COUNTY PROFESSIONAL FIREFIGHTERS ASSOCIATION, IAFF LOCAL 3631  
AND  
ORANGE COUNTY FIRE AUTHORITY  
TERM OF THE AGREEMENT: SEPTEMBER 28, 2006 THROUGH June 30, 2023**

IN CONSIDERATION OF the mutual covenants, promises, and conditions set forth herein below and pursuant to Article XXV of the 2001-2013 Memorandum of Understanding (MOU) between the Orange County Fire Authority Chief Officers Association (OCFACOA), and the Orange County Fire Authority (Authority) the parties agree as follows:

1. The Authority will deduct from the biweekly pay of all regular, limited term, part-time (at least 20 hours per week) and probationary employees, who have elected to enroll in this program, an amount equal to the sum of one percent (1%) of top of the salary range for Fire Battalion Chief plus twelve (12) dollars biweekly to be deposited into a Supplemental Retiree Medical Plan trust fund, administered by the Orange County Professional Firefighters Association - Local 3631 (OCPFA), which will serve as a supplement for the Authority's Retiree Medical Benefit Program. The program will be identified as the OCFACOA Supplemental Retiree Medical Plan and will be separate and apart from the current OCFA Retiree Medical Program(s) and will be for the sole purpose set forth in Paragraphs 2 and 3.
2. Beginning April 2, 2004 (Pay Period 9), the OCPFA will administer a Supplemental Retiree Medical Plan benefit for (a) all enrolled members of the Fire Management Bargaining Unit and (b) all enrolled members leaving the bargaining unit who remain employed elsewhere by the Authority and who sign deduction authorization cards permitting an amount equal to the sum of one percent (1%) of the top of the salary range for Fire Battalion Chief plus twelve (12) dollars biweekly to be used for that purpose. "Enrolled members" means employees in those positions set forth in Appendix A of the Fire Management Unit MOU and any position subsequently added to the unit by action of the Authority Board of Directors, who sign deduction authorization cards pursuant to this agreement.
3. The Supplemental Retiree Medical Plan shall be used to provide cash payments to eligible employees who retire from the Authority on or after April 2, 2004 to be used solely for the purpose of reducing the retiree's cost of OCFA provided health insurance.
4. All costs of providing and administering this Plan shall be the sole responsibility of OCPFA and OCFACOA. Except for the obligation to transmit funds to the Supplemental Retiree Medical Plan Trust, the Authority shall not be responsible for any cost of providing or administering said Plan.
5. OCPFA shall provide the Authority with a copy of an annual audit of administering the Supplemental Retiree Medical Plan. The annual audit report shall include actual cost of the Supplemental Retiree Medical Plan, expenditures and details of how all funds are administered. All books and records related to the administration and provision of such Plan shall be available to audit and/or inspection by the Authority or its agents upon request and a 30-day notice.
6. OCPFA represents that it is or has created an Internal Revenue Code Section 501(c)(5) and/or (9) entity and that it has created a Voluntary Employees Beneficiary Association (VEBA) within the meaning of the Internal Revenue Code such that the one percent (1%) herein may be treated as non-taxable compensation. In entering this Agreement, the Authority is relying on said representation and on OCFACOA's and OCPFA's compliance with all laws and regulations relating to the provision of the benefits provided herein on a pre-tax basis.
7. OCPFA and OCFACOA shall defend, indemnify and hold the Authority, its Directors, Officers, Agents and employees harmless from any claims, costs or legal action arising out of, or in any way related to the Supplemental Retiree Medical Plan administered and/or provided pursuant to this Agreement. The Authority shall have the right to select counsel for any defense hereunder. "Claims, costs or legal action" shall include, but not be limited to fees, penalties and damages claimed by employees, retirees or government agencies.

8. Any dividends paid, premiums refunded or other rebates or refunds made under any plan or policy shall be the property of the Authority; provided, however, that said funds will be transmitted to the OCPFA for the Retiree Medical Supplemental Plan trust fund purposes.
9. The provisions of this Agreement shall not be subject to the grievance and arbitration provisions of the Parties' separate MOU.
10. This Agreement shall terminate upon the occurrence of any of the following events: (a) written request by OCPFA or OCFACOA, (b) dissolution of the trust fund or (c) cessation of trust fund benefits.
11. This Agreement is the entire, integrated agreement with respect to the subject matter hereof, and supersedes all prior and contemporaneous oral and written agreements and discussions. The Parties also agree that no modification of this Agreement shall be valid unless it is in writing and signed by all of the Parties to this Agreement.
12. This Agreement shall not be construed in favor or against any party, regardless of which party drafted or participated in the drafting of its terms.
13. OCPFA represents that it is legally authorized to provide and administer the benefits as set forth in this agreement.

**TRANSITION OF EMPLOYMENT AGREEMENT  
BETWEEN  
ORANGE COUNTY FIRE AUTHORITY CHIEF OFFICERS ASSOCIATION  
AND  
ORANGE COUNTY FIRE AUTHORITY  
TERM OR AGREEMENT: SEPTEMBER 28, 2006 THROUGH JUNE 30, 2023**

In consideration of the Orange County Fire Authority's ("OCFA") intent to, by contractual agreement, provide fire services for public agencies within Orange County who had previously provided fire services through their own Fire Department, the Orange County Fire Authority and the Orange County Fire Authority Chief Officers Association ("OCFACOA") agree to the following provisions involving the transition of employees from other public fire service agencies within Orange County to employment with the OCFA:

1. Except as specifically modified in 2, 3, 4, and 5 below, seniority for transitioning public fire service agency employees shall be based on the dated of transition from the public fire service agency to the OCFA.
2. Transitioning public fire service agency employees' continuous employment with the public fire service agency from which they are transitioning shall be considered the same as continuous employment with the OCFA for the purpose of:
  - A. Sick leave and vacation accruals, and
  - B. Meeting minimum requirements for promotional opportunities.
3. Transitioning public fire service agency employees' continuous employment with the public fire service agency from which they are transitioning shall be considered the same as continuous employment with the OCFA for the purpose of layoff seniority within the limitations described below:
  - A. Credit for public fire service agency time for layoff seniority shall be limited to the number of safety (suppression) employees required for the service level agreed to by the contracting public fire service agency. Transitioning employees in excess of this number shall not receive credit for these purposes, except as specified in 3.B. below.
  - B. When an employee, who has received seniority credit pursuant to 3.A above, leaves employment with the OCFA, the provisions of 3.A. above shall be applied to the transitioned employee who has the longest continuous service in the same public fire service agency, but who has not previously received credit for seniority under the provisions of 3.A. above.
4. To the extent not provided with their transition to employment with the OCFA, the parties agree to apply the provisions of 3.A and 3.B above to employees who previously transitioned to the OCFA from the cities of Stanton and Seal Beach
5. To the extent not provided with their transition to employment with the OCFA, the parties also agree to apply the provisions of 3.A. and 3.B. above to employees who on or before July 1, 1980 transitioned to the OCFA from the California Department of Forestry.
6. Nothing in this Agreement shall be construed in a manner that would provide credit for service with a public fire service agency other than the OCFA for any purpose not specifically provided herein.
7. The parties agree that this Agreement resolves all issues regarding seniority for employees transitioning from the California Department of Forestry and cities of Stanton



and Seal Beach and all issues regarding seniority for employees transitioning in the future from other public fire service agencies within Orange County pursuant to service contracts with the OCFA.

8. The parties agree that this Agreement shall not serve as a precedent for any grievance, dispute, lawsuit or appeal between the parties, excepting those issues specifically resolved by this Agreement.
9. Disputes regarding the application of the provisions of this Agreement shall not be subject to appeal through the Grievance Procedure set forth in Article IX of the Fire Management Unit Memorandum of Understanding.