

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
MORAGA-ORINDA FIRE PROTECTION DISTRICT  
AND  
UNITED PROFESSIONAL FIRE FIGHTERS of  
CONTRA COSTA COUNTY,  
I.A.F.F. LOCAL 1230, AFL-CIO**

**July 1, 2021 – June 30, 2024**



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## **INTRODUCTION AND DEFINITIONS**

The parties have jointly prepared this Memorandum of Understanding (MOU).

The Fire Chief is the representative of the Moraga-Orinda Fire Protection District Board of Directors.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in the bargaining unit and have freely exchanged information, opinions and proposals and have reached agreement on matters relating to the employment conditions and employer-employee relations covering such employees.

In the event provisions of this Memorandum of Understanding contradict any resolution, administrative bulletin or personnel rules of the Moraga-Orinda Fire Protection District, the terms of this Memorandum of Understanding shall prevail.

### **DEFINITIONS:**

- A. Classification: a group of positions sufficiently similar with respect to the duties and responsibilities that similar selection procedures and qualifications may apply and that the same descriptive title may be used to designate each position allocated to the group.
- B. Class Title: the designation given to a class, to each position allocated to the class, and to the employees allocated to the class.
- C. District: Moraga-Orinda Fire Protection District.
- D. Demotion: the change of a regular employee to another position in a class allocated to a salary range for which the top step is lower than the top step of the class which the employee formerly occupied.
- E. Fire Chief: the person designated by the Moraga-Orinda Fire Protection District Board of Directors as Fire Chief, or designee if the Chief is indisposed.
- F. Eligible: any person whose name is on an employment or reemployment or layoff list for a given class.
- G. Employee: a person who is an incumbent of a position or who is on leave of absence in accordance with provisions of this Memorandum of Understanding and whose position is held pending the employee's return.

- H. Employment List: a list of persons, who have been found qualified for employment in a specific class.
- I. Layoff List: a list of persons who have occupied positions allocated to a classification and who have been involuntarily separated by layoff or displacement; or demoted by displacement; or have voluntarily demoted in lieu of layoff or displacement.
- J. Personnel: the same as employee.
- K. Permanent Position: any position which has required, or which will require the services of an incumbent without interruption, for an indefinite period. The assigned duties and responsibilities calling for the regular full-time employment of a person.
- L. Promotion: the change of a regular employee to another position in a class allocated to a salary range for which the top step is higher than the top step of the class which the employee formerly occupied.
- M. Promotional List: A list of persons, who have been found qualified for promotion.
- N. Hire Date: first date of employment as an employee with the Fire District.
- O. Reclassification: the act of changing the allocation of a position by raising it to a higher class or reducing it to a lower class on the basis of significant changes in the kind, difficulty or responsibility of duties performed in such position.
- P. Resignation: the voluntary termination of regular employment with the District.
- Q. Union: United Professional Firefighters of Contra Costa County, International Association of Fire Fighters, Local 1230, A.F.L.-C.I.O.

## **SECTION 1 - RECOGNITION**

1.1 Union Recognition. The Union is the formally recognized and certified employee organization for the bargaining unit, which consists of the classifications listed below;

- Fire Captain
- Fire Captain/Paramedic
- Fire Captain/Paramedic II

- Engineer
- Engineer/Paramedic
- Engineer/Paramedic II
- Firefighter
- Firefighter/Paramedic
- Paramedic (single role)
- Firefighter/Paramedic Trainee

## **SECTION 2 - UNION MEMBERSHIP AND DUES DEDUCTION**

2.1 **Dues Deduction.** The Local is solely responsible for distributing to and collecting from employees, the dues deduction authorization forms. It is the employee's responsibility to submit requests to start or stop dues deductions directly to the Local and not to the District. The Local is responsible for maintaining the dues deduction forms from individual employees. Copies of an individual employee's dues deduction authorization need not be provided to the District unless a dispute arises about the existence or terms of the authorization. Questions regarding Local membership, dues amounts, and payroll deductions must be directed to the Local and not the District.

The Local will provide to the District an updated, certified dues deduction list of bargaining unit members on an annual basis, of those employees who have provided written authorization for regular dues deductions. The District will deduct dues for only those employees who are in the bargaining unit in accordance with such certified list. The Local will immediately notify the District of any change to an employee's dues deduction authorization, and will provide the District within five (5) business days of the Local being advised, an updated, certified dues deduction list only noting any specific changes from the last list provided to the District. The District shall not be obligated to put into effect any new, changed or discontinued deduction until a certified list of employees who have provided the Local with deduction authorization forms is submitted to the District in sufficient time to permit normal processing of the change or deduction. The District will transmit the balance of funds to the Local without delay.

The Local agrees to indemnify, defend and hold harmless the District against all claims, demands, suits or any other action, including costs of such suits and reasonable attorney's fees and/or other forms of liability arising from the implementation of the provisions of this section, including claims for or related to employee authorizations, revocations, deductions made, cancelled, or changed in reliance on the Local's representations and certifications regarding employee dues deduction authorizations.

2.2 **Communicating With Employees.** The Union shall be allowed to use designated portions of bulletin boards or display areas in public portions of District buildings or in public portions of offices in which there are employees

represented by the Union, provided the communications displayed have to do with official organization business such as times and places of meetings and further provided that the Union appropriately posts and removes the information. The Fire Chief reserves the right to remove objectionable materials.

Representatives of the Union, not on District time, shall be permitted to place a supply of employee literature at specific locations in District buildings if arranged through the Fire Chief; said representatives may distribute employee organization literature in areas designated by the Fire Chief if the nature of the literature and the proposed method of distribution are compatible with the work environment and work in progress.

Such placement and/or distribution shall not be performed by on-duty employees. The Union shall be allowed access to work locations in which it represents employees for the following purposes:

- A. to post literature on bulletin boards;
- B. to arrange for use of a meeting room;
- C. to leave and/or distribute a supply of literature as indicated above;
- D. to represent an employee on a grievance, and/or to contact a union officer on a matter within the scope or representation.

In the application of this provision, it is agreed and understood that in each such instance advance arrangements, including disclosure of which of the above purposes is the reason for the visit, will be made with the Fire Chief or designee(s) and the visit will not interfere with the District services.

2.3 Use of District Buildings. The Union shall be allowed the use of areas normally used for meeting purposes for meetings of District employees during non-work hours when:

- A. such space is available and its use by the Union is scheduled twenty-four (24) hours in advance;
- B. there is no additional cost to the District
- C. it does not interfere with normal District operations;
- D. employees in attendance are not on duty and are not scheduled for duty;
- E. the meetings are on matters within the scope or representation.

The administrative official responsible for the space shall establish and maintain scheduling of such uses. The Union shall maintain proper order at the meeting and see that the space is left in a clean and orderly condition. The use of District equipment (other than items normally used in the conduct of business meetings,

such as desks, chairs, and white boards) is strictly prohibited, even though it may be present in the meeting area.

**2.4 Advance Notice.** The Union shall, except in cases of emergency, have the right to reasonable notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope or representation proposed to be adopted by the Board, and to meet with the body considering the matter.

The listing of an item on a public agenda, or the mailing of a copy of a proposal at least seventy-two (72) hours before the item will be heard, or the delivery of a copy of the proposal at least twenty-four (24) hours before the item will be heard, shall constitute notice.

In cases of emergency when the Board, determines it must act immediately without such notice or meeting it shall give notice and opportunity to meet as soon as practical after its action.

**2.5 Assignment of Classes to Bargaining Units.** The Fire Chief shall assign new classifications in accordance with the following procedure:

- A. Initial Determination:** When a new class title is established, the Fire Chief shall review the composition of existing representation units to determine the appropriateness of including some or all of the employees in the new class in one or more existing representation units, and within a reasonable period of time shall notify all recognized employee organizations of the determination.
- B. Final Determination:** The Fire Chief's determination is final unless within ten (10) days after notification, the Union requests in writing to meet and confer thereon.
- C. Meet and Confer and other Steps:** The Fire Chief shall meet and confer with such requesting organizations (and with other recognized employee organizations where appropriate) to seek agreement on this matter within sixty (60) days after the ten-day period in subsection (B), unless otherwise mutually agreed.

**2.6 Written Statement for New Employees.** The District will provide a written statement to each new employee hired into a classification in the bargaining unit represented by the Union, that the employee's classification is represented by the Union and the name of a representative of the Union. The Union will provide the employee with a packet of information regarding the Union.



### **SECTION 3 - NO DISCRIMINATION**

There shall be no discrimination because of race, color, national origin, ancestry, age (to the extent prohibited by applicable State or Federal law), religion or creed (including religious dress and grooming practices), marital status, military service and/or veteran status, sex, sexual orientation, gender, gender identity, gender expression, pregnancy, childbirth and/or breastfeeding, medical conditions (including conditions related to pregnancy, childbirth or breastfeeding), genetic information, or any other characteristic protected by state or federal law or local ordinance against any employee or applicant for employment by the Union or the District. There shall be no discrimination against any person solely because of physical or mental disability (actual or perceived), including HIV & AIDS status, unless that disability prevents the person from meeting the minimum standards established for that position or from carrying out the duties of the position safely.

There shall be no discrimination because of Union membership or legitimate Union activity against any employee or applicant for employment.

The District and the Union recognize that the District has an obligation in accordance with the Americans with Disabilities Act (ADA) to reasonably accommodate disabled employees. If by reason of the aforesaid requirement the District contemplates actions to provide reasonable accommodation to an individual employee to comply with the ADA which are in conflict with any provision of this MOU, the Union will be advised of such proposed accommodation. Upon request, the District will meet and confer with the Union on the impact of such accommodation. If the District and the Union do not reach an agreement, the District may implement the accommodation without further negotiations. Nothing in this MOU shall preclude the District from taking actions necessary to comply with the requirements of the ADA or of any other State or Federal law governing discrimination, wages, or hours.

### **SECTION 4 - OFFICIAL REPRESENTATIVES**

4.1 Attendance at Meetings. Employees designated as official representatives of the Union shall be allowed to attend meetings held by Moraga-Orinda Fire Protection District during regular working hours on District time as follows:

- A. if their attendance is required by the Moraga-Orinda Fire Protection District at a specific meeting;
- B. if their attendance is sought by an Adjustment Board of Arbitration hearing body for presentation of testimony or other reasons;
- C. if their attendance is required for meeting required for settlement of grievances filed pursuant to Section 18 (Grievance Procedure) of

this Memorandum;

- D. if they are designated as an official representative, in which case they may utilize a reasonable time at each level of the proceedings to assist an employee to present a grievance;
- E. if they are designated as spokesperson or representative of the Union and as such make representations or presentations at meetings or hearings on wages, salaries and working conditions; provided in each case advance arrangements for time away from the employee's work station or assignment are made with the Battalion Chief. The Moraga-Orinda Fire Protection District is responsible for determining that the attendance of the particular employee(s) is required;
- F. if their attendance does not conflict with Fire District(s) emergency operations.

4.2 Union Representatives. Official representatives of the Union shall be allowed time off on District time for meetings during regular working hours when formally meeting and conferring in good faith or consulting with the Fire Chief or other management representatives on matters within the scope of representation, and that advance arrangements for the time away from the work station or assignment are made with the Battalion Chief and their attendance does not conflict with appropriate Fire District emergency operations.

## **SECTION 5 - SALARIES**

### **5.1 General Wage Increases.**

Effective on the dates indicated, all classifications covered by this MOU shall have their basic salary schedule adjusted as follows:

July 1, 2021	4.0% Across-the-Board Wage Increase
July 1, 2022	4.0% Across-the-Board Wage Increase
July 1, 2023	5.0% Across-the-Board Wage Increase

A fire retirement allotment (FRA) implemented through a 414 (h) 2 in the amount of 3.91% of base salary has been established. The employee shall pay 100% of the employee contribution toward retirement.

The regular rate of pay equals base monthly salary and fire retirement allotment.

5.2 Entrance Salary. New employees shall generally be appointed at the minimum step of the salary range established for the particular class of position to which the appointment is made. However, the Fire Chief may fill a particular position at a step above the minimum of the range.

5.3 Anniversary Dates. Anniversary dates will be set as follows:

- A. New Employees. The anniversary date of a new employee is the first day of the calendar month after the calendar month when the employee successfully completes six (6) months service provided however, if an employee began work on the first regularly scheduled workday of the month the anniversary date is the first day of the calendar month when the employee successfully completes six (6) months service.
- B. Promotions. The anniversary date of a promoted employee is determined as for a new employee in Subsection 5.3.A above.
- C. Reclassification. The anniversary date of an employee who is reclassified to another position or reclassified to a class allocated to the same salary range or to a salary range which is within five percent (5%) of the top step of the previous classification, remains unchanged.

5.4 Increments Within Range. The performance of each employee, except those of employees already at the maximum salary step of the appropriate salary range, shall be reviewed on the anniversary date as set forth in Section 5.3 to determine whether the salary of the employee shall be advanced to the next higher step in the salary range. Advancement shall be granted on the affirmative recommendation of the Fire Chief, based on satisfactory performance by the employee. The Fire Chief may recommend denial of the increment or denial subject to one additional review at some specified date before the next anniversary which must be set at the time the original report is returned.

Except as herein provided, increments within range shall not be granted more frequently than once a year, nor shall more than one (1) step within-range increment be granted at one time. In case the Fire Chief recommends denial of the within range increment on some particular anniversary date, but recommends a special salary review, the special salary review shall not affect the regular salary review on the next anniversary date.

Nothing herein shall be construed to make the granting of increments mandatory on the District. If the District verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to advance an

employee to the next salary step on the first of the month when eligible, said advancement shall be made retroactive to the first of the month when eligible.

5.5 Compensation for Portion of Month. Any employee who works less than any full calendar month, except when on earned vacation, authorized sick leave, or other authorized paid leave shall receive as compensation for services an amount which is in the same ratio to the established monthly rate as the number of days worked is to the actual working days in such employee's normal work schedule for the particular month.

5.6 Position Reclassification. An employee who is an incumbent of a position which is reclassified to a class which is allocated to the same range of the basic salary schedule as is the class of the position before it was reclassified, shall be paid at the same step of the range as the employee received under the previous classification. An incumbent of a position which is reclassified to a class which is allocated to a lower range of the basic salary schedule shall continue to receive the same salary as before the reclassification, but if such salary is greater than the maximum of the range of the class to which the position has been reclassified, the salary of the incumbent shall be reduced to a maximum salary for the new classification. The salary of an incumbent of a position which is reclassified to a class which is allocated to a range of the basic salary schedule greater than the range of the class of the position before it was reclassified shall be governed by the provisions of Section 5.7 Salary on Promotion.

5.7 Salary on Promotion. Any employee who is appointed to a position of a classification allocated to a higher salary range than the class previously occupied shall receive the salary in the new salary range which is next higher than the rate received before the promotion.

In the event this increase is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is at least five percent (5%) greater than the next higher step; provided however that the next step shall not exceed the maximum salary for the higher class.

In the event of the appointment of a laid off employee from the layoff list to the class from which the employee was laid off, the employee shall be appointed at the step which the employee had formerly attained in that class unless such step results in a decrease in which case the employee is appointed to the next higher step. If, however, the employee is being appointed into a class allocated to a higher salary range than the class from which the employee was laid off, the salary will be calculated from the highest step the employee achieved prior to layoff, or from the employee's current step, whichever is higher.

5.8 Salary on Involuntary Demotion. Any employee who is demoted, shall have their salary reduced to the top step monthly salary for the classification to which the employee has been demoted. In the event this decrease is less than five

percent (5%), the employee's salary shall be adjusted to the step in the new range which is five percent (5%) less than the next lower step; provided, however, that the next step shall not be less than the minimum salary of the lower class.

Whenever the demotion is the result of layoff, cancellation of positions, or displacement by another employee with greater seniority rights, the salary of the demoted employee shall be that step on the salary range which the employee would have achieved had the employee been continuously in the position to which the employee had been demoted, all within-range increments having been granted.

5.9 Salary on Voluntary Demotion. Whenever any employee voluntarily demotes to a position in a class having a salary schedule lower than that of the class from which the employee demotes, the employee's salary shall remain the same if the steps in the employee's new (demoted) salary range permit, and if not, the new salary shall be set at the step next below former salary.

5.10 Acting in a Higher Class. When it is required to meet operational needs that an employee perform a majority of the essential duties of a position in a higher classification, payment for such out-of-classification work shall be five percent (5%) above the base rate of the employee.

Eligibility to receive out of class compensation for working in a higher classification shall be subject to the following conditions:

- a. The assignment to work out of class must be made by the Fire Chief or his/her designee.
- b. Employees receiving out of class compensation must be qualified to perform in the higher classification.

Due to the fact that employees who work in an out of class position have been thoroughly tested and certified by the District, they are qualified to serve in that position. Said employees will be eligible to receive out of class compensation upon being assigned to perform in such position. All hours assigned and worked in the higher classification shall be paid in accordance with this section. Such assignments will not be made as alternatives to District promotions.

5.11 Payment. On the tenth (10th) day of each month, the District will draw a warrant in favor of each employee for the amount of salary due to the employee for the preceding month; provided, however, that each employee (except those paid on an hourly rate) may choose to receive an advance on the employee's monthly salary, in which case the District shall, on the twenty-fifth (25th) day of each month, draw a warrant in favor of such employee. The advance shall be in an amount equal to one-third (1/3) or less at the option of the employee, of the

employee's base salary of the previous month except that it shall not exceed the amount of the previous month's base salary less all requested or required deductions.

In the case of an election made pursuant to this Section 5.11 all required or requested deductions from salary shall be taken from the second installment, which is payable on the tenth (10th) day of the following month.

5.12 Pay Warrants. Employee pay warrants shall be delivered to a work place designated by the District by 8:00 a.m. on the 10th and 25th of each month. Should the 10th or 25th of the month fall on Saturday, Sunday, or a holiday, pay warrants will be delivered by 8:00 a.m. on the preceding Moraga-Orinda Fire Protection District workday.

5.13 Pay Warrant Errors. If an employee receives a pay warrant which has an error in the amount of compensation to be received and if this error occurred as a result of a mistake by the District that the error will be corrected and a new warrant issued within forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays from the time the District is made aware of and verifies that the pay warrant is in error. Overpayments will be handled on a case by case basis.

5.14 Ambulance Premium Pay. Members assigned to Medic 41 and Engine/Medic 45 will receive a stipend equal to 5% of the current 5<sup>th</sup> step Firefighter/ Paramedic pay for each 24-hour shift, or a pro rata share per shift as applicable. This premium shall only be paid for hours actually worked on the designated apparatus by the employee and shall not apply if the employee is off work for any reason. At no time will more than five members receive the ambulance stipend for the same period. This section is specific to stipend pay and will not be construed as limiting the operational deployment of MOFD fire apparatus and ambulances.

## **SECTION 6 - OVERTIME**

6.1 Overtime. Overtime is authorized time worked outside the normal work schedule. Overtime shall be compensated for at the rate of one and one-half (1 1/2) times the employee's regular rate of pay.

Overtime for permanent employees is earned and credited in a minimum of one-sixth hour increments.

6.2 Overtime Recall List. The District and the Union have agreed to specialized lists to be used when recalling for strike teams, emergency recall, daily minimum staffing and mandatory overtime.

## **SECTION 7 - EMERGENCY RECALL**

Employees called back for work performed outside their regular work schedule shall be compensated at the rate of one and one-half (1-1/2) times their regular hourly rate for time actually worked with a minimum of four (4) hours pay. This four (4) hours minimum does not apply if the employee is not actually called back and does not actually report to work, or when an employee is called back and reports to work less than four (4) hours before the beginning of the employee's regular shift.

### **SECTION 8 - UNION NOTIFICATION**

When it appears to the Fire Chief that the District may take action which will result in the layoff of employees in the unit represented by the Union, the Chief shall notify the Union of the possibility of such layoffs and shall meet and confer with it regarding the implementation of the action.

The District agrees to give employees fourteen (14) calendar days' notice of layoff except in case of emergency.

### **SECTION 9 - HOLIDAYS**

9.1 The District will observe the following holidays:

- A. January 1st, known as New Year's Day  
Third Monday in January, known as Dr. Martin Luther King Jr. Day  
Third Monday in February, known as Presidents Day  
February 12th, known as Lincoln's Birthday  
The last Monday in May, known as Memorial Day  
July 4th, known as Independence Day  
First Monday in September, known as Labor Day  
September 9th, known as Admission Day  
Second Monday in October, known as Columbus Day  
November 11th, known as Veteran's Day  
Fourth Thursday in November, known as Thanksgiving Day  
The Friday after Thanksgiving Day  
December 25th, known as Christmas Day

Such other days as the Board of Directors may by resolution designate as holidays.

- B. Shift employees (56 hours per week) shall receive twelve (12) hours of overtime credit for each holiday listed in Section (A) above.

## **SECTION 10 - VACATION LEAVE**

10.1 Vacation Leave. The rates at which employees accrue vacation credits and the maximum accumulations thereof are as follows:

### 56 Hour Shift Employees

<u>Length of Service</u>	<u>Monthly Accrual Hours</u>	<u>Maximum Cumulative Hours</u>
Under 10 years of completed service	14	336
11- 20 years completed service	19	456
21 - 25 years completed service	24	576
26 - 29 years completed service	28	672
30 years completed service	33	792

## **SECTION 11 - SICK LEAVE**

11.1 Twenty-four (24) hour shift personnel shall accrue sick leave at the rate of twelve (12) hours per month.

11.2 Permanent Disability Benefit Accrual Utilization. Permanent disability means an employee suffers from a disabling physical injury or illness and is thereby prevented from engaging in any District occupation for which the employee is qualified by reason of education, training or experience. Accruals may be used by permanently disabled employees until all accruals of the employee have been exhausted or until the employee is retired by the Retirement Board, subject to the following conditions:

- A. an application for retirement for disability has been filed with the Retirement Board;
- B. satisfactory medical evidence of such disability is received by the Fire Chief within thirty (30) days of the start of use of sick leave for permanent disability;
- C. the Fire Chief may review medical evidence and order further examinations as deemed necessary, and may terminate use of sick leave when such further examination demonstrates that the employee is not disabled, or when the Fire Chief determines that the medical evidence submitted by the employee is insufficient, or when the above conditions have not been met.

11.3 Definition of Immediate Family for this Section 11 "Immediate Family" means and includes only the spouse, son, stepson, daughter, stepdaughter, father, stepfather, mother, stepmother, brother, sister, grandparent, grandchild,



niece, nephew, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, foster children, aunt, uncle, cousin, stepbrother, stepsister, or domestic partner of an employee and/or includes any other person for whom the employee is the legal guardian or conservator, or any person who is claimed as a "dependent" for IRS reporting purposes by the employee.

11.4 Prearranged Medical Appointments. Employees who wish to use sick leave accruals for prearranged doctor or dentist appointments shall notify their appropriate supervisor of the appointment twenty-four (24) hours prior to the beginning of the shift during which the appointment is scheduled.

11.5 Legal Adoption of a Child. Paid sick leave accruals may be used by an employee upon adoption of a child.

11.6 Death of Family Member. An employee may use paid sick leave accruals for working time used because of a death in the employee's immediate family or of the employee's domestic partner, but this shall not exceed three (3) working days, plus up to two (2) days of work time for necessary travel. Use of additional accruals other than sick leave may be authorized in conjunction with the bereavement leave at the discretion of the Fire Chief.

## **SECTION 12 - LEAVE OF ABSENCE**

*The parties agree to update leaves language by mutual agreement to ensure that leave benefits are fully updated to include the most recent changes in the law. Language shall remain status quo unless and until the parties agree to make changes.*

12.1 Leave Without Pay. Any employee who has permanent status may be granted a leave of absence without pay upon written request, approved by the Fire Chief; provided, however, that leaves for pregnancy, pregnancy disability, serious health conditions, and family care shall be granted in accordance with applicable state and federal law.

12.2 General Administration - Leaves of Absence. Requests for leave without pay shall be made upon forms prescribed by the District and shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return.

- A. Leave without pay may be granted pursuant to applicable Federal and State laws or for any of the following reasons:
  - 1. Illness or disability;
  - 2. pregnancy;
  - 3. parental;
  - 4. to take a course of study such as will increase the employee's usefulness on return to the position;

5. for other reasons or circumstances acceptable to the Fire Chief.

- B. An employee must request family care leave at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable. If the need is not foreseeable, the employee must provide written notice to the employer within five (5) days of learning of the event by which the need for family care leave arises.
- C. Leave without pay may be for a period not to exceed one (1) year, the Fire Chief may extend such leave for additional periods. The procedure in granting extensions shall be the same as that in granting the original leave, provided that the request for extension must be made not later than thirty (30) calendar days before the expiration of the original leave.
- D. Nevertheless, a leave of absence for the employee's serious health condition or for family care shall be granted to an employee who so requests it for up to eighteen (18) weeks in each calendar year period in accordance with Section 13.5 below.
- E. Whenever an employee who has been granted a leave without any pay desires to return before the expiration of such leave, the employee shall submit a request to the Fire Chief in writing at least fifteen (15) days in advance of the proposed return. Early return is subject to prior approval by the Fire Chief.
- F. Except in the case of leave pursuant to Federal and State laws, the decision of the Fire Chief on granting or denying a leave or early return from leave shall not be subject to appeal through the grievance procedure set forth in this MOU.

12.3 Military Leave. Employees shall be granted a leave of absence for military leave, in accordance with all applicable federal and state laws, and MOFD Board resolution 03-04.

12.4 Family Care Leave or Medical Leave. During the term of this Memorandum of Understanding, the District agrees to comply with the provisions of the Federal Family and Medical Leave Act and the California Family Rights Act ("Acts") as those Acts may be amended from time to time. Upon request to the Fire Chief, in each calendar year any employee who has regular status shall be entitled to at least twelve (12) weeks leave (less if so requested by the employee) for:

- A. medical leave of absence for the employee's own serious health condition which makes the employee unable to perform the functions of the employee's position; or

- B. family care leave of absence without pay for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious illness or health condition of a child, parent, spouse, or domestic partner of the employee.

12.5 Certification. The employee may be asked to provide certification of the need for family care leave or medical leave. Additional period(s) of family care or medical leave may be granted by the Fire Chief.

12.6 Intermittent Use of Leave. The twelve (12) week entitlement may be in broken periods, intermittently on a regular or irregular basis, or may include reduced work schedules depending on the specific circumstances and situations surrounding the request for leave. The twelve (12) weeks may include use of appropriate available paid leave accruals when accruals are used to maintain pay status, but use of such accruals is not required beyond that specified in Section 12.9 below. When paid leave accruals are used for a medical or family care leave, such time shall be counted as a part of the twelve (12) week entitlement.

12.7 Definitions. For medical and family care leaves of absence under this section, the following definitions apply:

- A. Child: A biological, adopted, or foster child, stepchild, legal guardian, conservator or a child who is under eighteen (18) years of age for whom an employee stands in, or for whom the employee is the guardian or conservator, or an adult dependent child of the employee.
- B. Parent: A biological, foster, or adoptive parent, a step-parent, legal guardian, conservator, or other person standing in loco parentis to a child.
- C. Spouse: A partner in marriage as defined in California Family Code Sections 300 *et seq.*
- D. Domestic Partner: An unmarried person, eighteen (18) years or older, to whom the employee is not related and with whom the employee resides and shares the common necessities of life as defined in Cal. Family Code Section 297 (*et. seq.*).
- E. Serious Health Condition: An illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of treatment or supervision and involves either inpatient care in a hospital, hospice or residential health care facility or continuing treatment or continuing

supervision by a health care provider (e.g. physician or surgeon) as defined by state and federal law.

F. Certification for Family Care Leave: A written communication to the employer from a health care provider of a person for whose care the leave is being taken which need not identify the serious health condition involved, but shall contain:

1. the date, if known, on which the serious health condition commenced;
2. the probable duration of the condition;
3. an estimate of the amount of time which the employee needs to render care or supervision;
4. a statement that the serious health condition warrants the participation of a family member to provide care during period of treatment or supervision;
5. if for intermittent leave or a reduced work schedule leave, the certification should indicate that the intermittent leave or reduced leave schedule is necessary for the care of the individual or will assist in their recovery, and its expected duration.

G. Certification for Family Medical Leave: A written communication from a health care provider of an employee with a serious health condition or illness to the employer, which need not identify the serious health condition involved, but shall contain:

1. the date, if known, on which the serious health condition commenced;
2. the probable duration of the condition;
3. a statement that the employee is unable to perform the functions of the employee's job;
4. if for intermittent leave or a reduced work schedule leave, the certification should indicate the medical necessity for the intermittent leave or reduced leave schedule and its expected duration.

12.8 Group Health Plan Coverage. Employees who were members of one of the group health plans prior to commencement of their leave of absence can maintain their health plan coverage with the District contribution by maintaining their employment in pay status as described in Section 13.11. During the twelve (12) weeks of an approved medical or family care leave under Section 13.4 above, the District will continue its contribution for such health plan coverage even if accruals are not available for use to maintain pay status as required under Section 13.11. In order to maintain such coverage, employees are required to pay timely, the full employee contribution to maintain their group health plan coverage, either through payroll deduction or by paying the Moraga-Orinda Fire Protection District directly.

12.9 Leave Without Pay - Use of Accruals.

- A. All Leaves of Absence. During the first twelve (12) month period of any leave of absence without pay, an employee may elect to maintain pay status each month by using available sick leave (if so entitled under Section 11 - Sick Leave), vacation, floating holiday, compensatory time off or other accruals or entitlements; in other words, during the first twelve (12) months, a leave of absence without pay may be "broken" into segments and accruals used on a monthly basis at the employee's discretion. After the first twelve (12) months, the leave period may not be "broken" into segments and accruals may not be used, except when required by LTD Benefit Coordination or Sick Leave Integration or in the sections below.
- B. Family Care or Medical Leave. During the twelve (12) weeks of an approved medical or family care leave, if a portion of that leave will be on a leave of absence without pay, the employee will be *required* to use *at least* 0.1 hour of sick leave (if so entitled under Section 11 - Sick Leave), vacation, or other accruals or entitlements if such are available, although use of additional accruals is permitted under subsection A.

12.10 Leave of Absence Replacement and Reinstatement. Any permanent employee who requests reinstatement to the classification held by the employee at the time the employee was granted a leave of absence, shall be reinstated to a position in that classification, and then only on the basis of seniority. In case of severance from service by reason of the reinstatement of a permanent employee the District will follow the layoff and rehire process outlined in the side letter regarding layoffs.

12.11 Salary Review While on Leave of Absence. The salary of an employee who is on leave of absence from a Moraga-Orinda Fire Protection District position on any anniversary date and who has not been absent from the position

on leave without pay more than six (6) months during the preceding year, shall be reviewed on the anniversary date. Employees on military leave shall receive salary increments that may accrue to them during the period of military leave.

12.12 Unauthorized Absence. An unauthorized absence from the work site or failure to report for duty after a leave request has been disapproved, revoked, or canceled by the Fire Chief, or at the expiration of a leave, shall be without pay. Such absence may also be grounds for disciplinary action.

**SECTION 13 - MEDICAL AND DENTAL CARE**

13.1 Medical

Effective in the first full pay period of July 2021, the District’s monthly medical contribution will be set at the PERS minimum contribution level (currently \$143/month and as subsequently adjusted by PERS and/or statute). The District’s maximum further obligation for medical related expenses shall be the difference between the PERS minimum health contribution and the following:

Employee Only	\$798
Employee +1	\$1,595
Employee + 2 or more	\$2073

The difference will be placed in a “Premium Expense Account” of the IRS Section 125 Flexible Benefits Plan of Moraga-Orinda Fire District. The “Premium Expense Account” allows participants to use tax-free dollars above the minimum contribution level to pay for health care premiums under the various insurance programs offered by the District above. (See Flexible Benefits Plan Document and Summary Plan Description for full details.) Thus, the District’s obligation with respect to District contributions that may be used toward medical premiums is capped as set forth in this section. The District assumes no responsibility regarding the tax consequence of any benefit provided under this MOU.

13.2 Dental Program. The District’s maximum obligation toward dental premiums for employees shall be the following:

Employee Only	\$51.20/month
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Employee +1	\$90.12/month
Employee +2 or more	\$136.35/month

The District's maximum obligation toward dental premiums for retirees shall be the following:

Employee Only	\$46.68/month
Employee +1	\$81.00/month
Employee +2 or more	\$116.98/month

13.3 PERS Long Term Care. The District will deduct and remit monthly premium and eligible lists to the PERS Long Term Care Administrator, at no employee cost, for District employees who are eligible and voluntarily elect to purchase long term care through the PERS Long Term Care Program.

13.4 Health Care Spending Account. The District will offer permanent employees the option to participate in a Health Care Spending Account (HCSA) Program designated to qualify for tax savings under Section 125 of the Internal Revenue Code, but such savings are not guaranteed. The HCSA Program allows employees to set aside a pre-determined amount of money from their paycheck, not to exceed the legal limit per year, for health care expenses not reimbursed by any other health benefits plan with before tax dollars. HCSA dollars can be expended on any eligible medical expenses allowed by Internal Revenue Code Section 125. Carryover of unused balances at the end of the Plan Year shall be in accordance with Internal Revenue Service Notice 2013-71 and the terms of the Flexible Benefit Plan documents.

### 13.5 Retiree Medical Coverage

13.5.1 Employees hired prior to April 15, 2014 will receive retiree medical insurance contributions from the District when retiring with CCCERA in an amount equal to the PERS minimum medical insurance contribution level (currently \$143/month and as subsequently adjusted by PERS and/or statute), and an additional amount for a total District contribution obligation of:

Employee Only	\$458.42
Employee +1	\$916.82
Employee + 2 or more	\$1,191.87

13.5.2 Employees hired on or after April 16, 2014 will receive retiree medical insurance coverage when retiring with CCCERA in an amount equal to the PERS minimum health insurance contribution as set forth by PERS and/or applicable statute.

13.5.3 Retiree medical coverage is subject to PERS rules and regulations and applicable law.



13.6 Life Insurance. The District shall purchase a life insurance benefit for each employee in the bargaining unit providing for \$50,000 coverage. Employees have the option to purchase, at their expense by payroll deduction, up to an additional \$50,000 of life insurance upon initial enrollment to the plan (date of hire) without evidence of insurability.

## **SECTION 14 - PROBATIONARY PERIOD**

14.1 Probation. All appointments from officially promulgated employment lists for original entrance or promotion shall be subject to a probationary period.

14.2 Classifications with Probationary Periods. Listed below are those classifications represented by the Union and their probation periods subject to MOU Section 14.4 below.

- Fire Captain - one (1) year
- Fire Captain/Paramedic - one (1) year
- Fire Captain/Paramedic II – one (1) year
- Engineer - one (1) year
- Engineer/Paramedic - one (1) year
- Engineer/Paramedic II – one (1) year
- Firefighter – eighteen (18) months
- Firefighter/Paramedic - eighteen (18) months
- Paramedic (single role) – eighteen (18) months
- Firefighter/Paramedic Trainee – all time spent in the class of Firefighter/Paramedic Trainee shall be deemed probationary.

14.3 Classes with Changed Probationary Periods. When the probationary period for a class is changed, only new appointees to positions in the classification shall be subject to the revised probationary period.

### **14.4 Probationary Period Time.**

14.4.1.1. The probationary period shall date from the time of appointment. It shall not include time served under provisional appointment or under appointment to limited term positions or any period of continuous leave of absence without pay or period of work connected disability exceeding fifteen (15) calendar days. Time spent as a Firefighter/Paramedic Trainee by an employee who is subsequently promoted to the classification of Firefighter or Firefighter/Paramedic shall be credited towards the applicable probationary period for that employee in the Firefighter or Firefighter/Paramedic classification.

14.4.1.2. Irrespective of the stated duration of the probationary periods as referenced in section 14.2 above, no probationary period shall be deemed

completed until the probationary employee has completed a minimum of the following number of shifts:

One-year probationary period: 100 shifts

18-month probationary period: 160 shifts

**14.5 Rejection During Probation.** An employee who is rejected during the probation period and restored to the eligible list shall begin a new probationary period if subsequently certified and appointed.

- A.** Appeal from rejection. Notwithstanding any other provisions of this section, an employee (probationer) shall have the right to appeal from any rejection during the probationary period based on religion or creed (including religious dress and grooming practices), marital status, military service or veteran status, union membership or activities, race, color, national origin, ancestry, sexual orientation, sex or gender (including pregnancy, childbirth, or breastfeeding), gender identity, gender expression, age (to the extent prohibited by applicable State or Federal law), actual or perceived physical or mental disability (including HIV and AIDS status), medical conditions, or genetic information.
- B.** The appeal must be written, must be signed by the employee and set forth the grounds and the facts by which it is claimed that grounds for appeal exist under subsection (A) and must be filed with the Fire Chief by 5:00 p.m. on the 7th calendar day after the date of delivery to the employee of notice of rejection.
- C.** The Fire Chief shall consider the appeal, and if the Chief finds probable cause to believe that the rejection may have been based on grounds prohibited in subsection (A) the Chief may refer the matter to the MOFPD Board of Directors for hearing recommend findings of fact, conclusions of law and decision pursuant to the relevant provisions of the documents of the MOFPD rules in which proceedings the rejected probationer has the burden of proof.
- D.** If the Fire Chief finds no probable cause for a hearing, the Chief shall deny the appeal. If, after hearing, the Fire Chief upholds the appeal, the appellant shall complete only the remainder of the probation period unless the Fire Chief specifically orders that the appellant begin a new probation period.

**14.6 Permanent Appointment.**

The permanent appointment of a probationary employee shall begin on the day

following the end of the probationary period, subject to the condition that the Fire Chief receive from the appropriate Battalion Chief a statement in writing that the services of the employee during the probationary period were satisfactory and that the employee is recommended for permanent appointment. A new employee on probation may be rejected at any time during the probation period without regard to the Skelly provisions of this Memorandum of Understanding, without notice and without right of appeal or hearing. A probationary employee may be rejected from the service within a reasonable time after the probation period for failure to pass probation. If the Fire Chief fails to submit in a timely manner the proper written documents certifying that a probationary employee has served in a satisfactory, the permanent appointment shall begin on the day following the end of the probationary period.

Notwithstanding any other provisions of this Memorandum of Understanding, an employee rejected during the probation period from a position to which the employee had been promoted from an eligible list, shall be restored to a position in the District from which the employee was promoted. An employee dismissed for other than disciplinary reasons within six (6) months after being promoted from a position to a position not included in the bargaining unit shall be restored to a position in the classification in the District from which the employee was promoted. A probationary employee who has been rejected or has resigned during probation shall not be restored to the eligible list from which the employee was certified unless the employee receives the affirmative recommendation from the Fire Chief whose decision is final.

14.7 Layoff During Probation. An employee who is laid off during probation, if reemployed in the same class by the District, shall be required to complete only the balance of the required probation.

## **SECTION 15 - PROMOTION**

15.1 Promotion. Promotion shall be by competitive examination unless otherwise provided in this Memorandum of Understanding.

15.2 Promotion Policy. The Fire Chief shall determine whether an examination is to be called on a promotional basis. In making this decision, the Chief will consider the timelines established within the Career Development Guide.

15.3 Requirements for Promotional Standing. In order to qualify for an examination called on a promotional basis, an employee must have probationary or permanent status in the system and must possess the minimum qualifications for the class. Applicants will be admitted to promotional examinations only if the requirements are met on or before the final filing date. If an employee who is qualified on a promotional employment list is separated from District service, except by layoff, the employee's name shall be removed from the promotional list.

15.4 Seniority Credits. Employees who have qualified to take promotional examinations and who have earned a total score, not including seniority credits, of seventy percent (70%) or more, shall receive, in addition to all other credits, five one-hundredths of one percent (.05) for each completed month of service as a District employee continuously preceding the final date for filing application for said examination. For purposes of seniority credits, leaves of absence shall be considered as service. Seniority credits shall be included in the final percentage score from which the rank on the promotional list is determined. No employee, however, shall receive more than a total of five percent (5%) credit for seniority in any promotional examination.

## **SECTION 16 - RESIGNATIONS**

An employee's voluntary termination of service is a resignation. Written resignations shall be forwarded to the Board of Directors by the Fire Chief immediately on receipt and shall indicate the effective date of termination. Oral resignation shall be immediately confirmed by the Fire Chief in writing to the employee and to the Board of Directors and shall indicate the effective date of termination.

16.1 Resignation in Good Standing. A resignation giving the Fire Chief written notice at least two (2) weeks in advance of the last date of service (unless the Fire Chief requires a longer period of notice, or consents to the employee's terminating on shorter notice) is a resignation in good standing.

16.2 Constructive Resignation. A constructive resignation occurs and is effective when:

- A. An employee has been absent from duty for four consecutive shifts without leave; and
- B. Four consecutive shifts have elapsed without response by the employee after the mailing of a notice of resignation by the Fire Chief to the employee at the employee's last known address.

16.3 Effective Resignation. A resignation is effective when delivered or spoken to the Fire Chief, operative either on that date or another date specified.

16.4 Revocation. A resignation that is effective is revocable only by written concurrence of the employee and the Fire Chief.

## **SECTION 17 - DISMISSAL, SUSPENSION, DEMOTION AND REDUCTION IN SALARY**

17.1 Cause for Dismissal, Suspension, Demotion and Reduction in Salary. The

Fire Chief may dismiss, suspend, demote, or reduce in salary any employee for cause. Reduction in salary shall not exceed five percent (5%) of the employee's base salary for a period of more than sixty (60) consecutive calendar days. The following are sufficient causes for such action; the list is indicative rather than inclusive of restrictions and dismissal, suspension, demotion or reduction in salary may be based on reasons other than those specifically mentioned:

1. absence without leave;
2. conviction of any criminal act involving moral turpitude;
3. conduct tending to bring the District into disrepute;
4. disorderly or immoral conduct;
5. incompetence or inefficiency;
6. insubordination;
7. being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs or consuming or using liquor or drugs during work hours and/or on District premises;
8. neglect of duty, i.e., non-performance of reasonably assigned responsibilities;
9. negligent or willful damage to public property or waste of public supplies or equipment;
10. violation of any lawful or reasonable regulation or order given by a supervisor or Fire Chief;
11. willful violation of any of the provisions or regulations of the District
12. material and intentional misrepresentation or concealment of any fact in connection with obtaining employment;
13. misappropriation of District funds or property;
14. unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by this Memorandum of Understanding;
15. dishonesty or theft;
16. excessive or unexcused absenteeism and/or tardiness;
17. sexual harassment including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, interfering with an individual's work performance, or creating an intimidating, hostile or an offensive working environment.

17.2 Skelly Requirements. Before taking a disciplinary action to dismiss, suspend for more than five (5) work days (48 hours for employees on a 56-hour

workweek) or demote an employee, the Fire Chief shall cause to be served personally or by certified mail on the employee, a Notice of Proposed Action, which shall contain the following:

- A. A statement of the action proposed to be taken.
- B. A copy of the charges; including the acts or omissions and grounds upon which the action is based.
- C. If it is claimed that the employee has violated a rule or regulation of the Moraga-Orinda Fire Protection District, a copy of said rule shall be included with the notice.
- D. A statement that the employee may review and request copies of materials upon which the proposed action is based.
- E. A statement that the employee has seven (7) calendar days to respond to the Fire Chief either orally or in writing.

17.3 Employee Response. The employee upon whom a Notice of Proposed Action has been served shall have seven (7) calendar days to respond to the Fire Chief either orally or in writing before the proposed action may be taken. Upon request of the employee and for good cause, the Fire Chief may extend in writing the period to respond. If the employee's response is not filed within seven (7) calendar days or during any mutually agreed to extension, the right to respond is lost.

17.4 Leave Pending Employee Response. Pending response to a Notice of Proposed Action within the first seven (7) calendar days or extension thereof, the Fire Chief for cause specified in writing may place the employee on temporary leave of absence with pay.

17.5 Suspensions Without Pay. Shall not exceed thirty (30) consecutive days, and/or for this purpose ten (10) 24-hour work shifts unless ordered by an arbitrator, or an adjustment board. The thirty (30) consecutive day limit does not apply to suspension due to pending criminal charges as provided in 17.6 below.

17.6 Notice of Suspension Without Pay Due to Pending Criminal Charges. Before suspending an employee due to pending criminal charges, the Fire Chief shall cause to be served either personally or by certified mail on the employee, a Notice of Suspension Due to Pending Criminal Charges, which shall contain the following:

- A. A statement that the employee is suspended while criminal charges are pending or until the charges are dismissed.

- B. A statement of the charges upon which the suspension is based and of the facts by which such charges adversely affect the District service or conflict with continued employment.
- C. A statement that the employee may respond to the Fire Chief either orally or in writing within seven (7) calendar days.
- D. A statement that disciplinary action may be taken after disposition of the charges.
- E. The Notice of Suspension Due to Pending Criminal Charges may include a Notice of Proposed Action (Skelly Notice) under Section 17.2.
- F. The Fire Chief, upon giving notice as provided in this Section 17, may immediately suspend without pay an employee against whom there is pending a criminal charge which adversely affects the District service or conflicts with continued employment. Pending criminal charges exist when an employee has been arrested or has been named a defendant in a criminal complaint or indictment filed in any court.
- G. The Fire Chief may order lost pay restored for good cause, and subject to the employee's duty to mitigate damages, but not if the employee 1) is given a notice of Proposed Action (Skelly Notice) and 2) is dismissed or otherwise disciplined for cause directly related to the charges within fourteen (14) calendar days after the Fire Chief has knowledge of final disposition of the charges.

17.7 Procedure on Dismissal, Suspension or Disciplinary Demotion.

- A. In any disciplinary action to dismiss, suspend, or demote an employee having regular status in a position in the system, after having complied with the Skelly requirements where applicable, the Fire Chief shall make an order in writing stating specifically the causes for the action.
- B. Service of Order. Said order of dismissal, suspension, or demotion shall be filed with the Board of Directors showing by whom and the date a copy was served upon the employee to be dismissed, suspended or demoted, either personally or by certified mail to the employee's last known mailing address. The order shall be effective either upon personal service or deposit in the U.S. Postal Service.
- C. Employee Appeals from Order. The employee may appeal an order of dismissal, suspension or demotion either to the Board of

Directors or through Section 18 Grievance Procedure of this Memorandum of Understanding provided that such appeal is filed in writing with the Fire Chief within ten (10) calendar days after service of said order. An employee may not both appeal to the Board of Directors and file a grievance under Section 18 of this Memorandum of Understanding.

### **SECTION 18 - GRIEVANCE PROCEDURE**

18.1 Grievance Procedure. A grievance is any dispute which involves the interpretation or application of any provision of this Memorandum of Understanding (excluding, however, those provisions of this Memorandum of Understanding which specifically provide that the decision of any Moraga-Orinda Fire Protection District official shall be final, the interpretation or application of those provisions not being subject to the grievance procedure) or disciplinary actions. The Union may represent the employee at any stage of the process. Grievances must be filed within fifteen (15) calendar days of the incident or occurrence about which the employee claims to have a grievance and shall be processed in the following manner.

- A. Step 1. Any employee or group of employees who believes a provision of this Memorandum of Understanding has been misinterpreted or misapplied to the employee's detriment shall discuss the complaint on an informal basis with the employee's appropriate chief officer who shall meet with the employee and respond to the grievance within five (5) duty shifts of a request to hold such a meeting.
- B. Step 2. If a grievance is not satisfactorily resolved in Step 1 above, the employee may submit the grievance in writing within five (5) calendar days to the Battalion Chief in charge of Personnel, other than the chief officer who participated in Step 1 above, as the Fire Chief may designate. This formal written grievance shall state which provision of the Memorandum of Understanding has been misinterpreted or misapplied, how the misinterpretation or misapplication has affected the employee to the employee's detriment, and the redress the employee seeks. A copy of each written communication on a grievance shall be filed with the Fire Chief. The designated management official shall have ten (10) calendar days in which to respond to the grievance in writing.
- C. Step 3. If a grievance is not satisfactorily resolved in Step 2 above, the employee may appeal in writing within five (5) calendar days to the Fire Chief. The Fire Chief or designee shall have fifteen (15) calendar days in which to investigate the of the complaint and to meet with the Fire Chief or designee and the employee to attempt to settle the grievance and to respond in writing to the employee



and the employee's Union representative.

- D. Step 4. No grievance may be processed under this Section which has not first been filed and investigated in accordance with Step 3 above and filed within five (5) calendar days of the written response of the Fire Chief or designee. If the parties are unable to reach a mutually satisfactory accord on any grievance which arises and is presented during the term of this Memorandum of Understanding, such grievance shall be submitted in writing within five (5) calendar days to the Fire Chief requesting that the grievance be submitted to an Adjustment Board. Such Adjustment Board is to be comprised of three (3) union representatives, no more than one (1) of whom shall be either an employee of the District or a member of the Union presenting this grievance, and three (3) representatives of the District, no more than one (1) of whom shall be a Moraga-Orinda Fire Protection District employee or a member of the staff of an organization employed to represent the District in the meeting and conferring process. The Adjustment Board shall meet and render a decision within fifteen (15) calendar days of receipt of a written request.
- E. Step 5. If an Adjustment Board is unable to arrive at a majority decision, either the employee or the Moraga-Orinda Fire Protection District, (when alleging a violation of Section 18.6 below) may require the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the employee and the Fire Chief, provided that grievances alleging violation of Section 3 (No Discrimination) are not subject to arbitration under this provision. Such request shall be submitted within ten (10) calendar days of the rendering of the Adjustment Board decision to the Fire Chief (or the designated representative of the Union when the Moraga-Orinda Fire Protection District is alleging a violation of Section 18.6 below). Within thirty (30) calendar days of the request for arbitration, the parties shall mutually select an arbitrator. The fees and expenses of the arbitrator and of the Court Reporter shall be shared equally by the employee and the Moraga-Orinda Fire Protection District. Each party, however, shall bear the costs of its own presentation, including preparation and post-hearing briefs, if any.

#### 18.2 Scope of Adjustment Board and Arbitration Decisions.

- A. Decisions of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the parties hereto, to the extent permitted by law.

- B. No Adjustment Board and no arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union which has been certified as the recognized employee organization for such unit and unless such dispute falls within the definition of a grievance as set forth in Section 18.1 above.
- C. Proposals to add to or change this Memorandum of Understanding or to change written agreements supplementary hereto shall not be arbitrable and no proposal to modify, amend, or terminate this Memorandum of Understanding nor any matter or subject arising out of or in connection with such proposals, may be referred to arbitration under this Section. Neither any Adjustment Board nor any arbitrator shall have the power to amend or modify this Memorandum of Understanding or written agreements supplementary hereto or to establish any new terms or conditions of employment.
- D. If the Fire Chief in pursuance of the procedures outlined in Section 18.1C above, or the Adjustment Board in pursuance of the provisions of Section 18.1D above, resolve a grievance which involves suspension or discharge, they may agree to payment for lost time or to reinstatement with or without payment for lost time; but, in the event that the grievance is carried to arbitration and such employee is found to have been properly discharged under the provisions of Section 18, such employee may not be ordered reinstated and no penalty may be assessed upon the Moraga-Orinda Fire Protection District.

18.3 Clarification on Time Limits of the Grievance Procedure. The time limits and steps specified above may be waived by mutual agreement of the parties to the grievance. If the District fails to meet the time limits specified in Steps 1 through 3 above, the grievance will automatically move to the next step. If a grievant fails to meet the time limits specified in Steps 1 through 5 above, the grievance will be deemed to have been settled and withdrawn.

18.4 Representation Outside of Union. An official, with whom a formal grievance is filed by a grievant who is included in a unit represented by the Union, but is not represented by the Union in the grievance, shall give the Union a copy of the formal presentation.

18.5 Compensation Complaints. All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Fire Chief. Only complaints which allege that employees are not being compensated in accordance with the provisions of this Memorandum of Understanding shall be considered as grievances. Any other matters of compensation are to be resolved

in the meet and confer process, if not detailed in the Memorandum of Understanding which results from such a meet and confer process, shall be deemed withdrawn until the meet-and-confer process is next opened for such discussion. No adjustments shall be retroactive for more than six (6) months from the date upon which the complaint was filed. No change in this Memorandum of Understanding or interpretations thereof (except interpretations resulting from Adjustment Board or arbitration proceedings hereunder) will be recognized unless agreed to by the District and the Union.

18.6 No Strike. During the term of this Memorandum of Understanding, the Union, its members and representatives, agree that it and they will not engage in, authorize, sanction or support any strike, slowdown, refusal to perform customary duties, stoppage of work or sick-out against the District.

In the case of a legally declared lawful strike against a private or public sector employer which has been sanctioned and approved by the labor body or council having jurisdiction, an employee who is in danger of physical harm shall not be required to cross the picket line, provided the employee advises the employee's supervisor as soon as possible, and provided further that an employee may be required to cross a picket line where the performance of the employee's duties is of an emergency nature (defined as Code Two and Three response) and/or failure to perform such duties might cause or aggravate a danger to public health or safety.

18.7 Grievance Filing. The Union may file a grievance at Step 3 on behalf of affected employees when action by the Moraga-Orinda Fire Protection District violates a provision of this Memorandum of Understanding.

18.8 Letter of Reprimand. Letters of reprimand shall be served personally or by certified mail on the affected employee. A copy of the letter of reprimand shall be placed in the employee's official personnel file maintained by the District under the auspices of the Battalion Chief in charge of Personnel. Letters of reprimand not issued by the Fire Chief are subject to a review by the Fire Chief at the employee's request.

## **SECTION 19 - RETIREMENT CONTRIBUTION**

Employees shall be responsible for payment, pursuant to the 414(h)2 plan implemented on July 1, 2000, of one hundred percent (100%) of the employee share of retirement contributions as determined by the Board of Retirement of the Contra Costa County Employees' Retirement Association, without the Moraga-Orinda Fire Protection District paying any part of the employee's share.

Employees participating in the 3% at 50 retirement formula benefit implemented July 1, 2002 shall also pay an additional nine percent (9%) towards the employer share of retirement contributions. The Moraga Orinda Fire Protection District

shall pay the full employers share of retirement cost for employees participating in PEPRA retirement formula benefits.

Retiree Health Savings Account: The District shall contribute \$100 per month towards an RHSA for all active bargaining unit members. This shall be effective in the first full pay period following the selection and implementation of that plan.

## **SECTION 20 - SAFETY**

The District shall expend every effort to see to it that the work performed under the terms and conditions of this Memorandum of Understanding is performed with maximum degree of safety consistent with the requirement to conduct efficient operations. Employees represented by Local 1230 shall actively and regularly participate on the District's Safety Committee.

## **SECTION 21 - MILEAGE**

Reimbursement for Use of Personal Vehicle. The mileage allowance for use of personal vehicles on Moraga-Orinda Fire Protection District business shall be paid according to the rates allowed by the Internal Revenue Service and shall be adjusted to reflect changes in this rate on the date it becomes effective or the first of the month following announcement of the changed rate by the Internal Revenue Service, whichever is later.

## **SECTION 22 - UNIFORM ALLOWANCE**

The monthly uniform allowance for all employees in represented classes for which a uniform is required shall be \$55/monthly. Effective immediately upon approval of this MOU the District will discontinue reimbursement to employees for the purchase of exercise shoes.

## **SECTION 23 - CERTIFICATION REQUIREMENTS**

1. Incumbents of the classifications of Firefighter, Engineer, Fire Captain, shall, at all times, possess current certifications appropriate for practice in Moraga-Orinda Fire Protection District. Basic Life Support, Emergency Medical Technician-1, and Hazardous Materials First Responder Operations shall be maintained as condition of employment.
2. Incumbents of the classification of Firefighter-Paramedic, Engineer-Paramedic I, Engineer-Paramedic II and Fire Captain-Paramedic I, Captain-Paramedic II shall, at all times, possess current certification appropriate for practice in Moraga-Orinda Fire Protection District in Emergency Medical Technician-Paramedic and Hazardous Materials First Responder as a condition of employment. Incumbents of the classification of Paramedic shall, at all times, possess current certification appropriate for practice in Moraga-Orinda Fire Protection District in Emergency Medical Technician-Paramedic and Hazardous Materials First Responder Awareness as a condition of employment.

3. The District will provide maintenance training to incumbent employees to  
MOFD - IAFF Local 1230 MOU (7/1/21 – 6/30/24)

comply with the requirements of Sections 1 and 2 above.

4. Employees appointed into any of the foregoing classifications (excepting between these classifications) shall obtain these certifications within six (6) months of appointment as a condition of employment. The District will provide initial certification training to these employees.
5. The foregoing certifications shall be included in minimum qualifications for the foregoing job classifications.

#### **SECTION 24 - MINIMUM STAFFING**

The present minimum staffing level ("Safety" personnel consisting of Firefighters, Engineers, and Captains working a shift schedule) is 17.

Through attrition, the District may reduce the number of safety personnel assigned to a shift schedule. Should the District reduce the number of safety personnel to 53, the District may hire six (6) Single-Role Paramedics (SRPMs) to staff District ambulances with on-duty minimum staffing of two (2) SRPMs per shift.

Should the District reduce the number of safety personnel to 47, the District may modify the minimum staffing for safety personnel to fifteen (15) and the District may hire an additional six (6) SRPMs for a total of twelve (12) SRPMs with on-duty minimum staffing of SRPMs of four (4) per shift.

Overtime shall remain rank-for-rank (per existing practice) for all positions with persons within the applicable classification with first right to overtime shifts. In the case of a Board declared fiscal emergency, and a request from the District, Local 1230 would be required to meet and confer regarding potential changes to the provisions of this Section 24.

Fire Captain/Paramedic II's and Engineer/Paramedic II's will always have a primary paramedic assigned to their respective companies. The only exception will be in rare instances when staffing shortages require Fire Captain/Paramedic II's and Engineer/Paramedic II's to act as primary paramedics for no more than four hours.

#### **SECTION 25 - EMPLOYEE REPRESENTATION RIGHTS**

The District recognizes an employee's right to representation who believes that during any disciplinary interview or meeting which may result in discipline the employee may ask for Union representation. The District will not interfere with the representative's right to assist an employee to clarify the facts during the interview.

## **SECTION 26 - SERVICE AWARDS**

The District shall continue its present policy with respect to service awards provided, however, that the type of award given shall be at the sole discretion of the Moraga-Orinda Fire Protection District.

## **SECTION 27 - DEFINITION (For Service Awards and Vacation Accruals)**

The length of service credits of each employee of the Moraga-Orinda Fire Protection District/District shall date from the beginning of the last period of continuous Moraga-Orinda Fire Protection District/District employment (including temporary, provisional, and regular status, and absences on approved leave of absence). When an employee separates from a regular position in good standing and within two (2) years is reemployed in a regular Moraga-Orinda Fire Protection District/District position or is reemployed in a regular Moraga-Orinda Fire Protection District/District position from a layoff list within the period of layoff eligibility, service credits shall include all credits accumulated at time of separation but shall not include the period of separation. The Fire Chief shall determine these matters based on the employee's service within the District.

## **SECTION 28 - ADOPTION**

The provisions of this Memorandum of Understanding shall be made applicable on the dates indicated and upon approval by the Board of Directors Resolutions and/or Ordinances, where necessary, shall be prepared and adopted in order to implement these provisions. It is understood that where it is determined that a Resolution is required to implement any of the foregoing provisions, said provisions shall become effective upon the first day of the month following thirty (30) days after such Resolution is adopted.

## **SECTION 29 - SCOPE OF AGREEMENT & SEPARABILITY OF PROVISIONS**

29.1 Scope of Agreement. Except as otherwise specifically provided herein, this Memorandum of Understanding represents the full and complete incorporation of those proposals which were considered and evaluated pursuant to the meet and confer process. This Memorandum of Understanding constitutes the entire and sole agreement between the Parties on any and all matters which were presented during the meet and confer process. If a proposal was made by either Party and not incorporated within this Agreement, then it was considered and rejected.

29.2 Separability of Provisions. Should any section, clause or provision of this Memorandum of Understanding be rendered or declared illegal, unlawful or unenforceable, by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect

for the duration of this Memorandum of Understanding.

Where a specific provision contained in District Policy conflicts with a specific provision of the MOU, the provision of the MOU shall prevail.

29.3 Duration of Agreement. This Agreement shall continue in full force and effect from July 1, 2018 to and including, June 30, 2021.

29.4 The parties agree to meet no later than six months prior to the expiration of this Memorandum of Understanding to negotiate the ground rules for negotiations for the new Memorandum of Understanding. The parties agree to commence negotiations no later than four months prior to the expiration of this Memorandum of Understanding.

### **SECTION 30 - MANAGEMENT RIGHTS**

All District rights and functions, except those that are expressly abridged by this Memorandum of Understanding, shall remain vested with the District.

Except to the extent that the rights, powers and authority of the District are specifically limited by the provisions of the Memorandum of Understanding, the District retains all rights, power and authority granted to it or which it has pursuant to the law, and the District shall not be required to meet and confer with respect to the exercise of such rights, powers and authority reserved herein.

### **SECTION 31 - PAST PRACTICES & EXISTING MEMORANDA OF UNDERSTANDING**

Continuance of working conditions and past practices within the scope of representation not specifically authorized by ordinance or by resolution of the Board of Directors is not guaranteed by this Memorandum of Understanding.

### **SECTION 32 - SINGLE ROLE PARAMEDIC JOB CLASSIFICATION**

Employees in the classification of "Single-Role Paramedic" (SRPM) shall have a five-step salary range in accordance with the salary schedule and shall participate in the retirement formula applicable to non-safety personnel (2.0% at 62 formula for "new members" as defined by PEPRA and administered by CCCERA). All other fringe benefits and accrual rates shall be the same as for other bargaining unit employees.

The District and Local 1230 agree to meet and confer regarding the operational impacts of integrating the SRPM classification into the District workforce.



### **SECTION 33 - LAYOFF PROCEDURES**

**GROUND(S) FOR LAYOFF.** Any employee(s) having permanent status in position(s) in the District service may be laid off when the position is no longer necessary, or for reasons of economy, lack of work, lack of funds or for such other reason(s) as the Board of Directors deems sufficient for abolishing the position(s).

**NOTICE.** The District will give employees scheduled for layoff at least ten (10) work days' notice prior to their last day of employment, or fourteen (14) calendar days' notice for employees on a work schedule other than 5-40 per week.

**ORDER OF LAYOFF.** The order of layoff in the District shall be based on inverse seniority with the District the employee in the District with least seniority being laid off first and so on.

#### **LAYOFF BY DISPLACEMENT.**

(a) **In the Same Class.** A laid-off permanent full-time employee may displace an employee in the District having less seniority' in 'the same' class, the least senior employee being displaced first.

(b) **In the Same Level or Lower Class.** A laid-off or displaced employee who had achieved permanent status in a class at the same or lower salary level as determined by the salary schedule in effect at the time of layoff may displace within the department and in the class an employee having less seniority; the least senior employee being displaced first, and so on with senior displaced employees displacing junior employees.

**SENIORITY.** An employee's seniority within a class for layoff and displacement purposes shall be determined by adding the employee's length of service in the particular class in question to the employee's length of service in other classes at the same or higher salary levels as determined by the salary schedule in effect at the time of layoff. Service for layoff and displacement purposes includes only the employee's last continuous permanent District employment. Periods of separation may not be bridged to extend such service unless separation is a result of layoff in which case bridging will be authorized if the employee is reemployed in a permanent position within the period of the employee's layoff eligibility. Approved leaves of absence as provided for in these rules and regulations shall not constitute a period of separation. In the event of ties in seniority rights in the particular class in question, such ties shall be broken by length of last continuous permanent District employment. If there remain ties in seniority rights, such ties shall be broken by counting total time in the department in permanent employment. Any remaining ties shall be broken by random selection among the employees involved.

APPEAL FROM LAYOFF. In the event of layoff, employees with permanent status may appeal the application of layoff rules as they relate to the establishment of and certification from layoff and reemployment lists to the District's Board of Directors. Appeals must be filed in writing with the Fire Chief within seven (7) calendar days after the public posting of a layoff or reemployment list, or mailing of a layoff or reemployment notice, and must state the specific reasons for the appeal and the remedy sought. This 'provision shall not be construed to provide for employee appeals of management rights to identify the classes of layoff, number of positions to be reduced or the effective date of the layoffs.

SECTION 34 - 48/96 WORK SCHEDULE

34.1. Personnel working a shift/24-hour schedule shall work a 48/96 shift schedule. The 48/96 shift schedule is a three-platoon system in which employees work two consecutive twenty-four hour shifts for a total of forty-eight hours and have ninety-six consecutive hours off. A typical work period is as follows: X= work day, and 0 =day off: XX0000XX0000XX0000 and so on.

34.2. Employees working a 48/96 shift schedule shall average 56 hours per week and 2, 912 hours per year.

34.3. Overtime will be compensated in accordance with this MOU,

34.4. Shift Bid: During the year after a shift and station bid takes effect, the first four days of the new shift and station bid assignments will be worked in accordance with the following schedule: XOXO

34.5. The 7(k) FLSA work period shall be twenty-four (24) days with an FLSA hours worked threshold of 182 hours per 24 day FLSA work period. Employees working a 48/96 shift schedule shall receive an amount equal to 1/2 times the regular rate for 10 hours (the hours from 182 to 192) that are part of these employees' regular schedule, regardless of whether or not these employees did in fact work all 192 regularly scheduled hours in the 24 day FLSA work period.

34.7. District employees assigned to a 40-hour work schedule are not affected by this agreement.

For Local 1230

By: Larry Menth 11/6/2021  
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Larry Menth  
Labor Negotiator

For Moraga Orinda Fire District

By: Donna Williamson 11/8/2021  
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Donna Williamson  
Labor Negotiator

DocuSigned by:  
By: Vince Wells 11/6/2021  
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Vince Wells  
President

DocuSigned by:  
By: David Winnacker 11/8/2021  
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David Winnacker  
Fire Chief

DocuSigned by:  
By: Gloriann Sasser 11/8/2021  
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Gloriann Sasser  
Administrative  
Services Director

# APPENDICES



**MORAGA ORINDA FIRE DISTRICT  
SALARY SCHEDULE - MONTHLY  
I.A.F.F. LOCAL 1230  
EFFECTIVE JULY 1, 2021**

CLASSIFICATION	STEP	BASE SALARY	FIRE RETIREMENT ALLOTMENT	TOTAL BASE SALARY	HOURLY RATE	OVERTIME RATE	FLSA PAY PER FLSA PERIOD	HOLIDAY PAY PER HOLIDAY	UNIFORM PAY	HOURLY AMBULANCE STIPEND	HOURLY UPGRADE ACTING PAY
FIRE CAPTAIN/ PARAMEDIC I	5	\$13,119	\$513	\$13,632	\$56.18	\$84.27	\$280.90	\$1,011.24	\$55	\$2.27	\$2.81
	4	12,493	489	12,982	53.50	80.25	267.50	963.00	55	2.27	2.68
	3	11,899	466	12,365	50.95	76.43	254.80	917.16	55	2.27	2.55
	2	11,331	444	11,775	48.52	72.78	242.60	873.36	55	2.27	2.43
	1	10,794	423	11,217	46.22	69.33	231.10	831.96	55	2.27	2.32
FIRE CAPTAIN/ PARAMEDIC II	5	12,525	490	13,015	53.63	80.45	268.20	965.40	55	2.27	2.69
	4	11,929	467	12,396	51.08	76.62	255.40	919.44	55	2.27	2.56
	3	11,361	445	11,806	48.65	72.98	243.30	875.76	55	2.27	2.44
	2	10,825	424	11,249	46.36	69.54	231.80	834.48	55	2.27	2.32
	1	10,308	404	10,712	44.14	66.21	220.70	794.52	55	2.27	2.21
FIRE CAPTAIN	5	11,929	467	12,396	51.08	76.62	255.40	919.44	55	2.27	2.56
	4	11,360	445	11,805	48.65	72.98	243.30	875.76	55	2.27	2.44
	3	10,822	424	11,246	46.34	69.51	231.70	834.12	55	2.27	2.32
	2	10,308	404	10,712	44.14	66.21	220.70	794.52	55	2.27	2.21
	1	9,817	384	10,201	42.04	63.06	210.20	756.72	55	2.27	2.11
ENGINEER/ PARAMEDIC I	5	11,637	456	12,093	49.83	74.75	249.20	897.00	55	2.27	2.50
	4	11,084	434	11,518	47.46	71.19	237.30	854.28	55	2.27	2.38
	3	10,555	413	10,968	45.20	67.80	226.00	813.60	55	2.27	2.26
	2	10,054	394	10,448	43.05	64.58	215.30	774.96	55	2.27	2.16
	1	9,578	375	9,953	41.01	61.52	205.10	738.24	55	2.27	2.06
ENGINEER/ PARAMEDIC II	5	11,111	435	11,546	47.58	71.37	237.90	856.44	55	2.27	2.38
	4	10,582	414	10,996	45.31	67.97	226.60	815.64	55	2.27	2.27
	3	10,078	395	10,473	43.16	64.74	215.80	776.88	55	2.27	2.16
	2	9,598	376	9,974	41.10	61.65	205.50	739.80	55	2.27	2.06
	1	9,143	358	9,501	39.15	58.73	195.80	704.76	55	2.27	1.96
ENGINEER	5	10,582	414	10,996	45.31	67.97	226.60	815.64	55	2.27	2.27
	4	10,078	395	10,473	43.16	64.74	215.80	776.88	55	2.27	2.16
	3	9,598	376	9,974	41.10	61.65	205.50	739.80	55	2.27	2.06
	2	9,143	358	9,501	39.15	58.73	195.80	704.76	55	2.27	1.96
	1	8,706	341	9,047	37.28	55.92	186.40	671.04	55	2.27	1.87
FIREFIGHTER/ PARAMEDIC	5	10,562	413	10,975	45.23	67.85	226.20	814.20	55	2.27	2.27
	4	10,059	394	10,453	43.07	64.61	215.40	775.32	55	2.27	2.16
	3	9,583	375	9,958	41.04	61.56	205.20	738.72	55	2.27	2.06
	2	9,124	357	9,481	39.07	58.61	195.40	703.32	55	2.27	1.96
	1	8,690	340	9,030	37.21	55.82	186.10	669.84	55	2.27	1.87
FIREFIGHTER	5	9,605	376	9,981	41.13	61.70	205.70	740.40	55	2.27	2.06
	4	9,148	358	9,506	39.17	58.76	195.90	705.12	55	2.27	1.96
	3	8,716	341	9,057	37.32	55.98	186.60	671.76	55	2.27	1.87
	2	8,299	325	8,624	35.54	53.31	177.70	639.72	55	2.27	1.78
	1	7,903	310	8,213	33.84	50.76	169.20	609.12	55	2.27	1.70
PARAMEDIC	5	7,056	276	7,332	30.21	45.32	151.10	543.84	55	2.27	
	4	6,811	267	7,078	29.17	43.76	145.90	525.12	55	2.27	
	3	6,486	254	6,740	27.77	41.66	138.90	499.92	55	2.27	
	2	6,177	242	6,419	26.45	39.68	132.30	476.16	55	2.27	
	1	5,885	231	6,116	25.20	37.80	126.00	453.60	55	2.27	
FIREFIGHTER/ PARAMEDIC TRAINEE	1	8,690	340	9,030	37.21	55.82			55		