

CITY OF GARDEN GROVE
MEMORANDUM OF UNDERSTANDING
PURSUANT TO THE CALIFORNIA MEYERS-MILIAS-BROWN ACT
BY AND BETWEEN
THE GARDEN GROVE FIRE MANAGEMENT ASSOCIATION
AND
THE CITY OF GARDEN GROVE
2018

THIS MEMORANDUM OF UNDERSTANDING has been prepared pursuant to Resolution No. 4066-71, as amended, of the City of Garden Grove, which Resolution is generally identified as the "EMPLOYEE RELATIONS RESOLUTION" and the Government Code Sections 3500 through 3510, as amended, which is generally referred to as the Meyers-Milias-Brown Act.

This Agreement has been developed as a result of the requests of the Garden Grove Fire Management Association. The items in this Agreement are subject to the approval of the City Manager and the City Council of the City of Garden Grove and will be placed into effect upon the taking of administrative action by the City Manager's Office and the adoption of the necessary ordinances and resolutions by the City Council, if acceptable to them, in accordance with the terms and conditions hereinafter set forth.

For simplicity of language and usage, whenever the male pronoun is used, it shall be assumed to apply to both genders.

The term of this Memorandum of Understanding shall be from January 1, 2018 through December 31, 2018.

FIRE MANAGEMENT ASSOCIATION/CITY
MEMORANDUM OF UNDERSTANDING

2018

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SECTION 1: MANAGEMENT RECOGNITION AND MANAGEMENT RIGHTS

I. This Memorandum of Understanding (MOU) establishes wages, benefits, terms and conditions of employment for the Fire Management classifications of Fire Battalion Chief and Fire Division Chief.

II. All management rights and functions except those which are clearly and expressly limited in this MOU shall remain vested exclusively in the City. It is expressly recognized merely by way of illustration and not by way of limitation that such rights and functions include, but are not limited to:

1. Manage the City.
2. Establish and schedule working hours.
3. Establish, modify, or change work schedules or standards.
4. Institute changes in procedures.
5. Direct the work force, including the right to hire, promote, demote, transfer, suspend, discipline or discharge any employee.
6. Determine the location of any new facilities, buildings, departments, divisions, or subdivisions thereof, and the relocation, sale, leasing or closing of facilities, departments, divisions, or subdivisions thereof.
7. Determine services to be rendered and frequency thereof.
8. Determine the layout of buildings and equipment and materials to be used therein.
9. Determine processes, techniques, methods, and means of performing work.
10. Determine the size, character and use of inventories.
11. Determine financial policy including accounting procedure; establish and administer the fiscal year budget.
12. Determine the administrative organization of the City including those of departments, divisions, bureaus, units, and other subdivisions.
13. Determine selection, promotion, or transfer of employees.
14. Determine the size and characteristics of the work force.
15. Determine the allocation and assignment of work to employees.
16. Determine policy affecting the selection of new employees.
17. Determine the establishment of quality and quantity standards and the judgment of quality and quantity standards of work required.
18. Determine administration of discipline.
19. Determine control and use of City property, materials, and equipment.
20. Schedule work periods and determine the number and duration of work periods.
21. Establish, modify, eliminate or enforce rules and regulations.
22. Place work with outside firms.
23. Determine the kinds and numbers of personnel necessary to execute the City mission.

24. Determine the methods and means by which such operations are to be conducted.
25. Require employees, where necessary, to take in service training courses during working hours.
26. Determine duties to be included in any job classifications.
27. Take any necessary action to carry out the mission of the City in cases of an emergency, urgency, or other unusual situations.
28. Prescribe a uniform dress to be worn by designated employees.

The exercise of the foregoing powers, rights, authority, duties, and responsibilities by the City, adoption of policies, rules, regulations, and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this MOU, and then only to the extent such specific and express terms are in conformance with law. As pursuant to the law, all subjects, in relation to wages, hours, and working conditions will continue to be the subject of meet and confer or meet and consult, whichever is applicable.

- C. All provisions for wages, hours, fringe benefits, terms and conditions of employment not specifically enumerated herein shall continue to be provided in the same amount, time, place, and manner as was done during the period of time prior to this Fire Management Resolution.

SECTION 2: SALARY RANGE MERIT STEP ELIGIBILITY

Step increases for individual employees are granted in recognition of merit. The normal time intervals between the steps are as follows:

| <u>Employment at Step A</u> | |
|-----------------------------|------------|
| Step A to Step B | Six months |
| Step B to Step C | One year |
| Step C to Step D | One year |
| Step D to Step E | One year |
| Step E to Step F | One year |
| Step F to Step G | One year |
| Step G to Step H | One year |

SECTION 3: SALARY RANGE SCHEDULE

A. Fire Management positions are identified as follows:

| <u>Classification</u> | <u>Salary Range</u> | <u>STEP</u> | <u>MONTHLY</u> |
|-----------------------|---------------------|-------------|----------------|
| Fire Division Chief | G240 | A | 11,434 |
| | | B | 12,006 |
| | | C | 12,606 |
| | | D | 13,236 |
| | | E | 13,898 |
| | | F | 14,593 |
| | | G | 15,323 |
| | | H | 15,936 |
| Fire Battalion Chief | G224 | A | 9,858 |
| | | B | 10,351 |
| | | C | 10,869 |
| | | D | 11,412 |
| | | E | 11,983 |
| | | F | 12,582 |
| | | G | 13,211 |
| | | H | 13,739 |

SECTION 4: WAGES

A. During the term of this MOU, there will be no adjustment to base salary

B. Salary on Promotion

Any employee who is appointed to a position in a class allocated to a higher salary range than the class in which he formerly occupied a position shall receive the nearest higher monthly salary which is at least five percent higher than his previous base salary, including any special assignment pay currently in effect, but in no case shall he be compensated above the top step of the new salary range unless the City Council grants specific approval. Payment in such new salary range shall be effective at the beginning of the next pay period. The effective date of the promotion shall be the employee's new salary anniversary date. (Muni Code 2.44.210)

SECTION 5: FRINGE BENEFITS & LEAVE POLICY

A. Fringe Benefit Contribution

- i. All Fire Management Association (hereinafter "Association") employees must enroll in one of the PERS health program plans, unless they submit to the City both (1) proof of health coverage and (2) sign a health insurance waiver. Employees who fail to complete both requirements shall not be allowed to utilize their cafeteria plan contributions for any other eligible plans.
- ii. Fire Management Association employees shall be provided cafeteria benefits as follows:

| | |
|--------------------------|------------|
| Employee Only | \$655.00 |
| Employee & One Dependent | \$1,120.00 |
| Employee & Full Family | \$1,400.00 |
| Waiver of Coverage | \$205.00 |

B. Tuition Reimbursement Program

Fire Battalion Chiefs and Fire Division Chiefs are eligible for reimbursement of tuition and text/materials up to \$3,000 per fiscal year for approved completed coursework toward a college degree.

C. Retirement

i. Retirement Plan

1. Unit members who are "classic members" as defined by the Public Employees' Pension Reform Act of 2013 (PEPRA) are covered by the 3% @ 50 formula provided for by the Public Employees' Retirement Law at Government Code section 21362.2. This formula applies to "classic members" defined as any member hired before December 31, 2012 as well as any member hired after January 1, 2013 who is a lateral hire from another PERS agency, public agency with reciprocity or a member who has had less than a six month break in service from his/her previous public agency employment.
 - a. One-Year Final Compensation option "single highest year" (Government Code section 20042).
2. Unit members hired on or after January 1, 2013 who are defined as "new members" under the PEPRA, are covered by the 2.7% @ 57 formula provided for by the Public Employees' Retirement Law at Government Code section 7522.25(d).

- b. Final compensation will be based on the highest annual average pensionable compensation during the 36 consecutive months immediately preceding the effective date of his or her retirement, or some other 36 consecutive month period designated by the member per Government Code section 7522.32(a).

ii. Employee Contributions to the Retirement System

3. Employees subject to the 3%@50 Formula:

These employees shall contribute twelve percent (12%) as an employee retirement contribution. The twelve percent shall be comprised of nine percent (9%) of compensation earnable as the required CalPERS member contribution and three percent (3%) of compensation earnable per Government Code section 20516(a).

4. Employees subject to the 2.7%@57 Formula:

Per the PEPRA and Government Code section 20516.5, these employees shall contribute the statutorily mandated employee contribution rate of one half of the normal cost as determined by CalPERS for the City.

Such employees' contribution to CalPERS shall be one half the normal cost rate as established by CalPERS on the annual employee contribution rate determination.

- iii. The City has adopted the CalPERS resolution in accordance with and as permitted by IRS Code section 414(h)(2) to ensure that the employees' payment (*i.e.*, "pick up" as that term is used in section 414(h)(2)) of their employee contribution is made on a pre-tax basis.
- iv. At retirement, Fire Management employees shall be paid 100% of his total accumulated but unused sick leave hours, provided that the 100% pay out under this provision may be applied to no more than 500 hours accumulated but unused sick leave. At the request of the member, 100% of accumulated but unused sick leave hours may be used toward the extension of his service period under PERS Section 20862.8 and no payout will occur.

D. Long-Term Disability

A long-term disability Plan is provided by the City at no cost to the employee. The plan will provide up to 80% of pay up to a maximum benefit of \$10,000 per month through California Association of Professional Firefighters. The Plan consists of a waiting period of 30 calendar days and

includes lifetime benefits, catastrophic benefits, sick-leave integration benefits, challenged worker's compensation benefits and a death benefit. For pre-existing medical conditions, this new CAPF policy will pay based off the former policy limits for the first two years after conversion to the new plan, which will go into effect after each member enrolls.

E. Short Term Disability Leave

The Short Term Disability Leave Plan is to provide paid leave for up to twenty (20) consecutive workdays (12 hour/day – 24 hour platoon shifts) (8 hour/day – 40 hour assignment) for an employee who has a documented non-industrial personal serious illness or injury that requires them to be off work.

To be eligible for this benefit, an employee must first be off work for twenty (20) consecutive days with a documented non-industrial personal serious illness or injury and have used twenty (20) consecutive days of annual leave, sick leave, allowable holiday leave, or leave without pay if they have no annual or sick leave on the books. The City will then allow the employee to use up to twenty (20) consecutive days of Short Term Disability Leave (12 hour/1 day) until they are able to return to work or be eligible for the Long Term Disability Leave. In no instance will the employee be allowed to use more than twenty (20) days of Short Term Disability leave per incident.

Short Term Disability leave is not an accrued benefit and accordingly it may not be cashed out during, at separation or subsequent to the employee's employment with the City.

F. Annual Leave

i. Rate of Accrual

Effective January 1, 2016, Sworn Fire Management employees shall receive annual leave benefits for each full month of continuous service in which the employee has worked or has been on authorized leave of absence with pay in accordance with the schedules listed below. The annual leave accruals are adjusted for those assigned to a 40-hour shift schedule.

56 hour work week:

From the first full pay period after date of hire through one (1) year of continuous service: 17.00 hours of annual leave per month.

Beginning in the pay period after one (1) year of service through nine (9) years of consecutive service: 22.00 hours of annual leave per month.

Beginning in the pay period after nine (9) years of consecutive service through fourteen (14) years of consecutive service: 25.00 hours of annual leave per month.

Beginning in the pay period after fourteen (14) years of consecutive service through nineteen (19) years of consecutive service: 28.00 hours of annual leave per month.

Beginning in the pay period after nineteen (19) years of consecutive service through twenty-four (24) years of consecutive service: 31.25 hours of annual leave per month.

Beginning in the pay period after twenty-four (24) years of consecutive service and for each continuous year of service thereafter: 34.5 hours of annual leave per month.

40 hour work week:

From the first full pay period after date of hire through one (1) year of continuous service: 12.14 hours of annual leave per month.

Beginning in the pay period after one (1) year of service through nine (9) years of consecutive service: 15.71 hours of annual leave per month.

Beginning in the pay period after nine (9) years of consecutive service through fourteen (14) years of consecutive service: 17.86 hours of annual leave per month.

Beginning in the pay period after fourteen (14) years of consecutive service through nineteen (19) years of consecutive service: 20.00 hours of annual leave per month.

Beginning in the pay period after nineteen (19) years of consecutive service through twenty-four (24) years of consecutive service: 22.32 hours of annual leave per month.

Beginning in the pay period after twenty-four (24) years of consecutive service and for each continuous year of service thereafter: 24.64 hours of annual leave per month.

ii. Total Annual Leave Accrual

Employees shall be entitled to carry an annual leave balance equal to twice their annual accrual plus seventy-two (72) hours (51.5 for those on a 40 work week). If for some specific reason an employee wishes to accrue annual leave in excess of the limits established herein, he or she must submit a request to the Fire Chief in writing listing these reasons. The Fire Chief and the Director of Human Resources shall review and may grant such request if it is in the best interests of the City. The excess of the limit shall be determined by the department head and the Director of Human Resources.

iii. Effect of Holiday on Annual Leave

In the event one or more authorized municipal holidays fall within annual leave, such holidays shall not be charged as annual leave, and the annual leave will be extended accordingly.

iv. Effect of Leave of Absence on Accrual of Annual Leave

The granting of any leave of absence without pay exceeding fifteen (15) consecutive calendar days shall cause the employee's annual leave earned during the month to be reduced proportionately for each month or major portion of a month that the employee is on leave of absence without pay.

v. Annual Leave Pay Upon Separation

Any employee with regular or interim status, separating from the City service who has accrued annual leave shall receive a cash out of all accrued annual leave hours at their base salary hourly rate. When separation is caused by death of an employee, payment shall be made to the estate of such employee, or, in applicable cases, as provided by the Probate Code of the State.

vi. Annual Leave Cash Out

Employees may cash out annual leave at their base salary hourly rate during any pay period during the calendar year.

G. Sick Leave

Effective January 1, 2016, Sworn Fire Management employees shall no longer accrue sick leave. Sick leave banks of members (as of 1/1/2016) will be frozen and available for use until retirement or separation from the City. Sick leave is eligible for pay out at retirement in accordance with section 5.C.iv.

H. Uniforms

The City shall provide up to four work uniforms per year on an as-needed basis. The cost of uniforms shall not constitute compensation for purposes of the regular rate calculation under the Fair Labor Standard Act. This policy shall remain in effect unless a change is dictated by applicable law.

The City shall report to CalPERS the monetary value of uniforms and uniform maintenance for those employees required to wear uniforms. The monetary value for Fire Division Chief is \$54.40 and for Fire Battalion Chief is \$54.40 per pay period.

Uniform allowance is defined as compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain.

I. Holiday Pay

i. General Provision

Fire Division Chiefs each receive a bank of 125 hours which is paid at (9) hours of pay unless specified differently, in-lieu of holiday leave for each of the holidays as designated below in subsection I (iv). This additional compensation will be paid as the holiday occurs and shall be reported to PERS as Special Compensation pursuant to Title 2, Division 1, Chapter 2 of the California Code of Regulations, specifically § 571 (a)(5) – Statutory Items, Holiday Pay.

Fire Battalion Chiefs each receive a bank of 175 hours. Fire Battalion Chiefs may, at their option, cash out holiday time.

The total available holiday hours for shift personnel will be divided as follows:

- a. 50% of the total will be available on January 1; and
- b. The remaining 50% will be available on July 1.

ii. Part-Year Employment

Employees who commence employment at a time other than the beginning of a calendar year shall only be entitled to receive those holidays described in subsection I (iv) that occur during the period actually worked. Likewise, employees who separate from service during the course of a calendar year shall only be entitled in that year to receive those holidays described in subsection I (iv) of this section that occurred prior to their date of separation. The value of any holidays used in excess of those entitled shall be deemed a wage advance and shall be deducted from the employee's final paycheck.

iii. Effect of Unpaid Leave of Absence

An employee who is on an unpaid leave of absence during any holiday designated in subsection I (iv) is not entitled to receive any holiday benefits for that holiday.

iv. Designated Holidays

January 1st (New Year's Day)
Third Monday of January (Martin Luther King Jr. Day)
Third Monday of February (President's Day)
Last Monday of May (Memorial Day)
July 4th (Independence Day)
First Monday in September (Labor Day)
November 11th (Veteran's Day)
Fourth Thursday in November (Thanksgiving Day)
Day after Thanksgiving (8 Hours)
December 24th (Christmas Eve)
December 25th (Christmas Day)
December 26th (Day After Christmas)
December 30th (Day Before New Year's Eve)
December 31st (New Year's Eve)

v. Holiday – End of Year Cash Out

Any portion of the annual holiday hours not used at the end of the calendar year will be relinquished in return for a cash payment equal to the value of those benefits based upon the employee's hourly rate of pay in effect on December 31 of the calendar year in question.

J. Retiree Medical Trust Fund

i. Option for Union to Direct Part of Salary to Retiree Medical Trust

The Association shall have the option, during the life of this Agreement, to direct the City to transfer a monthly pre-tax employee contribution for each employee covered by the Agreement to the Garden Grove Firefighters Union Retiree Medical Reimbursement Plan (the "Retiree Trust"), or any other Retiree Trust as designated by the Union pending verification of tax-exempt and legal IRS status is provided to the City (verification will be provided to the City in the form of a letter from the Trust's tax counsel certifying compliance), at which time the City shall transfer an ongoing [monthly/biweekly/etc.] employee contribution to such Retiree Trust in the amount designated by Association, e.g. \$X per pay period. No employee election forms will be allowed or requested; i.e., there shall be no employee election to take the amount in cash. Contributions will be made on all employees covered by the Agreement, and employees may not individually elect against participation in the Retiree Trust, nor may an employee individually elect the level of his or her contributions.

The purpose of this Retiree Trust shall be to provide for retiree health expense reimbursement benefits. The Retiree Trust shall be and remain separate and apart from the City's health insurance funding program,

unless changed by mutual agreement of the parties to the Agreement. These contributions shall be included as salary for purpose of calculating pension benefits, if permitted by the Public Employees' Retirement Law.

ii. Modification of Employee Contribution

The City and the Association agree that the Association has the right, subject to approval of its members according to the Association's internal rules, to prospectively modify the amount of the mandatory employee monthly contribution in any increment of \$50, during the course of this Agreement, so long as the modification is mandatory for all employees covered by this agreement. The Association must notify the City in writing 15 days in advance of the effective date of any change to the above monthly employee contribution amount and certify compliance with internal rules and provide certification to the City of compliance with internal Union rules and procedures. The change will take effect on the first full pay period following expiration of the 15 days' advance notice.

The City hereby agrees to be bound by the provisions of the Trust Agreement governing the Retiree Trust in regard to reporting, depositing, and accounting for the required contributions set forth above, subject to any legal requirements or restrictions.

iii. Transfer of Leave Cashout to Retiree Trust – Option for the Future

The Association shall have the option, during the life of the Agreement, to direct the City to transfer, upon retirement of an employee, to the Retiree Trust, an amount equal to a percentage of the employee's annual leave cash out. The Association shall communicate such percentage to the City at such time as it determines to exercise this option, and such percentage shall be the same for all employees. The City shall contribute the monies on a pre-tax basis if permitted by law. The monies contributed to the Retiree Trust shall only be used for retiree health insurance premiums or health services expenses. There shall be no employee election to take such amount in cash.

iv. Remittance of Contributions

The City shall remit the above contributions directly to the Retiree Trust for the duration of the Agreement as follows. Those contributions shall be remitted [bi-weekly or monthly], in one aggregate [*method of payment, e.g., ACH transfer or wire*] directly to the account designated by the Retiree Trust within 30 days of the date the payment would have been payable to the employee. In addition, the City shall submit a monthly report of contributing employees, to the administrator designated by the Retiree Trust, in the format requested by such administrator. The City agrees to allow an audit of its payroll records for

members of this bargaining unit solely for the purpose of verifying the accuracy of the contribution amounts.

v. Retiree Trust Employee Funded

The Retiree Trust shall be entirely funded by employee contributions deducted from employees' wages. The City shall under no circumstances have any obligation to make contributions from City-controlled funds to the Retiree Trust. The City may, subject to its obligations under the MMBA, modify or terminate employee contributions to the Retiree Trust or the ability to convert sick leave. The City shall have no obligation to administer or expend any sums of money in the administration of the Retiree Trust.

vi. Hold Harmless

The Association will defend, indemnify, and hold harmless the City from any loss, liability, or cause of action arising out of the operation of the Retiree Trust. The Association shall take full and complete responsibility for any and all of the tax liabilities that may result from the Retiree Trust. The Association will indemnify and hold the City harmless from any and all tax liability, if any, resulting from the Retiree Trust, including but not limited to, claims arising under the Internal Revenue Code or Treasury Regulations. The Association expressly represents that the Retiree Trust complies with all laws, including Internal Revenue Code provisions.

SECTION 6: OVERTIME & ADMINISTRATIVE LEAVE

A. Overtime

Sworn Fire Battalion Chiefs regularly assigned to Fire Suppression shall be eligible to receive overtime pay, at time and one-half the base hourly rate, for hours worked for extra shifts (e.g., to cover absences) in addition to the employee's normal work schedule.

B. Fire Division Chief Substitution for Fire Battalion Chief

Fire Division Chiefs may substitute for a Fire Battalion Chief suppression shift and receive time and a half base pay equal to the top step of Battalion Chief pay. Fire Division Chiefs with a salary rate less than top step Battalion Chief will keep their current Division Chief rate for overtime.

- i. Such substitutions are at the sole discretion of the Fire Chief and there is no right of such an assignment.
- ii. Division Chiefs will still be responsible for their normal daily functions as well as working as a Battalion Chief.

- iii. Every effort will be made that Division Chiefs will not respond to long term assignments as a Strike Team Leader.
- iv. The Association explicitly agrees that the performance of overtime shifts by a Fire Division Chief substituting for a Fire Battalion Chief pursuant to the terms of this section in no way modifies the status of Fire Division Chiefs as "exempt" management employees under the U.S. Fire Labor Standards Act (FLSA).

C. Administrative Leave

Fire Division Chiefs

FLSA exempt employees, Fire Division Chiefs, shall receive 40 hours of Administrative Leave each January. Upon recommendation of the Fire Chief, the City Manager may approve up to forty (40) hours of additional Administrative Leave for Fire Division Chiefs involved in extraordinary projects or assignments. The granting of leave time shall be at the sole determination of the City Manager.

Fire Battalion Chiefs

Upon recommendation of the Fire Chief, the City Manager may approve up to forty (40) hours of Administrative Leave for Battalion Chiefs involved in extraordinary projects or assignments. The granting of leave time shall be at the sole determination of the City Manager.

Administrative Leave cannot be cashed out at any time. The Human Resources Director shall establish procedures for employees who are hired or who are terminated during a calendar year.

SECTION 7: REOPENER

The City agrees to reopen this Fire Management contract for the sole purpose of negotiating the terms and conditions of employment, should the City chose to contract with the Orange County Fire Authority.

SECTION 8: EFFECTIVE DATE AND TERM

The provisions of this MOU shall be effective January 1, 2018 – December 31, 2018 unless extended by mutual agreement or superseded by subsequent Resolution or Ordinance.

DATED: _____

FOR THE CITY OF GARDEN GROVE:

FOR THE GARDEN GROVE FIRE
MANAGEMENT ASSOCIATION:

LAURA J. STOVER
Human Resources Director

Fire Division Chief TJ MCGOVERN
President

FIRE MANAGEMENT ASSOCIATION/CITY
MEMORANDUM OF UNDERSTANDING
2018
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