

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF NEWPORT BEACH
AND
THE NEWPORT BEACH FIREFIGHTERS ASSOCIATION**

Term: January 1, 2019 through December 31, 2021

TABLE OF CONTENTS

	<u>Page</u>
<u>PREAMBLE</u>	1
<u>SECTION 1 - GENERAL PROVISIONS</u>	
Recognition.....	1
Term of Memorandum.....	1
Release Time.....	2
Scope	3
Bulletin Boards	4
Authority to Deduct Dues	4
Maintenance of Membership	4
Conclusiveness	5
Modifications	5
Savings.....	5
Impasse.....	5
Definitions.....	6
<u>SECTION 2 - COMPENSATION</u>	
Salary Adjustments - this MOU Period	6
Salary Differential	6
Firefighter – Special Step Increase	7
Probationary Firefighter Training Step.....	7
Overtime – Hours Worked	8
Required Uniform	8
Scholastic/Certificate Achievement Pay	9
Special Assignment Pay.....	10
Temporary Upgrading of Employees.....	11
Paramedic Training	13
Y-Rating	14
Shift Holdover.....	14
Emergency Recall	13
Bilingual Pay.....	14
Court Standby Pay	15
Longevity Pay.....	15
<u>SECTION 3 - LEAVES</u>	
Flex Leave.....	15
Telestaff System.....	17
Holiday Time	17
Bereavement Leave	19
Catastrophic Leave	19

Jury Duty	19
Worker's Compensation Leave	20
Scheduling of Medical Treatment for Industrial Injuries	20
Reassignment	20
Early Relief	20

SECTION 4 - FRINGE BENEFITS

Insurance.....	21
Additional Health Insurance/Programs	22
Employee Assistance Program	23
PERS Retirement Benefit.....	23
Defined Contribution Plan.....	26
Retiree Medical Benefit	27
Tuition Reimbursement and Training	31
Fitness Program	32
Physical Conditioning Equipment	32

SECTION 5 - MISCELLANEOUS PROVISIONS

Reduction in Force/Layoffs.....	33
Discipline Plan.....	35
Fire Suppression Equipment Staffing Levels.....	36
EMT Certification... ..	36
No Smoking.....	36
Life Safety Services Classifications	36
Exposure Log	36
Grievance Procedure	37
48/96 Schedule	37
Consecutive Shifts.....	37
Requirement to Live Within 150 Miles of City Limits.....	37
EXHIBIT A – Represented Classifications and Pay Rates	39

PREAMBLE

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is entered into with reference to the following:

1. The Newport Beach Firefighters Association, International Association of Firefighters, Local 3734 ("NBFA"), a recognized employee organization, and the City of Newport Beach ("City"), a municipal corporation and charter city, have been meeting and conferring, in good faith, with respect to wages, hours, fringe benefits and other terms and conditions of employment of employees in the unit of representation NBFA is recognized to represent (unit members).
2. This MOU, upon approval by NBFA and the Newport Beach City Council, represents the total and complete understanding and agreement between the parties regarding all matters within the scope of representation.

SECTION 1 – GENERAL PROVISIONS

A. Recognition

In accordance with the provisions of the Charter of the City of Newport Beach, the Meyers-Milias-Brown Act of the State of California and the provisions of the Employer's/Employee Labor Relations Resolution No. 2001-50, the City acknowledges that NBFA is the majority representative for the purpose of meeting and conferring regarding wages, hours and other terms and conditions of employment for all employees in the classifications of

- Fire Captain 112 Hours*
- Fire Captain + 7.5% (80 hours)*
- Fire Engineer 112 hours*
- Fire Facilities Coordinator*
- Fire Paramedic 112 Hours*
- Fire Paramedic 80 Hours*
- Firefighter 112 Hours*
- Firefighter 80 Hours*
- Life Safety Specialist I*
- Life Safety Specialist II*
- Life Safety Specialist III*

B. Term

1. Except as specifically provided otherwise, any ordinance, resolution or action of the City Council necessary to implement this MOU shall be considered effective as of January 1, 2019. This MOU shall remain in full force and effect until December 31, 2021, and the provisions of this

MOU shall continue after the date of expiration of this MOU in the event the parties are meeting and conferring on a successor MOU.

2. The terms and conditions of this MOU shall prevail over any conflicting provisions of the Newport Beach City Charter, the ordinances, resolutions and policies of the City of Newport Beach, and federal and state statutes, rules and regulations which either specifically provide that agreements such as this prevail, confer rights which may be waived by any collective bargaining agreement, or are, pursuant to decisional or statutory law, superseded by the provisions of an agreement such as, or similar to, this MOU.

C. Release Time

1. Unit members shall be allowed to participate in the following activities and receive full pay ("Release Time"):
 - a. Attendance at off-site meetings, conferences, seminars or workshops related to matters within the scope of representation.
 - b. To prepare for scheduled meetings between the City and NBFA during the meet and confer process.
 - c.
 - i. To travel to, and attend scheduled meetings between the City and NBFA during the meet and confer process.
 - ii. To travel to and attend scheduled grievance and disciplinary hearings.
 - iii. To meet, for up to one hour, with a unit member(s) they are representing prior to a hearing described in subsection C(1)(c)(ii) above.
2. City grants NBFA 400 hours of Release Time per calendar year to engage in the activities described in subsection 1(a) and 1(b). Unused hours from any calendar year may be carried over to the next year not to exceed a total City provided release time accrual of three hundred (300) hours.
3. City grants Unit members the right to engage in the activities described in subsection 1(c) at any time without reduction to the Release Time granted in subsection 2.
4. NBFA shall designate certain members as those members entitled to release time. Designates must give reasonable advance notice to, and obtain permission from, their supervisor prior to use of release time, or, prior to adjusting work hours. Requests for release time shall be

granted by the supervisor unless there are specific circumstances that require the designate to remain on duty. Designates shall, to the maximum extent feasible, receive shift assignments compatible with participation in the meet and confer process.

a. The NBFA President shall be entitled to a maximum of 200 hours per calendar year for appropriate association related business, excluding time required for the meet and confer process. The NBFA President shall, at his/her discretion, allocate Release Time to NBFA Board members or other designates, to a maximum of 150 hours per year per individual. In the event the 200 hours for the President or 150 hours for other NBFA designates are insufficient, the President may submit a request to the Assistant City Manager or designee, with justification, that additional hours be granted. In no event shall the Association be granted more than a total of 400 hours per year for all designates.

5. In addition to City–provided Release Time and Release Time provided pursuant to subparagraph (3), Unit members may *voluntarily* contribute earned paid time off to an NBFA Release Time Bank. Members may contribute earned time only during the period from July 1 through August 15th during any calendar year. However, members shall not have the right to contribute time to the NBFA Release Time bank if NBFA has accumulated more than 600 hours of total Release Time. Contributions may be made only in six-minute increments. Contributions shall be on forms prepared by the City which shall then be submitted to the appropriate department employee. City shall advise NBFA as to the balance of hours in the Release Time Bank upon request. For purposes of this subparagraph only, the term "time off" shall be defined as accrued flex leave.
6. There is no entitlement to release time for any matter not set forth above.

D. Scope

1. All present written rules and currently established practices and employee rights, privileges and benefits that are within the scope of representation shall remain in full force and effect during the term of this MOU unless specifically amended by the provisions of this MOU, or in the case of the Department SOP's falling within the scope of representation, the City has given notice to the Association and, upon request, met and conferred on any proposed changes which fall within the scope of representation.

When the Department proposes to change any SOP departmental rule or regulation, it will provide a copy of such change to the Association no less than seven (7) days prior to implementation of the proposed change. If such proposed change materially impacts any matter within the scope of representation, then the parties agree to meet and confer over such impact.

2. Pursuant to this MOU, the City reserves and retains all of its inherent exclusive and non-exclusive managerial rights, powers, functions and authorities ("Management Rights") as set forth in Resolution No. 2001-50.

E. Bulletin Boards

1. Space shall be provided on bulletin boards within the Fire Department at their present location for the posting of notices and bulletins relating to NBFA business, meetings, or events. All materials posted on bulletin boards *by the NBFA* shall indicate *that the NBFA posted them*. Material posted shall not contain personal attacks on any City official or employee, any material which constitutes harassment, discrimination or retaliation on the basis of *any protected class under the law* or other statutorily or constitutionally impermissible basis, as well as any pornographic or obscene material.
2. Material posted and messages sent through electronic mail (E-Mail) shall not contain personal attacks on any City official or employee, any material which constitutes harassment, discrimination or retaliation on the basis of race, gender, ethnicity, religion, age, sexual orientation, or other statutorily or constitutionally impermissible basis, as well as any pornographic or obscene material. E-Mail may be used for Association business on a limited basis and consistent with Department Policy.

F. Authority to Deduct Dues from Members' Paychecks

The City will deduct dues from members of the Association and will remit it to the Association. It is the Association's responsibility to inform the City's Human Resources Director as to which members of the bargaining unit are members of the Association. The Association shall inform the Human Resources Director in writing of any changes in the membership status of any Association members.

G. Maintenance of Membership

Any employee in this Unit who has authorized association deductions on the effective date of this Agreement, or at any time subsequent to the effective date of this Agreement, shall continue to have such dues deductions made by the City during the term of this Agreement, provided that any employee in the

Unit may terminate Association membership by submitting to the Association a signed request to cancel payroll dues deduction. If that occurs, the Association will advise the Human Resources Director to cancel payroll dues deduction to the Association for such employee. Pursuant to Government Code section 1157.12(b), the Association shall indemnify the City and hold it harmless against any and all suits, claims, demands and liabilities by any unit member in reliance upon information provided by the Association respecting requests to cancel or change payroll deductions for such employee.

H. Conclusiveness

This MOU contains all of the covenants, stipulations, and provisions agreed upon by the parties. Therefore, for the term of this MOU, neither party shall be compelled to meet and confer concerning any issue within the scope of representation except as expressly provided herein or by mutual agreement of the parties. No representative of either party has the authority to make, and none of the parties shall be bound by, any statement, representation or agreement reached prior to the execution of this MOU and not set forth herein.

I. Modifications

Any agreement, alteration, understanding, variation, or waiver or modification of any of the terms or provisions of this MOU shall not be binding upon the parties unless contained in a written document executed by authorized representatives of the parties.

J. Savings

Should any part of this MOU be rendered or declared illegal or invalid by legislation, decree of court of competent jurisdiction or other established governmental administrative tribunal, such invalidation shall not affect the remaining portions of this MOU provided, however, should the provisions of this MOU relating to salary increases, fringe benefits, or the compensation policy be declared invalid the City shall provide alternative forms of compensation such that Unit members suffer no financial detriment by virtue of the decision or ruling with the manner and form of the compensation to be determined by the parties after meeting and conferring in good faith.

K. Impasse

In the event of an impasse (the failure to agree on a new MOU after the express term of the existing MOU has expired), the parties may agree on mediation pursuant to the procedure outlined in Section 16 of Resolution No. 2001-50 or a successor resolution.

L. Definitions

For the purposes of this MOU, these terms shall have the following meanings:

1. The term "member" or "unit member" shall mean all persons within classifications represented by NBFA.
2. The term "staff employee" shall mean any unit member who is assigned to work an average 40-hour workweek.
3. The term "line employee" shall mean any unit member assigned to work an average 56-hour workweek in 24-hour shift increments.
4. The term "Municipal Fire Departments in Orange County" or "Municipal Fire Departments" shall mean all City operated Fire Departments and the Orange County Fire Authority.

SECTION 2 – COMPENSATION

A. Salary Adjustments – this MOU Period

Base salary increases for all NBFA represented classifications shall be as follows and as specified in Exhibit A:

1. *Effective the pay period that includes January 1, 2019 there shall be a base salary increase of two percent (2%) for all represented classifications.*
2. *Effective the payroll period that includes January 1, 2020, there shall be a base salary increase of two percent (2%) for all represented classifications.*
3. *Effective the payroll period that includes January 1, 2021, there shall be a base salary increase of two percent (2%) for all represented classifications.*

B. Salary Differential

1. The adjustments to salary and total compensation described in this Section shall maintain the salary differentials between the classification of Firefighter (benchmark classification) and the other classifications represented by NBFA, as set forth below, so there is an appropriate internal relationship among the primary classifications represented by NBFA. Subject to the foregoing, the salaries specified below or total compensation, as appropriate, shall be subject to the following minimum salary differentials between classifications:

<u>Firefighter Series</u>	<u>Percent of Firefighter Top Step</u>
Firefighter	N/A
Fire Engineer	112.50%

<i>Fire Paramedic hired prior to 1/1/16</i>	122.25%
Line Captain	132.00%

Staff Captains shall receive an additional 7.5% of base pay over Line Captains. *Assignment as a Staff Captain is for a maximum for two years unless extended by the Fire Chief.*

2. *Paramedic Pay For Firefighters Working as Paramedics Hired on or After January 1, 2016: Firefighters hired on or after January 1, 2016 will not be placed into the Paramedic classification. They will remain in the Firefighter classification and receive Paramedic Pay of 17.25%.*

The parties agree that to the extent permitted by law, Paramedic Pay is special compensation and shall be reported to CalPERS as such pursuant to Title 2 CCR, Section 571(a)(2) and 571.1(b)(2).

C. Firefighter- Special Step Increase

Firefighters who successfully complete the Department Engineer Certification program within twelve (12) months of passing probation will be granted a salary step increase.

D. Probationary Firefighter Training Step

Probationary Firefighters will be placed at the Training Step (*Step "1T"*) upon initial appointment. Upon completion of the NB Fire Recruit Academy, employees will be eligible to advance to Firefighter Step 1. Probationary employees will be eligible for advancement to Step 2 following 12 months from date of initial appointment and upon documented successful performance.

Notwithstanding advancement to Step 2, *until the City Council approves this MOU*, the probationary period for a new Firefighter is 18 months from the date of hire.

The probationary period for a new Firefighter hired after January 8, 2019 is 12 months. Any firefighter serving his/her probationary period for at least 12 months on the date of Council approval of this MOU will be considered to have passed probation on that date. Any Firefighter serving his/her probationary period for less than 12 months on the date of Council approval of this MOU will need to need to complete 12 months on probation to complete his/her probation period.

E. Overtime

1. FLSA Overtime shall consist of authorized hours actually worked in excess of 91 hours in a 12-day work period as previously established by the City and as permitted by the United States Department of Labor regulations pursuant to the FLSA 7(k) exemption. Use of Flex Leave, shall not be considered as hours worked for the purposes of determining eligibility for FLSA Overtime.

Contract Overtime shall consist of authorized work in excess of a unit member's normal number of work hours in any scheduled work shift, and shall be paid one-and-one-half times the employee's regular rate of pay. Use of Flex Leave shall be considered as hours worked for the purposes of determining eligibility for Contract Overtime pay. Leave Without Pay shall not be considered as hours worked for determining Contract Overtime eligibility. Contract Overtime shall be calculated based on the employee's regular rate of pay, less 7%.

The rate at which Contract Overtime is calculated shall not include the City's Cafeteria Plan Allowance, the opt-out Cafeteria Plan Allowance, or any cash back an employee may receive from the Cafeteria Plan Allowance by choosing benefits which cost less than the Allowance.

2. Temporary vacancies in line positions shall be selected in accordance with Department S.O.P.
3. Qualified employees wishing to work voluntary overtime in a class lower than their current class (downgrade) may volunteer to do so and shall be compensated at one and one-half times the highest hourly rate for the position as published in the City's compensation plan. Said employees shall be selected according to the provisions set forth in the Department's Standard Operating Procedures related to staffing and overtime. This provision applies only to persons wishing to downgrade to the position of Firefighter, Fire Engineer or Paramedic.
4. *Employees* assigned to staff assignments may request compensatory time off in lieu of paid overtime with the approval of the Department. Compensatory time may be granted, subject to maximum accrual of eighty (80) hours, and subject to Department consideration of the impact of said CTO use on overtime liability and other efficiency requirements of the Department.

F. Required Uniform

City shall pay the entire cost of providing NBFA member with each component of the required NBFD uniform. The required NBFD uniform includes safety shoes, badges and insignias, uniform pants, uniform shirts, uniform jackets

and liner, belts, work out shirts, work out trunks, sweatshirt, , and baseball cap. City shall not be responsible for providing employee with socks, underwear, or workout shoes, or other clothing.

The City will provide each fire suppression member with a set of front-line turnout gear and an adequate number of reserve turnouts at each station to allow for proper turnout cleaning/decontamination. Reserve turnouts may be personally issued to each member at the Fire Chief's discretion. This equipment will be used to temporarily replace an employee's personal turnout equipment that cannot be placed in service because they are wet, contaminated, or aged.

PERS Reporting of Uniform Allowance - To the extent permitted by law, the City shall report to the California Public Employees' Retirement System (CalPERS) the uniform allowance (\$1,519 annually) for each employee as special compensation in accordance with Title 2, California Code of Regulation, Section 571(a)(5). Notwithstanding the previous sentence, for "new members" as defined by the Public Employees' Pension Reform Act of 2013, the uniform allowance will not be reported as pensionable compensation to CalPERS.

The parties agree the reported value of uniforms is intended to reflect clothing such as pants, shirts, jackets, and related attire and excludes health and safety related equipment, *i.e.*, safety boots and turnout gear.

G. Scholastic/Certificate Achievement Pay

Unit members are entitled to additional compensation contingent upon scholastic achievement ("Scholastic/Certificate Achievement Pay"). Unit members may apply for increases pursuant to this Section when eligible and scholastic and/or certificate achievement pay shall be included in the member's paycheck for the pay period immediately after approval by the Fire Chief. It is the responsibility of the unit member to apply for Scholastic and/or Certificate Achievement Pay. Approval of the unit member's application shall not be unreasonably withheld or delayed, and the member shall not be entitled to receive scholastic and/or certificate achievement pay prior to the date the application is approved even though the member may have been eligible prior to approval.

For employees hired before May 22, 2012, scholastic and/or Certificate achievement pay is contingent upon number of units and/or degrees received by the employee. Unit members hired on and after May 22, 2012 shall be ineligible for any scholastic pay based upon having obtained units only. Qualifying units and/or degrees must be awarded by accredited community colleges, state colleges or universities. A "degree" shall be awarded by an institution accredited by the State of California, the United States Department of Education, the Council for Higher Education, or the Distance Education

Training Council. Unit members shall receive scholastic and/or certificate achievement pay in accordance with the following:

1. Scholastic Pay

<u>College Semester/Unit:</u>	<u>% of Actual Step in Job Class Range:</u>
30	1.5%/month
60	2.5%/month
90	3.5%/month
90	3.5%/month
120	4.5%/month
A.A./A.S.	3.5%/month
B.A./B.S.	5.5%/month

2. Certificate Achievement Pay

Certificate achievement pay is contingent upon employee's satisfactory completion of the initial probationary period with the Newport Beach Fire Department and completion of the required coursework for Company Officer (formerly known as Fire Officer) or Fire Inspector II (formerly known as Fire Prevention Specialist) certification as outlined below, and the opening of the associated State Fire Training task book. Company Officer also requires completion of the Nbfd (internal) Captain's task book. Proof of course completion must accompany this application and be in the form of one of the following:

- 1. A certificate from the Office of the State Fire Marshal.*
- 2. A letter from the Office of the State Fire Marshal certifying the employee has completed the course(s).*
- 3. Transcripts from an accredited college, university or entity, or certificates indicating the employee has been credited for course completion.*

NBFA members shall receive 3.0 % of base pay for either Company Officer or Fire Inspector II course completion, opening of the associated State Fire Training task book, and completion of Nbfd (internal) Captain's task book (Company Officer only).

H. Special Assignment Pay

The following additional payments shall be made to certain Unit members based on assignment:

1. Individuals properly trained and assigned by the Department to perform special assignments shall be compensated as follows:

<u>Assignment</u>	<u>Maximum Number*</u>	<u>Compensation (% of base pay)</u>
Shift Fire Investigator	6	5%
Radio/MDC	1	5%
SCBA	3	2%
Map/Preplan	1	2%

Special assignment compensation shall cease when individuals are no longer performing the assignment.

Employees who enter the above assignments after the approval of this MOU will be assigned for three years, after which they will rotate out of their assignment (assuming there are qualified replacements) absent an extension by the Fire Chief, who shall have the option to authorize up to two one-year extensions. Notwithstanding the above, employees currently assigned as Shift Fire Investigators shall be subject to rotation effective July 1, 2019. Removal from any of these special assignments at the end of the prescribed term shall not trigger any right of appeal.

The parties agree that to the extent permitted by law, Shift Fire Investigator Pay is special compensation and shall be reported to CalPERS as Fire Investigator Premium pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3).

*Subject to modification by the department.

2. Temporary Special Assignment Pay

Temporary Special Assignment pay will be at the rate of the special assignment. The types and duration of these temporary assignments (which will vary based on the needs of the Department as determined by the Fire Chief) will remain a management prerogative.

Committee participation such as Safety Committee, and work on various projects such as Public Safety Day and the CERT Program are excluded from consideration under this Agreement.

I. Temporary Upgrading of Employees

1. Move up Assignment

A move up assignment shall be defined as the temporary assignment of an employee to work in a job classification which is higher than his or her current classification. A move up employee shall meet the minimum requirements for the position to which they are moved up to.

Such employees shall be deemed "Acting Appointments" after their 6th consecutive shift.

If the employee is moved-up for five (5) hours or more, the move-up compensation (*for time actually working in the moved up assignment*) shall be computed as follows:

Firefighter to Engineer Firefighter (<i>hired prior to January 1, 2016</i>) to Paramedic	Regular rate +5%
Firefighter to Captain Engineer (<i>hired prior to January 1, 2016</i>) to Paramedic	Regular rate +22.25%
Engineer to Captain Paramedic to Captain	Regular rate +5%
Captain to Battalion Chief	Regular rate +5%

If an employee is moved up and is using leave, the leave time shall be paid at the employee's regular rate of pay in the rank from which he/she was moved up. Time accumulated working in a move up position shall not be applied towards the probationary period or count as "time in rank" for the purpose of seniority.

The following positions shall be considered for move-up assignments:

Fire Battalion Chief
Fire Captain
Fire Paramedic
Fire Engineer

Assignments to a move up position shall be made at the sole discretion of the Fire Chief and are limited to a maximum time period of 360 days.

The parties agree that to the extent permitted by law, pay for move up assignments is special compensation and shall be reported to CalPERS as such pursuant to Title 2 CCR, Section 571(a)(3) but not for new members as defined by the Public Employees' Pension Reform Act of 2013.

2. Acting Appointments

The formal and expressed assignment of an employee to perform the significant duties and responsibilities of a higher classification for more than six (6) consecutive shifts shall be deemed an acting appointment. All acting appointees must satisfy the minimum requirements for the position to which they are appointed.

Acting employees shall be compensated the beginning of the pay period following the sixth consecutive shift in the salary range of his/her acting classification at a rate that is at least five (5%) percent higher than their current rate. All *Flex* leave shall be paid at the employee's new rate of pay.

In the event the acting employee is subsequently appointed to the higher classification, the time accumulated while acting in the higher classification shall be applied towards the probationary period and count as "time in rank" for the purpose of seniority.

If an acting employee is returned to his/her former classification for more than six (6) months, he/she will not be credited with the time accumulated in the acting position for the purposes of probation or as "time in rank" for the purpose of seniority.

Acting appointments shall be made at the sole discretion of the Fire Chief and are limited to a maximum time period of 180 days.

3. Tiller Assignment

Employees temporarily upgraded to Tiller shall receive a five (5%) pay differential over their regular rate of pay for all time worked in this job classification if they are assigned to work in this job classification for a period of four (4) working hours or longer.

The parties agree that to the extent permitted by law, Tiller Pay is special compensation and shall be reported to CalPERS as such pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3).

J. Paramedic Training

The parties agree to a competitive process for which up to a maximum of three (3) current Firefighters (no more than two (2) per fiscal year), may be selected, based on the operational needs of the Fire Department, to attend Paramedic school during the term of this MOU. Selected employees will be compensated at their normal rate of pay while attending school and during any clinical training. Following completion of school and clinical training, during the on-the-job training period employees shall receive 5% assignment pay. Following all training, employees will return to their normal rate of pay until such time as they are selected for Paramedic assignment. This section shall terminate upon the expiration of this MOU.

Assignment to Paramedic School shall not be construed as assignment to position for the purposes of probation.

K. Y-Rating

Employees who are reclassified to a position with a lower maximum salary shall be Y-rated. Y-rating shall refer to a pay rate outside of the assigned salary range of the employee.

If the salary of the employee is greater than the maximum of the new range, the salary of the employee shall be designated as a Y-rate and shall not change during continuous regular service until the maximum of the new range exceeds the salary of the employee.

If the salary of the employee is the same or less than the maximum of the new class, the salary and merit increase eligibility date of the employee shall not change.

L. Shift Holdover

Unit members who are held over at the conclusion of any shift shall be compensated at the *appropriate* rate for each hour, or portion thereof, the employee worked beyond the end of the shift.

M. Emergency Recall

If an employee who is not on stand-by or shift hold-over and is required to return to work during his/her off-duty hours for actual firefighting, or similar emergency designated by the Fire Chief, the employee shall receive a minimum of four (4) hours compensation *at the appropriate rate*. *If an employee works less than (4) hours, he/she will receive four hours of compensation at the appropriate rate. If an employee works for four (4) hours or more, he/she will receive compensation for the time worked at the appropriate rate.*

N. Bilingual Pay

Employees certified as bilingual (Spanish) shall be eligible to receive One Hundred Fifty (\$150.00) Dollars per month in bilingual pay. The certification process will confirm that employees are fluent at the street conversational level in speaking, reading and writing Spanish. Employees certified shall receive bilingual pay the first full pay period following certification.

Additional languages may be certified for compensation pursuant to this section by the Fire Chief.

The parties agree that to the extent permitted by law, the Bilingual pay in this section is special compensation and shall be reported to CalPERS as such pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) Bilingual Premium.

O. Court Standby Pay

Unit members who, pursuant to subpoena compelling attendance to testify to acts, observations, or omissions occurring in the course and scope of employment or at the direction of their supervisor, are required, while off-duty, to remain within a certain response time from court, shall be considered to be on "court standby time" and shall receive four (4) hours of pay for each eight hours of court standby time. Unit members shall, when required to appear in court pursuant to a Subpoena or the direction of their supervisor to testify as to matters relating to their employment with the City, be considered to be on duty and shall be paid accordingly. Members shall remit all witness fees received for testifying or appearing on any matter for which the member is eligible to receive court standby time.

P. Longevity Pay

<u>Years of Service</u>	<u>Longevity Pay</u>
16 but less than 20	1.5%
20 but less than 25	2.5%
25 and over	3.5%

The parties agree that to the extent permitted by law, Longevity Pay is special compensation and shall be reported to CalPERS as such pursuant to Title 2 CCR, Section 571(a)(1) and 571.1(b)(1).

SECTION 3 - LEAVES

A. Flex Leave

1. Unit members shall accrue flex leave as follows as set forth in the chart below. The amounts that are listed in the column entitled "Maximum Accrual" include both the maximum accrual of flex leave (52 pay periods worth of flex leave) and also include the amount of holiday time which the parties have agreed that employees may accrue per Section 3C (Holiday Time).

<u>Leave</u> <u>Years of Srvc</u>	<u>Accrual</u> <u>Hrs/Pay Period</u>	<u>Maximum Accrual</u>
Line Employees*:		
1 but less than 5	9.77	796.12
5 but less than 9	10.69	843.96
9 but less than 12	11.62	892.32
12 and over	12.54	940.16

Staff and Non-Safety Employees:

1 but less than 5	6.97	568.36
5 but less than 9	7.63	602.68
9 but less than 12	8.33	639.08
12 and over	8.95	671.32

2. The Flex leave program shall be administered as follows:

- a. Unit members shall not accrue Flex leave until continuously employed by the Newport Beach Fire Department for a period of three (3) months, provided however, if a member on the Flex leave program becomes sick during the first three (3) months of employment, the City will advance up to six (6) pay periods of accrued leave time for use by the member to recover from illness.

In the event the City advances paid leave time and the employee is terminated or resigns before completing three months of continuous employment, the member's final check shall be reduced by an amount equal to the number of Flex leave hours advanced multiplied by the member's hourly rate of pay.

Unit members shall accrue three months of flex leave (as provided in the charts in paragraph A1 above) immediately upon completion of three (3) months continuous employment with the Newport Beach Fire Department, provided however, this amount shall be reduced by any flex leave time advanced during the first three months of employment.

- b. Members employed by the City prior to initiation of the Flex leave program have had the current accrued vacation time converted to Flex leave on an hour for hour basis.
- c. Earned Flex leave in excess of the maximum permitted is currently paid bi-weekly at the member's hourly rate of pay. Unit members shall not be permitted to accrue Flex leave in excess of the maximum permitted, unless the employee is unable to use leave benefits because of an industrial disability, hardship or extraordinary circumstances.
- d. All requests for scheduled Flex leave shall be submitted to appropriate department personnel. In no event shall a member take or request Flex leave in excess of the amount accrued.

- e. Flex leave may be taken in four (4) hour increments.
- f. Members shall be paid for all accrued Flex leave at their then current hourly rate of pay (hourly rate before incentives, other pays, etc.) upon *separation from* employment.

B. Telestaff System

The City has implemented "Telestaff" which phased out the Vacation Selection System (VSS). The City commits to maintain Telestaff subject to budgetary constraints outlined in this Section. The City shall, for each fiscal year during the term of this MOU, adopt a budget which provides for the payment of overtime specifically for the purpose of implementing Telestaff. The amount to be budgeted shall be calculated by computing the Vacation/Flex leave/Holiday time (leave) normally accrued by each member during a fiscal year (total annual leave) multiplying total annual leave, by that member's overtime rate of pay (value of leave) and then adding the value of leave for each NBFA member. Each member's overtime rate of pay shall be calculated on the basis of the member's highest anticipated rate of pay during the upcoming fiscal year.

C. Holiday Time

1. Line Employees

The provisions of this subsection shall apply only to Unit members who are line employees during all or a portion of any calendar year and, as to those members who are line employees for only a portion of the year, the provisions of this subsection shall be applicable on a pro-rata basis. Unit members who are line employees shall accrue holiday time at the rate of 5.54 hours per pay period. Holiday time shall be added to the member's Flex leave Account on a bi-weekly basis. *The parties agree, to the extent permitted by law, the compensation in this section is special compensation for those employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(5) and 571.1(b)(4) Holiday Pay.*

Effective October 1, 1996, all Line employees were provided a one-time opportunity to elect to convert all or any portion of their annual holiday benefits to cash on an annual basis. This election shall be uniform from year to year. For example, an employee electing to convert 108 of the 144 annual benefits to cash must so convert 108 hours of earned holiday benefits each year thereafter. The election to change holiday

time to pay shall be in twelve (12) hour increments. Holiday pay will be paid bi-weekly with the regular check. Holiday leave conversion pay will not count in the total compensation formula used to adjust salaries and benefits.

Note: Newly hired employees shall be given a one-time option, within 60 days of employment, to elect to receive up to one-half of accrued holiday time as time off in lieu of cash payment.

2. Staff Employees

The holiday benefit for staff employees shall be as follows: :

Staff employees shall accrue 3.96 hours of holiday leave per pay period (102.96 hours per year). This holiday leave is to provide leave for employees for the following twelve (12) holidays:

New Years' Day, Martin Luther King Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and the day after Thanksgiving, one-half day on Christmas Eve, Christmas, one-half day on New Year's Eve and one floating holiday.

The holiday leave accrued will be added to employees' flex leave banks. The maximum accrual of flex leave set forth in in Section 3A1 above includes 205.92 hours which is two years (52 pay periods) of holiday leave.

Even though the holiday leave is added to employees' flex leave banks, staff employees may be required to take specified City holidays off at the sole discretion of the Fire Chief. If that occurs, time will be charged against the employee's Flex leave bank.

Notwithstanding the holiday leave benefit provided above, newly hired non-sworn staff employees shall have the one-time option (at the time of hire) to accrue holiday time as pay. If that occurs, such an employee's flex leave maximum accrual (addressed in Section 3A1 above) will be reduced by 205.92 hours which is two years (52 pay periods) of holiday leave.

If holiday time is provided as pay (if, that election as made as provided above) it shall not be reported to CalPERS as special compensation per California Code of Regulations 571(a)(5) because these employees they do not work in positions that require scheduled staffing without regard to holidays.

3. Holiday Time Election

Effective following adoption of the 2015-18 MOU, all then current unit members *were* provided *another* one-time opportunity to change all or a portion of their future annual holiday benefits to pay or time off. The City provided a 28-day window (2 pay periods) for employees to make the new election. Once selected, the election *became* uniform from year to year. All other elements of the election *were* as provided in D(1) and D(2) above.

D. Bereavement Leave

Bereavement leave shall be defined as the necessary absence from duty by an employee because of a death or terminal illness in his/her immediate family. Staff and non-safety employees shall be entitled to forty (40) hours of Bereavement Leave per calendar year per event while Line Employees shall be entitled to ninety (90) hours of Bereavement Leave (terminal illness followed by death is considered one incident). Leave hours need not be used consecutively, but should occur in proximate time to the occurrence. Bereavement leave shall be administered in accordance with the provisions of the Employee Policy Manual. For the purpose of this section immediate family shall mean an employee's father, mother, stepfather, stepmother, brother, sister, spouse/domestic partner, child, stepchild and grandparents, and the employee's spouse/domestic partner's mother, father, brother, sister, child and grandparent. An employee requesting bereavement leave shall notify his/her supervisor as soon as possible of the need to take leave.

E. Catastrophic Leave

Unit members may participate in the City's Catastrophic Leave Program *in the City of Newport Beach Administrative Procedure*.

F. Jury Duty

Employees who are summoned to perform jury service shall be entitled to their regular compensation while serving; provided the fees, except mileage and subsistence allowance, if any, which they receive as jurors, are remitted to the City.

If an employee calls in at night and finds out that he/she must report to jury duty the next day (and is scheduled to be working that day as part of a regular shift or on an overtime basis) he/she must contact his/her Battalion Chief as soon as possible so that coverage can be arranged for his/her shift.

G. Worker's Compensation Leave

The City will comply with the provisions of Labor Code section 4850 for workers' compensation claims.

H. Scheduling of Medical Treatment for Industrial Injuries

Time spent by an employee receiving medical attention during the employee's normal working hours is considered hours worked and compensable, when the City or its representative schedules the appointment.

When an employee is temporarily disabled due to an industrial injury, and is unable to perform even limited duty in the workplace, all appointments, whether arranged by the City or the employees, shall be considered as occurring during normal working hours. The employee shall not be entitled to any additional compensation, regardless of the employee's regular work schedule or the type of compensation currently received, except as otherwise required by law.

When an employee has been released to either full or limited duty and has returned to the workplace, time spent receiving ongoing medical treatment, such as physical therapy or follow-up visits that are not scheduled by the City, is not considered hours worked and therefore, is not compensable. To avoid disruption in the workplace, an employee shall schedule such appointments to occur during off duty hours whenever possible. In the event such scheduling is not available, employee may be allowed to attend an appointment during their regularly scheduled duty shift with prior supervisory approval. Regular recurring appointments (i.e., weekly physical therapy) must be scheduled off duty.

I. Reassignment

In the event a line employee is reassigned to a staff position, or a staff employee is reassigned to a line position, the City shall automatically convert the Flex Leave, Bereavement Leave and other benefits from the position previously held to the newly assigned position provided, however, upon reassignment a line employee shall be entitled to either receive pay for accrued holiday time or add accrued holiday time to the member's Flex Leave account. The ratio for conversion of staff employee benefits to line employee benefit shall be 7/5 and the ratio for converting line employee benefits to staff employee benefits shall be 5/7.

J. Early Relief

The parties acknowledge Department of Labor regulation, 29 CFR section 553.225 that provides:

"It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to (between the hours of 0600 and 0800) the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work."

The parties acknowledge that if there is early relief, the City does not require it. The Association agrees that it will advise the Human Resources Director in writing if at any time in the future it learns or believes that the City is requiring early relief. If that occurs, early relief will immediately end.

SECTION 4 – FRINGE BENEFITS

A. Insurance

1. Benefits Information Committee

City has established a Benefits Information Committee (BIC) composed of one representative from each employee association group and up to three City representatives. The Benefits Information Committee has been established to allow the City to present data regarding carrier and coverage options, the cost of those options, appropriate coverage levels and other health programs. The purpose of the BIC is to provide each *recognized employee organization* with information about health insurance/programs and to receive timely input from associations regarding preferred coverage options and levels of coverage.

2. Medical Insurance

The City has implemented an IRS qualified Cafeteria Plan. In addition to the amounts listed below, the City shall contribute the minimum CalPERS participating employer's contribution towards medical insurance. Employees shall have the option of allocating Cafeteria Plan contributions towards the City's existing medical, dental and vision insurance/programs.

Any unused Cafeteria Plan funds shall be payable to the employee as taxable cash back. Employees shall be allowed to change coverages in accordance with plan rules and during regular open enrollment periods.

Effective the pay issue that includes:

January 1, 2019, the City's contribution towards the Cafeteria Plan will increase by \$200.00, to \$1,824.00 (plus the minimum CalPERS participating employee's contribution).

Unit members who do not want to enroll in any medical plan offered by the City must provide evidence of group medical insurance coverage, and execute an opt-out agreement releasing the City from any responsibility or liability to provide medical insurance coverage on an annual basis.

Employees electing to opt out of medical coverage offered by the City because they have provided proof of minimum essential coverage ("MEC") through another source (other than coverage in the individual market, whether or not obtained through Covered California) will receive a maximum cafeteria allowance of \$1,000.00 per month.

3. Dental Insurance

The existing or comparable dental plans shall be maintained as part of the City's health plan offerings as agreed upon by the Benefits Information Committee.

4. Vision Insurance

The existing or a comparable vision plan shall be maintained as part of the City's health plan offerings as agreed upon by the Benefits Information Committee.

B. Additional Health Insurance/Programs

1. IRS Section 125 Flexible Spending Account

Section 125 of the Internal Revenue Code authorizes an employee to reduce taxable income for payment of allowable expenses such as child care and medical expenses. The City shall maintain a "reimbursable account program" in accordance with the provisions of Section 125 of the Internal Revenue Code, pursuant to which an Association member may request that medical, child care and other eligible expenses be paid or reimbursed by the City out of the employee's account. The base

salary of the employee will be reduced by the amount designated by the employee for reimbursable expenses.

2. Disability Insurance

The City shall provide Short-term (STD) and Long-term (LTD) disability insurance to all regular full time employees with the following provisions:

Weekly Benefit	66.67% gross weekly wages
Maximum Benefit	\$10,000/month
Minimum Benefit	\$15 (STD) and \$100 (LTD)
Waiting Period	30 Calendar Days (STD) 180 Calendar Days (LTD)

Employees shall pay one percent (1%) of base salary as a post-tax deduction for this benefit.

Employees shall not be required to exhaust accrued paid leaves prior to receiving benefits under the disability insurance program. Employees may not supplement the disability benefit with paid leave once the waiting period has been exhausted.

3. Life Insurance

The City shall provide life insurance for all regular full-time employees in \$1,000 increments equal to one times the employee's annual salary up to a maximum of \$50,000. At age 70 the City-paid life insurance is reduced by 50% of the pre-70 amount. This amount remains in effect until the employee retires from City employment.

C. Employee Assistance Program

City shall provide an Employee Assistance Program (EAP) through a properly licensed provider. Association members and their family members may access the EAP subject to provider guidelines.

D. PERS Retirement Benefit

1. Retirement Formula

The City contracts with the California Public Employees Retirement System ("CalPERS" or "PERS") to provide retirement benefits for its

employees. Pursuant to prior agreements and state mandated reform, the City has implemented first, second and third tier retirement benefits as follows:

Tier I (“Legacy”): For employees hired by the City on or before November 23, 2012, the retirement formula for safety members shall be 3%@50 and the retirement formula for non-safety members shall be 2.5%@ 55, calculated on the basis of the highest consecutive 12 month period selected by the employee.

Tier II (“Classic”): For employees first hired by the City between November 24 and December 31, 2012, or hired on or after January 1, 2013 and who are not new members as defined in Government Code Section 7522.04(f), the retirement formula for safety members shall be 2%@50 and the retirement formula for non-safety members shall be 2%@60, calculated on the basis of the highest consecutive 36 month period selected by the employee.

Tier III (“PEPRA”): For employees first hired by the City on or after January 1, 2013, who are new members, the safety retirement formula shall be 2.7%@57 and the non-safety retirement formula shall be 2.0%@62, calculated on the basis of the highest consecutive 36 month period selected by the employee.

2. Employee Contributions

Unit members shall contribute amounts toward the PERS retirement benefit, to the extent permissible by law, as set forth below. Should any such provision be deemed invalid, the City and Association agree to meet for the purpose of renegotiating employee retirement contributions or other equivalent economic adjustments.

Employee retirement contributions that are in addition to the normal PERS Member Contribution shall be made in accordance with Government Code §20516(f) and calculated on base pay, special pays, and other pays normally reported as pensionable compensation *or compensation earnable*, and will be made on a pre-tax basis through payroll deduction, to the extent allowable by the Internal Revenue Code.

a. Safety

Tiers I and II:

Effective the pay period which includes January 1, 2019, all members in Tier I and II shall contribute the full statutory member contribution equal to 9% of pensionable compensation earnable

plus an additional half of one percent (.5%) of compensation earnable for a total of 3.5% of compensation earnable of the Employer rate for a total contribution of 12.5% of compensation earnable.

Effective the pay period which includes January 1, 2020, all members in Tier I and II shall contribute the full statutory member contribution equal to 9% of pensionable compensation earnable plus an additional half of one percent (.5%) of compensation earnable for a total of 4.0% of compensation earnable of the Employer rate for a total contribution of 13.0% of compensation earnable.

Effective the pay period which includes January 1, 2021, all members in Tier I and II shall contribute the full statutory member contribution equal to 9% of pensionable compensation earnable plus an additional half of one percent (.5%) of compensation earnable for a total of 4.5% of compensation earnable of the Employer rate for a total contribution of 13.5% of compensation earnable.

Tier III:

The normal member contribution rate for Tier III members is 50% of the total normal cost and is calculated annually for possible adjustments as provided in the PERS valuations.

Effective the pay period which includes January 1, 2019, Tier III unit members will contribute the full statutory member contribution. If that rate is less than 12.5% of pensionable compensation these employees will contribute an additional percentage of pensionable compensation of the Employer rate to achieve a total contribution of 12.5% of pensionable compensation.

Effective the pay period which includes January 1, 2020, Tier III unit members will contribute the full statutory member contribution. If that rate is less than 13% of pensionable compensation these employees will contribute an additional percentage of pensionable compensation of the Employer rate to achieve a total contribution of 13% of pensionable compensation.

Effective the pay period which includes January 1, 2021, Tier III unit members will contribute the full statutory member contribution. If that rate is less than 13.5% of pensionable compensation these employees will contribute an additional percentage of pensionable compensation of the Employer rate to

achieve a total contribution of 13.5% of pensionable compensation.

b. Non Safety

Tier I:

Tier I employees shall contribute eight percent (8%) of pensionable compensation for the CalPERS member contribution, an additional 2.42% of pensionable compensation as cost sharing pursuant to Government Code section 20516(a) and an additional 2.58% of pensionable compensation as cost sharing pursuant to Government Code §20516(f). Employees shall contribute a total of 13.0% of pensionable compensation for retirement contributions.

Tiers II:

Tiers II unit members shall contribute a total employee contribution of 13.0% of compensation earnable - seven percent (7%) member contribution and six percent from cost sharing per Government Code section 20516(f).

Tier III

Tier III unit members will contribute the rate established by CalPERS as half the normal cost. In addition, these members will contribute the difference between half the normal cost and 13.0% as cost sharing per Government Code section 20516(f) to achieve a total contribution of 13.0% of pensionable compensation.

c. The City's contract with PERS shall also provide for:

- The military buy-back provisions pursuant to Section 20930.3 of the California Government Code and the highest year benefit pursuant to Section 20042.
- The Level 4 1959 Survivors Benefits.
- The PERS pre-retirement option settlement 2 death benefit (Section 21548) for miscellaneous and safety members.

E. Defined Contribution Plan

In 2013 the City established a Defined Contribution Plan for safety unit members enrolled in the 2% at 50 or 2.7% @ 57 retirement formulae (Tiers II

and III). Such employees are eligible to participate in a Defined Contribution plan (Plan), administered by the City or its designee in accordance with said regulatory agency regulations and laws. The Plan shall continue to be funded by allowing each affected employee to contribute any amount (unless statutorily capped or capped by the Plan) of base salary each payroll period. The City shall match any such employee contribution up to 1.5% of base salary per year. The employee-only contributions shall be deemed fully vested at the time of its deposit. The employer-only matching contribution shall vest upon a PERS retirement being implemented as follows: 100% - age 55+; 80% - age 54; 60% - age 53, 40% - age 52; 20% - age 51. ("Age" at time of retirement being effective.) In the event that a participant in the Plan has a medical retirement earlier than the vesting above, he or she shall be deemed 100% vested upon the date of the medical retirement.

F. Retiree Medical Benefit

1. Background

In 2005, the City and all Employee Associations agreed to replace the previous "defined benefit" retiree medical program with a new "defined contribution" program. The process of fully converting to the new program will be ongoing for an extended period. During the transition, employees and (then) existing retirees have been administratively classified into one of four categories. The benefit is structured differently for each of the categories. The categories are as follows:

- a. Category 1 - Employees newly hired after January 1, 2005.
- b. Category 2 - Active employees hired prior to January 1, 2006, whose age plus years of service as of January 1, 2005 was less than 50 (46 for public safety employees).
- c. Category 3 - Active employees hired prior to January 1, 2006, whose age plus years of service was 50 or greater (46 for public safety employees) as of January 1, 2005.
- d. Category 4 - Employees who had already retired from the City prior to January 1, 2006, and were participating in the previous retiree medical program.

2. Program Structure

This is an Integral Part Trust (IPT) Retirement Health Savings Plan (RHS, formerly the Medical Expense Reimbursement Program Plan, i.e.: MERP).

- a. For employees in Category 1, the program is structured as follows:

Each employee will have an individual RHS account for bookkeeping purposes, called his or her "Employee Account." This account will accumulate contributions to be used for health care expenses after separation. All contributions to the plan are either mandatory employee contributions or City paid employer contributions, so they are not taxable to employees at the time of deposit. Earnings from investment of funds in the account are not taxable when posted to the account. Benefit payments are not taxable when withdrawn, because the plan requires that all distributions be spent for specified health care purposes.

Contributions will be in three parts.

Part A contributions (mandatory employee contributions): 1% of Salary.

Part B contributions (employer contributions): \$2.50 per month for each year of service plus year of age (updated every January 1st based on status as of December 31st of the prior year).

Part C contributions (leave settlement as determined by Association):

The Association will determine the level of contribution for all employees it represents, subject to the following constraints. All employees within the Association must participate at the same level, except that Safety members and Non-safety members within an Association may have different levels. The participation level should be specified as a percentage of the leave balance on hand in each employee's leave bank at the time of separation from the City.

For example, if the Association wishes to specify 50% of the leave balance as the participation level, then each member leaving the City, or cashing out leave at any other time, would have the cash equivalent of 50% of the amount that is cashed out added to the RHS, on a pre-tax basis. The remaining 50% would be paid in cash as taxable income. Individual employees would not have the option to deviate from this breakout.

The Association has decided to participate in Part C contributions at the level of zero percent (0%) Flex. This amount may be changed, on a go forward basis, as part of a future meet and confer process. However, the participation level must be the same for all employees within the Association except that Safety members and Non-safety members within an Association may have different levels. Additionally, the purpose and focus of these changes should be toward long-term, trend

type adjustments. Due to IRS restrictions regarding “constructive receipt,” the City will impose restrictions against frequent spikes or drops that appear to be tailored toward satisfying the desires of a group of imminent retirees.

Nothing in this section restricts taking leave for time off purposes.

Part A contributions may be included in PERS compensation. Part B and Part C contributions will not be included in PERS compensation.

Part A contributions begin upon enrollment in the program and are credited to each RHS Employee Account each pay period. Eligibility for Part B contributions is set at five years of vested City employment. At that time, the City will credit the first five years’ worth of Part B contributions into the Employee Account (interest does not accrue during that period). Thereafter, contributions are made bi-weekly. Part C deposits, if any, will be made at the time of employment separation.

Each Employee has a right to reimbursement of medical expenses (as defined below) from the Plan until the Employee Account balance is zero. This right is triggered upon separation. If an employee leaves the City prior to five years employment, only the Part A contributions and Part C leave settlement contributions, if any, will be in the RHS Employee Account. Such an employee will not be entitled to any Part B contributions. The exception to this is a full-time employee, participating in the program, who leaves the City due to industrial disability during the first five years of employment. In such cases, the employee will receive exactly five years’ worth of Part B contributions, using the employee’s age and compensation at the time of separation for calculation purposes. This amount will be deposited into the employee’s RHS account at the time of separation.

Distributions from RHS Employee Accounts are restricted to use for health insurance and medical care expenses after separation, as defined by the Internal Revenue Code Section 213(d) (as explained in IRS Publication 502), and specified in the Plan Document. In accordance with current IRS regulations and practices, this generally includes premiums for medical insurance, dental insurance, vision insurance, supplemental medical insurance, long term care insurance, and miscellaneous medical expenses not covered by insurance for the employee and his or her spouse and legal dependents – again only as permitted by IRS Publication 502. Qualification for dependency status will be determined by guidelines in IRC 152. If used for these purposes, distributions from the RHS accounts will not be taxable. Cash withdrawal for any other purpose is prohibited. Under recent IRS Revenue Ruling 2005-24, any balance remaining in the Employee

Account after the death of the employee and his or her spouse and/or other authorized dependents (if any) must be forfeited. That particular RHS Employee Account will be closed, and any remaining funds will become general assets of the plan.

The parties agree that the City's Part B contributions during active employment constitute the minimum CalPERS participating employer's contribution (*i.e.*, the CalPERS statutory minimum amount) towards medical insurance after retirement. The parties also agree that, for retirees selecting a CalPERS medical plan, or any other plan with a similar employer contribution requirement, the required City contribution will be withdrawn from the retiree's RHS account.

- b. For employees in Category 2, the program is the same as for those in Category 1, with the following exception:

In addition to the new plan contributions listed above, current employees who fully convert to the new plan will also receive a one-time City contribution to their individual RHS accounts that equates to \$100 per month for every month they contributed to the previous "defined benefit" plan, to a maximum of 15 years (180 months). This contribution will be made only if the employee retires from the City and at the time of retirement. No interest will be earned in the interim.

Employees in Category 2 who had less than five years' service with the City prior to implementation of the new program will only receive Part B contributions back to January 1, 2006 when they reach five years total service.

- c. For employees in Category 3, the program is the same as for those in Category 2, with the following exception:

For employees in this category, the City will make no Part B contributions while the employees are still in the active work force. Instead, the City will contribute \$400 per month into each of their RHS accounts after they retire from the City, to continue as long as the employee or spouse is still living.

Each employee will contribute a flat \$100 per month to the plan for the duration of their employment to partially offset part of this expense to the City. The maximum benefit provided by the City after retirement is \$4,800.00 per year, accruing at the rate of \$400.00 per month. There is no cash out option for these funds, and they may not be spent in advance of receipt.

Employees in this category will also receive an additional one-time City contribution of \$75 per month for every month they contributed to the

previous plan prior to January 1, 2006, up to a maximum of 15 years (180 months). This contribution will be made to the RHS account at the time of retirement, and only if the employee retires from the City. No interest will be earned in the interim.

3. Administration

Vendors have been selected by the City to administer the program. The contract expense for program-wide administration by the vendor will be paid by the City. However, specific vendor charges for individual account transactions that vary according to the investment actions taken by each employee, such as fees or commissions for trades, will be paid by each employee.

The City's Deferred Compensation Committee, or its successor committee, will have the authority to determine investment options that will be available through the plan.

G. Tuition Reimbursement and Training

Maximum tuition reimbursement (for both college courses and non-college authorized courses) for unit members shall be \$1,500 per fiscal year.

1. College Courses

Unit members attending accredited community colleges, colleges, trade schools or universities may apply for reimbursement of one hundred percent (100%) of the actual cost of tuition, books, fees or other student expenses for approved job-related courses. Reimbursement is contingent upon the successful completion of the course. Successful completion means a grade "C" or better for undergraduate courses and a grade "B" or better for graduate courses. All claims for tuition reimbursement require the approval of the Human Resources Director.

College courses taken in pursuit of a degree that would render the employee eligible to receive scholastic pay compensation shall not be eligible for tuition reimbursement.

Career development courses and vocational courses offered through a college shall be eligible for tuition reimbursement provided they meet the definition of pre-authorized or prior approval is received from the Fire Chief or designee. Examples include, but are not limited to: California State Fire Marshal Courses and CICC Courses.

2. Non-College Courses

Unit members attending job-related classes, courses, and seminars given by recognized agencies, organizations or individuals other than accredited college institutions may apply for reimbursement of one hundred percent (100%) of the actual cost of tuition, parking fees, travel and lodging expenses. *Unit members who must stay in lodging to attend such classes, courses or seminars because of their location are required to seek single occupancy governmental rates (at GSA rates) when booking lodging for the class, course or seminar. Reimbursement for more than single occupancy governmental rates will be provided only if such rates are not available and if approved by the Fire Chief.*

Job-related courses, training and seminars will be considered pre-authorized in the following areas: Management and supervision, oral and written communications, conflict resolution, legal issues, and media relations, risk management, fire ground operations, rescue systems, EMS, health and safety, apparatus operator, auto extrication, fire prevention, arson investigation, and critical incident stress management.

Reimbursement is contingent upon the successful completion of the course. Successful completion means a document or certificate showing successful completion of the class or seminar. All claims for tuition reimbursement require the approval of the Fire Training Battalion Chief before submittal to Human Resources.

3. Training – Workers’ Comp

Employees of the Newport Beach Fire Department will be considered within the definition of course of employment and arising out of employment for purposes of workers’ compensation coverage when they have been authorized by the Fire Chief to attend pre-approved training that furthers the department’s mission in providing fire and medical public safety services to the community.

H. Fitness Program

All unit members shall participate in the Department Fitness Program as outlined in Department SOP.

I. Physical Conditioning Equipment

1. City has acquired fitness equipment for use by members in maintaining physical fitness. City shall budget \$25,000 per year for the acquisition, maintenance, repair, improvement, or replacement of fitness equipment. *All purchases need to be approved by the Fire Chief. Up*

to \$10,000 may be carried over to a subsequent fiscal year(s). An additional \$10,000 shall be budgeted to equip any new stations built during the term of this agreement.

2. City shall provide workout apparel for each NBFA member assigned to fire suppression. Workout apparel shall consist of three workout shirts and two trunks. All unit members on duty between the hours of 4:00 p.m. one day and 7:30 a.m. the next, shall wear either the approved workout apparel, or the approved Nbfd uniform.

SECTION 5 – MISCELLANEOUS PROVISIONS

A. Reductions in Force/Layoffs

The provisions of this section shall apply when the City Manager determines that a reduction in the work force is warranted because of actual or anticipated reductions in revenue, reorganization of the work force, a reduction in municipal services, a reduction in the demand for service or other reasons unrelated to the performance of duties by any specific employee. Reductions in force are to be accomplished, to the extent feasible, on the basis of seniority within a particular Classification or Series and this Section should be interpreted accordingly.

1. Definitions

- a. Layoff or Layoffs shall mean the non-disciplinary termination of employment.
- b. "Seniority" shall mean the time an employee has worked in a specific Classification within a Series calculated from the date on which the employee was first granted *regular* status, subject to the following:
 - i. Credit shall be given only for continuous service subsequent to the most recent appointment to *regular* status in the Classification or Series;
 - ii. Seniority shall include time spent on industrial leave, military leave and leave of absence with pay, but shall not include time spent on any other authorized or unauthorized leave of absence.
 - iii. For purposes of determining layoffs within the Classification of Firefighter, seniority shall mean the time an employee has worked within the Series from Firefighter to Captain.
- c. "Classification" shall mean one or more full time positions identical or similar in duties and embraced by a single job title authorized in

the City budget and shall not include part-time, seasonal or temporary positions. Classifications within a Series shall be ranked according to pay (lowest ranking, lowest pay).

- d. "Series" shall mean two or more Classifications within a Department which require the performance of similar duties with the higher ranking Classification(s) characterized by the need for less supervision by superiors, more difficult assignments, more supervisory responsibilities for subordinates. *In this bargaining unit the following are the Series which exist: 1) Firefighter, Fire Engineer, Firefighter/Paramedic and Fire Captain; 2) Life Safety Specialist I, Life Safety Specialist II and Life Safety Specialist III; and 3) Fire Facilities Coordinator.*
- e. "Bumping Rights", "Bumping" or "Bump" shall mean the right of an employee in a higher Classification who is subject to layoff to displace a less senior employee in a lower Classification within the Series. No employee shall have the right to Bump into a Classification for which the employee does not possess the minimum qualifications such as specialized education, training or experience, provided, however, the City shall allow an employee to become recertified as a paramedic in the event the employee's certification has expired due to promotion to another position. An employee has the right to Bump into only those positions the employee has previously held with the Department.

2. Procedures

In the event the City Manager determines to reduce the number of employees within a Classification, the following procedures are applicable:

- a. Probationary employees within any Classification shall, in that order, be laid off before permanent employees.
- b. Employees within a Classification shall be laid off in inverse order of seniority.
- c. An employee subject to layoff in one Classification shall have the right to Bump a less senior employee in a lower ranking Classification within *the Series within the bargaining unit*, provided, however, that the determination of the employee to be terminated from the position of Firefighter shall be based on seniority within the Series. An employee who has Bumping Rights shall notify the Department Director within seven (7) working days after notice of layoff of his/her intention to exercise Bumping Rights.

d. In the event two or more employees in the same Classification are subject to layoff and have the same seniority, the employees shall be laid off in inverse order of their position on the eligibility list or lists from which they were appointed. In the event at least one of the employees was not appointed from an eligibility list, the Department Director shall determine the employee(s) to be laid off.

3. Notice

Employees subject to layoff shall be given at least thirty (30) days advance notice of the layoff or thirty (30) days' pay in lieu of notice. In addition, employees laid off will be paid for all accumulated paid leave, holiday leave (if any).

4. Re-Employment

Regular and probationary employees who are laid off shall be placed on a Department re-employment list in reverse order of layoff. The laid off former employee shall remain on the reemployment list for not to exceed two (2) years from the date of layoff. In the event a vacant position occurs in the Classification which the employee occupied at the time of layoff, or a lower ranking Classification within a Series, the employee at the top of the Department re-employment list shall have the right to appointment to the position, provided, he or she reports to work within seven (7) days of written notice of appointment. Notice shall be deemed given when personally delivered to the employee or deposited in the U.S. Mail, certified, return receipt requested, and addressed to the employee at his or her last known address. Any employee shall have the right to refuse to be placed on the re-employment list or the right to remove his or her name from the re-employment list by sending written confirmation to the Human Resources Director.

5. Severance Pay

Regular employees who are laid off shall, as of the date of lay-off, receive one-week severance pay for each year of continuous service with the City of Newport Beach, but in no case, to exceed ten (10) weeks of severance compensation.

B. Discipline Plan

Any discipline shall be in accordance with Department SOP and the Employee Policy Manual.

C. Fire Suppression Equipment Staffing Levels

The City shall not reduce current staffing levels for fire suppression equipment during the term of this MOU. The City believes that appropriate staffing levels call for three (3) fire suppression personnel for each engine company and three (3) fire suppression personnel on one truck company and four (4) fire suppression personnel on the second truck company. The Fire Chief or designee shall have the discretion to add a fourth fire suppression personnel to the truck company staffed with three fire suppression personnel on a regular or overtime, i.e., "backfill" basis, based on operational needs, for a minimum 12 hour period. However, nothing contained herein shall be construed as altering the existing 24 hour shift for fire suppression employees.

D. EMT Certification

All members are required to attend regularly scheduled departmental EMT certification classes. Any member, except members who are paramedic certified, who misses, or anticipates missing, a regularly scheduled EMT certification class shall contact the Fire Chief or his/her designee in an attempt to schedule a makeup session, provided, however, members may view videotaped classes to make up for absences from a regularly scheduled class in accordance with County and State requirements. If a makeup session is not available within the program schedule established by the Department, the member shall, prior to loss of certification, attend a Departmental session or class offered by a public or private institution on the member's own time and without compensation by the City.

E. No Smoking

All employees hired after January 1, 1999 shall not smoke or use any tobacco products (*including vaping and e-cigarettes*) at any time while on, or off, duty. Employees shall be required to sign an agreement consistent with this section. Violation of the agreement may subject the employee to disciplinary action.

Smoking an occasional celebratory cigar (birth of a child, etc.) while off-duty shall not be considered a violation of this section.

F. Life Safety Services Classifications

Existing flexible staffing provisions in Life Safety Services Classifications shall remain in effect for the term of this agreement.

G. Exposure Log

The City maintains an exposure log system.

H. Grievance Procedure

Except as described herein, unit employees *and the Association* are covered by the grievance procedure contained in the Employee Policy Manual. However, the parties agree that Step 1 of the manual shall be deemed to define either a Captain or Battalion Chief as the "immediate supervisor," Step 2 of the grievance procedure shall be presided over the Fire Chief, and Step 3 of the grievance procedure shall be the City Manager. The City Manager shall render the final and binding grievance determination *which shall be subject to the right of the employee and/or the Association to seek judicial review per Code of Civil Procedure section 1094.5.*

The Grievance Procedure is the sole and exclusive method by which an employee or the Association may challenge a provision of this MOU.

I. 48/96 Schedule

The Fire Department currently operates with a 48/96 schedule.

J. Consecutive Shifts

Except for employees assigned to "strike teams" unit members are limited to working four (4) 24-hour shifts in a row, after which time the employee shall not work during the next consecutive 24 hour shift. Additional consecutive shifts may be permitted with mutual agreement between the employee and the Battalion Chief unless there are operational needs. In which case, the Department may extend the number of consecutive shifts which will be worked by employees.

K. Requirement to Live Within 150 Miles of City Limits

Unit members hired after January 1, 2019 are required to live within 150 miles of the City limits.

Signatures are on the next page.

Executed this 9TH day of JANUARY, 2019.

NEWPORT BEACH FIREFIGHTERS ASSOCIATION

By: *Bobby Salerno*
Bobby Salerno, NBFA President

CITY OF NEWPORT BEACH

By: *Doreen Fry*, Mayor

APPROVED AS TO FORM

By: *Peter J. Brown*
Peter J. Brown, Special Counsel

ATTEST:

By: *Leilani D. Brown*
Leilani Brown, City Clerk



Attachment: EXHIBIT A - NBFA Represented Classifications and Pay Rates

Newport Beach Firefighters Association
 Represented Sworn and Non-Sworn Positions and Pay Rates

MOU Term: January 1, 2019 - December 31, 2021
 Effective: December 22, 2018
 2.0% Adjustment

REPRESENTED POSITION	HOURLY PAY RATE ¹		MONTHLY PAY RATE ²	
	MIN	MAX	MIN	MAX
Fire Captain (112 Hours)	\$30.40	\$42.78	\$7,377	\$10,382
Fire Captain (80 Hours) ³	\$42.56	\$59.89	\$7,378	\$10,382
Fire Captain (7.5% Assignment)	\$45.76	\$64.39	\$7,932	\$11,160
Fire Engineer (112 Hours)	\$25.90	\$36.44	\$6,285	\$8,842
Fire Engineer (80 Hours) ³	\$36.26	\$51.01	\$6,285	\$8,842
Fire Facilities Coordinator	\$30.20	\$42.51	\$5,234	\$7,368
Fire Paramedic (112 Hours)	\$28.22	\$39.70	\$6,848	\$9,634
Fire Paramedic (80 Hours)	\$39.51	\$55.58	\$6,848	\$9,634
Firefighter (112 Hours)	\$21.95	\$32.42	\$5,326	\$7,868
Firefighter (80 Hours)	\$30.73	\$45.40	\$5,326	\$7,869
Life Safety Specialist I	\$34.54	\$48.60	\$5,987	\$8,425
Life Safety Specialist II	\$38.01	\$53.49	\$6,588	\$9,272
Life Safety Specialist III	\$41.79	\$58.81	\$7,244	\$10,194

¹ Hourly pay rates are rounded to the nearest hundredth.

² Monthly pay rates are rounded to nearest whole dollar.

* Pay rates may vary slightly, due to rounding.

³ Temporary staff/administrative assignments.

Newport Beach Firefighters Association
 Represented Sworn and Non-Sworn Positions and Pay Rates

MOU Term: January 1, 2019 - December 31, 2021
 Effective: December 21, 2019
 2.0% Adjustment

REPRESENTED POSITION	HOURLY PAY RATE ¹		MONTHLY PAY RATE ²	
	MIN	MAX	MIN	MAX
Fire Captain (112 Hours)	\$31.01	\$43.64	\$7,525	\$10,589
Fire Captain (80 Hours) ³	\$43.42	\$61.09	\$7,525	\$10,589
Fire Captain (7.5% Assignment)	\$46.67	\$65.67	\$8,090	\$11,384
Fire Engineer (112 Hours)	\$26.42	\$37.17	\$6,411	\$9,019
Fire Engineer (80 Hours) ³	\$36.98	\$52.03	\$6,411	\$9,019
Fire Facilities Coordinator	\$30.80	\$43.36	\$5,339	\$7,516
Fire Paramedic (112 Hours)	\$28.78	\$40.50	\$6,985	\$9,827
Fire Paramedic (80 Hours)	\$40.30	\$56.69	\$6,985	\$9,827
Firefighter (112 Hours)	\$22.39	\$33.07	\$5,433	\$8,026
Firefighter (80 Hours)	\$31.34	\$46.30	\$5,433	\$8,026
Life Safety Specialist I	\$35.23	\$49.58	\$6,107	\$8,593
Life Safety Specialist II	\$38.77	\$54.56	\$6,720	\$9,457
Life Safety Specialist III	\$42.63	\$59.99	\$7,389	\$10,398

¹ Hourly pay rates are rounded to the nearest hundredth.

² Monthly pay rates are rounded to nearest whole dollar.

* Pay rates may vary slightly, due to rounding.

³ Temporary staff/administrative assignments.

Newport Beach Firefighters Association
 Represented Sworn and Non-Sworn Positions and Pay Rates

MOU Term: January 1, 2019 - December 31, 2021
 Effective: December 19, 2020
 2.0% Adjustment

REPRESENTED POSITION	HOURLY PAY RATE ¹		MONTHLY PAY RATE ²	
	MIN	MAX	MIN	MAX
Fire Captain (112 Hours)	\$31.63	\$44.51	\$7,675	\$10,801
Fire Captain (80 Hours) ³	\$44.28	\$62.31	\$7,676	\$10,801
Fire Captain (7.5% Assignment)	\$47.61	\$66.99	\$8,252	\$11,611
Fire Engineer (112 Hours)	\$26.95	\$37.91	\$6,539	\$9,200
Fire Engineer (80 Hours) ³	\$37.72	\$53.07	\$6,539	\$9,200
Fire Facilities Coordinator	\$31.42	\$44.23	\$5,445	\$7,666
Fire Paramedic (112 Hours)	\$29.36	\$41.30	\$7,124	\$10,023
Fire Paramedic (80 Hours)	\$41.10	\$57.83	\$7,124	\$10,023
Firefighter (112 Hours)	\$22.83	\$33.73	\$5,541	\$8,186
Firefighter (80 Hours)	\$31.97	\$47.23	\$5,542	\$8,187
Life Safety Specialist I	\$35.93	\$50.57	\$6,229	\$8,765
Life Safety Specialist II	\$39.54	\$55.65	\$6,854	\$9,647
Life Safety Specialist III	\$43.48	\$61.19	\$7,537	\$10,606

¹ Hourly pay rates are rounded to the nearest hundredth.

² Monthly pay rates are rounded to nearest whole dollar.

* Pay rates may vary slightly, due to rounding.

³ Temporary staff/administrative assignments.