

Memorandum of Understanding

BETWEEN

THE CITY OF BREA
AND

THE BREA
FIREFIGHTERS'
ASSOCIATION

JULY 1, 2020 THROUGH JUNE 30, 2024



Brea Civic & Cultural Center
Human Resources Division
1 Civic Center Circle
Brea, CA 92821
www.cityofbrea.net

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**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF BREA
AND
THE BREA FIREFIGHTERS' ASSOCIATION**

July 1, 2020 through June 30, 2024

This Memorandum of Understanding (MOU) is made and entered into by and between the duly authorized representatives of the City and the Brea Firefighters' Association.

A. Recitals

(i) The parties hereto have met and conferred in good faith pursuant to the Meyers-Milias-Brown Act, Government Code Section 3500, et seq., and have reached agreement on changes in wages, hours and terms and conditions of employment.

(ii) The parties hereto have agreed upon the wages, hours, and terms and conditions of employment as set forth herein in order to encourage effective recruitment and retention of well-qualified employees and to foster and reward employees' potential, performance, professional attitude, morale and pride in work. The Brea Firefighters' Association employees hereby acknowledge these expectations.

B. Agreement

Now, therefore, the parties hereto agree as follows:

ARTICLE I – RECOGNITION

Pursuant to the provisions of City of Brea Employer-Employee Relations Resolution No. 06-62, the City of Brea (hereinafter called the "City") has recognized the Brea Firefighters' Association (hereinafter called the "Association") as the majority representative of employees in the bargaining unit, which includes full-time employees in the classifications of Fire Captain, Fire Engineer, and Firefighter (Exhibit "A").

The City shall recognize the Association as the majority representative of employees in the classifications set forth in Section 1 of this Article for the purpose of meeting its obligations under this Agreement, the Meyers-Milias-Brown Act, and Government Code Section 3500, et seq.

ARTICLE II – NONDISCRIMINATION

The City and the Association agree that they shall not discriminate against any employee because of race, color, gender, age, national origin, marital status, sexual preference, genetic information, political or religious affiliations, and/or disability, except as may be required for compliance with Federal or State law, or exercise of rights under the Meyers-Milias-Brown Act. The City and the Association shall re-open 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 Federal or State anti-discrimination laws.

Disability Discrimination Laws

Federal and State disability discrimination laws require accommodations for individuals protected under those Acts. To the extent that any direct conflict may exist between the provisions of law and the terms of this Agreement, the provisions of the law will prevail.

The Association recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions.

ARTICLE III – SCHEDULING/HOURS OF WORK AND ASSIGNMENTS

Consistent with Article IX - Labor Management Relationship - City Rights, of this Memorandum of Understanding, it shall be understood that scheduling of employees and assignment of work shall be the sole responsibility of the City, consistent with the needs of the community. The Fire Chief shall designate work schedules. The Fire Chief may alter the work schedule of an employee subsequent to the consideration of departmental workload, operational efficiency, and staffing considerations. The Fire Chief shall report any work schedule change in writing to the City Manager, where such change impacts a significant number of employees.

9/80 Work Schedule

The City has implemented a structured, synchronized 9/80 work schedule for the non-shift sworn employees assigned to Fire Administration. The structured, synchronized 9/80 work schedule shall consist of two (2) consecutive work periods containing the equivalent of nine (9) work days instead of ten (10) in a two (2) week period. Employees will work eight (8) days for nine (9) hours a day, and one (1) day for eight (8) hours, for a total of eighty (80) hours in two (2) consecutive work periods.

Consistent with Article IX – Labor Management Relationship - City Rights, it shall be understood that the implementation of the structured, synchronized 9/80 work schedule shall be the sole responsibility of the City, consistent with the needs of the community. Concurrent with its obligations under the Meyers-Milias-Brown Act, the City and the

Association will meet and confer in good faith at any time prior to change, revision, or elimination of the structured, synchronized 9/80 work schedule. Failure to reach agreement on any change, revision or elimination of the structured, synchronized 9/80 work schedule shall not preclude the City from implementation during the term of this Agreement.

It shall be understood that scheduling of employees and assignment of work shall be the sole responsibility of the City, consistent with the needs of the community.

48/96 Shift Schedule

The work schedule for sworn employees includes two (2) work shifts on duty followed by four (4) shifts off duty (commonly called a “48/96” schedule).

- A. Application: This agreement will apply to Fire Department employees on a 24-hour shift schedule.
- B. Effective Date: The 48/96 work schedule became effective on April 4, 2009.
- C. Termination of the 48/96 Schedule: With 90 calendar days advance written notice, the City may, at its sole option, discontinue the 48/96 work schedule for failure to meet the objectives of the 48/96 work schedule (e.g., the items listed in Section F below, “Objectives of the 48/96 Schedule”). The 48/96 schedule may also be discontinued by mutual agreement between the City and the Association; however, this section shall not create an obligation for either party to meet and confer on this matter prior to discontinuing the work schedule.
- D. FLSA Work Period: The work period will be defined as a twenty-four (24) day work period, as permitted by the Fair Labor Standards Act (FLSA), in order to accommodate the 48/96 schedule. Overtime will be paid as described in Article IV – Salary and Wage Plan – Overtime and Compensatory Time.
- E. Description of 48/96 Work Schedule: A duty shift will be a period of twenty-four (24) consecutive hours, commencing at 0800 hours one day and continuing to 0800 hours the next day. A scheduled rotation will occur after two (2) shifts (48 hours), followed by ninety-six (96) hours off. There shall be six (6) hours of scheduled overtime per 14-day pay period when averaged on one hundred and twelve (112) hours per pay period.
 - 1. Concurrent with the commencement of the new work period, payroll for the affected employees shall be structured as one hundred and twelve (112) hours per pay period. This structure is recognized as an advance of overtime under the FLSA, based upon a normal work schedule of 2912 hours per year, which equates to an average of one hundred and twelve (112) hours per pay period. That payroll compensates the employee for an average of six (6) hours of schedule overtime per pay period. In those payroll periods when an employee’s normal work schedule is less than one

hundred and twelve (112) hours, he/she will be paid “in advance” of those pay periods when the employee’s normal schedule is greater than one hundred and twelve (112) hours.

2. Compensation for the one hundred and twelve (112) hour payroll will be reported as normal compensation for CalPERS retirement purposes.
3. Non-Schedule Overtime which is time worked in excess of the one hundred and eighty-two (182) hours FLSA limit in any work period will be paid under FLSA regulations as described in Article IV - Salary and Wage Plan – Overtime and Compensatory Time .

F. Objectives of 48/96 Schedule: It shall be the goal of the 48/96 schedule to improve employee morale and job satisfaction, maintain or improve productivity and training, maintain or improve continuity in the management of collateral assignments, and reduce commuter trips by 50% for all Suppression staff without negative impacts on the City including, but not limited to, the following areas:

1. Sick Leave use*
2. Number of injuries and workers’ compensation claims
3. Number of vehicular accidents
4. Employee fatigue
5. Overtime costs
6. Unable to achieve callback for Emergency Recall**

* The trigger point for Sick Leave will be the average of the last five (5) fiscal years, 4048 hours.

** Emergency Callback will be monitored quarterly during the first year and as needed after the trial period.

Note: Immediately upon the appearance that any of the above areas may be cause for concern, the City, Fire Management and the Fire Association will analyze all available information. The goal is to determine whether or not there is a genuine issue and to develop resolution. If there continues to be negative impact on the City, then the cancellation options provided in Section 3 may be implemented. Nothing in this section shall create an obligation for either party to meet and confer on this matter prior to discontinuing the work schedule.

ARTICLE IV – SALARY AND WAGE PLAN

Salaries

Salaries effective during the term of this MOU, are listed in Exhibit "B", attached hereto and made a part thereof.

Effective the pay period that begins on January 22, 2022, salaries for each classification shall be increased by five percent (5%).

Effective the first full pay period following July 1, 2022, salaries for each classification shall be increased by two and one-half percent (2.5%).

Effective the first full pay period following July 1, 2023, salaries for each classification shall be increased by two and one-half percent (2.5%).

Effective the first full pay period following January 1, 2024, salaries for each classification shall be increased by two percent (2%).

Merit Increases

Merit increases will become effective on the date earned, if subsequently approved.

OVERTIME AND COMPENSATORY TIME

Subject to the approval of the Fire Chief, or designee, employees may be authorized to work reasonable periods of overtime to meet operational needs.

FLSA Disclaimer

The City and Association agree that the City will administer overtime, compensatory time and shift trades in accordance with the mandates of the Fair Labor Standards Act (FLSA). It is understood and agreed that the City shall provide those overtime benefits mandated by the FLSA as distinguished from overtime benefits required under this Memorandum of Understanding, only to the extent and during such time that the FLSA is legally binding on the City.

Effective with the 48/96 schedule, all twenty-four (24) hour "shift" employees' work period for the calculation of overtime pay shall be twenty-four (24) day work period per Section 207(k) of the Fair Labor Standards Act (FLSA).

Non-Exempt Employees

Shift Employees- Firefighters and Fire Engineers are considered non-exempt employees. As of August 23, 2004, Shift Fire Captains are considered non-exempt pursuant to revised Federal regulations effective that date.

Non-exempt shift employees working the 48/96 work schedule, shall be paid at the rate of one and one-half (1.5) times the employee's hourly rate for all hours worked in excess of one hundred eighty-two (182) in the twenty-four (24) day work period. These hours shall be referred to as "overtime."

- A. The overtime rate will be calculated according to FLSA guidelines.
- B. Paid leave time (e.g., vacation, sick leave, holidays, compensatory time, etc.) shall be counted as hours worked for the purposes of determining eligibility for overtime pay within a particular work period.
- C. Employees who work overtime without the express permission of the Fire Chief, or designee, may be subject to disciplinary action.
- D. Compensatory Time. Subject to the approval of the Fire Chief, or designee, non-exempt employees may elect to convert the half time "premium" portion of overtime hours worked (those hours in excess of one hundred and twelve [112] in the work period) to compensatory time-off (CTO). Employees shall be paid at their regular rate of pay for the straight-time portion of the overtime hours worked.
 - 1. Subject to the approval of the Fire Chief, or designee, a non-exempt shift employee may request to "bank" up to a maximum of one hundred-twenty (120) hours of compensatory time in lieu of receiving the premium portion of the overtime pay. The employee may request use of banked compensatory time by submitting a request in the same manner as vacation leave requests. Approval of the use of compensatory time shall not be unreasonably denied or delayed, and shall be approved by the Department Director, or designee, unless he/she determines that approval for the requested date(s) would create an undue burden on departmental workload, operational efficiency, and/or safe staffing considerations. An employee working all or a portion of a shift to cover CTO leave taken by another employee will be paid for such time and may not accrue compensatory time for that shift or any portion thereof.
 - 2. The City may pay-off accumulated compensatory hours upon promotion, of a non-exempt employee.

Non-Shift Employees- Non-exempt non-shift employees shall be paid at the rate of one-and-one-half (1.5) times the employee's hourly rate for all hours worked in excess of forty (40) in the seven (7) day work period. These hours shall be referred to as "overtime" hours.

- A. The overtime rate will be calculated according to FLSA guidelines.
- B. Paid leave time (e.g., vacation, sick leave, holidays, compensatory time, etc.) shall be counted as hours worked for the purposes of determining eligibility for overtime pay within a particular work week.
- C. Employees, who work overtime without the express permission of the Fire Chief, or designee, may be subject to disciplinary action.
- D. Compensatory Time. Subject to the approval of the Fire Chief, or designee, an employee may elect to take compensatory time off in lieu of receiving overtime pay for hours worked in excess of forty (40) in a work week. An employee who requests and is approved for compensatory time off in lieu of overtime is entitled to one-and-one-half (1.5) hours of compensatory time off for each hour for which he/she would otherwise be entitled to overtime pay.
 - 1. Subject to the approval of the Fire Chief, or designee, employees may request to “bank” up to a maximum of forty (40) hours of compensatory time (representing 26.67 hours of overtime worked) in lieu of receiving overtime pay. The employee may request use of banked compensatory time by submitting a request in the same manner as vacation leave requests. Approval of the use of compensatory time shall not be unreasonably denied or delayed, and shall be approved by the Department Director, or designee, unless he/she determines that approval for the requested date(s) would create an undue burden on departmental workload, operational efficiency, and/or safe staffing considerations.

Exempt Status of Administrative Fire Captain Classification

Pursuant to Section 13(a)(l) of the Fair Labor Standards Act (FLSA), the City has determined that employees in the classification of Fire Captain/Administration are exempt from the provisions of the FLSA when working in such assignments.

Non-shift Fire Captains assigned to Fire Administration who work in excess of eighty (80) hours in the work period shall be paid for such hours at his/her straight-time regular rate of pay, or may elect, subject to the approval of the Fire Chief or designee, to receive compensatory time off, on an hour-for-hour basis. An employee may request to "bank" up to a maximum of forty (40) hours of compensatory time (representing forty [40] hours of time worked). The use of banked compensatory time shall be subject to the approval of the Fire Chief or designee.

Call-Back Pay

An employee called back to work after completing his/her normal work shift and having left City premises and/or the employee's work location shall be paid a minimum of two (2) hours regardless of whether the employee actually works less than two (2) hours. If the employee

works more than two (2) hours call-back time, he/she shall be compensated according to the amount of time actually worked.

Emergency Recall

Effective July 1, 2005, and pursuant to the definition of emergency contained in Department Operations Manual Section 3.02 (B), an employee responding to emergency recall will be paid at the time-and-one-half (1.5) rate for such overtime hours worked.

Residency Requirement

As a condition of employment, all Association members hired by the Brea Fire Department after January 1, 2022 shall, within six (6) months of date of hire, establish a bona-fide residence and reside within a reasonable distance from the Brea Fire Department assigned fire station. Reasonable distance shall mean four (4) hours driving time from the nearest Fire Station, with the employee driving at posted speed limits.

Assistance by Hire

Shift employees assigned to work with other entities in response to a task force, strike team, or for “assistance by hire” assignments on behalf of a third party shall be eligible for overtime compensation at a rate equivalent to time and one-half of the employee’s hourly rate for each hour of such assignment if the contract for such assignment, or the conditions of reimbursement from the third party, provide for full reimbursement of overtime costs at the time-and-one-half hourly rate. The City shall only be responsible for time and one-half payments, not otherwise required under this MOU or the FLSA, if so reimbursed.

Overtime for Employees Working Rank Down within the Fire Department

Effective July 1, 2019 qualified employees assigned to work down a rank on a temporary basis on a suppression shift shall be paid for such working rank down hours at the same step and hourly rate that they currently occupy, including any applicable paramedic pay.

All aspects to this work down policy are further stipulated in AOP #5.

Consecutive Shifts

The City and Association agree that employees covered herein may volunteer to work ninety-six (96) or more consecutive shift hours.

Paramedic Continuing Education/Recertification Compensation

Continuing Education- An employee assigned as a Paramedic shall be compensated, at his/her regular rate of pay, for all education classes voluntarily attended off-duty which are required to maintain minimum paramedic certification levels. These employees shall be paid their straight-time rate of pay only for those hours actually spent in continuing education

certification classes. Time spent voluntarily in Paramedic certification classes shall not be used for purposes of calculating overtime pay. Compensation and verification of attendance hours will be based on the Fire Department's receipt of signed verification from the Orange County Emergency Medical Services Continuing Education Department.

Recertification Compensation- Employees assigned as Paramedics shall receive \$500 after successful completion of the paramedic recertification process.

WORKING OUT OF CLASSIFICATION

The City shall determine the necessity for working employees out of classification (acting assignments) on a temporary basis for the purposes of training/development, short-term or temporary shift coverage, and special assignments. It is not the City's intent to use acting assignments to delay or, avoid hiring or overtime assignments.

Acting assignments to a higher classification will be filled by employees on the eligible list for the classification; or, by employees who meet the qualifications for the classification when there is no current eligible list and there are no qualified rank-for-rank overtime volunteers. No one will be forced into an acting assignment; however, participation in an acting assignment provides training and work experience for potential promotional candidates, and such experience may enhance an individual's opportunity for promotion.

Effective July 1, 2019, employees who are assigned to work on a temporary basis in a higher classification/rank shall receive five (5) percent in addition to the employee's regular rate of pay for shift employees and when the following conditions are met for non-shift employees:

- A. A non-shift employee is assigned and works a minimum of fifteen (15) working days, at least seven (7) of which shall be consecutive working days.

Once the non-shift employee has performed in the acting position for the minimum number days indicated above, the additional pay rate shall commence sixteenth (16th) day of working within that assignment, whichever is applicable. Unless removed from such assignment for disciplinary or performance reasons, the employee who has completed the minimum requirements shall, for all subsequent temporary assignments to the same classification/rank, be paid at the higher rate for all hours worked. If removed from the assignment for disciplinary or performance reasons, the employee may after one year from the removal date, request to be reconsidered for eligibility to serve in any future available assignments that he or she may otherwise be qualified for. If granted, the employee will start the eligibility process again as if he or she had never been in the assignment and serve the time and eligibility requirements outlined above, as applicable.

In determining whether the employee has worked the required consecutive scheduled fire working days, absence due to regular City holiday or regularly scheduled day off shall not be counted as a break in consecutive days. Absences for illness or injury occurring during the assignment shall not count as a break in consecutive days as long as the employee is

able to return to the same assignment and complete the minimum service time. If the illness or injury results in the employee not being able to return within thirty (30) calendar days, and/or the assignment is no longer needed when the employee returns, the employee shall receive credit for time served as non-consecutive time, and shall have to meet the minimum consecutive day requirements in a future assignment to the same classification/rank. Voluntary absences, such as vacation, accrued holiday leave time, compensatory overtime off and leave without pay shall be considered a break in consecutive shifts/days and thereby cause an employee to be ineligible to receive working out of classification pay until the consecutive day requirements have been met.

SPECIAL ASSIGNMENTS AND COMPENSATION

All individual appointments to, or removal from, special assignments shall be made or revoked at the sole discretion of the Fire Chief, or designee, based upon minimum qualifying criteria, performance, physical capability, or Fire Department operational needs. Additions or reductions in the number of assignments shall be at the sole determination of the City based on budgetary and staffing needs. All special assignment pay shall be effective for only as long as the duty assignment remains in effect for the individual.

Variety of Special Assignments

The City shall provide special assignment pay as described below:

- A. Administrative Sworn Employees. A sworn employee assigned to work on a full-time basis in Fire Administration shall receive ten (10) percent in addition to his/her regular rate of pay while working in that assignment.

When there is no conflict with his/her regularly assigned duties, a sworn administrative employee shall be permitted to work in a shift assignment but shall not receive the ten (10) percent additional pay while performing shift duties.

- B. Twenty-four hour shift employees temporarily assigned to a forty (40) hour shift, except those employees so assigned as a light duty accommodation for temporary disability shall receive, after the fifteenth (15th) consecutive day worked, special assignment compensation of five (5) percent, in addition to the range and step for which such employee receives base compensation. If such assignment to a forty (40) hour shift is in excess of thirty (30) consecutive working days, the employee so assigned shall receive retroactive special assignment compensation of five (5) percent in addition to the range and step for which such employee receives base compensation commencing on the first work day so assigned. Employees assigned to 40-hour shift assignments as a light duty accommodation for temporary disability shall continue to receive their normal shift pay (i.e., as if they were still working the 24-hour shift) which preceded the disability accommodation period.

- C. Paramedic. An employee appointed to a Paramedic assignment shall receive

special assignment pay in the amount equal to fifteen (15) percent of "11th" step Firefighter in addition to his/her regular rate of pay.

Maximum Special Assignment Pay "Cap"

Excluding Paramedic assignment, the maximum allowable special assignment pay above base salary shall be ten (10) percent.

Bilingual Pay

An employee required to speak in Spanish or other languages in addition to English as part of the regular duties of his/her position, shall be compensated at the rate of \$100 per month in addition to the employee's regular rate of pay.

The Human Resources Manager shall designate which languages shall be eligible for Bilingual Pay based on community needs.

The Human Resources Manager shall administer the taking of competency tests to certify the employee as eligible for Bilingual Pay based on the employee's proficiency in speaking Spanish or other languages. Such certification shall be a condition prior to qualifying for Bilingual Pay.

An employee may become eligible for Bilingual Pay at any time. An employee must be recertified immediately prior to each anniversary date of his/her certification to continue to be eligible for Bilingual Pay. If the employee fails to reapply or to become recertified, the Bilingual Pay shall cease at the beginning of the payroll period immediately following the employee's anniversary date. The employee is responsible to initiate the request for eligibility or recertification. After two (2) consecutive years of successful recertification, the employee shall only be required to participate in the recertification process every four years.

Uniform Allowance

The City shall provide a lump sum uniform allowance in the amount of \$850 per fiscal year per employee.

Uniform allowance shall be paid directly to the employee as early as feasible in July of each year. In order to comply with CalPERS reporting requirements for uniform allowance for Classic employees, allowance will be reported as earned on July 1. Earned period shall be defined to mean employed with the City on July 1. Payment for the uniform allowance will be paid in the pay period which includes July 1.

New Employees- Newly appointed Firefighters shall be provided with an initial uniform by the Department. The reported value of that initial uniform is \$750. The following July 1, the newly appointed Firefighter shall be eligible to receive a prorated amount of the \$850 annual uniform allowance based on a one twelfth value for each month following the initial appointment. Thereafter, the employee shall be on the same annual cycle as other non-

probationary employees. (Example: New employee is appointed December 3rd. That employee is provided with his/her initial uniforms by the Fire Department. The following July 1, that employee receives 7/12s of the annual allotment {\$495.83}, then on the next July1, begins receiving the full \$850 allocation.)

A new employee who quits or is removed during probation within the first year of employment shall return the initially provided uniforms on his or her last day of employment with the City of Brea.

ARTICLE V – LEAVES

VACATION

Vacation Accruals

A. Non-Shift Employees. Non-shift employees shall earn and accrue vacation leave time at the following rates:

<u>Following</u>	<u>Vacation Accrual</u>
Initial Hire	80 hours/year
Completion of 3 Years	120 hours/year
Completion of 7 Years	140 hours/year
Completion of 13 Years	160 hours/year
Completion of 16 Years	175 hours/year
Completion of 19 Years	200 hours/year

B. Shift Employees. Shift employees shall earn and accrue vacation leave time at the following rates (which can vary per payroll period depending on the number of hours worked):

<u>Following</u>	<u>Vacation Accrual</u>
Initial Hire	120 hours/year
Completion of 3 Years	180 hours/year
Completion of 7 Years	195 hours/year
Completion of 13 Years	240 hours/year
Completion of 16 Years	262.5 hours/year
Completion of 19 Years	300 hours/year

Maximum Accrual of Vacation Leave

Non-shift employees shall be entitled to accrue a maximum of four hundred (400) hours of vacation leave, and shift employees shall be entitled to accrue a maximum of six-hundred (600) hours of vacation leave.

Maximum/Minimum Vacation Leave

The maximum vacation leave time which may be taken by an employee shall not be greater than the number of vacation hours accumulated as of the end of the last payroll period immediately preceding the first day of the approved vacation.

Leave Scheduling

The Department will review, approve and arrange coverage for employees requesting leave time of three (3) or more shifts (including any combination of vacation, holiday or compensatory time off) at least twenty-eight (28) calendar days in advance of the requested date. Any requests for three (3) or more shifts presented in less than twenty-eight (28) days will be subject to the employee confirming replacement coverage and confirming such replacement with the shift Battalion Chief. For requests of fewer than three (3) shifts off, the Department will arrange coverage, if the request is presented at least fourteen (14) calendar days in advance. All requests for leave time presented less than fourteen (14) days in advance will be subject to the employee arranging for replacement coverage and confirming such replacement with the shift Battalion Chief.

Buy-Back of Vacation Leave Hours

Upon an employee's written request, the City will buy-back unused vacation hours subject to the following provisions:

- A. A non-shift employee must have used one (1) consecutive work week of vacation leave within one (1) year prior to the date the employee is requesting a vacation buy-back. A shift employee must have used seventy-two (72) consecutive hours of vacation leave within one (1) year prior to the date the employee is requesting a vacation buy-back.
- B. The minimum amount of each buy-back shall be forty (40) hours.
- C. Shift employees must maintain a minimum balance of one hundred sixty (160) hours in their vacation leave banks. Non-shift employees must maintain a minimum of eighty (80) hours in their vacation leave banks.

HOLIDAYS

Non-Shift Employees

The City designates eleven holidays per year for non-shift employees as follows:

- Independence Day, July 4
- Labor Day, first Monday in September
- Thanksgiving Day

The day following Thanksgiving Day
Christmas Eve, December 24
Christmas Day, December 25
New Year's Eve, December 31
New Year's Day, January 1
Martin Luther King Jr. Day, third Monday in January
President's Day
Memorial Day, last Monday in May

Each non-shift employee shall accrue holiday hours at a rate of approximately four point fifteen (4.15) hours per eighty (80) regularly scheduled hours worked to a maximum of one-hundred eight (108) hours each fiscal year. Accrued Holiday hours shall be recorded on the employees paycheck stub.

When a designated holiday is taken off, the employee's holiday accrual balance shall be debited in the amount of holiday hours taken off. Vacation and/or compensatory time off, shall not be utilized to fund a used holiday off, unless the employee's holiday bank has a balance of hours less than the hours in a work day. In such case the existing holiday bank may be supplemented with vacation and/or compensatory time off earned hours to the extent necessary to equal the holiday hours taken off.

Newly hired (i.e. less than one year) employees who have not accrued vacation or other paid leave, may "borrow" from the holiday bank against future holiday accruals. Employees leaving City employment with a negative holiday bank balance shall have the balance deducted from accrued vacation as of the date of employee's separation.

Holiday balances in excess of twelve (12) hours after the payroll period including the final February holiday, shall be paid to the employee in May at the employee's basic rate of pay as of the date of the payoff. Any employee with a balance of less than twelve (12) hours who desires a full payoff of his or her holiday balance should e-mail this request to Payroll no later than April 10th of each year.

Payoff of accumulated holiday hours shall be processed with the employee's regular payroll check. This check may also contain a payoff of accumulated compensatory time (refer to Article IV of this Memorandum of Understanding).

When the actual dates of Christmas Eve, Christmas, New Year's Eve or New Year's Day fall on a weekend or closed 9/80 day, to the greatest extent possible, the holiday will be observed by using the time to "pay" for the Holiday Closure days that are not otherwise covered by actual holidays. With the exception of this circumstance holidays shall be observed on Friday when the actual legal holiday falls on Saturday and holidays shall be observed on Monday when the actual legal holiday falls on Sunday.

Shift Employees

Twenty-four (24) hour "shift" employees do not have designated holidays. Shift employees

shall accrue one hundred thirty-six point three (136.3) holiday hours per fiscal year. Accrued holiday hours shall be recorded on the employee's paycheck stub.

It is not the intention of the City to encourage the accumulation of holiday hours. A shift employee must submit a written request to his/her immediate supervisor prior to using accrued holiday leave time. Holiday leave time for shift employees may only be taken subject to the approval of the Fire Chief, or designee, after the consideration of the departmental workload and other staffing considerations such as, but not limited to, the approved leave schedule of other employees, sick leave and position vacancies, and impact of the used holiday upon overtime expenditures.

When a designated holiday is taken off, the employee's holiday accrual balance shall be debited for sixteen (16) holiday hours for each holiday taken off with the employee having the option of using vacation, compensatory or holiday for the remainder of the shift. Otherwise, vacation and/or compensatory time off, shall not be utilized to fund a used holiday off, unless the employee's holiday bank has a balance of hours less than the hours in a work day. In such case the existing holiday bank may be supplemented with vacation and/or compensatory time off earned hours to the extent necessary to equal the holiday hours taken off.

Holiday hours taken by shift employees shall not exceed the same number of hours as the normal shift hours worked. Holiday hours accumulated and not taken prior to the payoff in November shall be paid at the employee's basic rate of pay as of the date of the payoff.

Payoff of Accrued Holiday Hours- Payoff of accumulated holiday hours shall be processed with the employee's regular payroll check. This check may also contain a payoff of accumulated compensatory time (Refer to Article V of this Memorandum of Understanding)

DONATION OF LEAVE TIME

Employees may donate, on an hour-for-hour basis, vacation, compensatory or holiday leave time to City employees who have exhausted all available accrued leave time due to a major medical condition.

SICK LEAVE AND BEREAVEMENT LEAVE

Sick Leave

Non-shift employees shall earn eight (8) hours of sick leave per month; shift employees shall earn twelve (12) hours of sick leave per month. Sick leave shall be earned, commencing on the first day of employment and shall accrue on a bi-weekly basis.

Personal Medical and Dental Appointments

Sick leave utilization for dental appointments, medical examinations and/or due to death or serious illness in the immediate family shall be limited to a maximum of one hundred forty-four (144) hours for shift employees and ninety-six (96) hours for non-shift employees per fiscal year.

Sick Leave Authorization for Immediate Family Members

An employee shall be allowed sick leave due to death or serious illness in the immediate family. Immediate family as used in this Article is limited to: the employee's parents and grandparents (natural, adoptive, foster, by marriage or legal guardians), current spouse, registered domestic partner, children and grandchildren (natural, adoptive, foster, or by marriage or domestic partnership), parents-in-law (or by domestic partnership), siblings, and siblings-in-law (or by domestic partnership). In the event of death in the immediate family, a death certificate or other acceptable evidence may be required by the Fire Chief, or designee, before the sick leave is allowed. In the event of a serious illness in the immediate family, a medical certificate from an acceptable medical authority or a personal statement of such illness and an explanation of the need for the employee's absence, may be required by the Fire Chief, or designee. Such leave may take travel time into consideration. The amount of sick leave used in either of these two circumstances shall be reported on the appropriate leave request form.

Notification to Supervisor

Any employee needing to be absent because of sickness or other physical disability shall notify the Fire Chief or immediate supervisor at least one (1) day prior to such absence if circumstances permit, or as soon thereafter as possible.

Return to Work After Sick Leave

An employee using sick leave pursuant to this Article and the City of Brea Human Resources Rules and Regulations, may be required by the Human Resources Officer to submit a medical certificate signed by a duly-licensed physician, surgeon or psychiatrist stating that the employee was incapacitated for the performance of his/her duties during the sick leave use and that the employee is now capable of performing his/her duties or such of his/her duties as enumerated in the certificate. The Human Resources Officer or his/her designee may require an employee to submit to a medical and/or psychiatric examination by a physician designated by the City before permitting the employee to return to work after the employee has been on sick leave. If the results of any such examination indicate that the employee is unable to perform assigned duties, or if performance of those duties will expose others to infection, the employee shall be placed on sick leave, compensatory time, vacation time, or leave without pay after all such leave has been used, until adequate medical evidence is submitted that the employee is competent to perform assigned duties or will not subject others to infection. In the event any certificate and/or report states that the employee is unable to perform the full range of duties of the position to which the employee is assigned,

the City may assign the employee duties and responsibilities which the City believes the employee is capable of performing. In cases of disabling illness or injury, the Human Resources Officer or Fire Chief shall assess the City's ability to provide reasonable accommodation.

Medical Certificate Requirement

Any employee who makes application for sick leave due to illness or injury for a period of time longer than two (2) fire shifts for shift employees, or three (3) working days for non-shift employees, upon any single occasion may be required to submit to the Fire Chief, or designee, a medical certificate signed by a duly and regularly licensed physician authorized to practice medicine in the State of California. The medical certificate must set out the following:

- A. That the employee has an illness or injury that prevents him or her from working;
- B. A statement that the employee is physically able to return to work;
- C. The effective date the employee is expected to return to work.

Falsification

Any employee falsifying reason for sick leave shall be subject to disciplinary action, up to, and including termination.

Bereavement Leave

An employee shall be allowed twenty-seven (27) non-shift hours or forty-eight (48) shift hours, as applicable, of bereavement leave for each incident of a death of an immediate family member (as defined above in Sick Leave Authorization for Immediate Family Members). Bereavement leave usage is subject to sick leave usage rules and is in addition to the sick leave which an employee may use for death in the immediate family (as defined above in Sick Leave Authorization for Immediate Family Members). Bereavement leave hours shall not accrue or carry over to a new fiscal year.

OTHER LEAVES

Leave of Absence Without Pay

The Fire Chief or designee may grant leaves of absence for a maximum of ninety (90) working days without pay to any employee if the circumstances of the particular case warrant and if the Fire Chief so recommends such leave of absence in writing. An employee, not under suspension, may make application for leave without pay after all available leave benefits, including vacation, compensatory time, holiday leave time, Family Care Leave, and sick leave (subject to eligibility to use sick leave) and any other leave benefits have been

completely used. No employment or fringe benefits such as sick leave, vacation, retirement, or any other benefits shall accrue to any employee on leave of absence without pay; except, however, the City will continue to pay the employee's medical insurance up to the current maximum allowable under the current flexible benefit plan program for a maximum of three (3) months during any one (1) leave in any twelve (12) month period while an employee is on authorized leave.

Prior to the end of a leave of absence without pay, if the employee desires additional leave, written application must be made to the Fire Chief stating the reasons why the additional leave is required and why it would be in the best interest of the City to grant such leave of absence. If, in the Fire Chief's opinion, such additional leave is merited and would still preserve the best interests of the City, he/she may approve such extensions of leave of absence for a period not to exceed an additional ninety (90) working days. If the employee does not return to work prior to or at the end of such leave of absence or extension of leave of absence, the City shall consider that the employee has terminated his/her employment with the City. An employee on leave of absence must give the City at least a seven (7) day written notice of the employee's intent to return to work.

Leave of Absence With Pay

The Fire Chief, or designee, may authorize other leaves of absence with pay to employees for the performance of authorized duties in connection with City business, for attendance at trade, professional or other meetings and conferences which relate to official duties, or participation in recognized and approved training and related activities, within budgeted authorization.

Employee Association Leave

A reasonable number of the Executive Board of the Association recognized by the City Council shall be authorized leave of absence with pay according to the following provisions:

- A. To meet and confer as requested by the City Manager;
- B. To perform necessary representational functions at times prearranged and approved by the Fire Chief, or designee, after consideration of the departmental work load and other staffing considerations; and
- C. For such other matters where formal written approval has been granted by the City Manager.

Association Time Bank

City agrees to allow Association members to each voluntarily contribute a block of five (5) hours of accrued vacation as of August 1 of each year, commencing August 2005, to an Association Time Bank. Hours donated shall be deducted from the donor's accruals and converted to their cash value at the time of donation. Donor forfeits any claim to the leave

time upon donation.

The Association Time Bank (ATB) is an account from which the Association Board may authorize paid leave to be taken by its members to conduct Association business. All leave requests are subject to regular Departmental leave policies, and authorized leave positions shall not be filled using mandatory staffing policies (Constant Staffing System). Authorized leave under this section may be cancelled under the same criteria as other leaves, at the discretion of the Fire Chief.

Authorized ATB leave will be deducted from the bank at the regular hourly pay rate of the affected employee. If there is an insufficient balance in the bank, the difference between ATB time and the actual hours of authorized leave shall be charged to the affected employee's personal vacation accrual.

Leave shall be requested in advance and submitted to the Operations Chief, using the proper leave request form, and including the signed authorization of the Association president or his/her designee.

Association indemnifies and holds harmless the City of Brea in the event any Association member challenges the use of donated leave time.

ARTICLE VI – FRINGE BENEFITS

Administration

The City reserves the right to select the insurance carrier, or to administer any fringe benefit programs that now exist during the term of this Memorandum of Understanding.

Selection and Funding

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

Changes

If, during the term of this Memorandum of Understanding, any change of insurance carrier is proposed by the City, the City shall meet with the Association prior to any change of insurance carrier or method of funding the coverage.

HEALTH AND WELFARE BENEFITS

Flexible Benefit Plan

The City's Flexible Benefit Plan shall include, for the employee and eligible dependents, City sponsored health insurance plans including medical insurance, dental insurance, and optical insurance. The Flexible Benefit Plan shall also include, for employee only, short-term disability, optional life insurance, deferred compensation, and education reimbursement for undergraduate college-level courses only.

Effective January 1, 2020, the maximum Flexible Benefit contribution for employees enrolled in a City sponsored medical plan shall be:

Single employee	\$800
Employee plus 1 dependent	\$1175
Employee plus 2 or more dependents	\$1550

Employees hired prior to January 1, 2006, who have opted out will continue to receive a \$650 contribution. Employees hired on/after January 1, 2006, shall receive the amount shown for the plan level in which they have enrolled. Those hired on/after January 1, 2006, who opt-out of all the City health plans will receive \$325 per month. Employees who opt-out of all City health plans shall be required to deposit the amount in a deferred compensation (457) plan and said amount shall not be considered cash in lieu for the purposes of FLSA overtime calculations.

Employees who do not use the full amount of the Flexible Benefit contribution for optional benefits provided herein shall be required to deposit the amount in a deferred compensation (457) plan. And said amount shall not be considered cash in lieu for purposes of FLSA overtime calculations.

Should the total cost of premiums for benefits selected under the Flexible Benefit Plan exceed the City's monthly contribution, the overage will be paid by the employee via pretax payroll deductions. The City will continue to pay the one-half percent (1/2%) administrative fee for the CalPERS Health Insurance Program medical insurance plan. If the administrative fee increases, the City shall meet and confer on the increase.

Retiree Medical Benefit

Within the monthly contribution amounts, \$335 is considered to be the City's contribution toward the CalPERS Health Insurance Program for medical insurance and shall be reported to CalPERS as such. This \$335 shall be the City's contribution toward retiree medical insurance coverage. There is no opt out value for retiree medical coverage.

The parties intend that the entitlement to receive a retiree medical benefit of \$335 per month is a vested benefit for all employees hired by the City on or before June 30, 2017. The inclusion of this vesting language is to comply with the Supreme Court's decision in

M&G Polymers v. Thackett, 135 S.Ct. 935 (2015), requiring that the intent to vest a benefit be explicitly set forth.

Effective June 30, 2019, for all new employees hired into this unit who retire from the City, the City's medical contribution towards retiree health insurance shall be the CalPERS Public Employees' Medical and Hospital Care Program Act (PEMHCA) minimum (as determined by CalPERS on an annual basis), not to exceed the actual cost of the plan selected. (PEMHCA minimum is \$149 in calendar year 2022.)

While participating in the CalPERS Health Plans during the term of this Agreement, should CalPERS or legislative acts redefine the designated contributions for retirees to include Flexible Benefit Plan contributions; the parties will meet and confer on an alternative method of funding active employee benefits.

At such time during the term of this Memorandum of Understanding that education reimbursement is considered a taxable benefit under Internal Revenue Service Regulations, then education reimbursement shall be excluded as a Flexible Benefit Plan option.

Life Insurance

Based on the life insurance policy limitations, the City shall provide each employee with a term life insurance policy with a benefit equal to one times the individual employee's annual salary. An employee may purchase additional (optional) life insurance coverage at his/her own expense subject to the terms, conditions, and approval of the insurance carrier.

Section 125 Program

The City has implemented an Internal Revenue Section 125 program which allows employees to allocate specified amounts of monthly pre-tax salary or wages for the reimbursement of medical care expenses or dependent care expenses, or both. Employees who choose to participate in the program shall pay all subsequent program administration costs and/or fees.

Retirement Health Savings Plan

Employees may participate in the ICMA-RC retirement health savings plan (RHSP) pursuant to the regulations established by the Internal Revenue Service. This provision shall apply to all unit employees as required by the IRS regulations. Other employee contribution provisions may be implemented upon approval by the City and adopted prior to November 1 of any year, to be effective the first of the next following tax year (i.e., January). Effective with the payroll including January 1, 2009, all full-time employees will each contribute a mandatory \$25 per month to the individual employee's Retirement Health Savings Plan (RHSP). Contributions to an RHSP must comply with the mandatory contribution provisions provided under IRS regulations. City and BFA may create or amend contribution provisions prospectively to comply.

RETIREMENT

California Public Employees' Retirement System (CalPERS)

All employees covered under this Agreement shall be members of the State of California Public Employees' Retirement System and are subject to all applicable provisions of the City's contract with CalPERS, as amended.

Retirement Formula - The CalPERS plan in effect for Safety Members hired before September 17, 2011, is the 3% @ 50 formula for Local Safety Members, based on single highest year. Except as noted below in the section titled "New Employees," the CalPERS plan in effect for unit members hired as safety employees on or after September 17, 2011, is the 2% @ 50 formula, based on three highest years, and they shall be ineligible for the single highest year benefit,

Employee Contribution - Employees hired as "Classic" safety employees under the CalPERS definition pay the entire 9% CalPERS-mandated employee retirement contribution, as well as effective July 1, 2017, an additional one point five percent (1.5%), for a total CalPERS contribution of ten point five percent (10.5%). Effective the first full payroll period commencing on or after July 1, 2019, "Classic" safety employees in the unit shall pay an additional one point five percent (1.5%) for a total CalPERS contribution of twelve percent (12%). This twelve percent (12%) contribution shall be designated as an "Employee" contribution.

New Employees or New Members - Pursuant to California Public Employees' Pension Reform Act of 2013 (PEPRA), Local Safety Members in this unit who are "new employees" and/or "new members" as those terms are defined in Government Code Section 7522.04 hired on or after January 1, 2013, are enrolled in the 2.7% @ 57 Retirement Formula for Local Safety Members (Government Code Section 7522.25(d) Safety Option Plan Two) based on the three highest consecutive years and shall be ineligible for the single highest year benefit.

PEPRA Employee Contribution - Pursuant to PEPRA, "new employees" or "new members" hired on or after January 1, 2013, shall individually pay at least fifty percent (50%) of the total normal cost of pension as is determined each year by CalPERS to be the employee contribution rate for the Defined Benefit Plan in which said newly hired employee is enrolled, rounded to the nearest quarter of one percent (1%) (Government Code section 7522.30).

Single Highest Year - All employees subject to the single highest year (one-year final compensation) benefit shall fund that benefit one hundred percent (100%), in the amount of 1.681% of CalPERS reportable "compensation earnable," as it may from time to time exist. Said funding shall be by means of a payroll deduction. Unit members hired after September 17, 2011 shall be ineligible for the single highest year benefit.

1959 Survivor Benefit- The CalPERS Retirement Plan has been amended to include the Fourth Level 1959 Survivor Benefit. The employee shall pay one hundred percent (100%) of all monthly costs for this benefit, in addition to the \$2.00 monthly cost for the basic level 1959 Survivor Benefit. Said funding shall be by means of a payroll deduction.

Implementation of the above funding of the employee CalPERS contributions shall be accomplished by means of each affected employee incurring a payroll deduction each payroll period in the above amounts. Said payroll deductions shall be on a pre-tax basis pursuant to IRS Code Section 414(h)(2).

Social Security

In the event the City and its employees are required to participate in the Federal Social Security Program, the contributions designated by law to be the responsibility of the employee shall be paid in full by the employee and the City shall not be obligated to pay or "pick up" any portion thereof.

SERVICE CONNECTED INJURY OR ILLNESS

Industrial Leave

An employee who sustains illness or injury arising out of his/her employment or in the course of his/her employment shall receive compensation, hospitalization benefits, surgical and/or medical attention, and if necessary, industrial injury leave in accordance with the provisions of the State of California Workers' Compensation Insurance and Safety Act.

Should it be determined that an employee's illness or injury did not arise out of his/her employment, or in the course of his/her employment with the City, the employee's accrued, or if insufficient, future sick leave shall be charged to reimburse the City for any payments made to the employee for industrial leave.

Employees may be granted a maximum of one (1) year industrial leave pursuant to Labor Code Section 4850 for each injury or illness determined to be compensable under the Workers' Compensation Act.

No employee may use accrued sick leave while on industrial leave.

Vacation and sick leave shall accrue for an employee on industrial leave.

Expiration of Industrial Leave

Industrial leave shall expire when one of the following conditions occurs:

- A. The employee is able to return to a modified duty assignment and the City has such an assignment available.

- B. The employee is able to return to work to his/her regular position.
- C. The employee is able to return to work to another position designated by the City.
- D. The day before the employee is retired or separated from disability. The employee's "retirement date" shall be the first of the month after all the following occur and are determined by the City:
 - 1. The employee's condition is determined to be permanent or of an extended duration;
 - 2. The degree of disability precludes continued employment by the employee in his/her present position;
 - 3. After fifty-two (52) weeks of industrial leave.

Return to Work After Service Connected Illness or Injury

An employee claiming a service-connected injury or illness pursuant to the Labor Code of the State of California, as amended, may be required by the Human Resources Officer to submit a medical certificate signed by a duly-licensed physician, surgeon, or psychiatrist stating that the employee is capable of performing his/her duties or such of his/her duties as are enumerated in the certificate. The Human Resources Officer may require the employee to take an examination by a City designated physician, surgeon, or psychiatrist who shall make a report to the City as to the employee's ability to fully perform the duties and responsibilities of his/her position. In the event the certificate and reports enumerate less than all of the duties to which the employee may be assigned, the City may assign the employee duties and responsibilities which the City believes the employee is capable of performing. In cases of disabling illness or injury, the Human Resources Officer, or Department Director shall assess the City's ability to provide reasonable accommodation.

WELLNESS PROGRAM

The City shall contribute a maximum of \$450 per fiscal year for each employee towards wellness and fitness programs for the employee, including any combination as provided hereinafter. Wellness expenses that are not preapproved prior to incurring the expense may not be reimbursed. Pre-approval is not required for Body Scans and Chiropractic or Medical Care when all other requirements are met. For ongoing Cardiovascular & Strength Training programs, only one pre-approval is required per program, unit employees do not have to be preapproved each year.

Medical Examination- Wellness money may be used for voluntary medical examinations. The medical examination shall be conducted by a physician in active practice licensed by California State Law and within the scope of his/her practice as defined by California State Law. Employees are required to submit the cost of the medical examination through their

medical insurance carrier prior to submitting a request for reimbursement from the City. An employee's request for reimbursement must be submitted to the Human Resources Manager, and must be accompanied by an itemized receipt for expenses incurred and the "Explanation of Benefits" (EOB) statement from his/her medical insurance carrier.

Preventive or Diagnostic Heart, Stroke, and Body Scanning, and Chiropractic Care- The City contribution shall be available for reimbursement for the costs of a) preventive and diagnostic medical evaluations involving scientific scanning processes and similar non-invasive techniques, which are not reimbursable under the employee's medical insurance plan, and b) chiropractic care not covered by the employee medical plan. Employees must provide an itemized receipt for expenses incurred and the "Explanation of Benefits" (EOB) statement from his/her medical insurance carrier (i.e., denial of benefits).

Weight Reduction- The City contribution shall be available for reimbursement of registration and meeting expenses for weight reduction programs. All subsequent requests for reimbursement submitted to the Human Resources Manager must be accompanied by an itemized receipt for expenses incurred, as well as verification of continued participation/attendance. Employees will not be reimbursed for the cost of food or dietary supplements included in a weight reduction program.

Cardiovascular and Strength Training Programs- Employees shall be entitled to reimbursement for cardiovascular and weight training programs. Reimbursable expenses must be pre-approved by the Human Resources Manager prior to incurring the expense. All employee requests for reimbursement must be accompanied by an itemized receipt for expenses incurred showing the employee member's name and dates of the covered enrollment period. Reimbursement will be made for the current program year only. If the employee pays for more than one program year, they will receive reimbursement for the second program year twelve (12) months after the first reimbursement.

Following are some examples of items that would, and would not qualify for Cardiovascular & Strength Training Programs & Equipment, a more comprehensive list is available in Human Resources:

Cardio/Strength Training Program Examples:

<u>Qualified expenses</u>	<u>Non-qualified expenses</u>
<ul style="list-style-type: none">• Gym membership• Martial arts classes• Personal trainer• Yoga classes	<ul style="list-style-type: none">• Dance classes• Pool memberships• Sports leagues (Hockey, football, etc.)• Wii Fit

Cardio/Strength Training Equipment Examples

<u>Qualified expenses</u>	<u>Non-qualified expenses</u>
<ul style="list-style-type: none">• Exercise machines (treadmill, elliptical, stationary bike, etc)• Weights, weight benches• Punching bags• Pedometer/Fitbit	<ul style="list-style-type: none">• Bicycles• Equipment floor mats• Yoga Mats• Gym clothes and shoes• Equipment warranties• Exercise DVDs

The Wellness Program does not reimburse for examinations or procedures for cosmetic or non-medically necessary services.

ARTICLE VII – PROFESSIONAL DEVELOPMENT

It is the goal of the City to recruit and maintain a workforce well prepared to meet the challenges of a modern municipal operation. As such, it is imperative that our employees:

- A. Have the proper information and education needed to meet the challenges of today.
- B. Are afforded the opportunities to prepare for the evolving skills and technology required to continue performing successfully throughout their career.

Except as may be authorized by the City Manager, employees shall be responsible for maintaining all minimum requirements necessary to occupy the classification assigned to them as outlined in the appropriate classification description (job description) and as may be necessary for any assignment or as otherwise delineated in this Memorandum of Understanding (MOU). Additionally, Employees shall be responsible for maintaining all certifications required by Federal and State law. All minimum job requirements and required certifications shall be maintained without additional compensation unless additional compensation is specifically authorized by this MOU. The City agrees to provide and schedule a reasonable number of courses per year for employees to maintain individual certificates. Employees attending certification maintenance courses shall not receive call-back or overtime pay.

Education Reimbursement

In addition to training provided by the City, each employee shall be eligible for reimbursement for voluntary education, training, and professional development as well as college level coursework. Education reimbursement monies shall only be applied to the verified cost of tuition, registration, course-related books, parking and laboratory fees for the approved education program. In order to be eligible for education reimbursement for college coursework as described herein employees must have attended a college or university accredited by the Western Association of Schools and Colleges (WASC) or an equivalent accrediting organization.

Tuition shall not be granted for on-line attendance or other attendances at what are referred to as “degree mills.” For purposes of this MOU only, a “degree mill” is an organization that awards academic degrees and diplomas with substandard or no academic study and without recognition by official educational accrediting bodies. These degrees are often awarded based on vaguely construed life experience. Some such organizations claim accreditation by non-recognized/unapproved accrediting bodies set up for the purposes of providing a veneer of authenticity.

Employees should submit a request for Education Reimbursement prior to the scheduled program and obtain approval from the Human Resources Manager or his/her designee. Proof of completion of the approved education program or college course work shall consist of a certificate of completion, or other verification of participation, or a college transcript showing a letter grade of "C" or better, or in cases where no letter grade is

given, a certificate of completion or written proof that the college course work was completed in a satisfactory manner. Upon completion of the approved program, requests for reimbursement may be submitted to the Human Resources Manager and must be accompanied by a receipt for all eligible expenses incurred.

Reimbursements from Other Sources. If an employee receives tuition payments or refunds for college-level course work from other sources, the City will contribute the difference between the amount the employee receives from the other source and the authorized costs incurred by the employee to the maximum amount cited below.

Reimbursement Schedule (Grandfathered Employees)

Association members currently in progress of obtaining a degree under the terms and conditions of the 2015-2018 MOU shall be grandfathered in and continue with the reimbursement provisions contained in that MOU. For those employees grandfathered into ongoing degree programs, and not subject to the “*Successor Tuition Reimbursement Program*,” the amount of education reimbursement available shall be \$3,000, for the twelve (12) month period from September 1 through August 31. Eligibility for the \$3,000 education reimbursement portion is conditioned upon providing proof of the classes being credited by the educational institution towards the degree being sought and enrollment of the employee in the degree program. Only associate’s, bachelor’s, or master’s degree programs will be eligible for the full \$3,000 portion of the education reimbursement.

Reimbursement Schedule (Successor Tuition Reimbursement Program)

Effective July 1, 2019, the maximum lifetime amount of education reimbursement available to each non-grandfathered employee shall be \$12,000 for a bachelor’s degree and \$12,000 for master’s degree (or a total of \$24,000) obtainable on a reimbursable basis with proof of completion of the degree(s) and eligible expenses. If an employee has previously obtained a bachelor’s degree prior to employment with the City, then they shall be eligible to receive the lifetime maximum of \$24,000 for a master’s degree.

An employee may submit for a partial payment in January after the completion of fifty percent (50%) of the units required for the bachelor’s or master’s degree or with the attainment of an associates of arts degree. The maximum available for the partial payment shall be no more than \$5,000 based on reimbursement of eligible expenses. In January after completion of the bachelors’ degree or master’s degree, an employee may submit for reimbursement of eligible expenses for an additional \$5,000. The employee may request reimbursement of the remaining \$2,000 for eligible expenses in the month of January a minimum of one year after completion of degree. If the request for reimbursement of the remaining amount exceeds \$5,000 for a master’s degree under the lifetime maximum provision, then the final amount will be reimbursed at an amount not to exceed \$5,000 per year.

The amount of tuition reimbursement available annually for pre-approved professional development and certification courses to each employee shall be \$750 for the twelve (12)

month period September 1, through August 31, in which the course(s) are completed and requests receive final approval by the Human Resources Manager. Money used for professional development and certification courses will be deducted from the employee's total annual tuition reimbursement allocation.

Any Association employee who voluntarily elects to separate from the City shall be required to reimburse the City for all tuition reimbursements received in the 24 months preceding such separation, at the rate of 1/24th for each full month he/she separates prior to twenty-four (24) months.

Certificate Achievement Pay Program

Non-probationary employees meeting City-approved certifications listed below shall be eligible for additional compensation upon proof of achievement being provided to the Fire Chief. The eligible classes listed below are subject to amendment by mutual agreement of the Fire Association, the Fire Chief and Human Resources.

Payment Structure

Each eligible certificate achieved shall result in an annual payment of \$500 per certificate with a total annual payment cap not to exceed \$2,500 regardless of the number of certificates obtained. When a certificate is obtained, the employee shall receive the single certificate pay for that certificate at that time, and shall subsequently receive an annual payment the following January of each year for the total of certificates received under this section, up to the maximum annual amount. Any and all classes taken from the list below are considered part of the Certificate Achievement Pay Program and are only eligible for the \$750 total per year reimbursement from the Education Reimbursement section. These certificate classes, and any classes added to Certificate Achievement Pay Program during the course of the year, are not eligible for the larger degree education reimbursement portion available.

<u>Classification</u>	<u>Eligible Course/Certificate</u>
Firefighter:	Truck Academy Engine Boss "T" ³ Instructor I Company Officer Certification Chainsaw Operator/Faller 3 min. Driver/Operator 1A and 1B Rescue Specialist (includes RS1/RS2) Confined Space Operational Technician ¹ Specialized Rescue Technician ²
Fire Engineer:	Fire Mechanic I/ NIASE Preventive Truck Academy Engine Boss "T" ³

Instructor II
 Company Officer Certification
 Chainsaw Operator/Faller 3 min.
 Rescue Specialist (includes RS1/RS2)
 Confined Space Operational Technician
 Specialized Rescue Technician

Fire Captain: Truck Academy
 Chainsaw Operator/Faller 3 min.
 Strike Team Leader Engine (STEN) “T”³
 Instructor III
 Chief Fire Officer
 Rescue Specialist (includes RS1/RS2)
 Confined Space Operational Technician
 Specialized Rescue Technician

For all ranks, includes Confined Space Operational and Trench Rescue

² For all ranks, includes Vehicle Extrication, Swift Water Operational Technician, Haz-Mat First Responder, and ICS-200

³ For all ranks, includes Multiple Components (See Fire Admin for details)

Certificates enumerated in the Association’s MOU Dated April 1, 2015 through March 31, 2018, as adopted by the Brea City Council are grandfathered in for those employees who obtained them prior to October 21, 2017 and shall be included in the calculations for purposes of determining certification pay.

Firefighters promoting up to the ranks of Fire Engineer or Fire Captain, and Fire Engineers promoting up to the rank of Fire Captain shall continue to receive the annual payment for those certifications that also apply to the higher rank, and shall forfeit any certification pay that was applicable only to their former rank. After completion of probation in the promotional position, those individuals become eligible for any additional certification pay applicable to the higher classification. Certification pay ceases for employees no longer in the ranks of Firefighter, Fire Engineer, or Fire Captain.

ARTICLE VIII – OTHER PROVISIONS

Substance Abuse Policy

It is the responsibility of all affected employees to cooperate to protect the lives, personal safety and property of co-workers and fellow citizens. The parties hereto and all affected employees shall take all reasonable steps to accomplish these goals and to minimize potential dangers.

It is in the best interest of the City, the Association, employees and the public to ensure that employees do not appear for work under the influence of drugs or alcohol, or possess illegal

substances or alcohol while at work, because such conduct is likely to result in reduced productivity, an unsafe working environment, poor morale and increased potential liability to the City. "Under the influence of drugs or alcohol" means the knowing use of any illegal or legal intoxicating substances or knowing misuse of a prescribed or non-prescribed drug in a manner and to a degree that substantially impairs the employee's work performance or the ability to use City property or equipment safely.

The City pays for an Employee Assistance Program for employees who may have problems with drugs and/or alcohol. The City and the Association agree that every effort shall be made by the City to refer employees who have such problems to this counseling service for assistance.

The City shall, upon showing of reasonable suspicion that this policy is being violated, compel an employee who appears to be unable to perform any portion of his/her job to submit to a medical examination on City time and at the City's expense, which includes drug or alcohol screening. Refusal to submit to the test may be deemed insubordination and may subject the employee to discipline, up to and including termination. Nothing contained herein shall limit the City's right to discipline or discharge any employee.

Use of Tobacco Products

Employees hired on or after June 30, 1986, shall, as a condition of their continued employment, refrain from smoking tobacco at any time on or off duty. Violation of this condition of employment shall be deemed good cause for dismissal.

Promotional Examinations

City and Association have agreed to schedule promotional examinations for Fire Engineer and Fire Captain annually, however, the Fire Chief, in agreement with the Human Resources Manager, may agree to extend the eligibility list for an additional year when it is in the best interest of the City. If an eligibility list is extended no promotional examination will be conducted that year.

Parties have agreed to the following minimum requirements to compete for promotion:

- A. Fire Engineer: Minimum certification of Driver/Operator 1A and 1B
- B. Fire Captain: Minimum Fire Officer Certification or Company Officer course requirements completed.

Grounds Maintenance and Public Education

City and Association have agreed to delegate to the respective station Fire Captains the responsibility for arranging for and scheduling (1) exterior grounds maintenance (according to recommendations from the Public Works Department), and (2) public education services.

Firefighter Bill of Rights

Implementation of the Firefighter Bill of Rights (Government Code Section 3250 et seq.) shall be accomplished by an amendment to the City's Human Resources Rules and Regulations, as provided in Exhibit "C" of this MOU.

Intergovernmental Fire Services Agreements

In the event the City enters into any agreement with an existing or new governmental agency to provide fire services the City will not decrease employee salaries, uniform pay, flexible benefit, leave accruals or retirement benefits during the term of this memorandum of understanding.

ARTICLE IX – LABOR MANAGEMENT RELATIONSHIP

City Rights

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 Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of this Memorandum of Understanding. Although the Association acknowledges the City's Management Rights, as outlined in this Article, the Association does not waive its right to bargain effects of such decisions as required in the Meyers-Miliias-Brown Act (MMBA). 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. To determine methods of financing.
- F. To determine the 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.

- 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 in accordance with the lay-off provisions set forth in Rule VII, Section 2, of the City of Brea Human Resources Rules and Regulations.
- K. To establish and modify productivity and performance programs and standards.
- L. To discharge, suspend, demote, or otherwise discipline employees for just cause in accordance with the provisions and procedures set forth in departmental disciplinary procedure, the Firefighter's Bill of Rights and this Memorandum of Understanding.
- 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.
- O. To determine policies, procedures, and standards for selection, training, and promotion of employees.
- P. To establish employee performance standards including, but not limited to, quality and quantity standards; and to require compliance therewith.
- Q. To maintain order and efficiency in its facilities and operations.
- R. To establish and promulgate and/or modify rules and regulations and to maintain order and safety in the City which are not in contravention with this Agreement.
- S. To take any and all necessary action to carry out the mission of the City in emergencies.

EMPLOYEE ORGANIZATIONAL RIGHTS AND RESPONSIBILITIES

Employee Rights

Pursuant to California government Code Section 3502, the City and the Association agree that sworn fire employees shall have the right to form, join, and participate in the activities of the Brea Firefighters' Association for the purpose of representation on all matters of employee-employer relations. The City and the Association recognize and agree that sworn

fire employees shall also have the right to refuse to join or participate in the activities of the Brea Firefighters' Association.

Furthermore, the City and the Association agree that neither the City or the Association shall interfere with, intimidate, restrain, coerce, or discriminate against sworn fire employees because of the exercise of their rights under Government Code Section 3502.

Representation

Sworn fire employees shall have the right to representation by an Association representative with respect to all matters within the scope of employee-employer relations, including due process (at employee's request), in accordance with State law.

Dues and Association-Sponsored Insurance Premium Deductions

The City shall deduct from each Association member's paycheck regular and periodic Association dues and Association-sponsored insurance program premiums. Such deductions shall be made upon receipt by the City of a signed authorization card from the Association member. Deduction authorization cards shall be furnished by the Association.

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 deduction or transmittal of funds to the Association; except upon the intentional failure of the City to transmit to the Association funds deducted from the employees pursuant to this Article.

Use of City Facilities

The Association may distribute pamphlets, brochures, and membership cards on City premises only during non-working periods of the employees involved.

Association Meetings

The Association may, with the approval of the Fire Chief, or designee, hold meetings with its members on City property during non-working hours, provided:

- A. Request is made to and approved by the Fire Chief as to the specific location and dates of the meeting prior to such meeting. Requests shall state the purpose of the meeting and be accompanied by copies of the agenda, notices to members and any other written communications regarding such meeting.
- B. Such meetings shall not involve political campaigns or fund-raising events.
- C. The City may charge a reasonable fee to offset the cost for the use of City facilities.

Bulletin Boards

Space shall be made available to the Association on departmental bulletin boards provided such use does not interfere with the needs of the department. The Association shall use bulletin boards only for the following purposes:

- A. Notice of recreational, social, or other related events.
- B. Notice of scheduled Association meetings.
- C. Information concerning Association elections and the results thereof.
- D. Reports of official Association business, including Association newsletters, reports of committees and the Board of Directors of the Association.
- E. Any other written material which has been approved and initialed by the Human Resources Officer, or designee. The Human Resources Officer must either approve or disapprove a request prior to posting.

Payroll Deductions

The City agrees to payroll deductions based on signed statements of authorization in a form acceptable to the City from the affected employee for (1) Association dues; (2) credit union savings and obligations; (3) specified charity contributions; (4) deferred compensation participation; and (5) insurance premiums. The Association and employees agree to defend and hold the City harmless and indemnify the City against any claims, causes of action, lawsuits or liability 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 funds deducted from the employees pursuant to this Article.

Any employee in this Association who has authorized Association dues deductions shall continue to have such dues deductions made by the City during the term of this MOU; provided however, that any employee in the unit may terminate such Association dues by notifying the Association in writing of his/her termination of Association dues deduction. Such notification shall be in writing and delivered in person or by U.S. certified mail. The Association will provide the City's Human Resources Division with written notification of the dues cancellations within ten (10) business days. The City shall process the changes the next full pay period following receipt by the City of the termination notice from the Association.

NO STRIKE - NO LOCKOUT

Prohibited Conduct

The Association, its officers, agents, representatives and/or members agree that they will

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

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 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 of law.

Any employee who participates in any conduct prohibited as noted in "Prohibited Conduct" above may be subject to disciplinary action up to and including termination.

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 in "Association Responsibility" below, the City may, to the extent authorized by law, suspend any and all of the rights and privileges accorded to the Association under the Employer-Employee Relations Resolution and this Memorandum of Understanding, including, but not limited to dues deduction, the use of the City's bulletin boards and facilities, and the use of City paid time.

Association Responsibility

In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited as noted in "Prohibited Conduct" above, the Association or its duly authorized representatives shall immediately and in good faith instruct any employees engaging in such conduct that their conduct is in violation of this Memorandum of Understanding and is unlawful, and they should immediately cease engaging in the prohibited conduct and return to work.

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

ARTICLE X - MOU CONTRACT PROVISIONS

ENTIRE MEMORANDUM OF UNDERSTANDING

It is the intent of the parties hereto that the provisions of this Memorandum of Understanding shall supersede all prior agreements and memoranda of agreement, or memoranda of understanding, or contrary salary and/or personnel resolutions or Administrative Codes, provisions of the City, oral or written, expressed or implied, between the parties, and shall govern the entire relationship, and shall be the sole source of any and all rights which may

be asserted hereunder. This Memorandum of Understanding is not intended to conflict with Federal or State Law.

Notwithstanding the provisions noted immediately above, there exists within the City certain Human Resources Rules and Regulations, departmental rules and regulations and other items and conditions of employment. To the extent that this Agreement does not specifically contradict these Human Resources rules and regulations, departmental rules and regulations, and/or other items and conditions of employment, they shall continue subject to being changed by the City in accordance with the exercise of City rights under this Agreement and applicable State Law.

Except as specifically provided herein, no employee in the bargaining unit shall suffer any reduction in salary or economic benefits, such as health insurance and life insurance, sick leave or vacation, as a result of entering into this Agreement.

EMERGENCY WAIVER PROVISION

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

SEVERABILITY

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

TERM OF MEMORANDUM OF UNDERSTANDING

The term of this Memorandum of Understanding shall begin on July 1, 2020, except as provided herein; its provisions shall be applicable as of the time the Memorandum of Understanding becomes legally effective pursuant to City Council action or such other effective date as specified in a particular provision; it shall pertain to employees who are unit employees on and after the date the Memorandum of Understanding becomes legally binding pursuant to City Council action; and the Memorandum of Understanding shall continue in full force and effect through June 30, 2024.

RATIFICATION AND EXECUTION

The City of Brea and the Brea Firefighters' Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until adopted by the City Council of the City of Brea. Subject to the foregoing, this amended Memorandum of Understanding is hereby executed by the authorized representatives of the City and the Association and entered into this 1st day of February, 2022.

CITY OF BREA



Mayor

Dated: 2-2-22

Attest: 

City Clerk

Dated: 2/9/2022

BREA FIREFIGHTERS' ASSOCIATION

By: 

Stephen Davy, BFA President

Dated: 1/27/22

EXHIBIT A

List of Represented Classifications

Firefighter

Fire Captain

Fire Engineer

EXHIBIT B

Salary Tables

Effective:

July 13, 2019 – January 21, 2022

January 22 2022 – July 8, 2022

July 9, 2022 – July 7, 2023

July 8, 2023 – January 5, 2024

January 6, 2024 – June 30, 2024

EXHIBIT B

Salary Tables Effective 07/13/2019 – 01/21/2022

<u>JOB CLASS TITLE</u>	(MONTHLY)	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
FIREFIGHTER	\$5,814.68	\$7,444.22
FIRE ENGINEER	\$6,533.25	\$8,364.17
FIRE CAPTAIN	\$7,670.58	\$9,820.23

Salary Tables Effective 01/22/2022 – 07/08/2022

<u>JOB CLASS TITLE</u>	(MONTHLY)	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
FIREFIGHTER	\$6,105.42	\$7,816.43
FIRE ENGINEER	\$6,859.92	\$8,782.38
FIRE CAPTAIN	\$8,054.11	\$10,311.25

Salary Tables Effective 07/09/2022 – 07/07/2023

<u>JOB CLASS TITLE</u>	(MONTHLY)	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
FIREFIGHTER	\$6,258.05	\$8,011.85
FIRE ENGINEER	\$7,031.42	\$9,001.94
FIRE CAPTAIN	\$8,255.47	\$10,569.03

Salary Tables Effective 07/08/2023 – 01/05/2024

<u>JOB CLASS TITLE</u>	(MONTHLY)	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
FIREFIGHTER	\$6,414.50	\$8,212.14
FIRE ENGINEER	\$7,207.20	\$9,226.99
FIRE CAPTAIN	\$8,461.85	\$10,833.25

Salary Tables Effective 01/06/2024 – 06/30/2024

<u>JOB CLASS TITLE</u>	(MONTHLY)	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
FIREFIGHTER	\$6,542.79	\$8,376.38
FIRE ENGINEER	\$7,351.34	\$9,411.53
FIRE CAPTAIN	\$8,631.09	\$11,049.92

EXHIBIT C

Amendment to Human Resources Rules
and Regulations Regarding Firefighter Bill
of Rights

Amendment to Human Resources Rules and Regulations Regarding Firefighter Bill of Rights

Disciplinary Actions: On and after January 1, 2008, the investigation and process for disciplinary actions against non-probationary firefighters, fire engineers, and fire captains shall be consistent with the Brea Human Resources Rules and Regulations and Government Code Section 3250 et seq. (hereinafter referred to as the Firefighter Procedural Bill of Rights, or "FBOR"). In lieu of Brea's Rule X, an appeal from a disciplinary action shall be conducted as provided below.

- A. A written notice of a disciplinary decision (or "accusation" as that term is used in GC 11500 et seq.), shall be provided to the non-probationary firefighter, fire engineer or fire captain at least forty-eight (48) hours before the effective date. The decision shall also include a copy of the employee's rights to appeal the decision within fifteen (15) calendar days, and copies of GC 11507.5, 11057.6, and 11507.7.
- B. Within fifteen (15) calendar days after delivery of a written notice of a disciplinary decision (or "accusation" as that term is used in GC 11500 et seq.), a non-probationary firefighter, fire engineer or fire captain may file an appeal by serving a written Notice of Defense (see below) to the Human Resources Manager. Failure to file such Notice of Defense within fifteen (15) calendar days, as determined by time-stamp upon receipt in the Human Resources Department office, shall be deemed a waiver of the employee's right to appeal under the FBOR and the Administrative Procedures Act (GC 11500 et seq.).
- C. The Notice of Defense shall include the following:
 - 1. A request for hearing;
 - 2. The basis of the appeal, including objections to the accusation(s) or the form of the accusation(s);
 - 3. Admission(s) to any part of the accusation(s);
 - 4. The name, address and telephone number of any designated attorney or other party representing the employee in the appeal;
 - 5. The signature of the employee and the date signed.
- D. In the absence of any express admission or objection, the Notice of Defense shall be deemed a specific denial of all parts of the accusation.
- E. Upon receipt of the Notice of Defense, the City will contact the California Office of Administrative Hearings to request assignment to an administrative law judge and the scheduling of an appeal hearing. Further notices regarding the hearing will be provided to the employee and such parties as the employee included in the Notice

of Defense. The hearing shall be conducted by the administrative law judge in accordance with GC 11508 et seq.

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