

# **Memorandum of Understanding**

**BETWEEN**

**THE CITY OF BREA**

**AND**

**THE BREA FIRE  
MANAGEMENT  
ASSOCIATION**

APRIL 1, 2018 THROUGH MARCH 31, 2020



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**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF BREA  
AND  
THE BREA FIRE MANAGEMENT  
ASSOCIATION APRIL 1, 2018 THROUGH  
MARCH 31, 2020**

*This Memorandum of Understanding (MOU) is made and entered into by and between the duly authorized representatives of the City and the Fire Management Association.*

**A. Recitals**

*(i) The parties hereto have met and conferred in good faith pursuant to the Meyers-Milias-Brown Act, Government Code Section 3500, et seq., and have reached agreement on changes in wages, hours and terms and conditions of employment.*

*(ii) The parties hereto have agreed upon the wages, hours, and terms and conditions of employment as set forth herein in order to encourage effective recruitment and retention of well-qualified employees and to foster and reward employees' potential, performance, professional attitude, morale and pride in work. The Fire Management Association employees hereby acknowledge these expectations.*

**B. Agreement**

*Now, therefore, the parties hereto agree as follows:*

**ARTICLE I – RECOGNITION**

Pursuant to the provisions of City of Brea Employer-Employee Relations Resolution No. 06-62, the City of Brea (hereinafter called the "City") has recognized the Brea Fire Management Association (hereinafter called the "Association") as the exclusive representative of employees in the bargaining unit, which includes full-time employees in the classifications of Fire Battalion Chief, and the Fire Battalion Chief Special Assignments of Fire Division Chief/Fire Marshal and Fire Deputy Chief/Administration.

**ARTICLE II – NONDISCRIMINATION**

The City and the Association agree that they shall not discriminate against any employee

because of race, color, gender, age, national origin, marital status, sexual preference, genetic information, political or religious affiliations, and/or disability, except as may be required for compliance with Federal or State law, or exercise of rights under the Meyers-Milias-Brown Act. The City and the Association shall re-open any provision of this Agreement for the purpose of complying with any final order of a Federal or State agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this Agreement in compliance with Federal or State anti-discrimination laws.

**Disability. Discrimination Laws**

- A. Because Federal and State Disability Laws require accommodations for individuals protected under those Acts, and because these accommodations must be determined on an individual, case-by-case basis, the parties agree that the provisions of this Agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment only to the extent necessary to reasonably accommodate an individual covered by the respective disability laws, who meets the minimum requirements for the position, and who has notified the employer of his/her disability.
- B. The Association recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. Prior to disregarding any provision of the Agreement in order to undertake required accommodations for an individual protected by the law, the City will provide the Association with written notice of its intent to disregard the provision, and will allow the Association the opportunity to meet and confer over modifications of the Agreement on a case-by-case basis. Failure to reach agreement shall not preclude the City from implementation during the term of this Agreement.
- C. Any accommodation provided to an individual protected by the law shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure.

**ARTICLE III – WORK SCHEDULES**

**Schedule Modifications and Eliminations**

Department Directors shall designate work schedules. The Department Director may alter the work schedule of an employee subsequent to the consideration of departmental workload, operational efficiency, and staffing considerations. The Department Director shall report any work schedule change in writing to the City Manager, where such change impacts a significant number of employees.

**48/96 Shift Schedule**

The work schedule for sworn employees performing “shift work” includes two work shifts on duty followed by four shifts off duty (commonly called a “48/96” schedule).

**9/80 and 4/10 Work Schedule**

The structured, synchronized 9/80 work schedule shall consist of two (2) consecutive work periods containing the equivalent of nine (9) work days instead of ten (10) in a two (2) week period. Employees will work eight (8) days for nine (9) hours a day, and one (1) day for eight (8) hours, for a total of eighty (80) hours in two (2) consecutive workperiods.

Employees authorized to work a 4/10 schedule shall work four (4) days in each seven-day work period, with each working day consisting of ten (10) hours.

Consistent with the City Rights Article, it shall be understood that the continuation of the 48/96 schedule, the structured synchronized 9/80 work schedule or any authorized 4/10 schedule shall be the sole responsibility of the City, consistent with the needs of the community. Concurrent with its obligations under the Meyers-Milias-Brown Act, the City and the Association will meet and confer at any time prior to any change, revision, or elimination of any work schedule. Failure to reach agreement on any change, revision or elimination of any work schedule shall not preclude the City from implementation during the term of this Memorandum of Understanding. Continuation of any work schedule shall be at the sole discretion of the Department Director, who shall provide a minimum fourteen (14) calendar day notice before changing such assignments.

**ARTICLE IV - SALARY AND WAGE PLAN**

**Salaries**

Salaries effective during the term of this MOU, are listed in Exhibit "A" and attached hereto and made a part thereof.

Effective the first full payroll period commencing on or after July 1, 2019, the “base salary” of each classification shall be increased by two percent (2%).

If, during the term of this contract, any other bargaining unit with the City receives a higher total Cost of Living Adjustment (COLA) during fiscal year 2018/2019 or fiscal year 2019/2020, the higher COLA shall be provided to the Brea Fire Management Association members effective the same date as made available to the other bargaining unit. For purposes of this clause, ‘total COLA’ shall be the cost of living adjustment minus any new CalPERS pick-up paid by the employee.

**Merit Increases**

Merit increases will become effective on the date earned, if subsequently approved.

**FLSA Work Period**

On or about the first payroll period of October 2007, the Fire Suppression (Shift) Battalion Chiefs commenced a regular payroll based upon one-hundred-twelve (112) hours of compensation for each fourteen (14) day payroll period. The hourly rate is calculated by multiplying the monthly salary rate by twelve months and dividing the product by 2912 hours. Effective that same date, any and all informal banks of hours for Battalion Chiefs were vacated.

**SPECIAL ASSIGNMENT AND COMPENSATION**

Individual appointments to, or removal from, a Fire Division Chief or Fire Deputy Chief assignment, shall be made or revoked at the sole discretion of the Fire Chief. An employee in a Fire Division Chief or Fire Deputy Chief assignment may be required from time to time to work as a Fire Battalion Chief in Suppression and shall be eligible for overtime pay (as designated in the overtime section below). All Fire Division Chief or Fire Deputy Chief assignment pay shall be effective for only as long as the duty assignment remains in effect for the individual.

A Fire Battalion Chief in a Fire Division Chief assignment shall receive special compensation in the form of Management Incentive Pay in the amount of ten percent (10%) above Fire Battalion Chief.

A Fire Battalion Chief in a Fire Deputy Chief assignment shall receive special compensation in the form of Management Incentive Pay in the amount of ten percent (10%) above Fire Division Chief.

**OVERTIME**

Suppression Battalion Chiefs shall be compensated for actual shift-related overtime at their straight-time regular rate of pay, or may elect to bank the equivalent hours as compensatory time off (CTO). During such authorized assignments, the Battalion Chief will be compensated for Shift hours worked at the straight-time base-salary hourly rate of a Battalion Chief (excluding any certification or other special pay). The maximum bank of CTO shall not exceed one hundred-twenty (120) hours at any time. In addition, in November of each year, any CTO bank in excess of ninety-six (96) hours shall be paid to the affected Battalion Chief. Scheduling of paid leave from the CTO bank will be subject to Fire Department vacation request procedures. The availability of Shift Trades shall not be affected by this CTO bank, but shall be subject to members meeting specific job assignments and requirements as determined by the Fire Chief.

Fire Suppression Battalion Chiefs assigned to work with other entities in response to task force, strike team, or for "assistance by hire" assignments on behalf of a third party shall be

eligible for overtime compensation at a rate equivalent to time and one-half (1.5) of the employee's hourly rate for each hour of such assignment if the contract for such assignment, or the conditions of reimbursement from the third party, provide for full reimbursement of overtime costs at the time-and-one-half hourly rate. The City shall not be responsible for time and one-half payments unless so reimbursed.

A Fire Division Chief shall be eligible for overtime pay for any hours worked as a Fire Suppression (Shift) Battalion Chief as authorized by the Fire Chief. During such authorized assignments, the Division Chief will be compensated for Shift hours worked at the straight-time base-salary hourly rate of a Shift Battalion Chief (excluding any certification or other special pay).

A Fire Division Chief shall be eligible for overtime pay for any hours worked as a Fire Division Chief as authorized by the Fire Chief. During such authorized assignments, the Division Chief will be compensated for hours worked at the straight-time base-salary hourly rate of a Fire Division Chief (excluding any certification or other special pay) or may elect to bank the equivalent hours as compensatory time off (CTO). The CTO option only applies to overtime earned while serving as a Fire Division Chief. The maximum bank of CTO for a Division Chief shall not exceed fifty (50) hours at any time, representing the non-shift equivalent to the accrual rate of shift employees. In addition, in November of each year, any CTO bank in excess of forty (40) hours shall be paid to the affected Division Chief. Scheduling of paid leave from the CTO bank will be subject to Fire Department vacation request procedures. The availability of Shift Trades shall not be affected by this CTO bank, but shall be subject to members meeting specific job assignments and requirements as determined by the Fire Chief.

The only exception to Fire Division Chiefs receiving straight time overtime as compensation earned for hours worked beyond their normal work schedule, is that time and half (1.5) shall be paid to the employee if there is a reimbursement provided for the time and half rate from an outside source such as the Office of Emergency Services or a Federal Agency. The City shall not be responsible for time and one-half payments unless so reimbursed.

If the command staff agreement between the Cities of Brea and Fullerton is not renewed, the overtime language from the April 1, 2015 Fire Management MOU will be again in place at the time of the end date of the agreement.

**Re-Opener to Discuss Shift Work Overtime**

The City and the Association agree to meet on or about December 1, 2019 to discuss premium overtime for Battalion Chiefs assigned to shift work. The parties desire to have a better understanding of overtime budget costs for fiscal year 2019-2020.

## **SPECIAL PAYS**

### **Uniform Allowance**

- A. A newly appointed Battalion Chief will receive an initial dress uniform allowance of \$600 and an initial allotment of \$750 for regular uniform items. Thereafter, each member shall receive the annual allowance as provided herein.
- B. The annual lump sum uniform allowance of \$850 shall be paid directly to the employee as early as feasible in July of each year.
- C. Newly appointed Battalion Chiefs are eligible to receive the \$850 annual uniform allowance on a prorated basis for July 1 of the first year and \$850 every July 1 thereafter.

Uniform allowance shall be paid directly to the employee as early as feasible in July of each year. In order to comply with CalPERS reporting requirements for uniform allowance for Classic employees, allowance will be reported as earned on July 1. Earned period shall be defined to mean employed with the City on July 1. Payment for the uniform allowance will be paid in the pay period which includes July 1.

### **Vehicle Assignment**

Fire Battalion Chiefs assigned to Fire Division Chief or Deputy Chief, at the Fire Chief's discretion, may be assigned a vehicle for use when responding to emergency incidents.

## **ARTICLE V - LEAVES**

### **VACATION**

#### **Vacation Accruals**

- A. Non-Shift Employees. Non-shift employees shall earn and accrue vacation leave time at the following rates:

<u>Following</u>	<u>Vacation Accrual</u>
Initial Hire	80 hours/year
Completion of 3 Years	120 hours/year
Completion of 7 Years	140 hours/year
Completion of 13 Years	160 hours/year
Completion of 16 years	175 hours/year
Completion of 19 Years	200 hours/year



B. Shift Employees:

<u>Following</u>	<u>Vacation Accrual</u>
Initial Hire	120 hours/year
Completion of 3 Years	180 hours/year
Completion of 7 Years	195 hours/year
Completion of 13 Years	240 hours/year
Completion of 16 Years	262.5 hours/year
Completion of 19 Years	300 hours/year

**Maximum Accrual of Vacation Leave**

Non-shift employees shall be entitled to accrue a maximum of 400 hours of vacation leave. Shift employees shall be entitled to accrue a maximum of 600 hours of vacation leave.

**Buy-Back of Vacation Leave Hours**

Upon an employee's written request, the City will buy-back unused vacation hours subject to the following provisions:

- A. A non-shift employee must have used one (1) consecutive work week of paid leave (excluding sick leave) within one (1) year from the date the employee is requesting a vacation buy-back. The minimum amount of each buy-back for a non-shift employee shall be forty (40) hours.
- B. A shift employee must have used seventy-two (72) consecutive hours of paid leave (excluding sick leave) within one (1) year prior to the date the employee is requesting a vacation buy-back. The minimum amount of each buy-back for a shift employee shall be forty (40) hours.
- C. Shift employees must maintain a minimum balance of one hundred twenty (120) hours in their vacation leave banks. Non-shift employees must maintain a minimum of eighty (80) hours in their vacation leave banks.

**HOLIDAYS**

The City designates twelve holidays per year as follows:

- New Year's Day, January 1
- Martin Luther King Jr. Day, third Monday in January
- President's Day
- Memorial Day, last Monday in May
- Independence Day, July 4
- Labor Day, first Monday in September
- Thanksgiving Day

The day following Thanksgiving Day  
Christmas Eve, December 24  
Christmas Day, December 25  
New Year's Eve, December 31  
Floating Holiday

**Non-Shift Employees**

A holiday is considered a maximum of nine (9) hours regardless of the employee's work schedule (such as 4/10, etc.). An employee who works an alternate schedule (i.e. 4/10) will need to supplement his or her holiday with another leave bank (floating, vacation or comp time).

Except on those years when Christmas, Christmas Eve, New Year's and/or New Year's Eve fall on a Saturday or Sunday, where it will be more efficient to use the Holiday time to "pay" for the Holiday Closure, if a holiday falls on a Sunday, the Monday following is observed. If a holiday falls on a Saturday the preceding Friday is observed.

If a holiday falls on a day that an employee is not scheduled to work he or she will receive the equivalent hours (maximum nine (9) hours) in his/her holiday bank. If an employee works on a holiday they will be compensated at his/her regular hourly rate of pay for hours worked. If they work fewer than nine (9) hours his/her time shall be augmented by holiday time up to nine (9) hours and they shall accrue the balance of their nine (9) hours of holiday time. Example #1: An employee works five (5) hours on a holiday. They are paid for five (5) hours of regular time, four (4) of holiday time and they accrue five (5) hours of holiday time. Example #2: An employee works nine (9) hours on a holiday. They are paid for nine (9) hours of regular time and accrue nine (9) hours of holiday time. If a holiday falls on an 8-hour work day (non-9/80 Friday) the employee shall receive eight (8) hours pay for the day and one (1) hour of holiday time in their accrual bank. Employees are guaranteed 108 hours of holiday pay per each full year worked. Employees shall be in a paid status the day prior to and immediately following the holiday in order to receive holiday pay.

Time off taken during any part of the Christmas/New Year's Closure (Holiday Closure) period, as designated each year, shall be accounted for by using Holiday Bank hours to the extent that Holiday Bank hours are available in the employee's Holiday Bank. Vacation and or compensatory bank time may only be used to "pay" for days within the period designated as the Holiday Closure after the employee's Holiday Bank is exhausted.

Floating Holiday. Nine (9) hours of floating holiday leave time shall be granted to each employee on July 1 of each fiscal year. This time shall not be carried over from one fiscal year to the next. Newly hired employees shall be granted nine (9) hours of floating holiday leave time if hired between July 1 and December 31 of each year and four and one half (4.5) hours of floating holiday leave time if hired between January 1 and June 30 of each year.

Holiday leave shall not be carried over from one fiscal year to the next, nor may employees convert unused holiday leave to cash except upon termination of employment. Department Directors may approve carrying over holiday leave banks past June 30<sup>th</sup> when extenuating circumstances occur.

**Shift Employees**

Shift employees do not have designated holidays. Shift employees shall accrue one hundred forty-four (144) holiday hours per fiscal year at the rate of approximately 5.54 hours per pay period. Accrued holiday hours shall be recorded on the employee's paycheck stub.

It is not the intention of the City to encourage the accumulation of holiday hours. Maximum consideration shall be given to taking holiday hours on the designated holidays. A shift employee must submit a written request to his/her immediate supervisor prior to taking holiday hours off. Holiday hours for shift employees may only be taken subject to the approval of the Fire Chief after the consideration of the departmental workload and other staffing considerations such as, but not limited to, the approved leave schedule of other employees, sick leave and position vacancies, and impact of the used holiday upon overtime expenditures.

When a designated holiday is taken off, the employee's holiday accrual balance shall be debited in the amount of holiday hours taken off. Vacation and/or compensatory time off, shall not be utilized to fund a used holiday off, unless the employee's holiday bank has a balance of hours less than the hours in a worked day. In such case the existing holiday bank may be supplemented with vacation and/or compensatory time off earned hours to the extent necessary to equal the holiday hours taken off.

Holiday hours accumulated and not taken shall be paid on the first payday in November at the employee's basic rate of pay as of the date of payoff. Payoff of accumulated holiday hours shall be processed with the employee's regular payroll check.

**DONATION OF LEAVE TIME**

Employees may donate, on an hour-for-hour basis, vacation, compensatory or holiday leave time to other City employees with a major medical condition who have exhausted all available accrued leave time due to their medical condition.

**SICK LEAVE AND BEREAVEMENT LEAVE**

**Sick Leave**

Non-shift employees shall earn eight (8) hours of sick leave per month; shift employees shall earn twelve (12) hours of sick leave per month. Sick leave shall be earned, commencing on the first day of employment, and shall accrue on a bi-weekly basis.

**Personal Medical and Dental Appointments**

Subject to the approval of the Fire Chief and/or his/her designee, employees may utilize sick leave for personal medical and/or dental appointments.

**Sick Leave Authorization for Immediate Family Members**

A non-shift employee shall be allowed to use up to a maximum of forty eight (48) hours of personal sick leave per calendar year for medical and/or dental appointments for immediate family members, and/or illness or death of an immediate family member. A shift employee shall be allowed to use up to a maximum of seventy two (72) hours of personal sick leave per calendar year for medical and/or dental appointments for immediate family members, and/or illness or death of an immediate family member. Immediate family as used in this Section is limited to: the employee's parents and grandparents (natural, adoptive, foster, by marriage or legal guardians), current spouse, registered domestic partner, children and grandchildren (natural, adoptive, foster, or by marriage or domestic partnership), parents-in-law (or by domestic partnership), siblings, and siblings-in-law (or by domestic partnership). In the event of death in the immediate family, a death certificate or other acceptable evidence may be required by the Fire Chief before the sick leave is allowed. In the event of an illness in the immediate family, a medical certificate from an acceptable medical authority or a personal statement of such illness and an explanation of the need for the employee's absence, may be required by the Fire Chief. Such leave may take travel time into consideration. The amount of sick leave used in either of these two circumstances shall be reported on the appropriate leave request form.

**Notification to Supervisor**

Any employee needing to be absent because of sickness or other physical disability shall notify the Fire Chief or immediate supervisor at least one day prior to such absence if circumstances permit, or as soon thereafter as possible. Any employee falsifying a reason for sick leave shall be subject to discipline, up to and including termination.

**Return to Work After Sick Leave**

An employee using sick leave pursuant to this Article and City of Brea Human Resources Rules and Regulations, may be required by the Human Resources Officer to submit a medical certificate signed by a duly-licensed physician, surgeon, or psychiatrist stating that the employee was incapacitated for the performance of his/her duties during the sick leave use and that the employee is capable of performing his/her duties or such of his/her duties as are enumerated in the certificate. The Human Resources Officer may require the employee to take an examination by a City designated physician, surgeon, or psychiatrist who shall make a report to the City as to the employee's ability to fully perform the duties and responsibilities of his/her position. In the event the certificate and reports enumerate less than all of the duties to which the employee may be assigned, the City may assign the employee duties and responsibilities which the City believes the employee is capable of

performing. In cases of disabling illness or injury, the Human Resources Officer, in conjunction with the Fire Chief shall assess the City's ability to provide reasonable accommodation.

**Sick Leave Conversion**

Upon an employee's written request, the City will convert sixty (60) hours (shift employees) or twenty (20) hours (non-shift employees) of his/her accrued sick leave to administrative leave subject to the approval of the Human Resources Manager and the following provisions:

- A. The employee must have accrued a minimum balance of 1200 hours (shift employees) or 875 hours (non-shift employees) of sick leave in his/her sick leave bank at the time of the request.
- B. The conversion of sick leave hours to administrative leave may occur only one (1) time per fiscal year per employee.
- C. Sick leave converted to administrative leave shall not be carried over from one (1) fiscal year to the next, nor may employees convert unused administrative leave to cash.
- D. Sick leave hours converted to administrative leave may only be taken subject to the approval of the Fire Chief.

**Bereavement Leave**

An employee shall be allowed three (3) working days (non-shift employees) or forty-eight (48) hours (shift employees), as applicable, of bereavement leave for each incident of a death of an immediate family member (as defined above). Bereavement leave usage is subject to sick leave usage rules and is in addition to the sick leave which an employee may use for death in the immediate family. Bereavement leave hours shall not accrue or carry over to a new fiscal year.

**OTHER LEAVES**

**Leave of Absence Without Pay**

The Fire Chief may grant leaves of absence without pay for a maximum of ninety (90) working days to an employee if the circumstances of the particular case warrant such leave of absence in writing. An employee, not under suspension, may make application for leave without pay after all available leave benefits, including vacation, administrative leave, compensatory time, holiday leave time, Family Care Leave, and sick leave (subject to eligibility to use sick leave) and any other leave benefits have been completely used. No employment or fringe benefits such as sick leave, vacation, retirement, or any other benefits shall accrue to any employee on leave of absence without pay; except however, the City will

continue to pay the employee's medical insurance up to the current maximum allowable under the current flexible benefit plan program for a maximum of three (3) months during any one leave in any twelve (12)-month period while an employee is on authorized leave.

Prior to the end of a leave of absence without pay, if the employee desires additional leave, written application must be made to the City Manager stating the reasons why the additional leave is required and why it would be in the best interest of the City to grant such additional leave. If, in the City Manager's opinion, such additional leave is merited and would still preserve the best interests of the City, he/she may approve such extensions of leave of absence for a period not to exceed an additional ninety (90) working days. If the employee does not return to work prior to or at the end of such leave of absence or extension of leave of absence, the City shall consider that the employee has terminated his/her employment with the City. An employee on leave of absence must give the City at least a seven (7) day written notice of the employee's intent to return to work.

**ARTICLE VI – FRINGE BENEFITS**

**Flexible Benefit Plan**

The City's Flexible Benefit Plan shall include for the employee and eligible dependents City sponsored health insurance plans including medical insurance, dental insurance, and optical insurance. The Flexible Benefit Plan shall also include, for employee only, short-term disability, optional life insurance, deferred compensation, and undergraduate education reimbursement for college-level courses.

Effective January 1, 2013, the maximum Flexible Benefit contribution for employees enrolled in a City sponsored medical plan shall be:

Single employee	\$750
Employee plus 1 dependent	\$1225
Employee plus 2 or more dependents	\$1450

Effective the first full pay period on or after January 1, 2020, the maximum Flexible Benefit contribution for employees enrolled in a City sponsored medical plan shall be:

Single employee	\$800
Employee plus 1 dependent	\$1225
Employee plus 2 or more dependents	\$1550

If, during the term of this contract, any other bargaining association receives a net increase in the contribution to the City's Flexible Benefit Plan as defined in the MOU to an amount greater than that available to BFMA members during fiscal year 2018/2019 or fiscal year 2019/2020, the same amount and/or benefit under the same conditions provided to the other association will be made available to BFMA members effective the

same date as made available to the other association.

Employees hired prior to January 1, 2006, who have opted out will continue to receive a \$650 contribution. Employees hired on/after January 1, 2006, shall receive the amount shown for the plan level in which they have enrolled. Those hired on/after January 1, 2006, who opt-out of a medical plan will receive \$325 per month.

Employees who do not use the full amount of the Flexible Benefit contribution for optional benefits provided herein may elect to receive the remaining amount as taxable cash in the bi-weekly payroll, or to deposit the amount in a deferred compensation (457) plan.

Should the total cost of premiums for benefits selected under the Flexible Benefit Plan exceed the City's monthly contribution, the overage will be paid by the employee via pretax payroll deductions. The City will continue to pay the one-half percent (1/2%) administrative fee for the CalPERS Health Insurance Program medical insurance plan. If the administrative fee increases, the City shall meet and confer on the increase.

While participating in the CalPERS Health Plans during the term of this Agreement, should CalPERS or legislative acts redefine the designated contributions for retirees to include Flexible Benefit Plan contributions, the parties will meet and confer on an alternative method of funding active employee benefits.

At such time during the term of this Memorandum of Understanding that education reimbursement is considered a taxable benefit under Internal Revenue Service regulations, then education reimbursement shall be excluded as a Flexible Benefit Plan option.

### **Retiree Medical Benefit**

Within the monthly contribution amounts, \$335 is considered to be the City's contribution toward the CalPERS Health Insurance Program for medical insurance and shall be reported to CalPERS as such. This \$335 shall be the City's contribution toward retiree medical insurance coverage. There is no opt out value for retiree medical coverage. The parties intend that the entitlement to receive a retiree medical benefit of \$335 per month is a vested benefit for all employees hired by the City on or before June 30, 2017. The inclusion of this vesting language is to comply with the Supreme Court's decision in *M&G Polymers v. Thackett*, 135 S.Ct. 935 (2015), requiring that the intent to vest a benefit be explicitly set forth.

Employees newly hired into this unit after June 30, 2017, shall, upon retirement from the City receive the CalPERS Public Employees' Medical and Hospital Care Program (PEMHCA) minimum (as determined by CalPERS on an annual basis), not to exceed the actual cost of the plan selected. (PEMHCA minimum is \$136 per month in calendar year 2019).

**Life Insurance**

Based on the life insurance policy limitations, the City shall provide each employee with a term life insurance policy with a benefit equal to one (1) times the individual employee's annual salary. An employee may purchase additional (optional) life insurance at his/her own expense, subject to the terms, conditions, and approval of the insurance carrier.

**Long-Term Disability Insurance Plan (LTD)**

- A. The City shall provide Long-Term Disability Insurance benefits for all employees during the term of this Agreement.
- B. Effective for qualifying illnesses or injuries occurring after April 1, 2008, Long-Term Disability (LTD) benefits shall equal 66-2/3% of the first \$15,000 of the employee's basic monthly earnings, reduced by any deductible benefits as described in the Plan Document. For the purposes of this benefit, "basic monthly earnings" means the regular salary range step amount applicable to the affected employee, exclusive of overtime or intermittent additional compensation that may be paid in any pay period. No benefits shall be payable for the first sixty (60) calendar days of each period of total disability, or the end of the period of accumulated paid sick leave to which the employee is entitled under the City's sick leave program, whichever is longer. After LTD benefits commence, the employee may elect to use any remaining paid leave (vacation or other accumulated leave) to supplement such benefits during the term of illness or injury leave. The amount of supplementation, in conjunction with the LTD benefit payment, shall not exceed the employee's normal payroll for the period.
- C. Maximum Benefit Period. Section 1, Schedule of Insurance, Item B, Maximum Benefit Period, of the City's Long-Term Disability Policy, shall be amended as follows:

**B. MAXIMUM BENEFIT PERIOD**

Disability Due to Injury - The longer of (1) and (2) defined as:

- (1) 12 months,
- (2) To age 65.

Disability Due to Sickness - The longer of (1) and (2) defined as:

- (1) 12 months,
- (2) To age 65.

**Section 125 Program**

The City has implemented an Internal Revenue Section 125 Program which allows employees to allocate specified amounts of monthly pre-tax salary or wages for the reimbursement of medical care expenses or dependent care expenses, or both. Employees who choose to participate in the program shall pay all subsequent program administration costs and/or fees.



### **Deferred Compensation**

Employees may defer wages under the City-sponsored deferred compensation program.

### **Retirement Health Savings Plan (RHSP)**

Effective July 1, 2019, any Fire Management safety member of CalPERS who (1) retires from the City of Brea, and (2) has reached a cumulative age and length of service in CalPERS that would provide the maximum retirement benefit (i.e., 90% final compensation), shall have his/her unused sick leave bank at the time of separation, which would otherwise have provided additional retirement service credit, converted to a contribution to the RHSP. The amount of contribution will be calculated as the dollar value of the unused sick leave multiplied by 50%.

All Fire Management employees who separate from the City of Brea in good standing (i.e., for non-disciplinary reasons) and have an accumulated bank of unused vacation and/or Compensatory Time Off shall have 100% of the accumulated leave converted to an employer contribution to the RHSP. The amount of contribution shall be the employee's hourly rate of pay multiplied by the number of vacation and/or Compensatory Time Off hours eligible under this provision.

Individuals in the following categories will contribute to their own accounts the amounts described by payroll deduction:

1. Fire Management employees who have attained the age of fifty (50) years shall contribute five percent (5%) of normal base salary (inclusive of assignment and Professional Development Pay).
2. Fire Management employees who have not attained the age of fifty (50) years shall contribute two percent (2%) of normal base salary (inclusive of assignment and Professional Development Pay).

## **RETIREMENT**

### **Public Employees' Retirement System (CalPERS)**

All employees covered under this Agreement shall be members of the State of California Public Employees' Retirement System (CalPERS) and are subject to all applicable provisions of the City's contract with CalPERS, as amended.

Retirement Formula - The CalPERS plan in effect for Safety Members hired before September 17, 2011, is the 3% @ 50 formula for Local Safety Members, based on single highest year. The CalPERS plan in effect for unit members hired as Classic safety employees on or after September 17, 2011, is the 2% @ 50 formula, (except as noted below in the section titled "New Employees") based on the three highest consecutive

years and shall not be eligible for the single highest year benefit.

Employee Contribution - Employees hired as “Classic” Local Safety Members under the CalPERS definition shall pay the entire nine percent (9%) CalPERS-mandated employee retirement contribution. Effective the first full payroll period commencing on or after July 1, 2017 “Classic” safety employees in the unit shall pay an additional three percent (3%) cost sharing contribution pursuant to Government Code Section 20516 for a total CalPERS contribution of twelve percent (12%).

New Employees or New Members - Pursuant to California Public Employees’ Pension Reform Act of 2013 (PEPRA), Local Safety Members in this unit who are “new employees” and/or “new members” as those terms are defined in Government Code Section 7522.04 hired on or after January 1, 2013, are enrolled in the 2.7% @ 57 Retirement Formula for Local Safety Members (Government Code Section 7522.25(d) Safety Option Plan Two) based on the three highest consecutive years and shall be ineligible for the single highest year benefit.

PEPRA Employee Contribution - Pursuant to PEPRA, “new employees” or “new members” hired on or after January 1, 2013, shall individually pay at least fifty percent (50%) of the total normal cost of pension as is determined each year by CalPERS to be the employee contribution rate. Effective the first full payroll period beginning on or after July 1, 2017 “new employees” or “new members” shall pay up to an additional three percent (3%) contribution pursuant to Government Code Section 20516 for a maximum contribution of twelve percent (12%). This cost sharing contribution shall be treated as normal member CalPERS contributions to the extent provided by statute. (PEPRA normal cost rate for 2019 is eleven and one quarter percent (11.25%) resulting in an increase CalPERS contribution of one and three quarters percent (1.75%) to equal a maximum total of twelve percent (12%).

1959 Survivor Benefit - The PERS Retirement Plan has been amended to include the Fourth Level 1959 Survivor Benefit. The employee shall pay one hundred percent (100%) of the monthly cost for this benefit, in addition to the \$2.00 monthly cost for the Basic Level 1959 Survivor Benefit.

Single Highest Year - All safety employees subject to the single highest year (one-year final compensation) benefit shall fund that benefit one hundred percent (100%), in the amount of 1.681% of CalPERS reportable “compensation earnable,” as it may from time to time exist. Said funding shall be by means of a payroll deduction.

Association members hired after July 1, 2011 shall not be eligible for the single highest year benefit.

Implementation of all of the above funding of the employee CalPERS contributions shall be accomplished by means of each affected employee incurring a payroll deduction each payroll period in the above amount(s). Said payroll deductions shall be on a pre-tax basis pursuant to IRS Code section 414 (h) (2).

## **Social Security**

In the event the City and its employees are required to participate in the Federal Social Security Program, the contributions designated by law to be the responsibility of the employee shall be paid in full by the employee and the City shall not be obligated to pay or "pick up" any portion thereof.

## **WELLNESS PROGRAM**

The City shall contribute a maximum of \$450 per fiscal year for each employee towards wellness and fitness programs for the employee, including any combination as provided hereinafter. Wellness expenses that are **not pre-approved** prior to incurring the expense may not be reimbursed. Pre-approval is not required for Body Scans and Chiropractic or Medical Care when all other requirements are met. For ongoing Cardiovascular & Strength Training programs, only one pre-approval is required per program, employees will not need to be pre-approved each year.

- A. Medical Examination - Wellness money may be used for voluntary medical examinations. The medical examination shall be conducted by a physician in active practice licensed by California State Law and within the scope of his/her practice as defined by California State Law. Employees are required to submit the cost of the medical examination through their medical insurance carrier prior to submitting a request for reimbursement from the City. An employee's request for reimbursement must be submitted to the Human Resources Manager, and must be accompanied by an itemized receipt for expenses incurred and the "Explanation of Benefits" (EOB) statement from his/her medical insurance carrier.

The Wellness Program does not reimburse for examinations or procedures for cosmetic or non-medically necessary services.

- B. Cardiovascular and Strength Training Programs - Employees shall be entitled to reimbursement for cardiovascular and weight training programs. Reimbursable expenses must be pre-approved by the Human Resources Manager prior to incurring the expense. All employee requests for reimbursement must be accompanied by an itemized receipt for expenses incurred showing the employee member's name and dates of the covered enrollment period. Reimbursement will be made for the current program year only. If the employee pays for more than one program year, they will receive reimbursement for the second program year 12 months after the first reimbursement.
- C. Preventive or Diagnostic Heart, Stroke, and Body Scanning - The City contribution shall be available for reimbursement for the costs of preventive and diagnostic medical evaluations involving scientific scanning processes and similar non-invasive techniques, which are not reimbursable under the employee's medical insurance

plan. Employees must provide an itemized receipt for expenses incurred and the "Explanation of Benefits" (EOB) statement from his/her medical insurance carrier (i.e., denial of benefits).

- D. Weight Reduction - The City contribution shall be available for reimbursement of registration and meeting expenses for weight reduction programs. All subsequent requests for reimbursement submitted to the Human Resources Manager must be accompanied by an itemized receipt for expenses incurred, as well as verification of continued participation/attendance.

Following are some examples of items that would and would not qualify for Cardiovascular & Strength Training Programs & Equipment. A more comprehensive list is available in Human Resources:

**Cardio/Strength Training Program Examples:  
Examples:**

**Cardio/Strength Training Equipment**

Qualified expenses

Non-qualified expenses

Qualified expenses

Non-qualified expenses

- Gym membership
- Martial arts classes
- Personal trainer
- Yoga classes

- Dance classes
- Pool memberships
- Sports leagues (Hockey, football, etc.)
- Wii Fit

- Exercise machines (treadmill, elliptical, stationary bike, etc)
- Weights, weight benches
- Punching bags

- Bicycles
- Equipment floor mats
- Yoga Mats
- Gym clothes and shoes
- Pedometer
- Equipment warranties
- Exercise DVDs

The Wellness Program does not reimburse for examinations or procedures for cosmetic or non-medically necessary Service.

**ARTICLE VII –PROFESSIONAL DEVELOPMENT AND TECHNOLOGY REIMBURSEMENT**

The Education Reimbursement program is designed to encourage employees to continue their self-development by enrolling in approved coursework that will educate them in new concepts and methods in their occupational field and prepare them to meet the changing demands of their job and/or help prepare them for advancement to positions of greater responsibility with the City.

**Eligibility**

In addition to training provided by the City, each employee shall be eligible for reimbursement for college level coursework as part of a degree program. Education reimbursement monies shall only be applied to the verified cost of tuition, registration, course-related books, parking and laboratory fees for the approved education program. In order to be eligible for education reimbursement for college coursework as described herein employees must have attended a college or university accredited by the Western

Association of Schools and Colleges (WASC) or an equivalent accrediting organization. Tuition shall not be granted for on-line attendance or other attendances at what are referred to as “degree mills.” For purposes of this MOU only, a “degree mill” is an organization that awards academic degrees and diplomas with substandard or no academic study and without recognition by official educational accrediting bodies. These degrees are often awarded based on vaguely construed life experience. Some such organizations claim accreditation by non- recognized/unapproved accrediting bodies set up for the purposes of providing a veneer of authenticity.

In order to be eligible for reimbursement, employees are required to submit a request for Education Reimbursement prior to scheduled program and obtain approval from the Human Resources Manager or his/her designee. Proof of completion of the approved college course work shall consist of a college transcript showing a letter grade of "C" or better, or in cases where no letter grade is given, a certificate of completion or written proof that the college course work was completed in a satisfactory manner. Upon completion of the approved program, requests for reimbursement must be submitted to the Human Resources Manager (or his/her designee) and must be accompanied by a receipt for all eligible expenses incurred.

**Reimbursement Schedule (Grandfathered Employees)**

Association members currently in progress of obtaining a degree under the terms and conditions of the April 1, 2017 – March 31, 2018 MOU shall be grandfathered in and continue with the reimbursement provisions contained in that MOU. For those employees grandfathered into ongoing degree programs, and not subject to the “*Successor Tuition Reimbursement Program*,” the amount of education reimbursement available shall be \$3,000, for the twelve (12) month period from September 1 through August 31. Eligibility for the \$3,000 education reimbursement portion is conditioned upon providing proof of the classes being credited by the educational institution towards the degree being sought and enrollment of the employee in the degree program. Only associate’s, bachelor’s, or master’s degree programs will be eligible for the full \$3,000 portion of the education reimbursement.

**Reimbursement Schedule (Successor Tuition Reimbursement Program)**

Effective July 1, 2019, the maximum lifetime amount of education reimbursement available to each non-grandfathered employee shall be \$12,000 for a bachelor’s degree and \$12,000 for master’s degree (or a total of \$24,000) obtainable on a reimbursable basis with proof of completion of the degree(s) and eligible expenses. If an employee has previously obtained a bachelor’s degree prior to employment with the City, then they shall be eligible to receive the lifetime maximum of \$24,000 for a master’s degree.

An employee may submit for a partial payment in January after the completion of 50% of the units required for the bachelor’s or master’s degree or with the attainment of an associates of arts degree. The maximum available for the partial payment shall be no more than \$5,000 based on reimbursement of eligible expenses. In January after completion of the bachelors’ degree or master’s degree, an employee may submit for

reimbursement of eligible expenses for an additional \$5,000. The employee may request reimbursement of the remaining \$2,000 for eligible expenses in the month of January a minimum of one year after completion of degree. If the request for reimbursement of the remaining amount exceeds \$5,000 for a master's degree under the lifetime maximum provision, then the final amount will be reimbursed at an amount not to exceed \$5,000 per year.

The amount of tuition reimbursement available annually for pre-approved professional development and certification courses to each employee shall be \$750 for the twelve (12) month period September 1, through August 31, in which the course(s) are completed and requests receive final approval by the Human Resources Manager. Up to \$250 of the annual \$750 may be used for reimbursement of technology items (computer-related hardware or software) pre-approved by the Human Resources Manager. Money used for professional development and certification courses or technology items will be deducted from the employee's total annual tuition reimbursement allocation.

Any Association employee who voluntarily elects to separate from the City shall be required to reimburse the City for all tuition reimbursements, except for technology items, received in the 24 months preceding such separation, at the rate of 1/24<sup>th</sup> for each full month he/she separates prior to 24 months.

### **Reimbursements from Other Sources**

If an employee receives tuition payments or refunds for college-level course work from other sources, the City will contribute the difference between the amount the employee receives from the other source and the authorized costs incurred by the employee to the maximum amount cited above.

## **ARTICLE VIII - OTHER PROVISIONS**

### **Substance Abuse Policy**

It is the responsibility of all affected employees to cooperate to protect the lives, personal safety and property of co-workers and fellow citizens. The parties hereto and all affected employees shall take all reasonable steps to accomplish these goals and to minimize potential dangers.

It is in the best interest of the City, the Association, employees and the public to ensure that employees do not appear for work under the influence of drugs or alcohol, or possess illegal substances or alcohol while at work, because such conduct is likely to result in reduced productivity, an unsafe working environment, poor morale and increased potential liability to the City. "Under the influence of drugs" means the knowing use of any legal or illegal intoxicating substances or knowing misuse of a prescribed or non-prescribed drug in a manner and to a degree that substantially impairs the employee's work performance or the ability to use City property or equipment safely.

The City pays for a counseling service for employees who have problems with drugs and/or alcohol. The City and the Association agree that every effort shall be made by the City to refer employees who have such problems to this counseling service for assistance.

The City shall, upon showing of reasonable suspicion that this policy is being violated, compel an employee who appears to be unable to perform any portion of his/her job to submit to a medical examination on City time and at the City's expense, which includes drug or alcohol screening. Refusal to submit to the test may be deemed insubordination and may subject the employee to discipline, up to and including termination. Nothing contained herein shall limit the City's right to discipline or discharge any employee.

The City shall provide training to employees and supervisors to assist them in detecting employees with possible drug or alcohol problems.

### **Use of Tobacco Products**

Employees shall not smoke or use any tobacco products at any time while on, or off, duty.

Violation of this Article may subject the employee to disciplinary action up to and including termination.

### **Firefighter Bill of Rights**

On and after January 1, 2008, the investigation and process for disciplinary actions against non-probationary Battalion Chiefs shall be consistent with the Brea Human Resources Rules and Regulations and Government Code Section 3250 et seq. (hereinafter referred to as the Firefighter Procedural Bill of Rights, or "FBOR"). In lieu of Brea's Rule X, an appeal from a disciplinary action shall be conducted as provided below.

1. A written notice of a disciplinary decision (or "accusation" as that term is used in GC 11500 et seq.), shall be provided to the non-probationary Battalion Chief at least forty-eight (48) hours before the effective date. The decision shall also include a copy of the employee's rights to appeal the decision within fifteen (15) calendar days, and copies of GC 11507.5, 11057.6, and 11507.7
2. Within fifteen (15) calendar days after delivery of a written notice of a disciplinary decision (or "accusation" as that term is used in GC 11500 et seq.), a non-probationary Battalion Chief may file an appeal by serving a written Notice of Defense (see below) to the Human Resources Manager. Failure to file such Notice of Defense within fifteen (15) calendar days, as determined by time-stamp upon receipt in the Human Resources Department office, shall be deemed a waiver of the employee's right to appeal under the FBOR and the Administrative Procedures Act (GC 11500 et seq.).

3. The Notice of Defense shall include the following:
  - a) A request for hearing;
  - b) The basis of the appeal, including objections to the accusation(s) or the form of the accusation(s);
  - c) Admission(s) to any part of the accusation(s);
  - d) The name, address and telephone number of any designated attorney or other party representing the employee in the appeal;
  - e) The signature of the employee and the date signed.
4. In the absence of any express admission or objection, the Notice of Defense shall be deemed a specific denial of all parts of the accusation.
5. Upon receipt of the Notice of Defense, the City will contact the California Office of Administrative Hearings to request assignment to an administrative law judge and the scheduling of an appeal hearing. Further notices regarding the hearing will be provided to the employee and such parties as the employee included in the Notice of Defense. The hearing shall be conducted by the administrative law judge in accordance with GC 11508 et seq.

## **ARTICLE IX – LABOR MANAGEMENT COMMITTEE**

The City agrees to work with the Association to establish a labor management committee to discuss issues of mutual concern as needed.

## **ARTICLE X - MOU CONTRACT PROVISIONS**

### **ENTIRE MEMORANDUM OF UNDERSTANDING**

It is the intent of the parties hereto that the provisions of this Memorandum of Understanding shall supersede all prior agreements and memoranda of agreement, or memoranda of understanding, or contrary salary and/or personnel resolutions or Administrative Codes, provisions of the City, oral or written, expressed or implied, between the parties, and shall govern the entire relationship, and shall be the sole source of any and all rights which may be asserted hereunder. This Memorandum of Understanding is not intended to conflict with Federal or State Law.



### FISCAL CRISIS PROVISION

The City and the bargaining unit will each have the right to request to reopen negotiations regarding other compensation and benefit modifications that may be necessary to offset budget revenue shortfalls or increased expenditures, and each party agrees to meet and confer in good faith prior to any modifications that impact the standing provisions of this MOU. The City reserves the right to determine if, when and where layoffs may occur, but will meet and confer regarding the impact of such layoffs on bargaining unit members.

### SEVERABILITY

Should any provision of this Memorandum of Understanding be found to be inoperative, void or invalid by a court of competent jurisdiction, all other provisions of this Memorandum of Understanding shall remain in full force and effect for the duration of this Memorandum of Understanding.

### TERM OF MEMORANDUM OF UNDERSTANDING

This agreement shall become effective April 1, 2018, and shall remain in full force and effect through March 31, 2020.

### RATIFICATION AND EXECUTION

The City and the Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until adopted by the City Council of the City of Brea. Subject to the foregoing, this Memorandum of Understanding is hereby executed by the authorized representatives of the City and the Association and entered into on this 17<sup>th</sup> day of September 2019.

#### CITY OF BREA

[Signature]  
Mayor

Dated: 9/18/19

[Signature]  
Attest: City Clerk

Dated: 9/19/19



#### FIRE MANAGEMENT ASSOCIATION

[Signature]  
President

Vice-President

Dated: 9.11.19.

# **EXHIBIT A**

Salary Tables Effective:

April 1, 2018 – July 12, 2019  
July 13, 2019 – March 31, 2020

## EXHIBIT A

### Salary Tables Effective 04/01/2018 – 07/12/2019

<b><u>JOB CLASS TITLE</u></b>	<b>(MONTHLY)</b>	
	<b><u>MINIMUM</u></b>	<b><u>MAXIMUM</u></b>
FIRE BATTALION CHIEF	\$9,731.24	\$12,458.38
FIRE DIVISION CHIEF (Battalion Chief assignment in accordance with the Special Assignment section of the MOU)	\$10,704.36	\$13,704.21
FIRE DEPUTY CHIEF (Battalion Chief assignment in accordance with the Special Assignment section of the MOU)	\$11,774.80	\$15,074.63

### Salary Tables Effective 07/13/2019 – 03/31/2020

<b><u>JOB CLASS TITLE</u></b>	<b>(MONTHLY)</b>	
	<b><u>MINIMUM</u></b>	<b><u>MAXIMUM</u></b>
FIRE BATTALION CHIEF	\$9,925.86	\$12,707.54
FIRE DIVISION CHIEF (Battalion Chief assignment in accordance with the Special Assignment section of the MOU)	\$10,918.44	\$13,978.29
FIRE DEPUTY CHIEF (Battalion Chief assignment in accordance with the Special Assignment section of the MOU)	\$12,010.28	\$15,376.11

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