

Agreement No. 2011-045

City Council Approved: 7-25-11

**CITY OF SAN BUENAVENTURA  
AND  
VENTURA FIRE MANAGEMENT ASSOCIATION  
(VFMA)**

**MEMORANDUM OF UNDERSTANDING**

**January 1, 2011 – December 31, 2013  
(with an option to extend to June 30, 2014)**

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**MEMORANDUM OF UNDERSTANDING**  
**CITY OF SAN BUENAVENTURA**  
**VENTURA FIRE MANAGEMENT ASSOCIATION**  
**(VFMA)**

This Memorandum of Understanding is entered into between the City of San Buenaventura, California (hereinafter "City"), and the duly authorized representatives of the Ventura Fire Management Association (hereinafter "Association"), an employee organization formally recognized by the City to represent employees in the Fire Management Unit (hereinafter "Unit") comprising the classes of Assistant Fire Chief and Fire Battalion Chief. This Memorandum of Understanding covers the period from January 1, 2011 – December 31, 2013, with an option for the Association to extend the term as set forth in Article 26 – Term of Agreement.

**ARTICLE 1 - RATIFICATION**

It is agreed that this Memorandum of Understanding is of no force or effect until duly ratified by the membership of the Association and approved by the City Council of the City of San Buenaventura. Each party shall use its best effort to cause such ratification and approval to occur. Following approval by the City Council, the terms of this agreement shall be implemented by appropriate ordinance, resolution, or other official action.

**ARTICLE 2 - SAVINGS CLAUSE**

If any section, subsection, subdivision, sentence, clause or phrase of this Memorandum of Understanding is for any reason held to be illegal or unconstitutional, such decision shall not affect the validity of the remaining portions of this Memorandum of Understanding. If such should lessen or increase the compensation of employees, at the request of either party, the City and the Association shall meet and confer to endeavor to agree to a replacement provision.

**ARTICLE 3 - SCOPE OF AGREEMENT**

Subjects within the scope of representation applicable to employees covered by this agreement contained in City Council ordinances, resolutions, or regulations will not be changed without giving the Association the opportunity to meet and confer over the change.

**ARTICLE 4 - CITY RIGHTS**

- A. The Association recognizes that the City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its municipal services and work force performing those services in all respects subject to this Memorandum.
- B. The City Manager and Fire Chief have and will continue to retain exclusive decision-making authority over matters not officially and expressly modified by specific provisions of this Memorandum, and such decision-making shall not be in any way, directly or indirectly, subject to the grievance procedure contained in the City Personnel Rules & Regulations.

- C. The exclusive rights of the City shall include, but not be limited to, the right to determine the organization of City government and the purpose and mission of its constituent departments; to set standards of service to be offered to the public, and, through its management officials, to exercise control and discretion over its organization and operations, to establish and effect administrative regulations consistent with law and the specific provisions of this Memorandum, to direct its employees, to take disciplinary action consistent with due process requirements, to relieve its employees from duty because of lack of work or for other legitimate reasons, to determine whether goods or services shall be made, purchased or contracted for, to determine the methods, means and personnel by which the City's services are to be provided, including the right to schedule and assign work and overtime; and to otherwise act in the interest of efficient service to the citizens of the City.

#### **ARTICLE 5 - ASSOCIATION RIGHTS**

Except as otherwise provided in this Memorandum of Understanding, the Association retains, whether exercised or not, any and all rights it has under its charter and the laws of the State of California and the United States of America.

#### **ARTICLE 6 - NO STRIKES NO LOCKOUTS**

Association agrees that it shall not condone, counsel or participate in a strike, work stoppage or slow-down, "sick-in," refusal to perform work, or other "job actions," nor picketing in support of the taking of such actions; and the City agrees that it will engage in no lockouts.

#### **ARTICLE 7 – APPOINTMENT**

"At will" employment status shall apply to the class of Assistant Fire Chief only. An Assistant Fire Chief subject to an "at will" dismissal shall retain the right to return to the Battalion Chief position except under a disciplinary process for cause. The Fire Chief retains the exclusive right to at any time return an Assistant Fire Chief to the rank of Battalion Chief solely at the Fire Chief's discretion.

#### **ARTICLE 8 - SALARY**

- A. There shall be a pay differential of twenty-eight percent (28%) between Fire Captain top step base-salary (F Step) and Fire Battalion Chief top step base-salary. Effective January 10, 2009 the 3% Fire Captain Emergency Medical Technician-Defibrillator (EMT-D) specialty pay is to be included in the Fire Captain base-salary differential calculation for the purposes of this Article only (F Step + 3%). There shall be a pay differential of twenty percent (20%) between Fire Battalion Chief top step base-salary and Assistant Fire Chief top step base-salary. Refer to Article 9.B "Overtime and Relief Coverage" and Article 15.C "Retirement - Employee-Paid Employee Contribution", for additional salary setting considerations relative to this Article.
- B. Any future increases to the top step of the Fire Captain classification (as defined in Section A above) shall be provided to the Fire Battalion Chief and Assistant Fire Chief salary ranges on the same date as received by the Fire Captain to maintain fixed differentials as outlined below. Any increases to the top step of Fire Captain range shall require the City to adjust the Fire Battalion Chief range to maintain a differential of 28.0% between the Fire Captain

top step base salary and Fire Battalion Chief top step base salary. The top step base salary of the Assistant Fire Chief salary range shall be set at 20% above the top step base salary for Fire Battalion Chief.

- C. The Fire Chief shall have the authority to set individual salaries within the ranges for employees at his/her discretion. An employee shall be eligible to reach the top of the range if the employee meets the performance expectations of the Fire Chief. Salary increases are not automatic, but the Fire Chief shall have the discretion to grant increases to individual incumbents at any time the range is modified by any increases to the VCFA salary schedule.

#### **ARTICLE 9 - OVERTIME AND RELIEF COVERAGE**

- A. Except as provided below, Fire Battalion Chiefs shall be compensated for overtime at time and one-half for shifts worked beyond those regularly scheduled as part of the 56-hour work week cycle and for overtime hours worked related to emergency incident operations. Subject to the evaluation and approval of the Fire Chief, Assistant Fire Chiefs shall be eligible to earn overtime compensation in those instances where department protocols related to emergency response require their performance of duties other than during regular scheduled hours of work.
- B. Each employee covered by this agreement will be required to work an additional 120 hours during the fiscal year. These additional hours will be considered as regularly scheduled work. The salaries for the classes covered by this agreement shall be adjusted by approximately five-point-seven-five percent (5.75%). Each employee will be responsible for working 120 additional hours per fiscal year and those additional hours are not eligible for overtime pay. The adjusted salaries will be reflected in a salary range increase for each classification above the percent differentials outlined in Article 8 – SALARY.

When an employee separates from the City, an audit of pay received versus hours worked will be conducted for all fiscal years during which time the employee received the 5.75% adjustment provided herein. Any overpayments or underpayments will be corrected by deduction or addition to the employee's final paycheck, with no alterations made to contributions reported to PERS. Each member shall sign a document indicating agreement with this provision.

#### **ARTICLE 10 - ADMINISTRATIVE ASSIGNMENTS**

- A. Employees in the classification of Fire Battalion Chief may be assigned by the Fire Chief to a 40-hour work schedule. Such assignments - the timing, effective dates and the length - shall be at the sole discretion of the Fire Chief and shall not be considered permanent in nature. A Fire Battalion Chief who is assigned to work a schedule other than a 56-hour shift work schedule shall be paid ten percent (10%) administrative assignment pay.
- B. Upon assignment from a 56-hour work schedule to a 40-hour work schedule an employee's paid leave balances accrued on a 56-hour work schedule basis shall be adjusted proportionately downward to provide an equal amount of time off. Upon assignment from a 40-hour work schedule to a 56-hour work schedule an employee's paid leave time accrued on a 40-hour work schedule basis shall be adjusted proportionately upward to provide an equal amount of time off.

To convert paid leave time accruals from a 56-hour work week to a 40-hour work week a conversion factor of 0.7143 shall be used. To convert paid leave time accruals from a 40-hour work week to a 56-hour work week a conversion factor of 1.4 shall be used.

#### **ARTICLE 11 - WORKING-OUT-OF-CLASS**

When an employee covered by this agreement is required to fill a higher classification, the employee shall be compensated at a rate that is at least seven and one-half percent (7.5%) higher than the salary s/he was receiving before the assignment, providing that the employee serves in a higher classification for at least two (2) consecutive work weeks (eighty [80] consecutive hours) and that the salary does not exceed the range of the acting classification. Once the qualification period has been met, the higher pay shall be effective from the first (1st) day of the assignment.

#### **ARTICLE 12 - INSURANCE PROGRAMS & OPTIONAL BENEFITS**

- A. The City agrees to contribute \$97.00 semi-monthly (\$194.00 per month) for active employees for dental and health insurance coverage. The exact amount of the City contribution per member will depend on the insurance coverage selected by the employee under the medical insurance plan.
- B. The City agrees to provide and pay the premiums for vision insurance plan for each employee covered by this agreement and their eligible dependents.
- C. The City agrees to provide a basic term life insurance policy for each employee equal to one-times the employee's annual base salary.
- D. Each employee covered by this agreement shall be eligible to receive \$245.00 semi-monthly (\$490.00 per month) for optional benefits, including the option of receiving the same as salary. Effective the first pay period of the 2012 benefit plan year, pay period ending November 25, 2011 (pay date December 2, 2011), an additional \$10 semi-monthly will be added for a total of \$255.00 semi-monthly (\$510.00 per month). Any optional benefit cash payouts will be paid over 24 pay periods per Health Insurance Plan year

#### **ARTICLE 13 – RETIREE HEALTH SAVINGS PLAN**

The City shall offer part-time and full-time, probationary and regular status employees the opportunity to participate in a retirement health savings plan. Employee participation is governed by the terms and conditions set forth in this Article. The retirement health savings plan is designed to permit employees to irrevocably designate on a pre-tax basis, salary and/or leave payouts (which occur upon termination of employment), to be used to help pay for health insurance costs when the employee is no longer working for the City. No City contribution is made toward the cost of this plan. Further terms and conditions of the plan are set forth in the agreement between the City and the City's designated plan administrator.

Effective the first day of the payroll period commencing after the adoption of this MOU by the City Council, that is administratively feasible, but not to exceed 60 days after the adoption of this MOU by the City Council employees covered by this Agreement shall contribute to the Retiree Health Savings Plan as follows:

- A. Employees who are age 44 or younger shall contribute an amount equal to one percent (1%) of their base salary until such time as the employee turns age 45.

Employees who are 45 years old or older shall contribute an amount equal to five percent (5%) of their base salary

- B. All employees shall contribute an amount equal to one hundred percent (100%) of their sick leave and vacation payouts that occur upon termination of employment (see Article 16 "Vacation" and Article 18 "Sick Leave Payout").
- C. The City agrees, upon a request by VFMA, to reopen the Retirement Health Savings (RHS) plan each year (for the term of the Agreement) between January 1<sup>st</sup> and January 31<sup>st</sup> for the purpose of reducing or increasing the above-stated base salary percentage contribution, and/or vacation/sick leave payout percentage contributions.

#### **ARTICLE 14 - DEFERRED COMPENSATION**

Effective July 6, 2002, the City ceased making any matching contributions on behalf of the employee to deferred compensation plans offered by the City. This deletion was in consideration of an increase of .5% to the salary range differentials for the classes of Fire Battalion Chief and Assistant Fire Chief (per Article 8).

Beginning December 20, 2003 (first pay period of calendar year 2004), the City began contributing \$6.46 per 26 pay periods to each employee's deferred compensation account.

The City agrees to the following contributions to each employee's deferred compensation account, if the member has a current, active deferred compensation account. This applies only to deferred compensation plans offered through the City:

Effective December 24, 2011 (first pay period of calendar year 2012) the City agrees to make an additional non-matching contribution of \$19.23 per 26 pay periods to each employee's deferred compensation account for a total of \$25.69 per 26 pay periods.

Effective July 7, 2012 (first full pay period in July 2012) the City agrees to make an additional non-matching contribution of \$19.23 per 26 pay periods to each employee's deferred compensation account for a total of \$44.92 per 26 pay periods.

#### **ARTICLE 15 - RETIREMENT**

- A. **Retirement Benefits.** The City shall provide employee retirement benefits through participation in the Public Employees' Retirement System (PERS) - three percent (3%) at age fifty five (55) formula (effective July 10, 2010) for all current, future and prior service as established by that system.

The City shall provide the following optional retirement benefits:

1. 1959 Survivor Benefit Level III pursuant to California Government Code 21573.4 to be effective as of March 24, 1997.
2. Post Retirement Survivor's Continuance pursuant to Sections 21624 and 21626 of the California Government Code.

3. Highest Single Year Final Compensation pursuant to Section 20042 of the California Government Code.
4. Military Service Credit pursuant to California Government Code 21024.

B. **City Retirement Contributions.** Upon ratification of this Agreement, the City shall begin the process necessary to implement a CalPERS contract amendment to allow employee contributions toward retirement through Government Code Section 20516(a). That process shall be commenced as soon as possible and completed by the City without undue delay.

Prior to the effective date of the amendment for Section 20516(a) (Employee Sharing Cost of Additional Benefits) employee cost-sharing will be accomplished through post-tax payroll deduction in the manner contemplated by Government Code Section 20516(f). This will be implemented as indicated in subsections 1 through 3 below. Such payments made prior to the implementation of the CalPERS contract amendment will not be credited under the retirement system.

1. Effective the first full pay period in October 2011 (10/01/2011 – 10/14/2011) employees will contribute two percent (2%) toward the Employer's share of retirement.
2. Effective the first full pay period in January 2012 (01/07/2012 – 01/20/2012), employees will contribute an additional one and one half percent (1.5%) for a total of three and one-half percent (3.5%) toward the Employer's share of retirement.
3. Effective the first full pay period in January 2013 (01/05/2013 – 01/18/2013), employees will contribute an additional one percent (1.0%) for a total of four and one-half percent (4.5%) toward the Employer's share of retirement.<sup>1</sup>

C. **Employee-Paid Employee Contribution.** Effective July 1998, the salaries for the classes covered by this agreement shall be adjusted by approximately six-point-eight-four percent (6.84%). The City will no longer make the Employee Contribution of nine percent (9%) on behalf of each employee and each employee will make the Employee Contribution through payroll deductions. The adjusted salaries will be reflected in a salary range increase for each classification above the percent differentials outlined in Article 8 – SALARY.

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<sup>1</sup> According to CalPERS, the maximum allowable cost sharing for Fire Safety Employees is 6.995%. Of this amount, 4.773% is for unfunded liability and CalPERS has indicated that that portion will expire on 6/30/30. Thereafter, the maximum employee cost sharing contribution cannot exceed 2.222%. If employees are still paying more than 2.222% of the employer's share as of 6/30/30, it is the parties' intent that the additional amount would be paid by employees in some other form as determined by the parties.

## **ARTICLE 16 - VACATION**

- A. **Accrual Schedule.** Vacation time will be accrued semi-monthly in hourly amounts according to the following schedule:

<u>Years of Service</u>	<u>Hours Accrued</u>		<u>Maximum Accrual</u>	<u>Maximum Payout</u>
	<u>Semi-Monthly</u>	<u>Annually</u>		
Less than 5	5.00	15 days	400 hrs.	400 hrs.
5 or more	6.67	20 days	400 hrs.	400 hrs.

Vacation accrual shall begin with the employee's initial service date. Employees are encouraged to use vacation time yearly. Employees covered by this agreement who work on a 56-hour work week are eligible for conversion of time using the 1.4 factor.

- B. **Vacation Conversion.** Employees covered by this agreement may annually convert up to fifty-one (51) hours of accrued vacation time to cash payout. Employees covered by this agreement who work on a 56-hour work week may convert up to seventy-two (72) hours of accrued vacation time to cash payout. Such payout conversion shall be made on or before December 20th of each calendar year.

## **ARTICLE 17 - ADMINISTRATIVE LEAVE**

Effective July 1, 2008 the Fire Chief may grant up to eighty (80) hours of administrative leave per year to employees covered by this agreement (employees on a 56-hour work week are eligible for up to one hundred twelve [112] hours per year). All hours must be taken during the fiscal year in which they are granted and there shall be no carry over. No payment for unused hours shall be made upon termination. Additional administrative leave beyond the hours provided for above may be granted to cover short periods of absence (less than a full day) for which no accrued leave time is available at the discretion of the Fire Chief.

## **ARTICLE 18 - SICK LEAVE**

- A. **Accrual Schedule.** All classifications covered by this agreement irrespective of when hired are eligible to accrue sick leave at eight (8) hours per month (employees on a 56-hour work week shall accrue eleven-point-two [11.2] hours per month) for a maximum accrual of 1,440 hours (2,016 hours when assigned to a 56-hour work week).
- B. **Pay-Out Upon Separation.**
1. All employees covered by this agreement shall, after ten (10) years of continuous City service, be eligible to receive an amount equivalent to 25% of their accrued sick leave upon resignation or retirement from employment or in the case of death to the employee's beneficiary. No payment shall be made to an employee who is discharged for cause.
  2. All employees covered by this agreement shall, after twenty (20) years of continuous City service, be eligible to receive an amount equivalent to 50% of their accrued sick leave upon resignation or retirement from employment or in the case of death to the employee's beneficiary. No payment shall be made to an employee who is discharged for cause.

- C. **Sick Leave Death Benefit.** The City will pay an amount equivalent to 100% of an employee's accrued sick leave, up to a maximum of 1,440 hours (2,016 hours when assigned to a 56-hour work week) to the employee's beneficiary when an employee's death results from personal injury sustained in the line of duty, which qualifies the employee's beneficiary to Public Safety Officers death benefits under the "Public Safety Officers Benefits Act of 1976."

#### **ARTICLE 19 - HOLIDAY PAY**

Employees covered by this agreement shall be credited with holiday time in the first pay period each year which may be taken off during the calendar year or paid in cash. Employees assigned to a 40-hour schedule shall receive one hundred-twenty (120) hours of holiday time and employees on a 56-hour schedule shall receive one hundred-sixty-eight (168) hours. At their option, employees may take holiday time off, with the approval of the Fire Chief, or convert holiday time to a cash payout that shall be paid on or before December 20th of each calendar year.

Any separating employee will receive a prorata cash-out of holiday leave hours equivalent to 4.6 hours (for 40 hour employees) or 6.5 hours (for 56 hour employees) per pay period up to and including the pay period in which the employee separates from City employment. The dollar value of any holiday hours used in excess of the prorata bi-weekly accrual will be deducted from the employee's final check.

#### **ARTICLE 20 - TUITION REIMBURSEMENT PROGRAM**

Unit members are eligible to participate in the City's tuition reimbursement program in accordance with the City Administrative Policy and Procedure 12.7. The City reserves the right to amend or delete such policy at any time. Prior to any amendments and/or deletions the City will notify the unit and provide an opportunity to meet and discuss such amendments and/or deletions before implementation.

#### **ARTICLE 21 – PERIOD PHYSICAL EXAMINATIONS**

- A. The parties agree that Firefighter physical examinations will be required of all employees covered by this MOU at the following intervals:

<u>Age</u>	<u>Frequency</u>
Under Age 40	Every 3 years
Age 40 to 50	Every 2 years
Age 50 and over	Annually

- B. Follow-up tests will only be authorized as medically indicated by an examination report, and pre-approved by the City, when the purpose is to determine the employee's fitness for duty. For any other follow-up tests or treatment, the employee will be referred to his/her private physician.
- C. In the event new substantial procedures are added on a mandatory basis to the current Department Physical Fitness Program, implementation shall be accompanied by such

physical examinations and tests as deemed appropriate in the judgment of the City's designated occupational medical provider.

- D. An employee will be advised and required to give written approval to have summary exam results sent to the Fire Chief. Such reports shall reflect the employee's fitness to perform assigned duties and shall remain confidential. The employee shall be entitled to inspect; forward to a primary care physician and photocopy his/her personal summary medical reports resulting from such examinations, except that nothing herein shall be construed as waiving any statutory privileges.

#### **ARTICLE 22 - VEHICLE ALLOWANCE/ASSIGNED VEHICLES**

No employee has a right to an assigned vehicle. Vehicles are assigned at the discretion of the Fire Chief. If an employee is absent from work for more than three (3) consecutive pay periods (except for the use of vacation or holidays), any City assigned vehicle will be returned to the City for reassignment.

Fire Battalion Chiefs and Assistant Fire Chiefs shall not be eligible for an auto allowance in consideration for an increase to the salary differential between F step Fire Captain and Fire Battalion Chief.

#### **ARTICLE 23 - UNIFORM ALLOWANCE**

Employees covered by this agreement will be expected to comply with the uniform requirements and standards as established by the Fire Chief. Replacement of damaged, worn or otherwise unserviceable uniform items shall occur according to department policy. A uniform maintenance allowance in the amount of five hundred and fifty dollars (\$550) per year shall be provided each employee payable in 26-biweekly installments of \$21.15. This allowance shall be for maintenance, repair and cleaning of City-provided uniforms and/or all equipment and wear and tear of prescribed items of clothing for plainclothes.

#### **ARTICLE 24 – FLEXIBLE SPENDING PLAN (Child Care and Medical Expenses)**

The City will continue to provide the flexible spending plan to the employees in this unit.

#### **ARTICLE 25 – SEVERANCE BENEFIT**

The following severance benefit package is available to employees who are laid off:


- Cash payment equal to one (1) week of salary for each year of service plus one additional week, up to a thirteen (13) week maximum. Partial year of service rounded up to the next whole year.
- Flat dollar amount equal to 12 months of the average monthly optional benefit dollars (currently \$401.09/mo) to be used in an optional benefit manner (i.e., take as cash or apply to insurance premium payments) to allow for continuation of insurance coverage.
- City paid outplacement services for access to professional outplacement assistance for a 30-day period.

Receipt of the severance package is subject to the employee signing the City's Release and Waiver Agreement.

**ARTICLE 26 - TERM OF AGREEMENT**

The term of this Agreement shall be for thirty-six (36) months commencing January 1, 2011 through December 31, 2013, with an option for the Association to extend the term of the Agreement until June 30, 2014. If VFMA wishes to extend the MOU, it must notify the City in writing no later than October 1, 2013.

For the Association:

  
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Matt Brock, President VFMA

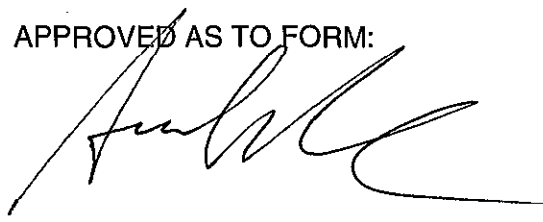
8.2.2011  
Date

For the City:

  
\_\_\_\_\_  
Rick Cole, City Manager

8/2/11  
Date

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Ariel Calonne, City Attorney