



MEMORANDUM OF UNDERSTANDING

**BETWEEN REPRESENTATIVES OF THE
ESCONDIDO FIREFIGHTERS' ASSOCIATION
- SAFETY PERSONNEL -
AND THE CITY OF ESCONDIDO**

JANUARY 1, 2010 – DECEMBER 31, 2011

Adopted by City Council on March 7, 2010

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ESCONDIDO FIREFIGHTERS' ASSOCIATION

CITY OF ESCONDIDO

MEMORANDUM OF UNDERSTANDING

January 1, 2010 - December 31, 2011

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "Memorandum"), made and entered into this 1st day of January, 2010, by and between the designated representative of the City of Escondido (a public agency as defined in Section 3501(c) of Chapter 10 of Division 4 of Title 1 of the Government Code of the State of California) (hereinafter referred to as the "City"), and the designated representative of the Escondido Firefighters' Association (a recognized employee organization as defined by Section 3501(b) of Chapter 10 of Division 4 of Title 1 of the Government Code of the State of California) (herein referred to as the "Association").

ARTICLE I

PREAMBLE

It is the purpose of this Memorandum to promote and provide for harmonious relations, cooperation and understanding between the City and the employees covered by this Memorandum. Except as specifically amended by this Memorandum, the City's Personnel Rules and Regulations remain in full force and effect.

ARTICLE II

RECOGNITION

The City recognizes the Association, pursuant to the Employer-Employee Relations Resolution adopted by the City of Escondido on March 19, 1980, and in accordance with the procedures therein was formally acknowledged as a recognized Employee Organization for the bargaining unit and comprised of the following classifications:

- Fire Captain
- Fire Engineer
- Firefighter
- Firefighter/Paramedic

ARTICLE III

TERM

This Memorandum constitutes a statement of the terms and conditions of employment, including salaries, benefits and hours of work commencing January 1, 2010 through and inclusive of December 31, 2011. Salary and benefit modifications are effective on the dates specified.

ARTICLE IV

MANAGEMENT RIGHTS

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees, take disciplinary action for just cause; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means, and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. The exercise of such rights shall not preclude employees or their representatives from consulting with management representatives about the practical consequences that decisions on these matters may have on wages, hours and other terms and conditions of employment.

ARTICLE V

EMPLOYEE RIGHTS

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, including but not limited to, wages, hours, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations. (See *Relyea v. Ventura Co. Fire* (1992) 2 Cal. App. 4 875). No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by any employee organization because of his/her exercise of these rights. No employee shall be prohibited from exercising his/her right to resign from City employment at any time and nothing in this memorandum shall be construed as to abrogate that right. In addition, employees of the City shall have the right to the redress of grievances and complaints as set forth herein.

ARTICLE VI

RATIFICATION PROCEDURE

This is the joint recommendation on salaries, benefits, and working conditions of the bargaining representatives of the City and the Association. When ratified by the members of the Association and approved by the Escondido City Council, this document shall be the Memorandum between the City and the Association for the term set forth herein.

ARTICLE VII
GRIEVANCE PROCEDURES

1. Grievance Procedure:

In the belief that the resolution of grievances is a constructive management action, a grievance procedure is hereby established. Such a procedure will give regular employees assurance that the City recognizes their right to be heard and assist them in achieving job satisfaction. The purpose of this procedure is to provide a just and equitable method for the resolution of grievances or complaints without prejudice, coercion or reprisal.

2. Definitions:

- A. A complaint is defined as an allegation or charge against a party that an error or wrong has been committed, and is identified as a complaint when communicated to the supervisor or other appropriate designated representative.
- B. The complaint procedure is defined as the orderly process by which a determination is made as to whether or not a wrong has been committed.
- C. A grievance is an expressed claim by an employee that the City has violated, misinterpreted or misapplied an obligation to the employee as such obligation to the employee is expressed and written in the City personnel ordinance, rules and regulations, and administrative directives, and is identified as a grievance when communicated to the supervisor or other appropriate designated representative.
- D. The grievance procedure is a process by which the validity of a grievance is determined.
- E. The term employee includes employees wherever applicable within this procedure.

- F. The term days when used in this procedure, shall mean calendar days.
- G. A representative is a person who, at the request of the employee or management, is invited to participate in grievance conferences.
- H. A general grievance is defined as an expressed written claim by the Association that the City has violated, misinterpreted, or misapplied a provision in the current Memorandum of Understanding which concerns items or procedures relating to the relationship between the City and the Association as a corporate body.
- I. The general grievance procedure is the process by which the validity of the grievance is determined.

3. General Provisions:

- A. No retribution or prejudice shall be suffered by employees making use of the grievance or complaint procedures, provided, however, no act or behavior which would otherwise subject an employee to discipline shall exclude the employee from discipline simply on the basis that a complaint or grievance is filed pertaining to that act or behavior.
- B. The time limits established herein may be extended to a date certain by mutual agreement.
- C. If management, at any step of the procedure, fails to respond within the prescribed time limit specified, the employee may process their grievance or complaint at the next step.
- D. If the employee, at any step of the procedure, fails to appeal the decision on a grievance or complaint within the prescribed time limit specified, such decision shall be deemed accepted and shall not be subject to further appeal or consideration.

- E. By mutual written agreement, a grievance may revert to a prior level for reconsideration.
- F. The employee shall be present at all steps of the grievance or complaint procedure.
- G. All communications, notices and papers required to be in writing shall be served personally or by United States Postal Service.
- H. Through the grievance process, employees shall be required to meet for informational/investigative meetings that are necessitated by a potential grievance; such meetings will be conducted by a management representative appointed by a Chief Officer.

Subsequent to information gathering and fact-finding in a grievance process, employees will not be required to meet with a management representative regarding the specific grievance issue unless that management representative has full authority to resolve the grievance.

- I. The employee is assured the right to consult with their supervisor, the department head or their designee, or the Human Resources Director, without prejudice, concerning the matter, form, and/or procedure for filing a grievance.

4. Representation Rights:

- A. The employee has the right to the assistance of a representative of their choice in the investigation, preparation and presentation of a grievance.
 - 1. Representation may occur at any stage of the grievance procedure; provided, however, that prior to calling for representation at step one of the procedure the employee shall discuss their grievance with the supervisor. Upon conclusion of the discussion, the employee may request a continuation of the informal

grievance process (step one), to a mutually agreeable time within five (5) days, to have the assistance of a representative.

2. If the employee elects another employee as the representative, such representative shall not be released during working hours without the approval of their supervisor.
 3. The supervisor shall grant a reasonable amount of time off, provided such would not unreasonably interfere with or delay City work.
- B. Grievance conferences (between management and the employee) will normally be conducted during regular working hours at a mutually convenient time.
- C. The investigation of a grievance during working hours by employee and their representative, if any, shall be in accordance with the following:
1. Prior to entering any job site, the representative shall obtain the approval of the job site supervisor.
 2. There shall be no solicitation of grievances or employee organization membership.
 3. The investigation shall be conducted in a reasonable amount of time and expeditiously with due regard for the work requirements of the City.
 4. Where the investigation commences prior to the end of the regular workday and continues beyond the close of the regular workday, time spent after the close of the regular workday shall be the employee(s) own time.
 5. Entry will not be permitted if it would unreasonably interfere with or delay City work.

6. All safety regulations relating to the presence or conduct of persons at the job site shall be complied with.
 - D. The name of the representative of the employee or management shall be given to the other party not less than forty-eight (48) hours prior to any grievance conference.
5. Complaint Procedure:

Step One:

- A. The employee shall inform their supervisor of their complaint within ten (10) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the complaint. Failure to complete this procedure will bar further consideration of the complaint.
- B. The supervisor shall, within five (5) days after receipt of the complaint, have a discussion with the employee concerning the complaint.
- C. The supervisor shall, within five (5) days of the discussion, render a verbal decision to the employee.
- D. The City, as well as the employee, has the right to process a grievance or complaint to the next step in the grievance procedure.

Step Two:

- A. Within five (5) days from receipt of the verbal decision from the supervisor, the employee, if he/she wishes to appeal the decision, shall notify the department head of their intent to appeal the decision. Failure to complete this procedure will bar further consideration of the complaint.

- B. The department head or their designated representative shall, within five (5) days of the notification as required above, have a discussion with the employee concerning the complaint.
- C. The department head or their designated representative shall, within five (5) days of the discussion, render a verbal decision to the employee.

Step Three:

- A. Within five (5) days from the receipt of the verbal decision from the department head, the employee, if they wish to appeal the decision, shall notify the City Manager of their intent to appeal the decision. Failure to complete this procedure will bar further consideration of the complaint.
- B. The City Manager or his/her designated representative shall, within five (5) days of notification as required above, have a discussion with the employee concerning the complaint.
- C. The City Manager or his/her designated representative shall, within five (5) days of the discussion render a verbal decision to the employee.

Nothing in this section shall prohibit more expeditious handling of the complaint.

6. Grievance Procedure:

Step One - Informal Grievance:

- A. The employee shall inform their supervisor of their grievance within ten (10) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. Failure to complete this procedure will bar further consideration of the grievance.

- B. The supervisor shall, within five (5) days after receipt of the grievance, have a discussion with the employee concerning the grievance.
- C. The supervisor shall, within five (5) days of the discussion, render a verbal decision to the employee.
- D. The City, as well as the employee, has the right to process a grievance or complaint to the next step in the grievance procedure.

Step Two - Formal Grievance:

- A. Within ten (10) days from the receipt of the verbal decision from the supervisor, the employee, if they wish to appeal the decision shall submit a formal written grievance to their supervisor. The grievance shall be submitted on forms provided by the City's Personnel Office and in conformance with the procedure stated thereon. Failure to complete this procedure will bar further consideration of the grievance.
- B. The supervisor shall, within five (5) days of receipt of the grievance, schedule a grievance conference at a mutually agreed time. A representative of the employee and/or management may attend this conference in accordance with Article 7.4 of this procedure.
- C. The supervisor shall, within five (5) days of the grievance conference, render a written decision to the employee with a copy of the original grievance.
- D. The City, as well as the employee, has the right to process a grievance or complaint to the next step in the grievance procedure.

Step Three - Appeal:

- A. Within five (5) days of receipt of the written decision of the supervisor, the employee, if they wish to appeal the decision, shall submit an appeal to the department head. The appeal shall be submitted on forms provided by the City's Personnel Office and in conformance with the procedures stated thereon, and include the supervisor's response, if any. Failure to complete this procedure will bar further consideration of the grievance.
- B. The department head or their designee shall, within five (5) days of the receipt of the appeal, schedule a grievance conference at a mutually agreeable time. A representative of the employee and/or management may attend this conference in accordance with Article 7.4 of this procedure.
- C. The department head and/or their designee shall, within five (5) days of the grievance conference, render a written decision to the employee with a copy of the appeals documents.

Step Four - Administrative Appeal:

- A. Within five (5) days from receipt of the written decision from the department head or their designee, the employee, if they wish to appeal the decision, shall submit an appeal to the City Manager. The appeal shall be submitted on forms provided by the City's Personnel Office and in conformance with the procedures stated thereon and include the original grievance and management's responses, if any. Failure to complete this procedure will bar further consideration of the grievance.
- B. The City Manager or his/her designee shall, within seven (7) days of receipt of the appeal, schedule a grievance conference at a mutually agreeable time. A

representative of the employee and/or management may attend this conference in accordance with Article 7.4 of this procedure.

- C. The City Manager or his/her designee shall, within seven (7) days of the grievance conference, render a written decision to the employee with a copy of all appeal documents.
- D. The City Manager may, at his/her option, render a written decision based on the documents submitted for their review without the grievance conference within the time frame set forth above. If they do so, the employer may discuss this decision with the City Manager at a mutually convenient time, provided they request such meeting within seven (7) days of receipt of the City Manager's decision.
- E. The decision of the City Manager shall be final, except where the grievance has resulted from a disciplinary action, in which case the employee may appeal their case to the Personnel Board of Review as set forth by the rules and regulations regarding discipline.

Nothing in this section shall prohibit more expeditious handling of the grievance.

7. General Grievances:

- A. In order to provide an effective mechanism whereby disagreements between the Association and the City concerning items or procedures relating to the relationship between the City and the Association may be effectively resolved, the following general grievance procedure is hereby established.
 - 1. Where the Association has reason to believe that management is not correctly interpreting or applying a relevant provision of the current Memorandum of Understanding, the Association may file a general grievance by requesting in

writing that a meeting be held with the authorized representatives of the City who have authority to make effective recommendations for the resolution of the matter. Such written request shall set forth in detail the facts giving rise to the general grievance and shall set forth the proposed resolution sought. Within fifteen (15) days of receipt of the general grievance, the City will schedule a meeting at a mutually agreeable time for the purpose of discussing and attempting to resolve the disagreements.

2. Within fifteen (15) days of this meeting, management will submit its decision in writing to the Association.
3. If the Association is not satisfied with the decision, they may submit a request for hearing before the City Council. Such request for hearing must be submitted within fifteen (15) days of receipt of management's decision and shall include in detail the facts giving rise to the general grievance and all supporting documentation necessary for City Council consideration.
4. Management shall calendar on the City Council agenda such request and supporting documentation within thirty (30) days.
5. It shall be the option of the City Council to:
 - Refuse to hear the appeal, or make a decision on the documentation submitted; or,
 - Hold a hearing after which they shall make a decision.
6. The decision of the City Council shall be final.

8. Grievance Documents:

- A. No documents relating to the grievance process shall be filed in the employee's personnel file. However, this shall not apply to any document setting forth a disciplinary action which is not challenged or is sustained after an appeal.

ARTICLE VIII

SAFETY EQUIPMENT

In addition to the uniform allowance provided herein, the City agrees to provide all safety equipment required by the City.

ARTICLE IX

WAGES AND CLASSIFICATIONS

1. Effective with this agreement, all pay changes affecting Association members will take place at the beginning of the pay period in which the pay change occurs.
2. Salary increases shall be calculated by multiplying Step 7 of the current 56-hour straight-time monthly salary table for each position by the percentage factor. To calculate each lower Step in a salary range, the higher Step shall be divided by 1.05. The hourly rate and the 56 hour with 3 hours of overtime shall be calculated based upon the above mentioned calculations.

Effective January 1, 2009, no step increases shall be implemented where eligibility for the increase occurred on or after January 1, 2009.

The salary range for all represented classifications shall be increased by six percent (6%), effective the pay period beginning March 7, 2010, which is concurrent with the

employee payment of the entire nine percent (9%) normal member contribution required to be paid by a PERS member on a pre-tax basis.

During the term of the MOU, the City Manager may, in his/her sole discretion, activate all or part of Article IX, Section 2, step increases that have been suspended. The discretionary exercise of any such decision shall be prospective only from and after the date that such discretionary determination is rendered. Any such discretionary decision, whether or not resulting in activations of all or part of Article IX step increases that have been suspended, shall not be subject to administrative or civil challenge. Date of eligibility for any step increase provided for by discretionary City Manager determination, shall be based upon the affected officer(s) anniversary date(s).

3. Salary Schedule:

The salary schedule effective for the term of this agreement is depicted on "Exhibit A."

4. Out-of-Class Pay

A. A shift employee shall receive pay at five percent (5%) above their regular rate or Step 1 of the out-of-class position, whichever is greater commencing on any shift worked out-of-class; provided, however, that at least a minimum of twelve (12) hours of the shift must be worked out-of-class. Out-of-class time worked less than twelve (12) hours in any shift shall not be compensated but may be recorded as evidence for the purpose of consideration in promotions.

B. A forty (40) hour per week employee: All forty (40) hour per week personnel shall receive out-of-class compensation when working in a job class assignment higher than the current appointed class for a period in excess of fifteen (15) consecutive working days. An employee shall receive pay at five percent (5%) above the regular

rate of pay or Step 1 of the out-of-class position, whichever is greater, commencing on the sixteenth consecutive working day worked out-of-class and for a period not to exceed six months at any one time.

5. The City agrees to pay a cash stipend of Four Hundred and Fifty Dollars (\$450.00) for each year of continuing Paramedic Certification. Such stipend shall be paid on the first pay period following the employee's Certification anniversary each year.

Paramedic certification pay shall cease at the time of termination of employment with the City of Escondido.

6. In the event an employee is promoted to a higher pay classification, their pay in the new class will be a minimum of five percent (5%) above their current pay; that is they will be placed at a regular pay step in the new class which is a minimum of five percent (5%) above their current pay. For the purpose of merit increases, the appropriate time in grade shall be the regular time in grade for the new pay step, which is six (6) months for Steps 1 and 2, and one (1) year for Step 3 through 6.

7. Mentor/Preceptor Pay:

Mentors and/or preceptors in the paramedic program shall be granted One Thousand Dollars (\$1,000.00) for each trainee assigned to the individual as approved and/or required by the City, paid upon completion of the training assignment.

8. Bilingual Pay:

Effective January 1, 2005, the City agrees to pay Two Hundred Dollars (\$200.00) per month for verbal bilingual skills. An additional Seventy Five Dollars (\$75.00) per month shall be paid for written bilingual skills. The City reserves the right to establish eligible languages based upon a demonstrated need within the community and the criteria for

eligibility for the skill pay and shall verify through testing procedures developed by the City, that employees are qualified and eligible. Absent approval by the Fire Chief, there shall be no certification testing on or after January 1, 2009.

9. Longevity Compensation:

In an effort to retain employees that are trained and qualified within the Escondido Fire Department, the following longevity compensation schedule will be implemented:

Five years service:

Employees achieving their fifth anniversary of total service with the City of Escondido Fire Department will receive a stipend of \$1,000 payable on the first pay period beginning after their service anniversary. Such stipend will be paid annually after achieving the anniversary, and will be paid only to employees achieving an overall satisfactory performance rating in the previous evaluation period.

Additionally, the stipend will be considered as part of total compensation comparison with other fire agencies.

Ten years service:

Employees achieving their tenth anniversary of total service with the Escondido Fire Department will be placed on the seven-step salary schedule and will be advanced to the next step on their salary schedule. They will continue progressing within the salary range according to the Personnel Rules for salary progression.

Effective the first payroll period commencing on or after January 1, 2009, unit members not receiving longevity compensation prior to January 1, 2009, shall not receive longevity compensation for which the individual would otherwise become eligible on or after January 1, 2009 and which would have been provided pursuant to this MOU section. Such new payments are therefore “suspended.” However, unit members who are receiving longevity compensation as set forth in this MOU section

during the payroll period immediately preceding the first payroll period commencing on or after January 1, 2009, shall continue to receive the then-existing amount of longevity compensation which is being received by the individual unit member, but shall receive no future increases to which the unit member may otherwise become eligible.

A. Salary Calculation Language for Comparability Purposes:

In order to establish a method by which a reasonable salary comparison can be made with regional agencies and considering that Escondido Firefighters have the opportunity to achieve Step 7 after 10 years of service, the City and Bargaining Unit agree to the following:

A weighted salary comparison figure will be derived by:

- Calculating the number of positions by rank at Step 6 or below
- Calculating the number of positions by rank at Step 7
- Applying the percentage ratio of positions at each level to the current hourly rates for Step 6 and Step 7
- Combining the Step 6 and 7 ratios to create a total weighted hourly rate
- All comparisons will be within individual ranks, thus a “blended salary rate” will be created for comparison purposes within each rank

10. Tactical Operations Unit (TOU) Assignments:

[NOTE: If and when the Police Department TOU is no longer operational, the following assignments/compensation, shall concurrently end.]

Firefighter personnel assigned to the Police Department Tactical Operations Unit and performing in a satisfactory manner in the assignment shall be compensated as follows:

- A. TOU Pay: Effective January 1, 2005: \$50.00 per month
- B. TOU Training Assignments During Off-Duty Time: Compensation at time and one half pay up to twenty (20) hours per quarter
- C. Additional Uniform Requirements: An additional \$100.00 per year

Should changes occur to the Tactical Operations Unit by determination of the Police Chief or Fire Chief such that Fire Department personnel are no longer assigned to Tactical Operations duty, TOU Pay, Uniform Allowance and Training Pay will be eliminated.

ARTICLE X

HOURS AND OVERTIME

1. Shift Schedules:

- A. In accord with the United States Department of Labor Regulations relative to the Federal Fair Labor Standards Act (FLSA), the City declares that its safety fire service employees are qualified and shall be compensated pursuant to a 7(k) exemption and further the work period is designated as follows:
 - 1. The "work period" shall be twenty-four (24) days in length, beginning at 0800 hours, April 15, 1985; and
 - 2. The "work schedule" is to be based on a fifty-six (56) hour average workweek.
- B. Premium pay, one and one-half (1 1/2) times the normal rate of pay, shall be paid for all hours in excess of the FLSA guidelines in each work period. (The FLSA guidelines permit 182 hours per 24 day work period to be paid at the regular rate of pay.) Therefore, each employee will accrue six (6) hours of premium pay in each pay

period. Compensation, including overtime, shall be averaged on a per pay period basis.

- C. It is agreed that the fifty-six (56) hour average workweek shall not be affected by time off (i.e., sick leave, vacation, disciplinary action, workers' compensation leave, or any other time not actually worked) in calculating premium, overtime, pay for regular hours or for constant manning hours.

2. Uniformed Personnel Work Week:

With written approval of the Chief, an alternate work schedule may be adopted in Fire Prevention where there is mutual agreement between the employees and their supervisor(s) in instances where an alternate work schedule may meet City service level needs. Said alternate work schedule may change periodically based upon City service demands and the periodic reevaluation by the Chief, which may be at the request of the employees and/or their supervisor(s).

3. Constant Staffing:

Constant staffing refers to a system of maintaining a fixed number of personnel on duty at all times which requires calling in off-duty employees to fill any vacancies.

Staffing and decisions regarding hiring and promotions remain the sole responsibility of the City. Opportunities for overtime assignment through the Constant Staffing Plan will remain for employees.

4. Other Overtime Provisions:

- A. All emergency callback overtime of an unscheduled nature will be compensated at the rate of time and one-half based on the hourly rate of pay for the position with two

(2) hour minimum. Overtime in excess of two (2) hours shall be computed to the nearest one-half (1/2) hour.

- B. All extended shift overtime will be compensated at the rate of time and one-half based on the hourly rate of pay for the position at a minimum of one-half (1/2) hour. Overtime in excess of one-half (1/2) hour shall be computed to the nearest one-half (1/2) hour.
- C. At the employee's option, overtime earned may be compensated by time off at the rate of time and one-half the hours worked.

The use of Compensatory Time for time off is subject to the same limitations as non-annual vacation, i.e. non-mandatory filling and shall not be taken in increments of less than 8 hours.

Employees filling/working a position created by the use of compensatory time off must take pay for that work period and shall not place the hours into the compensatory time bank.

The Compensatory Time balance shall not exceed 80 hours; when the maximum accrual balance is reached, cash payment for overtime will be automatic.

The entire Compensatory Time balance will be paid off in the last pay date in April each year. Employees with over twenty-five years of service with the City of Escondido Fire Department are not required to receive pay off of accrued Compensatory time.

5. Cellular Phone Callback Program:

- A. The Cellular Phone Callback Program establishes a procedure for recalling off-duty personnel back to quarters. When directed by the Fire Chief to implement the

procedure, Association members participating in the Callback Program will be compensated \$20.00 per shift. Any callback to duty will result in time and one-half overtime compensation.

1. Qualified Fire Captains may be eligible for call back as the Duty Investigator when vacation relief is required for a Duty Investigator. Qualification shall be as determined by the Fire Department administration.
 2. Association members responding as participants in this callback procedure will be eligible for two (2) hour minimum callback.
- B. The City agrees to waive the Association's responsibility for maintaining an off-duty/available personnel list.
- C. The City reserves the right to utilize the Cellular Phone Callback Program on an as needed basis.
- D. There will be a standby policy, using cellular phones, to callback personnel for the purpose of investigating fires, coordinating hazardous materials incidents, issuing citations, mitigating overcrowding conditions, or other job-related activities.

Standby compensation when assigned as the duty investigator will be compensated at \$175 per week with \$25 additionally paid for a City holiday that occurs during the standby period.

ARTICLE XI

EMPLOYEE BENEFIT PROGRAMS

1. California Public Employees' Retirement Program: All regular and probationary safety employees are covered by the State of California Public Employees' Retirement System

(Cal PERS) program pursuant to an existing contract with Cal PERS. Under this plan the employee's rate of contribution is nine percent (9%) of gross pay.

Effective the pay period beginning March 7, 2010, the employee's payment of the normal member contribution required to be paid by a PERS member, shall be in the amount of nine percent (9%) of gross pay, which is one hundred percent (100%) of the normal member contribution, to be paid on a pre-tax basis. The City will no longer pay or report the value of the Employer Paid Member Contributions.

Cal PERS Benefits include:

- A. The three percent (3%) at 50 Retirement Benefit; California Public Employees Retirement Law, Section 21362.2.
- B. The City shall provide the One-Year Highest compensation Cal PERS benefit (Cal PERS Section 20024.2).
- C. Cal PERS credit for unused sick leave (Cal PERS Section 20862.8). Unused accumulated sick leave at the time of retirement may be converted to additional service credit at the rate of 0.004 year of service credit for each day of unused sick leave. For suppression personnel, 11.2 hours of sick leave is equal to one day (i.e., hrs. of unused sick leave \div 11.2 \times 0.004 = additional service credit years for suppression personnel). For 40-hour personnel, 8.0 hours of sick leave is equal to one day.
- D. The City shall provide the Option 2 Death Benefit (Cal PERS Section 21365.6).
- E. The City shall provide the Military Service Credit as Public Service benefit (Cal PERS Section 21024).

- F. The City will adopt sections of the Cal PERS regulations that are not currently covered within the existing Memorandum of Understanding allowing employees to purchase additional Cal PERS coverage at their own expense for both employee and employer costs related to their retirement accounts.

The City shall jointly participate in the City's Pension Review Ad Hoc Task Force, one purpose of which, among others, shall be to address a second tier retirement formula and possible modifications to the method of calculating retirement benefits for those future employees subject to a second tier retirement formula. The Task Force shall consist of representatives from each bargaining unit and from the City, and shall be constituted and commence meetings in March 2010.

2. Health Insurance Benefits:

- A. It is agreed that during the term of this Memorandum, the Association and the City agree to delegate to the Health Insurance Committee (HIC), the authority to manage the City's Health Benefits Program (CHBP). However, the decision of the City Council may overrule any decision and shall not be bound by any recommendation of the HIC.
- B. HMO Health Insurance Indemnity Plans, and Health Benefit Plans shall be subject to substitution in accord with review procedures adopted by the HIC.
- C. Membership on the HIC, as set forth in Rule 19 of the Personnel Rules and Regulations, shall be as follows:

Each bargaining unit with at least twenty-five (25) or more eligible employees shall have one representative on the committee. The City's unclassified group shall provide a number of representatives equal to the total number of representatives provided by all bargaining units.

D. Healthcare Premiums and Employee Participation:

1. Medical coverage provided by the City will continue to be the lowest cost medical plan as recommended by the Health Insurance Committee (HIC) and approved by the City Council; and

For the contract year 2010, effective January 1, 2010, employee participation in medical coverage shall be:

Employee Only	\$13.38 per month
Employee + One	\$26.74 per month
Family Coverage	\$40.12 per month

Employees choosing a more costly level of medical coverage, will participate at the above rates, and also pay the differential cost for the more expensive premium level.

For the remaining term of the agreement, employee participation toward medical premium coverage is as follows:

The proportional percentage change in premium each year for the base level of coverage (e.g. Kaiser) after changes in Plan Design by the HIC shall be represented in employee premium participation.

For example, a 5% change in premium for the **2011 contract** year would result in employee participation as follows:

Employee Only	\$14.05 per month
Employee + One	\$28.08 per month
Family Coverage	\$42.13 per month

2. In the event that a majority of the Health Insurance Committee (HIC) recommends to the City Council changes in the Health Benefit Plans that either provide the same level of benefit coverage for less cost or greater

level of benefit coverage for the same or similar costs, the City will meet and confer with the Association as to implementation of the economic impact of the proposed changes.

Any changes to plan content will only take place upon mutual consent of the Association and the City.

- E. The City and the Association agree to a plan to generate cost savings for health insurance premiums in cases where employees are eligible for coverage under an alternate health insurance plan. Employees may waive a level of insurance coverage for themselves and/or their eligible dependents if they are covered under an alternate health insurance plan. If an employee waives insurance coverage at any level, savings result. To recognize the savings, the City and bargaining unit agree to rebate to the employee the amount of \$75.00 per month.

Proof of alternate health coverage is required by completing the enrollment/waiver form. Employees will be allowed to enroll during open enrollment or other times during the year as allowed by state/federal law.

Employees who are married or in a state-registered domestic partner relationship with another City employee will receive one (1) \$75.00 rebate and may decide which spouse/domestic partner will receive the rebate. If the spouse/domestic partner is a non-sworn police employee and receives \$600.00 flex dollars, neither the employee nor their spouse/domestic partner is eligible for the \$75.00 rebate.

Employees will make contributions to health insurance coverage based on the insurance carrier selected.

F.

- 3. 401K Plan: The City agrees to provide the availability of a 401(k) plan to Association membership. Effective January 1, 2009, the plan shall be funded by employee contributions only.

4. Life Insurance: The City shall provide for the benefit of each employee, life and accidental death and dismemberment insurance in the minimum amount of Fifty Thousand Dollars (\$50,000).

Employees may opt to purchase, at employee's expense, supplemental group term life insurance benefits through payroll deduction in accordance with the group voluntary insurance carrier guidelines.

5. Dental Plan: Effective March 1, 1993, the City agrees to pay premiums for employee-only dental coverage for enrollment in the City's dental plan, such premiums will continue to be paid by the City throughout the term of this agreement. Employees may opt to purchase dependent dental insurance coverage in the City's plan through payroll deduction.
6. Domestic Partner Benefits: Consistent with Federal and/or State Law, the City will provide Domestic Partner benefits effective January 1, 2005.
7. Safety Glass Policy: The City and the Association agree to the implementation of policy language regarding safety glasses for employees requiring corrective eye protection.
8. Workers' Compensation: The City will comply with **The California Workers' Compensation Rules and Regulations**.

The City and the Association agree to develop a side letter to the MOU that describes the Association's role in the City's implementation of **the California Workers' Compensation Rules and Regulations** (attached as Exhibit "B")

ARTICLE XII

VACATIONS

1. Annual Vacation Leave: All probationary, regular part-time, and regular employees in the service shall be entitled to annual full or prorated vacation leave with pay except part-time, temporary and temporary seasonal employees in accordance with the part-time compensation plan.

2. Earned Vacation Fire Shift Personnel: Each eligible employee shall accumulate annual vacation prorated from the date of hire at the rate set forth as follows:

The first 5 years of service inclusive	=	4.62 hours a pay period for 26 pay periods. (5.00 shifts)
6-10 years of service inclusive	=	6.46 hours a pay period for 26 pay periods. (7.00 shifts)
11-15 years of service inclusive	=	8.31 hours a pay period for 26 pay periods. (9.00 shifts)
16-20 years of service inclusive	=	10.15 hours a pay period for 26 pay periods. (11.00 shifts)
The beginning of the 21st year & over	=	12.00 hours a pay period for 26 pay periods (13.00 shifts)

3. Earned Vacation - 40 Hour Personnel: Each eligible employee shall accumulate annual vacation from the date of hire at the rate set forth as follows:

The first 5 years of service inclusive	=	3.69 hours a pay period for 26 pay periods.
6-10 years of service inclusive	=	5.23 hours a pay period for 26 pay periods.
11-15 years of service inclusive	=	6.77 hours a pay period for 26 pay periods.

16-20 years of service inclusive = 8.31 hours a pay period for 26 pay periods.

The beginning of the 21st year & over = 9.85 hours a pay period for 26 pay periods.

4. Vacation Periods: Probationary employees may use vacation hours that have been accrued and reflected on their pay statements with approval from their supervisor. Vacation may never be used in units of less than four (4) hours for suppression (56 hour) personnel or one (1) hour for forty hour personnel.
 - A. The times during an accrual year at which an employee may take their vacation shall be determined by the Department Head, with due regard for the wishes of the employee and particular regard for the needs of the personnel system. If the requirements are such that an employee cannot take all of their accrued vacation within an accrual year, the balance may be carried forward to the next year. However, no Fire Service Safety Employee may at any time accumulate more than thirty (30) months vacation credit. Sick leave conversion hours shall be included in this balance for the purposes of reaching the maximum accumulation. Vacation credit shall be forfeited if not taken within a thirty (30) month period. For the purposes of this paragraph, accrual year shall commence on the entrance-on-duty anniversary date.
 - B. No legal holiday that falls during the 40-hour employee's vacation may be charged against the employee as vacation, and the leave shall be extended accordingly.
 - C. Employees who terminate shall be paid in a lump sum for all allowable accrued vacation leave earned prior to the effective date of termination.

- D. Allowable, accrued terminal vacation pay shall be computed on a prorated basis, taking into account the number of hours worked in the last pay period of employment.
- E. Vacation Buy-Back: Towards a goal of reducing overtime costs, employees have the option to sell the equivalent of one-year's earned vacation accrual back to the City during the month of April each year at straight-time value. Payment will be made on the last paycheck in April. The employee shall retain a minimum of one-half year's vacation accrual on the books at the time of the sale.

ARTICLE XIII

SICK LEAVE

1. Sick Leave - Personal Use: Sick leave with pay shall be granted to all probationary, regular part-time, and regular employees within the personnel system. Sick leave shall not be considered as a right which an employee may use at their discretion, but shall be allowed only in case of necessity and actual personal sickness or disability.

In order to receive compensation while absent on sick leave, the employee shall notify their immediate superior or the designated Fire Department point of contact prior to the time set for beginning their daily duties, or as may be specified by the Fire Chief.

In the event that an employee has applied for sick leave use for two (2) or more consecutive scheduled shifts, the City may require a physician's certification validating an employee's time away from work and/or any limitations. The Fire Chief may, however, require such certification or evidence the City deems necessary regarding sick leave use at any time.

"Evidence" as used in the prior sentence includes, but is not limited to:

- A. A prognosis from the treating physician as to the expected convalescent period, if any;
 - B. Specific physical restrictions, if any, which bear on the employee's ability to perform his/her usual and customary duties or modified work assignments;
 - C. A second opinion on the employee's condition from a physician or physicians of the City's choice (and at City expense) based on independent medical evaluation(s) and/or review of the employee's physician's report.
2. Sick Leave - Accrual Rate: Sick leave shall be earned prorated from the date of hire at a proportionate accrual rate for each calendar month of service and is earned also while on sick leave. This accrual rate is based on the proportion that the typical firefighter's workweek bears to the standard 40-hour workweek. Unused sick leave shall be accumulated indefinitely. Sick leave accrual rates shall be as follows:
- Fire Suppression Personnel:
- 5.54 hours per pay period for 26 pay periods (6.00 shifts)
- 40 Hour Personnel:
- 3.69 hours per pay period for 26 pay periods
3. Family Assistance and Bereavement Leave: All of an employee's annual accrual of sick leave may be taken each calendar year when an employee's presence is required elsewhere due to sickness and/or bereavement for members of the employee's immediate family or individuals whose relationship to the employee is that of a dependent or near dependent, member of the immediate household, or a person who is significant to the employee. Exceptions to exceed the above specified maximum time are subject to consideration by the City Manager on a case-by-case basis. In no event

shall an employee be granted sick leave time to oversee children who are not ill (baby-sitting).

4. Workers' Compensation: After a period of one (1) year of disability for safety employees, and pursuant to California Labor Code, the Payroll Section shall follow the same procedure used for miscellaneous employees.
5. Sick Leave - Termination: Employees who terminate for any reason, including retirement, shall not receive cash payment for accrued sick leave. All eligibility for sick leave with pay shall be cancelled upon separation of the employee from the City service, provided that if such separation is by layoff, this accumulated eligibility may be restored to the employee in whole or in part by the City Manager upon reemployment.
6. Sick Leave - During Authorized Vacation: Employees who are on authorized vacation and become ill, or otherwise disabled through accident, not as a result of vicious habits or intemperance, may charge such sickness or disablement to credited sick leave, provided a doctor's certificate is presented to the Human Resources Director, indicating the total number of days to be so charged.
7. Sick Leave Conversion: Sick leave accrual may be convertible on the basis that any unused sick leave in any given year may be converted to vacation on a ratio of two (2) sick hours for one (1) vacation hour. Vacation converted from sick leave shall be subject to the same maximum accrual limitations as regular vacation accrual.

ARTICLE XIV

MILITARY LEAVE

1. Military/FMLA Leave: Military/FMLA leave shall be granted in accordance with the provisions of State or Federal law. All employees entitled to Military/FMLA Leave

shall give the City Manager an opportunity within the limits of Military Regulations to determine when such leave shall be taken.

2. Compensation: Every employee ordered to take military leave who would have been required to work for and be paid by the City at the same time military leave is ordered shall receive their salary or compensation as an employee of the City in accordance with the provisions of State or Federal law.

Upon verification of military orders, employees who are members of the military reserve or National Guard who have been called to active duty during national security, after the standard Military Leave Policy, shall receive the difference between the amount the employee would have received from their regular City gross biweekly wage (not including overtime) and the amount the employee receives from the military. Health benefits will be continued for the employee and family. An employee would continue to pay their respective portion of the benefit programs (including any premiums for family coverage,) unless benefits are waived.

ARTICLE XV

ASSOCIATION TIME BANK

1. Association Time Bank: The City recognizes the challenge of the shift work schedule as it impacts the Association's ability to undertake Association business. Fire Department procedures for the function of the Association Time Bank are shown on Exhibit "C." The Association and the City agree that the time bank will create no financial cost to the City, nor will the Association gain financially from the contributed time.

ARTICLE XVI

LEAVES OF ABSENCE

1. Time Off Without Pay: Association members in good standing may, with supervisory permission and five days prior notice, take time off without pay without having to exhaust vacation leave balances. No employee shall exceed two shifts without pay within a calendar month.
2. Leave of Absence Without Pay: The City Manager may grant a regular or probationary employee leave of absence without pay, seniority, or benefit accruals not to exceed six (6) months. For special education purposes, however, the City Manager may grant leaves of absence not to exceed one (1) year, without pay, provided such study is related to City employment. When such special educational leave of absence is granted, the employee must agree in writing that they will return to regular, full-time employment with the City for a minimum of one (1) year. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval will be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be cause for discharge.

When an employee is in a leave of absence without pay status, their revised hire date or date of promotion for purposes of merit increases, sick leave and vacation credit, will be the number of calendar days absent added to their former hire or promotion date, whenever such leave exceeds ten (10) regularly scheduled consecutive shifts. An employee with a nonindustrial illness or injury may opt to request Leave of Absence without pay if collecting LTD as an alternative, prior to exhausting their entire sick

leave balance. In the event of Leave of Absence due to nonindustrial injury or illness, after all sick leave is exhausted, utilization of accrued vacation shall be at the option of the employee.

After twelve (12) weeks of absence due to illness or injury, and while on LOA, an employee may use sick leave balances in one-hour increments to provide payment for City insurance premiums.

3. Maternity/Paternity FMLA Leave: Employees shall be granted maternity leave in accordance with the following provisions:
 - A. In all cases of pregnancy, the employee shall furnish the City with a statement from her physician giving the anticipated date of delivery and the opinion of the physician as to her ability to perform her normal work assignment. Such statement shall be furnished as soon as practical after a determination of the pregnancy has been made.
 - B. A pregnant employee will be permitted to work as long as she is able to safely perform the duties of her position as recommended by the statement of her physician.
 - C. An employee will be permitted to return to work when she is able to safely perform the duties of her position as recommended by the statement of her physician, based upon examination of her after childbirth. An employee must give notice two (2) weeks prior to the date she wants to return to work. If she does not give two (2) weeks notice prior to the date she wants to return to work, the Department shall not be required to return her to work until two (2) weeks after she has given such notice.

- D. A pregnant employee shall be allowed to be absent for the period during which in the opinion of her attending physician, and where necessary, the City physician, she is temporarily disabled because of pregnancy, miscarriage, abortion, childbirth and recovery,, **in accordance with federal and/or state leave laws.**
- E. The City may, at its option, and at City cost, require an independent medical opinion concerning the employee's ability to safely perform her duties.
- F. A pregnant employee, **after disability**, shall be entitled to use all accumulated paid leave time (sick leave – **up to the annual accrual, holiday**, or vacation) for maternity leave and such additional leave of absence without pay, seniority and accrual of benefits **in accordance with federal and/or state leave laws.**
- G. In the case of adoption and/or paternity/FMLA/CFRA leave, leave shall be in accordance with federal and/or state leave laws.**

ARTICLE XVII

JURY AND WITNESS LEAVE

1. Jury Duty: An employee who is called or required to serve as a trial juror shall be entitled to absent themselves from their duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances the employee shall be paid their full salary and any payment received by them from the court for such duty. Employees shall provide the Personnel Office with a copy of the call to jury duty, and other documentary evidence of service as required by the City.
2. Witness Leave: Any employee who is called or required to serve as a witness shall be entitled to absent themselves from their duties with the City during the period of such

service or while necessarily being present in court as a result of proper subpoena. Under such circumstances, the employee shall be paid the difference between their full salary and any payment received by them, except travel and subsistence pay, for such duty. Witness leave will not be granted to employees who are litigants in civil cases or defendants in criminal cases. Employees shall provide the Personnel Office with a copy of the legal subpoena and other documentary evidence of service as required by the City.

ARTICLE XVIII

ATTENDANCE

1. Employees shall, except as these rules provide to the contrary, work at least forty (40) hours per week. An employee whose duties require an irregular work schedule shall work according to a schedule recommended by their supervisor and/or Department Head and approved by the City Manager.
2. All employees shall be on duty at the times required by these rules with respect to hours, days of work and leave. However, an employee who is absent without leave and who fails to return to duty within twenty-four (24) hours after receiving written notice to do so, shall be deemed to have resigned from their position. Such employee automatically waives all rights under the Municipal Code and these rules.

ARTICLE XIX

HOLIDAYS

1. Holidays: Every regular, regular part-time and every probationary employee in the Personnel System, except members of the Fire Department who are required to be on duty for a twenty-four (24) hour shift, shall not be required to be on duty on holidays unless the employee's services are needed and required in the interests of the public

health, safety or general welfare, in which later event, any such employee shall be entitled to an in lieu holiday or overtime pay, in accordance with these rules.

Members of the Fire Department working on a 24-hour shift schedule shall be credited for holidays as follows:

- A. Eleven and one-half (11.5) hours of Holiday time shall be credited to each employee's account on a monthly basis to be paid in the last payday in October of each year. This includes 24-hour personnel who are temporarily assigned to a 40-hour training schedule.

Holiday pay distributions made during the last payday in October of the 2010 and 2011 calendar years shall be reduced by 46 hours each year per employee. The amounts withheld shall not be reimbursed on or after the 2012 calendar year.

Normal holiday pay distributions shall recommence effective with the last payday in October 2012.

- B. Holiday hours will be compensated on a straight time basis and may not be taken off. Said compensation shall be calculated at the individual rate of pay on October 1.
- C. Employees who terminate shall be paid in a lump sum for all accrued holiday time earned prior to the effective date of termination.

Forty-hour employees shall receive holidays in accordance with the following schedule:

Constituted Holidays

New Year's Day
Martin Luther King Day
President's Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day After Thanksgiving
Christmas Day

When a holiday falls on a Sunday, it is observed on the Monday immediately following. When a holiday falls on a Saturday, it shall be observed on the preceding Friday.

ARTICLE XX

FAIR LABOR STANDARDS ACT

1. The parties agree and understand that, as a result of the United States Supreme Court's decision in Garcia v. San Antonio Transit District, 105 S. Ct. 1005 (1985), the City is required to compensate bargaining unit employees at the rate of time and one-half for overtime in accordance with the Fair Labor Standards Act (hereinafter "FLSA") and the Department of Labor (hereinafter "DOL") regulations, as set forth in 29 CFR Section 553, et seq. The parties agree further that if the City's obligation to compensate bargaining unit employees for overtime hours in accordance with FLSA, the Garcia decision and the DOL regulations referenced therein, should change during the term of this Memorandum as a result of clarifications of existing regulations or due to the issuance of any further regulations by the DOL, by the enactment of any California or

federal statute, or by any further decision of the United States Supreme Court, then the parties shall have the right to demand the subject of wages, hours, and overtime compensation be reopened for negotiations by and between the parties. Such negotiations shall be conducted in a manner consistent with the duty to meet and confer in good faith.

2. It is the intent of the parties that the amount of compensation and other benefits set forth in this Memorandum shall be the total amount agreed upon between the parties and to which the employees covered by this Memorandum, shall be entitled during the term of this Memorandum notwithstanding changes in or clarifications to laws pertaining to employee benefits that are a result of implementation of the FLSA. The purpose of such negotiations will be to reach agreement regarding the changes to the provisions of the Memorandum pertaining to wages, hours, and overtime compensation which may be required to give effect to this mutual interest.
3. It is further agreed that in compensating all eligible employees for the premium portion of time worked in excess of fifty-three (53) hours, retroactive to April 15, 1985, the FLSA 7(k) exemption and work period declaration shall also be retroactively effective as of April 15, 1985.

ARTICLE XXI

UNIFORM ALLOWANCE

1. The City agrees to grant the entire annual uniform allowance to new firefighter employees within twenty (20) days of the date of hire provided, however, such allowance shall be subject to the conditions set forth herein.
2. In the calendar year following the calendar year in which the appointment occurred, the annual uniform allowance shall be paid on a prorated basis. That is the number of

months or portion thereof worked in the prior calendar year shall be divided by twelve (12) months. The resulting percentage shall be multiplied by the annual allowance and the product shall constitute the uniform allowance for that year.

3. In the event a new employee terminates for any reason during the first six (6) months of employment, they shall be liable to reimburse the City for the uniform allowance in accordance with the following schedule: (Such reimbursement shall be deducted from their final paycheck or by any other means the City deems appropriate.)

0 - 3 months	100% reimbursement
3 - 6 months	50% reimbursement
6 months or more	NONE

4. Effective with this agreement, the Uniform Allowance shall increase to seven hundred dollars (\$700.00) per year; Association members will be responsible for purchasing and wearing a “Uniform Safety Boot” as part of their station uniform. The uniform allowance will be payable to the employee on the pay date after the first pay period ending after January 1 of each year.
5. The City agrees to compensate employees for uniform damage in the course of their employment, should the damage justify such action. It is the understanding of both parties to this agreement that uniform replacement does not apply to normal wear and tear.
6. In the event that the City requires a uniform change, it is agreed that this M.O.U. will be reopened for the sole purpose of determining the method of provision of said uniforms; whether uniform change is considered safety equipment; if it is to be purchased with uniform allowance; and if the latter is determined to be the case, the amount of future allowance. The City retains the right to designate the uniform dealer, the method of implementation, and the implementation date of any change in uniform.

ARTICLE XXII

PROBATIONARY PERIOD

1. The probationary period for the entry level position in the firefighter series shall be twelve (12) months; provided, however, at the discretion of the City Manager, this probationary period may be extended for up to an additional six (6) months. Such extension shall be set forth in writing prior to the expiration of the 12-month probationary period, a copy of these extension notices shall be provided to the employee and Personnel Office no later than five (5) days prior to the date of expiration of the probationary period.

ARTICLE XXIII

NO SMOKING

1. Employees hired as Firefighters from Civil Service eligible lists established following January 1, 1989, shall be required to remain nonsmokers throughout their employment as a member of the Fire Department.
2. A nonsmoker shall not smoke or use any tobacco product either on or off-duty while employed.
3. An affidavit signed on a periodic basis by the employee shall be used to verify continued nonsmoking status.

ARTICLE XXIV

DISCIPLINARY PROCEDURES

1. It is agreed that the City and the Association will meet and confer on disciplinary procedures. This article shall not limit the rights of the City Council or preclude their

authority to unilaterally modify their relationship with the Personnel Board of Review in disciplinary matters.

2. Notwithstanding our commitment to meet and confer on disciplinary procedures, it is agreed that the Association will support a decision by the City Council to exclude itself from the disciplinary review process or add to the present review process the option of declining to hear an appeal. It is further agreed that the Association will support a reduction in the number of Commissioners on the Personnel Board of Review provided that such reduction will not result in less than three (3) Commissioners as a minimum to hear any case. It is further agreed that the Association will support a modification of the hearing process such that the City will, at a minimum, maintain a tape recorded record rather than a record generated by a court reporter and the appellant may arrange, at their own expense, additional record-keeping services.

3. (The following shall be subject to meet and confer during a re-opener.) The adoption of Assembly Bill 220 and Government Code §§ 3250 et. seq. effective January 1, 2008, mandates modification to applicable City ordinances in order to result in compliance with Government Code § 3254.5 in particular. Therefore, and subject to implementation of these disciplinary-related MOU provisions pursuant to appropriate Council action, the parties agree as follows:
 - a. DISCIPLINARY SANCTIONS NOT INVOLVING DISCHARGE, DEMOTION OR SUSPENSION FOR MORE THAN FIVE (5) SHIFTS/DAYS, AND/OR REDUCTION IN PAY CAUSED BY LOSS OF ASSIGNMENT, SPECIALTY PAY.

Pursuant to Government Code § 11445.20, the City shall use an informal hearing procedure in those situations where a disciplinary sanction against an employee

does not involve discharge, demotion, suspension for more than five (5) shifts/days and/or in reduction in pay caused by loss of assignment/specialty pay. Section 11445.20, is specifically incorporated into Sections 11500 et. seq. (see Section 11501(c) above.)

Accordingly, Section 11400 et. seq. is incorporated into this MOU, with specific reference being made to Section 11445.40, which provides the basis for an informal hearing in matters subject to Section 11400 et. seq.

In an informal hearing, the Fire Chief or designee shall be the presiding officer. The Fire Chief or designee shall conduct the informal hearing in accord with the procedural guidelines set forth in Section 11445.40-11445.60. The determination of the Fire Chief shall be final and binding.

b. **DISCIPLINARY SANCTIONS INVOLVING DISCHARGE, DEMOTION OR SUSPENSION FOR MORE THAN FIVE (5) SHIFTS/DAYS, OR A REDUCTION IN PAY NOT CAUSED BY LOSS OF ASSIGNMENT/SPECIALTY PAY.**

In those instances where the procedures in Sections 11400 et. seq. are inapplicable to an administrative appeal, the administrative appeal shall be conducted in procedural compliance with Section 11500 et. seq. Pursuant to Section 11512, the City has determined that in those instances that shall be presided over by an administrative law judge, the agency shall hear the case through the Board of Review, with the administrative law judge presiding at the hearing pursuant to Section 11512(b). Accordingly, pursuant to Section 11517, it shall be the Board of Review that shall issue the final decision, with the administrative law judge being present during the consideration of the case and if requested, providing assistance and advice to the Board of Review in the conduct of its hearing.

Upon receipt of a timely letter of appeal, the Board of Review shall set a time for a hearing. The hearing shall be held within 30 calendar days after receipt of the appeal letter. The Board of Review shall give not less than seven calendar day's written notice to the affected employee, and any such person requesting same, of the time and place of such hearing. The appealing employee may appear personally and represent himself/herself or be represented by another of the employee's choosing.

1. During the examination of witnesses, all other witnesses, except the parties, shall be excluded from the hearing, unless the Board of Review, in its discretion and for good cause, otherwise directs.
2. No photography, still or motion, or voice recordings shall be taken during the hearing.
3. The Board of Review, prior to or during a hearing, may grant a continuance for any reason deemed to be important to the manager or designee in reaching a fair and proper decision.
4. The Board of Review shall give all parties to the action a reasonable opportunity to be heard on relevant issues. The Fire department's representative shall first present an opening statement and oral and/or documentary evidence in support of the department's position. The affected employee may present oral or documentary evidence and may cross-examine any witness called by the department. The employee or their representative may make an opening statement on the employee's behalf. The department's representative may cross-examine any witness called by the employee. Both the department and the employee may

present rebuttal evidence. The department may then make a closing statement, followed by the employee's.

5. The Board of Review or designee shall not be bound by technical rules of evidence.

c. **FINDINGS AND DECISIONS.**

The Board of Review shall, within 14 calendar days after the conclusion of the hearing, render a decision to be prepared in writing. The Board of Review shall determine whether the action of the Fire Chief is supported by the evidence. Should the Board of Review find that none of the charges are supported by the evidence presented; the decision shall be that no disciplinary action be taken. Should the Board of Review find that any or all of the charges are supported; the Board of Review shall affirm, overrule or modify in whole or in part the Fire Chief's disciplinary action.

Pursuant to Municipal Code § 19-67, the Findings and Decision of the Board of Review shall be subject to City Council review in accord with said Code Section.

ARTICLE XXV

REIMBURSEMENT ACCOUNT

1. The Fire Association and the City agree to participate in the reimbursement portion of the Section 125 plan. The members of this Unit may elect, by payroll deduction, pre-tax salary to be set aside in the Medical Reimbursement Account and/or the Dependent Care Reimbursement Account.

Pre-Tax health insurance premium payments will be established by negative declaration effective January 1, 1993.

ARTICLE XXVI

AMERICANS WITH DISABILITIES ACT (ADA)

1. Because the Americans with Disabilities Act (hereinafter "ADA") requires accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual case-by-case basis, the parties agree that the provisions of this agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotions, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leave, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

The Bargaining Unit recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The employee's Bargaining Unit will be notified of these proposed accommodations prior to implementation by the City.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the Grievance/Arbitration procedure.

Prior to disregarding any provisions of this agreement in order to undertake required accommodations for an individual protected by the Act, the City will provide the Bargaining Unit with written notice of its intent to disregard the provision, and if requested will allow the Bargaining Unit the opportunity to discuss options to disregarding the agreement.

ARTICLE XXVII

TUITION REIMBURSEMENT

1. Within budgetary limitations, and subject to the criteria and limitations listed below, the City will reimburse tuition and related expenses up to 100% of the normal tuition fees of the California State University System in an amount up to seven hundred fifty dollars (\$750) semiannually or one thousand five hundred dollars (\$1,500) per fiscal year.

A. Eligibility Criteria:

1. Course content is closely related to the employee's current classification and is designed to improve job performance, or would assist the employee in preparing for a promotional opportunity.
2. To receive reimbursement, it is encouraged that the employee pursue any approved course or courses of study at an educational institution with tuition fees comparable to fees of the California State University System.
3. Reimbursement shall not exceed fifty percent (50%) of amount of tuition fees of the California State University System and will be made on a dollar-for-dollar matching basis.
4. Course is completed with a minimum grade of "C" or its equivalent or by evidence of satisfactory completion.
5. Course is given by a school accredited by the Western Association of Schools and Colleges or equivalent, approved by the Council for Private Post Secondary and Vocational Education, or by an accredited high school.

B. Tuition and Related Expenses

The following are eligible expenses within the meaning of "Tuition and Related Expenses:"

1. Tuition and/or class fees and/or registration fees charged by an educational institution;
2. Books required for the course;
3. Miscellaneous mandatory charges such as health service and/or identification cards. (Parking charges are not considered required expenses and will not be reimbursed.)

C. Approval Process

Upon submittal, the Fire Chief will note the recommendation and forward the application to the Human Resources Department for approval.

D. Exception Review

Applications which are not approved by the Fire Chief and the Human Resources Director may be submitted to the Tuition Review Committee.

The Tuition Review Committee will consist of:

City Manager or his designee
Human Resources Director
Fire Chief
One other Department Head (selected on a rotating basis)

By special request, the above-mentioned committee may also be petitioned for one hundred percent (100%) reimbursement.

E. Limitations/Return of Educational Reimbursement

If the employee voluntarily terminates his/her service with the City of Escondido within twelve (12) months of reimbursement, said reimbursement shall be refunded to the City.

Employees will not be reimbursed for that portion of tuition, books and mandatory fees which is reimbursed by a federal or state benefit, grant, scholarship or other reimbursement program.

F. Reimbursement Procedure

Upon preliminary approval and successful completion of approved courses, employees may request reimbursement as follows:

1. Complete tuition reimbursement form.
 2. Submit proof of payment of reimbursable items.
 3. Submit school transcript indicating the grade achieved for the completed course.
2. Unit members who have been provided Human Resources Department approval for tuition reimbursement prior to the first payroll period commencing on or after January 1, 2009, shall remain eligible to receive tuition reimbursement pursuant to this article, but only for the course(s) for which Human Resources Department tuition reimbursement eligibility has been approved prior to the first pay period commencing on or after January 1, 2009. Tuition reimbursement shall not be granted (shall be suspended) as to applications initially filed with the Human Resources Department on or after the first payroll period commencing on or after January 1, 2009.

ARTICLE XXVIII

CERTIFICATION AND EDUCATION INCENTIVE PAY

The following is a list of certifications or degrees that qualify for Certification and Incentive Pay:

Technical Rescue Certification:

- CSFM Rescue Systems 1
- CSFM Rescue Systems 2
- CSFM Confined Space Operations
- CSFM Trench Rescue Operations
- Swift Water Rescue Operations

Acting Engineer Certification:

- Escondido Fire Department Certification Program
- CSFM Driver Operator 1 and 2

Acting Captain Certification:

- Escondido Fire Department Certification Program
- CSFM Fire Officer Certification

Wildland Certification (All Classes):

- ICS290
- ICS390
- ICS Strike Team Leader
- CSFM Command 2E
- ICS Firing Class (234)
- Engine Boss (S-231)
- Command 1-C (CSFM)

Any combination of four of the above seven courses are required for departmental certification.

Acting Duty Chief Certification (Captains only):

- Escondido Fire Department Certification

Paramedic Certification (Engineers and Captains only):

- Current San Diego County Paramedic Certification

Associate Arts/Associate Science Degree

Bachelor of Science/Bachelor of Arts Degree

Certification Pay Schedule:

Technical Rescue Certification:.....1.0% of base pay per month

Certification in this category must be current with renewal occurring as required by the State Fire Marshall. All represented classifications are eligible to qualify.

Paramedic Certification Pay:.....2.5% of base pay per month

Engineers and Captains only (current annual Paramedic Certification pay is eliminated for these qualified classifications; Article IX, Section 5).

Wildland Certification:.....1.0% base pay per month

All represented classifications are eligible to qualify (Firefighter/Paramedic has been added to the MOU).

Acting Engineer Certification:.....1.0% base pay per month

Firefighter/Paramedic is the only eligible classification. Engineers will be eligible for this pay up to 12 months after promotion to Engineer or upon completion of the Acting Captain Certification, whichever occurs first.

Acting Captain Certification:.....1.0% base pay per month

Firefighter/Paramedic and Engineer are the only eligible classifications.

Acting Duty Chief Certification (Captains only):.....1.0% base pay per month

Fire Captain is the only eligible classification.

Educational Incentive Pay:

Associates Degree:.....2.0% of base pay per month

Bachelor's Degree:.....4.0% of base pay per month

Certification and Incentive Pay Criteria:

1. Employees must have completed one year of service with the Escondido Fire Department to be eligible for any certification or incentive pay.
2. Two years of service with the Escondido Fire Department is required for eligibility to receive educational incentive pay for either Associates or Bachelors degrees.

3. Fire Administration will notify Human Resources of the certifications and qualifications upon successful completion of requirements.
4. Employees are responsible for supplying all transcripts or certificates to verify course completion. All courses must have a "C" grade or better to qualify.
5. Coursework submitted for educational incentive pay must be obtained from a school accredited by the Western Association of Schools and Colleges or equivalent, or approved by the Council for private post secondary education.
6. Certification Pay is capped at 5.5% of base pay per month.
7. Certification and incentive pay shall be reported to Cal PERS as "compensation earnable" and will be incorporated into the employee's hourly pay rate.
8. Employees promoting to a new classification shall not carry forward certification pay uniquely attributable to the subordinate classification and shall only receive certification pay that is attributable to their new classification. Employees will be granted a 12-month transition period to achieve the certification that may be applicable to qualify for the next certification level in the series.

Effective the first payroll period commencing on or after January 1, 2009, unit members not receiving any or all of the Certification and Education Incentive Pays described in this Article, shall not receive any such pays for which the individual would otherwise become eligible on or after January 1, 2009 and which would have been provided pursuant to the provisions of this Article. Such new payments shall be suspended.

Unit members who are receiving any of the Certification and Education pays set forth in this Article during the payroll period immediately preceding the first payroll period commencing on or after January 1, 2009, shall continue to receive the then-existing amount of pay which is being received by the individual unit member, but shall receive no future increases to which the unit member may otherwise become eligible.

ARTICLE XXIX

STATION HABITATION

It is the City's intent to respect each Station as the employees' home and we are committed to provide proper repairs and, at a minimum, adequate, sanitary cooking and security conditions.

ARTICLE XXX

STRIKE TEAM OPERATIONS

While involved in Strike Team Operations on an out-of-area fire, Escondido Fire Department Personnel will be housed in appropriate hotel facilities while assigned in a strike team status.

ARTICLE XXXI

OTHER TERMS

Bargaining Unit employees are also covered by the City of Escondido Personnel Rules and Regulations to the extent that said Rules and Regulations are not inconsistent with the terms of this Memorandum. In case of inconsistency between the terms of this Memorandum and the City's Personnel Rules and Regulations, the terms of this Memorandum shall prevail.

ARTICLE XXXII

MOU REOPENERS

General Fund-Based Reopener:

This Memorandum of Understanding shall be subject to a reopener only on issues of pay and/or benefits at direction of the City Council, upon adoption by the City Council of a Resolution evidencing a finding by the Council that any or all of the following events have occurred during the term of this MOU:

a. 16.65% or greater reduction in General Fund revenues during each fiscal year for the period July 1 through December compared to the immediately preceding same period of time/ and/or the period of January 1 through June 30 and the same preceding period of time. The declining, if any, shall be measure by receipts during the applicable period of time, (Revenue reductions attributed to state withholding of local funds, shall be included in measuring the 16.65% reduction.)

b. A determination by the City Council to implement this Section a. or b. shall not be subject to administrative or judicial challenge.

Restoration Reopener:


Should the City restore concessions to any group of employees, the Firefighters' Association may request a reopening of negotiations to discuss a similar restoration.


Dated: 3-7-10

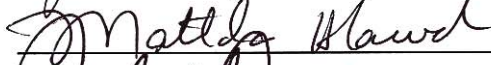
Dated: 3-7-10


For the City of Escondido:


For the Escondido Firefighters' Association:




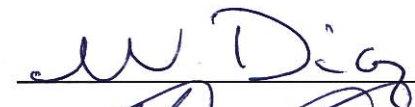





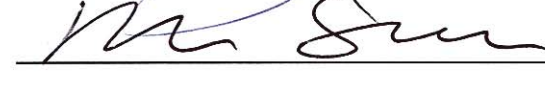












EFFECTIVE MARCH 7, 2010

6.0% SALARY INCREASE

<u>Union Code</u>	<u>Job Description</u>	<u>Base</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
FIR	FF/PARAMEDIC	4,726	4,962	5,210	5,470	5,744	6,031	6,333
FIR	FIRE ENGINEER	4,960	5,208	5,469	5,742	6,029	6,331	6,648
FIR	FIRE CAPTAIN	5,824	6,115	6,421	6,742	7,079	7,433	7,804



Jack Anderson
Assistant City Manager
201 North Broadway, Escondido, CA 92025
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janderson@escondido.org

EXHIBIT "B"

February 17, 2005

Captain Russell Knowles, President
Escondido Firefighters Association
201 North Broadway
Escondido, CA 92025

Dear Russ:

This letter will confirm our discussions during the recent meet and confer process describing the relationship between the City and the Escondido Firefighters Association as we proceed with implementation of changes required by the State Legislature as to the City's administration of Workers Compensation claims.

Regarding the administration of Workers Compensation claims, the City will:

Continue to communicate to the Association that our mutual goal is to enable injured workers to return to duty as soon as possible upon receiving appropriate medical care; and

Meet with the Association on an as-needed basis to discuss concerns of the Association relating to procedures and requirements of the Workers Compensation law; and

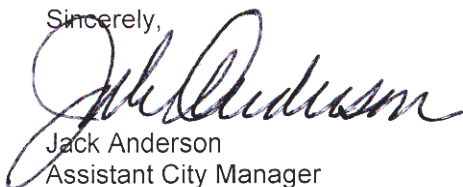
Define with the Association the criteria followed by the City in establishing the Medical Provider Network to be used by injured employees; and

Define with the Association the manner in which physicians will be considered for future inclusion on the Medical Provider Network; and

Share with the Association our mutual concern that no abuse or perceived abuse should be tolerated by employees, physicians or the City in administering Workers Compensation laws as they affect City employees.

We will be scheduling a meeting shortly with Association leadership regarding the important issue of Workers Compensation and its impact on City employees under the recently revised State law.

Sincerely,



Jack Anderson
Assistant City Manager

cc: Victor Reed, Fire Chief
Gail Sullivan, Human Resources Director
Jennifer McCain, Assistant City Attorney

CHAPTER 5

CODE: 1-5-24 **Association Time Bank**

OBJECTIVE:

This policy provides the Fire Department with a reasonable method of managing the usage of the Association Time Bank Leave.

POLICY:

- A. The Association Time Bank shall be used by Escondido Firefighters Association (EFFA) members to attend to the business needs of the Association. This time bank shall mirror the current Donated Leave Policy (Administrative Directive #24)
- B. Members of the EFFA shall voluntarily donate Vacation hours, in five (5) hour increments.

PROCEDURE:

- A. EFFA members electing to donate leave time shall do so by submitting the proper form. These forms will be retained by Payroll. Time Bank usage will be coded "FTB" on the time sheet. Donation will be made annually on an as needed basis to maintain a minimum of 48 hours but not to exceed 500 hours in the bank.
- B. EFFA members requesting time off shall do so using the proper form (attached). This form shall have the signature of the President or his designee and submitted to the Operations Chief for approval.
- C. This leave shall not be filled by using the mandatory section of the Constant Staffing System. In addition, the leave time will be subject to the same cancellation criteria as other leaves at the discretion of the Fire Chief.

Approval: *Division Chief Alvord* **Date:** 8-04