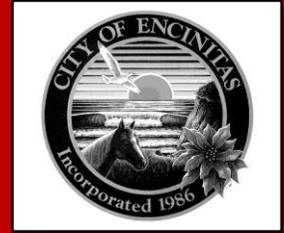


# MEMORANDUM OF UNDERSTANDING



January 1, 2016 –  
December 31, 2017



CITY OF ENCINITAS  
and the  
ENCINITAS FIREFIGHTERS ASSOCIATION  
(EFFA), IAFF 3787

**MEMORANDUM OF UNDERSTANDING (MOU)**  
*BETWEEN THE*  
**CITY OF ENCINITAS**  
*AND THE*  
**ENCINITAS FIREFIGHTERS ASSOCIATION (EFFA), IAFF 3787**

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**MEMORANDUM OF UNDERSTANDING (MOU)**  
*BETWEEN THE*  
**CITY OF ENCINITAS**  
*AND THE*  
**ENCINITAS FIREFIGHTERS ASSOCIATION (EFFA), IAFF 3787**

**ARTICLE 1. Preamble**

This Memorandum of Understanding is entered into by and between the City of Encinitas, hereinafter referred to as the "City" or "Employer," and the Encinitas Firefighters' Association hereinafter referred to as the "Association."

This Memorandum of Understanding is entered into pursuant to Government Code Section 3500-3510 and has been jointly prepared by the duly appointed representatives of the City of Encinitas and the Encinitas Firefighters' Association.

It is the purpose of this Memorandum of Understanding to achieve and maintain harmonious relations between the City and the Association, to provide for equitable and peaceful adjustment of differences which may arise, and to establish specific agreements about certain wages, hours and other conditions of employment.

**ARTICLE 2. Recognition**

**Section 2.1 Exclusive Recognition**

The Employer recognizes the Association as the exclusive representative of Employees employed in classifications listed in Section 2.2. This Memorandum of Understanding shall be applicable to the classifications identified herein below, including personnel serving by acting promotional appointment, but not including those temporary, reserve, paid call or voluntary employees, and any other class of employee historically not represented by the Association.

**Section 2.2 Bargaining Unit Classifications**

The following classifications are recognized as approved classifications that may be represented by the Association for the "meet and confer" process:

- 2.21 Fire Captain (including staff assigned Captains)
- 2.22 Fire Engineer
- 2.23 Firefighter/Paramedic III, II, I
- 2.24 Probationary Firefighter/Paramedic
- 2.25 Any new classes added by mutual agreement during the term of this Memorandum of Understanding.

### **Section 2.3 Dues Deductions**

Membership dues and such other fees as may be properly requested and lawfully permitted shall be deducted by the City from the salary of any employee in a classification represented by the Encinitas Firefighters' Association who files with the City a written authorization requesting that such sums be deducted as the Association may from time to time certify to the City. Remittance of the aggregate amount of dues and other deductions made from the salaries of bargaining unit members shall be made to the Association by the City as promptly as practical.

### **Section 2.4 Indemnification**

The Association shall defend, indemnify and hold harmless the City in the event of civil claim or civil suit or criminal complaint or other action against the City in regard to payroll deductions for Association dues.

## **ARTICLE 3. Association Business**

### **Section 3.1 Association Time Off**

The Association shall receive six (6) shifts per calendar year of Association time off, with pay, in order to attend functions such as conferences, seminars and workshops.

### **Section 3.2 Meeting Attendance**

The Association may select employees to attend meetings scheduled with City and Fire Department management on subjects within the scope of representation.

### **Section 3.3 Number of Employees in Attendance**

The number of employees who attend a particular meeting shall be as agreed upon in advance between the Association and Management.

### **Section 3.4 Paid Release Time**

The employees shall receive paid release time for that portion of the meeting held while the employees are on duty.

## **ARTICLE 4. Management Rights**

### **Section 4.1 Management Rights**

Management retains, exclusively, all its inherent rights, functions, and duties except where specifically limited by clear and unambiguous provision of this Memorandum of Understanding. The rights of management include, but are not limited to, the exclusive right to determine its organization; direct the work of its employees; determine the times and hours

of operation; determine the level, means, and kinds of services to be provided; determine the technology of performing its work; establish its policies, goals, and objectives; determine staffing patterns; determine the number and kinds of personnel required; maintain the efficiency of City and subsidiary district operations; build, move or modify facilities; establish budget procedures and determine budgetary allocation; determine the methods of raising revenue; hire, classify, assign, evaluate, promote, lay off, terminate and discipline employees; and take action on any matter in the event of an emergency.

#### **Section 4.2 Work Rules**

The Fire Chief specifically retains the right to make and enforce reasonable work rules.

#### **Section 4.3 Provisions of Law**

The exercise of the foregoing powers, rights, authority, duties and responsibilities, by the City, the adoption of policies, rules and regulations, and practice in the furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Memorandum of Understanding and then only to the extent such specific and express terms are in conformance with Federal and State law.

#### **Section 4.4 Notice**

Except in emergencies, the City shall not make any changes to matters specified by this Memorandum of Understanding without first notifying the Association and, if requested by the Association, negotiating about the effect of the proposed changes. In case of emergencies, the City shall give notice and negotiate, if requested, as soon as reasonably possible.

### **ARTICLE 5. Rules and Regulations**

#### **Section 5.1 Member Responsibility**

The Association agrees that all of its members shall familiarize themselves with the rules, regulations, manual of operations, policies and orders affecting the operation of the Fire Department and City of Encinitas.

#### **Section 5.2 Conflict of Provisions**

Should the specific provisions of this Memorandum of Understanding and any provisions in the Rules and Regulations, the Administrative Manual and orders of the Fire Department or the City of Encinitas be in conflict, the provisions of this Memorandum of Understanding shall prevail.

#### **Section 5.3 Changes in Ordinances or Policies**

The City and the Association shall meet and confer on any proposed adoption or changes to the City ordinance or policies relating to conduct and discipline, substance abuse or any other

matters of wages, hours or other terms and conditions of employment within the scope of mandatory bargaining. The Fire Chief specifically retains the right to make and enforce reasonable work rules.

**Section 5.4 Draft Policies – 30 Day Review Period**

The City shall forward drafts of policies regarding wages, hours, benefits and other terms of employment to the Association for review and comment prior to adoption by the City. The Association shall have at least 30 days prior to adoption to provide comments as provided in Section 5.3.

**ARTICLE 6. Salaries/Compensation**

**Section 6.1 Salary Adjustments**

There shall be no salary increases during the term of this agreement.

**Section 6.2 Staff Positions**

Employees assigned to authorized staff positions by the Chief shall be paid ten percent (10%) above their normal base pay rate. (Staff assigned employees shall not lose their FLSA compensation normally provided them when assigned to shift.)

**Section 6.3. Salary Schedule (Appendix A)**

Appendix "A" of this Memorandum of Understanding lists the pay rates and range placements for the classifications represented by this bargaining unit during the term of this agreement.

**Section 6.4 Lack of Adequate Funding**

This Memorandum of Understanding is entered into by the parties hereto in anticipation that the employer will receive adequate tax revenues to fully fund City operations. In the event such additional funding is not available to the City in an amount nearly equal to the prior year's funding which would make payment of the employer's obligation impossible, then this Memorandum of Understanding, to the extent that is affected by lack of adequate funding, shall release the City of its obligations to maintain the salary schedule and employee benefits otherwise agreed to herein.

**ARTICLE 7. Overtime Pay**

**Section 7.1 Paid Time**

Overtime compensation at a premium rate of time and one-half (1-1/2) shall be paid to employees who perform work in excess of their normal work week, except that, time and one-half shall not be paid for hours not deemed to have been worked in excess of 182 hours in a twenty-four (24) day work cycle. Paid time (including vacation, sick leave, bereavement

leave, Association business, and workers' compensation) will be considered as "hours deemed to have been worked" for the purpose of determining eligibility for overtime pay.

### **Section 7.2 Compensation Included in the Regular Rate for Overtime**

The employee's overtime pay rate will be calculated by including the employee's base salary, educational incentive pay, holiday pay, Emergency Medical Technician pay, Paramedic Certification pay, and annual cash-out option for sick leave. This rate of pay will be used to determine the employee's premium pay at time and one-half (1-1/2).

### **Section 7.3 Compensation Excluded from the Regular Rate for Overtime**

Standby Pay, Reimbursement for Repair or Replacement of Employee's Personal Property, Clothing Allowance, Cafeteria Plan/Medical Insurance Cash Out and other benefits are not remuneration for services rendered or payment of a bonus. These benefits shall not be included in the calculation of the regular rate for payment of overtime. California Public Employees Retirement System regulations govern whether such payments by the employer are included for purposes of calculation final compensation.

### **Section 7.4 Federal Requirement**

If the provisions for the Federal requirement of premium pay is ruled not legally required to be paid by the employer, the provisions for time and one-half (1-1/2) shall become void.

### **Section 7.5 Work Beyond Regular Shift or Called Back to Duty**

When any member shall work beyond the termination of their regular working shift, or is called back to duty by the Fire Chief or the Fire Chief's designee, they shall receive compensation for that time at premium hourly pay rate, as defined in Article 7 (Overtime Pay), Section 7.1 (Paid Time.)

## **ARTICLE 8. Certification Pay**

### **Section 8.1 Paramedic Certification Pay**

Each Firefighter/Paramedic, Fire Engineer, and Fire Captain having and maintaining State of California and County of San Diego certification as a paramedic shall receive \$150.00 per month in paramedic certification pay in addition to other pay and allowances. The City shall pay routine State of California and County of San Diego paramedic recertification costs on behalf of fire suppression employees.

### **Section 8.2 Emergency Medical Technician Certification Pay**

As of the effective date of this Agreement, all employees receiving \$100 per month Additional Duty Pay for EMT-1, including EMT-D, certifications shall continue receiving such pay so long as they maintain their certifications. Any employee not receiving such pay as of the effective

date of this Agreement and anyone hired after March 15, 1995 shall not be entitled to emergency medical technician certification pay. Nothing herein shall affect the Department's ability to require employees to obtain certifications.

**Section 8.3 Only One Certification Pay Per Employee**

Any employee may be eligible for only one of the certification pays provided by this Article. An employee will not be granted both paramedic certification pay and emergency medical technician certification pay at the same time.

**ARTICLE 9. Education Incentive Pay**

**Section 9.1 Base Rate of Pay**

Incentive pay shall be added to the employee's base rate of pay.

**Section 9.2 Thirty College Units & Thirty-Six Months**

An additional thirty dollars (\$30.00) shall be added to the monthly base salary of an employee who has at least 30 college units (21 must be in Fire Science) and said employee has been employed by the Encinitas Fire Department for at least 36 months.

**Section 9.3 Sixty College Units or Associate Degree & Sixty Months**

An additional sixty dollars (\$60.00) shall be added to the monthly base salary of an employee who has at least 60 college units (31 must be in Fire Science) or an Associate Degree in Fire Science and said employee has been employed by the Encinitas Fire Department for at least 60 months.

**Section 9.4 Associate Degree, Fire Officer Certification & Seventy-Two Months**

An additional one hundred dollars (\$100.00) shall be added to the monthly base salary of an employee who has an Associate degree in Fire Science (at least 41 units in Fire Science) and a Fire Officer Certificate, said employee must have at least 72 months employment with the Encinitas Fire Department.

**Section 9.5 Not Cumulative**

The above educational incentive pay shall not be cumulative.

**ARTICLE 10. Holiday Pay Conversion**

**Section 10.1 Payment Upon Completion of Initial Probationary Period**

Upon successful completion of each employee's initial probationary period, each full-time shift schedule employee shall receive payment for 132 extra hours (5.5 extra shifts) per year

for each full year actually worked after the completion of probation. Those not working a full year shall have their holiday pay prorated for the portion of the year actually worked. There shall be no such payment during the probationary period.

### **Section 10.2 Bi-Monthly Payment**

Such shift personnel shall be paid 5.5 hours each bi-monthly paycheck for a total of 132 hours per year (5.5 holiday shifts per year.)

### **Section 10.3 Non-Shift Personnel**

Non-shift personnel will not be entitled to Holiday Pay. They will receive the holiday as paid time off. Non-shift personnel shall be granted the same paid time off for City holidays as other Fire Department Administration employees.

## **ARTICLE 11. Recall Pay /Standby**

### **Section 11.1 Recall Pay**

Every full-time employee of the bargaining unit shall be entitled to recall pay. Recall of off duty personnel will, in each instance, be followed by reports showing who reported, and the time they were called to report.

### **Section 11.2 Recall Pay Calculation**

Recall pay shall include within its time period, an allowance for time taken in arriving at the station after being called, and in subsequently departing and arriving back at the employee's residence. Recall pay shall be computed by the following formula:

- A. For the first one (1) hour and twenty (20) minutes or less of call-back, two (2) hours recall pay shall be earned. and
- B. All recall time in excess of one (1) hour and twenty (20) minutes will be compensated at the rate of time and one-half of the employee's hourly rate of pay.

### **Section 11.3 Standby Pay**

The Fire Chief (or designee) shall declare when standby is authorized. Standby time is that period of time in addition to the employee's normal work assignment, during which time said employee must remain at all times where the employee can be contacted by telephone or cell phone, ready for callback to perform an essential service.

### **Section 11.4 Standby Pay Calculation**

Employees of this unit shall be compensated for standby time at the rate of \$24.00 per each 24 hour period. If an employee works less than a full 24 hours, they shall be compensated at the rate of \$3.00 per hour of standby time, not to exceed \$24.00.

## **Section 11.5 Fire Chief's Discretion**

Nothing in this Article, or in the past practices of the Fire Department, shall limit the Department's authority and discretion through its Fire Chief to determine whether and when to recall employees or place them on standby status or to decide to close stations, take equipment out of service, or otherwise restrict Department Services for operational or fiscal reasons, as deemed necessary by the Fire Chief.

## **ARTICLE 12. Working Out of Class & Temporary Appointments**

### **Section 12.1 Working Out of Class**

- A. For the purpose of this Article, Working Out of Class is shift-by-shift designation to perform all the significant duties of an available, funded position in a classification other than the classification currently held by the employee.
- B. An employee performing in a Working Out of Class assignment to a higher classification shall be entitled to the difference between the employee's actual classification and the higher classification.
- C. Personnel assigned by the Employer to work out of class shall be selected from among employees on an active promotional list for the rank needed. If no list exists, the employee selected shall be qualified to take the promotional test for the rank needed.
- D. Any qualified employee desiring the opportunity for "working out of class" shift assignments who has not taken and passed a qualifying exam, must submit a request in writing to the Fire Chief of such desire. The Fire Chief may require an interview or other types of testing to ensure the employee is indeed qualified.
- E. When assigning employees to work particular shifts out of class the Fire Department staff shall distribute out of class opportunities equally among qualified employees, but shall not be required to dislocate other members' duty assignments or company activities to distribute the opportunities.

### **Section 12.2 Temporary Assignments**

- A. The purpose of this Article is to establish a policy and procedure that enables the Department to fill vacant authorized positions in a timely manner by means of temporary appointments.
- B. It shall be the policy of this Department to maintain a Captain, Engineer and Firefighter/Paramedic staffing at the current level in each of the 5 current stations, plus an Engineer and a Firefighter/Paramedic at Station 6. Notwithstanding the provisions above, during the term of this Memorandum of Understanding, the City may elect to open additional stations with different staffing arrangements. If a permanent or long

term vacancy occurs, the Fire Chief retains discretion to fill the vacancy by means of a temporary appointment or any other means.

- C. The objective is to ensure an adequately staffed department, with continuity and proficiency necessary to fulfill the goals of the Encinitas Fire Department.
- D. Procedure:
  - (1) Established List: With an established list in place the temporary appointment selection shall be made by position on the list.
  - (2) No Established List: With no established list in place the temporary appointment will be made from within the next lower rank of said vacancy. To be considered for temporary appointment, all requirements for appointment shall be met (i.e. time in grade, educational requirements, favorable evaluations). A strong consideration for temporary appointment will be the applicant's ability to supervise others.

### **Section 12.3 Appointment Decision**

The decision to make temporary or working out of class appointments is a reserved management right.

## **ARTICLE 13. Repair or Replacement of Employees' Personal Property**

### **Section 13.1 Reimbursement**

The City shall reimburse employees for the repair or replacement of personal property damaged in the performance of their duties. Such items as eyeglasses, hearing aids, dentures, watches, personal equipment or articles of clothing will be repaired or replaced when the damage occurs out of job related duties or actions of the employee and not from normal hazards or ordinary wear and tear.

### **Section 13.2 Process for Reimbursement**

As soon as practical after damage is incurred, the employee shall forward the report and the damaged item to the supervisor for review. The claim will be processed and, if approved, a check will be forwarded to the employee.

### **Section 13.3 Insurance as a First Remedy**

If the employee has insurance to cover such losses, the employee must first seek that remedy. The employee shall assign any right of action against a third party from loss or damage to personal property up to the amount paid by the City and shall allow any action to be brought in the employee's name by the City at the City's expense.

## ARTICLE 14. Clothing Allowance

### Section 14.1 Protective Clothing or Devices

All protective clothing or protective devices required of employees in the performance of their duties shall be furnished without cost to the employees by the Employer, in accordance with State Law and CAL/OSHA regulations.

### Section 14.2 Uniforms

The City agrees to initially supply each newly hired full-time uniformed employee with complete regulation uniforms. Thereafter, the City will replace each piece as it becomes necessary, as determined by the Fire Chief (or designee). It is understood that the employee will be responsible for the normal care and maintenance of the uniform.

### Section 14.3 Athletic Training Clothing / Running Shoes

The Fire Chief shall have full discretion to determine whether or not to provide athletic training clothing or running shoes to employees or reimburse employees for the expense of such articles. The Fire Chief's decision shall be final and not subject to review through the grievance procedure.

## ARTICLE 15. Vacation

### Section 15.1 Shift Personnel

Employees of this unit will accrue and be eligible to receive vacation as follows:

<b>Completed Years of Service</b>	<b>Paid Annual Vacation</b>	<b>Monthly Accrual Rate</b>	<b>Maximum Accumulation</b>
Hire – 5 years	168 hours (7 shifts)	14 hours	408 hours
6 –10 years	192 hours (8 shifts)	16 hours	432 hours
11 – 15 years	240 hours (10 shifts)	20 hours	480 hours
16 + years	312 hours (13 shifts)	26 hours	552 hours

### Section 15.2 Vacation Procedures Applied after January 1, 2000

(Formerly Appendix V)

This section provides documentation of procedures applied on January 1, 2000 in the conversion of certain shift employees employed on that date into vacation accrual schedules. It also provides documentation of the historical reason that the vacation accrual rates of employees with current vacation accrual rates above those provided by Article 15.1 (Vacation-Shift Personnel) of this Memorandum of Understanding.

**Section 15.3 Employees with Vacation Accrual Rates above 312 Hours (13 shifts) Per Year on January 1, 2000**

(Formerly Appendix V)

- A. Employees with vacation accrual rates above 312 hours per year on January 1, 2000 were not converted into the vacation accrual schedule listed in Article 15.1 Vacation of this Memorandum of Understanding. Rather, such employees had their vacation accrual rates frozen (permanently held) at each employee's January 1, 2000 accrual rate.
- B. The vacation rates for these employees will no longer be increased after January 1, 2000.
- C. After July 1, 2000, an employee may not earn additional paid vacation time after the employee's unused vacation balance is equal to the employee's annual accrual plus 240 hours earned and remaining unused. However, the provisions of Article 15.11 may be applied in circumstances of unusual hardship.

**Section 15.4 Employees with Vacation Accrual Rates equal to or less than 312 Hours (13 shifts) Per Year on January 1, 2000.**

- A. As of January 1, 2000, each employee with a vacation accrual rate equal to or less than 312 hours per year (26 hours per month) was converted into one of the vacation accrual rates listed in Article 14.1 Vacation of this Memorandum of Understanding.
- B. The conversion of bargaining unit employees into the vacation accrual schedule provided by Article 14.1 Vacation of this Memorandum of Understanding was intended to do no harm to each employee's January 1, 2000 vacation accrual rate. The monthly vacation accrual rate of each employee was adjusted in such a manner that the employee's new vacation accrual rate equaled or was greater than the employee's vacation accrual rate immediately prior to January 1, 2000. The employee's vacation accrual rate was not reduced as a consequence of conversion to one of the monthly vacation rates provided by Article 14.1.
- C. After January 1, 2000, the total years of service required by Article 14.1 and Article 14.3 for advancement to each of the successively higher rates of vacation accrual shall be applied to employees who have converted to monthly vacation rates below 26 hours per month (312 hours per year).

### **Section 15.5 Non-Shift Personnel**

<b>Years of Service</b>	<b>Annual Hours of Paid Vacation</b>	<b>Monthly Accrual Rate</b>	<b>Maximum Accumulation</b>
1,2 years	120 hours	10 hours	360 hours
3,4,5,6 years	132 hours	11 hours	372 hours
7,8,9,10 years	144 hours	12 hours	384 hours
11, 12, 13, 14 years	168 hours	14 hours	408 hours
15, 16, 17, 18, 19 years	216 hours	18 hours	456 hours
20, 21, 22, 23, 24 years	228 hours	19 hours	468 hours
25 + years	252 hours	21 hours	492 hours

### **Section 15.6 Anniversary Date**

The employee's anniversary date shall be used to determine the start of the new accrual rate. Example: A shift employee starting the sixth year of service on the employee's anniversary date shall have the new accrual rate effective on that same date, unless the anniversary date falls between pay periods, in which case the new accrual rate shall begin at the start of the next pay period.

### **Section 15.7 Vacation Picks**

Vacation picks shall be selected by, time on the Department, then by time in rank. If vacations are split, vacation picks will be in rotation using criteria above. All vacation requests made after January 1 of each year will be on a first come basis, submitted through Telestaff and will be subject to approval as provided below.

### **Section 15.8 Approval/Denial of Vacation Requests**

All vacation requests for Firefighter / Paramedics, and Engineers must be approved by their Captain. If their Captain is unavailable, a Captain assigned to the same station may authorize the request. Causes for denying vacation include, but are not limited to, required training, personnel unavailable for coverage, budget limits on overtime costs or emergency events as determined by the Fire Chief. Captains are responsible to make sure that no vacation approvals interfere with normal operations of the Department.

### **Section 15.9 Limit to Number of Employees Guaranteed Vacation Per Shift**

No more than one (1) Fire Captain, one (1) Fire Engineer and one (1) Firefighter / Paramedic per shift shall be guaranteed time off on vacation per shift. Any additional vacation slots must be filled prior to the members authorized absence. No personnel will be guaranteed time off on Thanksgiving, Christmas Eve and Christmas Day.

### **Section 15.10 Vacation Conversion to Cash**

An employee may convert up to 48 hours of accumulated vacation each quarter to cash. The request must be made at least two (2) weeks in advance of payment. Four requests will be granted annually.

### **Section 15.11 Miscellaneous Vacation Provisions**

An employee may utilize accumulated vacation time for the purpose of attending desired job related schools, seminars, training demonstrations, *etc.* The employee may be required to arrange their own coverage when vacation requests are made for a period of 12 hours or less. Vacation requests for time off during the hours of 0800 to 1700, Monday through Friday, shall be limited to four (4) times within a sixty-day (60) period unless approved in advance by the Supervising Chief Officer.

### **Section 15.12 Maximum Vacation Balance**

Employees may maintain a maximum vacation balance of two hundred forty (240) hours, plus their annual accrual. An employee may not accrue additional paid vacation leave after the maximum accrual has been earned and remains unused. However, the City Manager or designee may increase the maximum accrual when hardship is proven to the City Manager's satisfaction.

### **Section 15.13 Change of Assignment**

Employees who are reassigned from shift to days or days to shift shall have their vacation bank and accrual rate adjusted as shown below:

- A. Shift to Non-Shift - The accrual shall be modified by the factor 0.714.
- B. Non-Shift to Shift - The accrual shall be modified by the factor 1.4.

## **ARTICLE 16. Sick Leave**

### **Section 16.1 Full-Time Employees**

Every full-time employee of the bargaining unit shall be granted sick leave with full pay as described in this article.

### **Section 16.2 Sick Leave Defined**

Sick leave is herein defined to mean absences from duty by an employee because of illness, injury, or exposure to contagious disease.

### **Section 16.3 Use of Sick Leave for Family Members**

An employee may use accrued sick leave for attendance upon the employee's family member who is ill or requires preventative care. A family member means any of the following:

- (1) A child (biological, adopted or foster child), stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of child is applicable regardless of age or dependency status.
- (2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
- (3) A spouse.
- (4) A registered domestic partner.
- (5) A grandparent.
- (6) A grandchild.
- (7) A sibling.
- (8) Other family member living in the employee's household.

- A. Use of accrued sick leave for attendance upon the employee's ill family member is limited to ten (10) shifts per calendar year. The maximum sick leave accrual that may be used during a calendar year for attendance upon the employee's seriously ill dependent is 171 hours for a non-shift employee and 240 hours for a shift employee.
- B. If additional shifts of sick leave for family members provided by Section 16.3 (A) are needed, an employee may submit a request to the Fire Chief for the use of additional shifts.

### **Section 16.4 Emergency Time Off**

Any emergency time off, not qualifying under the "sick leave" provisions, shall be charged against the employee's accrued vacation time, at the discretion of the Fire Chief.

### **Section 16.5 Unlimited Number of Sick Leave Days**

An employee may accumulate an unlimited number of sick leave days.

### **Section 16.6 Sick Leave Cash Out**

A shift employee who uses seventy-two (72) or fewer hours of sick leave during a calendar year may cash out 20% of the balance of that year's accrual, rounded up to the nearest hour. The portion so paid out shall be subtracted from the employee's total accrual. An employee desiring to cash out sick leave under this section must submit a written request to the Finance Department by January 31<sup>st</sup> of the following calendar year.

### **Section 16.7 Accrual – Shift Personnel (56 hour workweek)**

- A. Shift personnel shall accrue fifteen (15) hours of sick leave per month for each full month of service and shall be charged hour-for-hour for sick time off.
- B. Shift personnel on temporary assignment to a non-shift position shall continue to accrue sick leave at the shift rate and will be charged hour for hour for sick time off.

### **Section 16.8 Accrual – Non-Shift Personnel (40 hour workweek)**

- A. Non-shift personnel shall accrue eight (8) hours of sick leave per month for each full month of service and shall be charged hour-for-hour for sick time off.
- B. Non-Shift Personnel on temporary assignment to a shift position shall earn sick leave at the shift rate and will be charged hour for-hour-for sick time off.

### **Section 16.9 Change of Assignment**

Personnel whose permanent assignment changes from shift to non-shift or vice versa shall have their accrued sick leave converted by the appropriate factor as shown below:

- A. Shift to Non-Shift - The accrual shall be modified by the factor 0.714.
- B. Non-Shift to Shift - The accrual shall be modified by the factor 1.4.

### **Section 16.10 Physician's Medical Release**

#### **A. Medical verification of sick leave.**

The Fire Chief may request acceptable medical verification when the Fire Chief has reason to suspect misuse or abuse of sick leave by an employee. The employee shall be responsible for the cost of medical verification provided by the employee's treating physician. The City will be responsible for the cost of medical verifications provided by the City's consulting physician. Such payment shall not be in lieu of possible discipline in regard to such matters.

The Fire Chief (or designee) or Risk Manager may require that an employee provide a return-to-work medical release from the employee's treating physician before the employee returns to work. At City expense, the Fire Department in conjunction with the Risk Manager may require that an employee receive a return-to-work medical release from the City's consulting physician before the employee returns from a medical absence. If there are conflicting medical opinions about an employee's ability to return to full duty or return to temporary limited duty, the City may present the findings of the City's consulting physician to the employee's treating physician for further clarification. Should the conflicting medical opinions remain unresolved after this consultation, a second consulting physician may be employed by the City. The employee's treating physician and the City's first consulting physician will mutually

select the second consulting physician. Should the employee's treating physician fail to promptly participate in the selection of a second consulting physician, the City may designate the second consulting physician.

**B. Fitness-for-duty medical evaluation.**

At City expense, the Fire Chief or Risk Manager may require that an employee undergo a fitness for duty evaluation and receive a return-to-work release from the City's consulting physician. Fitness-for-duty evaluations will provide medical opinions about whether the employee is able to work (with or without limitations/restrictions) or if the employee is unable to work as the result of medical limitations/restrictions.

**C. Limited duty required.**

Should the treating health care provider or the City's consulting physician determine that the employee has temporary limitations which may prohibit an unrestricted return to full duties, the City may elect to return the employee to any temporary limited duties which the Risk Manager determines the employee can safely perform. The City may determine that the needs of the employer or the employee's limitations do not permit a return to work, even if the employee desires to return to work prior to full recovery. Should the treating health care provider or the City's consulting physician determine that the employee has permanent or prolonged limitations which may prohibit an unrestricted return to full duties, the City shall consider reasonable accommodations to the employee's limitations in compliance with the requirements of the Americans with Disabilities Act.

## **ARTICLE 17. Illness/Injury While on Vacation**

Employees who are on authorized vacation and become ill or otherwise disabled through an accident, may request to the Fire Chief to charge such sickness or disablement to credited sick leave, provided a doctor's statement is presented through channels to the Fire Chief indicating the total number of days to be so charged.

## **ARTICLE 18. Bereavement Leave**

### **Section 18.1 Bereavement Leave**

Bereavement Leave is generally granted so an employee need not have the shock of a death in the immediate family compounded by the loss of pay.

### **Section 18.2 Policy**

It is the policy of the City to grant employees reasonable bereavement time off without the loss of pay, as follows:

- A. When a death occurs in an employee's immediate family; and

B. When staffing permits, to attend the funeral of a deceased co-worker.

### **Section 18.3 Amount of Bereavement Leave**

In case of death in the immediate family, a shift employee will be allowed up to two (2) shifts with pay for the emergency. In case of a death in the immediate family, a day shift employee will be allowed up to five (5) work days with pay for the emergency. The Fire Chief shall have discretion to grant or deny the written request of a shift employee for up to two (2) additional shifts of immediate family paid bereavement leave.

### **Section 18.4 Immediate Family**

Members of the immediate family are normally considered to be the spouse, registered domestic partner, children, father, mother, brothers, sisters, father-in-law, mother-in-law, and grandparents. For absences due to the death of a relative, other than a member of the immediate family, employees will be allowed four (4) days for day personnel and two (2) shifts for shift personnel.

## **ARTICLE 19. Jury Duty Leave**

### **Section 19.1 Compliance with the Law**

The City will cooperate fully with local, state, and federal courts in allowing its employees to serve on juries without any financial loss.

### **Section 19.2 Pay While on Jury Duty**

Employees who are called for jury duty will receive full pay for that period of absence.

### **Section 19.3 Hardships**

In the event that the absence of an employee from work over a long period of time would cause a hardship to the Fire Department, the Department may require the employee to petition the Jury Commissioner to excuse the employee from jury duty. Also, the employee may petition to be excused from jury duty due to a hardship on the employee's family.

### **Section 19.4 Notifying Supervisors**

An employee who receives a notice of jury duty must notify their supervisor as soon as possible in order that arrangements may be made to cover the employee's position.

## **ARTICLE 20. Unpaid Leave of Absence**

### **Section 20.1 Unpaid Leave of Absence Process**

On occasion, it may be necessary for an employee to be absent from work for an extended period of time due to personal, health or related family problems. Leaves of absence for limited periods of time will be permitted depending on the reasons and circumstances that prompt such a request. A leave of absence must be supported by valid reasons and approved by management. Such leaves shall be without pay.

- A. If an employee desires a leave of absence, the employee must present a written request to their supervisor who will forward it to the Fire Chief. The written request must contain the anticipated length of the absence with dates and circumstances that prompt such a request.
- B. To be valid, a leave of absence must be confirmed in writing. An approved leave of absence will not be extended beyond the date of the initial written request without further written approval.
- C. An employee who has been granted a leave of absence shall give a one (1) week notice of intent to return to work and the Department shall be under no obligation to re-employ that employee before the expiration of the approved return to work date.
- D. Requests for unpaid leaves of absence are subject to approval by the City Manager. The City Manager shall not deny a request for an unpaid leave of absence without first consulting with the Fire Chief.

### **Section 20.2 Time Spent on Unpaid Leave of Absence**

Time spent on unpaid leave of absence, except a military leave of absence, will not be counted as time employed or in determining an employee's eligibility for benefits that accrue on the basis of length of employment.

- A. An employee who is granted a leave of absence, will, if that employee desires, be paid at the time the approved leave starts, any pay that would be otherwise due the employee in accordance with terminal policies, but not including accrued sick leave.
- B. An employee on unpaid leave of absence is not entitled to hospitalization benefits or personal health service policy in effect at the time except as may be otherwise provided by the Family and Medical Leave Act.
- C. An employee on leave of absence may have their hospitalization benefits continued providing that the employee shall pre-pay in full the total amount of premium that would come due during the leave of absence.

- D. While on leave of absence, an employee shall not accrue or be paid for any holiday pay, vacation or sick leave which the employee may have otherwise accumulated.

**Section 20.3 Reinstatement Guidelines**

The City will reinstate an employee to the same rank that the employee previously occupied following a leave of absence, provided that the employee returns when specified in the granted leave request. Should the employee want to return prior to their specified return date, the Department cannot guarantee that the same position or a similar position will be immediately available, the employee may have to wait for a period of time up to their specified return date.

**Section 20.4 Compliance with Applicable Laws**

The parties acknowledge the applicability of State and Federal Family and Medical Leave Acts and the Americans with Disabilities Act. Such statutes may impose requirements on the parties that conflict with the provisions of this Memorandum of Understanding, including availability of paid leave, entitlement to insurance coverage during certain leaves, length of such leaves, reinstatement, and similar matters. It is the intention of the parties to interpret and apply the provisions of this Memorandum of Understanding consistently with said statutes. If the application of said statutes would require the parties to deviate from literal provisions of this Memorandum of Understanding or from the past practices between the parties, the parties agree to meet and confer prior to any such change, and to work together in good faith to achieve compliance with the applicable laws.

**ARTICLE 21. Insurance Benefits**

**Section 21.1 City’s Flex Benefit Plan Contribution**

The employer’s “Flexible Benefit Plan” contribution will make available for each active bargaining unit employee a monthly amount equal to the high median of the monthly premiums of all PERS health plans available in San Diego County, as listed below:

<b>ENROLLMENT</b>	<b>AMOUNT EQUAL TO</b>
Employee only:	San Diego high median employee only
Employee + one:	San Diego high median employee + one
Employee two or more dependents:	San Diego high median employee + two or more

If the employee is covered by group medical insurance from another reliable source that is acceptable to the City of Encinitas Human Resources Department, the employee may elect to decline medical insurance from a City provider and receive the same employer contribution and cash out option as is provided to the Encinitas Fire Chief.

## **Section 21.2 Dental Insurance**

As part of the formula for determining the employer's "Flexible Benefit Plan" contribution for each individual bargaining unit member, for dental insurance, the City will make available a prepaid dental plan (sometimes called a DMO) and a traditional dental plan. As part of the employer's "Flexible Benefit Plan" contribution, the City will make available for each active bargaining unit employee a monthly amount equal to one-half the premium of the traditional plan, or an amount equal to 100% of the premium of the DMO. Each bargaining unit member may elect to decline dental insurance and forego the employer's "Flexible Benefit Plan" contribution for dental insurance.

## **Section 21.3 Flexible Benefit Plan Purchase Options**

The employer contributions to the flexible/cafeteria plan medical insurance and dental insurance sums identified in this article may be utilized by each active bargaining unit employee to purchase health insurance through the PERS health program and other benefits offered through the employer's cafeteria/flexible benefits plan. Any additional amount will be provided periodically to the employee as provided in the Employer's "Flexible Benefits Plan." The employee may utilize any excess to purchase additional benefits provided in the Employer's "Flexible Benefit Plan."

## **Section 21.4 Cash Out**

- A. Employees may apply any cash value remaining in the "Flexible Benefit Plan" beyond the cost to purchase medical insurance to fund a dependent reimbursement account, a medical expenses flexible account, or as added (taxable) compensation.
- B. If the employee is covered by group medical insurance from another reliable source that is acceptable to the City of Encinitas Human Resources Department, the employee may elect to decline medical insurance from a City provider and receive the same employer contribution and cash out option as is provided to the Encinitas Fire Chief. The maximum additional taxable compensation (cash out) is \$7,098 per year. The maximum cash out for employees who commence employment during a calendar year will be prorated based on the date of hire in that calendar year.

## **Section 21.5 Life Insurance**

The City agrees to provide life insurance for employees in the amount of one times annual salary rounded up to the nearest thousand.

## **Section 21.6 Long Term Disability and AD&D Insurance**

The City agrees to provide Long Term Disability and Accidental Death and Dismemberment insurance.

## ARTICLE 22. Retirement

### Section 22.1 Retirement Benefits

A. **Tier One (Employees hired on or before December 31, 2011)**

Employees hired on or before December 31, 2011 shall be enrolled in the California Public Employees Retirement System (PERS) Local Safety Members 3% at 55 Full Formula as defined in Retirement Law Section 21363.1.

The City shall also contract with the Retirement System to provide the following benefits:

- One year highest compensation.
- Credit for unused sick leave.
- Post Retirement Survivor Allowance.

B. **Tier Two (Employees hired on or after January 1, 2012)**

Employees hired on or after January 1, 2012 shall be enrolled in Tier Two of the California Public Employees Retirement System (PERS) Local Safety Members 3% at 55 Full Formula.

The PERS contract will be amended to provide for employees hired on or after January 1, 2012 at 3.0% at 55, final compensation to be determined as follows:

- Average monthly pay rate and special compensation for the highest consecutive thirty-six (36) months of employment.
- Credit for unused sick leave.
- Post Retirement Survivor Allowance.

C. **Tier Three (PEPRA Tier - Employees hired on or after January 1, 2013)**

Employees hired on or after January 1, 2013, who are considered "new members" within the meaning of the Public Employees' Pension Reform Act (PEPRA) of 2013, shall be enrolled in the PEPRA Tier of the California Public Employees Retirement System (PERS) Local Safety Members 2.7% at 57 retirement formula.

### Section 22.2 PERS Contribution

A. **Tier One-**

Employees hired on or before December 31, 2011 shall pay their full 9.0% Member Contribution.

B. **Tier Two**

Employees hired on or after January 1, 2012 shall pay 9% of the Member Contribution.

C. **Tier Three (PEPRA Tier)**

For employees hired on or after January 1, 2013, who are considered "new members" within the meaning of the Public Employees' Pension Reform Act (PEPRA) of 2013, the Member Contribution is governed by the provisions of PEPRA.

**Section 22.3 Statutory/Regulatory Changes**

The Association understands and agrees that employees bear the risk of payment of any increases in employee contributions above the current percentage made by action of the PERS or state legislature.

**ARTICLE 23. Employer’s Supplemental Retirement Contributions**  
(Formerly from Appendix R)

This section of the Encinitas Firefighters’ Association Memorandum of Understanding describes both defined benefit supplemental retirement contributions made directly to retired members of the bargaining unit and the establishment of a defined contribution trust.

**Section 23.1 Defined Benefit Supplemental Retirement Contributions**

Certain former employees of the former Encinitas Fire Protection District are eligible for supplemental retirement contributions from the City in addition to the retirement benefits provided through PERS. The level of supplemental retirement benefits, for those employees who are eligible, shall be determined as follows:

- A. Each active Safety member who was employed by the City as of March 15, 1995 and retires hereafter from active service with the Department shall, upon such retirement, be entitled to the Minimum Employer Contribution (*MEC*) each month for health insurance through PERS health insurance program. Senate Bill 1464, Chapter 896, Chapter Date 09-26-2002 determines the Minimum Employer Contribution (*MEC*) for agencies participating in the Public Employees Medical and Hospital Care Act (*PEMHCA*). In addition, such employees, upon retirement, shall receive a separate payment from the City as an employer paid supplemental retirement contribution that may provide reimbursement for a portion or all of their payment of health insurance premiums through the PERS health insurance program, in an amount less than or equal to that provided in the table below. However, the employer’s supplemental retirement payments shall not exceed the amount equal to reimbursement of the amount of the retiree’s actual medical insurance premiums through the PERS health insurance program. Payment of the employer’s supplemental retirement contributions will be made to the retiree at least quarterly, or more often at the discretion of the City of Encinitas Finance Director.

<b>ENROLLMENT:</b>	<b>AMOUNT EQUAL TO:</b>
Employee only:	San Diego Average for employee only
Employee, one dependent:	San Diego Average for emp + one dep
Employee, two or more dependents:	San Diego Average for emp + 2 or more

- B. Each Safety member who has retired from active service prior to March 15, 1995 shall be entitled to the Minimum Employer Contribution (*MEC*) each month for health insurance through PERS health insurance program. Senate Bill 1464, Chapter 896, Chapter Date 09-26-2002 determines the Minimum Employer Contribution (*MEC*) for agencies participating in the Public Employees Medical and Hospital Care Act

(PEMHCA). In addition, such retirees shall also receive a separate supplemental retirement contribution payment directly from the City as an employer paid supplemental retirement contribution that may provide reimbursement for a portion or all of their payment of health insurance premiums through PERS health program in an amount less than or equal to the amount being paid on their behalf as of December 31, 1996, or the amount provided in the table below, whichever is greater. However, the employer's supplemental retirement payments shall not exceed the amount equal to reimbursement of the amount of the retiree's actual medical insurance premiums through the PERS health insurance program. Payment of the employer's supplemental retirement contributions will be made to the retiree at least quarterly, or more often at the discretion of the City of Encinitas Finance Director.

<b>ENROLLMENT:</b>	<b>AMOUNT EQUAL TO:</b>
Employee only:	San Diego Average for employee only
Employee, one dependent:	San Diego Average for emp + one dep
Employee, two or more dependents:	San Diego Average for emp + 2 or more

- C. Each Safety member who is initially employed by the City after March 15, 1995, and retires from active service with the City, shall upon such retirement be entitled to the Minimum Employer Contribution (*MEC*) for health insurance under the PERS health insurance program. The employer paid supplemental retirement contributions provisions of Section 22.4 A(1) and A(2) shall not apply to persons initially employed by the Encinitas Fire Department after March 15, 1995.

**Section 23.2 Defined Contribution Trust**

Maintenance of a defined contribution trust as a supplement to the cost of medical insurance for retirees.

- A. Purpose of the Trust. The Encinitas Firefighters' Association and the City of Encinitas have established a defined contribution trust as a benefit to bargaining unit employees. The purpose of the trust is to supplement the cost of medical insurance for bargaining unit employees after they retire. The parties have developed and adopted a trust that provides a supplemental retirement benefit to help pay part of the cost of medical insurance for employees in retirement using the tax saving vehicle of a Retiree Health Savings (RHS) Plan.
- B. Funding and Administering the Trusts. Individual trust accounts have been established which are identified as assets held in trust for each employee.
  - 1) 1% of Base Pay. The City of Encinitas shall calculate an amount equal to 1% of the base pay for all the members (approximately 51 employees) in the bargaining unit represented by the Encinitas Firefighters' Association. That 1% amount will be made available for funding defined contribution trust accounts. That amount shall then be apportioned equally among all the current bargaining unit employees who were hired

after March 15, 1995. The apportioned amounts of bargaining unit base pay will be deposited (as soon as practical after January 1) into the defined contribution trust accounts of the active employees on January 1 of that year who were hired after March 15, 1995.

- 2) The Plan is Open to Modifications. During the term of this Memorandum of Understanding, the City and the Association may modify the trust plan as is mutually agreeable to provide interested employees the opportunity to make additional funding of individual trust accounts.
- 3) Legal Basis for the Defined Contribution Trust.
  - a) Internal Revenue Service private letter ruling 116685-99 will serve as the legal and tax basis for the Encinitas Retirement Health Savings Plan trust. ICMA Retirement Corporation obtained this private letter ruling from the Internal Revenue Service approving one employer's RHS Plan trust. ICMA-RC has advised that the use of IRS PLR-116685-99 will provide the Parties comfort that the trust for the Encinitas Plan is also within IRS requirements. The Parties are mutually relying on advice from ICMA-RC.
  - b) Should there be any difficulties with the legal basis or tax status of the Encinitas Retirement Health Savings Plan, the resolution of those difficulties will maintain the rights to plan contributions and assets made for each individual participant or beneficiary. The City will have no responsibility for individual tax liabilities should there be legal or tax difficulties with the Encinitas Retirement Health Savings Plan. The individual participating employees and beneficiaries will get the plan assets if the plan gets into legal difficulties and has to fold or restructure.
  - c) Should there be any difficulties with the legal basis, tax status, or administration of the Encinitas Retirement Health Savings Plan, the Encinitas Firefighters' Association, represented firefighters, and beneficiaries will indemnify and hold harmless the City of Encinitas. That is, if anything goes wrong, the City of Encinitas will not be sued for good faith efforts to set up and administer the Retirement Health Savings Plan.

## **ARTICLE 24. Sick Leave Paid Upon Retirement**

### **Section 24.1 Accumulated Sick Leave**

Accumulated sick leave, upon retirement, shall be paid to the employee at the employee's salary rate to a maximum of three (3) month's salary on their final paycheck.

## **Section 24.2 Options**

Employee shall have the option of using the employee's accumulated sick leave for the benefit described in 23.1 above; credited toward PERS credit for unused sick leave benefit (Section 20965) or a combination of the two as the employee chooses.

## **Section 24.3 Conversion of Sick Leave Bank**

To convert shift sick leave bank to equivalent sick days the total number of sick leave hours will be divided by 8 to determine the number of days of service credit that shall be reported to PERS.

Example: A shift employee with a 600 hour sick leave bank.  
 $600/8 = 75$  days reportable to PERS

## **ARTICLE 25. Hours of Employment**

### **Section 25.1 Shift Personnel**

The average work week computed over a one-year period shall be fifty-six (56) hours. The schedule shall consist of a system of three (3) platoons, on a schedule of 4's and 6's, known as 8 shifts in a 24 day cycle.

### **Section 25.2 Non-Shift Personnel**

Employees shall work a forty (40) hour work week schedule with regular starting and quitting times which shall be made known to the employees and shall not be changed without prior notice to the employee.

## **ARTICLE 26. Exchange of Shifts**

### **Section 26.1 Approval & Denial**

Exchange(s) of shift is a privilege which may be granted or denied by the Fire Chief (or designee). The shift exchange(s) shall be approved by the requesting party's Supervisor. In the event the requesting party's Supervisor is unavailable, the requesting party shall have the exchange approved by a Captain from their assigned station after that Captain has determined there are no training or other conflicts for the day requested. Any denial shall be substantiated at time of denial and may be appealed to a superior. (Captains may approve their own time trades.)

### **Section 26.2 Procedures**

An employee shall be allowed time trades with another employee, at the initiation of the employees involved, only after the request has been submitted to the requesting party's supervisor under the following conditions:

- A. All exchanges shall be rank for rank except that employees may exchange positions with the rank for which they qualify. Exchanges cannot exceed one rank up or down without prior written approval from Supervising Chief Officer.
- B. Upon approval of an exchange, the relieving party is responsible for working on the subject date. The relieved party is divested of responsibility for coverage on the subject date.
- C. Requests for time trades not submitted in writing twenty-four (24) hours before the exchange, may be cause for denial.
- D. During the probationary period, a Firefighter/Paramedic shall be allowed a maximum forty-eight (48) hours in time trades. The Fire Chief or designee may grant additional hours for hardship.
- E. Employee shall assume responsibility for repayment of time trades.
- F. Time trades shall be at no cost to the City. (Example: when a person is holding over at a station until the exchanges arrives from another station, the holding party is not eligible for overtime.)
- G. The Supervising Chief Officer may refuse any shift exchange that could affect the training or staffing needs of the Fire Department.

## **ARTICLE 27. Grievance Procedure**

### **Section 27.1 Purpose**

The purposes and objectives of the grievance procedure are to:

- A. Assure just treatment of all employees and promote harmonious relations among employees, supervisors and management.
- B. Encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances through the several supervisory levels where necessary.
- C. Resolve grievances as quickly as possible and correct, if possible, the causes of grievances thereby reducing the number of grievances and future similar complaints.

### **Section 27.2 Definitions**

For the purpose of this grievance procedure, the following definitions shall apply:

- A. "Department"- The Encinitas Fire Department.

- B. "Department Head" - The Fire Chief of Encinitas Fire Department.
- C. "Employee" - An employee of the Encinitas Fire Department in the bargaining unit represented by the Encinitas Firefighters' Association.
- D. "Employee Representative" - An individual who appears on behalf of the employee.
- E. "Grievant" - An employee, a group of employees or the Association.
- F. "Grievance" - A complaint by a grievant arising out of the interpretation or application of the provisions of this agreement.
- G. "Immediate Supervisor" - The individual who assigns, reviews, or directs work of an employee (the Captain).
- H. "Superior" - The individual to whom an immediate supervisor reports (Supervising Chief Officer).
- I. "City Council" - City Council of the City of Encinitas.
- J. "Chief Executive Officer" - The City Manager of the City of Encinitas.

### **Section 27.3 Reviewable and Non-Reviewable Grievances**

- A. To be reviewable under the procedure a grievance must:
  - 1. Concern matters or incidents that have occurred.
  - 2. Result from an act or omission by management regarding working conditions or other aspects of employer-employee relations.
  - 3. Arise out of a specific situation, act or acts complained of as being improper which result in inequity or damage to the employee or the Association.
  - 4. Specify the relief or remedy sought.
- B. A grievance is not reviewable under this procedure if it is a matter which:
  - 1. Is reviewable under, or is subject to some other administrative procedure and/or Personnel Rules and Regulations of the City of Encinitas or Fire Department, such as:
    - a. Applications for changes in title, job classification, or salary.

- b. Appeals arising from termination of employment during probationary period.
2. Would require a change in prevailing ordinances or resolutions, or to circumvent existing avenues of relief where appeal procedures have been prescribed.
3. In regard to performance evaluations and performance improvement plans.
4. Relates to the City's group insurance or retirement programs.
5. Relates to the "meet and confer" process or any impasse resulting there from.

#### **Section 27.4 Special Provisions of the Grievance Procedure**

- A. Grievances may be initiated only by a grievant (as defined above).
- B. Procedure for Presentation. In presenting the grievance, the employee shall follow the sequence and the procedure outlined in Section 27.5.
- C. Prompt Presentation. The employee shall discuss the grievance with the employee's immediate supervisor promptly after the act or omission of management causing the grievance.
- D. Prescribed Form. The written grievance shall be submitted on a form prescribed by the City for this purpose. Supervisors shall maintain an adequate supply of such forms.
- E. Statement of Grievance. The grievance shall contain a statement of:
  1. Specific situation, act or acts complained of as violation of this Agreement, or written rules, regulations or policies.
  2. The damage suffered by the employee; and
  3. The relief or remedy sought.
- F. Employee Representative. The employee may be self-represented or may choose someone as a representative at any step of this grievance procedure.
- G. A grievance may be discussed and processed on City time, except that no overtime, or additional compensation shall be allowed if the proceedings extend beyond the employee's or representative's workday or workweek. The

employee and representative shall cooperate with the Fire Department in such a manner that there will be a minimum of interference with the normal operations of the Fire Department's work.

- H. Extension of Time. The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved.
- I. Consolidation of Grievances. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievance shall, whenever possible, be handled as a single grievance.
  - 1. Settlement. Any grievance shall be considered settled at the completion of any step if all parties are satisfied or if the grievant party fails to present the matter to a higher authority within the prescribed period of time. No settlement to any grievance shall be considered precedential or bind the Association to any interpretation of this agreement, rules, regulations or policies of the City or Fire Department without the Association's express written consent.
  - 2. Reprisal. The grievance procedure is intended to assure a grieving employee the right to present a grievance without fear of disciplinary action or reprisal by the grievant's supervisor, superior or department head, provided the employee observes the provisions of this grievance procedure.
  - 3. The grievance must be presented to the party who is to hear the grievance prior to 0900 hours, if that day or shift is to be considered as part of the time frame.

### **Section 27.5 Grievance Procedure**

The following procedure shall be followed by a grievant submitting a grievance:

#### A. Step One

Discussion with Supervisor. The grievant shall orally present the grievance to the employee's supervisor within fifteen (15) calendar days after the grievant knows or reasonably should have known the event or events on which the grievance is based. Within eight (8) calendar days the supervisor shall give a decision to the grievant orally.

Any agreement between the grievant and the supervisor shall be subject to the approval of the Fire Chief before it shall be deemed to "settle" the grievance.

B. Step Two

Written Grievance to Superior (Supervising Chief Officer). If the grievant and supervisor cannot reach an agreement as to a solution of the grievance or the grievant has not received a decision within the eight (8) calendar day limit, the grievant may within eight (8) calendar days present the grievance in writing to the Supervising Chief Officer. The Supervising Chief Officer shall hear the grievance and give a written decision to the grievant within eight (8) calendar days after receiving the grievance.

C. Step Three

Grievance to Fire Chief. If the grievant and the Supervising Chief Officer cannot reach an agreement as to a solution of the grievance or the grievant has not received a decision from the Supervising Chief Officer within the eight (8) calendar day limit, the grievant may within eight (8) calendar days present the grievance in writing to the Fire Chief. The Fire Chief shall hear the grievance and give a written decision to the grievant within eight (8) calendar days after receiving the grievance.

D. Step Four

Grievance to City Manager. If the grievant and the Fire Chief cannot reach an agreement as to the solution of the grievance or the grievant has not received a decision from the Fire Chief within the eight (8) calendar day limit, the grievant may within eight (8) calendar days present the grievance in writing to the City Manager with an informational copy to the Human Resources Director. The City Manager or designee shall schedule a meeting with the employee and/or Association as soon as practicable. The City Manager or designee shall conduct a meeting with the employee and/or Association to more fully understand the employee's basis for the grievance and remedy or adjustment sought. The City Manager or designee shall give a written decision to the grievant within fifteen (15) calendar days after the conclusion of the grievance meeting with the employee and/or Association. The City Manager's decision shall be final.

**ARTICLE 28. Disciplinary Action Procedures**

**Section 28.1 Regular Status Employees**

No employee holding regular status shall be subject to disciplinary action except for good cause.

## **Section 28.2 Probationary Status Employees**

Disciplinary action procedures and the requirement to have a reason for rejection from continued employment shall not apply to employees with probationary status.

## **Section 28.3 Appointing Authority**

The Encinitas Fire Chief is the department director and “appointing authority” for the Fire Department. Any person holding regular status as a City of Encinitas Fire Department employee may be disciplined for cause by the Fire Chief/Appointing Authority, up to and including termination of employment.

## **Section 28.4 Disciplinary Action Procedures**

The City of Encinitas shall provide procedures for the administration of disciplinary action for employees holding regular employment status. Firefighters of all ranks with regular status employment are typically covered by the provisions of the Firefighters Procedural Bill of Rights Act during events and circumstances involving the performance of their official duties.

## **Section 28.5 Administrative Hearing Procedures**

Fire Department employees subject to disciplinary actions initiated by the Fire Chief/Appointing Authority shall have a right to an administrative appeal whereby the discipline is reviewed by the City Manager or designee. For each case, at the initiation of each disciplinary action appeal process, a determination will be made about whether the administrative appeal procedures of the Fire Chief/Appointing Authority disciplinary action for a firefighter are covered by the Firefighters Procedural Bill of Rights Act. When required by law, the disciplinary action appeal proceeding will be conducted by an administrative law judge on the staff of the California Office of Administrative Hearings. In such cases, the administrative law judge shall have responsibility for the conduct of the administrative hearing process and the City Manager shall have responsibility for affirming, rescinding, or modifying the Fire Chief’s disciplinary action decision. The City Manager’s decision is final. There is no further administrative review by the City including the City Council.

## **Section 28.6 Informal Hearing Procedures**

Informal hearing procedure is used by the City Manager or designee for a disciplinary action sanction involving a firefighter (*of any rank*) that does not involve discharge for employment, demotion, or suspension for more than five days (*56 hours are equivalent to five work days for firefighters on shifts*). An informal hearing procedure is used for less severe punitive actions such as written reprimands and suspensions of five days or less. The informal hearing procedure does not involve pre-hearing discovery, cross-examination of witnesses, or employment of an administrative law judge to conduct the hearing process.

## **ARTICLE 29. Limited Duty**

### **Section 29.1 No Right to Limited Duty**

The employee has no right to limited duty.

### **Section 29.2 Examples of Duties**

Limited duty may include any one or more of the following but shall not include emergency front line duties.

- A. Clerical duties
- B. Station maintenance
- C. Hydrant maintenance
- D. Department runner (parts, supplies, etc.)
- E. Drafting
- F. Other duties that may appropriately fall within limited duty status
- G. Fire prevention

### **Section 29.3 Temporary Limited Duty**

The granting of limited duty is with the understanding that the employee's injury or illness is of a temporary nature only. The employee shall be expected to be able to return to full duty when fully recovered.

### **Section 29.4 Return to Duty**

Return to limited or full duty is subject to the Fire Chief and Risk Manager consideration of medical evaluations of job performance limitations and/or safety risks.

- A. If an employee has an off duty injury or illness, or is returning to work after pregnancy, the City may require the employee to submit a return-to-work medical release from the treating physician before returning the employee to work. Further, the City may require the employee to go to a consulting physician selected by the City for an examination to confirm the return to full duty or limited duty status prior to returning to work. Typically, the primary focus of the consulting physician's evaluation will be the specific injury or illness which caused the employee to be absent from work in the first place.
- B. If there are conflicting medical opinions between an employee's treating physician and the City's consulting physician about an employee's ability to return to full duty or return to temporary limited duty, the City may present the findings of the City's consulting physician to the employee's treating physician for further clarification. Should the conflicting medical opinions remain unresolved after this consultation, a second consulting physician may be employed by the City. The employee's treating physician and the City's first consulting physician will mutually select the second consulting physician. Should the employee's treating physician fail to promptly

participate in the selection of a second consulting physician, the City may designate the second consulting physician.

## **ARTICLE 30. Community Mess**

### **Section 30.1 Participation and Collection of Monies**

All shift employees shall participate in a Community Mess. Personnel on each shift at each station shall provide a procedure for collection of monies and providing documentation for the employee.

## **ARTICLE 31. Layoffs and Reinstatement**

### **Section 31.1 Departmental Seniority**

All employees of the Department shall accumulate Departmental seniority, for the purposes of this Article, from their first day of full-time employment. Employment with the City of Encinitas as a temporary employee or paid call firefighter not represented by this bargaining unit shall not apply to Departmental seniority.

### **Section 31.2 Classification Seniority**

Employees shall receive classification seniority for the purposes of this Article from their first day of active employment in their last held classification.

### **Section 31.3 Reduction in Working Force**

When it becomes necessary to have a reduction in the work force in a classification covered by this Memorandum of Understanding, for lack of work, lack of funds, reorganization, change in technology, or other non-disciplinary reasons determined by City Council, employees shall be selected for lay off as follows:

- A. Employees with the least amount of classification seniority, in the classification subject to the reduction in force, shall be the first employees selected for lay off.
- B. If an employee is laid off in their classification pursuant to Section 31.3 (A) above, the employee shall be entitled to bump the employees in the next lowest classification with the least amount of Departmental seniority. Any employee who is bumped pursuant to this section, shall be entitled to similarly exercise the right to bump employees with the least amount of Departmental seniority in the next lowest classification.

### **Section 31.4 Recall from Layoff**

Employees who are subject to a reduction in work force shall have preferential rehire rights for a period of 24 months following lay off, to any position in that classification from which they were laid off; providing that such employee meets the minimum qualifications for that position. Employees with preferential rehire rights shall be recalled to an available Fire

Department position before the City considers applications from any other individuals. The City, upon rehiring, shall do so in the inverse order of seniority by first hiring the last employee laid off.

- A. An employee recalled and reinstated to the position he or she held as of his or her layoff or demotion shall assume the same salary step seniority as he or she held at the time of layoff or demotion.
- B. Employee shall not continue to accumulate seniority, vacation, sick leave or any other service-related benefits during the period of lay off, but will retain only seniority benefits.

### **ARTICLE 32. Probationary Period**

#### **Section 32.1 Initial Appointment Probationary Status.**

Initial appointment probationary status means that the Fire Chief does not need to state a reason to release the employee from initial employment with the City. A person appointed through a competitive test of merit to a regular status position shall serve in a probationary status during the initial period of employment until they meet all the criteria described in Section 32.2. Upon successful completion of all the initial appointment probationary criteria, employees shall be considered permanent, regular employees of the City. All permanent, regular employees may only be removed for cause or for lack of work, or other non-disciplinary reasons as determined by the City.

#### **Section 32.2 Criteria for Completion of Initial Probationary Period.**

The new Firefighter/Paramedic employee must successfully pass **ALL** the following criteria to achieve the personnel system status of a permanent, regular employee:

- A. At least **one year** of full time fire service employment with the City of Encinitas Fire Department after being selected from the competitive eligible list.  
--- and ---
- B. At least **120 regular work shifts**. A regular work shift is a full 24 hours. Hours worked on non-shift assignments will count toward the 120 regular shift requirement, with each hour worked multiplied by a factor of 1.4, and with every 24 hours of factored non-shift work equaling credit for a 24 hour regular work shift. Leave time, paid or unpaid, does not earn credit for a required work shift. Shift trades worked do not credit for a required work shift. Up to six (6) shifts of overtime work may be credited toward the requirement of 120 regular work shifts.  
--- and ---
- C. **Pass all the Fire Department's probationary tests** for Probationary Firefighter/Paramedic for advancement to Firefighter/Paramedic III and accomplish the work assignment rotations among the fire stations as required by the Fire Department.

### **Section 32.3 Promotional Probationary Status**

Employees who are promoted to a higher classification are subject to a twelve (12) month promotional probationary period for the classification only. Should the employee be unable to successfully complete that promotional probationary period, the employee shall be allowed to regress back to the next highest classification held by the employee prior to the promotion.

### **ARTICLE 33. Effect of Agreement**

During the term of this Memorandum of Understanding, no provision of this agreement shall be changed without the written mutual consent of the parties. The City shall not change any matter regarding wages, hours, benefits and other terms of employment within the scope of representation outside of this Memorandum of Understanding without providing reasonable advance notice of the proposed change and an opportunity to meet and confer regarding such change (except in the case of an emergency, when the City shall provide reasonable notice and opportunity to meet and confer). Nevertheless, the Fire Chief specifically retains the right to make and enforce reasonable work rules.

### **ARTICLE 34. Severability**

Every provision of this Memorandum of Understanding is intended to be severable. If any term or provision hereof is illegal to any other law or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Memorandum of Understanding.

In the event of the invalidation of any article or section, the City and the Association agree to meet within sixty (60) days after the expiration of any administrative or judicial appeal period/process for the purpose of meeting and conferring over said invalidated section or article.

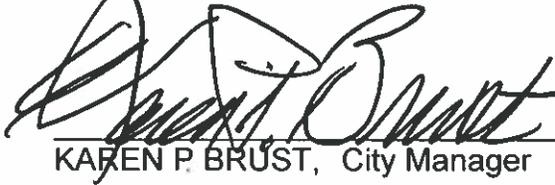
### **ARTICLE 35. Duration of Agreement**

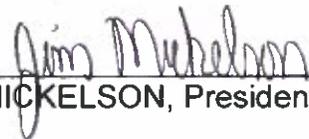
Except where otherwise provided within a specific Article, this Memorandum of Understanding shall remain in effect until December 31, 2017.

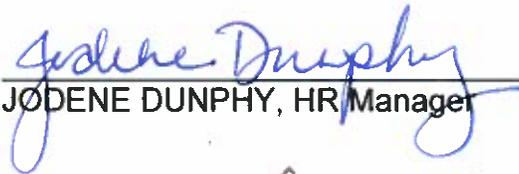
**IN THE WITNESS THEREOF**, the parties hereto have caused this Memorandum of Understanding to be duly executed by authorized officers thereof during July 2016.

**City of Encinitas**

**Encinitas Firefighters Association  
(EFFA), IAFF 3787**

  
KAREN P. BRUST, City Manager

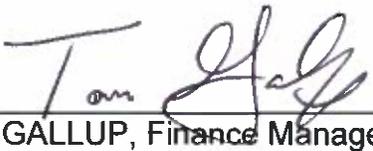
  
JIM MICKELSON, President, Fire Captain

  
JODENE DUNPHY, HR Manager

  
ALEX POFF, Fire Captain

  
MICHAEL STEIN, Fire Chief

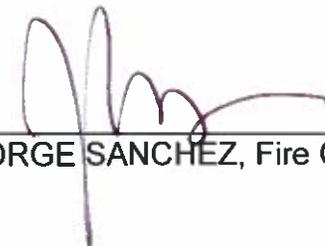
  
MIKE GORALSKI, Fire Captain

  
TOM GALLUP, Finance Manager

  
JEFF SNOW, Fire Engineer

  
JANET RAMOS, HR Analyst

  
MARCO GARCIA, Fire Engineer

  
JORGE SANCHEZ, Fire Captain

## APPENDIX “A”

### LIST OF CLASSIFICATIONS IN THE BARGAINING UNIT REPRESENTED BY THE ENCINITAS FIREFIGHTERS’ ASSOCIATION EFFECTIVE JANUARY 1, 2016 – DECEMBER 31, 2017

Classification Title	Grade	Hourly	Semi-Monthly	Monthly	Annual
Probationary Firefighter/Paramedic	S90	24.6108	2,986	5,972	71,665
Firefighter/Paramedic III	S91	28.9176	3,509	7,017	84,206
Firefighter/Paramedic II	S92	29.5327	3,583	7,166	85,997
Firefighter/Paramedic I	S93	30.4558	3,695	7,390	88,685
Fire Engineer	S94	30.7633	3,733	7,465	89,580
Fire Captain	S95	36.4460	4,422	8,844	106,128

Calculations	Assumptions
Average week is 56 hours	Calculation includes 53 hours base pay + 3 hours “FLSA time” without overtime rate
Hourly	Base pay
Semi-Monthly	2912 hours / 24 pay periods = 121.33 hours per pay period
Monthly	2912 hours / 12 months = 242.667 hours per month
Annual	52 weeks x 56 hours per week = 2912 hours per year



## *City of Encinitas*

### **SIDE LETTER: PROMOTIONAL EXAM PROCESS**

January 2012

Mike Goralski  
President, Encinitas Firefighters' Association  
Encinitas, CA 92024

Association President Goralski:

The prior Memorandum of Understanding between the City of Encinitas and the Encinitas Firefighters' Association expired December 31, 2011. In the process of negotiating a successor agreement for the period from January 1, 2012 to December 31, 2015 the parties agreed to remove the article addressing the **Promotional Exam Process** from the MOU and commit to future considerations of such processes by way of the provisions of this letter.

**Mutual interest in promotional examination processes.** The Encinitas Fire Department and Human Resources Department have a business necessity to provide a fair, valid and reliable process for testing and selecting candidates for promotion. Represented employees have a legitimate interest in a promotional process that is fair and predictably consistent. It is in the mutual interest of the parties to engage in advanced discussions and reach agreement whenever management considers initiation of changes to the process used for selecting candidates for promotion.

**Changes to current promotional examination provisions.** The City of Encinitas shall continue to administer Promotional Examination Process in a manner consistent with Article 31 of the 2002 - 2005 and 2006 - 2011 Memoranda of Understanding until a successor Encinitas Fire Department policy or SOP is promulgated by the Fire Chief after discussion and agreement with representatives of the Encinitas Firefighters' Association. There have been ongoing discussions between representatives of the Encinitas Firefighters' Association and the Fire Chief (or designee) in consideration of modifications to the Department's promotional examination process - - particularly the minimum qualifications to compete for promotion to the rank of Fire Engineer and the protocols for conducting the Engineer promotional examination. There may be a business necessity to make agreements about the conduct of the next promotional examination for Fire Engineer before a comprehensive Encinitas Fire Department policy or SOP is promulgated for all aspects of Fire Department promotional examinations.

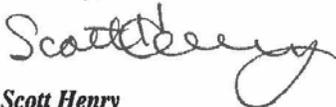
505 South Vulcan Avenue, Encinitas, CA 92024

**Future discussion and agreement expectations.** It is recognized that any Promotional Examination Process for the Fire Department established within the provisions of this side letter to 2012 – 2015 labor contract negotiations will need to be updated and reconsidered from time-to-time in the future. It is recognized that the Fire Chief and Human Resources Department maintain the prerogative to initiate reconsideration of promotional examination processes at any time to meet the evolving business needs of the Fire Department and City. It is the expectation of the parties that the Fire Department and/or Human Resources Department, on an ongoing basis, will develop such future promotional examination processes through discussion and agreement with Subject Matter Experts and representatives of the Encinitas Firefighters' Association.

**Notification requirements.** It is reasonable for the Firefighters' Association to expect that management will provide the Association written drafts of any proposed changes in promotional examination processes or SOP for review prior to adoption. The City may initiate changes to the promotional examination policy or SOP by providing ten (10) days written notice of the proposed change to the Encinitas Firefighters' Association through their President or other Association Officer. If within ten (10) days after receipt of such notification the Association notifies the City that they wish to discuss the proposed change, the City and Association representatives will meet in an effort to reach mutual agreement about any proposed change. If the Association does not respond to the City's proposed change with an interest in discussion the proposed change within the specified time period, the change will take effect.

**Impasse resolution.** If there is no agreement about management's proposed changes to promotional examination processes and requirements after a reasonable opportunity for discussion, an impasse resolution procedure may be initiated by the City. Management representatives may present a Last, Best, Final Offer to Association representatives. If Association representatives reject the Last, Best, Final Offer then management representatives may declare that an impasse has been reached in the discussion and agreement process. Management representatives may present their Last, Best, Final Offer to City Council for consideration. City Council may either adopt a resolution implementing management's Last, Best, Final Offer about promotional examination processes and requirements or take some other action within their discretion. There shall be no requirement for mediation or factfinding in the impasse resolution process regarding matters addressed by this side letter.

Sincerely,



**Scott Henry**  
Fire Chief,  
**ENCINITAS FIRE DEPARTMENT**

505 South Vulcan Avenue, Encinitas, CA 92024

## (2002-2005 MOU between the City and EFFA)

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### ARTICLE 31

#### EXAM PROCESS

- 31.1. Forty-five (45) days prior to any promotional examination, the City shall cause to be notified all candidates that are eligible to take such examination. Contained within this notification shall be the following information:
- A. The position for which being tested;
  - B. The date, time and location of the examination;
  - C. The parameters of the test (oral examination. written. practical. etc.);
  - D. The valued amount of each portion of the examination;
  - E. Final filing date;
  - F. Other information as may be necessary.
- 31.2. Exams will be given on an "as needed" basis unless otherwise noted in this article. In the event that a list is exhausted before the date of the next scheduled examination, temporary appointments may be made from personnel who are qualified to take a promotional examination for that position. An examination may be given with a minimum forty-five (45) day notice.
- 31.3. If there are not at least two (2) employees for each vacancy who apply and are eligible for any examination, the Fire Chief may elect to open the examination to outside candidates.  
(Example: 2 vacancies - 3 candidates: 3 vacancies - 4 candidates *etc.*)
- 31.4. An engineer's examination will be given in the months of April and/or May in even numbered years.

## (2002-2005 MOU between the City and EFFA)

### 31.5. Selection Process for Promotional Positions:

- A. For all positions above the rank of engineer, the Fire Chief shall have the right to select from the top three (3) candidates for each position available. Example: If there are two positions available in the same rank, the Fire Chief may select a candidate from the top three (3) candidates for the first position. The Fire Chief can then select from the top three (3) remaining candidates for the second position.
- B. For the position of engineer, the candidate or candidates chosen for promotion shall be in order of the promotional list, including the Department Review.
- C. All candidates shall be made aware of their relative ranking (position) on any promotional examination at the conclusion of the exam process.
- D. Should a candidate be passed over and not promoted, the Fire Chief shall discuss the reasons for being passed over with that candidate. In addition, a performance plan for improvement shall be discussed with this candidate to help the candidate develop the necessary skills for promotion.
- E. Any eligible list established as the result of any promotional examination shall be valid for two (2) years from the date the list is announced, provided, however, the City shall have the discretion to re-test if there are not at least (3) eligible candidates remaining on the list.

### 31.6. Qualifications for Examinations:

- A. Captain:
  - 1. Five (5) years on the Department;
  - 2. State Certified Fire Officer;
  - 3. All applicants for Captain who are First Class Firefighters shall have met all the requirements for Engineer, including successful completion of last Engineer's examination given by the Department;
  - 4. Possess a valid California Class B driver's license; and
  - 5. All requirements to be met prior to the final filing date indicated on the test announcement.
- B. Engineer:
  - 1. Three (3) years on Department;
  - 2. State Certified Driver/Operator;
  - 3. Fire Command 1A;
  - 4. Presently hold rank of First Class Firefighter;
  - 5. Possess a valid California Class B driver's license; and
  - 6. All requirements to be met prior to the final filing date indicate test announcement.

**(2006-2009 MOU between the City and EFFA)**

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ARTICLE 31

**PROMOTIONAL EXAM PROCESS**

- 31.1. In order to create a fair, valid and reliable promotional exam process, a Fire Service Promotional Exam Policy will be created.
- 31.2. Until changed as provided for in section 31.3, the Promotional Exam Policy will be as set forth in Article 31 of the 2002-2005 Memorandum of Understanding.
- 31.3. The City may from time to time initiate changes to the policy by providing ten (10) days written notice of the proposed change to the Encinitas Firefighters' Association through their President or other Association Officer. If within ten (10) days after receipt of such notification the Association notifies the City that they wish to discuss the proposed change, the City and Association representatives will meet in an effort to reach mutual agreement about any proposed change. If a request is made to discuss the proposed change and agreement is not reached no change will be made. If no request is made to discuss the proposed change within the specified time period, the change will take effect.



## City of Encinitas

### SIDE LETTER: SCHOOLS AND EDUCATION POLICY

January 2012

Mike Goralski  
President, Encinitas Firefighters' Association  
Encinitas, CA 92024

Association President Goralski:

The prior Memorandum of Understanding between the City of Encinitas and the Encinitas Firefighters' Association expired December 31, 2011. In the process of negotiating a successor agreement for the period from January 1, 2012 to December 31, 2015 the parties agreed to remove the article addressing **Schools and Education Policy** from the MOU and commit to future considerations of such a policy by way of the provisions of this letter.

The Encinitas Fire Department has a business necessity to ensure a well-trained fire prevention, fire control, and emergency response force at a level of proficiency as identified by the State Board of Fire Services, California emergency medical services certification and accreditation, and the City of Encinitas. There is mutual benefit for represented firefighters and Encinitas Fire Department management to provide for the ongoing professional training and job-related education of the first responder workforce. It is in the mutual interest of the parties to engage in consultation in the development and implementation of policies regarding represented firefighter training, education, and professional development.

The Encinitas Fire Department shall continue to administer Schools and Education policies in a manner consistent with Article 30 of the 2006 - 2011 Memorandum of Understanding until a successor Encinitas Fire Department policy is promulgated by the Fire Chief after consultation with representatives of the Encinitas Firefighters' Association.

The consultation with Encinitas Firefighters' Association representatives by the Fire Chief (or designee) in development of the Fire Department's Schools and Education policy will include, but is not limited to, such matters as: reimbursement of employees deemed necessary to maintain job skills or create a competitive workforce for succession planning, payment for the costs of specialized classes or training deemed necessary by Fire Department management, process for employee requests for reimbursement for outside professional development training, and standards for City reimbursement only when an employee has passing grades at voluntary professional development classes.

It is recognized that the Schools and Education policies for the Fire Department established within the provisions of this side letter to 2012 - 2015 labor contract negotiations will need to be updated and reconsidered from time-to-time in the future. It is recognized that the Fire Chief maintains the prerogative to reconsider and promulgate Schools and Education policies that meet the evolving business needs of the Fire Department. It is the expectation of the parties that the Fire Department, on an ongoing basis, will develop such future Schools and Education policies in consultation with representatives of the Encinitas Firefighters' Association.

Sincerely,

Scott Henry  
Fire Chief, ENCINITAS FIRE DEPARTMENT

505 South Vulcan Avenue, Encinitas, CA 92024

ARTICLE 30

SCHOOLS AND EDUCATION POLICY

30.1. PURPOSE

To establish a policy and procedure to ensure that members of the Department are trained and educated in a manner that is consistent with the Department's Mission Statement.

30.2. POLICY

It shall be the policy of this Department to maintain a highly trained and professional organization by allowing or directing personnel from time to time to attend classes, academies or courses as deemed pertinent by the Fire Chief or designee in accordance with the Memorandum of Understanding.

30.3. OBJECTIVES

To ensure a well-trained fire prevention and fire control force at a level of proficiency as identified and established by the State Board of Fire Services and the City of Encinitas.

30.4. RESPONSIBILITY

- A. The Training Officer shall continually evaluate school requests and utilize the following criteria in determining personnel to attend and/or approve attendance:
  - 1. The need to obtain and/or maintain job skills, knowledge or abilities.
  - 2. The need for a program of instruction or information to be brought back for the benefit of the Department and its members.
  - 3. The ability of the employee to obtain, retain and provide information/instruction to department personnel in a structured manner.
  - 4. Special skills, knowledge or abilities the employee has prior to attending the school, class or seminar.
- B. It shall be the responsibility of all employees to obtain permission from the Training Officer prior to attending any school, class or seminar for which compensation is expected.

(2006-2009 & 2010-2011 MOU between the City and EFFA)

ARTICLE 30 - SCHOOLS AND EDUCATION POLICY

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- C. It shall be the responsibility of any member selected to attend a school or seminar to:
  - 1. attend all classes or sessions;
  - 2. upon returning, impart any new knowledge or procedures to other members of the Department as determined by the Training Officer;
  - 3. keep accurate and current records pertaining to expenses which shall be forwarded to the Finance Officer upon completion of the school or class;
  - 4. members who cannot attend a school or class for which they previously registered, shall notify the Training Officer, in writing, as soon as possible, so that a replacement or refund may be found.

30.5. PROCEDURES

- A. Requests are to be submitted in writing.
- B. Firefighter I, II and Driver/Operator
  - 1. Open to all personnel.
  - 2. Training done in-house and through Community College.
  - 3. Training Officer to help with and coordinate signing off and paperwork.
  - 4. Department to pay registration and certification fees.
  - 5. Personnel to provide transportation and time off; Department to provide transportation when available.
- C. Fire Officer - Level One
  - 1. Class notices will be delivered to all stations with registration deadlines for posting.
  - 2. Department to pay for certification and registration.
  - 3. Personnel to provide transportation and time off; Department to provide transportation when available.
  - 4. For zone quota: openings will be filled according to members' needs.

**(2006-2009 & 2010-2011 MOU between the City and EFFA)**

ARTICLE 30 - SCHOOLS AND EDUCATION POLICY

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D. Chief Officer - Level Two

1. Selection based on section 30.4. A. 1. of this article.
2. Course catalog to be posted at each station within fifteen (15) days of receipt of same, and all requests must be received by Training Office, in writing, within thirty (30) days of posting for priority setting.
3. Department to pay certification fees.
4. Department to pay registration that would allow each Captain the opportunity to attend one class per year. Classes for Captains not filled will be made available to other Captains, to enable those Captains the opportunity to complete their Chief Officer Certification.
5. Classes for Captains not filled may be made available to other applicants at the discretion of the Fire Chief or designee.
6. Personnel to provide for time off.
7. Department to provide transportation if vehicle is available.

E. Specialized Training, such as:

NFA/EMI, Heavy Rescue, Title 19/24, Fire Works Enforcement, Hazardous Materials I(a-d), Level Two Courses other than Command or Management and Public Education Officer.

1. Personnel to be selected by Fire Chief.
2. All costs paid by Department.
  - a. Training is for special assignments or duties set forth by Fire Chief.

F. Seminars

1. Requests must be submitted to Training by deadline on announcements.
2. If personnel are directed by the Department to attend, all costs will be paid by Department.

## RESOLUTION 2016-05

### A PERSONNEL RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ENCINITAS AUTHORIZING THE EXECUTION OF A TWO YEAR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ENCINITAS AND THE ENCINITAS FIREFIGHTERS ASSOCIATION FOR THE PERIOD OF JANUARY 1, 2016 THROUGH DECEMBER 31, 2017

WHEREAS, the City of Encinitas, through its management representatives, has met and conferred in good faith with the Encinitas Firefighters Association (EFFA);

WHEREAS, the representatives of the City and EFFA each have exchanged freely information, opinions and proposals on matters regarding wages, hours and other terms and conditions of employment for employees in the EFFA; and

WHEREAS, the City and EFFA representatives have agreed on the term of a new Memorandum of Understanding to be January 1, 2016 through December 31, 2017; and

WHEREAS, the City and EFFA representatives have agreed upon the items as contained in the attached Summary of Tentative Agreement (Exhibit A) to this Resolution; and

WHEREAS, the EFFA has ratified the Tentative Agreement for the period of January 1, 2016 through December 31, 2017; and

BE IT RESOLVED by the City Council of the City of Encinitas that the items in the Tentative Agreement be incorporated into the Memorandum of Understanding and adopted for immediate implementation retroactive to January 1, 2016.

BE IT FURTHER RESOLVED that the City Manager is hereby directed and authorized to implement all provisions of the adopted Tentative Agreement which are to be incorporated into the Memorandum of Understanding without further specific actions by the City Council.

PASSED AND ADOPTED this 13<sup>th</sup> day of January, 2016 by the following vote, to wit;

AYES: Blakespear, Gaspar, Kranz, Muir, Shaffer.

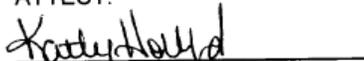
NAYS: None.

ABSTAIN: None.

ABSENT: None.

  
Kristin Gaspar, Mayor

ATTEST:

  
Kathy Hollywood, City Clerk

**NEGOTIATIONS BETWEEN THE CITY OF ENCINITAS  
AND  
THE ENCINITAS FIREFIGHTERS ASSOCIATION**

**Summary of the Tentative Agreement\***

<u>Item</u>	<u>Description</u>
1. Term:	Two years (1/1/16 – 12/31/17)
2. Salary Increases:	No salary increases.
3. Retiree Health Savings Plan:	Continue the City contribution of 1% of base pay into Retiree Health Savings Accounts (RHSA) and remove the reference to specific years from this section of the MOU.
4. Cafeteria Plan:	Continue the current provision in the MOU for the EFFA members' flexible benefit plan contribution by the City to equal the high median of the monthly premiums of all PERS health plans available in San Diego County and remove the reference to specific years from this section of the MOU. In addition, clean up the outdated language (i.e. tiers) in the insurance benefits section of the MOU.
5. Clean-up MOU language:	Housekeeping revisions of outdated language and formatting changes.

\* The summary language contained in this document is for informational purposes only. The Memorandum of Understanding will be developed based on the Tentative Agreement approved by the City Council.