

RESOLUTION NO. 18-7787

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY  
ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE  
CITY OF DOWNEY AND THE DOWNEY PUBLIC SAFETY AUXILIARY  
ASSOCIATION (APRIL 1, 2018 – MARCH 31, 2021)**

**WHEREAS**, the City of Downey, hereinafter referred to as "City," and the City of Downey Public Safety Auxiliary Association hereinafter referred to as "DPSAA" 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 DPSAA 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 DPSAA, 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.

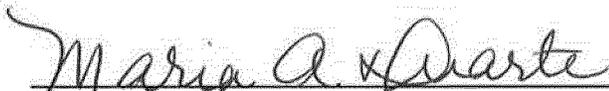
**SECTION 2.** The Director of Human Resources is authorized to sign the Memorandum of Understanding.

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

**APPROVED AND ADOPTED** this 13<sup>th</sup> day of March, 2018.

  
SEAN ASHTON, 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 13<sup>th</sup> day of March, 2018 by the following vote, to wit:

AYES: Council Members: Pacheco, Saab, Vasquez, Rodriguez, Mayor Ashton  
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 PUBLIC SAFETY AUXILIARY ASSOCIATION**

**April 1, 2018 – March 31, 2021**

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**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE CITY OF DOWNEY AND  
THE DOWNEY PUBLIC SAFETY AUXILIARY ASSOCIATION**

**ARTICLE I**

**RECOGNITION**

Pursuant to the provisions of the Employee Relations Ordinance of the City of Downey, the City of Downey (hereinafter called the "City") has recognized the Downey Public Safety Auxiliary Association (hereinafter called the Association) as the recognized majority representative of all full-time employees covered in the classifications listed on Exhibit A. The City has recognized the Association for the purpose of meeting its obligations under the Myers-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 hereby to join and/or participate in protected Association activities or to refrain from joining or participating in protected activities in accordance with the Employee Relations Ordinance and Government Code Sections 3500 and 3511.

**Section 2.** The City and the Association agree that they shall not discriminate against any employee because of race, color, sex, marital status, age, national origin, political or religious opinions or affiliations. The City and the Association shall reopen any provision of this Agreement 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 Agreement in compliance with state or federal anti-discrimination laws.

**Section 3.** Whenever the masculine gender is used in this Agreement, it shall be understood to include the feminine gender.

**Section 4.** The City and Association agree to comply with applicable State and Federal laws and regulations regarding the employment of the disabled.

## ARTICLE III

### **BASIC COMPENSATION PLAN**

#### **Section 1. Salary Increases.**

**A.** All employees in classifications covered by this Memorandum of Understanding as referenced in Exhibit B shall receive the following pay increases:

1. Effective March 26, 2018, a two percent (2%) across the board pay range increase [two percent (2%) base salary increase].
  - a. The City shall make a one-time ad hoc lump sum payment of four hundred dollars (\$400.00) to each member of the Association covered by this Memorandum of Understanding who is actively employed by the City on March 13, 2018. The payment shall be made within thirty (30) days of the adoption of the Memorandum of Understanding. The one-time ad hoc payment paid is unconnected to performance and shall not be reflected on any City pay or salary schedule, shall not be the basis for any future negotiated salary increases, and shall not be reported as compensation earnable.
2. Effective March 25, 2019, a two percent (2%) across the board pay range increase [two percent (2%) base salary increase].
3. Effective March 23, 2020, a three percent (3%) across the board pay range increase [three percent (3%) base salary increase].

#### **Section 2. The 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 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 dividing twelve (12) times the monthly rate by fifty-two (52) times the number of working hours per week.

#### **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 subsection B below.
2. All full-time appointments shall be made at the first step of the salary schedule assigned that class, unless prior written approval of the City Manager is obtained for appointments at a higher step in the assigned schedule.

3. No salary advancements shall be made so as to exceed the maximum rate established in the salary schedule for the class to which the employee's position is allocated.

**B. Qualification for Salary Step Advancement.**

1. Advancement shall not be automatic but shall be based upon merit, dependent upon increased service value of an employee to the City as exemplified by recommendations of his supervisor, length of service, performance record, special training undertaken, and other objective evidence.
2. Only employees rated as meeting the standard of work performance expected of City employees shall be qualified to advance to the salary steps B, C, D and E.
3. If an employee does not receive a merit increase as a result of performance evaluation the employee may appeal through the grievance procedure.

**C. Merit Evaluation.**

1. Every employee shall receive an objective, written job performance rating, no sooner than three (3) weeks before, no later than five (5) working days before the date of eligibility for each salary step, merit longevity or hourly increase, and annually thereafter, and upon a change of employment status. Nothing in this section shall prohibit the department head or 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 department head.

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

**Section 5. Longevity Pay.**

**A. Eligibility for 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 adjustments as follows.

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

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

### **Section 6. Eligibility for Promotion Increases.**

**A.** Any employee receiving a promotion shall receive a salary increase equivalent to one (1) step, or shall be placed on the first step of the salary schedule for the class to which he is promoted, whichever is greater.

**B.** Any employee receiving a promotion who would otherwise have been eligible to receive a merit increase within sixty (60) days of the effective date of such promotion shall be granted the merit increase prior to the application of provision A of this Section.

### **Section 7. Shift Differential.**

#### **A. Police Department Personnel.**

1. Employees in the Police Department may receive one (1) of the following salary additives as shift differential pay if they meet the indicated qualifications:
  - a. An employee whose regular work shift contains six or more hours between 5:00 p.m. and 5:00 a.m. shall receive a 5.5% shift differential (ii) an employee whose regular work shift contains four or more hours between 5:00 p.m. and 5:00 a.m. shall receive a 2.7% shift differential and (iii) an employee whose work shift begins before 6:00 a.m. or ends after 6:00 p.m. shall receive a 1.1% shift differential.
2. Employees who work the above scheduled times on either an overtime basis or regular basis, but are not assigned to such shifts as part of their regular schedule are not eligible to receive shift differential pay.
3. Employees who are assigned a shift schedule that is not identical for each work day of their work week shall receive a shift differential amount that is equal to the average of the indicated percentage amounts for each work day. For example, an employee who works four (4) shifts in a work week is assigned a shift that qualifies for a 5.5% shift differential three (3) days and a shift that qualifies for a 2.7% differential one (1) day. The average of the percentage amounts is  $(3 \times 5.5 + 2.7) / 4$ , or 4.8%.

#### **B. Fire Department.**

1. Regional Fire Communications Operators shall receive a shift differential pay of two and three-quarters percent (2.75%) while working any shift.
2. Fire Dispatch Supervisor shall receive the two and three-quarters percent (2.75%) shift differential pay if scheduled to work hours other than 7:30 a.m. to 5:30 p.m.

**Section 8. Bonus Pay for Training.** At the Chief's discretion, an employee may be paid an amount equal to two and three-quarters percent (2.75%) of the appropriate salary schedule for those working hours utilized for the purposes of training new employees. This Section shall be used for those employees specifically assigned to a trainee by the Chief.

**Section 9. Uniforms.** The Fire and Police departments have established uniform standards and designated classifications that are required to wear uniforms. Each employee in a classification that is designated to wear a uniform shall be issued three (3) complete sets of uniforms (shirts, skirts, or trousers) and other uniform gear as required by departmental guidelines. Thereafter, uniforms shall be replaced on an as needed basis as determined by each of the departments.

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

**B.** The parties agree that effective July 1, 2011, the average annual cost incurred by the City for the purchase and/or rental, and maintenance of employee uniforms will be reported as special compensation pursuant to Section 571(a)(5) of the CalPERS regulations. The amount reportable for the purchase and/or rental and maintenance of uniforms is based on the average annual cost paid for by the City for each employee over fiscal years: FY 2014-2015, FY2015-2016, and FY 2016-2017, and shall not exceed five hundred dollars (\$500.00). The annual amount shall be reported on a per bi-weekly pay period basis.

**Section 10. Acting Pay.** An employee who has been designated by the City to serve in an acting capacity for sixty (60) consecutive work days or more shall receive Step A of the pay range for the classification in which the employee is performing active duties or 5.5%, whichever is greater. Service in an acting capacity shall not be used as a basis for, or in support of, a request for reclassification.

**Section 11. Out-Of-Class Pay.** The City may temporarily assign employees to work out of classification. The selection of the employee for an out-of-classification assignment shall be at the discretion of the department head or designee. A temporary out-of-rank pay differential of 5.5% shall be authorized when an employee has actually worked in a position of higher rank for a combined total of eighty (80) hours during a calendar year. Paid holidays shall be considered as days actually worked. Other forms of authorized leave such as sick leave, emergency leave, vacation and all other non-holiday leave shall not be considered as days actually worked.

**Section 12. Bilingual Pay.** An employee who is designated to speak or translate Spanish or other languages authorized by the City Manager as part of their regular job duties will be eligible to receive additional compensation on a bi-weekly basis. The Fire Chief and the Police Chief have the authority and discretion to assign and/or remove the special pay up to budget authority. To qualify for bilingual pay, the designated employee must pass a conversational examination administered by a certified interpreter or an employee who has been certified by the Human Resources Director to administer such examination. An employee must recertify at least every eighteen (18) months to maintain qualification. Effective the first pay period following Council adoption of the MOU, qualified and approved employees will be compensated at the rate of seventy dollars (\$70.00) per bi-weekly pay period.

### **Section 13. Court Time.**

**A.** Court time is time required to be spent by all Association employees in response to a subpoena, a coroner's inquest, a hearing or trial on a civil action on behalf of the City, 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 apply to subpoenas issued for taking of depositions.

Employees, who are off duty on sick leave benefits, as described in Article IX, Section 4, of this Agreement, or Workers' Compensation as described in Article IX, Section 7, or when testifying at any grievance, City Council or other hearing on behalf of himself/herself, another employee or the Association, shall not accrue additional time or compensation as court time.

**B. Compensation for Court Time.** Employees shall be compensated for court time as follows:

1. **Criminal Witness:** An employee will be paid at their regular hourly rate of pay or with the approval of the Chief of Police, may, in lieu of pay, accumulate any portion of court time and take an equivalent leave of compensatory time off. The accumulation of court time to be used as compensatory time off shall be limited to the number of hours earned for which such employee would have otherwise received compensation at their regular hourly rate of pay.
2. **Civil Witness (in the line of duty):** An employee shall receive their regular hourly rate of pay for hours worked (and expenses, if any) for time at court, including travel to and from court, while testifying in any civil case on behalf of the City.
3. **Standby Compensation:** Minimum standby time for court assignments shall be compensated as follows:
  - a. Two (2) hours pay for the morning standby.
  - b. Two (2) hours pay for the afternoon standby.
  - c. If the employee is called into court, he/she shall be paid the above minimum or actual number of hours in court, whichever is greater.
  - d. Standby pay shall be paid at the rate of one and one-half (1.5) the employee's regular hourly rate of pay.

## **Section 14. Standby Compensation.**

**A. Police Dispatch Center.** The City wishes to establish a viable call back list. All Public Safety Dispatchers shall have their names on the list. In addition, any employee who has completed Public Safety Dispatcher training and has been approved by the Police Chief to participate, may sign up for, and be placed on the call back list. Each weekends when staff vacancies so dictate, the employee who is on the top of the list shall be designated as standby for the weekend and will be subject to mandatory call back for work during the weekend. The weekend standby period shall be defined as Friday 1700 hours to Monday 0500 hours. The person designated shall receive fifteen (15) hours of compensatory time for the weekend. Once the person has been designated for a weekend, their name is rotated to the bottom of the list. Individuals may swap locations on the list as long as the request is made in writing to their supervisor and the swap has been approved prior to the start of the weekend.

**B. Forensic Specialist Standby.** An employee in the classification of Forensic Specialist shall receive fifteen (15) hours of straight compensatory hours for assigned weekend standby duty. The weekend standby period shall be defined as Friday 1700 hours to Monday 0500 hours. Such standby assignment shall be limited to one Forensic Specialist per weekend period. A Forensic Specialist shall receive five (5) hours of compensatory time for assigned standby on a City recognized holiday that is not within the weekend standby period.

**C. All Employees.** An employee in a classification other than Police Dispatcher, Police Dispatch Supervisor, or Forensic Specialist who is designated by management to be on standby on the weekends and/or holidays shall be compensated for standby time at ten (10) hours straight compensatory hours and five (5) hours straight compensatory time for a City recognized holiday. The weekend period for the purpose of this Section is 2400 Friday to Sunday 2400 hours. Any Association member designated by management to be on standby shall be required to be available to answer a call from the department in a timely manner.

**Section 15. Search Pay Premium.** Police Records Specialists I and II are routinely and consistently required as a part of their regular duties to search female prisoners. Effective October 25, 2005, those employees required to search female prisoners shall receive search pay premium of two per cent (2%). Should these duties be removed from the classification and/or should an individual employee be declared unable to perform these duties because of physician ordered permanent work restrictions, the search pay premium shall be removed for the classification and/or the individual. The removal of pay shall not occur when a physician declares the work restrictions temporary.

**Section 16. Calculating the Value of Special Compensation (Spec Comp).** Beginning or earlier than July 1, 2011, the values of the following special compensation items are calculated using a compounding method that calculates them in the following order: (1) Longevity Pay; (2) Shift Differential; (3) Search Pay Premium. Any other special compensation items are not included in the compounding calculation.

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

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

Employee Base Hourly Rate \$ 21.9614	Reportable Earnings @ 80 Hours	\$1,756.91
1. Longevity Pay (8.4020%)	Spec Comp Earnings	\$ 147.62
2. Shift Differential (5.5%)	Spec Comp Earnings	\$ 104.75
3. Search Pay Premium (2%)	Spec Comp Earnings	\$ 40.19

#### **ARTICLE IV**

##### **WORKWEEK**

**Section 1.** The regular workweek for all employees, except for Regional Fire Communications Operators, covered by this Agreement shall be forty (40) hours per week.

**Section 2. Regional Fire Communications Operators.** In accordance with Federal law, the Fair Labor Standards Act (FLSA) regulations were implemented on April 15, 1986. It was agreed that:

**A.** In compliance with the FLSA regulations, Regional Fire Communications Operators will be paid for all hours actually worked during the designated seven (7) day work week.

**B.** All hours worked in excess of forty (40) hours in a work week will be paid at the overtime rate of one and one-half (1.5) the employee's regular hourly rate of pay.

**C.** To avoid the prospect of having to reduce the number of hours reported for retirement purposes, the City will continue to report forty (40) hours per week to PERS regardless of whether the employee actually accrued forty (40) hours during the week. However, for the purpose of calculating overtime compensation, sick leave hours used will not be included as part of the forty (40) hour work week. Other forms of paid leave time (i.e., vacation and compensatory time) will be included as part of the forty (40) hour work week for purposes of calculating overtime compensation. This agreement has been reached for the purpose of maintaining both the existing shift schedule as well as maintaining the number of hours reported to the retirement system.

**Section 3.** For all Police Department employees covered by this Agreement, the normal work week shall consist of four (4) ten (10) hour days. If, in the opinion of the Chief of Police, restructuring of the normal work day or work week becomes necessary for the purpose of promoting efficiency, nothing herein shall be construed as preventing the Chief of Police from restructuring the normal work day or work week for individual employees.

If in the opinion of the Chief of Police, it should become necessary to establish schedules departing from the regular work day or work week, the Chief of Police shall give notice in writing of such change as far in advance as reasonably practical. If the change is other than on an individual basis, the City shall meet and confer with the Association regarding the impact of the decision prior to implementing a general change. If an individual employee does

not receive a written notice two (2) weeks before the change, the employee shall not lose shift differential pay for the first two (2) weeks of the schedule change.

**Section 4.** Employees in the classification of Code Enforcement Officer shall work a 9/80 Work Schedule as follows:

**A.** The regular work week shall be forty (40) hours per week within a designated seven (7) day work period.

**B.** The 9/80 Work Schedule provides eighty (80) hours of scheduled work in a two (2) week pay period. Depending on the week that the alternating day off falls, in one (1) week the employee works four (4) nine (9) hour days and one (1) eight (8) hour day. In the other week, the employee works four (4) nine (9) hour days with one (1) alternating day off. In this work schedule, the eight (8) hour work day and the day off is the same day of the week, which normally is Friday or Monday. The work week for Federal Labor Standards Act (FLSA) overtime purposes shall be established as starting four (4) hours into the shift of the eight (8) hour work day.

**C.** Effective the start of the pay period following City Council adoption of this Memorandum of Understanding, employees in the classification of Code Enforcement Officer shall no longer receive a paid lunch hour; therefore, the non-paid lunch hour shall be excluded from the regular hours of scheduled work per day.

**Section 5.** Part-time employees are those hired for less than the standard forty (40) hour week and paid on an hourly basis.

## ARTICLE V

### **OVERTIME (COMPENSATORY TIME OFF)**

**Section 1. Compensation for Overtime.** All approved overtime, worked by an employee, shall be paid at the rate of one and one-half (1.5) the regular hourly rate of pay for such employee. Overtime shall be paid on all hours worked in excess of a normal shift, or in excess of forty (40) hours in an employee's designated work week. (For Regional Fire Communications Operators refer to Article IV, Section 2(C))

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

**Section 3. Discouragement of Overtime.** It is the policy of the City that overtime work is to be discouraged. However, in cases of emergency or whenever public interests or necessity requires, any department or division head may require any employee in such department or division to perform overtime work. The projects and types of work for which overtime may be authorized shall be approved in advance by the City Manager, except in the event of emergency, overtime is authorized by the department head or his designee.

**Section 4. Emergency Service Condition.** In accordance with Article XXIII, in the event of a severe emergency or national or state disaster, the City shall not be required to pay overtime. Regardless of any of the provisions of this Agreement, employees shall not be entitled to receive overtime during the first seven (7) calendar days of the severe emergency or disaster.

**Section 5. When Absent from Duty.** In the event an employee is absent from duty, whether for vacation, compensatory time, sick leave or other disability, for a period exceeding five (5) work days, overtime during that work cycle will not be paid. If the employee is ordered to work during their vacation, the employee will be paid overtime for those hours worked.

**Section 6. Overtime.** Overtime may be compensated in time off or money. Employees who are assigned to work overtime shall have the right to monetary compensation, unless the form of compensatory time off has been discussed in advance. Management may inform employees, prior to the performance of the work, that only "compensatory time" is available. In this instance, employees shall have the right to refuse the overtime assignment.

**Section 7. Compensatory Time Off.** Where elected, compensatory time off is provided at a rate of one and one-half (1.5) hours for each hour of overtime hour worked. Unused compensatory time off shall be paid out upon separation from employment at the higher of (a) the employee's average rate of pay for the final three years of employment, or (b) at the employee's final regular rate of pay.

**Section 8. Cash in Compensatory Time Off.** Employees covered by this Agreement may cash in accrued compensatory time earned as overtime unless they have been informed as set forth in Section 6 above. Employees may not cash in compensatory time earned from a holiday when the holiday falls on the employee's regular day off.

## ARTICLE VI

### COMPENSATION FOR SPECIAL CALL-IN

**Section 1.** Employees covered by this Agreement who are "called in" to perform work on an unscheduled basis at times other than those normally required for the employee's regular work schedule shall receive and be paid for a minimum of two and six-tenths (2.6) hours at the overtime rate of one and one half (1.5) the employee's regular hourly rate of pay. Employees shall be entitled to call-in pay in the event the employee is required to report back to work after completing the employee's regular work shift and left City premises and/or the employee's work location. In accordance with FLSA, actual hours worked, including travel from home to the call back location shall be counted toward the computation of overtime pay.

**Section 2.** If an employee is called in two and six-tenths (2.6) hours or less before the start of the regular work shift, such employee shall not be given the two and six-tenths (2.6) hour guarantee. Any hours worked in excess of the regular work shift on that day shall be paid at the rate of one and one-half (1.5) the employee's regular hourly rate of pay.

## ARTICLE VII

### HOLIDAYS

**Section 1.** Employees will receive one hundred and forty (140) hours of holiday leave in January of each year. These leave hours are for the following City recognized holidays:

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

**Section 2.** Employees may use holiday time as time off from work at any time during the calendar year, subject to their department's approval. An employee who does not work on a holiday that is a regularly scheduled work day must use holiday pay for the time off. In the event that an employee has no holiday time balance and the department allows the employee time off work for a holiday, then the employee must use either vacation or compensatory time for the time off.

**Section 3.** If the holiday falls on an employee's regular work day, and the employee works on that day, then the employee may request twelve and one-half (12.5) hours of pay during and subsequent to the pay period in which a City holiday falls. If the holiday falls on an employee's non-work day, then the employee may request twelve and one-half (12.5) hours of pay during and subsequent to the pay period in which a City holiday falls.

**Section 4.** Employees who terminate from the City and who have not fully used their holiday hours will be paid for the unused holidays that have occurred prior to their termination at a rate of twelve and one-half (12.5) hours per holiday at the rate of pay in effect at the time of termination, plus two and one-half (2.5) hours.

**Section 5.** Employees hired during the year will receive holiday hours for the holidays that will occur between their hire date and December 31 at a rate of twelve and one-half (12.5) hours per holiday.

**Section 6.** Any holiday hours that remain on an employee's record at the end of the calendar year will automatically be paid out in a regular payroll cycle in January.

## ARTICLE VIII

### VACATION

**Section 1. Accruals.** Employees covered by this Agreement shall accrue vacation leave with pay on the following scheduled basis:

<u>Year of Service</u>	<u>Hours per Year</u>	<u>Monthly Accrual</u>
0 - 3	80	6.7
4 - 5	96	8.0
6 - 10	120	10.0
11 - 15	136	11.3
16 - 20	160	13.4

**Section 2. Accrual Limits.** Vacation shall be taken at the convenience of the City with the approval of the department head. Where possible, such vacation should be taken annually and not accumulated from year to year. All eligible employees, however, shall be allowed to accumulate two (2) years allowance of vacation. If the employee is prohibited by the supervisor from taking the employee's vacation because of manpower shortages or operational needs, the employee shall be paid all vacation in excess of two (2) years at the employee's regular rate of pay at the time of the pay-off.

**Section 3.** An employee who separates from City service under this Article, either by retirement, permanent layoff, or termination, shall be entitled to be paid for unused earned vacation at the regular rate of pay in effect at the time of separation.

**Section 4. Fire Department Only.** Covered employees will schedule vacations at the beginning of each year. Scheduling shall be in four (4) shift increments. If, after such scheduling, less than four (4) shifts remain unscheduled, they may be scheduled in one (1) shift increments or scheduled with holiday time off. Employees may use vacation time in one (1) shift increments at times other than originally scheduled provided that a qualified substitute can be found to replace the employee for that shift.

**Section 5. Vacation Pay-Out.** Effective the date closest to March 31, 2019, in which vacation accruals are credited by the Payroll Office, an employee's balance of accrued vacation hours shall not exceed the two year maximum accrual or the employee shall cease to accrue vacation until the vacation hours balance falls below the two year maximum accrual. To assist in reducing accrued vacation hours for those employees with a balance of accumulated vacation that exceeds the two year maximum accrual as of January 15, 2018, a one time pay-out shall be allowed up to one hundred sixty (160) hours in the 2018 calendar year.

## ARTICLE IX

### NON-PAID LEAVE OF ABSENCE

**Section 1. Leave of Absence.** 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 employee shall be reinstated in the position held at the time leave was granted. The employee shall report promptly upon the expiration of any leave granted. Failure to report within a twenty-four (24) hour period after expiration of leave shall be considered a voluntary resignation. No employment or fringe benefits such as, but not limited to, sick leave, vacation, health insurance, retirement or any other benefit shall accrue to any employee during leave of absence without pay. An employee on approved leave may elect to pay the premiums due in order to maintain health insurance benefits during the term of such leave.

**Section 2. Written Notice of Intent to Return.** An employee on leave of absence must give the City at least seven (7) days written notice of the employee's intent to return to work.

**Section 3. Outside Employment While On Leave.** 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 for said leave of absence or any extension of such leave of absence may be terminated for falsifying such request.

## ARTICLE X

### SICK LEAVE

#### **Section 1. Sick Leave Accruals.**

**A.** Sick leave shall be defined as absence from duty because of illness or off the job injury, or exposure to contagious diseases as evidenced by certification from an accepted medical authority.

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

## **Section 2. Use of Protected Sick Leave.**

**A.** Effective the start of the pay period which includes July 1, 2015, the first three (3) shifts or hours equivalent (e.g. thirty [30] hours for an employee on a 4/10 work schedule, twenty-seven [27] hours for an employee on a 5/8 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. This 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.

**B.** Effective January 1, 2016, employees can use up to an additional forty-five (45) hours of sick leave per year provided by the California Kin Care law.

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

**D.** For purposes of this Section, a family member includes employee's parent, child, spouse, registered domestic partner, parent-in-law, grandparent, grandchild, and sibling. Only the first three (3) shifts or hours equivalent plus forty-five (45) hours of sick leave in a twelve (12) month period can be used as described above.

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

**F.** In order to receive compensation while absent on protected sick leave, the employee shall notify a designated supervisor prior to or within two (2) hours of the time set for beginning duty, unless notification is physically impractical then such notification shall be waived until a reasonable period has elapsed. For any such absence in which protected sick is utilized, the employee shall submit a written statement with the department head confirming the use of protected sick leave. A physician's statement verifying the absence from work is not required.

**G.** When an employee is not utilizing protected sick leave, the department head or his designee may require a physician's certificate stating the cause for any subsequent absence before said leave shall be approved. Such absence may be more than one (1) work day or if there is reasonable cause to indicate abuse of sick leave.

**Section 3. Accrued Sick Leave Benefit.** The right of an employee to accrued sick leave shall continue only during the period that the employee is on paid status. Accrued sick leave benefits shall not give any employee the right to be retained in the service of the City, or any right of claim to sickness disability benefits after separation from the services of the City, except as required by federal or state law.

**A.** 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.

**Section 4. Fitness for Duty.** Upon the written request of the appointing authority, based upon job-related grounds and consistent with business necessity, the department head or his designee may require an employee to submit to an examination by the City's physician to determine fitness for duty. If the results of the examination indicate the employee is unable to perform his duties; or in the performance of his duties, exposes others to infection, the employee shall be placed on sick leave without privilege of reinstatement until adequate medical evidence is submitted that the employee is competent to perform his duties or will not subject others to infection. Any employee so examined shall have the right to submit the reports of a competent medical authority of his own selection and at his own expense, in addition to the report submitted by the City's physician. In the event of a conflict of opinion and/or recommendation of the two (2) physicians, a third physician shall be selected by the first two (2) physicians and the final decision shall be made by the City Manager or his designee based upon the medical evidence submitted to him.

## **ARTICLE XI**

### **OTHER USES OF SICK LEAVE**

#### **Section 1. Sick Leave Conversion at Retirement or Death.**

**A.** An employee who is separating employment from the City by way of CalPERS retirement shall be eligible to deposit the value of unused accumulated sick leave hours at the regular rate of pay earned at the time of retirement up to the maximum of one thousand nine hundred (1,900) hours to the City's Retirement Health Savings (RHS) Plan to cover reimbursable medical expenses in accordance with IRS regulations.

1. Effective October 1, 2012, the City's RHS plan was restated to add the value of a City deposit toward a retiree's RHS account based on eligibility criteria cited in Article XII (Note: Check reference), Section 9 of this Agreement.

**B.** In the event of a permanent or indefinite layoff, an employee with ten (10) years of continuous service with the City shall be entitled to the above benefit. If such employee resigns after receiving official notification of his impending layoff, he shall be eligible for the above benefit. This provision shall be retroactive to January 1, 1982.

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

1. 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 of pay in effect at the time of taking sick leave. For covered employees with twenty (20) years of City service; or retirees with a physical disability, or a psychological disability resulting from a direct consequence of a violent act, sick leave shall be converted at the prevailing rate.

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

**Section 3. Bereavement Leave.**

**A.** An employee who has suffered a death of an immediate family member may be allowed bereavement leave with pay of no more than six (6) work days per incident based on eligibility. An employee shall be eligible for one half (1/2) work day of Bereavement Leave for each month of regular employment up to six (6) days which is deducted from the employee's accumulated sick leave. For purposes of this Section, "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 department head or his designee.

**Section 4. Personal Leave.** With approval of the department head, an employee may use two (2) days per year of earned sick leave on personal matters that are of an unforeseen combination of circumstances that call for immediate action or to add additional hours per Holiday as covered in Article VII, Section 2. Such matters shall be considered as those events or occurrences that a reasonable prudent person would not or could not postpone to a subsequent time. The nature of the matter shall be explained to the immediate supervisor and shall be granted with his approval. Such personal leave shall not be cumulative from year to year.

**Section 5. Workers' Compensation Injury On Duty.**

**A.** When an employee is absent from work by reason of an injury or illness covered by Workers' Compensation, the City will pay the difference between the amount granted pursuant to the Workers' Compensation Act and the employee's regular hourly rate of pay for up to one (1) year. Employees who are covered by this Agreement and are hired after May 13, 1997; and are absent from work by reason of an injury or illness covered by Workers' Compensation, the City will pay the difference between the amount granted pursuant to the Workers' Compensation Act and eighty-five percent (85%) of the employee's regular hourly rate of pay for up to six (6) months. Thereafter, the employee will be paid the amount required by the Workers' Compensation Act.

**B. 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 Association; provided such placement is approved by the appointing authority. Nothing herein shall be construed to prevent such employee from applying for and competing for positions of a higher class or positions represented by other bargaining units.

**Section 6. 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 non-industrial illness or injury can be advanced sick leave time at seventy-five percent (75%) of the employee's regular rate of pay according to the following table:

<u>Maximum Time Allowance (Hours)</u>	
Years of Service	Total Hours
1 through 5	360
6 through 10	544
Over 10	720

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

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

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

**E.** Grounds for termination of disability leave by the City Manager shall include, but not be limited to, the following 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 7. 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 department head an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

**Section 8. Jury Duty.**

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

**Section 9. Pregnancy Disability Leave.** The City shall comply with the State pregnancy disability leave law. Administrative Regulation No. 418 is incorporated by reference herein.

**Section 10. Family Leave.** The City shall comply with all State and Federal family leave entitlement laws. Administrative Regulation NO. 430 is incorporated by reference herein.

**Section 11. "Child-Related Activities" Leave.**

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

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

**Section 12. Consultation of Human Resources.** To ensure the appropriate application of all compatible statutorily provided protected leave, it is advised that the employee, department head, or immediate supervisor consult with the Human Resources Director or designee in advance on the use of protected leave.

## ARTICLE XII

### FRINGE BENEFIT ADMINISTRATION

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

**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 Agreement, provided that the benefits of the employees shall be no less than those in existence as of the implementation of this Agreement.

**Section 3. Changes.** If, during the term of this Agreement, 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 health plan administrator or method of funding the coverage.

## ARTICLE XIII

### MEDICAL, DENTAL AND OTHER COVERAGE

#### **Section 1. Medical Insurance.**

**A.** CalPERS Public Employees' Medical and Hospital Care Act (PEMHCA). Effective October 1, 2012, the City contracted with the California Public Employees' Retirement System (CalPERS) to implement the CalPERS medical benefits program governed by the Public Employees' Medical and Hospital Care Act (PEMHCA). In its implementation, the City and the Association agreed that the mandated employer contributions for retirees would be structured in a manner to maintain cost savings. Employees and retirees have the option of choosing medical insurance coverage from any of the medical plans offered by CalPERS.

**B.** City Contribution Amount. For the term of this Agreement, the City's contribution amount is up to the monthly premium amount of the employee's eligible coverage level for the second highest PPO plan offered by CalPERS at the basic premium rates designated for the Los Angeles Area. If an employee enrolls in a plan with higher premiums, he will be responsible for the payment to the City on the premium amount in excess of the City's contribution.

1. PEMHCA Employer Mandated Contributions. The City shall contribute on behalf of each employee the mandated minimum sum as required per month toward the payment of premiums for medical insurance under the PEMHCA program. As the mandated minimum is increased, the City shall make the appropriate adjustments.

The City is mandated under PEHMCA to make a contribution to retiree medical premiums. As allowed by the Government Code and the CalPERS Board, the City used the Unequal Contribution Method to make City contributions on behalf of each retiree or annuitant. The 2012 starting year unequal contribution for each retiree began at \$1.00 per month. The City's mandated contribution for each annuitant shall be increased annually in compliance with Government Code section 22892(c), until the contribution for annuitants equals the contribution paid for employees. A retiree's right to receive a City contribution, and the City's obligation to make a mandatory contribution on behalf of retirees, shall only exist as long as the City contracts with CalPERS PEMHCA for medical insurance. In addition, while the City contracts with CalPERS PEMHCA, its obligation to make mandatory contributions on behalf of retirees, shall be limited to the minimum contribution required by law.

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

1. For the term of this Agreement, the City's maximum contribution shall be the sum of the monthly premiums as designated for each of the following categories:

Employee only ("EE")

Employee +1 Dependent ("EE +1")

Employee +2 or more Dependents ("EE +2+")

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

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

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

1. The employee must present written proof to the Human Resources Office that he and his qualified dependent(s) are covered by another non-City sponsored group medical plan for the current plan year;

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

Effective May 10, 2016, the City agrees that the employee who qualifies to waive coverage shall receive three hundred dollars (\$300.00) per month if waiver eligibility is for "Employee only" coverage, four hundred fifty dollars (\$450.00) per month if waiver eligibility is for "Employee +1" dependent coverage, or six hundred fifty dollars (\$650.00) per month if waiver eligibility is for "Employee +2 or more" dependent coverage. Effective January 1, 2019, the eligible amount will be deposited in the employee's deferred compensation plan. A medical opt out election may only be made by an employee at the time of hire or during an announced open enrollment period for medical insurance changes effective January 1.

## **Section 2. Dental Insurance.**

**A. HMO Dental Coverage.** For the term of this Agreement, the City shall contribute thirty-one dollars and ninety-five cents (\$31.95) per month towards a HMO 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 Premier Plan Coverage.** Effective January 1, 2006 (start of new benefit year), the City increased the maximum benefit payable from one-thousand dollars (\$1,000.00) to two-thousand dollars (\$2,000.00) for each enrollee in each calendar year.

The Premier Plan is a self-funded plan administered by Delta Dental. Premiums are calculated annually based on prior year's claims experience, administrative fees, and an industry trending projection. For the term of this Memorandum of Understanding, the City agrees to maintain the employee's contribution rate of fifty-two percent (52%) towards monthly premium coverage. The City agrees to evaluate other Delta Dental plan options for implementation to reduce premiums or employee out of pocket costs as a result of changing to a three-tier rate structure ("Employee only," "Employee plus one dependent," and "Employee plus two or more dependents").

**Section 3. Life & Accidental Death and Dismemberment (AD&D) Insurance.** Effective June 1, 2016, the City implemented an increase to the current basic life insurance and accidental death and dismemberment coverage. Each employee shall be covered with a fifty thousand dollar (\$50,000.00) group life insurance policy benefit without evidence of insurability other than evidence of full-time employment with the City. Under the terms of the policy, benefit provisions are payable and determined by the insurance carrier.

**Section 4. Long Term Disability Insurance.** Effective July 1, 1997, each employee covered by this Agreement shall be enrolled in a Long-Term Disability Insurance program. Under the terms of this policy, benefit provisions are payable and determined by the insurance carrier.

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

**A.** The City agrees to structure a Peer Support Program for the Fire Dispatch Center that meets the needs of the Department and as approved by the Fire Chief. Such program will be structured through the City's EAP program resource(s) with some reference to the current program currently being offered by the Police Department. As soon as practicable, the City agrees to work towards implementation of the Peer Support Program for the Fire Dispatch Center by January 1, 2015 or within four (4) months of City Council adoption of this Agreement whichever is later.

## **ARTICLE XIV**

### **RETIREMENT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**A.** Retirement formula of 2% @ 62 (Government Code Section 7522.25):

**B.** Employees covered hereunder shall pay a member contribution of fifty percent (50%) of normal cost as determined from time to time by CalPERS (employee contribution is six and one-fourth percent (6.25%) for FY 2016-17).

**C.** There shall be no Employer Paid Member Contribution ("EPMC") by the City;

**D.** Retirement benefit calculations shall be based on pensionable compensation, as defined by Government Code Section 7522.34; and

**E.** Retirement benefits shall be calculated based on the three (3) year highest average annual pensionable compensation.

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

**Section 6. City Contribution to Retiree Retirement Health Savings (RHS) Plan.**

**A. Contribution.** Based on eligibility at retirement, the City will contribute ninety-eight dollars (\$98.00) per month towards a retiree's RHS account. This contribution is inclusive of the Public Employees' Medical and Hospital Care Act (PEMHCA) statutory minimum employer contribution as specified in California Government Code § 22892(c).

As a result of the City contracting for CalPERS medical insurance pursuant to PEMHCA provisions effective October 1, 2012, the City's previous retiree medical contribution is revised to be a City contribution towards RHS plan to avoid an increase cost to the City's mandated contribution for retirees.

**B. RHS Plan.** An employee who retires from the City of Downey after January 1, 1989, shall be entitled to participate in the City sponsored medical plan and the City shall contribute up to a maximum of ninety-eight dollars (\$98.00) per month toward the premium for employee only coverage under the City sponsored medical plans. As a result of the City contracting for CalPERS medical insurance pursuant to PEMHCA provisions effective October 1, 2012, the following revisions to this Section shall change as follow:

**C. Eligibility Requirements.** Subject to meeting eligibility criteria below, the maximum ninety-eight dollars (\$98.00) per month 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 a CalPERS health plan, pursuant to CalPERS rules and regulations, and receive the monthly City contribution towards RHS Plan 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. At the time of retirement the employee is employed by the City; and
3. Effective the day after official separation from the City the employee has been granted a retirement allowance by the California Public Employees' Retirement System.
4. The City's obligation to deposit up to a maximum of ninety-eight dollars (\$98.00) per month 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:

- a. 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 employer. 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.
- b. 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 a 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.
- c. 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.** It is understood and agreed that the amount equivalent to the annual amount contributed by the City to an eligible retiree's RHS account, shall be included as an item of total compensation in survey comparisons.

**E.** 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 Section 9 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 retiree may not re-enroll in a City sponsored medical plan or otherwise forfeits the City's RHS contribution amount permanently.

In addition to the condition specified in E above, the City's deposit to a retirees 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 XV

### TUITION REIMBURSEMENT

**Section 1. Reimbursement Rates.** With prior approval of the City Manager, 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. An employee must receive a passing grade in order to be reimbursed for the course. Reimbursement shall be made at the rate of tuition charged at California State University, San Bernardino for courses on the quarter system and California State University, Long Beach for courses on the semester system. The employee will be reimbursed for required books only.

## ARTICLE XVI

### PROBATIONARY PERIOD

**Section 1.** A new hire or promotional appointment will be tentative and subject to a probationary period of not less than twelve (12) months for Public Safety Dispatcher, Regional Fire Communications Operators, Police Assistant and Forensic Specialist; and six (6) months for represented classifications not listed above, 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 who is on probation for up to an additional three (3) months. During the probationary period an employee may be terminated at any time because of unsatisfactory performance. During the probationary period the employee's supervisor shall attempt to counsel the probationary employee on a periodic basis, prior to the end of the probationary period regarding his performance.

**Section 2.** If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the Human Resources Office 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 the services of the employee are deemed to be unsatisfactory and his employment is to be terminated at or before the expiration of the probationary period, the appointing authority shall notify such employee not later than two (2) weeks prior to the end 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 appointing power to file a statement that his services have been satisfactory, or at the discretion of the employee, 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 the rules for positions in the classified service. If there are no vacancies in the position from which he was promoted, the provisions of Article XV, shall apply.

## ARTICLE XVII

### SENIORITY

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

#### **Section 2.**

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

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

**Section 3.** Seniority shall apply between employees in a classification within a department for purposes of layoff and recall if, in the objective determination of the City, the employees' ability, competency, and skill are substantially equal.

**Section 4.** Any separation from service, other than an approved leave of absence or layoff, shall cause the employee to lose his seniority rights.

**Section 5.** An employee who is laid off shall retain his seniority rights to recall for a period of one (1) year.

#### **Section 6. Seniority Bidding.**

**A.** With respect to work assignments of covered employees in the Police Department, work shifts, days off and vacation will be based upon seniority within classifications. Shift selection procedures involving employee bidding based upon seniority shall be implemented regularly, provided the Chief of Police shall retain the authority and discretion to assign individual Communications Operators to shift scheduling without regard to seniority to insure that a balance of experienced personnel are assigned to the respective shifts or to otherwise meet the needs of the department.

**B.** If, in the opinion of the Chief of Police, it should become necessary to establish shift assignment procedures departing from seniority bidding, the Chief of Police shall give written notice of such change as far in advance as practical. Prior to implementing such a general change, the Chief of Police shall meet and confer with the Association regarding the impact of the decision.

## **ARTICLE XVIII**

### **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 provisions of this Agreement or by law to manage the City, as such rights existed prior to the execution of this Agreement. The sole and exclusive rights of Management, as they are not abridged by this Agreement or by law, shall include, but not be limited to, the following rights:

- A.** To manage the City generally and to determine the issues of policy.
- B.** To determine the existence or non-existence of facts which are the basis of the Management decision.
- C.** To determine the necessity and organization of any service or activity conducted by the City and expand or diminish services.
- D.** To determine the nature, manner, means, and technology, and extent of services to be provided to the public.
- E.** Methods of financing.
- F.** Types of equipment or technology to be used.
- G.** To determine and/or change the facilities, methods, technology, means, and size of the work force by which the City operations are to be conducted.
- H.** To determine and change the number of locations, relocations, and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract for or subcontract any work or operation of the City.
- I.** To assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments.
- J.** To relieve employees from duties for lack of work or similar non-disciplinary reasons.
- K.** To establish and modify productivity and performance programs and standards including, but not limited to, quality and quantity standards; and to require compliance therewith.
- L.** To discharge, suspend, demote, or otherwise discipline employees for proper cause.
- M.** To determine job classifications and to reclassify employees.
- N.** To hire, transfer, promote and demote employees for non-disciplinary reasons in accordance with this Memorandum of Understanding and applicable Resolutions and Codes of the City.
- O.** To determine policies, procedures and standards for selection, training and promotion of employees.

P. To 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 Agreement.

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

**Section 2.** Except in emergencies as defined in Article XXIII, 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 Association, the City agrees to meet and confer with representatives of the Association regarding the impact of the exercise of such rights, unless the matter of the exercise of such rights is provided for in this Agreement or in the personnel or departmental rules and regulations and/or salary resolutions. By agreeing to meet and confer with the Association as to the impact and the exercise of any of the foregoing City rights, Management's discretion in the exercise of these rights shall not be diminished.

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

## ARTICLE XIX

### **EMPLOYEE ORGANIZATION 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.

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

## ARTICLE XX

### NO STRIKE - NO LOCKOUT

#### A. PROHIBITED CONDUCT

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

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

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

**Section 4.** In addition to any other lawful remedies or disciplinary actions available to the City, if the Association fails, in good faith, to perform all responsibilities listed below in B, Section 1, the City may suspend any and all of the rights and privileges accorded to the Association under the Employee Relations Ordinance in this Agreement including, but not limited to, right of access, check-off, the use of the City 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 Agreement and unlawful and they must immediately cease engaging in conduct prohibited in A and return to work.

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

## ARTICLE XXI

### GRIEVANCE PROCEDURE

**Section 1. Grievance.** Grievance shall be defined as a dispute between the Association, employee or employees and the City, regarding interpretation or application of specific provisions of this Agreement, personnel rules, or departmental rules and regulations.

## **Section 2. Conduct of the Grievance Procedure.**

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

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

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

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

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

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

**Step Three. Management Representative.** If the grievance is not resolved in Step Two, or if no answer has been received within time limits established in Step Two, the employee may within ten (10) working days, present the grievance in writing to the designated management representative for processing. Failure of the employee to take this action will constitute termination of the grievance. In the event the employee is not being represented by a recognized employee organization, the designated management representative shall attempt to resolve the grievance. If the employee is being represented by a recognized employee organization, the designated management representative shall convene a joint meeting of the recognized employee organization and himself, within five (5) working days, in an attempt to resolve the grievance. In the event the grievance is not satisfactorily adjusted or settled through discussion at this level, management shall advise the employee and/or employee organization, in writing, within ten (10) working days as to its position on the grievance.

**Step Four. Grievance Hearing.** If the grievance is not resolved in Step Three, the employee may, within ten (10) working days of the receipt of the written position from management representatives, present a "request for hearing" in writing to the Human Resources Director. However, the only grievances which may be submitted for review are matters which have resulted in a suspension without pay, reduction in pay, demotion, termination, or otherwise have monetary value to the employee. Failure of the employee to take this action will constitute termination of the grievance. With the approval of the Personnel Advisory Board, 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 XXII

### MISCELLANEOUS

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

The City of Downey and the Association recognize that their future is dependent on the physical and psychological wellbeing of all employees. The City and the Association mutually acknowledge that a drug and alcohol-free work environment benefits Downey employees and citizens. The purpose of this section is to define the City's drug and alcohol policy as well as the possible consequences of policy violation.

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

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

1. Reasonable suspicion is cause based upon objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his 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 National Institute on Drug Abuse and comply with established guidelines for "chain of custody" to insure that identity and integrity of the sample is preserved throughout the collecting, shipping, testing and storage process.

**E.** Any positive test for alcohol or drugs will be confirmed by a scientifically sound method. An employee who tests positive on a confirmatory test will be given the opportunity to discuss the results with a physician to be designated by the City. The employee should be prepared at that time to show proof of any valid medical prescription for any detected substance or to otherwise explain, if he 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 that are clearly marked that they may cause significant drowsiness or impair an employee's performance. An employee shall notify his 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 a 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. Transfer Rights.** The City agrees that if an employee's current supervisor or department head does not approve an employee's transfer to another department who has offered that employee a position, the employee may appeal the decision to the Human Resources Director.

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

**Section 4. Post Training.** The City shall endeavor to have at least two (2) Public Safety Dispatchers who have completed P.O.S.T. training in the Police Communications Center.

## **ARTICLE XXIII**

### **SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING**

**Section 1.** It is the intent of the parties hereto that the provisions of this Agreement shall supersede all prior agreements and memoranda of understanding, or memoranda 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 Agreement is not intended to conflict with federal or state law.

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

## **ARTICLE XXIV**

### **WAIVER OF BARGAINING DURING TERM OF THIS AGREEMENT**

During the term of this Agreement, the parties mutually agree that they will not seek to negotiate or bargain with regard to wages, hours, and terms and conditions of employment; whether or not covered by this Agreement or in the negotiations leading thereto and irrespective of whether or not such matters were discussed or were even within the contemplation of the parties hereto during the negotiations leading to this Agreement. Regardless of the waiver contained in this Article, the parties may:

1. By mutual agreement, in writing, agree to meet and confer about any matter during the term of this Agreement.
2. Meet and confer in accordance with Article XVI, Section 2, Article XX, Section 5 and Article XI, Section 1 (C)(2).

## **ARTICLE XXV**

### **RE-OPENER**

**Section 1.** The City agrees to conduct a total compensation survey of the City's market cities that includes all special pays reported for benchmark positions. The City and the Association agree that the City will complete the study by no later than September 13, 2018 (six months from City Council adoption of this Memorandum of Understanding). Further, the parties agree that the City is under no obligation to implement any changes based on the results, but is agreeable to a reopener to discuss the results of the survey.

**Section 2.** The City and the Association agree to reopen discussions during the 2017-18 Fiscal Year regarding changes to the City's Cafeteria Plan to ensure compliance with legal requirements. No changes to the Cafeteria Plan shall be made unless mutually agreed to in writing.

## **ARTICLE XXVI**

### **EMERGENCY WAIVER PROVISION**

In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, provisions of this Agreement or the Personnel Rules or Resolutions of the City, which restrict the City's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is over, the Association shall have the right to meet and confer with the City regarding the impact on employees of the suspension of these provisions in the Agreement and any personnel rules and policies.

## **ARTICLE XXVII**

### **SEPARABILITY**

Should any provision of this Agreement be found to be inoperative, void, or invalid by a court of competent jurisdiction, or by applicable laws, statutes, ordinances and regulations of the United States of America and the State of California, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

## **ARTICLE XXVIII**

### **TERM OF MEMORANDUM OF UNDERSTANDING**

The term of this Agreement shall commence on April 1, 2018, and shall continue in full force and effect until March 31, 2021.

**ARTICLE XXIX**

**RATIFICATION AND EXECUTION**

The City and the Association acknowledge that this Agreement 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 Agreement is hereby executed by the authorized representatives of the City and the Association and entered into this 13th day of March, 2018.

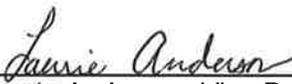
**CITY OF DOWNEY**

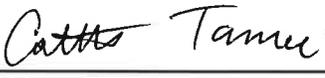
**DOWNEY PUBLIC SAFETY  
AUXILIARY ASSOCIATION**

By:   
John Oskoui, Assistant City Manager

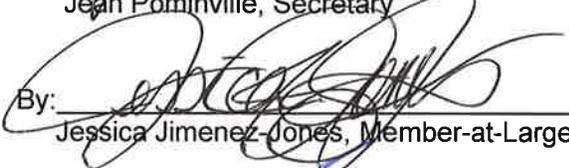
By:   
Lee Cole, President

By:   
Irma Youssefieh, Human Resources Director

By:   
Laurie Anderson, Vice President

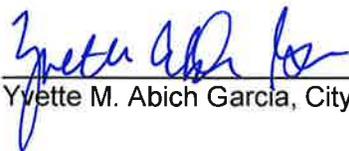
By:   
Cathleen Tanori, Treasurer

By:   
Jean Pominville, Secretary

By:   
Jessica Jimenez-Jones, Member-at-Large

By:   
Doug Ulibarri, Member-at-Large

**APPROVED AS TO FORM:**

  
Yvette M. Abich Garcia, City Attorney

**EXHIBIT A**

**CLASSIFICATIONS REPRESENTED BY THE DOWNEY PUBLIC SAFETY AUXILIARY  
ASSOCIATION**

Code Enforcement Officer  
Community Services Officer  
Fingerprint Evidence Technician  
Fire Service Technician  
Forensic Specialist  
Forensic Supervisor  
Neighborhood Preservation Coordinator  
Parking Enforcement Officer  
Police Aide II  
Police Records Specialist I  
Police Records Specialist II  
Property and Evidence Technician  
Public Safety Dispatcher  
Regional Fire Communications Operator  
Regional Fire Communications Lead Operator  
Senior (Police) Dispatch Supervisor  
Street Sweeping Enforcement Officer

**EXHIBIT B**

**PAY SCHEDULE**

<b>Effective 3/26/2018</b>					
<b>Position Title</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Code Enforcement Officer	25.7380	27.1533	28.6467	30.2228	31.8850
Community Services Officer	20.0583	21.1614	22.3254	23.5535	24.8488
Fire Service Technician	13.0694	13.7888	14.5472	15.3471	16.1909
Forensic Specialist	29.2547	30.8633	32.5610	34.3520	36.2415
Forensic Supervisor	37.5464	39.6115	41.7902	44.0886	46.5136
Neighborhood Preservation Coordinator	32.1638	33.9326	35.7992	37.7676	39.8453
Parking Enforcement Officer	16.9699	17.9035	18.8881	19.9271	21.0174
Police Records Specialist I	17.1341	18.0768	19.0707	20.1199	21.2259
Police Records Specialist II	18.0820	19.0761	20.1258	21.2323	22.4007
Property & Evidence Technician	21.1191	22.2806	23.5061	24.7991	26.1627
Public Safety Dispatcher	23.5048	24.7975	26.1613	27.6005	29.1188
Regional Fire Communications	23.5048	24.7975	26.1613	27.6005	29.1188
Regional Fire Communications Lead Operator	28.3685	29.9286	31.5747	33.3115	35.1155
Senior Dispatch Supervisor	34.3286	36.2165	38.2086	40.3096	42.5269
<b>Effective 3/25/2019</b>					
<b>Position Title</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Code Enforcement Officer	26.2527	27.6964	29.2196	30.8272	32.5227
Community Services Officer	20.4595	21.5847	22.7719	24.0246	25.3458
Fire Service Technician	13.3308	14.0645	14.8382	15.6540	16.5147
Forensic Specialist	29.8398	31.4805	33.2123	35.0391	36.9663
Forensic Supervisor	38.2973	40.4037	42.6260	44.9704	47.4439
Neighborhood Preservation Coordinator	32.8071	34.6113	36.5152	38.5229	40.6422
Parking Enforcement Officer	17.3093	18.2616	19.2659	20.3257	21.4378
Police Records Specialist I	17.4767	18.4383	19.4521	20.5223	21.6504
Police Records Specialist II	18.4436	19.4577	20.5284	21.6569	22.8487
Property & Evidence Technician	21.5415	22.7262	23.9762	25.2951	26.6859
Public Safety Dispatcher	23.9749	25.2935	26.6845	28.1526	29.7011
Regional Fire Communications	23.9749	25.2935	26.6845	28.1526	29.7011
Regional Fire Communications Lead Operator	28.9358	30.5272	32.2062	33.9777	35.8179
Senior Dispatch Supervisor	35.0152	36.9409	38.9728	41.1158	43.3775
<b>Effective 3/23/2020</b>					
<b>Position Title</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Code Enforcement Officer	27.0403	28.5273	30.0962	31.7521	33.4984
Community Services Officer	21.0733	22.2322	23.4551	24.7453	26.1062
Fire Service Technician	13.7307	14.4865	15.2833	16.1237	17.0101
Forensic Specialist	30.7350	32.4250	34.2086	36.0902	38.0753
Forensic Supervisor	39.4462	41.6158	43.9048	46.3195	48.8672
Neighborhood Preservation Coordinator	33.7913	35.6496	37.6107	39.6786	41.8615
Parking Enforcement Officer	17.8286	18.8094	19.8439	20.9354	22.0809
Police Records Specialist I	18.0010	18.9915	20.0357	21.1380	22.2999
Police Records Specialist II	18.9969	20.0414	21.1442	22.3066	23.5341
Property & Evidence Technician	22.1877	23.4080	24.6955	26.0540	27.4865
Public Safety Dispatcher	24.6941	26.0523	27.4850	28.9971	30.5922
Regional Fire Communications	24.6941	26.0523	27.4850	28.9971	30.5922
Regional Fire Communications Lead Operator	29.8039	31.4430	33.1724	34.9970	36.8924
Senior Dispatch Supervisor	36.0656	38.0491	40.1420	42.3493	44.6788