

## **Memorandum of Understanding**

San Mateo County Firefighters IAFF Local 2400, D13

(Battalion Chief Unit)

and

Menlo Park Fire Protection District

### **TERM OF AGREEMENT**

**January 1, 20234 – December 31, 20263**

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## ARTICLE 1- ADMINISTRATIVE

### 1.1. TERM

This Memorandum of Understanding shall have effective dates January 1, 202~~4~~<sup>3</sup> through December 31, 202~~3~~<sup>6</sup>.

### 1.2. RECOGNITION

The Menlo Park Fire District (District) has recognized the San Mateo County Firefighters, IAFF Local 2400, D13 as the exclusive bargaining representative for all permanent and probationary employees within the bargaining unit comprised of the classification of Battalion Chief. For purposes of identification this unit shall be titled the "Battalion Chief Unit."

### 1.3. NON-DISCRIMINATION

There shall be no discrimination because of race, creed, color, national origin, sex, sexual orientation, gender identity or legitimate employee organization activities against any employee or applicant for employment by the Union or by the District or by anyone employed by the District; and to the extent prohibited by applicable state and federal law there shall be no discrimination because of age.

### 1.4. STATE LAW COMPLIANCE

This Memorandum of Understanding complies with California Government Code sections 3500 et seq in that the District and Union met and conferred in good faith and reached agreement on those matters set forth in this Memorandum of Understanding.

### 1.5. SEPARABILITY OF PROVISION

In the event any provision of this MOU is declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of the MOU shall be null and void. Such nullification shall not affect any other sections of the MOU and all other provisions shall remain in full force and effect.

### 1.6. RELEASE OF INFORMATION

Unless required by law, including disclosure required under the California Public Records Act and similar State and Federal laws, information concerning employees will be limited to creditors or other persons outside of the District to verification of employment, length of employment and confirmation of salary information (if the person inquiring first states the correct salary to the District). The employee may authorize in writing, release of more specific information.

### 1.7. UNION SECURITY

#### 1.7.1. DUES DEDUCTION

Upon notification from the Union of an employee's decision to become a member of the Union, the

District will deduct from the employee's paycheck for the next full pay period, the uniform amount required for membership in the Union and specified by the Union for Union dues, and forward such amount to the person designated in writing by the Union as the Union officer authorized to receive such funds. Such deductions shall continue until the Union provides notice to the District of an employee's decision to no longer be a member of the Union.

The Union shall notify the District in writing as to the amount of such dues uniformly required from all members of the Union, and shall provide the Administrative Services Director of the District with 14 days advance notice in writing of any changes in the amount of such dues.

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amounts of Union and Association dues. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over the Association and Union dues.

#### **1.7.2. HOLD HARMLESS**

San Mateo County Firefighters IAFF L2400, shall defend, save, indemnify and hold harmless the District, and its officers, agents and employees from any and all liabilities and claims for damages from any cause whatsoever arising from or connected with and on account of dues deductions made on behalf of and received by San Mateo County Firefighters IAFF L2400.

#### **1.7.3. INFORMATION DISTRIBUTION**

The Union shall be allowed to use the District's e-mail system for communications having to do with official Union business. Such communications will not be sent from on duty Union representatives from 0800 – 1700 hours, Monday thru Saturday, and from 0800 – 1200, on Sundays, without the consent or direction of the Fire Chief or designee.

#### **1.7.4. ACCESS TO WORK FACILITIES**

Union representatives are authorized to visit work locations for the purpose of ascertaining whether or not this Agreement is being observed.

This right shall be exercised reasonably. Union representatives shall notify management before proceeding to or at the work location of their visit and shall not disrupt the normal conduct of work. Such activities as collection of dues, holding membership meetings, and conducting elections are prohibited during working hours without the prior approval of the Fire Chief or a designated representative.

#### **1.7.5. UNION USE OF DISTRICT FACILITIES**

The Union may maintain a Union bulletin board (36"x 48" max.) at each work location members are assigned to. The purpose of the board is to communicate with members as necessary to provide adequate representation. The District will not censor the communications posted on the Union board nor tamper with or alter the board and its contents in any way without prior notification of the Union.

#### **1.7.6. ADVANCE UNION NOTICE**

Except in cases of emergency as provided below in this subsection, the Union, if affected, shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation, under the Meyers-Milias-Brown Act; proposed to be adopted by the District and shall be given the opportunity to meet and confer with the appropriate management representatives over the proposal prior to adoption.

In cases of emergency when the foregoing procedure is not practical or in the best public interest, the District may adopt or put into practice immediately such measures as are required. At the earliest practical date thereafter, the Union shall be provided with the notice described in the preceding paragraph and be given an opportunity to meet and confer with the appropriate management representatives.

#### **1.7.7. COMMON MESS**

All unit members working a 24-hour shift in fire suppression must be available at all times to respond to emergency calls as quickly and efficiently as possible.

As a condition of employment, all unit members working 24-hour shifts working in fire suppression shall attend a common mess at the station for the consumption of meals unless the Fire Chief or designee executes a written waiver of this rule for an individual unit member for reasons of business necessity or employee well-being. Even though a unit member receives a written waiver of this rule, a unit member shall contribute in equal share for the cost of meals, even if they do not eat communal food. The amount of the contribution and the procedures for its collection shall be established at each station by the captain on each shift. The captain may delegate the duty of collecting such contributions.

The District shall not be financially liable or responsible for the cost of any meal or the preparation thereof, or for the collection of any funds, or for any other costs undertaken in this section.

#### **1.7.8. UNION REPRESENTATIVES**

The Union shall provide the District with a list of names of members who are official representatives of San Mateo County Firefighters IAFF L2400, D13 who represent the Battalion Chief Unit for the purpose of communication with employees. Names will be submitted within 30 days of an election or personnel changes.

The Union shall immediately notify the District of any changes to the list.

The District will allow the Union to mail groups on the District's email system to foster better communications between the District and the Union.

Union employee representatives shall be granted administrative leave with pay to attend meetings and training with management representatives or to be present when matters within the scope of representation or grievances are being considered.

#### **1.7.9. MEDIATION OF IMPASSES IN MOU NEGOTIATIONS**

The parties agree that if the parties reach an impasse in negotiations for a successor MOU, or if the parties otherwise mutually agree, then the parties shall submit a request in writing to the State Mediation and

Conciliation Service for appointment of a mediator mutually acceptable to the parties to assist the parties in a confidential mediation process to try to reach agreement on a successor MOU. The parties shall share equally any cost charged by State Mediation or the mediator.

**1.7.10. LETTERS OF AGREEMENT**

Side letters and letters of agreement shall not be effective unless signed and dated by both the District and the Union.

**ARTICLE 2 - SALARIES AND OTHER COMPENSATION**

**2.1. SALARIES**

**2.1.1. SALARY RANGES**

~~The monthly base salary range for the Battalion Chief classification prior to approval of this 2023 MOU was as follows:~~

	<u>Range Minimum</u>	<u>Range Maximum</u>
Monthly	\$15,371	\$23,056

~~Effective January 1, 2023, the semi-monthly salary range for Battalion Chief shall be converted to the following 5 Step range as follows:~~

	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
Semi-Monthly	\$9,484.11	\$9,958.32	\$10,456.24	\$10,979.05	\$11,528

~~Future promoting Battalion Chiefs shall be hired at Step 1 with their anniversary date being their date of promotion for purposes of eligibility for a 5Step increase. Battalion Chiefs employed on the date the Board approves this MOU shall be placed at the Step corresponding to their years of service effective January 1, 2023. Anniversary dates for purposes of eligibility to move to the next higher Step in the pay range shall remain unchanged except for Battalion Chiefs promoted in June 2021 whose anniversary date shall be March 21st.~~

~~Effective the first full pay period in January 2024, the pay ranges for all classifications covered by this MOU will be increased by 3.0%.~~

<u>Class Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Time Base</u>	<u>Effective Date</u>
<u>Battalion Chief</u>	<u>\$9,768.63</u>	<u>\$10,257.06</u>	<u>\$10,769.91</u>	<u>\$11,308.41</u>	<u>\$11,873.83</u>	<u>Semi Monthly</u>	<u>1/1/2024</u>

~~Effective the first full pay period in January 2025, the pay ranges for all classifications covered by this MOU will be increased by 3.0%.~~

<u>Class Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Time Base</u>	<u>Effective Date</u>
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<u>Battalion Chief</u>	<u>\$10,061.69</u>	<u>\$10,564.77</u>	<u>\$11,093.01</u>	<u>\$11,647.66</u>	<u>\$12,230.04</u>	<u>Semi Monthly</u>	<u>1/1/2025</u>
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Effective the first full pay period in January 2026, the pay ranges for all classifications covered by this MOU will be increased by 3.0%.

<u>Class Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Time Base</u>	<u>Effective Date</u>
<u>Battalion Chief</u>	<u>\$10,363.54</u>	<u>\$10,881.72</u>	<u>\$11,425.81</u>	<u>\$11,997.10</u>	<u>\$12,596.96</u>	<u>Semi Monthly</u>	<u>1/1/2026</u>

### **2.1.2. ENTRANCE SALARY**

The entrance salary for a Battalion Chief new to District service shall be the minimum salary in the salary range.

### **2.1.3. EXEMPT EMPLOYEES PAID SEMI-MONTHLY**

Union represented employees are exempt employees and paid semi-monthly. To start or terminate employment outside of a normal payroll cycle, the actual hours worked shall be calculated.

### **2.1.4. STEP INCREASES**

To be eligible for a step increase, an employee must have a satisfactory rating on their performance evaluation. If the satisfactory performance evaluation is finalized after the employee's anniversary date, the step increase shall be retroactive to the beginning of the pay period following the employee's anniversary date. Employees receiving a satisfactory rating shall advance to the next step effective the first full pay period following their anniversary date.

An employee that does not receive a satisfactory performance evaluation shall be eligible for consideration only after receiving a satisfactory evaluation on a subsequent re-evaluation, which shall occur ~~no less than~~ three (3) months following receipt of the prior unsatisfactory performance evaluation.

### **2.1.5. SALARY WHEN SALARY RANGE IS INCREASED**

Whenever the salary range for Battalion Chief is adjusted, each incumbent shall have their salary adjusted by the same percentage pay adjustment as applicable to the salary range.

### **2.1.6. SALARY STEP AFTER PROMOTION OR DEMOTION**

When an employee is promoted from Battalion Chief to Division Chief, the employee shall go to the pay amount in the range for Division Chief that is a minimum of a five percent (5%) increase in base monthly salary.

When a previous Fire District Battalion Chief is demoted from Division Chief, voluntary or otherwise, that employee's base salary shall be adjusted to the step in the Battalion Chief pay range that is closest to but does not exceed the base salary the employee was receiving as Division Chief.

### **2.1.7. PAY**

Members will be paid semi-monthly in two equal checks. The pay periods will be the 1st - 15th with the pay check received on the 22<sup>nd</sup>, and the 16th – end of month with the pay received on the 7th. If a pay date falls on a Saturday, Sunday, or Holiday employees will be paid on the previous business day.

### **2.1.8. PAYROLL DEDUCTIONS**

The Fire District will provide access to the following benefits via payroll deductions – deferred compensation and flex spending.

## **2.2. STIPENDS**

### **2.2.1. OVERTIME**

When a Battalion Chief is required to perform significant program management obligations outside regular scheduled hours or when a Battalion Chief is called to duty to cover in the absence of a shift employee and the Fire Chief deems it necessary to have the employee provide this coverage, the employee will be paid an amount equal to 1.5 times the employee's hourly rate for each hour worked outside the employee's regularly scheduled hours, only if required to work an increment of not less than four (4) consecutive hours outside the employee's regularly scheduled hours. This pay is not considered Special Compensation and will not be reported to CalPERS. ~~During the first 12 months of the new Fire Chief's tenure, the Fire Chief shall evaluate the use and need for this overtime, including the efficacy of having Chief Officers versus other personnel or contractors perform the work and program responsibilities resulting in overtime.~~

### **2.2.2. DEPLOYMENT STIPEND**

Compensation for time worked on deployment shall be in conformance with the District guidelines and Policies and Procedures and equal to 1.5 times the hourly rate for the mid-point of the salary range for Battalion Chief as of the first full pay period in February each year, which rate shall remain in effect until the first full pay period in February of the next year. This pay shall not be included as Special Compensation as defined by CalPERS. Clarification on when this compensation shall apply is outlined below.

OES/Wildland/FEMA Deployments – When a Battalion Chief is sent on deployment, as required by the Fire Chief, the Battalion Chief shall be paid as set forth above, as follows:

When a Battalion Chief is deployed on days they are not normally scheduled to work, with a full 24-hour shift starting at 7:00 a.m. the following day. However, normally scheduled days shall be paid at the regular rate while deployed.

## **2.3. ACTING DIVISION CHIEF PAY**

When a Battalion Chief, on a temporary basis, is assigned to perform all significant duties of the Division Chief for a period of one month or more, the Fire Chief shall authorize the Battalion Chief ~~receiving~~ acting pay ~~within the range of the Division Chief, up to a maximum of~~ 10.0% more in base salary than the base salary the employee is paid as a Battalion Chief for the specified time period. Working above classification shall not exceed six months, unless renewed at the discretion of the Fire Chief. After six months, working

above classification will cease and the employee will return to the former applicable pay level. Acting assignments and acting pay shall be documented on a Personnel Action Form, with a description of the upgraded duties in the higher classification to be performed, the percentage acting pay to be provided, and an end date. Eligibility for acting pay to be CalPERS specialty pay shall be determined by CalPERS based on CalPERS rules and regulations.

## 2.4. EDUCATIONAL REIMBURSEMENT

~~The District may reimburse the cost of tuition, enrollment fees and books for courses which employees take at accredited colleges or universities, as well as specialized professional development classes, seminars or programs. These courses must, in the opinion of the employee's supervisor and Human Resources, increase employees' competence in their present job or prepare them for advancement in the District. Employees must receive advance approval prior to commencement of the applicable course, seminar or program. Part of this approval process will consider whether the course, seminar or program should occur outside an employee's regular schedule or will be permitted to occur in whole or in part during scheduled work hours and, if the latter, whether the employee will be required to use accrued leave hours to attend. An employee must be employed with the District when the course is completed to qualify for reimbursement. Receiving below a "C" grade or poor work performance during the course will result in the education reimbursement being denied.~~

~~The employee must obtain and submit to Human Resources receipts for tuition, enrollment fees and books, and evidence of satisfactory completion of the course with a grade of "C" or better. The phrase "evidence of satisfactory completion of the course" shall mean a transcript, college issued grade slip, report card, certificate or notice of completion or any other official notice of satisfactory completion issued by the organization providing the class(es) or training. For college classes, "With a grade of "C" or better" shall mean a grade of C or better, or a grade of "Pass if the class is offered or taken Pass/Fail. The Fire Chief or designee retains ultimate and sole discretion to approve requests and specific items sought to be reimbursed. This section shall pertain to personal, professional, and educational development activities within degree programs or individual classes at accredited colleges or universities; as well as specialized professional development classes, seminars or programs relating to the fire service. These activities are outside the scope and jurisdiction of the District's training program.~~

~~An employee will be reimbursed up to a total of four thousand dollars (\$4,000), per person, per fiscal year, for books, tuition, mileage, backfill, overtime and associated fees. Classes need to be completed by the end of the applicable fiscal year (budget necessity). Unused funds shall not carry over to the next fiscal year.~~

~~The Training Chief will approve all specialized development classes, seminars or programs relating to the fire service. Examples of such classes, seminars, or programs are included but not limited to:~~

- ~~• California State Fire Marshal Courses~~
- ~~• National Fire Academy Courses~~
- ~~• International Association of Firefighters (IAFF) or California Professional Firefighters (CPF) conferences and seminars~~
- ~~• California Public Employer Labor Relations Association (CalPELRA) seminar~~
- ~~• Firehouse World Conference (United States)~~
- ~~• FDIC Conferences~~
- ~~• Promotional Seminars~~

The Fire Chief will approve all accredited college degree programs provided that the employee shall:

- Meet with the college and create a degree outline. This outline shall list the necessary courses for completion of degree; and
- Obtain the approval of the Fire Chief prior to enrollment in any course of study. The degree program of choice shall be one that will enhance the employee's ability to perform duties in the fire service. This includes all associated general education classes that are accepted by the degree program. The degree program of choice shall be related to the fire service and shall be accredited by an approved institution listed by the U.S. Secretary of Education; and,
- Present evidence of satisfactory completion of the course with a grade of "C" or better. The phrase "evidence of satisfactory completion of the course" shall mean a transcript, college issued grade slip, report card, certificate or notice of completion or any other official notice of satisfactory completion issued by the organization providing the class(es) or training. For college classes, "with a grade of "C" or better" shall mean a grade of C or better, or a grade of pass of pass/fail or pass/no record system. Presentation of such evidence shall be made within the fiscal year in which the class(es) or specialized training course is taken, and immediately following the end of the class(es) or course; and present a verified statement of receipts of the employee's books and tuition following completion of the approved course of study; a "verified statement of receipts" shall mean receipts that identify payment of specific charges for tuition, registration fees, required books, and required specialized supplies and/or specialized equipment. The phrase "following completion of the approved course of study" shall mean any time after completion of the class(es) or specialized training program. Presentation of such receipts shall be made within the fiscal year in which the class(es) or specialized course is taken, and immediately following the end of the class(es) or course.

In addition, an employee that has used the full \$4,000 in a fiscal year consistent with the rules and requirements set forth above shall be eligible for up to an additional \$2,000 in reimbursement for that fiscal year for tuition and/or books, and no other categories, for approved college courses that are part of an approved accredited college degree program.

## **2.5. RESIDENCY STIPEND**

In the interest of supporting employees who choose to live in close proximity to the District for faster response in an emergency, the District will provide Battalion Chiefs with a tiered residency stipend benefit. The following will be paid to those who live within the designated number of driving miles from 170 Middlefield Road, Menlo Park, CA 94025:

- a) For employees living within 10 driving miles: \$1,000/month stipend
- b) For employees living within 20 driving miles: \$800/month stipend
- c) For employees living within 30 driving miles: \$600/month stipend

Employees who live within 10, 20 or 30 "air miles" of 170 Middlefield Road, Menlo Park, CA 94025 on January 1, 2022 shall be grandfathered as a recipient of the residency stipend amounts listed above based on the same number (10, 20 or 30) of driving miles from 170 Middlefield Road, Menlo Park, CA 94025 until such time as their residence changes. At and after their residence changes, these employees will no longer be grandfathered and will be eligible for a residency stipend based on the driving miles requirements set forth above, as applicable to other Battalion Chiefs. The residency stipend will not be reported as compensation for purposes of pension benefits.

## ARTICLE 3 – HOLIDAYS

### 3.1. SUPPRESSION MEMBERS (56 HOUR WORKWEEK)

Battalion Chiefs assigned to a fifty-six (56) hour work schedule shall receive holiday in lieu pay equal to an additional 144 hours per year (12 12-hour holidays) year in addition to their regular monthly salaries. Each of these hours shall be paid at the regular hourly base rate based on a fifty-six (56) hour workweek. Holiday in lieu pay shall be paid semi-monthly as one twenty fourth of the total amount.

The following are the District's approved holidays for fifty-six (56) hour members:

RECOGNIZED HOLIDAYS FOR 56 HOUR EMPLOYEES	
NEW YEAR'S DAY	LABOR DAY
MARTIN LUTHER KING JR. DAY	ADMISSIONS DAY
PRESIDENT'S DAY	VETERAN'S DAY
EASTER SUNDAY	THANKSGIVING
MEMORIAL DAY	DAY AFTER THANKSGIVING
INDEPENDENCE DAY	CHRISTMAS

## ARTICLE 4 – LEAVES

### 4.1. ANNUAL LEAVE / PAID TIME OFF

The District does not offer separate vacation, sick leave, or annual leave banks. All hours are accrued a PTO. The Fire Chief, at the Fire Chief's discretion, may negotiate or increase an employee's accrual rate to recognize superior individual performance or for positions for which it is difficult to recruit and/or retain suitable employees. For negotiations related to recruitment, prior service for non-District experience may be credited toward a new employee's accrual rate. For recognition, increases to accruals must be at a rate stated within the schedule below.

PTO will be accrued when an employee is in pay status and will be credited on a semi-monthly basis. Total PTO accrual at any one time may not exceed 720 hours. Employees that would accrue over the 720 hour limit will be prohibited from accruing more until PTO is used to take time off and their balance is reduced below 720 hours. If an increase to an accrual rate falls in the middle of a pay period, the increase to accrual rate shall take place the first full pay period following the mid period effective dates.

Anytime an employee is promoted into this Unit, all individual Compensatory Time Off shall be paid down to 0 hours prior to the promotion pay increase. The Battalion Chief Unit is not eligible for compensatory time. Additionally, the annual leave balance will be cashed out to 500 hours at the prior (pre-promotion) pay rate.

Each eligible Shift employee shall accrue PTO at the following rate for continuous service performed in

pay status:

<u>Uninterrupted Full-Service Years (Months)</u>	<u>Monthly Accrual (Hours)</u>	<u>Annualized</u>
<u>Accrual (Hours)</u>		
DOH - 3 (0-36 months)	26	312
4-9 (37-108 months)	33	396
10-13 (109-156 months)	35	420
14-18 (157-216 months)	37	444
19-above (217 or more months)	40	480

Balances upon separation shall be cashed out as follows: 100% of the value of any accrued PTO will be deposited into the employee's PEHP Account. This provision may be changed by a majority vote of participants covered by this MOU.

Employees may not request to use PTO past the last day of the pay period of their last day worked. This is intended to prevent employees using PTO to extend their resignation and separation date with the District.

A full-time employee may cash out PTO hours accrued so long as a pre-designated election was made at any time in the prior calendar year per policy. An employee may not request to cash out an amount in excess of their annual accrual amount. Additionally, an employee is encouraged to maintain a minimum of 80 hours in their PTO bank.

#### **4.2. FAMILY EMERGENCY LEAVE (FEL)**

Employees shall be entitled to use Family Emergency Leave. Family Emergency Leave is considered Unscheduled Use of Annual Leave which shall be deducted on an hour for hour basis and is intended to be used for the following:

- Conditions justifying Family Emergency Leave for personal health problems will not necessarily justify Unscheduled Leave for family care.
- Family Emergency Leave is primarily for emergency family illness or injury situations. The employee is expected to make other arrangements as soon as possible so that they may return to work.
- The required attendance upon an employee's seriously ill or injured family member is a valid reason for Family Emergency Leave.
- Family Emergency Leave may be authorized when no other person is available and capable of providing the care or attendance.
- Accompanying or transporting family members to dentist's or doctor's office for routine treatment, examinations, or laboratory test is not a valid reason for Family Emergency Leave.
- An employee whose spouse is giving birth to a child may use Family Emergency Leave for this purpose during the time their presence is needed or required.
- A common cold or other minor illness of a family member does not justify the use of Family Emergency Leave by an employee.
- Family Emergency Leave is not authorized for household duties, the care of well children, or simply to provide companionship.

### 4.3. BEREAVEMENT LEAVE

In the event of a death in the employee's immediate family, the District will grant either (a) or (b) as follows, which choice will be up to the employee and submitted by the employee by e-mail or in other writing in advance of the requested bereavement leave. Immediate family in this section means spouse, registered domestic partner, child (including step-, foster-, and -in-law), mother or father (including step-, foster-, grand-and -in-law), brother (including -in-law), sister (including -in-law), aunt, uncle, niece, nephew, or a close relative residing in the household of employee.

(a) Bereavement Leave of absence with pay of four (4) consecutive days for non-shift employees or two (2) full tours for shift employees may be granted ~~an employee by the head of his/her department~~ in the event of a death in the employee's immediate family, which is defined for purposes of this section as wife, husband, son, son-in-law, step-son, daughter, daughter-in-law, step-daughter, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, grandmother, grandmother-in-law, grandfather, grandfather-in-law, grandchild, aunt, uncle, niece, nephew, registered domestic partner, or a close relative residing in the household of employee. Such leave shall be at full pay and shall not be charged against the employee's accrued paid time off bank. Requests for leave in excess of three days shall be subject to the approval of the Fire Chief.

(b) Bereavement leave of up to five work days without pay, which days need not be consecutive, within three months of the death of the immediate family member to handle family affairs and/or attend the service. Employees may use available annual leave to remain in a paid status.

(c) If an employee needs to use bereavement leave, the employee must receive advance permission from the employee's supervisor, including permission to take the specific days requested for bereavement leave. The District may require, within thirty (30) days of the first day of bereavement leave taken, the employee to provide documentation of the death of the immediate family member. Such documentation includes, but is not limited to, a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency.

### 4.4. COURT APPEARANCES

#### 4.4.1. ANSWERING WORK RELATED SUBPOENAS ON DUTY

A leave of absence with pay shall be granted for court appearances, and other legal proceedings in cases in which the District is party or otherwise interested and the employee is compelled to attend by subpoena or by direction of proper authority; provided, however, that the employee must remit to the District within fifteen (15) days after receipt all fees received except those specifically allowed for mileage and expenses.

A leave of absence with pay shall be granted any time employees are required to appear for jury duty; provided however, that the employee must remit to the District within fifteen (15) days after receipt, all fees received except those specifically allowed for mileage and expenses. Verification of attendance shall

also be required.

#### **4.4.1.1. TELEPHONE STANDBY**

Employees who are required to be on telephone standby for the purposes of appearing in court during off duty hours pursuant to a subpoena or at the direction of the District Attorney or the Fire District's legal counsel shall receive four (4) hours of telephone standby pay per day at 1.5 times their hourly rate per day. Employees are only eligible for this pay if they are testifying on behalf of the Fire District.

#### **4.4.2. ANSWERING WORK RELATED SUBPOENAS OFF DUTY**

Employees who are subpoenaed and appear in Court will be reimbursed for mileage and associated parking costs and, if appearing in Court outside regularly scheduled hours receive a minimum of four (4) hours of pay at 1.5 times their hourly rate per day, so long as not testifying against the District, except when they are testifying about an investigation or other matter they performed at the direction of the District. The mileage distance will be calculated between to and from home and the court and compensated at the District's current rate. Members are required to submit all subpoenas, parking receipts and mileage calculations with a petty cash form to obtain reimbursement.

#### **4.4.3. JURY DUTY**

Employees shall immediately notify the Deputy Chief when they are called for jury duty and keep the Deputy Chief advised of dates they are required to appear in court, which occur on scheduled working days. They shall report for work immediately upon being excused by the court on such working days unless the Deputy Chief allows other arrangements; however, employees have the option to use Annual Leave following release from jury duty if required to attend again the following day. A verification form, available from the court, shall be presented to the Deputy Chief upon reporting for duty.

#### **4.4.4. PRIVATE LEGAL MATTERS**

A leave of absence without pay may be granted when an employee appears in obedience to subpoena in private litigation court or other legal proceedings to which the District is not a party.

#### **4.4.5. NO COMPENSATION**

Employees are not eligible for compensation when they are testifying against the District except when they are testifying about an investigation or other matter that they performed at the direction of the Fire District.

#### **4.5. OCCUPATIONAL DISABILITY (WORKERS COMPENSATION)**

An employee who is absent from duty because of disability caused by illness or injury arising out of and in the course of District service which is compensable under Workers' Compensation law shall be entitled to a leave of absence while so disabled without loss of salary for the duration of such disability; provided, however, that such leave of absence with pay shall terminate if the employee is retired on permanent disability pension and provided further that in no event shall such leave of absence with pay exceed one (1) year. The employee shall return to the District all disability payments received from the Districts workers' compensation insurance.



In the event that an employee's occupational disability continues for more than one (1) year, such employee's rights to further compensation, if any, by reason of their disability, shall be determined by the provisions applicable to disability benefits under Workers' Compensation law and/or disability benefits by reason of the employee being a member of the California Public Employees' Retirement System, and an employee's leave of absence shall continue without further salary payment by the District.

Employees shall continue to accrue Annual Leave credit as provided in section 4.1 during absence as a result of occupational disability, which occurred as a result of District service. During an employee's absence from duty because of an occupational disability, the employee shall not apply themselves whatsoever to any outside employment without the express permission from the Fire Chief.

#### **4.6. OTHER LEAVES**

The provisions of this section shall be read and administered in accordance with applicable provisions of state and federal statutes and decisional law (hereafter referred to as governing law) pertaining to family, pregnancy, disability and military leave rights. To the extent provisions of this section conflict with the governing law and the conflict results in a less favorable benefit for the employee, the governing law will take precedence: Otherwise, the provisions of this section shall govern. If, during the term of this agreement judicial or legislative changes to the governing law invalidate provisions of this section, the parties shall, as soon as it can be mutually arranged, meet and confer to address the impact of the invalidated provisions on existing terms and conditions of employment.

##### **4.6.1. FAMILY LEAVES OF ABSENCE**

The District recognizes the responsibility of employees to attend to the needs of family members and agrees to comply with all aspects of the Family Medical Leave Act (FMLA), the California Family Rights Act (CFRA) and the Fair Employment and Housing Act.

No loss of service credit with the District will occur as a result of the leave of absence. However, if the employee is granted a Family Leave of Absence while in probationary status, the length of the probationary period will be extended commensurate with the duration of the absence.

No benefit credit will accrue toward annual leave entitlement for the duration of the leave of absence.

##### **4.6.2. LIFE THREATENING ILLNESS**

The District is committed to providing equal opportunity to all employees, including those who have life-threatening illnesses. The District also is committed to providing a safe work environment that meets or exceeds State and Federal regulations. Consequently, employees who have a life-threatening illness will be treated like other employees as long as they meet performance standards, and medical and other evidence indicates that their condition is not a threat to themselves or others.

The District will allow employees who have a life-threatening illness to continue to work as long as they continue to meet performance standards, and will attempt to reasonably accommodate these employees whenever practicable.

**Medical Examination** - To assure the District that the employee who is terminally ill is not a danger to themselves, to other employees, or to the public, the District reserves the right to have the employee examined by a physician. All information, including the results, related to the examination will be

confidential.

**Disability** - If an employee is unable to work due to a terminal illness, the employee may be eligible for the District's medical leave of absence.

#### **4.6.3. MILITARY SERVICE LEAVE**

The District shall comply with all federal and state laws governing military leave for employees and their spouses. The District categorizes military leaves as "Long Term Military Leave" or "Short Term Military Leave."

##### **4.6.3.1. LONG TERM MILITARY LEAVE**

Long-term military leave is defined as an absence in excess of six (6) months. Any employee who has regular status and who is required to serve as a member of the State Militia or the United States Army, Navy, Marine Corps, Coast Guard, Air Force or any division thereof, or who volunteers for such service in time of war or national emergency shall be granted a military leave for the period of such service, plus ninety (90) days. Upon termination of such service and certified as having been honorable service, the employee shall be entitled to return to their position in the District, provided such position still exists and the employee is otherwise qualified, without loss of standing of any kind whatsoever.

Any full-time employee who is granted a long-term military leave of absence will be entitled to continuance of their District compensation and benefits during the time the employee remains on active military duty. The continuance of District compensation and benefits shall be paid as a net amount after deducting the amount of the employee's military pay and benefits.

##### **4.6.3.2. SHORT TERM AND EMERGENCY MILITARY LEAVE**

Short term and emergency military leave is defined as an absence of six (6) months or less. In accordance with California Government Code, employees are entitled to the average number of hours worked in 30 calendar days for paid military leave per year.

On this basis, the following will be the standard provision for paid military leave:

For 56 hours/week employees = 240 paid military leave hours.

Paid military leave hours will be computed based on the above and "charged against" the maximum hours for each employee for each fiscal year.

Notwithstanding any other provision of law, employees may, at their option, request to use annual leave, accumulated compensatory time off, or request a military leave of absence without pay to attend scheduled reserve drill periods or other inactive duty reserve obligations that may exceed the specified maximum hours per year of paid military leave.

#### **4.6.4. TIME OFF FOR VOTING**

As per Election Code Sections 14400 and 14401, employees who lack sufficient time outside work hours to vote in local, state and national elections may take up to two hours off work with pay for this purpose. Employees requiring time off must notify their supervisor at least two days before Election Day and must present a voter's receipt to their supervisor on returning to work.

#### **4.7. LEAVES OF ABSENCE WITHOUT PAY**

A "Leave of Absence" is defined as an excused absence without pay beyond two weeks. An absence involving paid time off (i.e., jury duty or annual leave) is not considered a leave of absence.

A leave of absence without pay may be granted to employees to maintain continuity of services only in instances where unusual or unavoidable circumstances require prolonged absence. All leaves of absence, or extensions of same, shall be reviewed on a case by case basis and granted at the sole discretion of the Fire Chief.

Continuation of medical benefits during a leave of absence will be provided as required by State and Federal law.

A leave of absence without pay may be granted by the Fire Chief, with approval of the Board of Directors of the District up to a maximum of one year.

No loss of seniority with the District will occur as a result of the leave of absence, but no benefit credit will accrue toward annual leave entitlement for the duration of the leave. While on unpaid leave, employees will not be eligible for Holiday In-Lieu or Holiday pay.

When an employee is on an unpaid leave for a portion of the pay period, the application of unpaid leave will be pro-rated based on 121.33 hours in the pay period and not the number of shifts in the pay period.

##### **4.7.1. MEDICAL LEAVE**

A medical leave of absence may be granted when supported by a physician's statement. Accrued annual leave/ESL must be used prior to commencement of the unpaid portion of the leave. However, the combination of accrued annual leave and unpaid leave typically should not exceed sixty days.

##### **4.7.2. PERSONAL LEAVE OF ABSENCE**

A personal leave of absence to handle compelling personal business may be granted to an employee. Length of personal leave of absence may range from two weeks to one month. To be eligible, the employee must have maintained a satisfactory record of employment with the District for a minimum of one year. Employees must use all accrued annual leave and ESL before a personal leave of absence commences.

A personal leave of absence is approved at the discretion of the Fire Chief. The employee must be available to return to regular duty on or before the expiration date of the leave.

#### **4.8. UNION RELEASE TIME**

The District may provide administrative time with pay or backfill for Union representatives and other members whose participation in committees; trainings and other events on behalf of the Battalion Chief Unit are of mutual interest to the Union and the District.

Union Release Time is provided by the District for mutual interest topics and is separate from Union Leave Bank.

The Union shall provide the Fire Chief or designee a written request for time off at least six (6) business days in advance of the requested time off.

The Fire Chief may waive this requirement if the matter is short notice or time sensitive.

#### **4.8.1. ELIGIBLE ACTIVITIES**

Examples of District activities eligible for union release time include:

- Meet and confer sessions
- Policy steering committees and working groups
- Representation for disciplinary matters involving other members
- Joint Labor Management Committees (JLMC)
- Staff meetings
- Negotiations (on-duty members only)
- Conflict resolution, including mediation and arbitration hearings.

#### **4.8.2. ELIGIBLE CONFERENCES**

Examples of conferences, conventions, meetings, and training activities eligible for union release time include:

- CALPELRA Conferences
- IAFF/IAFC Labor Management Initiative Conference
- IAFF Redmond Symposium
- IAFF Wellness Fitness Symposium
- IAFF Peer Fitness Train the Trainer Classes
- SAFER Meetings

#### **4.9. UNION LEAVE BANK**

The District shall establish a "Union leave bank" for the elected Union officers representing the Battalion Chief Unit to conduct Union business activities not covered by "Union release time."

Examples of these activities include: backfill for on-duty members and compensation for off-duty members who are required to attend certain union activities such as IAFF and CPF conferences, symposiums and trainings, E-Board meetings and other certain other labor related functions.

The District shall facilitate the establishment of a bank of hours to be donated by Union members and used by bargaining group members for activities approved by the Union designee, the hours in this bank shall not exceed 720. Requests for the use of Union banked time must be submitted by the Union President to the Fire Chief or designee at least five (5) calendar days in advance. Time off pursuant to this section must be taken in minimum increments of six (6) hours. The Fire Chief shall provide a written response to the Union President no later than two calendar days before the date upon which the time is requested to be taken off. The Fire Chief may deny a request for the use of Union Banked Time only if granting the request will result in undue disruption of the District's operations. No more than two (2) employees, and typically only one (1) given the limited number of Battalion Chiefs, shall be excused for such purposes except with the permission of the Fire Chief, or designee.

Union Leave Bank Time hours are donated by union members and are for union interests. As needed,

each member shall be requested to donate an equal number of hours to replenish the Union Time Bank.

The Union shall advise the District each year of both the number of hours to be credited to the bank for the next calendar year and the deductions from annual leave that are to be used as the source of the bank. The number of hours used on each occasion shall be deducted from the bank on an hour for hour basis.

Hours deducted from the Union Leave Bank will not be used to account for backfill to rehire for the vacancy created by the use of Union Leave time. Any Stipend costs created by the use of Union Leave Bank hours will be covered by the District.

Only annual leave may be donated as Union banked time.

The Union shall develop rules governing the use of the Union Leave Bank and provide them to the Fire Chief for consideration.

#### **4.10. CATASTROPHIC LEAVE BANK**

The District shall establish and maintain a Catastrophic Leave Bank which allows bargaining unit members and other employees to donate accrued leave to other employees who have exhausted or will exhaust their accrued leave due to the employee's own health condition, or a health condition of a member of the employee's immediate family.

Immediate Family shall be defined as an employee's spouse, registered domestic partner, child (including step or foster child), or a person defined as a dependent for Income Tax purposes.

The Catastrophic Leave Bank will include the following terms and conditions:

- All full-time regular and probationary employees shall be eligible to apply for and receive paid leave from the Catastrophic Leave Bank.
- Time donated or given by Battalion Chiefs, the Deputy Chief or Fire Chief will be a one hour for one-hour exchange, no conversions, based upon the requesting employee's rate. Time donated or given by employees at pay rates lower than the requesting employee's rate shall be based on the rate of the employee donating the hours.
- The catastrophic leave bank will have a maximum cap of 720 hours.
- To be eligible to request paid leave from the Catastrophic Leave Bank, a 56-Hour employee must have less than 192 hours left. Hours from the Catastrophic Leave Bank shall not be provided until the employees leave balances are completely exhausted.
- To be eligible to receive paid leave from the Catastrophic Leave Bank due to an employee's own health condition, an employee must provide a physician's statement that the employee's health condition is such that the employee is currently unable to perform the employee's regular duties and that provides an estimate of the length of time the employee's health condition will be such that the employee is unable to perform the employee's regular duties.
- In order to be eligible to receive paid leave from the Catastrophic Leave Bank due to the health condition of a member of an employee's immediate family, an employee must provide a physician's statement that the health condition of the member of the employee's immediate family is such that the employee must take time off from work to provide care for that person and an estimate of the length of time the employee will need to take time off from work to provide such care.

- An employee who meets the conditions of eligibility for the receipt of paid leave from the Catastrophic Leave Bank shall be entitled to receive up to 480 hours of such leave in a 12-month period for 56-hour employees, provided that there are a sufficient number of hours in the Catastrophic Leave Bank. The Fire Chief shall have the discretion to approve a request from an eligible employee for additional hours of paid leave from the Catastrophic Leave Bank. A denial by the Fire Chief for additional hours of paid leave from the Catastrophic Leave Bank shall not be subject to the grievance or other appeal procedures.
- Employees receiving paid leave from the Catastrophic Leave Bank shall accrue leave based on the MOU.
- 56-hour workweek employees who have at least 480 hours of annual leave may donate annual leave hours. A 56-hour workweek employee donating annual leave may not make a donation that would result in the employee having less than 320 hours of annual leave.
- Employees with floating holidays may donate part or all of their annual unused floating holiday hours.
- The District's Catastrophic Leave Policy shall authorize employees to make donations annually to the Catastrophic Leave Bank at the same time that employees may make donation to the Union Business Leave. At any time during the year that the number or hours in the Catastrophic Leave Bank falls below the number of hours that are to be granted to an eligible employee, the Fire Chief or designee shall solicit additional donation to the Catastrophic Leave Bank from regular full-time employees via this memorandum. The names of the employees who make donations to the Catastrophic Leave Bank and the number of hours shall be kept confidential.

## ARTICLE 5 - INSURANCE

### 5.1. HEALTH BENEFITS ALLOWANCE

Effective January 1, 2022, the Health Benefit Allowance and the maximum District contribution towards medical premiums for eligible full-time employees in each employee category (employee only, employee + 1, employee + family) shall be up to the median of CalPERS Region 1 Premiums for which these employees are eligible, which amount includes the statutory PEMCHA minimum.

The District's total maximum contribution towards medical premiums is pro-rated based on hours in a paid status for new employees, separating employees, employees on a non-qualifying FMLA/CFRA leave and eligible part-time employees.

In the event premiums and/or costs for the benefits selected by the employee exceed the amount in the Health Benefits Allowance, the balance will be paid by the employee through automatic pretax payroll deduction, as allowed under Internal Revenue Code Section 125. An employee may allocate monthly Health Benefit Allowance amounts not exhausted for the purchase of health insurance to benefits provided under the Flexible Benefits Plan, which currently consists of the health flexible spending arrangement (Health FSA), dependent care flexible spending arrangement (CD FSA), and voluntary life insurance for the employees (not for a spouse or dependent) up to the maximum life insurance policy limit. Employees may not allocate more than \$500 per year of District provided flex credits to their Health FSA account. Also, and although there is no specific limit on the amount of District provided flex credits that can be allocated to the DC FSA, the maximum annual amount that can be reimbursed under the DC FSA is \$5,000 per year. This means that any District-provided flex credits that an employee allocates to

their DC FSA would reduce the amount the employee can contribute to the DC FSA through salary reduction, so that the maximum of \$5,000 is not exceeded. Any unallocated amount of District provided Health Benefit Allowance shall be forfeited at the end of the calendar year.

For ACA purposes, the initial measurement period shall be the first 90 days of employment. Employees averaging above 30 hours of employment shall be offered health benefits in accordance with law and pro-rated on their percentage of full-time employment.

#### **5.1.1. MEDICAL BENEFIT WAIVER**

If a regular employee and/or the employee's dependent(s) are eligible for and elect to receive medical insurance through another non-District employer-sponsored or association medical plan, the employee may choose to waive the employee's right to the District's medical insurance. No cash payments will be made to the employee for waiving coverage. The employee must provide proof of their coverage under another health plan or will be automatically enrolled in the lowest cost plan offered by the District.

Employees qualifying to waive District medical insurance shall receive a \$700/month Health Benefit Allowance that may be used for other benefits provided under the Flexible Benefits Plan, which currently consists of the health flexible spending arrangement (Health FSA), dependent care flexible spending arrangement (DC FSA), and voluntary life insurance for the employee (not for a spouse or dependent) up to the maximum policy limit, subject to the following conditions:

- a) Employees may not allocate more than \$500 per year of District provided Health Benefit Allowance to their Health FSA account.
- b) Although there is no specific limit on the amount of District provided Health Benefit Allowance that can be allocated to the DC FSA, the maximum annual amount that can be reimbursed under the DC FSA is \$5,000 per year. This means that any District provided Health Benefit Allowance that an employee allocates to their DC FSA would reduce the amount the employee can contribute to the DC FSA through salary reduction, so that the maximum of \$5,000 is not exceeded.
- c) Any unallocated amount of District-provided Health Benefit Allowance for employees that waive the District's group health coverage shall be forfeited at the end of the calendar year.

#### **5.1.2. DENTAL**

The District shall contribute one hundred twenty-seven dollars (\$127.00) per month, excluding admin fees, toward the District's dental plan for each Battalion Chief employee. It will be pro-rated at the beginning and ending of employment. During the term of this ~~2023~~2024-2026 MOU, the District shall pay any administrator fees. Employees can receive up to a guaranteed amount of \$1,524 under the plan provided they have at least one cleaning during the plan year. If funds permit in the plan, employees can be eligible to receive up to \$5,000 during the plan year. Orthodontics are covered for employee and eligible dependents at an annual maximum of \$2,500.

Any surplus at the end of the dental plan year shall be carried over to the following dental plan year. An employee's eligibility to use the maximum annual benefit, exclusive of use for orthodontia, shall be front-loaded to the beginning of the plan year.

Contingent on implementation for other employee groups, including agreement and satisfaction of applicable meet and confer for represented employees, the District and Union agree (a) if there is no surplus at the end of the 2023 or 2024 dental plan years, the District shall increase its monthly contribution

by \$5/month per employee over the prior dental plan year; (b) regardless of the status of any surplus or carryover of dental funds at the end of the 2025 dental plan year, the District shall increase its monthly contribution by \$5/month per employee over the prior dental plan year in the 2026 dental plan year; and (c) the orthodontia limit shall be increased to \$3,500 per plan year.

## **5.2. PEHP (POST EMPLOYMENT HEALTH PLAN) 501c PLAN**

Effective January 2022, the District will contribute to each employee \$1,000/month towards PEHP. Nationwide Insurance Company currently manages this plan.

## **5.3. BASIC LIFE INSURANCE**

The District shall provide a basic group term life insurance in an amount of \$100,000 at no-cost to the employee.

## **5.4. EMPLOYEE ASSISTANCE PLAN**

The Employee Assistance Plan (EAP) provides employees with confidential personal counseling, work and family related issues, eldercare, substance abuse, etc. In addition, EAP programs provide a valuable tool for supervisors to refer troubled employees to professional outside help. This service staffed by experience clinicians is available to employees and their dependents by calling a toll-free phone line 24 hours a day, seven days a week. Guidance is also available online.

# ARTICLE 6 - RETIREMENT

## **6.1. RETIREMENT PLAN**

The District agrees to continue its contract with CALPERS with the following retirement benefits.

### **6.1.1. SAFETY PENSION GROUP A: 3% AT 50.**

The District provides retirement benefits under the California Public Employees Retirement System at the level of 3% at age 50 for employees who are not "new members" of CalPERS as defined in the Public Employees' Pension Reform Act (often referred to as "Classic" CalPERS members). For employees in Safety Pension Group A, the 3% at 50 benefit plan includes the following options:

- Post Retirement Survivor Allowance
- 2W Death Benefit
- 1959 Survivor Benefit Termed "Indexed Level"
- "Military Service Credit" Option

Employees in Safety Pension Group A shall pay the full nine percent (9.0%) employee contribution.

### **6.1.2. SAFETY PENSION GROUP B: 2.7% AT 57.**

Employees hired on or after January 1, 2013 meeting the definition of "new member" under the Public Employees' Pension Reform Act (Gov't Code §§ 7522 et seq.) shall be subject to all of the provisions of that law, including but not limited to the 2.7 percent at age 57 (2.7%@57) retirement formula with a three



(3) year final compensation period. This group is commonly referred to as PEPRA. For employees in Safety Pension Group B, the 2.7% at 57 benefit plan includes the following options:

- Post Retirement Survivor Allowance
- The 1959 Survivor Benefit Termed “Indexed Level”
- 2W Death Benefit
- “Military Service Credit” Option

Employees in Safety Pension Group B shall pay the employee contribution required by the Public Employees’ Pension Reform Act, calculated at fifty percent (50%) of the normal cost.

Should CalPERS, after the District Board approves this MOU, modify CalPERS’ system-wide actuarial assumptions, (e.g. assumed discount rate, smoothing methodology, demographic assumptions, etc.) in a manner that directly increases the District’s pension costs, the parties agree to a re-opener on the subjects of wages and pension contributions.

## ARTICLE 7 - ISSUE RESOLUTION PROCESS/COOPERATION

### 7.1. JOINT LABOR MANAGEMENT COMMITTEE (JLMC)

The JLMC shall be used to discuss ongoing labor-management items that are of mutual interest related to productivity, morale, mutual problem solving, projects that improve overall effectiveness and efficiency and better communication. JLMC meetings shall consist of at least one Union representative, the Fire Chief, ~~the~~ Deputy Chief if desired by the Fire Chief, Administrative Services/Human Resources, and other persons relevant to the agenda items. Union representatives are eligible to use approved Union Release Time to perform JLMC functions outside of their regularly scheduled hours.

### 7.2. PERSONNEL FILE

The Fire District shall keep a true and correct copy of each employee's personnel file in the Human Resources Office at Fire Administration. Employees shall be allowed to inspect personnel files that are used or have been used to determine their qualifications for employment, promotion, additional compensation or termination or other disciplinary action.

Upon written request of the member, they or their authorized representative shall be provided on-duty time to review their personnel files in a reasonable time following their request.

If, after examination of the employee's personnel files, the employee believes that any portion of the material is mistakenly or unlawfully placed in the file, the employee may request, in writing to the Fire Chief or his/her designee, that the mistaken or unlawful portion be corrected or deleted. Any request made pursuant to this subdivision shall include a statement by the employee describing the corrections or deletions from the personnel file requested and the reasons supporting those corrections or deletions. A statement submitted pursuant to this subdivision shall become part of the personnel file of the employee.

Within 30 calendar days of receipt of a request made pursuant to this Section, the Fire Chief or designee shall either grant the employee's request or notify the officer of the decision to refuse to grant the request. If the Fire Chief or his/her designee refuses to grant the request, in whole or in part, the Fire

Chief or designee shall state in writing the reasons for refusing the request, and that written statement shall become part of the personnel

file of the employee.

### **7.3. WRITTEN REPRIMANDS AND WARNINGS**

An employee shall receive a copy of any written reprimand or warning prior to its being placed in the employee's personnel file.

An employee shall not have any adverse comment entered in the employee's personnel file, or any other file used for any personnel purposes by the Fire District without their knowledge.

Adverse comments shall not be placed in an employee's personnel file unless the employee has read and signed the instrument containing the adverse comment indicating the employee is aware of the comment.

If the employee refuses to sign the instrument, that fact shall be noted on that document, and signed or initialed by the employee.

An employee shall have 30 days within which to file a written response to any adverse comment entered into the employee's personnel file. The written response shall be attached to, and accompany, the adverse comment.

#### **7.3.1. REMOVAL OF LETTERS OF REPRIMAND AND WARNINGS**

The Union or an employee may request removal of letters of reprimand, warnings, and any corresponding written responses from the employee's personnel file two (2) years after it is issued upon written request by the Union or employee. Such documents will be removed following written sign-off by Human Resources acknowledging removal unless (a) there has been a further letter of reprimand or warning or more serious discipline concerning the same performance or conduct issue, in which case the date of removal will be two (2) years after the subsequent letter of reprimand or warning, or (b) if an active investigation is pending against the employee that could result in discipline, or (c) a disciplinary matter is pending against the employee (e.g. a notice of intent to discipline has been issued to the employee).

#### **7.3.2. LETTERS OF APPRECIATION AND COMMENDATION**

Fire Administration may place any letter of appreciation or commendation that in the Fire Chief's estimation is of outstanding merit in the employee's personnel file.

### **7.4. FIREFIGHTER'S PROCEDURAL BILL OF RIGHTS (FBOR)**

The District will comply in all respects with the Firefighters Procedural Bill of Rights Act (AB 220; Gov't Code sections 3250-3262) and, to the extent any aspect of the discipline process described in this MOU does not satisfy the requirements of the Act or needs to be supplemented by the requirements of the Act, the parties will comply with the requirements of the Act.

### **7.5. DISCIPLINE POLICY**

#### **7.5.1. CAUSES FOR DISCIPLINARY ACTIONS**

Employees may not be disciplined except for just cause. Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

- Conduct or behavior not becoming of an employee in the public service or tending to adversely impact the District's reputation.
- Fraud in securing appointment.
- Inexcusable neglect of duty.
- Violation of safety rules.
- Nonobservance of work hours, including excessive absences or tardiness
- Being in the unauthorized possession of, or under the influence of alcoholic beverages, nonprescription or unauthorized narcotics or dangerous drugs during work hours.
- Refusal or failure to perform lawful work assigned.
- Unauthorized soliciting on District property.
- Conviction of a felony or conviction of a misdemeanor involving moral turpitude.
- Offensive treatment of the public or another employee.
- Disobedience of, or insubordination to proper authority.
- Misuse of District property.
- Violation of any of the provisions of the District rules and regulations.
- Falsification of District records.
- Theft.
- Unethical conduct (for example, abuse of Unscheduled Leave, release of confidential information, unauthorized leave).
- Dishonesty.
- Unsatisfactory performance.
- Poor judgment.
- Discrimination, harassment or retaliation.

#### **7.5.2. SUSPENSION**

Employees suspended from the District service shall forfeit all rights, privileges and salary or other fringe benefits while on such suspension except for medical and other health care benefits for the employee and the employee's dependents.

#### **7.5.3. PRE-DISCIPLINARY CONFERENCE PROCEDURES**

Prior to taking disciplinary action, in the form of a reduction in pay, suspension, demotion, or termination against a permanent employee the Fire Chief or designee shall notify the employee in writing of the following:

- The proposed disciplinary action and effective date for such action;
- The nature of the charges and/or violation of District regulations, policies, and/or MOU provisions;
- The reasons and factual bases for the proposed action;
- The materials upon which the action is based;
- The right of the employee to respond at a specified place and time verbally and/or in writing;
- The right of the employee to be represented by an attorney or other representative at any further proceedings.

Any employee notified pursuant to the bullet points above, who desires to respond to said notification, shall do so at the time and place specified in the notification. Failure to respond shall be deemed an intentional waiver of the employee's right to submit an oral or written response to the proposed disciplinary action before the action is taken.

If the employee or employee's designated representative requests the right to respond orally to the proposed discipline within the time frame specified in the notice pursuant the bullet points above, imposition of proposed discipline shall be deferred until after the Fire Chief or his/her designee receives the oral response. If the employee elects to respond in writing, the Fire Chief or designee shall defer imposition of discipline until receipt and review of the written response.

Where an oral response has been elected, the Fire Chief or designee has the responsibility to conduct a pre-disciplinary conference. It is the Fire Chief or designee's responsibility to coordinate the scheduling of the conference, including: (1) the date, time and place; and (2) forwarding of notices of such information to the employee within ten (10) working days of the employee's request. In the event the employee has given written notice to the Fire Chief that copies of all notices regarding the proposed disciplinary action are to be served upon a particular officer or representative of the Union, the Fire Chief's designee shall serve a copy of the notice of discipline on said officer's representative at the same time the Fire Chief's designee serves the notice of discipline on the employee. The Fire Chief or designee shall conduct the conference informally and shall be responsible for receiving the employee's and/or the employee's representative's response to the proposed discipline. The conference shall be conducted informally and shall be limited to the presentation of information by and through the employee and/or their representatives in response to the charges and allegations set forth in the notice of proposed discipline.

In the event the employee is unable to respond to the charges within the time permitted and demonstrates the reasonableness of a need for a continuance, the Fire Chief or designee may grant a continuance. The time limits described herein are essential and may only be modified or enlarged by mutual consent of both the employee and the Fire Chief or designee.

In the discretion of the Fire Chief or designee and subject to the affected individual employee's consent, disciplinary procedures against more than one employee may be consolidated where related or similar issues are present.

#### **7.5.4. NOTICE OF DISCIPLINE**

After conclusion of the pre-disciplinary conference and within 30 days of the Fire Chief or designee's final decision, but not less than forty-eight (48) hours prior to imposing discipline, the Fire Chief or his/her designee shall notify the employee in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. The notice shall also contain a statement of charges which shall set forth the acts or omissions with which the employee is charged in order that the employee will be able to prepare their defense. Also, the notice shall specify the District rules, policies and procedures which the employee is alleged to have violated.

The notice of discipline shall also advise the employee of the employee's right to request an appeal hearing by filing a Notice of Appeal. The Notice of Appeal must be filed within 15 days after service upon

the employee of the Notice of Discipline. Failure to request an appeal hearing within the 15-day period, will constitute waiver of the employee's right of appeal.

The Notice of Discipline shall be served personally on the employee with proof of service noticed and retained by the District.

In the event the employee has given written notice to the Fire Chief that copies of all notices regarding the disciplinary action are to be served upon a particular officer or representative of the Union, the Fire Chief's designee shall serve a copy of the Notice of Discipline on said officer's representative at the same time the Fire Chief's designee serves the Notice of Discipline on the employee.

#### **7.5.5. RIGHT TO APPEAL**

Employees shall have the following administrative appeal rights, which the District and the Union stipulate as being in accordance with Chapter 5, section 11500 of the California Government Code and otherwise satisfying the administrative appeal right established under section 3250 of the California Government Code. The parties further agree that the following appeal rights constitute the employee's exclusive administration rights for challenging disciplinary action taken pursuant to this MOU and that the grievance procedures under this MOU shall not apply. The parties further agree that an employee must choose between the appeal procedure in section 7.5.6 and the appeal procedure in Section 7.5.7 and not pursue both.

#### **7.5.6. APPEAL PROCEDURE**

A formal appeal procedure shall be available for a disciplinary action involving discharge, demotion, ~~or~~ suspension, or reduction in pay. The conduct of the appeal hearing shall be as follows:

The formal appeal shall be presided over by an administrative law judge on staff on the State Office of Administrative Hearings, hereafter referred to as the "ALJ". The ALJ shall preside at the appeal hearing, rule on the admission and exclusion of evidence and determine and rule on all matters of law both procedural and substantive. In conducting the appeal hearing the ALJ shall follow the provisions set forth in section 11513 of the California Government code.

Discovery prior to the appeal hearing shall be permitted in accordance with sections 11507.6 and 11507.6 of the California Government Code.

A stenographic reporter shall report the appeal proceeding. However, upon consent of all the parties, the proceedings may be electronically reported.

Within 30 days after the case is submitted to them, the ALJ shall prepare a proposed written decision to be submitted to the Fire Chief. Within 60 days of receipt by the Fire Chief of the ALJ's proposed decision, the Fire Chief may take any of the following actions:

- Adopt the proposed decision in its entirety.
- Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision.

- Make technical or other minor changes in the proposed decision and adopt it as the decision. Action by the Fire Chief under this paragraph is limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision.
- Reject the proposed decision and refer the case to the same ALJ if reasonably available, otherwise to another ALJ, to take additional evidence. If the case is referred to the ALJ pursuant to this subparagraph, they shall prepare a revised proposed decision based on the additional evidence and the transcript and other papers that are part of the record of the prior appeal hearing. A copy of the revised proposed decision shall be furnished to each party and their attorney.
- Reject the proposed decision, and decide the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence. By stipulation the parties and the Fire Chief may decide the case upon the record without including the transcript.
- The Fire Chief's decision will be reduced to writing and shall be final and binding on the parties. The Fire Chief's written decision shall be served on the parties in accordance with Code of Civil Procedure section 1094.6 and the decision shall be subject to judicial review pursuant to Code of Civil Procedure section 1094.5.

#### **7.5.7. ALTERNATIVE DISPUTE RESOLUTION**

In the event of:

Punitive action consisting of discharge, demotion ~~or~~, suspension or reduction in pay on the grounds other than merit; and

Within 15 days after service upon the employee of the Notice of Discipline the Union gives written notice to the Fire Chief that the Union is willing to represent the employee in an arbitration over the disciplinary action; and

The employee gives written notice to the Fire Chief within the same 15-day period that the employee elects to waive their right to appeal under section 3250 of the California Government Code and appeals the disciplinary action instead pursuant to the following provisions for binding arbitration or disciplinary appeals., the following procedures shall be followed:

If the District and the Union fail to agree on the person to serve as the arbitrator, a request shall be submitted to the California Mediation and Conciliation Service for a list of seven (7) qualified and experienced labor arbitrators. Either the District or the Union may submit this request.

In the event the District and the Union fail to agree to the selection of one of the persons on said list to serve as the arbitrator, the District and the Union shall alternatively strike names from the list until only one name remains. That person shall serve as the arbitrator. The party to strike the first name shall be determined by lot. The District and the Union shall split the cost of the arbitrator, including the cost of the reports, evenly.

The issue to be decided by the arbitrator shall be whether just cause existed for the disciplinary action and if not, what shall be the remedy.

The arbitrator's decision of this issue shall be final and binding on the parties.

### **7.5.8. DISCIPLINE PROCEDURE**

To the extent this section is not in compliance with the governing statutory structure comprising the Firefighter Bill of Rights, the employee may elect an alternative formal appeal procedure for a disciplinary action involving discharge, demotion, ~~or suspension~~ or reduction in pay. The request by the employee for utilization of this alternative process must be made at the time and within the same document as the written request to appeal the final imposition of discipline, pursuant to the timelines outlined. The conduct of the intermediary step (through an advisory fact-finding administrative hearing) before final determination by the Fire Chief shall be as follows:

The formal appeal shall be presided over by an administrative law judge ("ALJ") on staff at the State Office of Administrative Hearings. The ALJ shall preside at the appeal hearing, rule on the admission and exclusion of evidence, and make recommendations on matters of procedural and substantive law. In conducting the hearing, the ALJ shall follow the provisions set forth in section 11513 of the California Government Code.

A stenographic reporter shall report the appeal proceedings. The costs of the reporter shall be borne equally by both parties. Alternatively, upon consent of all of the parties, the proceedings may be reported electronically. Within 30 days after the case is submitted to the ALJ, the ALJ shall prepare a proposed written decision to be submitted to the Fire Chief. Within 100 days of receipt by the Fire Chief of the ALJ's proposed decision, the Fire Chief may take any of the following actions:

- Adopt the proposed decision in its entirety.
- Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision.
- Make technical or other minor changes in the proposed decision and adopt it as the decision. Action by the Fire Chief under this paragraph is limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision.
- Reject the proposed decision and refer the case to the same ALJ if reasonably available, otherwise to another ALJ, to take additional evidence. If the case is referred to the ALJ pursuant to this subparagraph, the ALJ shall prepare a revised proposed decision based on the additional evidence and the transcript and/or other papers that are part of the record of the prior hearing. A copy of the revised proposed decision shall be furnished and the decision shall be served to each party and the Fire Chief. At that time, the Fire Chief will have the option of taking any of the proposed actions again in any of these subparagraphs for final determination.

Reject the proposed decision, and decide the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence. By stipulation of the parties, the Fire Chief may decide the case upon the record without including the transcript or electronic recording.

The Fire Chief's decision will be reduced to writing and shall be final and binding on the parties. The Fire Chief's written decision shall be served on the parties in accordance with the Code of Civil Procedure section 1094.6 and the decision shall be subject to judicial review pursuant to Code of Civil Procedure section 1094.5.

### **7.6. GRIEVANCES**

A grievance is any dispute, which involves the interpretation or application of any provision of this Memorandum of Understanding excluding, however, those provisions of this Memorandum of Understanding that specifically provide that the decision of any District official shall be final, the interpretation or application of those provisions not being subject to the grievance procedure.

#### **7.6.1. GRIEVANCES PROCESSED**

Any employee who believes the employee has a grievance may discuss the employee's complaint with the Deputy Chief. If the issue is not resolved at that level, or if the employee elects to submit their grievance without first discussing the grievance with the Deputy Chief, the following procedures must be followed.

No grievance shall be submitted to arbitration which has not been timely filed. To be timely filed, the grievance must be filed with the Fire Chief or the Chief's designee within ten (10) business days of the events giving rise to the grievance, or within ten (10) business days of the time the grievant became aware or reasonably should have become aware of the facts giving rise to the grievance. Either the aggrieved employee or an official of the Union may file the grievance. The grievance must state the facts supporting the grievance and the provision of the agreement violated along with a proposed remedy.

The Fire Chief or the Chief's designee shall investigate (or designate a representative to investigate), which may include meeting with the Union and the grievant to discuss the issues and to try to resolve the matter to a mutual satisfaction of all parties. The Fire Chief or designee shall provide the grievant and the Union with a response to the grievance within fifteen (15) business days after the date the grievance was filed. In the event the Fire Chief or designee fails to provide a response within this time period, the Fire Chief or designee shall be deemed to have denied the grievance on the 15th business day after the date the grievance was filed.

In the event the grievant is not satisfied with the response outlined in the paragraph above, or the Fire Chief failed to provide a response to the grievance within fifteen (15) business days after the date the grievance was filed, the Union may refer the matter to binding arbitration by a third party who shall be selected by mutual agreement of the parties or, in the event that parties cannot agree on an arbitrator, from by alternative striking names from a list of seven (7) qualified labor arbitrators obtained from the State Mediation and Conciliation Service. Any submission to arbitration shall be in writing and must be within ten (10) business days of receipt of the Fire Chief or designee's decision. The parties shall share the fees and expenses of the arbitrator and of the court reporter equally. Each party, however, shall bear the cost of its own presentation, including preparation and post hearing briefs, if any.

Decisions of an arbitrator on matters properly before the arbitrator shall be final and binding on the parties.

#### **7.6.2. ARIBTRATOR**

No arbitrator shall entertain, hear, decide, or make recommendations on any dispute unless such dispute involves a Battalion Chief and unless such dispute falls within the definition of a grievance as set forth in section 7.6.



### **7.6.3. PROPOSAL TO ADD/CHANGE MEMORANDUM**

Proposals to add to, or change this Memorandum of Understanding, or proposals for written agreements to addenda supplementary hereto shall not be arbitral and no proposal to modify, amend, or terminate this Memorandum of Understanding, nor any matter or subject arising out of, or in connection with, such proposal, may be referred to arbitration under this Section. An arbitrator shall not have the power to amend or modify this Memorandum of Understanding or written agreements between the Union and District or to establish any new terms and conditions of employment.

### **7.7. COMPENSATION PAYMENTS**

All complaints involving or concerning the payments of compensation shall be initially filed in writing with Fire Administration. Only complaints which allege that employees are not being compensated in accordance with the provisions of this Memorandum of Understanding shall be considered grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and if not detailed in the Memorandum of Understanding which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than ninety days (90) from the date upon which the complaint was filed.

### **7.8. CHANGE OF MEMORANDUM**

No changes in the Memorandum of Understanding will be recognized unless agreed to by the District Board and Union.

### **7.9. ENGAGING IN ACTION AGAINST THE DISTRICT**

The Union, its members and representatives, agree that it, and they will not engage in any of the following concerted actions against the District: authorizing, sanctioning, or supporting any strike, sympathy strike, slowdown, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment (provided such equipment is safe and sound as determined by the Fleet Supervisor and the Duty Chief) or to perform customary duties; and, neither the Union, nor any representatives thereof shall engage in job action against the District for the purpose of effecting changes in the directives or decisions of management of the District, nor to effect a change of personnel or operations of management or of employees of the District not covered by this Memorandum of Understanding.

## **ARTICLE 8 – WORK SCHEDULE FOR 56-HOUR BATTALION CHIEFS**

### **8.1. 2x4 WORK SCHEDULE FOR 56-HOUR BATTALION CHIEFS**

56-hour Battalion Chiefs work 56 hours per week on an average over the course of a year. This schedule consists of two consecutive 24-hour work shifts worked followed by four 24-hour days and eight (8) twenty-four (24) hour on-duty periods (a total of 192 hours) within a twenty-four (24) day work period. The Union agrees to meet and confer with the District on any District proposals to temporarily assign a Battalion Chief to a 40-hour assignment, either for light duty or for special assignment(s), or to designate

or create an on-going or permanent 40-hour Battalion Chief position.

## **8.2. 96-HOUR RULE**

Except in the case of emergencies, employees shall not work in excess of 96 consecutive hours

## **8.3. EXCHANGES OF ON-DUTY TIME (SHIFT TRADES)**

Requests for exchanges of on-duty time may only be denied for reasons specified in this MOU.

### **8.3.1. GENERAL RULES AND RESTRICTIONS**

Battalion Chiefs working 56-hour shift schedules may agree in limited circumstances and when approved by the Fire Chief or designee to trade a regularly scheduled shift consistent with the rules set forth in this section. The hours worked under a shift trade shall be excluded in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation. When one Battalion Chief substitutes for / trades with another Battalion Chief, each employee will be credited as if the employee had worked the employee's normal work schedule for that shift.

Shift trades shall not result in an employee working in excess of ninety-six (96) consecutive hours except the Fire Chief or designee may waive this restriction in the case of an emergency.

Requests for exchanges of on-duty time shall be submitted by e-mail and text, and every effort shall be made to submit the request before 1900 hours of the night before the employee's shift begins, except the Fire Chief or designee may waive this notice requirement for unusual or unforeseen circumstances. The Fire Chief or designee may confirm approval of the request by text. Failure to receive approval of the request shall be understood to mean the trade is not approved.

When an exchange request has been appropriately approved, the responsibility of reporting for work on a day that was exchanged belongs to the employee who agreed to work on that day.

### **8.3.2. ANNUAL LEAVE DURING SHIFT TRADE**

Employees may not use annual leave on days they have agreed to work for other employees as exchanges of on-duty time.

#### **8.3.2.1. Deployment on Disaster Relief or Mutual Aid Assignment**

In the event an employee has arranged an exchange of on-duty time with a second employee and the first employee is unable to work for the second employee on the day upon which the employees mutually agreed because the first employee is deployed on that day as a member of a disaster-relief or mutual aid team, the employees will select from the list of options below to address the situation. The second employee will continue to have the obligation to fulfill the trade if the second employee has not worked the trade already. If the second employee has already worked the trade, the trade obligation of both employees will be considered fulfilled.

- a) Should the member be deployed on a mutual aid assignment when they are scheduled to work a trade, the member can arrange for another member to work the shift trade.
- b) If the member cannot arrange for another member to cover the shift trade, then the member

will honor the trade by not being compensated during the scheduled duration of the trade. Reimbursement from the incident will be utilized to hire another member to cover the vacancy created by the member being assigned to a mutual aid assignment.

- c) Both members involved in the trade may agree to cancel the portion impacted by the deployment in lieu of the previous steps.

*Example: Mike agrees to a shift trade with Julie. On the day Mike is scheduled to work for Julie, Mike is on a disaster relief, District assignment or mutual aid deployment and can't work that day in place of Julie. The employees who entered into the shift trade will select from the options listed to remedy the situation. Mike will be considered to have fulfilled the trade obligation to Julie. Julie will continue to have the obligation to fulfill the trade if she has not already done so. If Julie has already worked the trade, the trade obligation of both employees will be considered to have been fulfilled.*

#### **8.3.2.2. Job-Related Injury Prior to Date of Repayment of Shift Trade**

In the event an employee has arranged an exchange of on-duty time with a second employee and the first employee is unable to work all or part of the second employee's shift on the day upon which the employees mutually agreed because of a job related injury or illness, unless the sick or injured employee arranges for a replacement through another exchange of on-duty time, the District will assign a third employee to work on that day as a replacement for the second employee and the number of hours of the second employee's shift that were not worked by the first employee shall be deducted from the first employee's annual leave bank and the first employee's trade obligation will be considered to have been fulfilled.

*Example: Mike agrees to a shift trade with Julie. On the day Mike is scheduled to work for Julie, Mike is unable to work part or the entire shift because of a job-related illness or injury. Unless Mike arranges for a replacement through another exchange of on-duty time, the District will assign another employee to work in Julie's place on that day and the number of hours remaining in the shift shall be deducted from Mike's annual leave bank. Mike will be considered to have fulfilled the trade obligation to Julie.*

#### **8.3.2.3. Job-Related Injury while repaying a shift trade**

In the event an employee has arranged an exchange of on-duty time with a second employee and the first employee is injured and unable to finish the shift while working the trade for the second employee, unless the injured employee arranges for a replacement through another exchange of on-duty time, the District will assign a third employee to complete the shift and the remaining number of hours in the shift will be deducted from the first employee's annual leave bank. The first employee's trade obligation will be considered fulfilled. The second employee will continue to have the obligation to fulfill the trade if the second employee has not worked the trade already. If the second employee has already worked the trade, the trade obligation of both employees will be considered fulfilled.

*Example: Mike agrees to a shift trade with Julie. On the day Mike is working in Julie's place, Mike sustains a job-related injury and is unable to finish the shift. Unless Mike arranges for a replacement through another exchange of on-duty time, the District will assign another employee to work in Julie's place for the remainder of the shift. Mike will be considered to have fulfilled the trade obligation to Julie. The number of hours remaining in the shift will be deducted from Mike's annual leave bank. Julie will continue to have the obligation to fulfill the trade if she has not already done so. If Julie has already worked the trade, the trade obligation of both employees will be considered to have been fulfilled.*

#### **8.3.2.4. Other Injury or Illness during shift trades**

In the event an employee has arranged an exchange of on-duty time with a second employee and the first employee is unable to work all or part of the second employee's shift on the day upon which the employees mutually agreed because of an injury or illness that is not job-related, unless the sick or injured employee arranges for a replacement through another exchange of on-duty time, the District will assign a third employee to work on that day as a replacement for the second employee and the number of hours of the second employee's shift that were not worked by the first employee shall be deducted from the first employee's annual leave bank and the first employee's trade obligation will be considered to have been fulfilled.

*Example: Mike agrees to a shift trade with Julie. On the day Mike is scheduled to work for Julie, Mike is unable to work part or all of the shift because of an illness or injury. Unless Mike arranges for a replacement through another exchange of on-duty time, the District will assign another employee to work in Julie's place on that day and the number of hours remaining in the shift shall be deducted from Mike's annual leave bank.*

*Mike will be considered to have fulfilled the trade obligation to Julie.*

#### **8.4. SHIFT AND STATION BIDDING**

Battalion Chiefs working a 56-hour schedule will have the opportunity to bid for Station and Shift, ~~based on Seniority, when a 56-hour position is vacated. The Union will conduct the bid process under the direction of the Fire Chief or designee every other September in even number years. The effective date of a change will be the second shift of the first tour of "B" shift the following January.~~

If the Fire Chief or designee opposes the selection, the Fire Chief or designee will notify the Union and individual(s) in writing of the Fire Chief or designee's reasons. This opposition is subject to a review meeting between the Union and the Fire Chief or designee; however, the decision by the Fire Chief or designee following this meeting shall be final and not subject to grievance, appeal or administrative review.

#### **8.5. ACCREDITATION AND CONTINUING EDUCATION FOR PARAMEDICS**

At no cost to the Paramedics, the District shall offer the required coursework, provide the required textbooks, and administer the mandated testing. A limited portion of this mandated continuing education shall be provided to the Battalion Chiefs during on duty time. Paramedic Continuing Education training can be either traditional classroom or computer online training. The District shall reimburse the paramedic unit member for all required San Mateo County Continuing Education courses that are not hosted by the District.

Battalion Chiefs attending off duty San Mateo Continuing Education Paramedic courses shall do so on their own time.

#### **8.6. CONTINUING EDUCATION FOR EMTs**

All current and future EMTs shall have a continuing obligation to maintain their EMT certification. The District agrees to continue to provide on duty training to meet the requirements of the certifying agency. Members on annual leave or industrial disability shall be permitted to recertify while on duty. Employees

that fail to participate in or successfully complete the first available make up Continuing Education class will be responsible to do so on their own time.

#### **8.7. LICENSE/CERTIFICATION RENEWAL STIPEND**

The District shall reimburse a Battalion Chief's Paramedic License and EMT certification renewal fees excluding late and resubmission fees. Paramedics and EMTs are responsible for correctly completing and submitting their renewal application to the accrediting agency.

### ARTICLE 9 - MODIFIED / LIGHT DUTY ASSIGNMENTS

#### **9.1. TEMPORARY MODIFIED OR LIGHT DUTY ASSIGNMENTS**

The Fire Chief may in the Fire Chief's discretion assign modified or light duty to Battalion Chiefs with industrial or non-industrial injuries which limit the Battalion Chief from performing the Battalion Chief's regular duties.

#### **9.2. JOB DESCRIPTION REVIEW**

The Union may, on an annual basis, request to have the Battalion Chief job classification reviewed. This review shall include a review of the required knowledge, skills, and abilities, as well as the specific job duties. The Union shall submit this review to the Fire Chief or designee for comment. The Fire Chief or designee will then submit the review to Human Resources for final review. The Fire Chief shall have final discretion for updating and implementing job description changes. Changes to a job description will not necessarily result in a change to compensation. Any recommended change that results in a change in classification title and revised salary range must be approved by the Board prior to implementation.

### ARTICLE 10 – HEALTH AND WELLNESS

#### **10.1. WELLNESS-FITNESS PROGRAM**

The District and the Union agree that it is imperative for represented members to obtain and maintain a level of fitness consistent with their duties.

To achieve such a program, a Labor/Management Wellness Committee has been formed. The Committee consists of one District representative, one Union representative and may also include one representative from the contracted agency that facilitates the Wellness/Fitness physical testing.

All members shall participate in the Wellness-Fitness Program. The Wellness-Fitness program shall be a positive program and non-punitive in design; allow for age and position in the Fire District. The Wellness-Fitness Program shall provide for rehabilitation and remedial support for those in need; and be reasonable and equitable to all participants.

The District shall provide or arrange access to workout facilities for on-duty members.

Program participation shall be recorded in daily training records. The Labor-Management Wellness/Fitness Committee shall be responsible for three primary areas:

- Statistics and Health: Developing statistics on experience with lost time and costs due to disease and injury over the past 5 years.
- Wellness/Fitness Program: Developing program objectives, developing the program and related activities (e.g., workshops, smoking cessation and weight control programs); input in the preparation of the Wellness/Fitness program budget.
- Executive and Marketing Functions: Identifying specific objectives to the program, developing answers or procedures to overcome the objections, enlisting the help of critical support groups and individuals; investigating legal implications of the Wellness/Fitness Program; proposing policies and directives. This program will comply with all current state and Federal laws/statutes that pertain to medical record keeping and discrimination.

The Wellness-Fitness Program shall be interpreted and applied consistent with all state and federal regulations and statutes. The District shall ensure that the results of all medical and physical evaluations remain confidential. All medical information collected as part of a medical evaluation shall be considered confidential information and shall be released by the contracted agency only with that member's specific written consent. All medical record keeping shall comply with the requirements of 29 CFR 1910.1020, "Medical Record Keeping." The Fire District shall be informed by the contracted agency as to only the results of the overall program and the employee's performance as a group statistic.

A policy in the Districts Policy and Procedure Manual shall be developed and addresses critical issues anticipated by the parties, and provides specific procedures for the administration and application of the program guidelines.

## **10.2. FITNESS FOR DUTY MEDICAL EXAMS**

In the event the Fire Chief or designee determines based on reasonable, objective evidence that an employee is experiencing problems in the performance of their duties and those problems are related to job performance or employee safety and are of a nature that they may be due to a medical condition, the Fire Chief or his/her designee may order that an employee undergo a medical examination to determine whether the employee is fit for duty.

A physician selected by the District shall give the examination and the full cost of such medical examination shall be borne by the District, as shall any additional medical examinations required by this section.

The employee shall be placed on administrative leave with pay at the same time the employee is ordered to undergo a medical examination and shall remain on administrative leave with pay until the District physician has issued a written determination of whether the employee is fit for duty.

The District shall advise the employee in writing of the results of the medical examination immediately upon receipt of those results.

In the event the employee disagrees with the results of the Medical Examination the employee may request a second opinion from a physician to be selected by mutual agreement between the employee and the District and the employee shall remain on administrative leave with pay until the District has received the second opinion and notified the employee of the results.

The District and the employee shall work together in good faith to select the physician for the second opinion as soon as possible.

In the event the second opinion is that the employee is fit for duty. The employee shall be reinstated to regular duty.

In the event the second opinion is that the employee is unfit for duty, the employee shall be removed from administrative leave with pay, in which event the employee may then take such disability leave, Annual Leave, and/or other paid leaves of absence to which the employee is entitled under the terms and provisions set forth in this Memorandum of Understanding that are applicable in light of the employee's particular circumstances.

An employee who has been determined by the District's physician as not fit for duty due to a medical condition may request, at minimum intervals of three (3) months, to be re-evaluated by the District's physician and shall be promptly reinstated to regular duty in the event the result of the re-evaluation is a determination that the employee has become fit to return to duty.

### **10.3. ONLINE EXPOSURE REPORTING**

The District agrees to contribute a maximum of \$20 annually per employee to a 3rd party Online Exposure Reporting System. The District will pay for all employees annually by submitting a single check directly to the 3rd party.

## **ARTICLE 11 – PERSONNEL**

### **11.1. PROBATIONARY EMPLOYEES**

The probationary period for a Battalion Chief shall be twelve (12) months. In the event a Battalion Chief is granted one or more leaves of absence during the probationary period, the probationary period shall be extended by the number of days the Battalion Chief was absent on leave.

### **11.2. PROMOTIONS TO DIVISION CHIEF**

Promotions to Division Chief shall be conducted on the order of the Fire Chief and whenever practical and consistent with the best interest of the service.

#### **11.2.1. ELIGIBILITY LIST**

The names of the successful candidates shall be recorded in the order of their standing in the examination on an eligibility list. The Fire District will post the eligibility list at the completion of the examination process. The list shall list the candidates by name in order of rank position. No scores shall be published but candidates may review their individual scores with the Human Resources Manager or designee.

#### **11.2.2. REMOVAL FROM ELIGIBILITY LIST**

The Human Resources Manager under the following conditions may remove the name of a person on an eligibility list: The eligible person requests in writing to have their name removed from the list.

The eligible person fails to respond to a formal offer of employment with six (6) days of receiving a formal offer of promotion.

### **11.2.3. TIME OFF FOR COMPETITIVE EXAMINATION**

Eligible candidates will be relieved of duty at 2000 hours on the night before any competitive written exam or assessment center when the test falls during or immediately after the eligible candidate's regular working hours. Candidate shall return to full duty after completion of examination. These hours may be taken without any loss of compensation or leave accruals.

### **11.3. LAYOFF AND RE-EMPLOYMENT**

#### **11.3.1. REASONS FOR LAYOFF**

Employees may be laid off for lack of work or lack of funds or as part of a reorganization.

#### **11.3.2. NOTICE OF LAYOFF**

Affected members shall receive at least (30) days advanced written notice of layoff from the Fire Chief. The Board of Directors may authorize a shorter timeframe.

#### **11.3.3. PRECEDENCE BY EMPLOYMENT STATUS**

No permanent employee shall be laid off while employees working in an extra help, seasonal, temporary, provisional, or probationary status are retained in the same classification.

The order of layoff among employees not having permanent status shall be according to the following categories:

- Extra help or seasonal.
- Temporary- a temporary employee who is displaced may revert to the classification in which they hold permanent status, if any.
- Provisional.
- Non-Permanent Probationary.

In a reduction of forces of the bargaining unit, the last employee hired by the District in the classification of Battalion Chief shall be the first member laid off. During rehiring, the last member laid off shall be the first member rehired, provided that the employee retained or rehired is capable to perform the work required.

The following provisions shall apply in computing total continuous service:

- Time spent on military leave shall count as District service.
- Time worked in an extra help, provisional, temporary, or seasonal status shall not count as District service.
- Time worked in a permanent or probationary status shall count as District service.

#### **11.3.4. RE-EMPLOYMENT ELIGIBILITY LIST**

The names of employees laid off shall be placed on a Re-Employment Eligibility List. Former employees appointed from a Reemployment Eligibility List shall be restored all rights. Restored members shall not be eligible for pay or benefits for the time period they were on layoff. Employees who are appointed from a



Re-employment Eligibility List to the classification shall be restored to the position and pay grade they held at the time of their layoff.

The Reemployment Eligibility List shall consist of the names of employees and former employees having probationary or permanent status, and who were laid off. The rank order shall be determined by relative seniority as specified in the MOU.

The Reemployment Eligibility List shall take precedence over all other eligibility lists in making appointments to the classification in which the affected previously held.

The provisions of this subsection shall apply to members who have been placed on a Re-employment Eligibility List for a period of three (3) years from the date of their last layoff by the District. At the end of this three (3) year period, the name of the employee shall be removed the Re-employment Eligible List.

Members that are offered employment from the Re-employment Eligibility List shall submit to any required medical or other qualifying examinations at the expense of the District.

#### **11.3.5. RECALL OF EMPLOYEES**

Upon receipt of a letter offering reemployment, a former employee shall have fourteen (14) days to report for duty. The letter shall be sent by certified mail, to the former employee's last known address. Failure to reply or report for duty shall result in the removal of the former employee's name from the Reemployment Eligibility List. It is the former employee's responsibility to notify and update the District of any changes to their contact information.

### **11.4. UNIFORMS**

#### **11.4.1. ISSUING OF UNIFORMS**

Each Battalion Chief will be allowed two (2) District uniforms. Any customizations (e.g. name embroidery or tailoring) shall be paid by the employee. The employee may purchase additional uniforms or District branded apparel at their own cost. Cleaning or replacement of District provided uniforms will be at the employee's expense.

#### **11.4.2. UNIFORM ALLOWANCE**

Battalion Chiefs may be reimbursed for the cost, maintenance, cleaning and alterations of their uniforms up to \$900 per year. Battalion Chiefs shall submit receipts justifying all expenditures to Finance no later than June 15 for reimbursements in July and no later than December 15 for reimbursements in January of the following year. If a Battalion Chief's uniform is damaged during execution of the Battalion Chief's duties and cannot be replaced, the District shall replace the damaged uniform element(s).

#### **11.4.3. SPECIFICATIONS AND WEARING OF UNIFORMS**

Uniform specifications, wearing of uniforms and the times when specific uniforms shall be worn are defined in the Policy and Procedures Manual and set by the Fire Chief. Prior to implementation or changes related to uniforms, the Fire Chief shall meet at JLMC with the Union.

## **ARTICLE 12 – MISCELLANEOUS**

## **12.1. DRIVER LICENSING**

All members are required to obtain and maintain the appropriate driver's licenses during their employment with the District.

Employees are required to obtain and maintain a valid Driver's License with the appropriate class and endorsements.

Employees who do not maintain their driver status may be subject to discipline.

All District required DMV licensing and renewals required for employment shall be performed on duty and the District will reimburse employees' the difference for commercial licensing above the Class C FF restricted endorsement.

All District required license medical examinations shall be performed on duty and at the District's expense.

## **12.2. OUTSIDE EMPLOYMENT**

No member shall engage in any employment, activity or enterprise for compensation that is inconsistent, incompatible or in conflict with their duties as an employee of the Fire District. The Fire Chief may deny outside employment by a member seeking to engage in any activity which:

Involves the member's use of District time, facilities, equipment or supplies, or the use of the District badge, uniform, prestige or influence for private gain or advantage.

Involves the member's receipt or acceptance of any money or other consideration from anyone other than this District for the performance of an act which the member, if not performing such act, would be required or expected to render in the regular course of employment or as a part of the member's duties as a member of this district.

Involves the performance of an act in other than the member's capacity as a member of this District that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other member of this District.

Involves time demands that would render performance of the member's duties for the District less efficient. Involves time demands that would affect the member's regular work shift or ability to respond to emergencies or result in the need for stipend payments or other additional costs.

Involves employment with an individual or organization that does business with the District.

Would otherwise compromise the ability of the District to conduct its business in an efficient manner.

Would give the appearance of impropriety or otherwise appear inconsistent, incompatible or in conflict with the member's employment with the District.

Probationary Battalion Chiefs shall not engage in any outside employment during the employees' first six (6) months of probation, with the exception of promoting Battalion Chiefs that already had approved outside employment at the time of promotion.

Employees' must seek Fire Chiefs approval to work outside employment while on sick or injury leave.

The District will in no way be responsible for workers compensation payments or benefits for an illness or injury sustained in the course of outside employment.

#### **12.2.1. APPEAL MEETING**

If the Fire Chief or designee denies a Battalion Chief's outside employment request, the Battalion Chief may appeal the decision by requesting a meeting with the Fire Chief to discuss the denial of the request within 10 days of the date of the written denial. The decision of the Fire Chief following this meeting shall be final.

#### **12.3. RESIDENCY**

The District and the Union agree that there shall be no residency requirements for members of the Union working under this MOU.

#### **12.4. US&R PROGRAM**

Subject to approval of the Fire Chief or designee, Union members may volunteer to participate in the National Urban Search and Rescue Program (US&R), which is funded by the Federal Government and administered by the District with the written consent of the Fire Chief or designee.

##### **12.4.1. JOINTLY EMPLOYED BY THE DISTRICT AND FEDERAL AGENCY**

Union members participating in US&R training and/or deployments shall be considered as jointly employed by the federal government and the District.

##### **12.4.2. ACTING WITHIN THE COURSE AND SCOPE OF EMPLOYMENT**

Union members participating in US&R training exercises and/or deployments, shall be considered as acting within course and scope of employment for the purpose of entitlement to death and disability retirement benefits under California Worker's Compensation and Retirement laws.

##### **12.4.3. APPLICABLE CALIFORNIA STANDARDS AND REGULATIONS**

While a union member who is participating in US&R training and/or deployments, Government Code Sections 825 and 995, Labor Code 2802 and 1962 shall apply to the member to the same extent as when that member is performing duties for the District

##### **12.4.4. SELECTION OF MEMBERS FOR SPECIFIC TEAMS AND DEPLOYMENTS**

Members shall only occupy one primary position on the deployment roster. A member may also be placed on the alternative list for a second position. Members shall be selected from the alternative list based on team involvement and seniority.

The Fire Chief or designee in the Fire Chief's sole discretion may deny a member the right to participate in a specific deployment team, and select a different member from the Task Force for that specific

deployment. The Fire Chief or designee shall provide the member a written response explaining why the member was not selected.

To the extent possible, The Fire Chief or designee shall follow current rotational model for deployments.

#### **12.4.5. RULES OF CONDUCT**

Members shall comply with all District, US&R Program and/or Federal Rules of Conduct during US&R exercises and deployments.

#### **12.4.6. FAILURE TO COMPLY WITH RULES OF CONDUCT**

Failure to comply with the Rules of Conduct may result in the following:

1. Removal from the US&R Program;
2. Ordered to return home from the deployment; and/or
3. Discipline as defined in the MOU and in accordance with the Firefighter's Procedural Bill of Rights Act (FBOR).

#### **12.4.7. FAILURE TO ATTAIN AND MAINTAIN DEPLOYABLE STATUS:**

Members shall acquire and maintain the General Training Requirements and Individual Position Specific Requirements as defined by FEMA to be "deployable."

Members shall be required to complete the General Training Requirements and Individual Position Specific Requirements.

#### **12.4.8. MEMBERS WHO FAIL TO ATTAIN OR MAINTAIN THEIR DEPLOYABLE STATUS SHALL BE:**

1. Placed on non-deployable status; and/or
2. Removed from the US&R Program.

#### **12.4.9. WITHDRAWAL FROM THE US&R PROGRAM**

Members may resign from the US&R Program by submitting a letter of resignation to the Fire Chief or designee.

Members who voluntarily withdraw from the program shall not retain any program seniority or rights to a specific position.

Members who have voluntarily withdrawn from the program may volunteer to participate in the program based on position availability.

#### **12.4.10. PAYMENT THROUGH DISTRICT PAYROLL SYSTEM**

The District shall pay all members participating in approved US&R training, exercises and deployments through the regular payroll system.

All hours worked during a member's regularly scheduled work shifts shall be paid at the member's regular

rate of pay. All hours worked outside of the member's regular scheduled work shifts shall be paid at a rate of time and one-half hours of their regular rate of pay for each hour worked.

### 12.5. COMMUTE INCENTIVES

The District offers employees the option of participating in Commuter Benefits for parking and mass transit on a pre-tax basis. The District will evaluate the value of this benefit to Battalion Chiefs. The District may suggest an alternative benefit of similar cost and implement this benefit with the approval of the Fire Chief. Any recommended alternate benefit with a significant cost difference will be presented to the Board for approval.

**For IAFF, Local 2400 D13**

**For MENLO PARK FIRE DISTRICT**

\_\_\_\_\_  
~~Rafael Ruano~~~~Steve Allen~~  
Lead Negotiator, IAFF L2400  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Edward L. Kreisberg  
Lead Negotiator  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Jason Martin  
IAFF D13 Representative  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Francine Hunt  
Administrative Services Director

\_\_\_\_\_  
~~John Wurdinger~~~~Nick Gracia~~  
President, IAFF 2400  
Manager  
Dated: \_\_\_\_\_

\_\_\_\_\_  
~~Kristin MacDonald~~ ~~Francine Hunt~~  
~~Administrative Services Director~~ ~~Human Resources~~  
Dated: \_\_\_\_\_

\_\_\_\_\_  
~~Mark Lorenzen~~~~Ehren MacDonald~~  
~~Fire Division~~-Chief  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Mark Lorenzen  
Fire Chief  
Dated: \_\_\_\_\_