

RESOLUTION NO. 20-7918

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DOWNEY AND THE DOWNEY FIREMEN'S ASSOCIATION (JANUARY 1, 2020 – DECEMBER 31, 2022)

WHEREAS, the City of Downey, hereinafter referred to as "City," and the City of Downey Firemen's Association hereinafter referred to as "DFA" 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 DFA have memorialized the Agreement in a written Memorandum of Understanding.

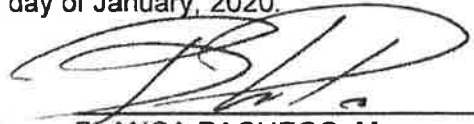
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Memorandum of Understanding between the City and the DFA, 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 Director of Human Resources is authorized to sign the Memorandum of Understanding.

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

APPROVED AND ADOPTED this 14th day of January, 2020.



BLANCA PACHECO, Mayor

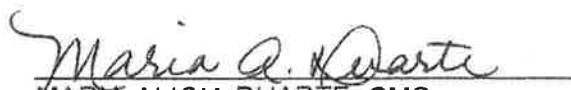
ATTEST:



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 14th day of January, 2020, by the following vote, to wit:

AYES:	Council Members:	Ashton, Rodriguez, Saab, Frometa, Mayor Pacheco
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 FIREMEN'S ASSOCIATION

IAFF Local 3473

January 1, 2020 – December 31, 2022

Table of Contents

ARTICLE I	1
RECOGNITION	1
ARTICLE II	1
NON-DISCRIMINATION	1
ARTICLE III	2
BASIC COMPENSATION PLAN.....	2
Section 1. Salary Increases.	2
Section 2. Plan of Salary Schedules.	2
Section 3. Eligibility for Merit Salary Advancement.	3
Section 4. Salary Schedule Step Reduction.....	3
Section 5. Special Pay and Assignment.....	4
A. Longevity Pay	4
B. Uniform Allowance.....	4
C. Out-of-Rank Pay.....	5
D. Paramedic Pay	5
E. Fire Prevention Bureau Assignment	6
F. Shift Training Officers	6
G. Emergency Medical Services (EMS) Coordinator	6
H. Deputy Fire Marshal/Hazardous Materials Supervisor	6
I. Arson Investigator	6
J. Equipment Coordinator	7
K. Training Coordinator.....	7
L. Technical Development Incentive Pay	7
M. Bilingual Pay	8
N. Emergency Medical Technician (EMT) Certificate Pay	8
O. Calculating the Value of Reportable Special Compensation to CalPERS	8
ARTICLE IV.....	9
WORK SCHEDULE	9
Section 1. Suppression Personnel	9
Section 2. Fire Prevention Bureau and Administrative Sworn Personnel.....	9
ARTICLE V.....	10
MINIMUM MANNING.....	10
Section 1. Minimum Fire Suppression Platoon Strength.....	10
Section 2. Filling of Temporary Positions	11
Section 3. Promotion from Temporary Fire Engineer to Fire Engineer.....	12
Section 4. Promotion from Temporary Fire Captain to Fire Captain.....	12
ARTICLE VI.....	12
OVERTIME PROVISIONS.....	12
Section 1. Compensation for Overtime	12
Section 2. Policy.....	12
Section 3. Call-Back Overtime.	13
Section 4. Administration	13
Section 5. Training	13
Section 6. Compensatory Time Off	13
ARTICLE VII.....	13

HOLIDAYS	13
ARTICLE VIII.....	14
VACATION	14
ARTICLE IX.....	15
LEAVE OF ABSENCE	15
Section 1. Leave of Absence Without Pay	15
Section 2. Written Notice of Return.....	15
Section 3. Outside Employment.....	15
ARTICLE X.....	15
OTHER LEAVES OF ABSENCE	15
Section 1. Sick Leave.....	15
Section 2. Use of Protected Sick Leave	16
Section 3. Sick Leave Deposit at Retirement	17
Section 4. Bereavement Leave.....	17
Section 5. Leave Entitlements.....	18
Section 6. Workers' Compensation Injury on Duty	18
Section 7. Employee Disability Leave.....	18
Section 8. Military Leave	19
Section 9. Jury Duty	19
ARTICLE XI.....	20
FRINGE BENEFIT ADMINISTRATION	20
Section 1. Administration.....	20
Section 2. Selection and Funding.....	20
Section 3. Changes.....	20
ARTICLE XII.....	20
HEALTH, DENTAL AND LIFE INSURANCE	20
Section 1. Medical Insurance	20
Section 2. Dental Insurance	22
Section 3. Life Insurance.....	22
ARTICLE XIII.....	22
RETIREMENT	22
Section 1. California Public Employees' Retirement System Coverage.....	22
Section 2. Retirement Formula and Contributions.....	22
Section 3. City Contribution to Retirement Health Savings (RHS) Plan	23
ARTICLE XIV	25
TUITION REIMBURSEMENT	25
Section 1. Reimbursement Rates.....	25
ARTICLE XV	25
PROBATIONARY PERIOD	25
ARTICLE XVI	26
SENIORITY	26
ARTICLE XVII	27
CITY RIGHTS.....	27
ARTICLE XVIII	28
EMPLOYEE ORGANIZATIONAL RIGHTS AND RESPONSIBILITIES.....	28
Section 1. Dues Deductions.....	28

Section 2. Indemnification	28
ARTICLE XIX	29
NO STRIKE - NO LOCKOUT	29
ARTICLE XX	29
GRIEVANCE PROCEDURE	29
Section 1. Grievance	29
Section 2. Conduct of the Grievance Procedure	30
Section 3. Grievance Procedure Steps	30
ARTICLE XXI	32
MISCELLANEOUS	32
Section 1. Substance Abuse Policy	32
Section 2. 125 Plan	34
Section 3. Filling and Vacating Assignments	34
Section 4. Examination Observer	34
Section 5. No Smoking Policy	34
Section 6. Court Time Pay	34
ARTICLE XXII	35
SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING	35
ARTICLE XXIII	35
WAIVER OF BARGAINING DURING TERM OF THIS MEMORANDUM OF UNDERSTANDING	35
ARTICLE XXIV	35
REOPENER	35
ARTICLE XXV	36
EMERGENCY WAIVER PROVISION	36
ARTICLE XXVI	36
SEVERABILITY	36
ARTICLE XXVII	36
TERM OF THIS MEMORANDUM OF UNDERSTANDING	36
ARTICLE XXVIII	37
RATIFICATION AND EXECUTION	37
EXHIBIT A	38
CLASSIFICATIONS REPRESENTED BY THE DOWNEY FIREMEN'S ASSOCIATION	38
PAY SCHEDULE	38

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF DOWNEY AND
THE DOWNEY FIREMEN'S ASSOCIATION (IAFF Local 3473)**

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 Firemen's Association/IAFF Local 3473 (hereinafter called the "Association") as majority representative of sworn fire department personnel including the classifications of Firefighter, Fire Engineer, Fire Captain, and excluding all management employees of the Fire Department. The City has recognized the Association for the purpose of meeting its obligations under the Meyers-Milias-Brown Act, Government Code Section 3500 et seq., and the Employee Relations Ordinance 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 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 Resolution and Government Code Sections 3500 and 3511.

Section 2. The Association and the City agree that they shall not discriminate against any employee because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The City and the Association shall reopen any provision of this Memorandum of Understanding for the purpose of complying with any final order of a Federal or State agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this Memorandum of Understanding in compliance with State or Federal anti-discrimination laws. The City and Association also agree to comply with applicable Federal and State laws and regulations regarding the employment of the disabled.

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

ARTICLE III

BASIC COMPENSATION PLAN

Section 1. Salary Increases.

All employees covered by this Memorandum of Understanding shall receive the following across the board pay increases in accordance with the Pay Schedule referenced in Exhibit A:

A. Salary Increases

1. Effective the pay period that includes January 1, 2020, a two percent (2%) across the board pay range increase [two percent (2%) base salary increase].
2. Effective the pay period that includes January 1, 2021, a two percent (2%) across the board pay range increase [two percent (2%) base salary increase].
3. Effective the pay period that includes January 1, 2022, a two percent (2%) across the board pay range increase [two percent (2%) base salary increase].

B. "Me Too": The City agrees that if it reaches agreement with the Downey Police Officers Association that provides a cumulative across-the-board General Wage Increase(s) in excess of the General Wage Increase(s) provided to the Downey Firemen's Association during the period from January 1, 2020 to December 31, 2022, the City shall provide the same cumulative General Wage Increase to the Downey Firemen's Association as provided to the Downey Police Officers Association. General Wage Increase is defined as an across-the-board wage increase for all members of a bargaining unit that is not based on performance or that is directed at specific assignments or classifications. Any additional across-the-board General Wage Increase(s) provided under this "Me Too" provision will be paid to the Downey Firemen's Association on the same effective date(s) as the Downey Police Officers Association effective date(s), after the Downey Police Officers Association General Wage Increase exceeds the two percent (2%) annual wage increases above.

Section 2. Plan of Salary Schedules.

A. Description of Schedules. The pay plan consists of a set of monthly salary schedules. Each of such schedules is designated by a schedule number. Each step shall be a five and one-half percent (5.5%) increment. Each schedule consists of five (5) steps of monthly compensation, each of which is designated by step letter.

B. Hourly Equivalent Calculation. For payroll purposes, the hourly equivalent of a monthly rate shall be computed by multiplying fifty-six (56) hours per week by fifty-two (52) weeks in a year which results in an annual figure of two thousand nine hundred twelve (2,912) hours. The monthly rate shall be multiplied by twelve (12) and divided by two thousand nine hundred twelve (2,912) to arrive at an hourly rate. For purposes of calculating the hourly rate for personnel assigned to a forty (40) hour work week, the hourly rate shall be computed by multiplying forty (40) hours per week by fifty-two (52) weeks in a year which results in an annual figure of two thousand eighty (2,080) hours. The monthly rate shall be multiplied by twelve (12) and divided by two thousand eighty (2,080) to arrive at an hourly rate.

Section 3. Eligibility for Merit 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 B below.
2. All full-time appointments, temporary and permanent, 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. In the event of a promotion where the starting salary schedule is below that of the employee's present salary classification, the employee shall receive a minimum of five and one-half percent (5.5%) salary increase or to the next full salary step.
3. No salary advancements shall be made 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 standards 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 three (3) weeks before, and no later than five (5) working days before the date of eligibility for each salary step or hourly increase, and annually thereafter, and upon a change of employment status. Nothing in this Section shall prohibit the department head, or an authorized supervisor, from giving 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 and that rating shall be reviewed by the division head as well as 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 reductions in pay. This Section shall not apply to employees on disability leave, sick leave or any other approved leave of absence.

Section 5. Special Pay and Assignment.

A. Longevity Pay. 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 calculated at a percentage of the base hourly rate of pay as follows:

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

Effective February 13, 2017, the completed service levels of five (5) years and twenty-five (25) years shall be added as follows:

<u>Service</u>	<u>Compensation Adjustment</u>
5 years	2.7500%
25 years	13.0000%

Eligible employees shall only receive one of the above referenced Longevity Pay adjustments at any one time.

B. Uniform Allowance.

1. The City shall provide two sets of station uniforms (pants and shirt) every year and one Class A uniform to all sworn personnel. The City may replace uniform items due to damage at the discretion of the Fire Chief or his designee. Upon promotional placement, the City will provide employee with additional uniform accessory items as authorized by the Fire Chief. 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 \$418.27 per employee. This amount is based on the average annual cost paid for by the City for each employee over the previous three fiscal years (FY 2014-2015, FY 2015-2016, and FY 2016-2017). The annual amount shall be reported at the rate of \$16.09 per bi-weekly pay period.
2. Sworn fire personnel will receive one hundred and seventy-five dollars (\$175.00) per year for the purchase of uniform accessories, physical fitness attire, and night wear clothing, as defined by the Department's administrative procedure covering uniforms. The Fire Chief will establish a list of accepted uniforms for all activities.
3. All sworn fire personnel shall receive fifteen dollars (\$15.00) per month for uniform and accessory maintenance, as defined by the Fire Chief.
4. Sworn fire personnel assigned to the Fire Prevention Bureau shall be paid two hundred dollars (\$200.00) per year for uniform purchases and twenty dollars

(\$20.00) per month for uniform and accessory maintenance, in lieu of 2 and 3 above.

5. In addition to the reportable amount in Section B.1 above, in December 2014, the parties agreed that a change in the payment method for uniform allowance from yearly to bi-weekly was necessary to comply with CalPERS regulations for reporting purposes; therefore, effective the pay period that began December 22, 2014, the annual uniform allowance total of three hundred fifty-five dollars (\$355.00) (total of Sections B.2 and B.3 above) converted to thirteen dollars and sixty-five cents (\$13.65) bi-weekly and will be included in the employee's regular bi-weekly payroll. For an employee assigned to the Fire Prevention Bureau in accordance with 4 above, the yearly amount converts to sixteen dollars and ninety-two cents (\$16.92) bi-weekly.
6. Uniform allowance will be included in the employee's regular bi-weekly payroll paid via direct deposit. The parties understand that uniform allowance, as provided in Sections B.1 and B.5 above, for employees who are "new members" under the Public Employees' Pension Reform Act of 2013 ("PEPRA") Government Code Section 7522 et. seq.) is not reportable to CalPERS as compensation.
7. Each member shall provide their own linens (sheets, pillowcases and bath towels) for their personal use at the City's Fire Stations. The City will continue to provide each Fire Station with dish towels. Linens and towels shall be maintained in a clean and sanitary condition.

C. Out-of-Rank Pay. Any employee covered by this Memorandum of Understanding, who is assigned out of classification to responsibilities and duties of a position or rank above that which they normally hold for a minimum of one (1) hour, shall be paid at the next full step above the employee's normal rate; and at no time less than bottom step of the position or rank for which he is acting.

D. Paramedic Pay.

1. An employee assigned as a Paramedic shall receive seventeen percent (17%) as additional compensation upon paramedic certification and licensing.
2. It is the responsibility of the employee to maintain a valid paramedic license under this provision to qualify for this pay. Should an employee receiving Paramedic Pay no longer maintain a valid qualifying license, he must immediately contact the shift Battalion Chief to provide such notification.
3. The City will pay the cost of recertification with the State and Los Angeles County accreditation for all employees regardless of whether they are currently functioning as a Paramedic. For those employees who are not actively functioning as a Paramedic, the cost does not include continuing education or any related overtime.

E. Fire Prevention Bureau Assignment. Firefighters and Fire Engineers who are assigned to the Fire Prevention Bureau shall have his base salary increased by eleven percent (11%) for as long as they are so assigned. Firefighters/Paramedics who are assigned to the Fire Prevention Bureau shall receive either eleven percent (11%) or their existing Paramedic Bonus, whichever is greater, if they are so assigned.

F. Shift Training Officers. The Fire Chief shall have the authority and discretion to designate and/or remove any Fire Captain as a Shift Training Officer. Up to three (3) Fire Captains may be designated as a Shift Training Officer. In no event shall Shift Training Officers work the same shift. The Fire Chief will also have the authority to establish job requirements and duties for the assignment of Shift Training Officer. Fire Captains designated and assigned as Shift Training Officers shall receive five and one-half percent (5.5%) as additional compensation above their regular rate of pay while being assigned as Shift Training Officers. Removal from the assignment of Shift Training Officer shall not be considered disciplinary action. The Shift Training Officer is a three (3) year commitment. The Shift Training Officers are required at all times for the success of the department. Any new vacant Shift Training Officer position shall have an open selection process. The Fire Chief shall have the authority to modify the term of this assignment based on operational needs.

G. Emergency Medical Services (EMS) Coordinator. The Fire Chief shall have the authority and discretion to designate and/or remove any Fire Captain as an EMS Coordinator. The Fire Chief may designate only one (1) Fire Captain. The Chief will also have the authority to establish job requirements and duties for the assignment of EMS Coordinator. A Fire Captain designated and assigned as the EMS Coordinator shall receive five and one-half (5.5%) as additional compensation above his regular rate of pay while being assigned as the EMS Coordinator. Removal from the assignment of EMS Coordinator shall not be considered disciplinary action. An EMS Coordinator is required at all times for the success of the department.

H. Deputy Fire Marshal/Hazardous Materials Supervisor. The Fire Chief shall have the authority and discretion to designate and/or remove any employee of the Fire Prevention Bureau as the Hazardous Materials Supervisor. Only one employee may be so designated. The Chief will also have the authority to establish the job requirements and duties for the assignment of Hazardous Materials Supervisor. An employee designated and assigned as the Hazardous Materials Supervisor shall receive five and one-half percent (5.5%) as additional compensation above his regular rate of pay while being assigned as the Hazardous Materials Supervisor. Removal from the assignment of Hazardous Materials Supervisor shall not be considered disciplinary action.

I. Arson Investigator. The Fire Chief may in his discretion designate any employee to serve as an Arson Investigator. One employee per shift may be so designated. The Chief will also have the authority to establish the job requirements and duties for this assignment. An employee designated and assigned as Arson Investigator shall receive five and one-half percent (5.5%) as additional compensation above the base hourly rate of pay while so assigned. Employees designated as Arson Investigator shall serve at the discretion of the Chief and removal from the assignment shall not be considered disciplinary action. Any new vacant Shift Arson Investigator position shall have an open selection process. The Fire Chief shall have the authority to modify the term of this assignment based on operational needs.

J. Equipment Coordinator. The Fire Chief shall have the authority and discretion to designate and/or remove any employee covered by this Memorandum of Understanding as the Equipment Coordinator. Only one employee may be so designated. The Chief will also have the authority to establish job requirements and duties for the assignment of Equipment Coordinator. The employee designated and assigned the Equipment Coordinator shall receive five and one-half percent (5.5%) as additional compensation above his regular rate of pay while being assigned as the Equipment Coordinator. Removal from the assignment of Equipment Coordinator shall not be considered disciplinary action. The Equipment Coordinator is a three (3) year commitment. An Equipment Coordinator is required at all times for the success of the department.

K. Training Coordinator. The Fire Chief shall have the authority and discretion to designate and/or remove any Fire Captain as a 40-Hour Training Coordinator. The Fire Chief may designate only one (1) Fire Captain as a 40-Hour Training Coordinator. The Chief will also have the authority to establish job requirements and duties for the assignment of the 40-Hour Training Coordinator. A Fire Captain designated and assigned as the 40-Hour Training Coordinator shall receive five and one-half percent (5.5%) as additional compensation above his regular rate of pay while being assigned as the Training Coordinator. Removal from the assignment of Training Coordinator shall not be considered disciplinary action. The 40 Hour Training Coordinator is a three (3) year commitment. The 40 Hour Training Coordinator is required at all times for the success of the Department.

L. Technical Development Incentive Pay. To acknowledge and recognize the individual efforts of employees as they seek to improve their performance, these incentives are available to those employees covered by this Memorandum of Understanding who have successfully passed their probationary period and meet the following criteria:

1. **Technical Development Pay Level One.** Effective the start of the pay period that includes January 1, 2015, an employee covered by this Memorandum of Understanding who (1) has an Associate's degree from an accredited college or university with course work related to the fire service OR (2) has completed the California State Fire Officer Certification curriculum and received the certificate AND has completed fifteen (15) units of fire technology, fire science, fire administration, or fire engineering courses as defined in the course catalogue of an accredited college or university, shall receive five percent (5%) as additional compensation above his regular rate of pay.
2. **Technical Development Pay Level Two.** Effective the start of the pay period that includes January 1, 2015, an employee covered by this Memorandum of Understanding who (1) has a Bachelor's degree from an accredited college or university with course work relative to the fire service OR (2) completed the requirements of Pay Level One AND completed fifteen (15) units of fire technology, fire science, fire administration, or fire engineering courses as defined in the course catalogue of an accredited college or university AND completed the California State Chief Officer Certification curriculum, shall receive eight and one-half percent (8.5%) as additional compensation above his regular rate of pay.

3. Additional Requirements and/or Substitutions.

- a. General education units may be substituted two for one for the equivalent of one fire technology course in Pay Level One and Two.
- b. Fire Officer and Chief Officer courses may not be used for units in Pay Levels One and Two.
- c. An employee must complete one college or certificate course each year to remain eligible for this Pay (One or Two). It is the responsibility of the employee to maintain this requirement.
- d. Twenty (20) years of service to the City may be substituted for four (4) technology courses.
- e. Employees are eligible to receive Level One or Two, but not simultaneously.

M. Bilingual Pay. Effective February 13, 2017, employees required to speak or translate Spanish, or other language designated by the City Manager, 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 Fire Chief 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 certified interpreter, or an employee who has been certified by the Fire Chief to administer such examination.

N. Emergency Medical Technician (EMT) Certificate Pay. Employees covered by this Memorandum of Understanding shall receive additional compensation of five percent (5.0%) above their regular rate of pay for a valid EMT certificate. To be eligible for this pay, employees must maintain their certificate as required. Employees shall notify their supervisor should their certificate lapse, become suspended, revoked, or restricted for any reason.

O. Calculating the Value of Reportable Special Compensation (Spec Comp) to CalPERS. Beginning or earlier than July 1, 2011, the value of the following special compensation items have been calculated using a compounding method that calculates them in the following order: (1) Longevity Pay (10 & 20 years); (2) Emergency Medical Technician (EMT) Pay; (3) Technical Development Pay; (4) Paramedic Pay; (5) Special Assignment [a. Shift Training Officer Pay; b. Fire Prevention Bureau Assignment Pay; c. Emergency Medical Services (EMS) Coordinator Pay; and d. Equipment Supervisor Pay]. 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.

For purposes of calculating the value of special compensation for those items that are reportable to CalPERS using the compensation method, an example of a two week pay period (112 hours) is as follows:

Employee Base Hourly Rate \$36.1327	Reportable Earnings @112 Hours	\$4,046.86
1. Longevity Pay (8.4020%)	Reportable Spec Comp Earnings	\$ 340.02
2. EMT Pay (5.00%)	Reportable Spec Comp Earnings	\$ 219.34
3. BA Tech Dev Pay (8.50%)	Reportable Spec Comp Earnings	\$ 391.53
4. Shift Training Officer Pay (5.5%)	Reportable Spec Comp Earnings	\$ 274.88

ARTICLE IV

WORK SCHEDULE

Section 1. Hours of Work – Suppression Personnel. Suppression personnel covered by this Memorandum of Understanding shall work an average of fifty-six (56) hours per work week under a three (3) platoon twenty-four (24) hour shift basis. Meal periods will be considered time worked pursuant to the Fair Labor Standards Act (FLSA).

A. “48/96 Schedule.” Fire suppression personnel shall continue to work the schedule known as the “48/96 Schedule.” The “48/96 Schedule” consists of two (2) twenty-four (24) hour consecutive days of scheduled work followed by ninety-six (96) hours of consecutive time off duty. The parties agree to a twenty-four (24) day FLSA work period that is subject to the partial overtime pay exemption set forth in Section 7(k) of the FLSA. Components of this work schedule are as follows:

1. There is no change to overtime pay practices as described in Article VI of this Memorandum of Understanding.
2. The daily work activity schedule for the “48/96 Schedule” shall be included in Fire Department Administrative Policy, Volume 1 – Rules, Regulations and Responsibilities, Chapter 8, Section 1, which is hereby incorporated by reference. The policy shall provide that the start and end times of the daily work activity schedule, the list of assigned duties, their allocated times and the order of performance of said duties may be changed only pursuant to the meet and confer process.

B. Sick leave and vacation usage will be on an hour-for-hour basis, irrespective of what work schedule is employed.

Section 2. Hours of Work – Fire Prevention Bureau and Administrative Sworn Personnel. Fire Prevention Bureau and administrative personnel shall work a forty (40) hour work week under a 4/10 weekly work schedule that consists of four (4) consecutive work days of ten (10) working hours each excluding the meal period, followed by three (3) consecutive days off. At the Fire Chief’s discretion an employee who so requests may be permitted to work either a 5/40 work schedule or a 9/80 work schedule.

A. "5/40 Schedule." The 5/40 weekly schedule consists of five (5) consecutive work days of eight (8) working hours each not including the meal period, followed by two (2) consecutive days off. The FLSA work period for employees under this schedule begins at 12:00 a.m. on Monday and ends at 11:59 p.m. on Sunday.

B. "9/80 Schedule." The 9/80 weekly schedule consists of alternating weekly schedules, one of which consists of four (4) consecutive work days of nine (9) working hours each not including the meal period, followed by three (3) consecutive days off, and the other of which consists of five (5) consecutive work days of which four days consist of nine (9) working hours each not including the meal period and one consists of eight (8) working hours each not including the meal period, followed by two (2) consecutive days off. The FLSA work period for this work schedule is seven (7) days and shall begin four (4) hours into the eight (8) hour scheduled work day.

C. The Fire Chief reserves the right to alter the shift assignment for Fire Prevention Bureau and sworn administrative personnel to provide adequate coverage.

D. Sick leave and vacation usage will be on an hour-for-hour basis, regardless of schedule worked.

ARTICLE V

MINIMUM MANNING

Section 1. Minimum fire suppression platoon strength shall be as specified in this Section. It is the intent of the City to maintain current levels of sworn personnel and current minimum manning standards throughout the term of this Memorandum of Understanding. Before any change in minimum Fire Suppression Platoon strength is made by the City, the City shall meet and confer in good faith with the Fire Association regarding such change or changes.

The following is the minimum fire suppression platoon strength in effect prior to the implementation of the Paramedic Engine service delivery model as directed by the Fire Chief:

4 Engine Companies with:	1 Captain or qualified relief 1 Engineer or qualified relief 1 Firefighter
1 Truck Company with:	1 Captain or qualified relief 1 Engineer or qualified relief 2 Firefighters
2 Squads	2 Licensed Firefighter/Paramedics

The minimum Fire Suppression Platoon strength for the Paramedic Engine service delivery model is the following:

- | | |
|--------------------------|-----------------------------------|
| 4 Engine Companies with: | 1 Captain or qualified relief |
| | 1 Engineer or qualified relief |
| | 2 Licensed Firefighter/Paramedics |
| 1 Truck Company with: | 1 Captain or qualified relief |
| | 1 Engineer or qualified relief |
| | 2 Firefighters |

The two Firefighters staffed on the Truck Company shall not be separated from the Truck Company for non-emergency assignments unless the Battalion Chief determines an emergency operational need exists.

Section 2. Filling of Temporary Positions.

A. When an employee has filed for retirement benefits through proper channels and has officially been placed on "Injury On Duty" ("IOD"), said position shall be filled from the appropriate eligibility list on a temporary basis.

B. Promotions from temporary to permanent status shall not occur after the expiration date of such eligibility list. (An exception is specified in Section 3 below.)

C. Anniversary dates shall be computed for merit increases from the temporary appointment date.

D. Promotional examination dates shall be as follows:

A Fire Engineer examination and certification of an eligibility list will be completed by March 31st of each even numbered year. Such eligibility list shall expire on the administration date of the next scheduled promotional written exam.

A Fire Captain examination and certification of an eligibility list will be completed by March 31st of each odd numbered year. Such eligibility list shall expire on the administration date of the next scheduled promotional written exam.

E. An interim eligibility list for Fire Engineer or Fire Captain may, at the discretion of Fire Chief, be established if the current eligibility list(s) is exhausted prior to June 1st of the year preceding the regularly scheduled exam.

F. When an interim examination occurs pursuant to E above, the following conditions will be followed:

1. The regularly scheduled exam for that classification will be held by March of the appropriate year pursuant to D above.
2. Three (3) months notification will be given prior to the written exam date. Notification will follow the same format as a regularly scheduled exam.

3. The exam will have the same components as the most recent examination given for that classification (e.g. for Fire Engineer exam the components would be: Written, Driving & Pumping Exercise, and Technical Interview).
4. The interim eligibility list will expire upon certification of the eligible list created from the regularly scheduled exam. Remaining candidates from the interim list must take and successfully complete the regularly scheduled exam to be eligible for promotion. Lists will not be merged.

Section 3. Promotion from Temporary Fire Engineer to Fire Engineer. Notwithstanding the provisions of Part VIII, Article III of the Personnel Management Rules and Regulations to the contrary, this provision shall govern the certification and promotion of individuals who have been appointed by the Fire Chief from a certified eligibility list to the position of Temporary Fire Engineer on a long-term basis; other than for the purpose of temporarily replacing an employee off duty due to disability, shall be eligible to fill the next regular Fire Engineer vacancy without obligation to retest for certification to the subsequent eligibility list. Actual appointment from Temporary Fire Engineer to Fire Engineer shall be made at the discretion of the Fire Chief.

Section 4. Promotion from Temporary Fire Captain to Fire Captain. Notwithstanding the provision of Part VIII, Article III of the Personnel Management Rules and Regulations to the contrary, this provision shall govern the certification and promotion of individuals who have been appointed by the Fire Chief from a certified eligibility list to the position of Temporary Fire Captain on a long-term basis; other than for the purpose of temporarily replacing an employee off duty due to disability, shall be eligible to fill the next regular Fire Captain vacancy without obligation to retest for certification to the subsequent eligibility list. Actual appointment from Temporary Fire Captain to Fire Captain shall be made at the discretion of the Fire Chief.

ARTICLE VI

OVERTIME PROVISIONS

Section 1. Compensation for Overtime. All authorized overtime for employees shall be paid at time and one-half (1.5) the regular rate of pay for such employees. Overtime shall be paid on all hours worked outside of an employee's regularly assigned work schedule. Hours worked in shift trades shall be excluded as hours worked.

Section 2. It is the policy of the City that overtime work is to be discouraged. However, in cases of emergency or whenever public interest or necessity requires, any department or division head may require any employee in such department or division to perform overtime work. 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 or to maintain minimum manning, overtime may be authorized by the Fire Chief or his designee.

Section 3. Call-Back Overtime.

A. Employees covered by this Memorandum of Understanding who are called in to perform work at times other than those normally required for the employee's schedule shall receive and be paid for a minimum of four (4) hours at the overtime rate of time and one-half (1.5) the employee's regular rate of pay. Hours worked in excess of the four (4) hour guarantee shall be counted toward the computation of overtime pay. Employees shall be entitled to call-in pay in the event the employee is required to report back to work after completing his normal work shift, left the City premises and/or on their day off.

B. Employees who are "held over" or called in less than four (4) hours before the start of a regular shift shall not be eligible for the call-back minimum but shall be paid for hours actually worked.

Section 4. Administration. Overtime work shall be distributed as equitably as practicable over the term of this Memorandum of Understanding among those employees in the same classification.

Section 5. Training. City designated job training on employee's time off or on employee's work time shall be compensated in accordance with FLSA. No overtime shall be paid where safety personnel are designated to participate in training which requires the employee to remain overnight, and the City pays per diem expenses in accordance with departmental policy.

Section 6. Compensatory Time Off.

A. Compensatory time may be granted to employees in lieu of overtime pay in accordance with Fire Department Administrative Policy, Volume 1, Chapter 3, Section 5, which is hereby incorporated by reference. An employee wishing to take compensatory time off must obtain the prior approval of his supervisor. When a supervisor requests that an employee take compensatory time off, employee needs must be considered and reasonable notice given by the supervisor to the employee. The need for calling in personnel for minimum manning shall not alone justify disapproval of the employee's compensatory time off.

B. Employees may cash out earned compensatory hours by giving sufficient notice to the Fire Chief and the Finance Department. The maximum amount that a forty (40) hour per week employee may accumulate is three hundred (300) hours. Pursuant to FLSA, the maximum amount that a fifty-six (56) hour employee may accumulate is four hundred eighty (480) hours.

ARTICLE VII

HOLIDAYS

Section 1. In lieu of receiving holidays off, each fifty-six (56) hour employee covered by this Memorandum of Understanding shall receive one hundred thirty-two (132) hours off with pay each year that shall be scheduled in accordance with Fire Department Administrative Policy, Volume 1, Chapter 3, Section 9 herein incorporated by reference. Holiday hours may be accumulated. As an option to using their holiday time, employees may cash in their holiday time by giving sufficient notice to the Fire Chief and the Finance Department.

Section 2. Employees assigned to a forty (40) hour schedule will receive eleven (11) holidays per year. For each holiday, the employee will receive eight (8) hours of holiday pay if the holiday falls on the employee’s scheduled work day and eight (8) hours of compensatory time if the holiday falls on a day the employee is not scheduled to work. Actual holidays will be those days on which City Hall is closed in recognition of the holiday.

ARTICLE VIII

VACATION

Section 1. Employees covered by this Memorandum of Understanding shall accrue vacation hours on a monthly basis as follows:

<u>Years of Service</u>	<u>56-hour employee</u>	<u>40-hour employee</u>
0 - 3	10 hours	6.7 hours
4 - 5	12 hours	8.0 hours
6 - 10	15 hours	10.0 hours
11 - 15	17 hours	11.3 hours
16 - 20	20 hours	13.4 hours

Section 2. Vacation shall be taken as per Fire Department Administrative Policy Volume 1, Chapter 3, Section 10, herein incorporated by reference. All eligible employees, however, shall be allowed to accumulate two (2) years allowance of vacation. If an employee’s vacation request is denied by the supervisor because of manpower shortages or operational needs, the employee shall be permitted to accumulate vacation in excess of two (2) years. Such excess must be scheduled to be taken off within ninety (90) days at a time mutually agreeable to both the supervisor and the employee, or be paid to the employee at the rate in effect at the time the employee would have taken his or her requested vacation. If possible, the supervisor shall accommodate the employee’s desires as to the taking of vacation. If the employee does not take the excess time off within the ninety (90) days, the employee will not accrue additional vacation time until the accumulation drops below the two (2) year cap.

Section 3. Maximum Accrual. By no later than June 30, 2018, each employee’s balance of accrued unused vacation leave earned must fall below the two-year maximum accrual (“Maximum Accrual”). Thereafter, an employee who has a balance of accumulated vacation that exceeds the Maximum Accrual shall not be entitled to accrue additional vacation until the employee’s vacation balance falls below by at least their monthly annual accrual rate, but by no greater than the Maximum Accrual.

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

ARTICLE IX

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 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 department shall reinstate the employee 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. The employee may elect to pay medical, dental, and employee assistance program (EAP) premiums directly to the City to maintain those benefits during an approved leave of absence without pay.

Section 2. Written Notice of 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 3. Outside Employment. An employee who engages in outside employment during said leave of absence shall be subject to termination. Any employee who falsifies a reason for the request of said leave of absence or any extension of such leave of absence may be terminated for falsifying such request.

ARTICLE X

OTHER LEAVES OF ABSENCE

Section 1. Sick Leave.

A. Sick Leave Accrual. As soon as practicable, sick leave shall be accrued bi-weekly based on the following monthly rates:

56-hour per week personnel – twelve (12) hours accrual each month
40-hour per week personnel - eight (8) hours accrual each month

B. Sick leave shall accrue without any limit on the number of hours an employee is permitted to accumulate. When an employee is transferred from a fifty-six (56) hour work week to a forty (40) hour work week, all sick leave accrued shall be reduced by one-third (.333); when an employee is transferred from a forty (40) hour work week to a fifty-six (56) hour work week, all sick leave accrued shall be increased by one-half (.50).

Section 2. Use of Protected Sick Leave. Effective the start of the pay period which includes July 1, 2015, the first three (3) shifts or hours equivalent [e.g. thirty (30) hours for employees assigned to a 4/10 work schedule or seventy-two (72) hours for an employee on the 48/96 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 (California Labor Code Sections 245-249). 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 twelve (12) month period will begin the start of the pay period which includes July 1 to the pay period that includes June 30.

A. Employees can use sick leave for themselves for preventive care (such as flu shots or physical exams) or care of an existing health condition;

B. Employees can use one-half of all sick leave accrued in the twelve (12) month period for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee's child, parent, spouse or registered domestic partner, sibling, parents-in-law, grandparent or grandchild. For fifty-six (56) hour per week personnel, seventy-two (72) hours of sick leave per twelve (12) month period is eligible for such use. For forty (40) hour per week personnel, forty-eight (48) hours of sick leave per twelve (12) month period is eligible for such use.

C. Employees can use sick leave for specified purposes if they are victims of domestic violence, sexual assault or stalking as set forth in California Labor Code Section 230(f) and 230.1(a).

D. To receive compensation while absent on sick leave, the employee shall notify a designated supervisor prior to or within half an hour of the time set for beginning duty. In all instances, if an employee is incapacitated, notification shall be waived until a reasonable period has elapsed. For any such absence, the employee shall file a written statement with the Fire Chief stating the cause of the absence. When an employee has taken more than three (3) consecutive work shifts or hours equivalent, the Fire Chief may require a physician's certificate stating the cause for any subsequent absence before said leave shall be approved by the Fire Chief unless the absence is for a statutorily protected leave.

E. The right to benefits under the sick leave plan shall continue only during the period that the employee is employed by the City. This plan 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 service of the City, except as required by Federal or State law.

F. 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.

G. 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. Any employee so examined shall have the opportunity 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 physician. In the event of a conflict of opinion and/or recommendation of the two physicians, a third physician shall be selected by the first two physicians and the final decision shall be made by the City Manager based upon the medical evidence submitted to him.

Section 3. Sick Leave Deposit at Retirement. Effective February 10, 2017, an eligible employee at retirement may deposit into the City's Retirement Health Savings (RHS) Plan one hundred percent (100%) of his unused accumulated sick leave up to a maximum of nineteen hundred (1,900) hours [for forty (40) hour per week employees] and up to two thousand eight hundred fifty (2,850) hours [for fifty-six (56) hour per week employees].

Accrued sick leave shall be valued on the following basis:

1. Sick leave earned for such employees shall be costed at the rate prevailing at the end of the fiscal year in which it was earned.
2. 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 for each day of sick leave one (1) day's pay at the employee's rate in effect at the time of taking sick leave. For covered employees who retire from the City with twenty (20) years of full-time service, or who retire from City service due to a physical disability or a psychological disability resulting from a job-related injury or illness that renders the employee unable to perform in his usual and customary duties of his position, sick leave shall be paid at the prevailing rate.

Employees who have accumulated nine hundred sixty (960) hours of sick leave for fifty-six (56) hour personnel and six hundred forty (640) hours for forty (40) hour personnel, may convert two (2) hours of accumulated sick leave for one (1) hour of vacation; provided that no more than one hundred twenty (120) hours [and eighty (80) hours of sick leave for forty (40) hour personnel] of sick leave can be converted in any one (1) fiscal year.

Section 4. 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 (1/2) work day for each month of regular employment, which is deducted from the employee's accumulated sick leave. Immediate family shall include and be limited to the employee's mother, father, brother, sister, spouse, child, grandchildren, grandparents and current parent-in-laws.

B. All such claims for bereavement leave are subject to verification by the Fire Chief or designee.

Section 5. Leave Entitlements. The City will comply with Administrative Regulation # 403 which governs leave that may be taken under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

Section 6. Workers' Compensation Injury on Duty. Employees covered by this Memorandum of Understanding shall be entitled to all rights provided under Section 4850 of the State of California Labor Code, Government Code 21025.2, and other pertinent codes and ordinances adopted by the State of California and the City of Downey.

A. 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 consistent with the City's affirmative action program and is approved by the appointing authority. Nothing herein shall be construed to prevent said employee from applying for and competing for positions of a higher class or positions represented by other bargaining units in accordance with applicable laws.

Section 7. 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, compensatory time) due to a 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 (Working Days)

<u>Years of Service</u>	<u>Total</u>
1 through 5	45
6 through 10	68
Over 10	90

B. Application for disability leave shall be made by the employee to the City Manager through the department head, accompanied by 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 reduced by one-half (.5) per month or the employee may contribute vacation leave to accelerate reimbursement to the City for providing the benefits under this Article.

D. When the employee has reimbursed the City the "maximum time allowance" 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 reasons:

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.

Section 8. 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 Fire Chief an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

Section 9. Jury Duty. The City will not provide paid release time for jury duty to employees in classifications represented by this Association. If the State and/or Federal Court Jury Commissioners rescind their present policy of granting exemptions from jury service to persons who do not receive paid release time for jury duty from their employers, so as to require jury service despite the absence of such pay from their employer, then the City's practice of providing paid release time to employees for jury duty shall be reinstated immediately upon the effective date of such change for the applicable State and/or Federal Court.

A. If an employee is called for jury duty and wishes to serve, accrued vacation leave, compensatory time, or a leave of absence without pay shall be granted subject to the scheduling requirements of the City.

B. If the court fully reimburses the City for the full salary of an employee on jury duty, the City will immediately reinstate the practice of providing paid release time to employees for jury duty.

C. If an employee is called for jury duty and the court does not excuse jury service based on the non-payment of salary by the employer, the City shall grant said employee paid release time for the required jury duty. However, it is mandatory that the employee advise the judge and/or appropriate court personnel of the City's non-payment policy. While on paid release time for required jury duty, employees will not work any fire shifts or work the evening before or the evening after release from jury duty.

ARTICLE XI

FRINGE BENEFIT ADMINISTRATION

Section 1. Administration. The City reserves the right to select the insurance carrier or administer any fringe benefit programs that now exists or may exist in the future during the term of this Memorandum of Understanding. This Article does not apply to health insurance, which is administered by CalPERS pursuant to the Public Employees' Medical and Hospital Care Act (PEMHCA) and related regulations.

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 Memorandum of Understanding.

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 XII

HEALTH, DENTAL AND LIFE INSURANCE

Section 1. Medical Insurance.

A. Effective October 1, 2012, the City contracted with CalPERS for the provision of medical insurance benefits under the California Public Employers' Medical and Hospital Care Act (PEMHCA). The parties agreed to make any necessary and legal modification to the retiree medical benefits provisions in the Memorandum of Understanding necessary for conversion to the PEMHCA program that are consistent with the benefits set forth in Article XIII, Section 3, City Contribution to Retirement Health Savings (RHS) Plan.

B. Effective the start of the pay period that includes January 1, 2020 and through December 31, 2022, the City agrees to pay one hundred percent (100%) of the premium for medical insurance for employees hired by the City prior to February 9, 2017. Such City paid medical coverage will include employee plus their qualified dependent(s) up to the highest premium rates (Los Angeles Region) for a Preferred Provider Option (PPO) medical plan offered by CalPERS. If an employee elects a higher cost CalPERS plan, he must pay the difference in premium between that plan and the highest premium PPO (Los Angeles Region) medical plan for his respective eligible level of coverage.

C. Effective the pay period that includes January 1, 2020 and through December 31, 2022, the City agrees to pay one-hundred percent (100%) of the premium for medical insurance for employees hired on or after February 9, 2017. Such City paid medical coverage will include employee plus their qualified dependent(s) up to the premium rates (Los Angeles Region) for the Kaiser Health Maintenance Organization (HMO) medical plan offered by CalPERS. If an employee elects a higher cost CalPERS plan, he must pay the difference in premium between that plan and the Kaiser HMO plan premium (Los Angeles Region) for his respective eligible level of coverage.

D. The stated amounts of City paid medical premiums are inclusive of the CalPERS statutory minimum employer contribution under PEMHCA.

E. Employee Opt Out of Medical Coverage. The City agrees to permit an employee to opt out of City-sponsored medical coverage as follows:

1. The employee must present proof to the Human Resources Director or designee that he and his qualified dependent(s) are covered by another group non-City-sponsored medical plan for the plan year;
2. The employee must sign a statement acknowledging the opt out 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 Open Enrollment period or as otherwise required by law under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provisions.
4. Effective the first pay cycle in June 2018 in which the medical opt out payment is due, the City agrees that the employee who is approved to opt out of medical coverage shall receive compensation for one of the following, depending on the level of non-City sponsored coverage the employee has provided proof of having:
 - a. Three hundred dollars (\$300.00) per month if waiver eligibility is for "employee only" coverage.
 - b. Four hundred and fifty dollars (\$450.00) per month if waiver eligibility is for "employee plus one" coverage.
 - c. Six hundred and fifty dollars (\$650.00) per month if waiver eligibility is for "employee plus two or more dependents" coverage.
5. The eligible amount will be deposited in the employee's deferred compensation plan account. A medical opt out election may only be made during an announced Open Enrollment period for medical insurance changes effective January 1.

Section 2. Dental Insurance.

A. Dental Maintenance Organization (DMO) Dental Plan. The City shall continue its contribution of thirty-one dollars and ninety-five cents (\$31.95) per month towards a DMO dental benefit plan for employee and his qualified dependent(s). Any amount necessary to cover the monthly premium in excess of the City's contribution is the responsibility of the employee.

B. Delta Dental Preferred Provider Option (PPO) Plan. The City shall maintain its Delta Dental PPO plan, which is a self-funded plan administered by Delta Dental, and agrees to maintain the employee's contribution rate of fifty-two percent (52%) towards the total monthly premium.

1. Plan premiums are calculated annually based on the prior year's claims experience, administrative fees, and an industry trending projection. This calculation shall be conducted by Delta Dental for communication by the City during the announced annual Open Enrollment period.
2. For cost effectiveness that is mutually beneficial to the City and the Association, the City will continue to evaluate other Delta Dental plan coverage options for implementation to reduce premiums and/or employee out of pocket costs for consideration of a change from a current composite rate to a three-tier rate structure ("Employee only"; "Employee plus one dependent"; and, "Employee plus two or more dependents") for monthly premiums effective January 1. In addition, the City changes from a June Open Enrollment to the Open Enrollment Period that coincides with CalPERS medical plan for changes effective January 1. There will be no changes in dental plan coverage without agreement of the parties. The annual CalPERS medical Open Enrollment Period is held generally during September through October.

Section 3. Life Insurance. Effective June 1, 2016, the City shall provide each employee covered by this Memorandum of Understanding with a group term life insurance benefit of one hundred thousand dollars (\$100,000.00).

ARTICLE XIII

RETIREMENT

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

Section 2. Retirement Formula and Contributions.

A. First Tier Formula. Employees hired prior to December 9, 2011, the effective date of the City's contract amendment with CalPERS for fire safety members, shall be provided the 3% at age 50 retirement formula, as set forth in California Government Code Section 21362.2.

1. Effective the pay period that includes July 1, 2013, employees shall begin to have deducted, on a pre-tax basis, four percent (4%) of CalPERS reportable compensation, pursuant to California Government Code Section 20516(f).
2. Effective the pay period that includes July 1, 2014, employees shall have deducted an additional one and one-half percent (1.5%) of CalPERS reportable compensation, for a total of five and one-half percent (5.5%), on a pre-tax basis, pursuant to Government Code Section 20516(f).
3. Should an employee be mandated by a change in law or other action to contribute any portion of the required employee 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.
4. The City shall act, if necessary, to pass a resolution setting forth that all deductions or contributions under the Section shall be regarded as a pick-up of retirement costs pursuant to IRC 414(h)(2).

B. Second Tier Formula. Employees hired on or after December 9, 2011, the effective date the City's contract amendment with CalPERS for fire safety members, shall be provided the 3% at age 55 retirement formula, pursuant to California Government Code Section 21363.1.

1. Employees covered hereunder shall pay, on a pre-tax basis, the nine percent (9%) required employee contribution to CalPERS.
2. The City shall act, if necessary, to pass 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. Third Tier Formula. All employees hired by the City on or after January 1, 2013, who are considered "new members" as that term is defined by the Public Employee Pension Reform Act of 2013 (PEPRA), Government Code §7522 et. seq. shall be subject to a retirement benefit pursuant to the 2.7% at age 57 retirement formula. These employees shall pay to CalPERS by payroll deduction an amount dictated by CalPERS as fifty percent (50%) of normal cost of the 2.7% at age 57 benefit. No portion of this contribution shall be paid by the City.

Section 3. City Contribution to Retirement Health Savings (RHS) Plan.

A. City Contribution to RHS Plan. The City will contribute the following monthly amount toward an employee's RHS account less the Public Employees' Medical and Hospital Care Act (PEMHCA) statutory minimum employer contribution as specified in California Government Code § 22892(c):

- Employees who retire after July 1, 1987 - \$ 98.00
- Employees who retire after July 1, 2002 - \$ 200.00
- Employees who retire after July 1, 2003 - \$ 235.00
- Employees who retire after July 1, 2004 - \$ 270.00

These City contribution amounts shall be referred to herein as the "retiree medical contribution."

As a result of the City contracting for CalPERS medical insurance pursuant to PEMHCA provisions effective October 1, 2012, the following revisions are in effect to avoid an increase cost to the City's mandated contribution for retirees:

B. Eligibility Requirements. Subject to meeting eligibility criteria below, the maximum monthly City contribution amount specified in A above shall be deposited on a quarterly basis to the retiree's RHS account for the reimbursement of qualified medical expenditures. To be eligible to enroll in the City's CalPERS health plans, pursuant to CalPERS rules and regulations, and receive the maximum monthly City contribution amount specified in A above, the employee must satisfy the following eligibility criteria:

1. At the time of retirement the employee has a minimum of ten (10) years of service, or is granted a service-connected disability retirement; and
2. Retire within one hundred twenty (120) days of separation from employment with the City; and
3. At the time of retirement, the employee is employed by the City; and
4. Effective the day after official separation from the City, the employee has been granted a retirement allowance by the CalPERS.

C. The City's obligation to contribute toward the retiree's RHS account shall be modified downward or cease during the lifetime of the retiree upon the occurrence 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 RHS 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 source. If it is later discovered that misrepresentation has occurred, the retiree will be responsible for reimbursement to the City of those amounts inappropriately deposited and the retiree's eligibility to receive future RHS deposits will cease.
2. 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 rate set forth above shall be converted from an RHS deposit and applied to that plan. If there is any excess, that excess may be applied toward the retiree's RHS account provided the retiree pays the balance owing for any such coverage.
3. Upon the death of the retiree, the City's obligation to deposit into the retiree's RHS account shall cease. The surviving spouse shall be able to continue CalPERS medical insurance coverage pursuant to PEMHCA provisions and provided the surviving spouse pays the appropriate premiums minus the City's mandated retiree contribution amount.

D. An eligible retiree covered by this Section who no longer elects coverage under any City sponsored medical plan, effective at the end of any calendar quarter may present the City with proof of payment for alternate health insurance coverage and continue to receive the City's deposit to the retiree's RHS account on a quarterly basis up to the amount to which the retiree is entitled in A above. Once a retiree elects to withdraw from eligibility to participate in a City sponsored health plan for coverage under an alternate insurance plan, the City and the retiree understand that the retiree may not re-enroll in a City sponsored medical plan or otherwise forfeits the City's RHS contribution amount permanently.

E. In addition to the condition specified in D above, the City's deposit to a retiree's RHS account shall cease upon the occurrence of any of the following:

1. The retiree fails to submit or respond to the City's request (via certified mail to the last known mailing address of the retiree) to provide appropriate proof of alternate health insurance coverage at the end of sixty (60) days from the date of the City's written request.
2. The death of the retiree.

ARTICLE XIV

TUITION REIMBURSEMENT

Section 1. Reimbursement Rates. With prior approval of the City Manager or designee, employees may be reimbursed for tuition and 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. Employees must receive a passing grade to be reimbursed for the course. Reimbursement shall be made at the rate of tuition charged at California State University, San Bernardino (CSUSB) for courses on the quarter system and California State University, Long Beach (CSULB) for courses on the semester system.

ARTICLE XV

PROBATIONARY PERIOD

Section 1. An original appointment will be tentative and subject to a probationary period of not less than eighteen (18) 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 employee up to an additional three (3) months. Should the Fire Chief desire to terminate any original probationary employee prior to the end of the probationary period, the Fire Chief shall notify the employee prior to termination. Promotional probationary period shall be for a period of six (6) months.

Section 2. If the service of the original probationary employee has been satisfactory to the Fire Chief; then the Fire Chief shall file with the Human Resources Office within two (2) weeks of the end of the probationary period, 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 within two (2) weeks of the end of the probationary period and the employee notified, 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. Rejection Following Promotion. Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the Fire Chief to file a statement that his services have been satisfactory, shall be reinstated to the position from which he was promoted unless charges are filed and he is discharged in the manner provided in the Personnel Ordinance and these rules for positions in the classified service. If there is no vacancy in the classification from which the employee was promoted, the most recently hired employee shall be terminated without prejudice.

Section 5. The probationary period may be extended by the length of time the employee is absent during the probationary period except for vacation and regular days off.

ARTICLE XVI

SENIORITY

Section 1. Seniority is defined as the length of an employee's continuous service within rank from his last date of promotion, and shall apply in the manner and to the extent set forth in the remainder of this Article.

Section 2. Probationary employees shall have no seniority rights, but shall acquire seniority from their last date of hire upon completion of their probationary period.

Section 3. Seniority shall apply between employees in a rank for purposes of layoff and recall if in the objective determination of the Fire Chief, the employee's abilities and performance are substantially equal.

Section 4. An employee who is subject to layoff may exercise his seniority in another rank within the Fire Department provided that the employee has satisfactorily held the same position in the rank in which the employee seeks to exercise seniority. The employee with the earliest promotion date to that rank will be considered to have seniority for that position.

ARTICLE XVII

CITY RIGHTS

Section 1. 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 Memorandum of Understanding 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 necessity and organization of any service or activity conducted by the City and expand or diminish services.
- C.** To determine the nature, manner, means, and technology, and extent of services to be provided to the public.
- D.** Methods of financing.
- E.** Types of equipment or technology to be used.
- F.** 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.
- G.** 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.
- H.** 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.
- I.** To relieve employees from duties for lack of work or similar non-disciplinary reasons, such as lack of funds.
- J.** To establish and modify productivity and performance programs and standards.
- K.** To discharge, suspend, demote, or otherwise discipline employees for proper cause.
- L.** To determine job classifications and to reclassify employees.
- M.** 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.
- N.** To determine policies, procedures and standards for selection, training and promotion of employees.
- O.** To establish employee performance standards, including but not limited to, quality and quantity standards and to require compliance therewith.

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

Q. 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 Memorandum of Understanding.

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

Section 2. The Fire Chief has the authority to establish and change shift schedules to meet the needs of the department in an emergency. The Fire Chief has the authority to establish reporting times for shift changes in an emergency. The City has the right to enter into mutual or automatic aid agreements.

Section 3. 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 in good faith with representatives of the Association regarding the impact of the exercise of such rights; unless the subject matter of the exercise of such rights is provided for in this Memorandum of Understanding or in the Personnel Rules and Salary Resolutions and/or affecting written departmental rules and regulations which are incorporated in this Memorandum of Understanding. By agreeing to meet and confer in good faith 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.

The City shall not exercise the foregoing rights in an arbitrary, capricious, invidiously discriminatory manner or in such a manner as to imperil the health and/or safety of the employees.

ARTICLE XVIII

EMPLOYEE ORGANIZATIONAL RIGHTS AND RESPONSIBILITIES

Section 1. Dues Deductions. The City shall deduct dues on a regular basis from the pay of all employees in the classifications and positions recognized to be represented by the Association, who voluntarily authorize such deduction, in writing, on a mutually agreed upon form to be provided for this purpose. The City shall remit such funds to the Association within thirty (30) days following their deduction.

Section 2. Indemnification. The Association agrees to hold the City harmless and indemnify the City against any claims, causes of actions or lawsuits arising out of the deductions or transmittal of such funds to the Association, except the intentional failure of the City to transmit to the Association monies deducted for the employees pursuant to this Article.

ARTICLE XIX

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 Memorandum of Understanding they will not cause or condone any strike, walkout, slowdown, sick-out, or any other job action by withholding or refusing to perform services.

Section 2. The City agrees that it shall not lockout its employees during the term of this Memorandum of Understanding. 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 Memorandum of Understanding 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 below in B, Section 1, the City may suspend any and all of the rights and privileges accorded to the Association under the City's Employee Relations Ordinance in this Memorandum of Understanding including, but not limited to, 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 A, 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 in A, Section 1, above, and return to work.

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

ARTICLE XX

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 Memorandum of Understanding and departmental rules and regulations or as an appeal of a disciplinary action.

A. Procedural Due Process Rights. Appeals of punitive action pursuant to Government Code §3254.5 (the Firefighters Procedural Bill of Rights Act) shall be conducted pursuant to the procedures set forth in Government Code Sections 11512-11519.

Except, however, that appeals of written reprimands only, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 which provides for an informal hearing procedure.

The informal hearing procedure shall be conducted pursuant to Government Code sections 11445.40 to 11445.50. The presiding officer shall be selected from a list of seven neutral hearing officers from the State Mediation and Conciliation Services. In the event that the parties cannot agree upon a mutually acceptable hearing officer from the list of seven (7), 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 presiding officer shall regulate the course of the proceeding. The presiding officer shall permit the parties and may permit others to offer written or oral comments on the issues. The presiding officer may limit the use of witnesses, testimony, evidence, and argument, and may limit or eliminate the use of pleadings, intervention, discovery, prehearing conferences, and rebuttal. A request for an appeal of a written reprimand shall be submitted in writing to the Human Resources Director within ten (10) calendar days of receipt of the written reprimand.

B. Non-retaliation. An employee who has initiated a grievance, or assisted another employee in initiating and/or processing a grievance, shall not in any way be coerced, intimidated, or discriminated against. All time periods in this Section may be extended by mutual consent of the employee and the management representative involved in writing.

Section 2. Conduct of the Grievance Procedure. An employee may request the assistance of another person of his own choosing in preparing and presenting his grievance at any level of review, or may be represented by a recognized employee organization or may represent himself.

A. Any retroactivity on monetary grievances shall be limited to ninety (90) days prior 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.

B. 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 shall provide for the following steps:

Step One. Informal Procedure. An employee must first attempt to resolve a grievance without delay through discussion with his immediate supervisor on an informal basis. The grievance shall begin at the level of supervision that ultimately took the action that resulted in 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 superior, if any, and through the chain of command to the Fire Chief, if necessary. The Fire Chief shall meet with

the employee and the employee's representative to attempt to resolve the grievance. 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 Fire Chief. In order that this informal procedure may be responsive, all parties involved shall expedite this process.

In no case may more than fourteen (14) calendar days elapse from the date of the alleged incident or action giving rise to the grievance; or fourteen (14) calendar days from the date the employee should have reasonably known about the alleged incident and the first meeting with the supervisor discussed in this Section. The employee shall have up to seven (7) additional days for each level of supervision; however, the time shall not be cumulative. Failure to meet any of these time lines shall mean that the grievance shall be barred and waived.

Step Two. Formal Procedure. If the grievance is not resolved through the informal process and the employee has complied with all time limits, then the employee shall have the right to file the grievance in written form and present it to the Fire Chief within ten (10) calendar days from the decision or completion of the informal process. The written grievance shall state all facts plus the specifics of the alleged dispute. Failure of the employee to take action within the time limit set forth above will constitute termination of the grievance.

The Fire Chief shall review the written material submitted by the employee and shall require the employee's supervisor and/or superior officers to submit written material regarding this grievance. Copies of these materials will be given to the employee prior to meeting with the Fire Chief. The Fire Chief shall render a decision and comments in writing which shall be given to the employee within ten (10) calendar days of the meeting between the employee and the Fire Chief.

Step Three. Employee Relations/Human Resources Director. If the grievance is not resolved in Step Two, the employee may, within ten (10) calendar days from receipt of the Fire Chief's written decision present the grievance in writing to the Employee Relations/Human Resources Director for processing. The Employee Relations/Human Resources Director will use his discretion to decide whether to investigate the grievance. Failure of the employee to take this action will constitute termination of the grievance. If the employee is being represented by a recognized employee organization, the Employee Relations/Human Resources Director shall convene a joint meeting of the recognized employee organization and management representative who shall attempt to resolve the grievance. In the event the grievance is not satisfactorily settled through discussion at this level, both parties shall advise each other in writing, as to their respective positions.

Step Four. Grievance Hearing. If the grievance is not resolved in Step Three, the employee may, within ten (10) calendar days of the receipt of the written position from the management representative, present a "request for hearing" in writing to the Human Resources Director. 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 (7), 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 XXI

MISCELLANEOUS

Section 1. Substance Abuse Policy. The City 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 wellbeing 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 article 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.

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.

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 drug 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 collected in a DOX Security Container System or other 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 ensure 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 or she 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 these circumstances.

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 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.

Section 2. 125 Plan. Employees covered by this Memorandum of Understanding are eligible to participate in the City's Section 125 Plan (Flexible Spending Account for Health Care and Dependent Care).

Section 3. Filling and Vacating Assignments. Department assignments and transfers will be done in accordance with Fire Department Administrative Policy, Volume 1, Chapter 3, Section 15, herein incorporated by reference.

Section 4. Examination Observer. A person from a City Personnel Office, preferably the Personnel Analyst from the Downey Human Resources Office, will audit the Fire Captain departmental evaluation process, Fire Captain interviews, and Fire Captain and Fire Engineer written examinations. The role of this person will be to evaluate the time, examination content, and testing environment/technologies for each candidate. The person will not be a grader. The person will also be present when interviews are held for Training Officer, EMS Coordinator, Equipment Coordinator, Shift Arson Investigator, and Training Coordinator.

Section 5. No Smoking Policy. The City agrees to allow employees an occasional off duty celebratory cigar during their term of employment as an exception to Administrative Regulation No. 420. This exception shall not diminish the City's concern for the health and welfare of its employees to be fit for duty.

Section 6. Court Time Pay.

A. Court time is time required to be spent by employees of the Fire Department on behalf of the City in response to a subpoena, a coroner's inquest, a hearing or trial on a civil action, or criminal case at a time other than that regularly required of such employee for his employment, for the purpose of testifying as to knowledge acquired in the course of his employment with the City. This definition shall also apply to subpoenas issued for taking of depositions in such City related matters. Employees who are off duty on authorized sick leave or when testifying at any grievance proceeding, City Council, or other hearing on behalf of himself or another employee of the Association, shall not accrue additional time or compensation as court time.

B. Court Time shall be compensated as follows:

1. Criminal Witness. The employee shall be paid at the applicable hourly rate of pay.
2. Civil Witness (in line of duty). The employee shall receive his applicable hourly rate of pay for time at court and to and from court while testifying in any civil case on behalf of the City.
3. If the employee is called into court per this Section, the employee shall be paid a minimum of four (4) hours or the actual number of hours in court, whichever is greater.

ARTICLE XXII

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 memorandums 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 or City Charter.

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

Section 3. Fire Department administrative policies, rules, and regulations issued by the Fire Chief shall become a part of this Memorandum of Understanding provided they do not contravene any other provision of this Memorandum of Understanding; and further provided the City shall meet and confer in accordance with State law regarding the adoption of such general orders.

ARTICLE XXIII

WAIVER OF BARGAINING DURING TERM OF THIS MEMORANDUM OF UNDERSTANDING

During the term of this Memorandum of Understanding, the parties mutually agree that they will not seek to meet and confer with regard to wages, hours, and terms and conditions of employment, whether or not covered by this Memorandum of Understanding or in the meet and confer process, except as otherwise provided for in this Memorandum of Understanding; thereto, and irrespective of whether or not such matters were discussed or were even within the contemplation of the parties hereto during the meet and confer process leading to this Memorandum of Understanding. 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 not specifically provided for in this Memorandum of Understanding during the term of this Memorandum of Understanding.

ARTICLE XXIV

REOPENER

Section 1. The City and the Association agree to reopen discussion during the term of this Memorandum of Understanding regarding changes to the City's Cafeteria Plan to ensure compliance with legal requirements.

Section 2. The parties agree to reopen discussions during the term of this Memorandum of Understanding to discuss tuition reimbursement and to address California State University, San Bernardino's transition from the quarter to semester system.

Section 3. The City and the Association agree that the City may request a reopener during the period of March 2021 through April 2021, if the two major revenue sources for the City (Property Tax and Sales Tax) are projected to decrease by five percent (5%) or more for FY 2021/22 when compared to FY 2020/21. The City and the "Association" agree to meet in order to review potential options for cost saving measures. Any changes to the MOU as a result of this re-opener will be based on mutual agreement.

ARTICLE XXV

EMERGENCY WAIVER PROVISION

In the event of circumstances beyond the control of the City, such as acts of God, flood, insurrection, civil disorder, national emergency, or similar circumstances; provisions of this Memorandum of Understanding or the Personnel Rules or Resolutions of the City, that 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 XXVI

SEVERABILITY

Should any provision of this Memorandum of Understanding be found to be inoperative, void, or invalid by a court of competent jurisdiction, or by reason of any existing or subsequent enacted legislation, all other provisions of this Memorandum of Understanding shall remain in full force and effect for the duration of this Memorandum of Understanding. This Memorandum of Understanding shall be binding upon the successors and/or assigns of both City and the Association to the extent permitted by law.

ARTICLE XXVII

TERM OF THIS MEMORANDUM OF UNDERSTANDING

The term of this Memorandum of Understanding shall commence on January 1, 2020 and shall continue in full force and effect until December 31, 2022.

ARTICLE XXVIII

RATIFICATION AND EXECUTION

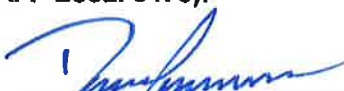
The City and the Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until ratified by the Association and adopted by the City Council of the City of Downey. Subject to the foregoing, this Memorandum of Understanding is hereby executed by the authorized representatives of the City and the Association and entered into this 14th day of January, 2020.

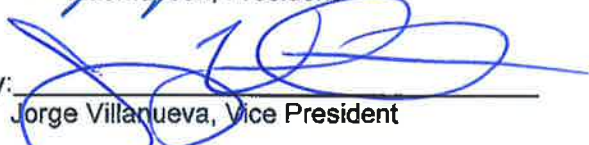
CITY OF DOWNEY:

By: 
John Oskoui, Assistant City Manager

By: 
James McQueen, Human Resources Director


**DOWNEY FIREMEN'S ASSOCIATION
(IAFF Local 3473):**

By: 
Dan Rasmussen, President

By: 
Jorge Villanueva, Vice President

By: 
Erich Ekstedt, Secretary

By: 
Robert Landers, Treasurer

By: 
Anastacio Rios, Board Member

By: 
Kerry Nony, Board Member

By: 
Richard Hernandez, Board Member

APPROVED AS TO FORM:




EXHIBIT A

CLASSIFICATIONS REPRESENTED BY THE DOWNEY FIREMEN'S ASSOCIATION

Firefighter
Fire Engineer
Fire Captain

PAY SCHEDULE EFFECTIVE December 30, 2019

Position Title	A	B	C	D	E
Firefighter (56hr)	24.2814	25.6170	27.0257	28.5124	30.0805
Firefighter (40hr)	33.9942	35.8638	37.8363	39.9174	42.1126
Fire Engineer (56hr)	28.5126	30.0808	31.7351	33.4806	35.3222
Fire Engineer (40hr)	39.9177	42.1131	44.4292	46.8729	49.4508
Fire Captain (56hr)	33.4807	35.3224	37.2649	39.3146	41.4771
Fire Captain (40hr)	46.8732	49.4510	52.1708	55.0402	58.0675

PAY SCHEDULE EFFECTIVE December 28, 2020

Position Title	A	B	C	D	E
Firefighter (56hr)	24.7670	26.1293	27.5662	29.0827	30.6821
Firefighter (40hr)	34.6741	36.5811	38.5930	40.7158	42.9549
Fire Engineer (56hr)	29.0829	30.6824	32.3698	34.1502	36.0286
Fire Engineer (40hr)	40.7161	42.9554	45.3178	47.8104	50.4398
Fire Captain (56hr)	34.1503	36.0289	38.0102	40.1009	42.3066
Fire Captain (40hr)	47.8107	50.4400	53.2142	56.1410	59.2289

PAY SCHEDULE EFFECTIVE December 27, 2021

Position Title	A	B	C	D	E
Firefighter (56hr)	25.2623	26.6519	28.1175	29.6644	31.2957
Firefighter (40hr)	35.3676	37.3127	39.3649	41.5301	43.8140
Fire Engineer (56hr)	29.6646	31.2961	33.0172	34.8332	36.7492
Fire Engineer (40hr)	41.5304	43.8145	46.2242	48.7666	51.4486
Fire Captain (56hr)	34.8333	36.7495	38.7704	40.9029	43.1527
Fire Captain (40hr)	48.7669	51.4488	54.2785	57.2638	60.4135