

RESOLUTION NO. 21-8011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DOWNEY AND THE DOWNEY CITY EMPLOYEES' ASSOCIATION – MAINTENANCE UNIT (APRIL 1, 2021 – MARCH 31, 2023)

WHEREAS, the City of Downey, hereinafter referred to as “City,” and the Downey City Employees' Association- Maintenance Unit hereinafter referred to as “MAINT” have met and conferred in accordance with the requirements of the Meyers-Milias-Brown Act and Employee Relations Ordinance 1118; and

WHEREAS, the City and the MAINT have memorialized the Agreement in a written Memorandum of Understanding.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Memorandum of Understanding between the City and the MAINT, attached hereto, is hereby approved in substantially the form thereof together with any additions thereto or changes therein deemed necessary or advisable by the City Manager.

SECTION 2. The Assistant City Manager and Director of Human Resources are authorized to sign the Memorandum of Understanding.


SECTION 3. The City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this 23rd day of March, 2021.



CLAUDIA M. FROMETA, Mayor


ATTEST:



MARIA ALICIA DUARTE, CMC
City Clerk

I HEREBY CERTIFY that the foregoing Resolution was adopted by the City Council of the City of Downey at a Regular meeting held on the 23rd day of March, 2021 by the following vote to wit:

AYES:	Council Members:	Alvarez, Ashton, Trujillo, Pacheco, Mayor Frometa.
NOES:	Council Member:	None.
ABSENT:	Council Member:	None.
ABSTAIN:	Council Member:	None.



MARIA ALICIA DUARTE, CMC
City Clerk

MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF DOWNEY
AND
THE DOWNEY CITY EMPLOYEES' ASSOCIATION -
MAINTENANCE UNIT

April 1, 2021 – March 31, 2023

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**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF DOWNEY AND
THE DOWNEY CITY EMPLOYEES' ASSOCIATION - MAINTENANCE UNIT**

ARTICLE I

RECOGNITION

Pursuant to the provisions of the Employee Relations Ordinance No. 394 and the Supplemental Employee Relations Rules and Regulations of the City of Downey, the City of Downey (hereinafter called the "City") has recognized the Downey City Employees' Association-Maintenance Unit, (hereinafter called the Association,) as the exclusive representative of employees in the Maintenance Unit which includes the classifications described in Exhibit A. The City has recognized the Association for the purpose of meeting its obligations under the Meyers-Miliias-Brown Act, Government Code Section 3500 etc. seq. and the Employee Relations Resolution of the City when City rules, regulations or laws affecting wages, hours or other terms and conditions of employment are amended or changed.

ARTICLE II

NON-DISCRIMINATION

Section 1. The parties mutually recognize and agree to protect the rights of all employees hereby to join and/or participate in protected Association activities or to refrain from joining or participating in protected activities in accordance with the Employee Relations Ordinance and Government Code Sections 3500 and 3511.

Section 2. The Association and the City agree not to discriminate against any employee with respect to recruiting, hiring and promotion based upon race, sex, religion, color, national origin, ancestry, age or qualified physical handicap. All decisions with respect to recruiting, hiring and promotion shall be based upon an individual's qualifications, as related to the requirements of the position being filled. The Association and the City further agree that other personnel matters, including but not limited to, compensation, benefits, transfers, layoffs, recall from layoffs, training, education and social and recreational programs shall be administered without regard to race, sex, religion, color, national origin, ancestry, age, or qualified physical handicap. The Association further agrees not to discriminate against any member or applicant for membership on the basis of race, sex, religion, color, national origin, ancestry, age, or qualified physical handicap.

The City encourages all employees to treat one another with dignity and respect. Harassment of fellow employees is a violation of City policy. No employment decision may be made based upon an employee's submission to or rejection of such conduct. Any employee who believes that he is the victim of such harassment, whether sexual, racial, ethnic or religious, is required immediately to report the conduct to a supervisor, the department head or the Human Resources Director. Any employee who engages in such conduct is subject to disciplinary action, including immediate discharge.

Section 3. Whenever the masculine gender is used in this Memorandum of Understanding, (MOU) it shall be understood to include the feminine gender.

ARTICLE III

BASIC COMPENSATION PLAN

Section 1. Salary Increases.

A. Employees in classifications covered by this Memorandum of Understanding as referenced in Exhibit A shall receive pay increases based on the following pay range adjustments:

1. Effective the start of the pay period that includes April 1, 2021, a two percent (2%) across the board base pay range increase.
2. Effective the start of the pay period that includes April 1, 2022, a two percent (2%) across the board base pay range increase.

Section 2. Plan of Salary Schedules.

A. The pay plan consists of a set of monthly salary schedules. Each of such schedules is designated by a schedule number. Each schedule consists of five (5) steps of monthly compensation, each of which is designated by step letter.

B. For payroll purposes, the hourly equivalent of a monthly rate shall be computed by dividing twelve (12) times the monthly rate by fifty-two (52) times the number of working hours per week.

Section 3. Eligibility for Salary Advancement.

A. Eligibility for Salary Step Increase.

1. Salary step increases shall be considered on a merit basis only, and then only at the following times, and in accordance with subsection B below.
2. All full time appointments shall be made at the first step of the salary schedule assigned that class, unless prior written approval of the City Manager is obtained for appointments at a higher step in the assigned schedule.
3. No salary advancements shall be made so as to exceed the maximum rate established in the salary schedule for the class to which the employee's position is allocated.

B. Qualification for Salary Step Advancement.

1. Advancement shall not be automatic but, shall be based upon merit, dependent upon increased service value of an employee to the City as exemplified by recommendations of his supervisor, length of service, performance record, special training undertaken, and other objective evidence.
2. Only employees rated as meeting the standard of fully effective work performance shall be qualified to advance to the salary steps B, C, D and E.

C. Merit Evaluation.

1. Every employee shall receive an objective, written job performance rating, no sooner than twenty (20) working days before, no later than ten (10) working days before the date of eligibility for each salary step, merit longevity or hourly increase, and annually thereafter, and upon a change of employment status. Nothing in this section shall prohibit the department head from authorizing a supervisor to give an additional objective rating to an employee between those periods of time described in this section.
2. It shall be the duty of the department head to delegate the responsibility of every employee's rating to that level of supervision having immediate knowledge of the employee's work. An employee shall be rated by his immediate supervisor, which rating shall be reviewed by the department head.

Section 4. Salary Schedule Step Reduction. Whenever an employee's work performance falls below the level for which a step increase was granted, an employee's authorized pay may be reduced to the employee's previous step rate under written procedures established by the City for demotions and reduction in pay.

Section 5. Longevity Pay.

A. Eligibility. As early as at least July 1, 2011, regular employees who have completed ten (10) and twenty (20) years of service with the City of Downey have and shall continue to receive longevity pay adjustments as follows:

<u>Service</u>	<u>Compensation Adjustment</u>
10 years	5.5000%
20 years	8.4020%

Longevity pay is effective the start of the pay period that includes the ten (10) or twenty (20) year anniversary date. Such pay is not cumulative.

B. Qualification for Merit Longevity Lump Sum Payment. Employees covered under the First Tier Retirement Formula as outlined in Article XV Section II who receives or will receive Longevity Pay shall also qualify to receive a one-time annual Merit Longevity Lump Sum Payment in connection with their annual evaluation pursuant to Administrative Regulation 436 in which their performance evaluation rating is "meets standards" or above. The Merit Longevity Lump Sum Payment value is seven hundred fifty dollars (\$750.00).

Section 6. Mechanic Tools. If tools provided by the Mechanics are lost due to fire or verified burglary, then the City shall replace said tools. The Police Department would provide verification of burglary, after review of appropriate evidence.

Each Mechanic shall be reimbursed for the purchase of tools up to an annual budget limit. Effective January 1, 2009, the annual budget limit for the purchase of tools shall be one thousand dollars (\$1,000.00). At the earliest possible time after purchase, the employee shall claim reimbursement for approved tools by submitting an itemized receipt. The department head shall expeditiously authorize such reimbursement for approved tools. Approved tools shall be of

a high quality, bearing a brand name that is recognized throughout the industry and approved by the department head (e.g., Sears-Craftsman, Proto, Snap -On).

Section 7. Out-of-Rank Pay. To assure the orderly performance and continuity of municipal services, the City may temporarily assign employees to perform certain duties that are outside of their job description. Such duties are generally associated with the employee's possession of specific knowledge, ability or skill to perform such duties. The selection of an employee for an out-of-rank assignment shall be at the discretion of the department head or his designee. Five and one-half percent (5.5%) above the base hourly rate of pay shall be paid to an employee authorized to receive out of rank pay beginning with the start of the payroll period that includes the date upon which out of rank duties are assigned. Paid holidays shall be considered as days actually worked. Other forms of authorized leave such as sick leave, emergency leave and vacation shall not be considered as days actually worked. An employee who receives out-of-rank pay will continue to receive any salary premium amounts (longevity, certificate pay, etc.), will maintain their existing benefits, and will receive any general salary adjustments provided to employees with the same classification.

Section 8. Safety Work Boots. Effective the start of the pay period following City Council adoption of this Memorandum of Understanding, covered maintenance employees in the Public Works Department and Community Development Departments, other than those crews listed below shall be reimbursed for the purchase of approved safety work boots up to an annual budget limit of \$200.00. Effective the start of the pay period following City Council adoption of this Memorandum of Understanding, covered employees who work in the park crew, street crew, the water distribution crew, mechanics, and the water supply crew shall be reimbursed for the purchase of approved safety work boots up to an annual budget limit of \$240.00. Such reimbursement shall be made upon presentation by the employee of an itemized receipt showing that work boots, meeting City safety requirements, have been purchased. Maintenance employees shall wear work boots meeting safety requirements at all times while on duty. The City agrees to permit a one-year carry over of the boot allowance at the employee's option to cover the purchase of boots in excess of the budget limit. Effective November 10, 2009, an employee may use any unused amount of the annual boot allowance towards the purchase of products for the care and maintenance of safety shoes such as repellent sprays, polish, shoelaces, and insoles.

Section 9. Acting Pay. An employee who has been designated by the City to serve in an acting assignment shall receive Step A of the range for the classification in which the employee is performing active duties or five and one-half percent (5.5%), whichever is greater. An acting assignment is temporary and requires that the assigned employee meets the qualifications for the classification assigned and performs all duties regularly assigned to the higher classification. The selection of an employee to serve in an acting assignment shall be authorized by the department head and shall take effect with the start of the payroll period that includes the date upon which the acting assignment was authorized by the department head. Service in an acting assignment shall not be used as a basis for, or in support of, a request for reclassification. An employee who receives acting pay will continue to receive any salary premium amounts (longevity, certificate pay, etc.), will maintain their existing benefits, and will receive any general salary adjustments provided to employees with the same classification.

Section 10. Backflow Certification Pay (Education Incentive). The Director of Public Works shall have the authority and discretion to provide and/or eliminate Education Incentive (Backflow Certification Pay) to any covered employee up to budget authority for successfully

completing and maintaining the Los Angeles County Certified Backflow Tested Certification. Approved employees with the Certified Backflow Tester Certification shall receive a salary additive of five and one-half percent (5.5%) above the employee's regular rate of pay. Employees shall immediately notify their supervisor if they have lost their certification for any reason.

Section 11. Bonus Pay for Training. At the department head's discretion, an employee who is assigned by the department head to train new employees may be paid an amount equal to two and three-quarters percent (2-3/4%) of the appropriate range in the salary schedule for a maximum period of twelve (12) months. To be eligible to receive the bonus pay for training, an employee must be specifically assigned to a trainee by the department head. A trainer will receive the extra stipend for hours scheduled and worked in a training capacity.

Section 12. Bilingual Pay. Employees required to speak or translate Spanish as part of their regular duties will be compensated seventy dollars (\$70.00) per bi-weekly pay period in addition to their regular salary. The employee's department head has the authority and discretion to assign and/or remove this bonus up to budget authority. To be eligible for this assignment, the employee must pass a conversational examination administered by a court certified interpreter, or an employee who has been certified by the Human Resources Director to administer such examination.

Section 13. Water System Operator Certificate Pay. Effective the first pay period following City Council adoption of this MOU, employees who are assigned to the Utilities Division shall receive additional compensation at the following rates of pay upon attainment of the following California Water Resources Control Board and California Water Environment Association certificate series:

A. Certificate Level I Pay - An employee who obtains and maintains a valid Distribution I, Treatment I or a California Water Environment Association (CWEA) Collection System Maintenance I certificate shall be eligible to receive Certificate Pay at the rate of one hundred and fifteen dollars (\$115.00) per month.

B. Certificate Level II Pay - An employee who obtains and maintains a valid Distribution II, Treatment II, or a California Water Environment Association (CWEA) Collection System Maintenance II certificate shall be eligible to receive Certificate Pay at the rate of two hundred and sixty-five dollars (\$265.00) per month.

C. Certificate Level III Pay - An employee who obtains and maintains a valid Distribution III, Treatment III, or a California Water Environment Association (CWEA) Collection System Maintenance III certificate shall be eligible to receive Certificate Pay at the rate of two hundred and ninety-five dollars (\$295.00) per month.

D. An employee is entitled to receive only one level of Certificate Pay provided under Sections A, B, and C above.

E. An employee who receives certificate pay in accordance with sections A-C above who obtains and maintains an additional valid Distribution, Treatment, or CWEA Grade II or higher certificate in a series other than the one compensated in A-C above, shall receive an additional thirty dollars (\$30.00) per month.

F. No additional compensation shall be granted for higher level certificates not included above.

G. An employee shall immediately notify their supervisor if they have lost their certification for any reason. Failure to maintain the appropriate certificate will result in the loss of certificate pay as well as additional appropriate personnel action.

Section 14. Pesticide Applicator's License Pay. Effective January 2, 2006, the Director of Public Works shall have the authority and discretion to provide and/or eliminate Pesticide Applicator's License Pay to any covered employee up to budget authority. Employees who are so assigned and qualified shall receive Pesticide Applicator's License Pay of one hundred dollars (\$100.00) per month above the employee's regular rate of pay. The Director of Public Works has the discretion to establish appropriate selection criteria and job responsibility related to this special pay.

Effective April 24, 2018, this provision shall be clarified to include employees who are so assigned in the Utilities Division. This provision shall also include reimbursement or payment of the pesticide applicator's license fee and annual cost for membership in the Pesticide Applicator's Professional Association (PAPA) as authorized by the Director of Public Works.

Section 15. On-Duty Training for Commercial Driver's License. The City shall continue to provide on-duty training to a non-probationary employee to assist him attain or maintain the required commercial driver's license and endorsement(s). Training shall be scheduled accordingly within the regular schedule of operations and shall be based on the availability of resources to conduct the training.

Section 16. Commercial Licensed Driver Pay. Effective the start of the first pay period following City Council adoption of this Memorandum of Understanding, an employee who possesses and maintains a valid Class A or Class B Commercial Driver's License will be compensated as follows:

- Class A – Seventy-five dollars (\$75.00) per month
- Class B – Twenty-five dollars (\$25.00) per month

It is the responsibility of the employee to maintain a valid Commercial Driver's License under this provision to qualify for this pay. Should an employee receiving Commercial Driver's License pay no longer maintain a valid qualifying license, he must contact Human Resources immediately to provide notification.

Section 17. Calculating the Value of Special Compensation (Spec Comp). Beginning or earlier than July 1, 2011, the values of the following special compensation items are calculated using a compounding method that calculates them in the following order: (1) Longevity Pay; (2) Backflow Certification Pay (Education Incentive). Any other special compensation items are not included in the compounding calculation.

If the employee receives one or more of the special compensation items subject to compounding referenced above, the one that is highest in the order above is calculated first, as the applicable percent of the base hourly rate of pay. For each additional special compensation item on the list above, the value shall be determined by multiplying the next one received in the above order as a percentage of the base hourly rate of pay plus the value of the special

compensation items already calculated under this method.

An example of the calculation method for a Water Systems Operator II who works eighty (80) hours in a two week pay period is as follows:

Employee Base Hourly Rate \$ 23.5398	Reportable Earnings @ 80 Hours	\$1,883.18
1. Longevity Pay (8.4020%)	Spec Comp Earnings	\$ 158.22
2. Backflow Certification (5.5 %) (Education Incentive)	Spec Comp Earnings	\$ 112.28

Section 18. Uniform & Maintenance Reporting to CalPERS.

A. The monetary value for the purchase and/or rental and maintenance of uniforms through City-contracted uniform providers is reportable to CalPERS as “special compensation.” This excludes items that are for personal health and safety such as protective garments and safety shoes. In accordance with the Public Employees’ Pension Reform Act (Government Code Section 7522 et. seq.) the reporting of uniform and maintenance value as “special compensation” for CalPERS members hired on or after January 1, 2013 is prohibited.

B. Upon hire the City will provide up to the following number of uniform components to employees in the following Divisions:

Maintenance & Facilities: 11 Shirts; 11 Pants/Shorts; 1 Rain Jacket & Pant Set; 1 Sweatshirt; 1 Jacket; and, 1 Hat/Beanie

Utilities: 11 Shirts; 11 Pants; 1 Sweatshirt; 1 Jacket; and, 1 Hat/Beanie

Transit: 5 Shirts; 4 Pants/Shorts; 1 Jacket; 1 Hat/Visor

The City shall provide uniforms for any employee required to wear a uniform in the course of his regular job duties. Upon the recommendation of the immediate supervisor, an employee may be approved for uniform replacement of any uniform component(s) based upon normal wear and tear or if damaged or destroyed in the discharge of the employee’s regular job duties.

C. The parties agree that effective July 1, 2011, the average annual cost incurred by the City for the purchase and/or rental, and maintenance of employee uniforms will be reported as special compensation pursuant to Section 571(a)(5) of the CalPERS regulations. The amount reportable for the purchase and/or rental and maintenance of uniforms is based on the average annual cost paid for by the City for each employee over the previous three fiscal years (FY 2014-2015, FY2015-2016, and FY 2016-2017) and shall not exceed four hundred dollars (\$400.00). The annual amount shall be reported on a per bi-weekly pay period basis.

ARTICLE IV

WORK WEEK

Section 1. Work Schedule.

A. The "9/80" schedule provides eighty (80) hours of scheduled work in a two-week pay period. Employees are scheduled to work eight (8) nine (9) hour shifts and one (1) eight (8) hour shift in a two week pay period. There is one alternating day off in the work schedule. The alternating day off is Friday. The work week for FLSA overtime purposes shall start (4) four hours into the nine (9) hour Friday shift. Management shall maintain the right to schedule employee's work days, start and end times, establishing FLSA work weeks, etc.

B. Employees with hardships may request to their department head to be assigned the five (5) eight (8) hour shifts per work week for eighty (80) hours of scheduled work in a two (2) week pay period. The work week for FLSA overtime purposes for this schedule shall start at 12:01 a.m. Monday and end at 12:00 a.m. Sunday. If the request is denied, the Association and City agree that the only appeal shall be to the Assistant City Manager. The decision of the Assistant City Manager shall be final with no further appeal.

Section 2. Voluntary Reduction of Full-Time Hours.

A. A department head may grant a request from a full-time employee to reduce their work hours below forty (40) hours in a work week. Employees may request reductions of up to, but not to exceed, sixteen (16) hours in a two (2) week pay period. This Section shall not apply to employees who request reductions of more than sixteen (16) hours in a pay period.

B. Employees who participate in this voluntary program shall maintain their status of "full-time" with all the normal rights and privileges that status holds unless specifically altered by this section.

C. Employees who are granted a reduction shall have salary reduced in proportion to the reduced hours or shall be paid for the actual hours worked.

D. The City shall continue contributions to medical benefits as outlined in this MOU.

E. Leave time benefits such as vacation, sick leave and holidays, shall be reduced in proportion to the hours worked.

F. All approved programs shall begin on the first Monday in the month that begins a pay period. Employees approved for this program shall be required to remain on the reduced schedule for at least two (2) pay periods. Employees shall only make two (2) requests/changes per fiscal year.

G. Nothing in this Section shall diminish management rights to schedule working hours, starting times, the number of hours worked, nor right to refuse requests; nor other rights as previously reserved.

ARTICLE V

OVERTIME

Section 1. Overtime Compensation. Overtime may be compensated in time off or money. Employees assigned to work overtime shall have the right to be paid money, unless the form of compensation time off has been discussed in advance. All approved overtime worked by an employee in excess of forty (40) hours in the employee's work week shall be paid at the rate of one and one-half (1.5) the employee's regular hourly rate. All non-statutory overtime shall be paid at one and one half times the regular rate of pay, as defined in the FLSA, except that cash received by employees who opt out of health insurance shall not be included in those calculations. Management may inform employees, prior to the performance of the work, that only "compensatory time" is available. In this instance, employees shall have the right to refuse the overtime assignment.

Section 2. No Pyramiding. There shall be no pyramiding of overtime, which means that employees shall not be compensated more than once for the same hours under any provision of this Agreement.

Section 3. Overtime Policy. It is the policy of the City that overtime work is to be discouraged. However, in cases of emergency or whenever public interests or necessity requires, any department or division head may require any employee in such department or division to perform overtime work. The City shall assign overtime on a fair and equitable basis and shall establish a system of rotation of overtime. The City agrees to implement and update to the current Policy to insure that overtime assignments and assignment of the stand-by pager in the Utilities Division are rotated among qualified personnel, provided that such system shall guarantee the integrity of the City's ability to perform services with adequate available manpower. The projects and types of work for which overtime may be authorized shall be approved in advance by the City Manager, except in the event of emergency, overtime is authorized by the department head or his designate.

Section 4. Compensatory Time Off. Where elected, compensatory time off is provided at a rate of one and one-half (1.5) hours for each overtime hour worked. The maximum compensatory time off an employee may accrue is two hundred forty (240) hours (up to one hundred sixty (160) overtime hours worked) in accordance with the Federal Labor Standards Act (FLSA). Effective upon adoption of this Memorandum of Understanding, any compensatory time off hours earned in lieu of overtime pay that are in excess or will exceed the FLSA maximum, shall be paid out at the overtime rate and an employee shall not be allowed to accrue compensatory time off until earned compensatory time off hours fall below the FLSA maximum.

Unused compensatory time off hours shall be paid out upon separation from employment at the higher of (a) the employee's average rate of pay for the final three years of employment, or (b) at the employee's final regular rate of pay.

ARTICLE VI

COMPENSATION FOR CALL BACK

Section 1. Call Back Duty. Employees covered by this Agreement who are called back

to duty from off duty to perform work outside their regular work schedule shall receive and be paid for a minimum of two and six-tenths (2.6) hours at the rate of one and one-half (1.5) the regular rate of pay. Employees shall be entitled to call back pay in the event the employee is required to report back to work after completing his regular work shift, left City premises, and/or the employee work location. In accordance with FLSA, actual hours worked, including travel from home to the call back location shall be counted toward the computation of overtime pay. As approved by the Division Manager, an employee who is able to handle the incident by phone or other electronic means without having to report to duty may be compensated according to the same call back provisions.

Section 2. Hours. If an employee is called back in less than four (4) hours before the start of their regular work shift, the employee shall be paid for the hours actually worked. Such hours shall be counted toward the computation of overtime pay.

Section 3. Emergencies. In cases of emergency or whenever public interests or necessity requires, any Department or Division Head may require an employee in such department or division to perform work at times other than their regular work schedule.

Section 4. Standby Duty. An employee who is released from active duty but who may be required by the Division Manager or designee to leave notice where they can be reached and be available to respond to active duty at a time other than their regular work hours shall be said to be on standby duty. An employee who is assigned standby duty and is called back shall receive pay in accordance with Article VI, Section 1. Emergency call back for employees not on standby shall be rotated among all qualified unit members. The City may, at its discretion, establish eligibility criteria based on known skills, classification and distance from the workplace for standby duty. During standby duty, the employee is expected to be able to respond and perform assigned duties in a satisfactory manner. The City reserves the right to call back an employee nearest the emergency site when time is of the essence.

ARTICLE VII

HOLIDAYS

Section 1. Employees covered by this Agreement shall receive eight (8) hours of pay for each of the following holidays:

1. New Year's Day
2. Martin Luther King's Birthday
3. Washington's Birthday (President's Day)
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. Day after Thanksgiving
10. Day before Christmas
11. Christmas Day

When a holiday falls on a weekday that is an employee's regular day off, the employee

shall receive eight (8) hours of compensatory time at straight time. When a holiday falls on a day an employee is scheduled to work nine (9) hours, and the employee takes the day off, the employee shall add one (1) hour by choosing vacation, compensatory time, personal leave, or time without pay. Sick leave, other than personal leave, may not be used to supplement the holiday hours.

Section 2. When a holiday falls on a Saturday, the preceding Friday will be observed as the holiday. When a holiday falls on a Sunday, the following Monday shall be observed as the holiday. When Christmas Day falls on a Saturday, the day before Christmas shall be observed on the previous Thursday. When Christmas Day falls on a Monday, the day before Christmas shall be observed on the previous Friday.

Section 3. When an employee works on a holiday (the day City Hall observes), the employee shall receive holiday pay that shall be eight (8) hours of pay at the employee's regular hourly rate of pay; together with overtime pay of one and one-half (1.5) times the employee's hourly rate of pay for each hour worked on the holiday. When an employee works on the actual holiday (when the holiday is observed as City Hall closure on another day), the employee will receive the premium pay above, unless the employee was paid premium on the day the holiday was observed.

Section 4. Should one (1) of the holidays listed above fall during the employee's vacation period, the employee shall receive holiday pay and no charge shall be made against the employee's accumulated vacation.

ARTICLE VIII

VACATION

Section 1. Accruals.

A. Employees covered by this Agreement shall accrue vacation leave pay on the following scheduled basis:

<u>Year of Service</u>	<u>Hours Per Year</u>	<u>Monthly Accrual</u>
0 – 3	80	6.7 Hrs.
4 – 5	96	8.0 Hrs.
6 – 10	120	10.0 Hrs.
11 – 15	136	11.3 Hrs.
16+	160	13.4 Hrs.

Section 2. Accrual Limits. Vacation shall be taken at the convenience of the City with the approval of the department head. Where possible, such vacation should be taken annually and not accumulated from year to year. All eligible employees, however, shall only be allowed to accumulate vacation in an amount equal to two times their annual accrual rate ("Maximum Accrual"). Once Maximum Accrual is reached, it is intended that employees not be entitled to accrue additional vacation until the amount of accumulated vacation is reduced to a level below Maximum Accrual. If the employee is prohibited by the supervisor from taking the employee's vacation because of staffing shortages or operational need, the employee shall be paid for the

period of advance authorized vacation. Such vacation shall be approved by the department head and paid at the employee's regular hourly rate of pay in effect for the scheduled period of vacation.

An employee will not be allowed to accrue vacation that exceeds the Maximum Accrual until the vacation falls below the Maximum Accrual.

Section 3. Vacation Approval. The department head shall make every reasonable effort to accommodate the employee's request to take vacation and avoid any vacation accrual that exceeds or continues to exceed Maximum Accrual. Any vacation taken under this Section shall be on a date mutually agreeable to both the department head and the employee.

Section 4. Vacation Pay-Out. When an employee who has become entitled to receive vacation under this Article separates from City service, either by retirement, permanent layoff, or termination, the employee shall be entitled to be paid for unused earned vacation at the employee's regular hourly rate of pay in effect at the time of separation.

Section 5. Accrual Calculation. Vacation shall be accrued on a monthly basis by dividing twelve (12) into the number of eligible vacation hours per year, as set forth in Section I above, to which the employee is eligible to receive based upon the employee's years of service with the City.

Section 6. Use of Vacation. An employee may use vacation hours to avoid the loss of pay for hours absent from the job, provided the employee has already accrued the vacation hours. This does not preclude the employee from being disciplined if the absence from the job is not approved, is unjustified, or otherwise is in violation of City policies and practices.

ARTICLE IX

NON-PAID LEAVE OF ABSENCE

Section 1. Leave of Absence Without Pay. The City Manager may grant a permanent employee a leave of absence for a specific purpose, without pay, for a period not to exceed up to one (1) year. The City Council may, upon recommendation of the City Manager, grant a permanent employee a leave of absence for a specific purpose, with pay, not to exceed one (1) year. No such leave shall be granted except upon written request of the employee. Approval shall be in writing and a copy filed with the Human Resources Office of the City. Upon expiration of a regularly approved leave, the employee shall be reinstated in the position held at the time leave was granted. The employee shall report promptly upon the expiration of any leave granted. Failure to report within a twenty-four (24) hour period after expiration of leave shall be considered a voluntary resignation. Except as may be provided by law, no employment or fringe benefits such as, but not limited to, sick leave, vacation, health insurance, retirement or any other benefit shall accrue to any employee during leave of absence without pay.

Section 2. Health Insurance Premiums. An employee on approved leave may elect to pay the premiums due in order to maintain health insurance benefits during the term of such leave. (Also refer to Family Leave policy.)

Section 3. Written Notice of Intent to Return. An employee on leave of absence must

give the City at least seven (7) days written notice of the employee's intent to return to work.

Section 4. Outside Employment While on Leave. An employee, who engages in outside employment, without prior approval of the City Manager, during said leave of absence, shall be subject to termination. Any employee who falsified a reason for the request for said leave of absence or any extension of such leave of absence may be terminated for falsifying such request.

Section 5. Unpaid Leave and Accumulation of Benefits. In the event an employee has exhausted all accumulated benefit hours and has not returned to work, the employee must apply for a leave of absence or be terminated. Employees shall be notified by the City when all benefit hours have been exhausted. After the employee has been notified, he shall have ten (10) calendar days to apply for leave of absence.

ARTICLE X

SICK LEAVE

Section 1. Sick Leave Accruals.

A. Sick leave shall be accrued at the rate of 3.692 hours per biweekly pay period (ninety-six [96] hours per year) for full-time employees without limit on accumulation. Sick leave shall not be considered to be a privilege which an employee may use at his discretion, but rather shall be allowed only for the purposes specified below.

Section 2. Use of Protected Sick Leave.

A. Effective the start of the pay period which includes July 1, 2015, the first three (3) shifts or hours equivalent (e.g. twenty-four [24] hours for employees assigned to a 5/8 work schedule or twenty-seven [27] hours for employees assigned to a 9/80 work schedule) of paid sick leave taken each twelve (12) month period, for any authorized purpose, will be considered sick leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The twelve (12) month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the twelve (12) month period is the twelve (12) month period beginning on the employee's hire date, until the following July 1 at which point the employee's 12 month period will begin the start of the pay period which includes July 1 to the pay period that includes June 30.

B. Effective January 1, 2016, employees can use up to an additional forty-eight (48) hours of sick leave per year provided by the California Kin Care law.

C. An employee can use sick hours as protected leave for any of the following reasons: The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or the employee's family member.

D. For purposes of this section, a family member includes employee's parent, child, spouse, registered domestic partner, parent-in-law, grandparent, grandchild, and sibling. Only the first three (3) shifts or hours equivalent plus forty-eight (48) hours of sick leave in a twelve (12) month period can be used as described above.

E. Employees can use sick leave for related purposes if they are victims of domestic violence, sexual assault or stalking.

F. In order to receive compensation while absent on protected sick leave, the employee shall notify a designated supervisor within one (1) hour of the time set for beginning duty, unless notification is physically impractical then such notification shall be waived until a reasonable period has elapsed.

For any such absence in which protected sick leave is utilized, the employee shall submit a written statement with the department head or designee confirming the use of protected sick leave. A physician's statement verifying the absence from work is not required.

When an employee is not utilizing protected sick leave, the department head or his designee may require a physician's certificate stating the cause for any subsequent absence before said leave shall be approved. Such absence may be for more than three (3) work days or if there is reasonable cause to indicate abuse of sick leave.

G. Accrued Sick Leave Benefit. The right of an employee to accrued sick leave benefits shall continue only during the period that the employee is on paid status. Accrued sick leave benefits shall not give any employee the right to be retained in the service of the City, or any right of claim to sickness disability benefits after separation from the services of the City, except as required by federal or state law.

H. Notwithstanding anything contained in this Section, no employee shall be entitled to receive any payment or other compensation from the City while absent from duty by reason of injuries or disability received as a result of engaging in employment other than employment by the City, for monetary gain or other compensation, or by reason of engaging in business or activity for monetary gain or other compensation other than business or activity connected with City employment.

I. Fitness for Duty. At the written request of the appointing authority, based upon job-related grounds and consistent with business necessity, the City Manager may require an employee to submit to an examination by the City's physician to determine fitness for duty. If the results of the examination indicate the employee is unable to perform his duties, or in the performance of his duties, exposes others to infection, the employee shall be placed on sick leave without privilege of reinstatement until adequate medical evidence is submitted that the employee is competent to perform his duties or will not subject others to infection. Any employee so examined shall have the right to submit the reports of a competent medical authority of his own selection, and at his own expense, in addition to the report submitted by the City's physician. In the event of a conflict of opinion and/or recommendation of the two (2) physicians, a third physician shall be selected by the first two (2) physicians and the final decision shall be made by the City Manager based upon the medical evidence submitted to him.

J. The City will not harass employees for the use of sick leave or industrial injury leave. Harassment is the persistent criticism of employees who use sick leave or are off because of industrial injury. However, noting the use of sick leave on employee evaluations is not considered harassment.

ARTICLE XI

OTHER USES OF SICK LEAVE

Section 1. Sick Leave Conversion at Retirement or Death.

A. Effective December 15, 2008, one hundred percent (100%) of an employee's unused accumulated sick leave shall be deposited into the City Retirement Health Savings (RHS) Plan to be used for eligible medical expenses, provided that the maximum number of hours that will be deposited is nineteen hundred (1,900).

B. In the event of layoff, an employee with ten (10) years of continuous service with the City shall be entitled to the above benefit.

C. Accrued sick leave shall be valued for the purposes of Section G above, on the following basis:

1. Sick leave earned prior to June 30, 1974 shall be costed at salary rates in effect on June 30, 1974.
2. Sick leave earned on or after July 1, 1974 shall be costed at the rate prevailing at the end of the fiscal year in which it was earned.
3. Sick leave taken shall be deducted from the oldest, lowest value accrued sick leave first, provided however, when an employee takes sick leave, the employee shall receive each hour of sick leave at the employee's hourly rate in effect at the time of taking sick leave.

Section 2. Sick Leave Conversion to Vacation. Employees who become entitled to accrue sick leave allowance which has not been used, may convert each two (2) hours of accumulated sick leave to one (1) hour of vacation, after having accumulated six hundred and forty (640) hours of sick leave and providing that not more than forty (40) hours of additional vacation may be so converted in any one fiscal year.

Section 3. Bereavement Leave.

A. Any employee who has suffered a death of an immediate family member, may be allowed bereavement leave with pay, not to exceed six (6) work days per incident on the basis of one-half (.5) work day for each month of regular employment, which is deducted from accumulated sick leave. Immediate family shall include and be limited to the employee's mother, father, brother, sister, spouse or child, grandchildren, grandparents and current parent-in-laws.

B. All such claims for bereavement leave are subject to verification by the department head or their designee.

Section 4. Personal Leave. With advance approval of the department head, an employee may use up to twenty-four (24) hours of their accrued sick leave per year, on personal matters which are of an unforeseen combination of circumstances which call for immediate action and are not otherwise covered under protected sick leave or to add one additional hour per holiday as covered in Article VII, Section 1. Such matters shall be considered as those

events or occurrences that a reasonable prudent person would not or could not postpone to a subsequent time. The nature of the matter shall be explained to the immediate supervisor and shall be granted with his approval. Such personal leave shall not be cumulative from year to year. Personal Leave used as an additional hour of holiday shall not be included in any calculation of an employee's use of sick leave for the purposes of performance evaluation or awards provided by the City.

Section 5. Employee Disability Leave.

A. An employee that has at least one (1) year of continuous service with the City and who has exhausted all accrued leave (vacation, sick-leave, comp time) due to non-industrial illness or injury can be advanced sick leave time at the rate of seventy-five percent (75%) of the employee's regular salary according to the following table:

Maximum Time Allowance (Hours)

<u>Years of Service</u>	<u>Total Hours</u>
1 through 5	360
6 through 10	544
Over 10	720

B. Application for disability leave shall be made by the employee to the City Manager through the department head, accompanied by full medical justification from a physician chosen by the City at the direction of the City. Failure to submit to such an examination shall be a basis for terminating disability leave. If the City Manager approves the application, he shall notify the employee of such approval in writing.

C. After the employee returns to work, the employee shall reimburse the City for the value of the advanced sick-leave time by having the employee's sick leave accrual for sick-leave reduced by four (4) hours per month and the employee may contribute vacation leave to accelerate the employee's reimbursement to the City for providing the benefits under this Article.

D. When the "maximum time allowance" has been reimbursed as set forth above, the employee shall be eligible to apply for additional disability leave; provided that no employee shall receive more than the "total" set forth above for his length of service, during his entire employment with the City.

E. Grounds for termination of disability leave by the City Manager shall include, but not be limited to, the following:

1. The employee has recovered from his illness or injury.
2. The leave is being used as a pre-retirement leave for purpose of postponing retirement or pension.
3. The disability leave was procured by fraud, misrepresentation or mistake.

4. The employee has not cooperated fully in supplying all information and submitting to any examination requested by the City to determine the existence or continuing nature of the employee's disability.

F. In the event an employee becomes ineligible to accrue sick leave or is scheduled to end employment with the City and has not completed the reimbursement schedule for this benefit, the balance due shall be handled by payroll deduction or accounts receivable as applicable.

ARTICLE XII

OTHER LEAVES

Section 1. Workers' Compensation - Injury on Duty Leave.

A. Compensation. If an employee is absent from work by reason of illness or injury determined to be covered by Workers' Compensation, the City shall pay the employee seventy-five percent (75%) of his regular rate of pay for up to ten (10) work days following the illness or injury in lieu of temporary disability payments. During the period in which the employee receives seventy-five percent (75%) of regular pay, no State or Federal income tax shall be withheld upon timely request by the employee. If a regular employee is disabled due to an illness or injury covered by Workers' Compensation for a period beyond ten (10) working days, said employee shall be paid one hundred percent (100%) of his regular rate of pay.

Any payments made pursuant to this Section shall not be charged to the employee's sick leave or vacation benefits. All fringe benefits, such as payment of medical and dental insurance premiums shall continue during such paid industrial disability leave.

B. Duration. Any such paid industrial disability leave, as described in Section A above, shall extend for a period of up to nine (9) calendar months for each covered injury or illness. Such paid industrial disability leave shall not be authorized after an employee's separation from City service.

C. Extended Industrial Disability. In the event that an employee's industrial disability or incapacity extends for a period beyond nine (9) calendar months, the employee shall be entitled to receive temporary or permanent disability benefits pursuant to State Workers' Compensation laws.

D. The existing language contained in Article IX, Section 11, of the Personnel Management Rules and Regulations, entitled Workers' Compensation, is hereby superseded by the provisions of this Section and effectively deleted in terms of applicability to employees covered by this Agreement.

E. If an employee with a Workers' Compensation claim files for a permanent disability rating, he will continue to receive the extended industrial disability wage continuance as detailed in item C above. In no case will an employee's compensation be reduced to the State minimum in lieu of his entitlement to the wage continuance provisions specified above.

F. In the event that the Federal income tax laws are changed to provide that temporary

disability payments are taxable income, the amount of the wage continuance shall revert from seventy-five percent (75%) back to one hundred percent (100%).

G. Reclassification of Injured Worker. If, in the opinion of the City, an employee has been found to be permanently, physically incapable of performing the duties of the currently held position, the City may place the employee into another vacant position of equal level or lower within the bargaining unit provided such placement is approved by the appointing authority. Nothing herein shall be construed to prevent such employee from applying for and competing for positions of a higher class or positions represented by other bargaining units.

Section 2. Military Leave. Military leave shall be granted in accordance with the provisions of State and/or Federal law. All employees entitled to military leave shall give the appointing power an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

Section 3. Jury Duty. In the event that an employee is called for jury duty and the court does not excuse such jury service the City shall grant the employee paid release time for the required jury duty that is performed within the employee's regular work schedule provided the employee submits court documentation verifying the date(s) and time served for jury service. Such verification must accompany the payroll timesheet for the payroll period in which the jury service was performed. Any fees for jury service that the employee may receive from the court shall be remitted to the City.

Section 4. "Child-Related Activities" Leave.

A. Effective January 1, 2016, an employee is eligible for up to up to forty (40) hours per year (up to eight [8] hours per month) of authorized time off from scheduled work for "child-related activities" if the employee is a parent with one or more children attending kindergarten, grades 1 to 12, or is at a licensed child care provider. "Child-Related Activities" includes finding, enrolling, or reenrolling a child in school or with a licensed child care provider. Such leave also includes leave to address a child care provider or school emergency, including a request that the child be picked up from school/child care, behavioral/discipline problems, closure or unexpected unavailability of the school (excluding planned holidays), or a natural disaster. "Parent" in this case is defined to include a parent, guardian, stepparent, foster parent, or grandparent of, or a person who stands in loco parentis to, a child.

B. Except in the case of the need to address a child care provider or school emergency, the use of such leave can be limited to eight (8) hours per month. An employee can be required to use any earned compensatory time or vacation hours for any such absences related to child-related activities.

Section 5. Consultation of Human Resources. To ensure the appropriate application of all compatible statutorily provided protected leave, it is advised that the employee, department head, or immediate supervisor consult with the Human Resources Director or designee in advance on the use of protected leave.

ARTICLE XII

FRINGE BENEFIT ADMINISTRATION

Section 1. Administration. The City reserves the right to select the insurance carrier or administer any fringe benefit programs that now exist or may exist in the future during the term of this Memorandum of Understanding.

Section 2. Selection and Funding. In the administration of the fringe benefit programs, the City shall have the right to select any insurance carrier or other method of providing coverage to fund the benefits included under the terms of this Memorandum of Understanding, provided that the benefits of the employees shall be no less than those in existence as of the implementation of this Agreement.

Section 3. Changes. If, during the term of this Memorandum of Understanding, any change of insurance carrier or method of funding for any benefit provided hereunder occurs, the City shall notify the Association prior to any change of insurance carrier or method of funding the coverage.

ARTICLE XIV

MEDICAL, DENTAL AND OTHER INSURANCE

Section 1. Medical Insurance.

A. Kaiser Permanente Health Maintenance Organization (HMO).

1. Effective July 1, 2012, the City agrees to maintain the fully-insured \$10 co-pay plan with Kaiser Permanente for unit employees without an employee contribution towards coverage for employee plus qualified dependent(s) through the term of this Memorandum of Understanding.
2. Effective July 1, 2012, no other medical insurance coverage options are available for unit employees except for the Kaiser Permanente HMO plan.
3. For the term of this Memorandum of Understanding, the City agrees to contribute up to the monthly premium amount of the employee's eligible coverage level for the second highest PPO plan offered by CalPERS at the basic premium rates in effect and designated for the Los Angeles Area. In the event medical plan premiums for the City's Kaiser Permanente HMO plan exceed the City's contribution rates during the term of this Agreement, the City agrees to open discussions at the request of the Association to consider alternate medical plans, including medical plans offered by CalPERS.

B. Employee Waiver of Medical Coverage. The City agrees to permit an employee to waive City-sponsored medical coverage as follows:

1. The employee presents written proof to the Human Resources Office that he and his qualified dependent(s) are covered by another non-City-sponsored medical plan for the current plan year;
2. The employee must sign a statement acknowledging a waiver of City offered medical insurance coverage and agreement to hold the City harmless for any consequences, whatsoever, that result from the employee's waiver of City offered medical insurance coverage for employee and/or qualified dependent(s); and
3. The employee must sign a statement acknowledging his understanding that his qualified dependent(s) are not eligible to re-enroll in City sponsored medical coverage until the next announced Open Enrollment period or as otherwise required by law under COBRA provisions.

Upon adoption of this Memorandum of Understanding and effective the next second pay cycle of the month after an employee's compliance with this Section, the City agrees that the employee who is qualified to waive coverage shall receive three hundred dollars (\$300.00) per month if waiver eligibility is for "employee only" coverage, four hundred fifty dollars (\$450.00) per month if waiver eligibility is for "employee plus one" coverage, or six hundred fifty dollars (\$650.00) per month if waiver eligibility is for "employee plus two or more dependents" coverage. The eligible amount will be paid to the employee as taxable earnings.

A medical opt out election may only be made by an employee during their time of hire or during an announced open enrollment period for medical insurance changes effective January 1.

Section 2. Dental Insurance.

A. Dental HMO Plan. The City shall continue to make a maximum contribution of thirty-one dollars and ninety-five cents (\$31.95) per month to a dental HMO benefit package for the employee and his qualified dependent(s). Any amounts necessary to fund existing benefits in excess of the amounts which the City is obligated to contribute set forth above shall be borne by the employee.

B. Delta Dental Plan. Effective January 1, 2009 (start of a new benefit year), the City agrees to increase the annual maximum benefit amount under the Delta Dental Premier (PPO) coverage payable from one thousand dollars (\$1,000.00) to two thousand dollars (\$2,000.00).

The Delta Dental Plan is a self-funded plan administered by Delta Dental. Premiums are calculated annually by Delta Dental based on prior year's claims experience, administrative fees, and an industry trending projection. For the term of this Memorandum of Understanding, the City agrees to maintain the employee's contribution rate of 46.4% towards the monthly premium established as a composite rate.

Section 3. Life & Accidental Death & Dismemberment (AD&D) Insurance. As soon as practicable but by no later than July 1, 2016, the City will implement an increase to the current basic life insurance policy coverage. Each employee covered by this Agreement shall be provided with a fifty thousand dollar (\$50,000.00) group term life insurance benefit and accidental death and dismemberment benefit without evidence of insurability other than evidence of full-time employment with the City. Under the terms of this policy, benefit provisions

are payable and determined by the insurance carrier.

Section 4. Long Term Disability Insurance. Effective January 1, 2015, the City enrolled Association employees in the City's Long-Term Disability Insurance program. Under the terms of this policy, benefit provisions are payable and determined by the insurance carrier.

Section 5. Employee Assistance Program (EAP). The City provides each employee an EAP benefit that provides emotional/well-being, work and life counseling services on a toll free 24 hour/7 days per week assistance.

Section 6. IRS Section 125 Benefit (Cafeteria) Plan. The City shall continue to provide payment of benefit premiums for employees covered by this Agreement under an IRS Section 125 Benefit Plan. The current core benefits include medical, dental, life, AD&D and long-term disability insurance, and EAP coverage. Medical insurance is a core benefit which a City employee is required to be enrolled in unless he is covered by another medical insurance plan with comparable coverage and/or meets minimum essential coverage as specified by the Affordable Care Act.

1. The City's maximum contribution shall be the sum of the monthly designated premiums paid by the City for core benefits in each of the following categories:

Employee only ("EE")
Employee +1 Dependent ("EE +1")
Employee +2 or more dependents ("EE +2")

The maximum City contribution shall be based on the employee's enrollment in each plan. If an employee enrolls in a plan wherein the costs exceed the City's maximum contribution, the employee is responsible for all additional premiums through pre-tax payroll deductions. An employee is not entitled to any excess amount of premiums paid by the City on his behalf.

2. The City continues to provide other benefits coverage under an Employee Voluntary Benefits Program fully funded by the employee on a pre-tax basis in accordance with IRS regulations.

ARTICLE XV

RETIREMENT

Section 1. California Public Employees' Retirement System (CalPERS) Coverage. Employees covered by this Memorandum of Understanding participate in CalPERS. Employee options are described in a contract between the City of Downey and CalPERS and are incorporated into this Memorandum of Understanding.

Section 2. First Tier Retirement Formula. Effective August 19, 2002, the City amended the CalPERS contract to provide the benefit known as 2.7% @ age 55 retirement formula, as set forth in California Government Code Section 21354.5.

A. In accordance with existing practice and Government Code Sections 20636(c)(4), and 20691, the City will pay the employee's statutorily required member contribution of eight percent (8%) and report this Employer Paid Member Contribution ("EPMC") to CalPERS as special compensation.

B. Effective the pay period that includes July 1, 2012, employees shall begin to have deducted, on a pre-tax basis, two percent (2%) of CalPERS reportable compensation, pursuant to California Government Code Section 20516(f).

C. Effective the pay period that includes July 1, 2013, employees shall have deducted an additional two percent (2%) of CalPERS reportable compensation, for a total of four percent (4%), on a pre-tax basis, pursuant to Government Code Section 20516(f).

D. Effective the pay period that includes July 1, 2015, the four percent (4%) employee cost sharing referenced in C. above shall be reduced to three percent (3%) through the pay period that includes March 31, 2016; thereafter, the four percent (4%) cost sharing amount shall apply unless otherwise negotiated sooner in a successor Memorandum of Understanding.

E. Effective May 7, 2018, the four percent (4%) employee cost sharing referenced in D above shall be increased to five percent (5%).

F. Should an employee be mandated by a change in law or other action to contribute any portion of the required employee (member) contribution to CalPERS, the City shall take all action necessary to reduce the deduction then being made pursuant to California Government Code Section 20516(f), above, by the amount of the mandated employee contribution.

G. The City has passed a resolution setting forth that all deductions or contributions under this Section shall be regarded as a pick-up of retirement costs pursuant IRC 414(h)(2).

H. First tier benefits are available only to "Classic" members (i.e. those members that do not meet the statutory definition of "New Member" under the California Public Employees' Pension Reform Act ("PEPRA"), specifically Government Codes Section 7522.04(f) and were hired prior to October 10, 2012.

Section 3. Second Tier Retirement Formula. Effective January 11, 2012, the City amended its CalPERS contract to implement the 2% @ age 60 second tier retirement formula, as set forth in Government Code Section 21353. This Second Tier Retirement Formula will not apply to "new members" as that term is defined by the Public Employees' Pension Reform Act of 2013.

A. Employees covered hereunder shall pay, on a pre-tax basis, the seven percent (7%) statutorily required member contribution to CalPERS.

B. The City has passed a resolution setting forth that all deductions or contributions under this Section shall be regarded as a pick-up of retirement costs pursuant to IRC 414(h)(2).

C. Second tier benefits are available only to "Classic" members (i.e. those members that do not meet the statutory definition of "New Member" under the California Public Employees' Pension Reform Act ("PEPRA"), specifically Government Code Section 7522.04(f) and hired on or after October 10, 2012, but before January 1, 2013).

Section 4. Third Tier (“PEPRA” Tier) Retirement Formula. Employees who meet the definition of “New Member” set forth in Government Code Section 7522.04(f) shall be eligible for the benefits provided by PEPRA, which include but are not limited to, the following:

- A. Retirement formula of 2% @ 62 (Government Code Section 7522.25):
- B. Employees covered hereunder shall pay a member contribution of fifty percent (50%) of normal cost as determined from time to time by CalPERS (employee contribution is six and one-fourth percent [6.25%] for FY 2016-17).
- C. There shall be no Employer Paid Member Contribution (“EPMC”) by the City;
- D. Retirement benefit calculations shall be based on pensionable compensation, as defined by Government Code Section 7522.34; and
- E. Retirement benefits shall be calculated based on the three (3) year highest average annual pensionable compensation.

Section 5. Survivor/Death Benefits. Effective July 13, 2009, the City implemented the CalPERS contract amendment to include: (a) the Level 4 1959 PERS Survivor’s Benefit program (Section 21574) and (b) the Pre-Retirement Optional Settlement 2 Death Benefit (Section 21548).

Section 6. City Retiree Medical Contribution. An employee who retires from the City of Downey on or after July 1, 2012, shall be entitled to participate in the City-sponsored medical plan under the Kaiser Permanente HMO plan or the Kaiser Permanente Senior Advantage plan and the City shall contribute up to a maximum of ninety-eight dollars (\$98.00) per month toward the premium for employee only coverage, provided:

- A. At the time of retirement the employee has a minimum of ten (10) years of service, or is granted a service-connected disability retirement;
- B. At the time of retirement the employee is employed by the City; and
- C. Effective the day after official separation from the City the employee has been granted a retirement allowance by the CalPERS.
- D. The City's obligation to pay up to a maximum of ninety-eight dollars (\$98.00) per month towards the premium in the City plan shall be modified downward or cease during the lifetime of the retiree upon the happening of any one of the following:
 - 1. During any period the retiree is eligible to receive or receives health insurance coverage at the expense of another employer the payment will be suspended. "Another employer" as used herein means private employer or public employer or self-employed or the employer of a spouse. As a condition of being eligible to receive the premium contribution set forth above, the City shall have the right to require any retiree to annually certify that the retiree is not receiving any such paid health insurance benefits from another employer. If it is later discovered that misrepresentation has occurred, the retiree will be responsible for reimbursement

of those amounts inappropriately expended and the retiree's eligibility to receive benefits will cease.

2. If the retiree becomes eligible to enroll, automatically or voluntarily, in Medi-Cal or Medicare, the City's plan shall provide secondary coverage only and the City's contribution rate set forth above shall be adjusted downward accordingly.
3. In the event the Federal government or State government mandates an employer-funded health plan or program for retirees, or mandates that the City make contributions toward a health plan (either private or public plan) for retirees, the City's contribution rate set forth above shall be first applied to that plan. If there is any excess, that excess may be applied toward the City medical plan as supplemental coverage provided the retiree pays the balance owing for such coverage if any.
4. Upon the death of the retiree, this benefit shall cease.

E. It is understood and agreed that the annual amount contributed by the City to fund the Retiree Medical Annuity on behalf of the employees, shall be included as an item of compensation in total compensation survey comparisons.

ARTICLE XVI

TUITION REIMBURSEMENT

Section 1. Reimbursement Rates. With prior approval of the City Manager, employees may be reimbursed for tuition and required books for courses taken to improve their value to the City. Tuition shall be reimbursed for courses as recommended by the department head with job related justification and approved by the City Manager or their designee. An employee must receive a passing grade in order to be reimbursed for the course. Reimbursement shall be made at the rate of tuition charged at California State University, Long Beach for courses on the semester system. Courses on the quarter system shall be reimbursed at the unit equivalent California State University, Long Beach tuition amounts.

ARTICLE XVII

PROBATIONARY PERIOD

Section 1. An original or promotional appointment will be tentative and subject to a probationary period of not less than six (6) months, except that the City Manager may extend the probationary period for a class up to an additional six (6) months or for a marginal probationer for up to an additional three (3) months. Should the appointing authority desire to terminate any probationary employee, the appointing authority shall notify such employee no less than two (2) weeks prior to termination.

Section 2. If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the Human Resources Director a merit rating including a statement, in writing, to such effect and stating that the retention of

such employee in the service of the City is desired. If such a statement is not filed, the employee will be deemed to be unsatisfactory and his employment terminated at the expiration of the probationary period.

Section 3. All probationary periods shall extend to the first day of the month following the period of probation.

Section 4. During the probationary period an employee may be rejected at any time by the appointing power without cause and without the right of appeal.

ARTICLE XVIII

SENIORITY

Section 1. Seniority Date. Employee seniority is the length of continuous service of the employee with the City from his most recent date of hire or rehire.

A. No employee shall acquire any seniority until he has completed his probationary period.

B. When an employee has completed his probationary period, his seniority shall date from date of hire.

Section 2. Layoffs.

A. Whenever, in the judgment of the City Council, it becomes necessary to lay off employees, the City may abolish any position covered by this Agreement. Any employee holding an abolished position will be subject to layoff and have no right to demand that written charges or reasons therefore be filed, and shall have no right of appeal or hearing.

B. Seniority shall be observed in affecting layoffs in personnel. The least senior employee in a classification subject to layoff will be laid off first.

C. An employee subject to layoff may exercise his seniority (1) within a job family laterally, (2) within a job family to a lower classification, or (3) to a classification previously held by the employee, provided that the employee meets the current qualifications and requirements of the position in which he seeks to exercise seniority, and provided further that any such exercise in seniority shall be subject to a thirty (30) day trial period. An employee subject to layoff because of such exercise of seniority, may, in turn, similarly exercise his seniority subject to the same limitations. If an employee does not successfully complete the thirty (30) day trial period, he will be laid off, provided that the employee may grieve such a layoff and be entitled to Skelly rights.

D. For purposes of this section, job families are established as follows:

1. Facilities & Maintenance Services - Maintenance Lead Worker
Maintenance Worker III
Maintenance Worker II
Maintenance Worker I

2. Water and Sanitation – Water System Lead Worker
Water System Operator II
3. Equipment Maintenance Lead Worker
Mechanic

Section 3. Loss of Seniority Rights. A separation from service, other than an approved leave of absence or layoff, shall cause the employee to lose his seniority rights.

Section 4. Re-Employment List. Names of employees laid off shall be placed on a re-employment list in order of their seniority and shall remain on such list for a period of two years. During this time, the City will use this list to rehire employees in order of seniority, provided that the employee held the classification being filled or held a classification in the same job family.

Section 5. Layoff Notice and Severance Pay. In the event the City decides to contract for work provided by an employee covered by this Agreement, the City will provide at least one month's notice to the affected employee prior to the effective date of the layoff. An employee laid off because the City contracts with a private company to perform his duties will receive a severance payment upon termination equal to three (3) months of the employee's current salary amount.

ARTICLE XIX

CITY RIGHTS

Section 1. Management Rights. The City reserves, retains, and is vested with, solely and exclusively, all rights of Management which have not been expressly abridged by specific provision of this Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of this Memorandum of Understanding. The sole and exclusive rights of Management, as they are not abridged by this Agreement or by law, shall include, but not be limited to, the following rights:

- A.** To manage the City generally and to determine the issues of policy.
- B.** To determine the existence or non-existence of facts which are the basis of the management decision.
- C.** To determine the necessity and organization of any service or activity conducted by the City and expand or diminish services.
- D.** To determine the nature, manner, means, and technology, and extent of services to be provided to the public.
- E.** Methods of financing.
- F.** Types of equipment or technology to be used.
- G.** To determine and/or change the facilities, methods, technology, means, and size of

the work force by which the City operations are to be conducted.

H. To determine and change the number of locations, relocations, and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract for or subcontract any work or operation of the City.

I. To assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments.

J. To relieve employees from duties for lack of work or similar non-disciplinary reasons.

K. To establish and modify productivity and performance programs and standards.

L. To discharge, suspend, demote, or otherwise discipline employees for proper cause.

M. To determine job classifications and to reclassify employees.

N. To hire, transfer, promote and demote employees for non-disciplinary reasons in accordance with this Memorandum of Understanding and applicable Resolutions and Codes of the City.

O. To determine policies, procedures and standards for selection, training and promotion of employees.

P. To establish employee performance standards including, but not limited to, quality and quantity standards; and to require compliance therewith.

Q. To maintain order and efficiency in its facilities and operations.

R. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with this Agreement.

S. To take any and all necessary action to carry out the mission of the Agency in emergencies.

Section 2. Exercise of Management Rights. Except in emergencies, or where the City is required to make changes in its operations because of the requirements of law, whenever the exercise of management's rights shall impact on employees of the bargaining unit, the City agrees to meet and confer with representatives of the Association regarding the impact of the exercise of such rights, unless the matter of the exercise of such rights is provided for in this Memorandum of Understanding or in Personnel Rules and Salary Resolutions and Administrative Regulations which are incorporated in this Agreement. By agreeing to meet and confer with the Association as to the impact and the exercise of any of the foregoing City rights, management's discretion in the exercise of these rights shall not be diminished.

Section 3. Contracting Out. The City agrees that it will notify the Association of any known or anticipated layoff, reduction in class or reclassification of unit members resulting from a decision to contract work to private sector employees which is ordinarily performed by members of the bargaining unit. The City will meet and confer upon the impact of the consequences regarding the decision to contract out the above referenced work. The Association agrees that the decision to contract any work is the exclusive right of the City.

Nothing herein shall prevent the City from taking all necessary action to carry out its mission during emergencies.

A. If the City proposes to contract out services currently performed by unit employees, the Association shall have the right to submit a bid on the services. The City shall provide employees with the same bid specifications as those provided to prospective contractors.

ARTICLE XX

EMPLOYEE ORGANIZATIONAL RIGHTS AND RESPONSIBILITIES

Section 1. New Employee Orientation. In accordance with AB 119, the City shall notify the Board when a new employee is hired into the bargaining unit. The Board will notify the City when a new employee has signed a membership card authorizing membership dues deduction and when such deductions shall begin. The City shall also upon request provide the Board lists of employees in the bargaining unit. The City shall also provide reasonable paid release time for one Board member to meet with a new employee for the purpose of discussing membership in the Association.

Section 2. Dues Deductions. The City shall deduct dues on a regular payroll basis from the pay of all Association members. Such deductions shall be authorized in writing on a form approved and provided by the Association for this purpose. The membership cards shall be retained by the Association. The City shall rely on a certification from the Association for the authorization, modification, or cancellation of any/all dues deductions. The City shall remit such funds to the Association within thirty (30) days following their deduction.

Section 3. Release Time for Meet and Confer. The Association may select a maximum of three (3) members to attend scheduled meetings with the Human Resources Director or other management representatives on subjects within the scope of representation during regular work hours. In addition, they may meet for a maximum of one (1) hour per meet and confer session for the purpose of preparation of such sessions.

Section 4. Maintenance of Membership. Unless prohibited by law, any employee in the Association who has authorized Association dues deductions on April 24, 2018 (the effective date of this Memorandum of Understanding) or at any time subsequent to the effective date of this Memorandum of Understanding, shall continue to have such dues deductions made by the City during the term of this Memorandum of Understanding; provided however, that any employee in the Association may terminate such dues during the period of October 1 through October 10 of each year of the Memorandum of Understanding by notifying the Association in writing of his election to terminate dues deduction. Such notification shall be delivered in person or by U. S. Mail and should be in the form of a letter containing the following information: employee name, employee number, job classification, department name, and name of Association from which dues deductions are to be canceled. The Association will provide the City's Human Resources Office with the appropriate documentation to process dues cancelations within ten (10) business days after the close of the withdrawal period.

Section 5. Indemnification. In accordance with SB 866, the Association shall indemnify, defend, and hold the City harmless against any liability arising from any claims, demands, or other action relating to the City's compliance with the terms of this Article.

ARTICLE XXI

NO STRIKE - NO LOCKOUT

A. PROHIBITED CONDUCT

Section 1. The Association, its officers, agents, representatives and/or members agree that during the term of this Agreement they will not cause or condone any strike, walkout, slowdown, sick-out, or any other job action withholding or refusing to perform services.

Section 2. The City agrees that it shall not lockout its employees during the term of this Agreement. The term "lockout" is hereby defined so as not to include the discharge, suspension, termination, layoff, failure to recall or failure to return to work of employees of the City in the exercise of its rights as set forth in any of the provisions of this Agreement or applicable ordinance or law.

Section 3. Any employee, who participates in any conduct prohibited in Section 1 above, shall be subject to termination by the City.

Section 4. In addition to any other lawful remedies or disciplinary actions available to the City, if the Association fails, in good faith, to perform all responsibilities listed Section 1 above, the City may suspend any and all of the rights, privileges, accorded to the Association under the Employee Relations Resolution in this Memorandum of Understanding including, but not limited to, suspension of recognition of the Association, grievance procedure, right of access, check-off, the use of the City's bulletin boards and facilities.

B. ASSOCIATION RESPONSIBILITY

Section 1. In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited in Prohibited Conduct, Section 1 above, the Association shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this Memorandum of Understanding and unlawful and they must immediately cease engaging in conduct prohibited and return to work.

Section 2. If the Association performs all of the responsibilities set forth in Association Responsibility, Section 1 above, its officers, agents and representatives shall not be liable for damages for prohibited conduct performed by employees who are covered by this Agreement.

ARTICLE XXII

GRIEVANCE PROCEDURE

Section 1. Grievance. Grievance shall be defined as a dispute between the Association, employee or employees and the City, regarding interpretation or application of specific provisions of this Agreement, personnel rules, or departmental rules and regulations, or suspensions of one day or more, demotions, or terminations from employment.

Section 2. Conduct of the Grievance Procedure.

A. An employee may request the assistance of another person of his own choosing, who is not a representative of another recognized bargaining organization, in preparing and presenting his grievance at any level of review, or may be represented by the Association, or may represent himself.

The employee shall not suffer any reprisal from management for utilizing the grievance procedure set forth herein.

B. Any retroactivity on monetary grievances shall be limited to the date that the grievance was filed, in writing, except in cases where it was impossible for the employee to have had prior knowledge of an accounting error.

C. All time limits specified may be extended to a definite date by mutual agreement of the employee or his Association representative, and the decision making management representative involved at each step of the grievance procedure. Such mutual agreement shall be evidenced in writing and signed by the employee or Association representative and management representative.

Section 3. Grievance Procedure Steps. The grievance procedure shall provide for the following steps; except for grievances which are a result of finalized disciplinary action, which shall begin at Step Four.

Step One. An employee must attempt first to resolve a grievance on an informal basis through discussion with his immediate supervisor within ten (10) working days from the date of the alleged incident or action giving rise to the grievance. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, he shall have the right and obligation to discuss it with his supervisor's immediate supervisor, if any, and his department head, if necessary. Every effort shall be made to find an acceptable solution by these informal means at the most immediate level of supervision. At no time may an informal process go beyond the department head concerned. In order that this informal procedure may be responsive, all parties involved shall expedite this process. In no case may more than thirty (30) calendar days elapse from the date of the alleged incident or action giving rise to the grievance, and the filing of a written grievance in Step Two, or the grievance shall be barred and waived.

Step Two. Department Head Response. If the non-disciplinary grievance is not resolved in Step One, or if no answer has been received within five (5) working days from the presentation of the oral grievance, the employee may, within thirty (30) calendar days from the date of the incident giving rise to the grievance, present the grievance in writing to his department head. Failure of the employee to take this action will constitute termination of the grievance. The department head shall further review and discuss the grievance with the employee and shall render its decision and comments, in writing, and return them to the employee within ten (10) working days after receiving the grievance.

Step Three. Management Representative. If the grievance is not resolved in Step Two, the employee may within ten (10) working days after receiving the department

head's decision, present the grievance in writing to the designated management representative for processing. Failure of the employee to take this action will constitute termination of the grievance. In the event the employee is not being represented by the Association, the designated management representative shall attempt to resolve the grievance. If the employee is being represented by the Association the designated management representative shall convene a joint meeting of the Association and himself, within five (5) working days, in an attempt to resolve the grievance. In the event the grievance is not satisfactorily adjusted or settled through discussion at this level, management shall advise the employee and/or employee Association, in writing, within ten (10) working days as to its position on the grievance.

Step Four. Grievance Hearing. If the grievance is not resolved in Step Three, the employee may, within ten (10) working days of the receipt of the written position from management representatives, present a "request for hearing" in writing to the Human Resources Director. However, the only grievances which may be submitted for review are matters which have resulted in a suspension without pay, reduction in pay, demotion, termination, or otherwise have monetary value to the employee. Failure of the employee to take this action will constitute termination of the grievance. The Human Resources Director shall request from the State Mediation and Conciliation Service, or mutually agreed upon alternative organization, a list of seven (7) neutral hearing officers. In the event that the parties cannot agree upon a mutually acceptable hearing officer from the list of seven, the parties shall alternately strike names from the list, with the City striking the first name. The identity of the last remaining individual on the list will be selected as the hearing officer. The hearing officer shall preside over a full and fair evidentiary hearing and, within thirty (30) calendar days of its conclusion, render a written decision that includes findings of fact and a recommendation to the City Manager. That decision shall be served jointly upon the grieving party and the City Manager.

Step Five. City Manager's Decision. Within thirty (30) calendar days of receipt of the decision of the hearing officer, the City Manager shall, in writing, adopt, modify or reject that decision. The decision of the City Manager shall be the final administrative decision.

ARTICLE XXIII

MISCELLANEOUS

Section 1. Substance Abuse Policy. The City of Downey and the Association have a vital interest in maintaining safe, healthful and efficient working conditions. Being under the influence of a drug or alcohol on the job may pose serious safety and health risks not only to the user but to co-workers and the citizens of Downey. The possession, use or sale of an illegal drug or of alcohol on the job also poses unacceptable risks for safe, healthful and efficient operations. "On the job" means while on City premises, at work locations, or while on duty or being compensated on an "on call status."

The City of Downey and the Association recognize that their future is dependent on the physical and psychological well-being of all employees. The City and the Association mutually

acknowledge that a drug and alcohol-free work environment benefits Downey's employees and citizens.

The purpose of this section is to define the City's drug and alcohol policy as well as the possible consequences of policy violation.

A. Possession, sale, use or being under the influence of drugs or alcohol while on the job is strictly prohibited. This prohibition shall not apply to legitimate undercover activities of Police Officers which are undertaken in accordance with the direction of the Police Department.

B. When reasonable suspicion exists, the City may require an employee to submit to a medical examination, including, but not limited to, a substance screening. Substance screening means the testing of urine or other body fluids as reasonably deemed necessary by a physician to determine whether an employee has a restricted substance in their system.

1. Reasonable suspicion is cause based upon objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.
2. Post-accident testing under this Article shall be conducted based on reasonable suspicion as defined in this Section and shall not be automatic, unless as required by law per Department of Transportation (DOT) Federal Motor Carrier Safety Administration Regulations (FMCSA) (refer to City of Downey Controlled Substance and Alcohol Misuse Policy and Procedures Manual).

C. Any manager or supervisor requesting an employee to submit to a substance screening shall document in writing the facts constituting reasonable suspicion and shall give the employee a copy. The employee shall be given an opportunity to provide additional facts. An employee who is then ordered to submit to a substance abuse screening may request to be represented. Because time is of the essence in substance screening, a representative must be available within a reasonable time or the employee will then be ordered to submit to substance screening. An employee who refuses to submit to a substance screening may be considered insubordinate and shall be subject to disciplinary action up to and including termination.

D. The supervisor, or designee, shall transport the suspected employee to the testing facility. Testing shall occur on City time and be paid for by the City. Employee urine samples, or other body fluids, will be by a certified system which includes methods or mechanisms designed to assure the integrity of the sample. The facility used for testing shall be certified by the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services and comply with established guidelines for "chain of custody" to insure that identity and integrity of the sample is preserved throughout the collecting, shipping, testing and storage process.

E. Any positive test for alcohol or drugs will be confirmed by a scientifically sound method. An employee who tests positive on a confirmatory test will be given the opportunity to discuss the results with a physician to be designated by the City. The employee should be prepared at that time to show proof of any valid medical prescription for any detected substance or to otherwise explain, if he so chooses, a positive test result.

F. While use of medically prescribed medications and drugs is not per se a violation of this policy, this policy shall establish that no employee shall operate a City vehicle or dangerous machinery or equipment while taking any kind of medication or drugs which are clearly marked that they may cause significant drowsiness or impair an employee's performance. An employee shall notify his/her supervisor, before beginning work, when taking such medications or drugs. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a physician designated by the City may be required. The City reserves the right to send an employee home on sick leave under this circumstance.

G. Employees with substance abuse problems are encouraged to participate voluntarily in the City-sponsored Employee Assistance Program (EAP). Assistance through the EAP may be sought by an employee with complete confidentiality and without adverse consequences to his/her employment. Employees should be aware, however, that a request for assistance through the EAP will not insulate the employee from disciplinary action already contemplated. Depending upon the facts surrounding the reasonable suspicion determination, positive test result, and/or other violation of this policy or other City/department rules and regulations, the City may refer an employee to the EAP. Such referral could, at the discretion of the City, be made available to the employee as an alternative to disciplinary action. Referral would be subject to agreement by the employee to enroll, participate in and successfully complete rehabilitation and/or counseling program and other terms and conditions in a "Last Chance Agreement."

1. It is the City's intent to use the EAP option for first offenders except the City reserves the right to discipline for those offenses which are a significant violation of City/department rules and regulations or where violation did or could have resulted in serious injury or property damage.

H. Department of Transportation (DOT) Controlled Substance and Alcohol Testing Program

1. Administration. In accordance with City of Downey Resolution No. 5934, policy and procedures for compliance with the Federal Motor Carrier Safety Administration (FMCSA) Regulations (49 CFR Parts 40 and 382) shall remain in effect for those employees who are required to possess and maintain a commercial driver's license as a condition of employment for the performance of safety sensitive duties. This program is documented in the City of Downey Controlled Substance and Alcohol Misuse Policy and Procedures Manual which is incorporated by reference in this Agreement. As applicable, the City's policy and procedures will be amended to comply with changes in law.

Unless otherwise designated, the Human Resources Director is the Designated Employer Representative (DER) and shall be responsible for overseeing compliance and implementation of this City's DOT Controlled Substance and Alcohol Testing Program.

2. Consequences of a Positive Controlled Substance and/or Alcohol Test. A covered employee who tests positive for a controlled substance and/or alcohol may be subject to disciplinary action, up to and including termination from

employment.

As a result of a positive controlled substance and/or alcohol random test, a temporary non-safety sensitive job assignment for an employee who is removed from the performance of safety sensitive duties or who is restricted from driving non-commercial City vehicles, may be approved by the department head based on the availability of meaningful work to meet operational need.

An employee must use accrued leave time or request personal leave of absence without pay if time off from work is necessary for any treatment or rehabilitation program. The costs of rehabilitation or treatment services, whether or not covered by the employee's medical plan, are the ultimate responsibility of the employee.

The cost of a split specimen under a random test shall be paid by the City or reimbursed to the employee on a negative result only. The cost of a controlled substance and/or alcohol test under follow-up testing is the responsibility of the employee.

Section 2. Lateral Transfer and Promotional Recruitment.

A. Announcement of Vacant Position. Prior to the initiation of an open-competitive or closed promotional examination to fill a vacant position, notice of the vacancy shall be posted for a period of five (5) working days at the worksite of all employees in the same classification who potentially may be interested in a lateral transfer. The announcement shall specify the position title, the nature of the work to be performed, the name of the official to contact to express interest, and the final filing date.

1. Application for Transfer. Employees interested in making a lateral transfer into a vacant position within their classification shall express their interest in writing to the official indicated in the announcement prior to the end of the work shift on the final filing date.
2. Examination for Transfer. All employees who have expressed an interest in a lateral transfer shall be given due consideration by the official responsible for filling the vacancy by virtue of a personal interview or other examination deemed appropriate by the department head and the Human Resources Director.
3. Selection for Transfer. Among the factors to be considered by management in the selection of employees for lateral transfers are seniority, skills, knowledge, abilities, work record and job performance.

B. Closed Promotional Recruitment. If there are three (3) or more regular full-time employees assessed as meeting the qualifications for the position and who have expressed interest in writing to fill an authorized vacancy in the capacity of Lead Worker or a higher paid position represented by the Association, the City agrees to conduct a closed promotional recruitment. Written interest must be provided in the same manner as specified in A above within an announced five (5) working day period. If there are less than three (3) qualified internal applicants per vacant position, the City will proceed to conduct an open/competitive recruitment.

C. Water Operator II Closed Promotional Recruitment. If there are two (2) or more regular full-time employees assessed as meeting the qualifications for the position and who

have expressed interest in writing to fill an authorized vacancy in the capacity of the Water Operator II position represented by the Association, the City agrees to conduct a closed promotional recruitment. Written interest must be provided in the same manner as specified in A above within an announced five (5) working day period. If there are less than two (2) qualified internal applicants per vacant position, the City will proceed to conduct an open competitive recruitment.

Section 3. Labor-Management Committee. Representatives of the Association and management shall meet on a quarterly basis for purposes of improving communication and resolving labor relations matters. Agendas shall be agreed upon in advance, with both parties having equal opportunity to submit items. Any matter agreed upon by both parties may be discussed; but discussion does not constitute waiver of access to the grievance process. Chairmanship of the committee shall be alternated among the parties.

1. The City agrees to form an ongoing Safety Committee to target goals for injury/illness review and prevention, development of safety procedures, and job-related safety training.
2. The Labor-Management Committee shall be comprised of at least two (2) Association members from the Utilities Division, two (2) members from the Maintenance Services Division, and at least three (3) supervisor/management representatives.

Section 4. Leave Entitlement. The City will comply with State and Federal laws with regard to family leave. The City has issued Administrative Regulation 430 to implement compliance and by reference becomes part of this Agreement.

Section 5. Court Referrals. The City will assign referrals to help City employees with their routine job assignments. A Public Works Supervisor will assign court referrals as best suits the City and the abilities of the court referral. The supervisor will provide assignments and any necessary guidelines to City employees who are assigned a court referral.

City employees who are assigned court referrals will follow the supervisor's guidelines. City employees may be required to provide instructions to the court referrals in order to implement the supervisor's assignments. At the end of the work day, the City employees will report to the supervisor the work completed by the court referrals.

Court referrals are to be treated with respect, but any court referral that is threatening, disruptive, or refuses to work should be returned to the yard and sent home. Court referrals should wear orange mesh shirts over their regular clothes. Court referrals may not operate City vehicles or motorized equipment.

Records will be kept of the hours worked by court referrals and will be forwarded to the Downey Municipal Court on a regular basis. The Division will maintain these records.

Section 6. American with Disabilities Act. The City shall comply with the Americans with Disabilities Act (ADA).

ARTICLE XXIV

REOPENER

Section 1. The parties agree that the City can re-open negotiations to achieve labor cost savings during the term of this Agreement, however, there shall be no changes unless mutually agreed to in writing.

ARTICLE XXV

SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING

Section 1. It is the intent of the parties hereto that the provisions of this Memorandum of Understanding shall supersede all prior Agreements and Memoranda of Understanding, or Memorandums of Agreement, or contrary salary and/or personnel resolutions and ordinances of the City, oral or written, expressed or implied, agreements between the parties or understandings between the parties, and shall govern their entire relationship and shall be the sole source of any and all rights which may be asserted hereunder. This Memorandum of Understanding is not intended to conflict with Federal or State law.

Section 2. Notwithstanding the provisions of Section 1 above, there exists within the City of Downey, certain personnel resolutions, ordinances and departmental rules and regulations. To the extent that this Agreement does not specifically contravene provisions of these personnel resolutions, ordinances, departmental rules and regulations; such personnel resolutions, ordinances and departmental rules and regulations are specifically incorporated herein.

ARTICLE XXVI

WAIVER OF BARGAINING DURING TERM OF THIS AGREEMENT

During the term of this Memorandum of Understanding, the parties mutually agree that they will not seek to negotiate or bargain with regard to wages, hours, and terms and conditions of employment, whether or not covered by this Memorandum or in the negotiations leading thereto and irrespective of whether or not such matters were discussed or were even within the contemplation of the parties hereto during the negotiations leading to this Memorandum. Regardless of the waiver contained in this Article, the parties may, however, by mutual agreement, in writing, agree to meet and confer about any matter during the term of this Memorandum.

ARTICLE XXVII

EMERGENCY WAIVER PROVISION

In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, provisions of

this Memorandum of Understanding or the Personnel Rules or Resolutions of the City, which restrict the City's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is over, the Association shall have the right to meet and confer with the City regarding the impact on employees of the suspension of these provisions in the Memorandum of Understanding and any Personnel Rules and policies.

ARTICLE XXVII

SEPARABILITY

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

ARTICLE XXIX

TERM OF THIS MEMORANDUM OF UNDERSTANDING

The term of this Memorandum of Understanding shall commence on April 1, 2021 and shall continue in full force and effect until March 31, 2023.

ARTICLE XXX

RATIFICATION AND EXECUTION

The City and the Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until ratified by the Association and adopted by the City Council of the City of Downey. Subject to the foregoing, this Memorandum of Understanding is hereby executed by the authorized representatives of the City and the Association and entered into this 23rd day of March, 2021.

CITY OF DOWNEY

**DOWNEY CITY EMPLOYEES'
ASSOCIATION - MAINTENANCE UNIT**

By: 
John Oskoui, Assistant City Manager

By:  ARENS 1157
John Arens, President

By: 
James McQueen, Human Resources Director

By: 
Chris Mataala, Vice President

By: 
Larry Diaz, Secretary

APPROVED AS TO FORM:

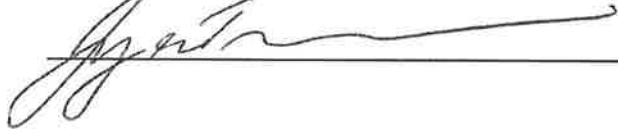


EXHIBIT A

**CLASSIFICATIONS REPRESENTED BY THE DOWNEY CITY EMPLOYEES'
ASSOCIATION - MAINTENANCE UNIT**

Equipment Maintenance Lead Worker
Maintenance Worker I
Maintenance Worker II
Maintenance Worker III
Maintenance Lead Worker
Mechanic
Water System Lead Worker
Water System Operator II
Water System Operator III

EXHIBIT B

PAY SCHEDULE

Effective March 22, 2021					
Position Title	A	B	C	D	E
Equipment Maintenance Lead Worker	28.2486	29.8023	31.4414	33.1706	34.9951
Maintenance Lead Worker	24.7345	26.0954	27.5303	29.0447	30.6422
Maintenance Worker I	15.9689	16.8472	17.7734	18.7514	19.7827
Maintenance Worker II	20.0216	21.1227	22.2847	23.5102	24.8029
Maintenance Worker III	22.0235	23.2347	24.5126	25.8608	27.2833
Mechanic	24.5563	25.9071	27.3323	28.8353	30.4212
Water Systems Lead Worker	26.3993	27.8517	29.3831	30.9996	32.7048
Water Systems Operator II	20.7700	21.9122	23.1177	24.3890	25.7300
Water Systems Operator III	23.5740	24.8706	26.2384	27.6816	29.2007

Effective March 21, 2022					
Position Title	A	B	C	D	E
Equipment Maintenance Lead Worker	28.8136	30.3984	32.0702	33.8340	35.6950
Maintenance Lead Worker	25.2292	26.6173	28.0809	29.6256	31.2550
Maintenance Worker I	16.2883	17.1841	18.1289	19.1264	20.1784
Maintenance Worker II	20.4220	21.5452	22.7304	23.9804	25.2990
Maintenance Worker III	22.4640	23.6994	25.0029	26.3780	27.8290
Mechanic	25.0474	26.4252	27.8790	29.4120	31.0296
Water Systems Lead Worker	26.9273	28.4087	29.9708	31.6196	33.3589
Water Systems Operator II	21.1854	22.3504	23.5801	24.8768	26.2446
Water Systems Operator III	24.0455	25.3680	26.7632	28.2352	29.7847