

RESOLUTION NO. 2017 - 318

A RESOLUTION APPROVING AN EMPLOYEE AGREEMENT WITH LUIGI TRAMONTANA, CHIEF OF FIRE, FROM JUNE 2, 2017 THROUGH DECEMBER 31, 2017.

WHEREAS, on July 13, 1954, Ordinance No. 130 was adopted and established the position of the Chief of Fire of the Vineland Fire Department for the City of Vineland;

WHEREAS, the City of Vineland currently recognizes and employs Luigi Tramontana as the full-time Chief of Fire of the Vineland Fire Department; and

WHEREAS, the position of Chief of Fire is classified as a “managerial executive” position, and therefore not permitted in any collective bargaining unit; and

WHEREAS, the City desires to have clearly defined salary adjustments, benefits and other terms and conditions of employment for such employees; and

WHEREAS, negotiations have been undertaken, and a tentative employee agreement has been reached between the City of Vineland and Luigi Tramontana.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Vineland that an employee agreement concerning salary, benefits, and other terms and conditions of employment with Luigi Tramontana is approved from June 2, 2017 through December 31, 2017, and the execution thereof for and on behalf of the City of Vineland is hereby authorized and directed in the form and substance similar to the attached; and

BE IT FURTHER RESOLVED, that the City of Vineland may enact any ordinance, rule or regulation required to fully carry out the terms and conditions of the agreement herein approved.

Adopted:

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President of Council

ATTEST:

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City Clerk

AGREEMENT

Between

THE CITY OF VINELAND

A Municipal Corporation of the State of New Jersey

&

CHIEF OF FIRE

June 2, 2017 through December 31, 2017

This Agreement dated \_\_\_\_\_ by and between the City of Vineland, a municipal corporation of the State of New Jersey, hereinafter referred to as the “City” and Luigi Tramontana, the City of Vineland Fire Chief, hereinafter referred to as the “Fire Chief”.

### **Article 1 - Recognition**

It is the intention of the parties that this Agreement be construed in harmony with New Jersey statutes, Civil Service Commission rules and regulations, City ordinances, and Fire Department rules and regulations, but no City ordinance or Fire Department rule and regulations shall amend or alter any provision of this Agreement.

For the purposes of this Agreement, the Fire Chief is pursuant to the New Jersey Civil Service Commission described as the Fire Chief of the Vineland Fire Department.

### **Article 2 - Management Rights**

It is recognized that the management of the City, the control of its properties, and the maintenance of order and efficiency, is a right and responsibility of the City, including the right to enforce rules and regulations, policies or other statements of procedure not inconsistent with this Agreement or the laws and constitutions of the State of New Jersey and the United States, whether or not such enforcement has occurred in the past.

### **Article 3 - Maintenance of Standards**

The City will not seek to diminish or impair any benefit or privilege not covered by this Agreement but provided by law, rule or regulation for the Fire Chief without prior notice to the Fire Chief and when appropriate without negotiation with the Fire Chief unless required by law. This Agreement shall be construed consistent with the free exercise of rights reserved to the City by the Management Rights Clause of this Agreement.

### **Article 4 - No-Strike Pledge**

Neither the Fire Chief nor any person acting on his behalf will cause, authorize, or support any strike. (e.g., the concerted failure of an employee to report for duty, willful absence from their position, work stoppage or abstinence in whole or in part from the full faithful and proper performance of the employee's employment duties). Such participation in any strike related activity as specified will constitute a material breach of this Agreement, and be grounds for termination, subject to the grievance procedure set forth in the City Policy Manual.

### **Article 5 - Responsibilities of the Fire Chief**

The City hereby recognizes the Fire Chief as the individual entity empowered to serve as the highest ranking officer and most senior uniformed official of the City of Vineland Fire Department. Pursuant to state law, the ordinances of the City and the rules and regulations as established by the appropriate authority, the responsibilities of the Fire Chief shall include:

1. Conduct and manage the day to day operations of the Fire Department.
2. Administer and enforce rules, regulations and special emergency directives regarding the disposition and discipline of the Fire Department, its firefighters and personnel.
3. Have exercise, and discharge the functions, powers and duties of the Fire Department.
4. Delegate such of his authority as he may deem necessary for the efficient operation of the Fire Department to exercise under his direction and supervision.
5. Prescribe the duties and assignments of all subordinates and other personnel.
6. Report at least monthly in the manner prescribed by the appropriate authority to the appropriate authority as to the operation of the Fire Department during the preceding month.
7. Perform any and all duties required of the position of the Fire Chief.

### **Article 6 - Workweek**

The Fire Chief shall spend sufficient time at his job to ensure the smooth and responsible operation of the Fire Department over which he has supervisory control. The Fire Chief shall work at least 40 hours per week. The work week is seven consecutive days beginning at 0000 Sunday and ending 2359 Saturday.

The Fire Chief is hereby designated as an exempt employee for the purpose of receiving overtime and compensatory time under the Fair Labor Standards Act. The Fire Chief shall normally work 40 hours per week and his employment shall be based on a seven day work period. The Fire Chief's normal work week shall consist of eight hours per day, Monday through Friday. As an exempt employee, the Fire Chief shall not receive overtime compensation or compensatory time for any hours worked in excess of 40 hours per week. This shall include, but not be limited to, responding to fire emergencies, fire incident calls or any other duties in connection with his position of Fire Chief.

### **Article 7 - Vacations**

- §1. The Fire Chief shall receive 240 vacation leave hours annually, for his continuous service with the City, except as otherwise provided herein.
- §2. Where in any calendar year, vacation leave or any part thereof is not granted nor taken due to pressure of Fire Department business, as determined and approved by the appropriate authority, such vacation leave shall accumulate and may be taken during the next succeeding calendar year only.
- §3. Vacation pay will be granted to the Fire Chief upon termination of his employment. The number of hours to be paid will be the proportional number as accrued during the year of termination. The rate of vacation pay shall be based on the Fire Chief's regular rate of base pay.

**Article 8 - Travel Allowances**

- §1. The Fire Chief shall be permitted to attend and be compensated for, at his regular pay, meetings or training seminars of the NJ State Association of Fire Chiefs, New Jersey Career Fire Chiefs Association, New Jersey State Police, NJ Division of Fire Safety or any other Fire related educational program of a management or administrative nature.
- §2. The Fire Chief will be reimbursed for necessary travel expenses incurred while on City business consistent with the Travel Policy of the Policy Manual.
- §3. The Fire Chief will be reimbursed mile for mile for the use of his personal vehicle while on City business at the prevailing IRS rate. In order to receive reimbursement, the Fire Chief shall complete and submit the appropriate travel form pursuant to City Policy.

**Article 9 - Professional Development**

The City acknowledges that the Fire Chief may be selected or asked to serve on County, State or Regional committees or boards that are related to the furthering of public fire safety or the causes or missions of the fire service in general, including but not limited to, the New Jersey Fire Safety Commission, Burn Foundation, IAFC, NJ Fire Chiefs' Association, NJ Career Fire Chiefs' Association and the Cumberland County Fire Chiefs' Association. The City acknowledges that such service shall be considered part of the Fire Chief's regular job duties and that they play a positive role for the Fire Department and the City.

**Article 10 - Legal Aid**

Whenever the Fire Chief is a defendant or named in any legal action or legal proceeding arising out of and directly or indirectly related to the exercise of his duties in the capacity of Fire Chief for the City Fire Department or otherwise acting in an official capacity for the City, the Fire Chief shall be entitled to full legal representation as mutually agreed upon by the parties. The City will be responsible for the cost of this legal representation.

**Article 11 - Holiday Pay**

The Fire Chief shall receive the following paid holidays off at straight time:

- |                        |                            |
|------------------------|----------------------------|
| New Years Day          |                            |
| Martin Luther King Day | Columbus Day               |
| President's Day        | Veteran's Day              |
| Good Friday            | General Election Day       |
| Memorial Day           | Thanksgiving               |
| Independence           | Day after Thanksgiving Day |
| Labor Day              | Christmas                  |

- 1. A paid holiday shall begin at 0000 (midnight) of the official observed day, which may be the actual holiday or the weekday closest to any holiday falling on a weekend.

2. If the Fire Chief works for any reason on a paid holiday he will not receive any additional compensation.
3. Paid holidays that are observed while the Fire Chief is on vacation leave shall not be counted as a vacation leave.

### **Article 12 - Funeral Leave**

- §1. The Fire Chief shall receive leave with pay for up to a maximum of five days in the event of the death of the Fire Chief's spouse, domestic partner, son, daughter, mother, father, step-mother, step-father, or step-child.
- §2. The Fire Chief shall receive leave with pay for up to a maximum of three days in the event of the death of the Fire Chief's grandfather, grandmother, sister, brother, father in law, mother in-law, son in-law, daughter in-law, brother in-law, sister in-law, grandchildren or step family members. Should funeral services for the deceased hereunder be held more than 500 miles away from the City of Vineland, then such funeral leave shall be for a maximum of five days.
- §3. To be eligible for funeral leave, the Fire Chief must attend the funeral service.

### **Article 13 - Sick Leave**

- §1. Service Credit for Sick Leave. The Fire Chief shall be entitled to sick leave with pay as specified hereunder:
  - A. Sick leave for purposes herein is defined to mean absence from work of the Fire Chief because of personal illness by reason of which the Fire Chief is unable to perform the usual duties of the position. Sick leave may be used by the Fire Chief when unable to work because of:
    1. Personal illness or injury.
    2. Exposure to contagious disease.
    3. Care, for a reasonable period of time of a seriously ill member of the Fire Chief's immediate family. "Immediate family" is defined by N.J.A.C. 4A: 1-1.3 as employee's spouse, child legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father in law, mother-in-law, and other relatives residing in the employee's household. The City also recognizes step-father and step-mother to be part of the immediate family or other near relative.
    4. Death in the Fire Chief's immediate family for a maximum of three days.
  - B. If the Fire Chief is incapacitated and unable to work because of an injury sustained in the performance of his duties, as evidenced by a certificate of a City designated physician or other physician acceptable to the City, he shall be granted in addition to annual sick leave with pay or any accumulations thereof, leave of absence with pay for a period of eight months or so much thereof as may be required, as evidenced by certificate of a City designated/acceptable physician but not longer than a period of which worker's compensation temporary disability payments are allowed.

If at the end of such eight month period the Fire Chief is unable to return to duty, a certificate from the City designated/accepted physician shall be presented, certifying to this fact, and the Fire Chief

may elect if he so desires, to use all or any part of the sick leave accumulated to supplement compensation payments so that the combined compensation payments and sick leave and allowance will approximate the Fire Chief's regular basic wage.

During the period in which the full salary or wages of the Fire Chief on disability leave is paid by the City, any compensation payments made to or received by or on behalf of the Fire Chief shall be deducted from the amount carried on the payroll for the Fire Chief or shall be assigned to the City by the insurance carrier or the Fire Chief.

Whenever the City designated physician acceptable to the City shall report in writing that the Fire Chief is fit for duty, such disability leave shall terminate and the Fire Chief shall forthwith report for duty.

Furthermore, if the Fire Chief, during the period of his disability is fit to perform "other" light duties, the City may, at its discretion, allow or require the Fire Chief to perform these light duties. The Fire Chief's ability to perform such light duties shall be determined by a City designated physician acceptable to the City. The Fire Chief, if authorized to report on "light duty", shall do so.

The Fire Chief while on injury leave resulting from injury while on duty shall continue to accrue sick leave credits while he remains on the payroll.

§2. Amount of Sick Leave. The Fire Chief shall receive 120 sick leave hours annually, pursuant to N.J.A.C. 4A:6-1.3, as long as the Fire Chief remains actively employed. If the Fire Chief is separated from employment, the 120 hours shall be prorated at 10 hours for each full month of employment.

Any sick leave not used in any calendar year shall accumulate to the Fire Chief's credit from year to year to be used if and when needed for such purpose.

§3. Reporting of Absence on Sick Leave. Notification will be done in accordance with Fire Department rules and regulations.

§4. Verification of Sick Leave. The Fire Chief may be required to submit medical evidence substantiating the illness from a physician acceptable to the City when the Fire Chief is absent on sick leave for five or more consecutive days, 10 or more days in one calendar year or whenever there is reason to believe that the Fire Chief is abusing sick leave. The City may also require the Fire Chief to be examined by a physician designated and paid for by the City.

- a. In case of a leave of absence due to exposure to contagious disease, a certificate from the Department of Health shall be required prior to the Fire Chief's return to work.
- b. The City may require the Fire Chief who has been absent because of personal illness, as a condition of return to work, to be examined at the expense of the City, by a physician designated by the City. Such examination shall establish whether the Fire Chief is capable of performing his duties and that his return will not jeopardize the health of other employees.

§5. Payment of Accrued Sick Leave at Death. The City will pay upon the death of the Fire Chief, if active on the payroll, 50% of all accrued and unused sick leave pay up to a maximum of \$15,000.

### **Article 14 - Personal Leave**

The Fire Chief shall receive 32 personal leave hours annually. Personal leave shall not accumulate from year to year.

### **Article 15 - Uniform Maintenance Allowance**

This benefit has been eliminated through negotiations.

### **Article 16 - Overtime and Compensatory Time**

As provided for under Article 6 of this Agreement, the Fire Chief is designated an exempt employee under the Fair Labor Standards Act and shall not be entitled to overtime or compensatory time for any hours worked in excess of 40 in a workweek.

### **Article 17 - Retirement**

For purposes of this Article, retirement shall mean an approved pension documented by the New Jersey Division of Pensions and Benefits, Department of Treasury. Pensions can be in the form of service retirement, early retirement options, special retirement, veterans retirement, ordinary disability and accidental disability retirement.

1. The Fire Chief retiring either on the regular pension or disability shall be paid for all accumulated vacation and compensatory time.
2. In case of death of the Fire Chief, there shall be paid to the widow, beneficiary or estate, the amount or amounts due for any and all unused vacation, compensatory time coming and pay period due.
3. At retirement, the City shall pay the Fire Chief 50% of all accrued and unused sick leave up to a maximum of \$15,000.
4. This supplemental compensation payment shall be computed at the rate of one-half (1/2) accumulated unused sick days multiplied by the Fire Chief's daily rate of pay which is based upon the average annual base compensation received during the last year of his employment, prior to the effective date of retirement, provided however, that no such lump sum supplemental compensation payment shall exceed the amounts as specified above.
5. Payment shall be made promptly if funds are available, but not later than one month after the final adoption of the City budget for the year succeeding the effective date of retirement of the Fire Chief.

The Fire Chief shall receive supplemental compensation payment for sick leave as indicated above in the year of retirement if the City is notified in July preceding the fiscal budget year which begins the following January. Payment will be computed in accordance with City Ordinance No. 90-74 and paid in accordance with said original Ordinance No. 1005 and the amendments thereto, including No. 90-74, if advance notice is not provided as above stated.



**Article 18 - Health Benefits**

§1. The City shall provide health insurance to the Fire Chief and his eligible dependents subject to any employee contribution or co-pay as required by New Jersey law. The Fire Chief may transfer from plan to plan during open enrollment. The benefits are more specifically provided for and explained in a brochure available to employees. The Fire Chief will be subject to any co-payment established by the medical coverage selected by the employee. The City retains the unilateral right to select the insurance carrier or to be self-insured for the provision of any health benefits, so long as the overall level of benefits or administrative procedures is substantially similar to the plans and coverages provided from time to time under the current plan.

§2. The City shall provide a generic prescription plan to the Fire Chief and his eligible dependents subject to any employee contribution or co-pay as required by New Jersey law. A federally approved generic equivalent, if available, will be dispensed for name brand unless the Fire Chief's physician specifically requires name brand. If the Fire Chief receives name brand when generic is available, the Fire Chief shall pay the cost difference between the name brand and generic, except if the attending physician specifies no substitute for name brand. This cost will not be applied to the Fire Chief's deductible. The co-pays are as follows:

<u>Name brand, including mail-order</u>	<u>Generic, including mail-order</u>
\$25.00	\$15.00

§3. Upon retirement, the Fire Chief shall receive the same prescription coverage as active employees, which may change from time to time, until the Fire Chief:

- a. Obtains employment having prescription coverage comparable to active employees. However, the retired Fire Chief may re-enroll in the City prescription program given to active employees should said employment cease; or
- b. Becomes eligible for a federal or state prescription program, such as Medicare.

§4. The Fire Chief and his eligible dependents shall receive a basic dental care plan and choose from among a customary Delta 50/50 Dental Plan, Delta-Flagship Health Systems, Inc. or Delta Preferred Provider Option, or their successors.

§5. If the Fire Chief should go on an approved Leave of Absence, he shall be responsible for his share of the payment of said health benefits in accordance with City Policy.

§6. The Fire Chief shall pay a cost contribution for Health Insurance Plan coverage's in accordance with P.L. 2011, Chapter 78, Pension and Health Benefit Reform Law adopted June 28, 2011. Payments shall be made by the way of withholdings from the Fire Chief's payroll checks. The City shall establish and adopt a Section 125 Plan so that said contribution would be 'pre-tax'.

§7. The Fire Chief, if he so chooses, may waive all, or a portion, of the health benefits provided by this Agreement. In the event of a waiver, a waiver fee will be paid to the employee as follows:

	<u>Medical</u>	<u>Prescription</u>
Family Coverage Incentive:	\$1,500	\$1,000
Husband/Wife Coverage Incentive:	\$1,300	\$650
Parent/Child Coverage Incentive:	\$1,400	\$650
Single Coverage Incentive:	\$750	\$400

The waiver incentive shall be considered a supplemental pay and subject to a flat tax in accordance with IRS rules. The City's policy to allow employees to waive coverage and the amount of the incentive is not negotiable and is subject to change from time to time. The City also reserves the right to discontinue the waiver payment at any time. In addition, in the event spouses or civil union partners are both employed by the City, health insurance coverages provided herein, including but not limited to the Prescription Plan, shall be afforded to only one designated spouse with the other spouse covered as a family member. Further, eligible children can only be covered by one participating subscriber. No waiver payment shall be paid to any employee whose spouse or civil union partner is also employed by the City and receives his/her health insurance from the City.

#### **Article 19 - Fully Bargained Provision**

This Agreement represents and incorporates the complete and final understanding and settlement by the parties on all negotiable issues. During the term of this Agreement, neither party will be required to negotiate with respect to any such matter, whether or not covered by this Agreement, and whether or not within the knowledge or contemplation of either or both parties at the time they negotiated or signed this Agreement.

#### **Article 20 - Extra-Contractual Agreements**

The City shall not enter into any other agreement with its Fire Chief, which in any way would conflict with the terms and conditions set forth in this Agreement.

#### **Article 21 - Severability**

In the event that any provision of this Agreement between the parties shall be held by operation of law or by a court or administrative agency of competent and final jurisdiction to be invalid or unenforceable, the remainder of the provisions of such Agreement shall not be affected thereby, but shall be continued in full force and effect.

#### **Article 22 - Random Drug Testing**

Any random drug testing administered by the Fire Department shall maintain the privacy of the Fire Chief's personal information via a sealed envelope and comply with all applicable law, notably the Americans with Disabilities Act and the Federal Confidentiality Act, as well as NJ Attorney General Guidelines and City Policy.

#### **Article 23 - Salary**

§1. The Fire Chief's annual base salary shall be \$115,000 effective June 2, 2017.

Grade Multiplier has been eliminated through negotiations.

**Article 24 - Education Achievement**

The Fire Chief shall receive \$1,062.50 annually for his attainment of college credits.

**Article 25 - Essential Personnel**

The Fire Chief is an essential personnel and, therefore, is expected to report to work and work his regularly scheduled work hours even in the event that non-essential personnel are not required to report to work or are not required to work their regularly scheduled work hours for any reason including but not limited to a weather-related event or an unscheduled holiday declared by the Mayor. Therefore, the Fire Chief shall receive no additional compensation or time off for reporting to work and working his regularly scheduled work hours on a day where non-essential personnel are not required to report to work or do not work their regularly scheduled work hours for any reason including, but not limited to, a weather-related event or an unscheduled holiday declared by the Mayor.

**Article 26 - Term of Agreement**

This Agreement shall be in full force and effect as of June 1, 2017 and shall remain in effect to, and including December 31, 2017. This Agreement will remain in force until such time as it is re-negotiated by the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective Officers the day and year first above written.

By:

City of Vineland

Chief of Fire

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Luigi Tramontana

ATTEST:

\_\_\_\_\_  
Municipal Clerk

July 27, 2017

Dear Chief Tramontana:

The Federal Fair Labor Standards Act (FLSA) requires that employees be compensated at an overtime rate of one and one half times the employee's base rate of pay for any time actually worked in excess of 40 hours in a workweek. However, the FLSA also provides that certain employees in managerial, administrative, executive and professional positions are exempt from receiving that overtime payment even if they work in excess of 40 hours in a workweek.

The City has reviewed your current job title and the duties you perform on a daily basis and has concluded that you are an exempt employee under the FLSA and, therefore, are not entitled to any overtime compensation, or compensatory time in lieu thereof, for any hours worked in excess of 40 hours in any workweek. You are expected to work your normal workweek and any additional hours needed to fulfill your responsibilities.

Any compensatory time hours that have previously accrued to your credit may be used at your discretion so long as it does not unruly disrupt to the operations of the Fire Department. Should the City buy out compensatory time at the end of this calendar year, you may carry over 144 compensatory time hours to the following year. Effective January 2018, you shall be treated as other non-union managerial executives for the purpose of compensatory time buyouts, which currently allows 24 compensatory time hours to be carried over to the following year.

Thank you for your continued service to the City of Vineland.

Sincerely,

Anthony R. Fanucci  
Mayor

AF/gg

## FLSA: Exemption Questionnaire

*This questionnaire serves as a basic outline for the City's initial analysis of positions being considered for exemption under the FLSA and is meant to serve as one of several tools in an employer's analysis. Job titles are insufficient to determine exempt status. It is strongly recommended to have legal counsel review the City's analysis efforts and exemption decisions.*

Position: \_\_\_\_\_

Employee: \_\_\_\_\_

Date: \_\_\_\_\_

Completed by: Administration/Legal

### EXECUTIVE

- Regularly receives a predetermined amount constituting all or part of the employee's salary, which is not subject to reduction because of variations in the quality or quantity of work performed.
- Is paid at least \$455 weekly.
- Primary duty consists of managing the enterprise or a customarily recognized department or subdivision of the enterprise.
- Customarily and regularly directs the work of two or more full-time employees or their equivalents (for example, one full-time employee and two half-time employees).
- Has the authority to hire or fire other employees **OR** makes recommendations that carry particular weight as to the hiring, firing, advancement, promotion or any other change in status of other employees.