

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

**2001–2013**

**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 December 14, 2001, through December 11, 2013. Unless otherwise indicated herein, all provisions shall become effective December 14, 2001.

## 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 the Orange County Fire Authority Board of Directors on November 15, 2001.

*In accordance with Article XXV, the parties to this Agreement have initiated subsequent negotiations on the provisions identified in Article XXV, Reopener, and have presented a mutual recommendation that was officially ratified by majority vote of the members of the Orange County Fire Authority Chief Officers Association (OCFACOA) and the Orange County Fire Authority Board of Directors on May 23, 2002. The provisions set forth in bold face, italic type and dated 05/23/02 contain the first revisions made to the parties original 2001–2006 M.O.U., which was extended to 2001–2008.*

*In accordance with Article XXV, the parties to this Agreement have initiated additional subsequent negotiations on the provisions identified in Article XXV, Reopener, and have presented a mutual recommendation that was officially ratified by majority vote of the members of the Orange County Fire Authority Chief Officers Association (OCFACOA) and the Orange County Fire Authority Board of Directors on September 28, 2006. The provisions set forth in bold face, italic type and dated 09/28/06 contain the second revisions made to the parties original 2001–2006 M.O.U., which was originally extended to 2001–2008 and is currently extended again to 2001–2013.*

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## 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.

**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 that has not been interrupted by resignation, discharge, or retirement. Official Leaves of Absence shall not constitute a break in continuous service. For those employees who transitioned directly 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, Assistant Chief of Operations, Assistant Chief of Business Services, Assistant Chief of Fire Prevention, and Assistant Chief of Support Services).

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

***ELIGIBLE FORMER EMPLOYEE*** means an employee who meets the coverage and participation requirements set forth in Sections 3.2.1 and 3.2.2 of the Retiree Medical Plan at the time of his/her termination of employment with the Authority. (09/28/06)

***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 in Section 3.1 and 3.2 of the Retiree Medical Plan, and whose coverage has not been terminated under Section 3.3 of the Retiree Medical Plan. (09/28/06)

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

**FULL-TIME EMPLOYEE** shall mean an employee employed in a regular or limited-term position whose normally assigned work hours equal those of a full workweek or work period as described hereinafter.

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

**LIGHT DUTY ASSIGNMENT** shall mean temporary modified (light duty) assignment as defined in SOP AM 103.01B.

**LIMITED-TERM EMPLOYEE** shall mean an employee employed in a limited-term position, except where a regular position is converted to a limited-term position, in which case, the incumbent shall retain his/her former status. As an exception to this definition, a limited-term employee may also be used to fill a regular position when the incumbent employee is on Official Leave of Absence.

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

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

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

**PART-TIME EMPLOYEE** shall mean an employee employed in a regular or limited-term position whose normally assigned work hours do not equal those required of a full-time employee.

**PERSONAL EMERGENCY** shall mean an unforeseen event or circumstance of a serious nature that is beyond an employee's control and that necessitates the employee's absence from Authority duty, including but 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 rate on the new salary range is at least two and seventy-five-hundredths (2.75) percent 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. The time period will normally be September 1 through August 31.

**REASSIGNMENT** shall mean the movement of a regular, limited-term, or probationary employee from one (1) class to another class on the same salary range or to a class where the maximum rate on the new salary range is less than two and seventy-five-hundredths (2.75) percent higher or lower than the maximum rate of the old salary range.

**RECRUITING RATE** shall be the minimum rate of the salary range allocated to a class, unless otherwise authorized by the Board or the Human Resources Director.

**REDUCTION** shall mean the movement of a regular, limited-term, or probationary employee from one (1) class to another class where the maximum rate of the new salary range is at least two and seventy-five-hundredths (2.75) percent lower than the maximum rate of the old salary range.

**REEMPLOYED EMPLOYEE** shall mean an employee who is reemployed 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.

**REINSTATED EMPLOYEE** shall mean an employee who is reinstated by the Authority in accordance with the LAYOFF PROCEDURE.

**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 no later than September 1, 1995, and has been continuously employed by the Authority until retirement. When the word SERVICE is printed in all uppercase letters, it refers to this definition.

**SHIFT EMPLOYEE** shall mean an employee normally assigned to a fifty-six (56) hour average duty week as a Fire Battalion Chief.

**SOP** shall mean Standard Operating Procedure.

**STAFF EMPLOYEE** shall mean an employee normally assigned to an eighty (80) hour work period as a Fire Battalion Chief under a staff assignment.

**Y-RATE** shall mean a pay rate outside of the assigned salary range of a class.

## ARTICLE I

### WORK HOURS, OVERTIME, AND PREMIUM PAY

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

- A. The official workweek or work period for employees shall be as follows:
1. The official workweek for full-time employees assigned to shift positions shall be fifty-six (56) hours average duty per week based on a three (3) platoon schedule. A part-time employee assigned to a shift position shall work less than a regular full-time shift schedule.
  2. The official work period for full-time employees assigned to staff positions and full-time Fire Division Chiefs shall start on a Friday and end on the second Thursday thereafter. Staff employees and Fire Division Chiefs are not governed by the customary eighty (80) hour work period and may be expected to work more than eighty (80) hours in a given work period or allowed to work less than eighty (80) hours pursuant to the specific dictates of the assignment. The Fire Chief shall regulate said work periods based on the needs of the Authority with due regard to maintaining reasonable and equitable work periods for all employees.
  3. The official workweek for a part-time employee (staff or Fire Division Chief) shall be less than a full-time employee. The official work period shall start on a Friday and end on the second Thursday thereafter.

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

- A. Full-time employees assigned to staff positions and full-time Fire Division Chiefs shall receive compensation at a biweekly rate within the range assigned to the class in which they are employed for each full pay period worked as determined by Section 1.A.2. of this Article. Computation for salary, vacation, sick leave, specialty pay, and retirement benefits shall be based upon eighty (80) hours per work period. Compensation for pay periods in which full-time employees are not on pay status for the full schedule determined pursuant to Section 1.A.2. of this Article and for part-time employees shall be based on a prorated salary basis.

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

- A. For purposes of salary and benefits, the normal biweekly work period shall be as set forth in Section 1.A.1. of this Article, unless established otherwise by the Authority. The official work period shall start on Friday and end on the second Thursday thereafter. Scheduling shall be determined by the Authority.

- B. A full-time shift employee shall receive compensation at a biweekly rate within the range assigned to the class in which he/she is employed for each full pay period worked as determined by Section 1.A.1. of this Article. Computations for salary, vacation, sick leave, specialty pay, and retirement benefits shall be based upon one hundred twelve (112) hours per work period. Compensation for pay periods in which full-time employees are not on pay status for the full schedule determined pursuant to Section 1.A.1. of this Article and for part-time employees shall be based on a prorated salary basis.

**Section 4. Overtime**

- A. Notification of Employees—If, in the judgment of the Authority, work beyond the normal workday, workweek, or work period is required, the Authority shall notify any employee who may be asked or required to perform such overtime of the apparent need for such overtime whenever practicable prior to when the overtime is expected to begin.
- B. Payment for Overtime
  1. Overtime for shift employees shall be compensated at one and five-tenths (1.5) times the employee’s base hourly rate.
  2. Unless waived by the parties, employees’ work schedules shall not be changed during the workweek in progress when the purpose of such change is to avoid overtime.
  3. When a shift employee is assigned on his/her scheduled time off to work on a task or assignment not associated with an ongoing emergency incident, nor expected to be immediately available for emergency response, the hours worked shall be multiplied by the conversion rate of one and four-tenths (1.4). Such employee shall receive overtime compensation calculated at the converted hours times one and five-tenths (1.5) times the employee’s base hourly rate. Such overtime shall not be used to earn fringe benefits or to count toward probation periods.
  4. When a staff employee is assigned on his/her scheduled day off to work field battalion coverage or a task or assignment associated with an ongoing emergency incident or incident preparation, the hours worked shall be divided by the conversion rate of one and four-tenths (1.4). Such employee shall receive overtime compensation calculated at the converted hours times one and five-tenths (1.5) times the employee’s base hourly rate. Such overtime shall not be used to earn fringe benefits or to count toward probation periods.
- C. ***Employees assigned to an eighty (80) hour work period shall not be compensated for overtime, except as provided in Section 4.B.4. of this Article and the agreement titled EMPLOYEE WORK SCHEDULE WHILE ATTENDING TRAINING AGREEMENT (Appendix B). (09/28/06)***

**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 hourly rate for such assignment.
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 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. The on-call compensation provided herein shall not be subject to the provisions of Section 3. of this Article.

**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 four (4) hours of call-back pay multiplied by the conversion rate of one and four-tenths (1.4). When such employee continuously engages in call-back work beyond the first four (4) hours, the employee shall be paid for such hours worked multiplied by the conversion rate of one and four-tenths (1.4).
2. When a staff employee or Fire Division Chief returns to work because of an Authority request made after the employee has completed his/her normal workday and left the work station, the employee shall be paid four (4) hours work plus any hours of work in excess of four (4) hours in which the employee continuously engages in work for which he/she was called back.
3. When an 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 work shift or workday, a shift employee shall be compensated for two and eight-tenths (2.8) hours; a staff employee or Fire Division Chief shall be compensated for two (2) hours.
4. Call-back shall be paid at the employee's base hourly rate.
5. There shall not be any duplication or pyramiding of rates paid under this Section.

## ARTICLE II

### PAY PRACTICES

#### **Section 1. Compensation for Employees**

- A. Full-time employees shall receive compensation on a salary basis at a biweekly rate within the range assigned to the class in which they are employed for each scheduled full pay period worked as determined by Article I, Sections 1.A.1. and 1.A.2. Compensation for pay periods in which full-time employees did not work the full schedule determined pursuant to Article I, Sections 1.A.1. and 1.A.2., shall be paid on a prorated salary basis. Compensation for part-time staff employees and part-time Fire Division Chiefs shall be based on an hourly rate equal to one-eightieth (1/80) of the biweekly rate and shall not exceed eighty (80) hours in a pay period. Compensation for part-time shift employees shall be based on an hourly rate equal to one-one-hundred-twelfth (1/112) of the biweekly rate and shall not exceed one hundred twelve (112) hours in a pay period.
- B. If any Fire Division Chief is required to work as a result of floods, fires, storm conditions, high tides, etc., or due to extraordinary circumstances or a suppression-related incident, he/she shall receive additional compensation for such hours. Such compensation shall be paid at one and five-tenths (1.5) times the employee's base hourly rate.
- C. Notwithstanding any other provisions contained herein, Fire Management Unit employees declared by the Human Resources Director to be exempt from the Fair Labor Standards Act shall not be docked salary for partial day absences so long as that exempt status continues to apply and so long as the Fair Labor Standards Act is applicable to the Authority.
- D. ***Notwithstanding any other Section of this Memorandum of Understanding, the base biweekly salary of any Fire Battalion Chief whose performance is rated "standard" or better shall be at least seventeen and five-tenths (17.5) percent higher than the base biweekly salary assigned to the top step of the salary range for Fire Captain. (09/28/06)***

#### **Section 2. Pay for New Employees**

- A. The Human Resources Director may authorize the appointment of employees at any rate up to the middle 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.

- C. When the Human Resources Director or Fire Chief authorizes the filling of the position at a rate higher than the recruiting rate of the salary range, he/she may also advance the salary of incumbents of positions in that class or related classes in order to retain equitable relationships.

**Section 3. Annual Merit Review Program**

- A. The Annual Merit Review Program establishes the award of performance salary increases to eligible employees. The Annual Merit Review Program shall be administered as follows:

1. The annual performance rating period shall be September 1 thru August 31.
2. Individual employees may be rated "Substandard," "Standard," or "Above Standard."
3. Performance salary increases shall be awarded as follows:

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

4. Performance salary increases shall be effective on the first day of the first pay period that includes September 1, regardless of the date the reviews are completed and in accordance with the following schedule:

Performance Salary Increase Effective Date	Pay Period
August 23, 2002	19
August 22, 2003	19
August 20, 2004	19
August 19, 2005	18
September 1, 2006	19
<b>August 31, 2007</b>	<b>19</b>
<b>August 29, 2008</b>	<b>19</b>
<b>August 28, 2009</b>	<b>19</b>
<b>August 27, 2010</b>	<b>19</b>
<b>August 26, 2011</b>	<b>19</b>
<b>August 24, 2012</b>	<b>19</b>
<b>August 23, 2013</b>	<b>19</b>

(09/28/06)

5. Performance salary increases within a range shall not be automatic. They shall be based upon job performance and granted only upon the

affirmative recommendation of the employee's supervisor with the approval of the next level supervisor.

B. Eligibility for Annual Merit Review Program

1. Except as provided in Section 3.B.2. of this Article, all regular, limited-term, and probationary employees are eligible to receive performance salary increases through the Annual Merit Review Program.
2. An employee hired or promoted into a Fire Management Unit classification on or after March 1st shall not be eligible to receive a performance salary increase during his/her first performance rating year period of employment or promotion.
3. All employees affected by Section 3.B.2. of this Article shall be eligible for performance salary increases the next subsequent performance rating year period.
4. Part-time staff employees and part-time Fire Division Chiefs shall be eligible for performance salary increases upon completion of two thousand eighty (2,080) hours of employment, exclusive of overtime. Part-time shift employees shall be eligible for performance salary increases upon completion of two thousand nine hundred twelve (2,912) hours of employment, exclusive of overtime. Performance salary increases shall be effective the first day of the pay period following the completion of said period.

**Section 4. Salary on Promotion**

- A. Except as modified by Sections 4.B. and 4.C. of this Article, a regular, limited-term, or probationary employee promoted to a position in a class with a higher salary range shall receive the following:
  1. ***For employees promoting to a Fire Management Unit classification, a minimum of a five and five-tenths (5.5) percent increase over the salary received prior to promotion. The salary upon promotion shall be at least seventeen and five-tenths (17.5) percent higher than the base biweekly salary assigned to the top step of the salary range for Fire Captain. (09/28/06)***
- B. Any employee who is promoted to a class from which he/she was previously reduced without a salary decrease shall be placed at a salary rate no higher than the rate that the employee would have achieved if the employee had remained in the class to which he/she is promoted and had demonstrated at least standard performance.
- C. Any other provision of this Memorandum of Understanding notwithstanding, a regular, limited-term, or probationary employee who is promoted to Fire Division Chief may receive a salary increase of up to fifteen (15) percent when authorized by the Fire Chief upon recommendation of the Human Resources Director.

**Section 5. Salary on Reassignment**

- A. When a regular, limited-term, or probationary employee is reassigned from one (1) class to another class with the same recruiting rate, such employee's salary shall not change. Such employee shall have the same probation status he/she would have achieved if the employee had been in the new class throughout the period of such service in the old class.
- B. When a regular, limited-term, or probationary employee is reassigned from one (1) class to another class with the same salary range but with a higher recruiting rate, the employee's salary shall be advanced the percentage difference between recruiting rates. Such employee shall have the same probation status he/she would have achieved if the employee had been in the new class throughout the period of such service in the old class.
- C. When a regular or limited-term regular employee is reassigned from one (1) class to another class with the same salary range but with a lower recruiting rate, the employee's salary shall not change. Such employee shall have the same probation status he/she would have achieved if the employee had been in the new class throughout the period of such service in the old class.
- D. When a probationary or limited-term probationary employee is reassigned from one (1) class to another class with the same salary range but with a lower recruiting rate, the employee shall have the rate status and probation status he/she would have achieved if the employee had been in the new class throughout the period of his/her service in the old class.
- E. When a regular, limited-term, or probationary employee is involved in a series of reassignments among classes with different recruiting rates, the employee's salary shall be determined by the Human Resources Director.
- F. When a regular, limited-term, or probationary employee is reassigned from a class in one (1) salary range to a class in another salary range, the employee shall be placed at the closest rate that does not involve a salary reduction, but not to exceed the maximum rate in the salary range. Such an employee shall have the same probation status he/she would have achieved if the employee had been in the new class throughout the period of such service in the old class.

**Section 6. Salary on Reduction**

- A. Disciplinary Reductions—When a regular, limited-term, or probationary employee is reduced for disciplinary reasons, the employee's salary shall be reduced as follows:
  - 1. For employees reducing to a Fire Management Unit classification, a five and five-tenths (5.5) percent reduction or the appropriate, closest corresponding Control Point of the salary range assigned to the lower class, whichever is lower.

B. Non-Disciplinary Reductions

1. Except as provided in Section 6.D. of this Article, when a regular or limited-term employee in good standing is reduced to a position in a lower class for physical disability or non-disciplinary reasons, the employee shall receive the highest salary in the lower salary range that does not exceed the employee's rate of pay immediately prior to reduction.
2. Except as provided in Section 6.D. of this Article, 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. Except as provided in Section 6.D. of this Article, when a promotional 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 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.

D. When a regular, limited-term, or probationary employee is reduced as a result of a position reclassification, the applicable salary shall be determined as follows:

1. If the salary of the employee is the same or less than the maximum rate in the new salary range, the salary of the employee shall not change.
2. If the salary of the employee is greater than the maximum rate in the new salary range, the salary of the employee shall be designated as a Y-Rate and shall not change during continuous regular service until the maximum rate of the new salary range exceeds the salary of the employee. The Y-Rate shall begin on the effective date of the reclassification of the position.
3. When an employee on Y-Rate accepts a voluntary reduction, his/her salary shall be reduced by the amount of the difference between the maximum salary on the salary range of the class from which he/she is being reduced and the maximum salary on the salary range of the new class.

**Section 7. Salary on Reclassification**

A. The salary of a regular, limited-term, or probationary employee whose position is reclassified shall be determined as follows:

1. If the position is reclassified to a class with the same salary range, the salary of the employee and probationary status shall remain the same as in the former class.

2. If the position is reclassified to a class with a higher salary range, the salary of the employee shall be governed by Section 4. of this Article, or at the discretion of the Human Resources Director, the salary of the employee shall not be changed.
3. If the position is reclassified to a class with a lower salary range, the salary of the employee shall be governed by Section 6. of this Article.

**Section 8. 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 of the County of Orange Fire Department or of the Authority on paid County or Authority retirement may be reemployed for the maximum allowable time pursuant to Government Code provisions in any one (1) fiscal year in a position requiring special skills and knowledge. He/she may be appointed to the position at any rate on the salary range.

**Section 9. Changes in Salary Allocation**

- A. If a class is reassigned to a higher salary range, the Board or, where appropriate, the Fire Chief shall determine the amount of increase, if any, each employee in the class shall receive. Such increases shall not exceed eleven (11) percent, provided the employee's salary shall not fall below Control Point A of the new salary range. In no case shall the employee's salary fall below his/her salary received before the reassignment of the class.

**Section 10. Additional Compensation**

- A. Notwithstanding anything in this Memorandum of Understanding to the contrary, when in the judgment of the Board it becomes necessary or desirable to use the services of Authority employees in capacities other than those for which they are regularly employed, the Board may authorize and, if appropriate, fix an additional rate of compensation for such employees.

## ARTICLE III

### EMPLOYEE PROVISIONS

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

- A. The Authority shall not hinder or discipline an employee for exercising any rights or benefits provided in the Memorandum of Understanding.

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

- A. With the approval of the Fire Chief, a regular, limited-term, or probationary employee shall be entitled to necessary time off with pay to participate in tests of fitness, 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. A new or reemployed employee—who has been out of Authority service for more than two (2) years—employed in a regular or limited-term position shall be placed on new probation for fifty-two (52) weeks from the date of appointment ending with the first day of the pay period following completion of said period. The Authority may waive this provision for employees of a municipal fire agency who are transitioning to Authority employment as a result of contract or other consolidation only if the employee is determined to have completed a twelve (12) month probation period while employed by a municipal fire agency. Such probation must have been for an equivalent position to that being offered in the Authority.

2. Part-Time Shift Employee

- a. A new or reemployed employee—who has been out of Authority service for more than two (2) years—employed in a part-time shift (regular or limited-term) position shall be placed on new probation for two thousand nine hundred twelve (2,912) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period.

3. Part-Time Staff Employee or Part-Time Fire Division Chief

- a. A new or reemployed employee—who has been out of Authority service for more than two (2) years—employed in a part-time staff (regular or limited-term) position or as a part-time Fire Division Chief (regular or limited-term) shall be placed on new probation for two

thousand eighty (2,080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period.

B. Promotional Probation

1. A full-time or part-time employee who is promoted, excluding a temporary promotion, shall be placed on promotional probation, except as provided in Section 3.B.2. of this Article.
  - a. A full-time employee shall serve a probation period of fifty-two (52) weeks ending with the first day of the pay period following completion of said period.
  - b. A part-time shift employee shall serve a promotional probation period of two thousand nine hundred twelve (2,912) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period.
  - c. A part-time staff employee or part-time Fire Division Chief shall serve a promotional probation period of two thousand eighty (2,080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period.
2. When a regular or regular limited-term employee is promoted as a result of the employee's position being reclassified to a higher classification and the classification from which the employee is promoted is subsequently deleted or abolished, the incumbent employee shall not serve a promotional probation period.
3. 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.
4. Notwithstanding any other provision of this Agreement, 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 probation period.

C. Failure of Probation

1. New Probation

- a. An employee on new probation may be released from service at the sole discretion of the Authority at any time without right of appeal or hearing, except where an employee alleges his/her release was the result of discrimination by the Authority because of a protected status as defined by the existing Fair Employment and Housing Act or other applicable law. In the case of such allegations, the employee may submit an appeal at Step 2 of the disciplinary and predisciplinary

procedure within fourteen (14) calendar days after receipt by the employee of notice of failure of new probation.

2. Promotional Probation

- a. An employee on promotional probation may be failed at the sole discretion of the Authority at any time without right of appeal or hearing, except where an employee alleges his/her failure of promotional probation was the result of discrimination as described in Section 3.C.1.a. of this Article. In case of such allegations, the employee may submit an appeal at Step 2 of the disciplinary and predisciplinary procedure within fourteen (14) calendar days after receipt by the employee of notice of failure of promotional probation.
- b. When an employee fails his/her promotional probation, he/she shall have the right to return to his/her former class, provided the employee was not in the previous class for the purpose of training for promotion to a higher class.
- c. When an employee is returned to his/her former class under the provisions of this Section, he/she shall serve the remainder of any uncompleted probationary period in the former class. A regular employee who accepts promotion to a limited-term position, other than at the direction of the Fire Chief, shall not have the right to return to his/her former class.
- d. If the employee's former class has been deleted or abolished, the employee shall have the right to return to a class in his/her former occupational series closest to—but no higher than—the salary range of the class that the employee occupied immediately prior to promotion and shall serve the remainder of any probationary period not completed in the former class.
- e. An employee who fails promotional probation shall receive a performance evaluation stating the reason for failure of promotional probation.

D. General Provisions

1. When an employee's record consists of a combination of full-time and part-time service in regular or regular limited-term positions, except as provided in Article IV, Section 2.C., part-time service shall be applied proportionately by using total hours worked to appropriate full-time requirements. For purposes of this Section, two thousand eighty (2,080) hours shall equal fifty-two (52) weeks for staff employees and Fire Division Chiefs, and two thousand nine hundred twelve (2,912) hours shall equal fifty-two (52) weeks for shift employees.
2. When the Fire Chief or his/her representative passes an employee on probation, that determination shall be based upon a written performance evaluation and shall be discussed with the employee. A probation period may not be extended, except as provided in Section 3.E. of this Article,

and an employee who is permitted by the Authority to work beyond the end of a probation period shall be deemed to have passed such probation period.

E. Extension of Probation Periods

1. The granting of an Official or a Military Leave of Absence, the imposition of a suspension, or the granting of a light duty assignment to an employee shall cause the employee's probation period to be extended by the length of the Official Leave, suspension, or light duty assignment or by the length of the Military Leave in excess of fifteen (15) calendar days. The extended probation period resulting from the Official or Military Leave of Absence, suspension, or light duty assignment shall end with the first day of the pay period after said extended date.
2. The Human Resources Director shall extend the new or promotional probationary periods of incumbents appointed as a result of a selection procedure that is appealed. Such probationary periods shall be extended no longer than sixty (60) calendar days from the date on which the Authority receives the Appeals Officer's findings and decision. In the event an employee's probationary period is extended by the provisions of this Section and he/she has served a probationary period that is longer than the probationary period normally prescribed for new or promotional probation, such an employee may fail probation during the extended period only upon recommendation of the Appeals Officer and final determination of the Board of Directors.
3. 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 probation period of an employee may be extended at the sole discretion of the Human Resources Director for a period not to exceed one hundred eighty (180) calendar days, provided such action is approved by the Human Resources Director before the normal probation period is completed. Denial of a request to extend a probation period shall not be subject to appeal or hearing.
4. The Human Resources Director shall extend the probationary period of employees with an employment authorization document that has an expiration date that would occur after the end of the probation period. Such probation periods shall be extended to coincide with the expiration date of the employment authorization document. In the event an employee's probationary period is extended by the provisions of this Section and he/she serves a probationary period that is longer than the normal probation period, such an employee may fail probation during the extended period only for failure to obtain a new, valid employment authorization document by the expiration date of the expiring employment authorization document.

**Section 4. Performance Evaluation**

- A. The Authority shall maintain a system of employee performance ratings designed to give a fair 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 regular and limited-term (full-time and part-time) employees at least once each year, and, in addition, for employees on probationary status, at least once near the middle of the probation period and prior to the end of the probation 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.

**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. Contents of Personnel File**

- A. Adverse statements prepared by the Authority shall not be included in an employee's official personnel file, unless a copy is provided to the employee.
- B. An employee shall have the right to inspect and review the contents of his/her official personnel file at reasonable intervals.
- C. In addition, an employee shall have the right to inspect and review the contents of his/her official personnel file in any case where the employee has a grievance related to performance, to a performance evaluation, or is contesting his/her suspension or discharge from Authority service.
- D. Letters of reference and reports concerning criminal investigations concerning the employee shall be excluded from the provisions of Sections 6.B. and 6.C. of this Article.
- E. An employee shall have the right to respond in writing or personal interview to any information contained in his/her official personnel file, such reply to become a permanent part of such employee's official personnel file.

- F. Any contents of an employee's official personnel file may be destroyed pursuant to an agreement between the Human Resources Director and the employee concerned or by an order of an arbitrator, court, or impartial hearing officer, unless the particular item is otherwise required by law to be kept.

## ARTICLE IV

### EMPLOYMENT PROVISIONS

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

- A.
1. A regular, probationary, or limited-term employee who is assigned on a temporary basis to a higher level vacant (regular or limited-term) shift position shall be promoted on a temporary basis to that class—provided he/she meets the qualifications of the position—when such employee has been assigned to the higher class for one hundred sixty-eight (168) consecutive regularly scheduled hours of work and he/she has been performing all the significant duties and responsibilities of the higher class, unless the employee requests to be reassigned to his/her former class. In such a case, the employee shall be reassigned within five (5) working days.
  2. A regular, probationary, or limited-term employee who is assigned on a temporary basis to higher level vacant (regular or limited-term) staff position or Fire Division Chief position shall be promoted on a temporary basis to that class—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 of work, and he/she has been performing all the significant duties and responsibilities of the higher class, unless the employee requests to be reassigned to his/her former class. In such a case, the employee shall be reassigned within five (5) working days.
- B.
1. The Authority may, at its option, waive the one hundred sixty-eight (168) hour requirement when it is necessary to utilize a regular, probationary, or limited-term employee in a higher level vacant (regular or limited-term) shift position for a period that is expected to be at least one hundred sixty-eight (168) consecutive regularly scheduled hours but less than one (1) year.
  2. The Authority may, at its option, waive the one hundred twenty (120) hour requirement when it is necessary to utilize a regular, probationary, or limited-term employee in a higher level vacant (regular or limited-term) staff position or Fire Division Chief position for a period that is expected to be at least one hundred twenty (120) consecutive regularly scheduled hours but less than one (1) year.
- C.
- Except as provided in Article III, Section 3.B., an employee on temporary promotion shall not be placed on promotional probation. Upon return from temporary promotion, an employee shall serve the remainder of any uncompleted probationary period in his/her former class and 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.

- D. At the end of the employee's assignment to the higher class, the employee shall have the right to return to his/her former class and department. A temporary promotion shall not exceed a period of one (1) year.
- E. Upon the request of the employee, a regular, probationary, or limited-term employee who is assigned on a temporary basis to a higher level (regular or limited-term) shift position that is not vacant shall be promoted on a temporary basis to that class when such employee has been assigned to the higher class for one hundred sixty-eight (168) consecutive regularly scheduled hours of work and he/she has been performing all the significant duties and responsibilities of the higher class, unless the employee requests to be reassigned to his/her former class. In such a case, the employee shall be reassigned to a position in his/her former class within five (5) working days.
- F. Upon the request of the employee, a regular, probationary, or limited-term employee who is assigned on a temporary basis to a higher level (regular or limited-term) staff position or Fire Division Chief position that is not vacant shall be promoted on a temporary basis to that class when such employee has been assigned to the higher class for one hundred sixty (160) consecutive regularly scheduled hours of work and he/she has been performing all the significant duties and responsibilities of the higher class, unless the employee requests to be reassigned to his/her former class. In such a case, the employee shall be reassigned to a position in his/her former class within five (5) working days.

**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 physical 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 AUTHORITY PREFERRED ELIGIBLE LIST with respect to such positions. They shall be placed on such List in chronological order of retirement, but 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. 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**

- A. Except as otherwise modified in this Agreement, 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 life of this Agreement, 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**

- A. The Authority and the Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination by reasons of physical disability, marital status, medical condition, race, religion, color, sex, age, national origin, ancestry or for

participating in or refusal to participate in protected, concerted Association activities; or of other protected status as defined by applicable law.

- B. The Association shall not discriminate in membership or representation on any basis cited in Section 6. of this Article.

**ARTICLE V**

**LEAVE PROVISIONS**

**Section 1. Sick Leave**

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

**Staff Employees and Fire Division Chiefs**

HOURS OF CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE
1 through 6,240.00 regularly scheduled hours	0.0347 hours for each regularly scheduled work hour paid
6,240.01 or more regularly scheduled hours	0.0462 hours for each regularly scheduled work hour paid

**Shift Employees**

HOURS OF CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE
1 through 8,736.00 regularly scheduled hours	0.0347 hours for each regularly scheduled work hour paid
8,736.01 or more regularly scheduled hours	0.0462 hours for each regularly scheduled work hour paid

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. A part-time employee shall accumulate sick leave on a prorated basis not to exceed the equivalent for a full-time employee.

- B. Sick Leave Earned—shall be added to the employee’s sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period during which the employee terminates Authority service.

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 from duty because the employee's presence is needed to attend to the serious illness of a member of his/her immediate family, provided that for each occurrence such absence shall be limited to a maximum of three (3) working days. Any request for sick leave that exceeds three (3) working days for an occurrence requires Family Medical Leave approval and is subject to the provisions and limitations of Section 12. of this Article. Additionally, once each calendar year, an employee may utilize up to five-tenths (0.5) of his/her annual sick leave accrual rate in any one (1) instance. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, child, step-child, 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 illness or injury of the employee is of a nature that would preclude 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, registered nurse, or recognized health care provider stating the nature of the medical condition and the period of disablement.
3. Absence from duty because of personal emergencies limited to a maximum of twenty (20) working hours for staff employees and Fire Division Chiefs or one (1) twenty-four (24) hour shift for shift employees during the calendar year.

4. An absence due to an air pollution alert that prevents the employee from traveling to his/her work location.

D. Prohibited Uses of Sick Leave

1. Sick leave shall not be applied to absences caused by illness or injury to a member of the employee's family, except as provided in Sections 1.C.1.d. and 1.C.3. of this Article.
2. For staff employees and Fire Division Chiefs, sick leave shall not be applied to absences that occur on an Authority-observed holiday.

E. 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 condition, 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. An employee hired prior to July 15, 1977, and who is eligible for Tier I paid retirement as of the date of request, shall receive sick leave payoff as follows:
  - a. 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. Not more than once in each 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.E.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.E.3.a. of this Article.

- c. Notwithstanding the provisions of Section 1.E.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 under the regulations that govern deferred compensation programs and to the extent permitted under the provisions of Section 1.E.3.a. of this Article. Such payoff shall be made prior to the effective date of the employee's retirement.
4. An employee hired on or after July 15, 1977, who is enrolled in Tier I or Tier II retirement shall receive sick leave payoff as follows:
    - a. Effective the first "full" pay period in July 2002 (Pay Period #16), an employee with an accumulative sick leave balance exceeding two hundred eighty (280) hours shall have his/her sick leave balance reduced and paid for in accordance with the following formula:
      - i. One-third (1/3) of the number of hours exceeding two hundred eighty (280) times twenty-five (25) percent of the employee's base hourly rate.

*For example, an employee with a sick leave balance of four hundred (400) hours at a base hourly rate of twenty dollars (\$20.00) would be paid as follows:*

Step 1: Calculate sick leave hours eligible for payoff

$$400 - 280 = 120 \text{ hours}$$
$$120 \times 1/3 = 40 \text{ hours (rounded to the nearest whole hour)}$$

Step 2: Calculate twenty-five (25) percent of employee's base hourly rate

$$\$20.00 \times 25\% = \$5.00 \text{ per hour}$$

Step 3: Calculate sick leave payoff

$$40 \times \$5.00 = \$200.00$$

Step 4: Calculate remaining sick leave hours after payoff

$$400 - 40 = 360 \text{ hours}$$

- b. Effective the first “full” pay period in July 2003 (Pay Period #16), an employee with an accumulative sick leave balance exceeding two hundred eighty (280) hours shall have his/her sick leave balance reduced and paid for in accordance with the following formula:
    - i. One-third (1/3) of the number of hours exceeding two hundred eighty (280) times fifty (50) percent of the employee’s base hourly rate.
  - c. Effective the first “full” pay period in July 2004 (Pay Period #16), an employee with an accumulative sick leave balance exceeding two hundred eighty (280) hours shall have his/her sick leave balance reduced and paid for in accordance with the following formula:
    - i. One-third (1/3) of the number of hours exceeding two hundred eighty (280) times seventy-five (75) percent of the employee’s base hourly rate.
5. Effective the first “full” pay period in July 2005 (Pay Period #15), an employee hired on or after July 15, 1977, and who is eligible for Tier I or Tier II paid retirement as of the date of request, shall receive sick leave payoff as follows:
- a. 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. Not more than once each 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.E.5.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.E.5.a. of this Article.

- c. Notwithstanding the provisions of Section 1.E.5.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 under the regulations that govern deferred compensation programs and to the extent permitted under the provisions of Section 1.E.5.a. of this Article. Such payoff shall be made prior to the effective date of the employee's retirement.
6. When a former employee of the County of Orange Fire Department or the Authority is reemployed in a regular or limited-term position, the Human Resources Director may apply the total period of previous continuous County and Authority service for the purpose of determining sick leave earning rates.
- a. Sick Leave Accrual for Former California Department of Forestry (CDF) Employees—Employees who, as of July 2, 1980, had three (3) or more years of California Department of Forestry service in Orange County immediately preceding their employment by the County of Orange shall accrue sick leave based on a total of their Authority and County of Orange continuous service added to their California Department of Forestry time worked within Orange County.

**Section 2. California Department of Forestry Sick Leave Balances**

- A. A former State employee with a sick leave balance transferred from the State shall have such balance maintained separately from his/her Authority sick leave balance. The State sick leave balance shall not be utilized, except where the Authority sick leave balance is exhausted.

**Section 3. Bereavement Leave**

- A. Upon request, regular, limited-term, or probationary staff employees and Fire Division Chiefs shall receive necessary time off with pay, not to exceed three (3) days in any one (1) instance, to arrange for or attend a funeral of a member of their immediate family; shift employees 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 4. Authorized Leave Without Pay**

- A. Authority Leave
  - 1. Upon request, a regular, limited-term, or probationary 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 Official Leave has been

authorized pursuant to Sections 4.B. and 10.A. of this Article. The Fire Chief may require that all accumulated compensatory time be used prior to granting of such Leave. The use of earned vacation prior to the obtaining of Leave shall be at the option of the employee. If the Leave qualifies as Family Leave pursuant to applicable law, the Fire Chief may require that all sick leave and compensatory and vacation time be used prior to granting an Authority Leave, except that the use of sick leave shall be subject to the provisions of Sections 1.C. and 1.D. of this Article.

**B. Official Leave**

1. Upon request, a regular, limited-term, or probationary employee may be granted an Official Leave of Absence Without Pay. Such Leave, if granted, shall not exceed one (1) year, except as provided in Sections 4.B.2. and 4.B.3. of this Article. Such Leave may be taken only after an employee's completion of an Authority Leave request, provided that granting of a Leave shall not be a prerequisite to a request for Official Leave. The Fire Chief may require that all or a portion of compensatory time and vacation be used prior to granting such Leave.
2. An Official Leave of Absence may be extended for up to an additional year at the discretion of the Fire Chief, except that requests for Official Leave that qualify as Family Leave pursuant to applicable law shall be granted to the extent required by such law. If the Fire Chief denies the extension of such Leave, Sections 4.B.5. and 4.B.6. of this Article shall not apply.
3. Upon request, an employee who has requested and identified a valid need for Family Leave pursuant to Section 12. of this Article—and applicable law—shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after an employee's completion of an Authority Leave request and after all accumulated compensatory time and vacation accruals have been applied toward payment of the absence. In addition, where appropriate under the provisions of Section 1.C. of this Article, the employee may be required to apply all sick leave accruals toward payment of the absence before an Official Leave shall be authorized.
4. An employee shall give notice two (2) weeks prior to the date he/she wants to return to work, except that an employee returning from Family Leave shall give the lesser of two (2) weeks notice or the maximum notice allowable under applicable law. 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.
5. 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, he/she shall deliver a copy to the Financial Services Manager, the Department Head/Assistant Chief, and the employee.

6. If the Human Resources Director modifies or does not approve a request for Official Leave, the employee and/or the Department Head/Assistant Chief may, within fifteen (15) calendar days of said action, file a request with the Human Resources Director for review by the Board. Upon such request, the Human Resources Director shall forward a copy of the request for Official Leave to the Board for final determination. The employee and the Department Head/Assistant Chief shall notify the Human Resources Director whether he/she will submit his/her position in a written statement or wishes to appear before the Board. The Human Resources Director may present his/her position in the same manner as the employee presents his/her position. The Board, at its discretion, may designate a representative(s) to decide such appeals. The decision on such appeals shall be final.
7. An Official Leave shall not be deemed a break in Authority service.

C. General Provisions

1. A request for a Leave of Absence shall be made upon forms prescribed by the Human Resources Director and shall state specifically the reason for the request, the date when it is desired to begin the Leave of Absence, and the probable date of return.
2. A request for Leave of Absence Without Pay shall normally be initiated by the employee, but may be initiated by the Fire Division Chief or Assistant Chief/Department Head only where the employee is unable to initiate such action, except in cases where the provisions of Section 10.A. of this Article apply.

**Section 5. Official Leave for Non-Occupational Disability**

- A. A regular, limited-term, or probationary employee shall be granted, upon request, an Official Leave of Absence Without Pay for up to six (6) months for a non-occupational disability, including disabilities related to pregnancy and childbirth, provided the employee meets the following conditions:
1. A medical statement covering diagnosis, prognosis, expected date of return, and period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued sick leave and compensatory and vacation time have been applied toward the absence.
  3. Unless otherwise required by law, the shift employee has been paid for eight thousand seven hundred thirty-six (8,736) regularly scheduled hours or more, and the staff employee or Fire Division Chief has been paid for six thousand two hundred forty (6,240) regularly scheduled hours or more.

- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 4.B., of this Article.
- C. An employee shall not be entitled to more than one (1) such Leave per twelve (12) month period.

**Section 6. Absences Caused by Medical Conditions**

- A. An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to a medical condition shall not be permitted to resume work until, and unless, the employee obtains a medical clearance from a physician designated by the Authority.

**Section 7. Jury Duty Leave**

- A. A regular, limited-term, or probationary employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's regular rate of pay for those hours of absence due to the jury duty that occurs during the employee's regularly scheduled working hours, provided the employee deposits the employee's fees for such hours of jury duty, exclusive of mileage, with the Financial Services Manager. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by the employee. An employee may request a change in regularly scheduled working hours to a Monday through Friday work schedule for the duration of such jury duty. Such requests shall be granted, if practicable.

**Section 8. Witness Leave**

- A. A regular, limited-term, or probationary employee who is called to answer a subpoena as a witness for court appearances 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, shall be compensated at his/her regular rate of pay 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 Financial Services Manager. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

**Section 9. Absence Without Authorization**

- A. Absence without authorization, whether voluntary or involuntary, for three (3) consecutive working days for staff employees or Fire Division Chiefs or two (2) consecutive duty shifts for shift employees shall be considered an automatic resignation from Authority employment as of the last date on which the employee worked or the last date the employee was to return to work from an authorized absence.
- B. If an employee does not have prior authorization to be absent from work, he/she may request specific authorization from the Fire Chief prior to the expiration of the time limit specified in Section 9.A. of this Article.

- C. When an employee has been absent without authorization and the Authority plans to invoke the provisions of Section 9.A. of this Article at least ten (10) calendar days prior to accepting and entering an automatic resignation, the Authority shall send written notice to the employee's last known address by certified mail with return receipt requested and shall deposit such notice in the United States mail with postage fully prepaid. Notice is complete upon mailing. Such written notice shall contain:
1. A statement of the Authority's intention to accept and enter the employee's automatic resignation and its effective date.
  2. A statement of the reasons for considering the employee to have automatically resigned.
  3. A statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action.
  4. A statement of the employee's right to representation.
  5. A copy of the automatic resignation provisions that apply to the employee; and
  6. A statement that if the employee fails to respond to the written notice before the effective date of the automatic resignation, the employee has waived any right to appeal the automatic resignation.
- D. An automatic resignation shall not be accepted and entered if the employee: (1) responds to the notice before the effective date; (2) provides an explanation satisfactory to the Authority as to the cause of the unauthorized absence and the reasons for failing to obtain an authorized Leave and submits any pertinent documentation to substantiate such reasons or provides proof that it was physically impossible for him/her to contact the Authority; and (3) is found by the Authority to be ready, able, and willing to resume the full duties of his/her position.
- E. An employee who is permitted to continue his/her employment pursuant to Section 9.C. and/or 9.D. of this Article shall not be paid for the period of his/her unauthorized absence and shall be treated as if on a Leave of Absence for purposes of continuity of employment and other appropriate benefits, unless the Authority determines it is appropriate to use sick leave, compensatory time, vacation, or other paid Leave to cover the absence.
- F. Notwithstanding any other provision of this Section, the Authority may rescind an automatic resignation.
- G. Automatic resignations shall not be considered a discharge under the provisions of Article VIII, DISCIPLINARY AND PREDISCIPLINARY ACTIONS.

**Section 10. Workers' Compensation Leave**

- A. When an injury is determined to be job-related in accordance with Article XI, ON-THE-JOB INJURIES, WORKERS' COMPENSATION, a regular, limited-term, or probationary employee shall be placed on Workers' Compensation Leave upon exhaustion of 4850 benefits. If such determination cannot readily be made and all sick leave has been applied to the absence, the employee shall be placed on Official Leave until a final determination is made.
- 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 be permanent and stationary and is not rehabilitated as provided by law; or
  - 6. Has retired pursuant to appropriate Government Code provisions; or

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 under the provisions of Section 9. of this Article.

- 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, and 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, probation periods shall be treated as if the employee were on Official Leave.

**Section 11. Parenthood Leave**

- A. A regular, limited-term, or probationary 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 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. Sick leave must be applied toward any portion of the absence that qualifies under Section 1.C. of this Article, provided the employee has furnished the Authority with a certificate signed by a licensed physician stating the nature of the medical condition and period of disability.
  - D. Pregnant employees may also apply for a Non-Occupational Disability Leave for the term of disability as provided in Section 5. of this Article.
  - E. Parenthood Leave shall not be credited toward continuous service.
  - F. For employees on Parenthood Leave, probation periods shall be treated as if the employee were on Official Leave.

## **Section 12. Family Leave**

- A. General Provisions
  1. Family Leave shall be granted to the extent required by law for the following situations:
    - a. An employee's serious health condition as provided in Section 5. of this Article
    - b. The birth of a child or placement of a child for adoption or foster care as provided in Section 11. of this Article
    - c. Employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent, or child of an employee standing "in loco parentis" who is either under eighteen (18) years old or an adult-dependent child incapable of self-care because of mental or physical disability.
  2. Employees must request and identify their need for Family Leave. When an employee requests Family Leave, the employee shall have the choice of utilizing his/her accrued Leave balances for the purpose of continuing salary and benefits while on Family Leave or the employee may choose to take Leave Without Pay. Requests for Family Leave may also fall under the provisions of Sections 4., 5., and 11. of this Article.
  3. The Authority shall determine if a request for Family Leave is valid within the parameters of applicable law.

4. When a request for Family Leave is approved, and the employee has elected to utilize accrued Leave hours, the employee shall determine in what order he/she wishes to apply such time. The use of sick leave shall be restricted to those circumstances that qualify under the provisions of Section 1.C. of this Article.

B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the Authority with thirty (30) calendar days notice of his/her intent to take Family Leave.
2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no case shall the employee provide notice later than five (5) calendar days after he/she learns of the need for Family Leave.
3. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, or spouse, the employee shall—to the extent practicable—schedule treatment and/or care in a way that minimizes disruption to Authority operations.

C. Verification

1. The Authority may require certification from the health care provider that states (1) the date on which the condition commenced, (2) the probable duration of the condition, (3) an estimate of time that the employee needs to be off, and (4) the employee cannot perform his/her duties because of the condition (if Leave is for own serious health condition) or that care is needed (if Leave is for child, spouse, or parent).
2. The Authority may require a medical statement covering diagnosis, prognosis, and expected date of return.
3. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

**Section 13. 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, or legal guardian) must:
1. Have a catastrophic medical condition that will require the employee to be on unpaid Leave.
  2. Exhaust all allowable 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, and must include a brief statement of the nature of the illness or injury and an estimated time the employee will be unable to work.

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(s) subject to the provisions of Section 13.A.2. of this Article.

C. Donation Procedure

1. Upon receipt of a valid request for donations 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 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; 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 or Fire Division Chief or a minimum of three (3) hours, but cannot exceed twelve (12) hours per shift employee; all donations must be made in whole hour increments.
6. All donations shall be irrevocable.
7. Employees wishing to donate time to the eligible employee must provide the following:
  - a. The donating employee's name, social security number, and department name
  - b. The number of hours of vacation/compensatory time he/she wishes to donate within the limitations of Section 13.C.5. of this Article
  - c. The name, department, and class title of the eligible employee to whom the time is being donated

- d. A statement from the donating employee indicating that he/she understands the donation of time is irrevocable.
- e. The donating employee's signature authorizing the transfer of the donated time to the eligible employee.

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

8. At the close of the donation period, the Financial Services Section 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.
9. The Financial Services Section shall process all donations at one (1) time; no additional donations shall be processed.
10. 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 Section 14.C. of 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.
11. 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 Official Leave of Absence for purposes of probation.

#### **Section 14. Vacation**

##### **A. Accumulation of Vacation**

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

**Staff Employees and Fire Division Chiefs**

YEARS OF COMPLETED CONTINUOUS SERVICE	EQUIVALENT HOURS OF COMPLETED CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE
0 to 3 years	1 through 6,240.00 regularly scheduled hours	0.0577 hours for each regularly scheduled hour paid
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
After 10 years	20,800.01 or more regularly scheduled hours	0.0962 hours for each regularly scheduled hour paid

**Shift Employees**

YEARS OF COMPLETED CONTINUOUS SERVICE	EQUIVALENT HOURS OF COMPLETED CONTINUOUS SERVICE EXCLUSIVE OF OVERTIME	HOURLY ACCRUAL RATE
0 to 3 years	1 through 8,736.00 regularly scheduled hours	0.0385 hours for each regularly scheduled hour paid
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
After 10 years	29,120.01 or more regularly scheduled hours	0.077 hours for each regularly scheduled hour paid

2. 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. 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.
  
3. A new employee in a part-time (regular or limited-term) position shall earn prorated vacation in fifty-two (52) week segments. At the conclusion of fifty-two (52) weeks of employment, the ratio of regularly scheduled hours paid to two thousand eighty (2,080) for a staff employee or Fire Division Chief shall be determined. The ratio of regularly scheduled hours paid to two thousand nine hundred twelve (2,912) for a shift employee shall be determined. The same ratio shall be applied to eighty (80) hours for a staff

employee/Fire Division Chief or one hundred twelve (112) hours for a shift employee to establish the amount of vacation to be credited to the employee's account as of the conclusion of the pay period in which the fifty-two (52) week period ended.

B. Vacation Credit

1. Vacation credit shall be applied to the employee's vacation accumulation account only upon completion of each pay period. No credit shall be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates Authority service.

C. Maximum Allowable Vacation Credit

1. The maximum allowable vacation credit at any one (1) time for a full-time staff employee or full-time Fire Division Chief with less than ten (10) years of full-time continuous service shall be three hundred twenty (320) hours or a prorated amount equal to eight (8) weeks of vacation for part-time employees. The maximum allowable vacation credit at any one (1) time for a full-time staff employee or full-time Fire Division Chief with ten (10) or more years of full-time continuous service shall be four hundred (400) hours or a prorated amount equal to ten (10) weeks of vacation for part-time employees. All vacation hours earned in excess of the maximum allowable vacation credit shall be paid in the pay period earned.
2. The maximum allowable vacation credit at any one (1) time for a full-time shift employee with less than ten (10) years of full-time continuous service shall be four hundred forty-eight (448) hours or a prorated amount equal to eight (8) weeks of vacation for part-time employees. 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 or a prorated amount equal to ten (10) weeks of vacation for part-time employees. All vacation hours earned in excess of the maximum allowable vacation credit shall be paid in the pay period earned.

D. General Provisions

1. Not more than eighty (80) hours of paid time for staff employees or Fire Division Chiefs or one hundred twelve (112) hours for shift employees may be credited toward accumulation of vacation credit in any pay period.
2. An Official Leave of Absence shall cause the aforementioned ten (10) years of full-time Authority service to be postponed a number of calendar days equal to the Official Leave.
3. Additional vacation earned during the period of vacation may be taken consecutively with the approval of the Fire Chief.
4. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.

5. Vacations shall be scheduled for employees by the Authority; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
6. Illness while on paid vacation shall be charged to sick leave rather than vacation only under the conditions specified in Section 1.C.5. of this Article.
7. 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.
8. An employee separating from Authority service for reasons other than paid Authority retirement shall be paid for all accrued vacation in a lump sum payment. An employee who is separating from Authority service by way of paid Authority retirement may elect either to take time off for his/her vacation or to be paid for his/her vacation in a lump sum payment.
9. During each fiscal year, 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 employees and Fire Division Chiefs or twenty-one (21) hours for shift employees of the applicable maximum allowable vacation credit set forth in Sections 14.C.1. and 14.C.2. of this Article may request to be paid for one (1) additional increment of up to eighty (80) hours for staff employees and Fire Division Chiefs or one hundred twelve (112) hours for shift employees in each fiscal year.
10. No scheduled vacation shall be canceled, except in cases of emergency.
11. When an employee's Authority service consists of part-time regular service or a combination of full-time regular and part-time regular service, both periods of service shall apply toward the required ten (10) years of Authority service, with the part-time service being applied proportionately to the appropriate full-time interval.

E. Vacation Time for Transitioning Employees

1. When a former employee of the County of Orange Fire Department or the Authority is reemployed in a regular or limited-term position, the Human Resources Director may apply the total period of previous continuous County and Authority service for the purpose of determining vacation earning rates.

F. Vacation Accrual for Former CDF Employees

1. Employees who, as of July 2, 1980, had three (3) or more years of California Department of Forestry (CDF) service in Orange County immediately preceding their employment by the County, shall accrue

vacation based on a total of their Authority and County of Orange continuous service added to their California Department of Forestry time worked within Orange County.

## 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 Day

B. Notwithstanding any other Section of this Memorandum of Understanding, the holidays designated for employees in the Fire Management Unit shall be the same as those adopted for employees in the Administrative Management Unit.

#### **Section 2. Shift Employees**

A. Holiday Compensation

1. For each holiday listed in Section 1.A. of this Article, a full-time employee shall receive twelve and six-tenths (12.6) hours of holiday pay. A part-time employee shall be paid at the rate of one and four-tenths (1.4) hours for each seven (7) hours of regularly scheduled work in the workweek to a maximum of twelve and six-tenths (12.6) hours of holiday pay.
2. Employees shall be paid in the pay period that the holiday occurs.
3. Full-time employees who are on a pay status during the pay period that includes March 1st of each fiscal year, during the term of this Memorandum of Understanding, shall be paid two and eight-tenths (2.8) hours of spring holiday time at the end of the pay period that includes that date. Part-time employees whose regularly assigned work schedule is at least twenty (20) hours per week shall, in like manner, earn and be paid one and four-tenths (1.4) hours of pay.

B. Eligibility for Holiday Pay

1. 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.
2. A new employee whose first working day is the day after a holiday shall not be paid for that holiday.
3. An employee who elects paid Authority retirement on a holiday shall be paid for the holiday.
4. An employee who is terminating employment for reasons other than paid Authority retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
5. Only regular, limited-term, and probationary employees shall be eligible for holiday pay.

**Section 3. Staff Employees and Fire Division Chiefs**

A. Holiday Compensation

1. For each holiday listed in Section 1.A. of this Article, each full-time employee 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. A part-time employee scheduled to work—but permitted to take the day off—shall receive pay computed at the employee's base hourly rate for the number of hours the employee was regularly scheduled to work to a maximum of nine (9) hours of holiday pay.
2. When a holiday listed in Section 1.A. of this Article falls on a full-time employee's regularly scheduled day off, the employee shall receive eight (8) hours of holiday pay computed at the employee's base hourly rate. A part-time employee shall be paid one (1) hour for each five (5) hours of regularly scheduled work in the workweek to a maximum of eight (8) hours of holiday pay.
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 in the pay period that the holiday occurs.
6. Full-time employees who are on a pay status during the pay period that includes March 1st of each fiscal year, during the term of this Memorandum of Understanding, shall be paid for two (2) hours of spring holiday time at the end of the pay period that includes that date. Part-time

employees whose regularly assigned work schedule is at least twenty (20) hours per week shall, in like manner, earn and be paid one (1) hour of pay.

B. Eligibility for Holiday Pay

1. 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.
2. A new employee whose first working day is the day after a holiday shall not be paid for that holiday.
3. An employee who elects paid Authority retirement on a holiday shall be paid for the holiday.
4. An employee who is terminating employment for reasons other than paid Authority retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
5. Only regular, limited-term, and probationary employees shall be eligible for holiday pay.

C. Compensation for Work on Holidays

1. An employee who is required to work on a holiday and who meets the eligibility requirements contained herein 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.

D. 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 paid for each mile driven in the performance of his/her duties during each monthly period as provided below:
1. The reimbursement rate shall be 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. Personal Property Reimbursement**

- A. Employees shall, in proper cases, be reimbursed for the repair or replacement of personal property damaged in the line of duty without fault of the employee. The amount of reimbursement for articles of clothing shall be the depreciated value based on the age and condition of the article. The amount of reimbursement for other personal property covered by this provision shall be the actual replacement value except that the reimbursement on a watch shall not exceed its functional value, and the limit on eyeglasses shall be the cost of lenses, plus the cost of basic frames.

#### **Section 3. Tuition Reimbursement**

- A. Full-time (regular, limited-term, and probationary) 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.

**DISCIPLINARY AND PREDISCIPLINARY ACTIONS**

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

- A. No regular, limited-term regular, or promotional probationary employee shall receive a written reprimand or denial of performance salary increase, except for reasonable cause.
- B. A written reprimand or denial of performance salary increase may be appealed through this appeal procedure. Such appeal shall be initiated at Step 1 of this procedure.

**Section 2. Disciplinary Hearing for Suspension, Reduction, or Discharge**

- A. In suspending a regular, limited-term regular, or promotional probationary employee for more than forty (40) regularly scheduled hours (if assigned to a staff position or as Fire Division Chief) or more than two (2) twenty-four (24) hour shifts (if assigned to a shift position), or in reducing a regular or limited-term regular employee for reasons of unsatisfactory performance or physical disability, or in discharging a regular or limited-term regular employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, 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; and
  - 6. A statement of the employee's right to appeal should such proposed action become final.
- B. In suspending a regular, limited-term regular, or promotional probationary employee for forty (40) regularly scheduled hours or less (if assigned to a staff position or as Fire Division Chief) or two (2) twenty-four (24) hour shifts or less (if assigned to a shift position), the above notice requirements shall be complied with—if practicable—prior to the effective date of the suspension, and in any event, not more than fourteen (14) calendar days after the effective date of the suspension.

- C. Prior to the effective date of such suspension of more than forty (40) regularly scheduled hours (if assigned to a staff position or as Fire Division Chief) or more than two (2) twenty-four (24) hour shifts (if assigned to a shift position) or reduction or discharge, an employee shall be given an opportunity to respond—either orally or in writing at the employee’s option—to a designated Authority representative with the authority to make an effective recommendation on the proposed disciplinary action.
- D. An employee shall be given reasonable time off without loss of pay to attend a disciplinary hearing.
- E. An employee may represent himself/herself or may be represented by the Association in the disciplinary process.
- F. An employee and his/her representative shall receive written notice sustaining, modifying, or canceling a proposed discharge on or prior to the effective date of such action.
- G. An employee and his/her representative shall receive written notice sustaining, modifying, or canceling a proposed suspension or reduction prior to the effective date of such action.
- H. Should a proposed reduction or suspension become final, an employee shall have the right to appeal such action pursuant to Section 3. of this Article.

**Section 3. Right of Appeal**

- A. Suspension
  - 1. No regular, limited-term regular, or promotional probationary employee shall be suspended, except for reasonable cause.
  - 2. A written notice of such suspension stating specifically the cause of the suspension shall be given to the employee.
  - 3. An appeal of suspension shall be initiated in accordance with Section 5. of this Article.
- B. Reduction
  - 1. No regular employee or limited-term regular employee shall be reduced to a position in a lower class for reasons of unsatisfactory performance or physical disability, except for reasonable cause.
  - 2. A written notice of such reduction stating specifically the cause of the reduction shall be given to the employee.
  - 3. An appeal of reduction to a position in a lower class shall be initiated in accordance with Section 5. of this Article.

- C. Discharge
  - 1. No regular or limited-term regular employee shall be discharged, except for reasonable cause.
  - 2. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
  - 3. An appeal of discharge shall be initiated in accordance with Section 5. of this Article.
- D. Failure of the employee to comply with the time limits set forth in this Article shall signify that the employee has waived his/her right to further process the appeal, and the disciplinary action shall stand as intended/administered. Failure by the Authority representative to timely respond under this Article shall permit the employee to progress the appeal to the next step.
- E. The time limits for appeals, set forth in this Article, may be extended by mutual agreement between the Authority representative and employee or his/her representative.

**Section 4. Polygraph Examination**

- A. No employee shall be compelled to submit to a polygraph examination. No disciplinary action whatsoever shall be taken against an employee 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 Memorandum of Understanding, unless otherwise agreed to in writing by the parties.

**Section 5. Appeal Procedure**

- A. All Step 1 and Step 2 appeals must be submitted to the Human Resources Director or the employee's Fire Division Chief or Assistant Chief/Department Head within the time limits outlined in this Article. If the appeal is submitted to the employee's Fire Division Chief or Assistant Chief/Department Head, a copy shall be forwarded to the Human Resources Director. Submission of the appeal may be via mail, hand delivery, or fax; postmarks shall be accepted. Fax deliveries must be received no later than 5:00 p.m. on the last day allowable under the provisions of this Article. Any suspension, reduction, or discharge imposed by the Fire Chief may be submitted directly to arbitration in accordance with Section 6. of this Article. Any notification of intent to discharge or probationary release where the employee is alleging discrimination may be submitted directly to Step 2 of this procedure. To facilitate submittal of appeals, the Association shall have the right to submit an appeal in the name of the employee at the employee's request.

1. STEP 1

a. Reprimand or Performance Salary Increase Denial—Fire Division Chief or Assistant Chief/Department Head

Upon receipt of a reprimand or denial of a performance salary increase, an employee may, within fourteen (14) calendar days of receipt of such notice, submit a request to the Human Resources Director, Fire Division Chief, or Assistant Chief/Department Head (if the action is against a Fire Division Chief) for a meeting to address the matter. The Human Resources Director shall schedule a meeting with the appropriate Fire Division Chief or Assistant Chief/Department Head (if the action is against a Fire Division Chief) to hear the employee's presentation. After hearing the employee's presentation, the Fire Division Chief or Assistant Chief/Department Head shall issue a written determination within fourteen (14) calendar days.

b. Suspension or Reduction—Assistant Chief/Department Head

Upon receipt of a notice of intent involving suspension or reduction, an employee may, within fourteen (14) calendar days of receipt of such notice, submit a request to the Human Resources Director or Assistant Chief/Department Head for a meeting to address the charges in the notice. The Human Resources Director shall schedule a meeting with the appropriate Assistant Chief/Department Head to hear the employee's presentation. After hearing the employee's presentation, the Assistant Chief/Department Head shall issue a written determination relative to the intended action within fourteen (14) calendar days.

2. STEP 2

a. Reprimand or Performance Salary Increase Denial—Assistant Chief/Department Head or Deputy Fire Chief

If the employee does not agree with the outcome in Step 1, the employee may, within fourteen (14) calendar days of receipt of the Step 1 written determination, submit a written appeal to the Human Resources Director, Assistant Chief/Department Head, or Deputy Fire Chief (if the action is against a Fire Division Chief). Within fourteen (14) calendar days of receipt of the appeal at Step 2, the appropriate Assistant Chief/Department Head or Deputy Fire Chief shall meet with the appellant and his/her representative. Within fourteen (14) calendar days thereafter, a written decision shall be provided to the appellant and his/her representative. The determination shall be final and binding and will not be referable to arbitration.

b. Suspension/Reduction or Probationary Release Alleging Discrimination or Discharge—Fire Chief or Deputy Fire Chief

Suspension or Reduction—If the employee does not agree with the outcome in Step 1, the employee may—within fourteen (14) calendar days of the receipt of the Step 1 written determination—submit a written appeal to the Human Resources Director. Within fourteen (14) calendar days of receipt of the appeal, the Fire Chief or, if designated, the Deputy Fire Chief shall meet with the appellant and his/her representative. Within fourteen (14) calendar days thereafter, a written decision shall be provided to the appellant and his/her representative.

Probationary Release Alleging Discrimination or Discharge—If the employee receives a notice of intent to discharge, or is alleging that his/her probationary release is due to discrimination, the employee may begin his/her appeal process at Step 2 by submitting a written appeal to the Human Resources Director within fourteen (14) calendar days of receipt of such written notification. Within fourteen (14) calendar days of receipt of the appeal, the Fire Chief or, if designated, the Deputy Fire Chief shall meet with the appellant and his/her representative. Within fourteen (14) calendar days thereafter, a written decision shall be provided to the appellant and his/her representative.

**Section 6. Referrals to Arbitration**

- A. If the suspension, reduction, or discharge is imposed by the Fire Chief, the employee may submit the matter directly to arbitration in accordance with Section 6. of this Article.
- B. If the employee does not agree with the outcome at Step 2 regarding a suspension, reduction, or discharge, the employee may appeal the matter to arbitration by submitting the appeal to the Human Resources Director within fourteen (14) calendar days from the date of receipt of such Step 2 decision. As soon as practicable thereafter or as otherwise agreed to by the parties, an arbitrator shall hear the appeal.
- C. All disciplinary appeals shall be signed by the appellant or his/her representative of the Association and shall be submitted in writing.
- D. 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
      - i. If the arbitrator finds that the disciplinary action was taken for reasonable cause, he/she shall then determine if the disciplinary action imposed on the employee was appropriate. The arbitrator shall have the right, and the responsibility, to modify the discipline if, in his/her opinion, it is not appropriate.

b. Suspension/Reduction

- i. 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 6.E. of this Article.

c. Discharges

- i. If the arbitrator finds that the order of discharge should be modified, the appellant shall be restored to a position in his/her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the appellant was removed from duty, as determined by the arbitrator and consistent with Section 6.E. of this Article.
- ii. If the arbitrator finds that the order of discharge should be rescinded, the appellant shall be reinstated in a position in his/her former class and shall receive pay and fringe benefits for all of the period of time he/she was removed from duty and consistent with Section 6.E. of this Article.

E. Restriction on Remedies

1. 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.

F. Probationary Releases Alleging Discrimination

1. The issues to be submitted to the arbitrator in appeals filed pursuant to Article VIII shall be as follows and shall be submitted consistent with Section 6. of this Article:
  - a. Was the probationary release of (employee's name) in whole or in part the result of discrimination?
  - b. If so, what shall the remedy be under the provision of Section 6.F.2., Findings of Facts and Remedies, of this Article?
2. Findings of Facts and Remedies
  - a. In the event the arbitrator finds no discrimination, the appeal shall be denied, and the issue of remedy becomes moot.
  - b. In the event the arbitrator finds discrimination but also finds such discrimination was not a substantial cause of the employee's probationary release, the appeal shall be denied, and the issue of remedy becomes moot.
  - c. In the event the arbitrator finds discrimination and also finds such discrimination was a substantial cause of the probationary release of

the employee, the arbitrator's award shall depend upon the significance of the violation and shall be in keeping with the following alternatives:

- The probationary release may be sustained.
- The employee may be reinstated in a position in his/her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.
- The employee may be reinstated in a position in his/her former class with full back pay and benefits for all the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.

## **Section 7. General Provisions**

- A. If the appeal is decided by an arbitrator, the appellant and his/her representative shall relinquish any current or future claim to seek or obtain remedy through any other Authority appeal procedures.
- B. The cost of an arbitrator shall be shared equally in all cases by the Authority and the appealing party, except when the appealing party solely alleges discrimination, in which case, the Authority shall bear the full cost. When the appeal involves both discrimination and other arbitrable issues, the proper division of costs shall be determined by the arbitrator.
- C. Appeal hearings by an arbitrator shall be private.
- D. 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. The one (1) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the Fire Chief.
- E. 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, the American Arbitration Association, or some other agreed upon source, and each party shall alternately strike one (1) name from the list until only one (1) name remains.
- F. Upon written request by the opposing party in a pending hearing given at least twenty-eight (28) calendar days prior to the scheduled hearing date, the party requested shall supply to the party submitting the requested copies of all documentary evidence to be used by that party at the hearing. Such evidence shall be provided no later than fourteen (14) calendar days prior to the scheduled hearing date. Any evidence not so provided may not be

admitted or offered as evidence at the subsequent hearing, except that any such documentary evidence discovered by a party after such a request for copies—but not soon enough to comply with the above time limits—may be admitted, provided it could not have been discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practicable after such discovery. Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.

- G. 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.
- H. 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. Oral evidence shall be taken only on oath or affirmation.
  - 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.
- I. 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 and irrelevant and unduly repetitious evidence shall be excluded.
- J. 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.
- K. The decision of the arbitrator shall be final and binding on all parties.

## ARTICLE IX

### GRIEVANCE PROCEDURE

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

- A. A grievance may be filed if a management interpretation or application of the provisions of this Memorandum of Understanding adversely affects an employee's wages, hours, or conditions of employment. In addition, disputes involving performance evaluations rated "substandard" and Authority procedures that implement specific provisions of this Agreement in the areas of overtime, intradepartmental transfers, vacations, and shift exchanges may be processed through the grievance procedure.
- B. Specifically excluded from the Scope of Grievances are:
  - 1. Subjects involving the amendment or change of Board of Directors resolutions, ordinances, or minute orders that do not incorporate the provisions of this Memorandum of Understanding;
  - 2. Matters that have other means of appeal including, but not limited to, matters that may be appealed through the Workers' Compensation Appeals Board;
  - 3. Position classification;
  - 4. Performance evaluations rated "standard" or above

#### **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. No claim shall be granted for retroactive adjustment of any grievance prior to ninety (90) calendar days from the date of filing the written grievance at Step 1.
- G. The Association shall have the right to a representative present throughout the grievance process.
- H. In order to encourage candid discussion and compromise in attempting to resolve grievances, the Authority and the Association agree that 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 and arbitrate issues that solely affect the rights of the Association. No employee or group of employees shall be hindered from or disciplined for exercising this right.
- 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, as prescribed herein.

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, as prescribed herein, or to obtain facts concerning the action grieved through discussion with the grievant or other employees.
- B. The following restrictions shall apply in all cases to activity authorized in Section 5.A. of this Article:
1. Before performing grievance work, the grievant or grievance representative shall obtain the permission of his/her supervisor and shall report back to the supervisor when the grievance work is completed.
  2. Neither the grievant nor the grievance representative shall interrupt or leave his/her job to perform grievance work, unless his/her supervisor determines that such interruption or absence will not unduly interfere with the work of the unit in which the grievant or representative is employed. However, an effort shall be made to grant such time off as soon as it is feasible to do so.
  3. When an authorized grievance representative must go into another section or unit to investigate a grievance, the representative shall be permitted to do so provided that:
    - a. The representative checks in and checks out with the supervisor of the unit
    - b. Such investigation will not unduly interfere with the work of the unit

**Section 6. Informal Discussion**

- A. If an employee has a problem relating to a work situation, the employee is encouraged to request a meeting with his/her immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively toward settlement.

**Section 7. 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, the employee's Fire Division Chief or Assistant Chief/Department Head (if the grievant is a Fire Division Chief) within the time limits outlined in this Article. If the grievance is submitted to the employee's Fire Division Chief or Assistant Chief/Department Head (if the grievant is a Fire Division Chief), a copy shall be forwarded to the Human Resources Director. Submission may be via mail, hand delivery, or fax; postmarks shall be accepted. Fax deliveries must be received no later than 5:00 p.m. on the last day allowable under the provisions of this Article. A grievance may be filed by an employee—or the Association in the name of the employee—at the employee's request.

1. STEP 1: Fire Division Chief or Assistant Chief/Department Head

- a. If an employee has a grievance, the employee or the Association, on behalf of the employee, may formally submit a grievance to the Human Resources Director, Fire Division Chief, or Assistant Chief/Department Head (if the grievant is a Fire Division Chief) within fourteen (14) calendar days from the occurrence that gives rise to the problem. A Step 1 grievance shall be heard by a Fire Division Chief or Assistant Chief/Department Head (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/Department Head shall meet with the grievant within the time limit.
- b. Such submission shall be in writing and shall state the nature of the grievance and the suggested solution. Within fourteen (14) calendar days after receipt of the written grievance, the Fire Division Chief or Assistant Chief/Department Head shall meet with the grievant.
- c. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant. The written decision at Step 1 shall be signed by the reviewing officer.

2. STEP 2: Fire Chief, Deputy Fire Chief, or Assistant Chief/Department Head

- a. If the grievance is not settled under Step 1 and it concerns an alleged misinterpretation or misapplication of this Memorandum of Understanding or a substandard performance evaluation, 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, the Fire Chief or, if designated, the Deputy Fire Chief or the appropriate Assistant Chief/Department Head 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. The decision of the Fire Chief or his/her designee, regarding a substandard performance evaluation, shall be final and binding and shall not be referable to arbitration.

**Section 8. 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 9. of this Article.

**Section 9. 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.
- B. The parties shall either sign a joint issue submission statement or else execute and sign separate alternative issue statements after discussing the issue(s). In either case, the parties shall send copies of their joint or separate submission statement(s) to each other within fourteen (14) calendar days before the first scheduled date of the arbitration hearing.

**Section 10. General Provisions**

- A. If the grievance is decided by an arbitrator, the grievant and his/her representative shall relinquish any current or future claim to seek or obtain remedy through any other Authority appeal procedures.
- B. The cost of an arbitrator shall be shared equally in all cases by the Authority and the appealing party. An exception is when the appealing party solely alleges discrimination—in which case, the Authority shall bear the full cost. When the grievance involves both discrimination and other arbitrable issues, the proper division of costs shall be determined by the arbitrator.
- C. Grievance hearings by an arbitrator shall be private.
- 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 Conciliation Service, the American Arbitration Association, or some other agreed upon source and, each party shall alternately strike one (1) name from the list until only one (1) name remains.
- E. Upon written request by the opposing party in a pending hearing given at least twenty-eight (28) calendar days prior to the scheduled hearing date, the party requested shall supply to the party submitting the request copies of all documentary evidence to be used by that party at the hearing. Such evidence shall be provided no later than fourteen (14) calendar days prior to the scheduled hearing date. Any evidence not so provided may not be admitted or offered as evidence at the subsequent hearing, except that any such documentary evidence discovered by a party after such a request for copies—but not soon enough to comply with the above time limits—may be admitted, provided it could not have been discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practicable after such discovery.

Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.

- F. 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.
- G. 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. Oral evidence shall be taken only on oath or affirmation.
  - 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.
- H. 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.
- I. 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.
- J. The decision of the arbitrator shall be final and binding on all parties.

## ARTICLE X

### LAYOFF PROCEDURE

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

- A. This procedure shall not apply to a temporary layoff of less than four (4) consecutive weeks.
- B. Section 6., Reinstatement Lists, and Section 7., Status on Reinstatement, of this Article shall not apply if the Authority has a written agreement with an employer, public or private, that guarantees the Authority employee an offer of reasonably comparable employment with the new employer who is taking over a function formerly performed by Authority employees and the new employer does make such an offer in writing to the employee.
- C. This procedure shall not apply to employees who have special or unique knowledge or skills that are of special value in the operation of the Authority business.

#### **Section 2. Order of Layoff**

- A. The Authority may abolish a position because of change in duties or organization or shortage of work or funds, which, in turn, may require the layoff of one (1) or more employees. When a layoff is implemented, employees in regular positions and those occupying limited-term positions at the direction of the Fire Chief shall be laid off in an order based on consideration of:
  - 1. Employment status
    - a. Except as provided in Section 1.C. of this Article, 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" as provided in Article IX, Section 1.A., and who has received a subsequent interim performance evaluation rated "Substandard" shall be subject to layoff before employees subject to Section 2.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 2.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. (09/28/06)***

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. Such seniority shall not be applicable to any other provisions within this Memorandum of Understanding, unless otherwise specifically provided for.

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 3. 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 4. of this Article.

C. The notice of layoff shall include (1) the reason for the layoff, (2) the proposed effective date of the layoff, (3) the employee's hire date, (4) the employee's service hours, (5) a list of classes in the employee's occupational series within the layoff unit, (6) the employee's rights under Sections 4. and 5. of this Article, and (7) 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 4. Voluntary Reduction in Lieu of Layoff**

A. A promotional probationary or regular employee who is subject to layoff may request a reduction to a lower class within the same occupational series in the layoff unit, 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.
1. Employees who receive notice of layoff by personal service at work shall have until the end of their third regularly scheduled day of work, following actual receipt of the notice, to notify the Authority in writing of their intent to exercise rights under this Section. Employees whose third regularly scheduled day of work is more than three (3) calendar days after receipt of the notice shall have three (3) calendar days, excluding weekends and holidays, to notify the Authority of their intent to exercise rights under this Section; and where such notification is not in writing, the employee shall confirm the notification in writing as soon as practicable.
  2. Employees who receive notice other than by personal service at work shall have five (5) calendar days, excluding weekends and holidays, following the date the employee is personally served, or if service is made by mail, five (5) calendar days, excluding weekends and holidays, following the date of proof of service by mail, to notify the Authority of their intent to exercise rights under this Section. Where such notification is not in writing, the employee shall confirm the notification in writing as soon as practicable.
  3. 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.
  4. 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 5. Voluntary Reduction From Classes Designated as Vulnerable to Layoff**

- A. An employee in a class designated by the Authority as vulnerable to layoff may request a voluntary reduction to any 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 has passed any required performance tests for the class to which reduction is requested. Such employees shall be eligible for consideration for available positions in the class to which reduction is requested. If appointed, such an employee shall be placed on AUTHORITY REINSTATEMENT LISTS pursuant to Section 6.A.3. of this Article.

**Section 6. Reinstatement Lists**

- A. The following persons shall be placed on AUTHORITY REINSTATEMENT LISTS as provided in Sections 6.A.1., 6.A.2., and 6.A.3. of this Article in the order of their respective service hours with the person having the largest number of service hours listed first, except that employees laid off pursuant to Section 2.A.2. of this Article shall be placed in service hours order after all other employees:

1. Persons Laid Off—The names of persons laid off shall be placed on a REINSTATEMENT LIST for each class in the occupational series at or below the level of the class from which laid off.
  2. Persons Exercising Their Rights Under Section 4. of this Article—The names of persons who exercise their rights under Section 4. of this Article shall be placed on a REINSTATEMENT LIST for each class in the occupational series at or below the level of the class from which reduced, excluding any classes at or below the level of the class currently held.
  3. Persons Who Voluntarily Reduce Under the Provisions of Section 5. of this Article—The names of persons who were voluntarily reduced under the provisions of Section 5. of this Article shall be placed on a REINSTATEMENT LIST for the class from which reduced and for each class in the occupational series below the level of the class from which they voluntarily reduced, provided they request to be placed on such Lists.
  4. Positions to be filled shall be offered first to persons on the REINSTATEMENT LIST for that class, starting at the top of the List. If reinstatement is offered to a class other than that from which the person was laid off or reduced, such person must first meet the minimum qualifications for the class, have served in and passed probation in that class with the Authority or a predecessor employer, and pass any required performance tests for that class.
- B. Names of persons placed on the REINSTATEMENT LIST shall remain on the List for two (2) years, except that:
1. A person who, on two (2) separate occasions, rejects or fails to respond within five (5) calendar days to offers of employment in a particular class shall be removed from the Lists for that class.
  2. A person who, on three (3) separate occasions, declines referral for interviews in a particular class shall be removed from the Lists for that class.
  3. A person who retires from the Authority shall be removed from all Lists.
- C. The Lists shall be extended for a period not to exceed one (1) year, if requested by either the Authority or the Association prior to thirty (30) days before the Lists' expiration dates.
- D. REINSTATEMENT LISTS shall be available to the Association and affected employees upon reasonable request.

**Section 7. Status on Reinstatement**

- A. An employee who has been laid off under the provisions of this Article and subsequently reinstated in a regular or limited-term position 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.B., if reinstatement is in a higher class or an occupational series different from that employed in at the time of layoff.
- B. An employee who has voluntarily reduced under the provisions of this Article and subsequently is reinstated in a regular or limited-term position in the class from which the employee reduced within a two (2) year period from the date of reduction shall receive the following considerations:
1. The employee shall be placed in the salary range either as if the employee had been on a Leave of Absence Without Pay or at the same point/rate on the salary range as the employee's salary in the lower class, whichever is higher.
  2. The probationary status of the employee shall be as if the employee had been on a Leave of Absence.
- C. When an employee is reduced under the provisions of this Article and is subsequently reinstated 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 and probation period shall be determined by treating the employee as though he/she is being promoted from such class.

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

**Section 1. Medical Treatment**

- A. Whenever an employee sustains an injury or disability arising out of and in the course of Authority employment that requires medical treatment, the employee shall obtain treatment pursuant to the appropriate California Labor Code sections.

**Section 2. Disability Payments and Leave**

- A. Employees Eligible for 4850 Benefits

- 1. Disability Payments and Leave

- a. Whenever an employee who is eligible for benefits under California Labor Code 4850 is compelled to be absent from duty by reason of injury or disease arising out of and in the course of Authority employment, the employee shall be compensated and placed on Leave pursuant to California Labor Code Section 4850.

- 2. Exhaustion of 4850 Benefits

- a. 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:
  - i. He/she shall be entitled to all benefits provided by California Workers' Compensation Law; and
  - ii. He/she shall be placed on Workers' Compensation Leave; and
  - iii. 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
  - iv. 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.
  - v. 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.

- vi. 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.
- vii. 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.

**B. Employees Not Eligible for 4850 Benefits**

1. Whenever an employee is compelled to be absent from duty by reason of injury or disease arising out of and in the course of Authority employment, the employee shall receive workers' compensation supplement pay, which—when added to the workers' compensation temporary disability benefit—shall equal eighty (80) percent of the employee's base salary for a period not to exceed one (1) year including holidays.
2. Workers' compensation supplement pay shall begin the same day as the workers' compensation temporary disability benefits. Prior to qualifying for workers' compensation temporary disability benefits, an injured employee may—at his/her option—use any accrued sick leave, compensatory time, and/or vacation, in that order.
3. While an employee receives workers' compensation supplement pay, no deductions or payments shall be made from any sick leave, compensatory time, or vacation time previously accumulated by the employee. The employee shall not accrue sick leave or vacation credit during the period in which the employee receives workers' compensation temporary disability benefits.
4. When an injury is determined to be job-related by the Authority or by the Workers' Compensation Appeals Board, eighty (80) percent of all sick leave, compensatory time, and/or vacation expended since the fourth day of disability shall be restored to the employee's account(s)—except that if the injury required the employee's hospitalization or caused disability of more than fourteen (14) days, eighty (80) percent of all sick leave, compensatory time, and/or vacation expended since the first day of disability shall be restored to the employee's account(s).
5. The probation period of any employee who receives workers' compensation benefits shall be extended by the length of time the employee receives such benefits, except that the first fifteen (15) consecutive calendar days from the date of the injury shall be considered Authority service for completion of the probation period.
6. 6. When an employee is no longer entitled to receive workers' compensation supplement pay, the employee may—at his/her option—use sick leave, compensatory time, and vacation, in that order, if the

employee is compelled to be absent from duty as set forth in Section 2.B.1. of this Article.

7. 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 3. 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. Employees shall follow safe practices and shall obey reasonable safety rules during the hours of their employment.
- 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 Procedure AM 115.02, 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. One (1) primary safety representative and one (1) alternative safety representative of the Association, who serves on 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.
  
- B. A safety representative who has received a safety or health complaint 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 work and reports back to the supervisor when the work is completed.
  - 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**

- A. 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**

- A. 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. ***Except as provided in Sections 1.C.1. and 1.C.2. of this Article, 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. (09/28/06)***
- C. The Authority shall continue to maintain its Section 125 Cafeteria Plan for active eligible employees and pay the following amounts for employees' health care coverage and other benefits:
- 1. Except as modified in Section 1.D. of this Article, each full-time (regular, limited-term, or probationary) employee shall receive the dollar value of one hundred (100) percent of the employee's health plan premium or seventy-five (75) percent of the total health plan premium selected by the employee, whichever is greater. That amount shall include the contribution towards the employee's Cafeteria Plan as set forth in the California Government Code Section 22892. The employee may elect to contribute the entire value to his/her health care premium or allocate a portion of the value to other benefits offered under the Cafeteria Plan. If the employee elects to allocate part of the value to other benefits, any unpaid balance of the employee's health care premium shall be deducted from the employee's paycheck. (09/28/06)***
  - 2. Except as modified in Section 1.D. of this Article, each part-time (regular, limited-term, or probationary) employee shall receive the dollar value of fifty (50) percent of the employee's health plan premium or thirty-seven and five-tenths (37.5) percent of the total health plan premium selected by the employee, whichever is greater and which amount shall include the contribution towards the employee's Cafeteria Plan as set forth in California Government Code Section 22892, provided the employee's normal workweek consists of at least twenty (20) hours. 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. The employee may elect to contribute the entire value to his/her health care premium or allocate a portion of the value to other benefits offered under the Cafeteria Plan. If the employee elects to allocate part of the value to other benefits, any***

***unpaid balance of the employee's health care premium shall be deducted from the employee's paycheck. (09/28/06)***

- D. For employees who are on approved Family Leave pursuant to Article V, Section 12., and applicable law, the Authority shall continue to pay health insurance premiums as provided in Sections 1.C.1. and 1.C.2. of this Article, to the extent required by applicable law.
- E. ***Upon showing sufficient proof of alternate health care coverage, other than an Authority funded or administered plan, such as a certificate of coverage, a full-time or part-time (regular, limited-term, or probationary) employee shall be entitled to a fifty-five (55) dollars biweekly credit to his/her Cafeteria Plan, in lieu of the amount provided in Sections 1.C.1. and 1.C.2. of this Article. This credit may be applied towards benefits under the Cafeteria Plan, including accidental death and dismemberment insurance or miscellaneous pay. (09/28/06)***

**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. (09/28/06)***
- 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. However, the Authority's contribution towards the employee's health care coverage the month following termination shall be in accordance with the California Government Code Section 22892. (09/28/06)***
- C. ***An employee shall be given the opportunity to enroll in a medical plan or to change medical plans on the effective date of his/her retirement. (09/28/06)***
- D. In all health plans, the Authority shall provide a minimum one (1) month period, each fiscal year, for open enrollment of employees, employees' dependents, and retirees.
- E. 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 full-time (regular, regular limited-term, and probationary) 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 Official 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. (09/28/06)***
    - 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.

### **Section 4. Premium Only Plan**

- A. The Authority shall administer a Premium Only Plan (POP) that will allow an employee to pay for health insurance premiums as permitted in the Internal Revenue Code. Under the POP, an employee's gross taxable salary shall be reduced by the amount of his/her share of the premium costs of Authority-provided health insurance coverage.

### **Section 5. 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 SERVICE and who meet the eligibility requirements as set forth in Section 5.B. of this Article. (09/28/06)***

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. (09/28/06)***
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. (09/28/06)***
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 5.A.4.a., 5.A.4.b., and 5.A.4.c., of this Article. (09/28/06)***
  - a. ***Effective January 1, 2007, the Retiree Medical Insurance Grant shall be an amount based on sixteen (16) dollars and ninety-three (93) cents per month for each full year of service to a maximum of four hundred twenty-three (423) dollars and twenty-five (25) cents 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. (09/28/06)***
  - 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. (09/28/06)***
  - 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. (09/28/06)***

**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. (09/28/06)***
- 2. *Only employees hired before January 1, 2007, shall be eligible to participate in the Retiree Medical Insurance Grant Plan. (09/28/06)***
- 3. *Retiree or eligible former employee must have retired or terminated employment with the Authority with at least one (1) year of service (2,080 hours), except as provided in Section 5.B.3.a., b., and c. of this Article. (09/28/06)***
  - 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. (09/28/06)***
  - 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. (09/28/06)***
- 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. (09/28/06)***
- 5. Deferred Retirement**
  - a. *An employee who, upon separation from Authority SERVICE, 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 SERVICE. (09/28/06)**

**b. An employee with one (1) year of SERVICE (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. (09/28/06)**

6. For purposes of this section, a full year of SERVICE shall mean those regular hours of SERVICE 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 SERVICE 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. Employer Contribution**

1. **The Authority will contribute one million two hundred thousand dollars (\$1.2 million) each year, or at such earlier date as determined by the Board of Directors, during the term of this Agreement. OCFA's total contribution shall not exceed six million dollars (\$6 million). This annual contribution is made on behalf of all OCFA participating employees, not just the ones in this bargaining unit. (09/28/06)**

**D. Employee Contribution**

1. **Effective January 2007 (Pay Period #3), all regular, limited-term, and probationary employees shall contribute four (4) percent of their base salary, exclusive of overtime and premium pay, through payroll deduction to the Authority to be applied to the Plan. (09/28/06)**

**E. Survivor Benefits**

1. **A surviving dependent who qualifies for a monthly retirement allowance shall be eligible for fifty (50) percent of the Retiree Medical Insurance Grant authorized for the retiree. (09/28/06)**

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 5.E.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. (09/28/06)**

**Section 6. 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." (09/28/06)*
- B. *All regular, limited-term, and probationary employees hired on or after January 1, 2007, will be required to contribute four (4) percent of base salary, exclusive of overtime and premium pay, to the Plan. Employees will not be permitted to contribute more than four (4) percent of base salary towards the Plan. (09/28/06)*
- 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. (09/28/06)*

**Section 7. 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 8. Optional Benefit Plan (OBP)**

- A. Each eligible employee shall be entitled to select benefits from those listed below at a cost to the Authority not to exceed the amounts shown in Sections 7.A.1. and 7.A.2. of this Article.
  - 1. For employees in the Fire Division Chief classification, the OBP amount shall be two thousand one hundred dollars (2100) each calendar year period.
  - 2. For employees in the Fire Battalion Chief classification, the OBP amount shall be one thousand nine hundred dollars (1900) each calendar year period.

Note: Fire Management Unit employees shall receive such additional or increased benefits that may be subsequently adopted under this Section for Administrative Management employees.

- B. 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. OBP options include the following two (2) benefits categories:
  - 1. Cash (taxable)
  - 2. Health/accident
    - a. Health programs (employee and/or dependents) such as smoking cessation; stress reduction; and physical, mental, and/or emotional

health-related counseling for individual and/or family not covered or partially covered through existing plans.

- b. Employee's share of Authority insurance premiums (employee and/or dependents). Also includes payment of accidental death and dismemberment coverage for employee and dependents available through the Authority.
  - c. Health care, vision, and/or dental (employee and/or dependents) excluded or partially excluded under the Authority's insurance plans. Examples of items covered under this provision include deductibles, eye care, lenses, and frames.
- C. 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.
- D. Eligibility— a regular, limited-term, or probationary employee is eligible to receive the OBP, provided he/she is continuously employed in a regular 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 a Fire Management Unit classification.
- E. Any portion of the optional benefit not incurred within the OBP period shall remain Authority funds.
- F. Claims shall be made on forms authorized by the Human Resources Director on which claimant declares the category of service received as defined in the OBP, the dates the expenses were incurred by the claimant or eligible dependents, by whom service was provided, and the amount being claimed. Claims shall be paid when submitted with a declaration under penalty of perjury signed by the claimant and approved. Only those claims that are accompanied by documentation that an eligible expense has been incurred during the OBP period shall be approved.

**Section 9. OCFACOA Supplemental Retiree Medical Plan**

- A. ***The Authority will deduct from all regular, limited term, part-time (at least twenty [20] hours per week), and probationary 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.  
(09/28/06)*

## 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, bed linens, and blankets.
- 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. Contribution Rates and Benefit Levels**

- A. For employees hired on or before September 20, 1979:
1. Such employees are provided a one-fiftieth (1/50) retirement benefit formula per Government Code Section 31664.0 for safety members.
  2. The retirement allowance shall be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
  3. Members' normal contribution rates shall continue to be established as provided by Government Code Section 31639.5 for safety members.
  4. The Authority shall adopt employee contribution rates equal to Authority contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
  5. As provided by Government Code Section 31581.1: The Authority shall pay toward the employee's total retirement contribution—as determined by Sections 1.A.3. and 1.A.4. of this Article—the statutory maximum allowable for safety members.
- B. For employees hired on or after September 21, 1979:
1. Safety members shall be provided a one-fiftieth (1/50) benefit formula per Section 31664.0 of the Government Code.
  2. The retirement allowance of safety members shall be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
  3. Members' normal contribution rates shall be as provided by Government Code Section 31639.25 for safety members.
  4. The Authority shall adopt employee contribution rates equal to Authority contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
  5. The Authority shall pay toward safety employees' total retirement contribution—as determined by Sections 1.B.3. and 1.B.4. of this Article—the statutory maximum allowable by Government Code Section 31581.1. Safety members shall receive the statutory maximum.

- C. Members' normal and cost-of-living contributions shall be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Board of Retirement and the Authority Board.
- D. The Authority shall continue to pay one hundred (100) percent of the Fire Management Unit members' remaining retirement contribution, pursuant to Government Code Section 31581.2.

**Section 2. Retirement Formula— 3% at 50**

- A. ***Effective June 28, 2002, the Authority shall implement the 3% at 50 retirement formula for current active employees for all years of service, as specified under California Government Code Section 31664.1. (05/23/02)***
- B. ***Effective January 2003 (Pay Period #4), the Authority shall deduct an amount equal to two (2) percent of the employee's base hourly rate for each hour in each pay period to reduce the cost to the Authority of implementing the 3% at 50 retirement formula. Effective January 2004 (Pay Period #4), the Authority shall increase the deduction to an amount equal to four (4) percent of the employee's base hourly rate for each hour in each pay period to reduce the cost to the Authority of implementing the 3% at 50 retirement formula. This deduction shall continue until January 2005 (which shall include Pay Period #2), at which time, it shall end. (05/23/02)***

**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.

## 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. Upon request, up to a maximum of two (2) times per calendar year, the Authority shall provide the Association 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, and hire date. The Association agrees to pay all reasonable costs necessary to provide such lists.

#### **Section 3. Use of Bulletin Boards**

- A. Space shall be made available to the Association on Authority bulletin boards within the Fire Management Unit, provided such use does not interfere with the needs of the Authority and material posted is not derogatory to the Authority, Authority employees, or other employee organizations. Notices shall be dated and signed by the authorized representatives of the Association responsible for their issuance.

#### **Section 4. 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 Memorandum of Understanding is declared invalid by any court of competent jurisdiction, such decision shall not invalidate the entire Memorandum of Understanding—it being the express understanding of the Board of Directors 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 Memorandum of Understanding are retained by the Authority, except those specifically abridged, delegated, or modified by this Memorandum of Understanding, provided that such management rights do not restrict employees from filing grievances concerning the application or interpretation of this Memorandum of Understanding.

**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**

**DEPENDENT CARE ASSISTANCE PROGRAM**

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.

**POSITION CLASSIFICATION**

**Section 1. The Establishment of New Classes**

- A. The Authority shall provide the Association an information copy of the new class specification for any proposed class relevant to the Fire Management Unit. The Authority agrees to meet and confer with the Association in an attempt to reach agreement on the salary range and probation period for any such proposed class before submitting the class to the Board for adoption.

**Section 2. Procedure for Requesting Reclassification of a Position**

A. Step 1:

An employee who believes his/her position is not properly classified may submit a written request to the Fire Chief that the Human Resources Director be requested to study the position.

B. Step 2:

If the matter is not resolved at Step 1, the employee may request that the Association request that the Human Resources Director conduct a study of the position.

**ARTICLE XXIII**

**TRANSFER OF FUNCTIONS**

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

## ARTICLE XXIV

### COMPENSATION

#### Section 1. Base Salary Adjustments

- A. Effective the second "full" pay period in January 2002 (Pay Period #4), each position covered by this Agreement shall receive a four (4) percent base salary increase.
- B. Effective the second "full" pay period in January 2003 (Pay Period #4), each position covered by this Agreement shall receive a four (4) percent base salary increase.
- C. Effective the second "full" pay period in January 2004 (Pay Period #4), each position covered by this Agreement shall receive a four (4) percent base salary increase.
- D. Effective the second "full" pay period in January 2005 (Pay Period #3), each position covered by this Agreement shall receive a four (4) percent base salary increase.
- E. Effective the second "full" pay period in January 2006 (Pay Period #3), each position covered by this Agreement shall receive a four (4) percent base salary increase.
- F. ***Effective the second "full" pay period in January 2007 (Pay Period #3), each position covered by this Agreement shall receive a four (4) percent base salary increase. (05/23/02)***
- G. ***Effective the second "full" pay period in January 2008 (Pay Period #3), each position covered by this Agreement shall receive a four (4) percent base salary increase. (05/23/02)***
- H. ***Effective the second "full" pay period in January 2009 (Pay Period #3), each position covered by this Agreement shall receive a three (3) percent base salary increase. (09/28/06)***
- I. ***Effective the second "full" pay period in January 2010 (Pay Period #3), each position covered by this Agreement shall receive a three (3) percent base salary increase. (09/28/06)***
- J. ***Effective the second "full" pay period in January 2011 (Pay Period #4), each position covered by this Agreement shall receive a three (3) percent base salary increase. (09/28/06)***
- K. ***Effective the second "full" pay period in January 2012 (Pay Period #4), each position covered by this Agreement shall receive a three (3) percent base salary increase. (09/28/06)***
- L. ***Effective the second "full" pay period in January 2013 (Pay Period #4), each position covered by this Agreement shall receive a three (3) percent base salary increase. (09/28/06)***

- M. ***Three (3) of the four (4) percent base salary increase set forth in Section 1.F. above shall be applied to either the Retiree Medical Insurance Grant described in Article XIII., Section 5., or the Defined Contribution Plan described in Article XIII, Section 6., during the term of the employee's employment with the Authority. (09/28/06)***

**Section 2. Range Adjustment**

- A. Effective the first "full" pay period in September 2002 (Pay Period #20), the salary range for the classification of Fire Battalion Chief shall be adjusted as follows:
1. The top of the salary range of Fire Battalion Chief shall be equal to and be maintained at approximately 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.
  2. Employees shall receive salary adjustments equal to the percentage of the range adjustment described in Section 2.A.1. of this Article. The salary adjustment shall be effective the pay period in which the range adjustment impacts the employee.
- B. Effective the first "full" pay period in September 2002 (Pay Period #20), the salary range for the classification of Fire Division Chief shall be adjusted as follows:
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 established in Section 2.B.1. of this Article. Adjustments to the range, when required, shall be made within the pay period that the range drops below the percentage stated in this provision.
  3. Employees shall receive salary adjustments equal to the percentage of the range adjustment described in Section 2.B.2. of this Article. The salary adjustment shall be effective the pay period in which the range adjustment impacts the employee.

**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 AM SOP 103.02.
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 more than one (1) type of bilingual pay concurrently.

**B. Educational Incentive Pay**

1. A regular, limited-term, or probationary employee who has satisfactorily completed the equivalent of sixty (60) college-level semester units shall receive educational incentive pay of two and five-tenths (2.5) percent of the employee's base salary per month, prorated on an hourly basis for all regular hours paid.
2. A regular, limited-term, or probationary employee who has obtained a Bachelor's degree shall receive educational incentive pay of an additional two and five-tenths (2.5) percent of the employee's base salary per month, prorated on an hourly basis for all regular hours paid.
3. A regular, limited-term, or probationary employee who has obtained a Master's degree, a National Fire Academy Executive Fire Officer Certification, or California State Fire Marshal Chief Officer Certification shall receive educational incentive pay of two and five-tenths (2.5) percent 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 five-tenths (7.5) percent 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 to a designated staff position shall receive staff assignment pay of seven and five-tenths (7.5) percent 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 five (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.

**ARTICLE XXV**

**REOPENER**

**Section 1. Reopener**

- A. Upon request of either party, negotiations shall be reopened to consider the following items:
  - 1. Should the Orange County Employees Retirement System make available the Retirement Benefit of "Three (3) percent at 50" or "Three (3) percent at 55," the parties shall discuss the viability of implementation.
  - 2. Should the Authority implement an alternative leave program for a majority of Authority employees, the Authority agrees to reopen negotiations with the Association for the sole purpose of considering alternative leave program as described herein.
  - 3. Upon request of the Authority, negotiations may be reopened during the term of this Agreement solely for the purpose of studying alternatives for retiree medical benefits provisions currently being provided by the Authority. If, however, the Authority provides alternative or increased retiree medical benefits to any other employee group, negotiations solely addressing the retiree medical benefit provisions shall be reopened at the request of the Association.
- B. Both parties agree that changes involving the references above are subject to mutual agreement and shall not be unilaterally implemented.

**ARTICLE XXVI**

**EFFECT OF AGREEMENT**

The parties agree that the agreements identified as “side letters,” which have been entered into prior to the effective date of this Agreement, are no longer in effect, except as provided in Appendix B.

*Signature page for original 2001-2006 MOU.*

**CONTRACT AMENDMENT SIGNATURES**

In accordance with Article XXV of this Memorandum of Understanding, the parties to this Agreement have initiated subsequent negotiations and agreed to amend the following areas of the Memorandum of Understanding:

- **MEMORANDUM OF UNDERSTANDING RELATING TO EMPLOYEES IN THE FIRE MANAGEMENT REPRESENTATION UNIT** (page 1 “cover page” extending the Agreement through December 11, 2008)
- **IMPLEMENTATION** (page 2)
- **TABLE OF CONTENTS**
- **ARTICLE XV, Section 2., Retirement Formula—3% at 50**
- **ARTICLE XXIV, Section 1., Base Salary Adjustments**

All terms and conditions set forth in the above amendments are hereby certified and agreed upon this \_\_\_\_ day of \_\_\_\_, 2002.

**The Orange County Fire Authority**

**The Orange County Fire Authority  
Chief Officers Association**

\_\_\_\_\_  
**Patrick Walker**  
Deputy Fire Chief

\_\_\_\_\_  
**David Wilson**  
OCFACOA Chief Negotiator

\_\_\_\_\_  
**Zenovy Jakymiw**  
Human Resources Director

\_\_\_\_\_  
**Michael Burnett**  
OCFACOA Alternate Negotiator

\_\_\_\_\_  
**Ellen Miller**  
Human Resources Analyst III

\_\_\_\_\_  
**Jorge Camargo**  
OCFACOA Representative

\_\_\_\_\_  
**Bruce Hunt**  
OCFACOA Representative

\_\_\_\_\_  
**Gregg Lusher**  
OCFACOA Representative

**CONTRACT AMENDMENT SIGNATURES**

In accordance with Article XXV of this Memorandum of Understanding, the parties to this Agreement have initiated subsequent negotiations and agreed to amend the following areas of the Memorandum of Understanding:

- **MEMORANDUM OF UNDERSTANDING RELATING TO EMPLOYEES IN THE FIRE MANAGEMENT REPRESENTATION UNIT** (page 1 “cover page” extending the Agreement through December 11, 2013)
- **IMPLEMENTATION** (page 2)
- **TABLE OF CONTENTS**
- **ARTICLE I, Section 4., Overtime**
- **ARTICLE II, Section 1., Compensation for Employees**
- **ARTICLE II, Section 3., Annual Merit Review Program**
- **ARTICLE II, Section 4., Salary on Promotion**
- **ARTICLE X, Section 2., Order of Layoff**
- **ARTICLE XIII, Section 1., CalPERS Health Care**
- **ARTICLE XIII, Section 2., Health Plan Enrollment**
- **ARTICLE XIII, Section 3., Other Insurance Coverage**
- **ARTICLE XIII, Section 5., Retiree Medical Insurance Grant ("Defined Benefit Plan")**
- **ARTICLE XIII, Section 6., Defined Contribution Plan for Retiree Medical Benefits**
- **ARTICLE XIII, Section 9., OCFACOA Supplemental Retiree Medical Plan Agreement**
- **ARTICLE XXIV, Section 1., Base Salary Adjustments**
- **APPENDIX B—Add to Appendix: Employee Work Schedule While Attending Training Agreement and OCFACOA Supplemental Retiree Medical Plan Agreement**

All terms and conditions set forth in the above amendments are hereby certified and agreed upon this \_\_\_\_ day of \_\_\_\_, 2006.

**The Orange County Fire Authority**

**The Orange County Fire Authority  
Chief Officers Association**

\_\_\_\_\_  
**Patrick Walker**  
**Deputy Fire Chief**

\_\_\_\_\_  
**Ron Blaul**  
**OCFACOA Chief Negotiator**

\_\_\_\_\_  
**Lori Zeller**  
**Assistant Chief – Business Services**

\_\_\_\_\_  
**Dave Phillips**  
**OCFACOA Representative**

\_\_\_\_\_  
**Zenovy Jakymiw**  
**Human Resources Director**

\_\_\_\_\_  
**Kris Concepcion**  
**OCFACOA Representative**

\_\_\_\_\_  
**Laurie Reinhart**  
**Senior Human Resources Analyst**

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**APPENDIX A**

**BARGAINING UNIT CLASSIFICATIONS**

Classes included in the Fire Management Unit as of December 14, 2001:

5805 Fire Battalion Chief  
5807 Fire Division Chief

## APPENDIX B

### SIDE AGREEMENTS

- *Employee Work Schedule While Attending Training Agreement (09/28/06)*
- *OCFACOA Supplemental Retiree Medical Plan Agreement (09/28/06)*
- Staff Fire Battalion Chief Assignments
- Transition of Employment Agreement