

ATTACHMENT A

NEWPORT BEACH PROFESSIONAL AND TECHNICAL EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING ~~AND SIDE LETTERS~~



January 1, 2022 June 28, 2025 through ~~December 31, 2025~~ June 30, 2028

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF NEWPORT BEACH
AND
THE NEWPORT BEACH
PROFESSIONAL AND TECHNICAL
EMPLOYEES ASSOCIATION



June 28, 2025 through June 30, 2028

MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF NEWPORT BEACH PROFESSIONAL AND TECHNICAL
EMPLOYEES ASSOCIATION

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is entered into with reference to the following:

PREAMBLE

1. The Newport Beach Professional and Technical Employees Association ("NBPTA" or "Association"), a recognized employee organization, affiliated with the Laborers' International Union of North America, Local 777 (LIUNA), and the City of Newport Beach ("City"), a municipal corporation and charter city, have been meeting and conferring, in good faith, with respect to wages, hours, fringe benefits and other terms and conditions of employment.
2. NBPTA representatives and City representatives have reached an agreement as to wages, hours and other terms and conditions of employment. This shall apply to all affected employees for the term of ~~January 1, 2022~~June 28, 2025 through ~~December 31, 2025~~June 30, 2028 and this agreement has been embodied in this MOU.
3. This MOU, upon approval by NBPTA and the Newport Beach City Council, represents the total and complete understanding and agreement between the parties regarding all matters within the scope of representation.

SECTION 1. General Provisions

A. RECOGNITION

In accordance with the provisions of the Charter of the City of Newport Beach, the Meyers Milias Brown Act of the State of California and the provisions of the Employer's/Employee Labor Relations Resolution No. 2001-50, the City acknowledges that NBPTA is the majority representative for the purpose of meeting and conferring regarding wages, hours and other terms and conditions of employment for all employees in those classifications specified in Exhibit "A" or as appropriately modified in accordance with the Employer/Employee Resolution. All other classifications and positions not specifically included within Exhibit "A" are excluded from representation by NBPTA.

B. TERM

1. Except as specifically provided otherwise, any ordinance, resolution or action of the City Council necessary to implement this MOU shall be considered effective as of ~~January 1, 2022~~June 28, 2025. This MOU shall remain in full force and effect until ~~December 31, 2025~~June 30, 2028, and the provisions of

this MOU shall continue after the date of expiration of this MOU in the event the parties are meeting and conferring on a successor MOU.

2. The provisions of this MOU shall prevail over conflicting provisions of the Newport Beach City Charter, the ordinances, resolutions and policies of the City, and federal and state statutes, rules and regulations which either specifically provide that agreements such as this prevail, confer rights which may be waived by any collective bargaining agreement, or are, pursuant to decisional or statutory law, superseded by the provisions of an agreement similar to this MOU.

C. RELEASE TIME

1. Three NBPTEA officers designated by the NBPTEA shall collectively be granted an annual maximum of 150 hours paid release time for the conduct of NBPTEA business. Such time shall be exclusive of actual time spent in collective bargaining and shall be scheduled at the discretion of the NBPTEA officer. Every effort will be made to schedule this time to avoid interference with City operations.
2. Release time designees shall be identified annually and notice shall be provided to the City. Release time incurred shall be reported regularly in the form and manner prescribed by the City.
3. Activities performed on release time shall include representation of members in rights disputes, preparation for collective bargaining activities, and distribution of NBPTEA written communication in the workplace.
4. Each January, the City will examine the number of Release Time hours the Association used the preceding year. If the Association used more than 75% of the hours normally granted (150), the Association will be granted an additional 30 hours for that year.

D. SCOPE

1. All present written rules and current established practices and employees' rights, privileges and benefits that are within the scope of representation shall remain in full force and effect during the term of this MOU unless specifically amended by the provisions of this MOU.
2. The practical consequences of a Management Rights decision on wages, hours, and other terms and conditions of employment shall be subject to the grievance procedures.
3. Pursuant to this MOU, the City reserves and retains all its inherent exclusive and non-exclusive managerial rights, powers, functions and authorities ("Management Rights") as set forth in Resolution No. 2001-50. Management Rights include, but are not limited to, the following:

- (a) the determination of the purposes and functions of City Departments;
- (b) the establishment of standards of service;
- (c) to assign work to employees as deemed appropriate;
- (d) the direction and supervision of its employees;
- (e) the discipline of employees;
- (f) the power to relieve employees from duty for lack of work or other legitimate reasons;
- (g) to maintain the efficiency of operations;
- (h) to determine the methods, means and personnel by which operations are to be conducted;
- (i) the right to take all necessary actions to fulfill the Department's responsibilities in the event of an emergency; and
- (j) the exercise of complete control and discretion over the manner of organization, and the appropriate technology, best suited to the performance of departmental functions.

The practical consequences of a Management Rights decision on wages, hours, and other terms and conditions of employment shall be subject to the grievance procedures.

E. EMPLOYEE DATA AND ACCESS

In January and July of each year, the NBPTEA will be provided with a listing of all unit members. The listing will include name, department, and job title. Information concerning the NBPTEA prepared by the NBPTEA will be provided to new employees at the time of orientation.

The City shall provide NBPTEA with access and information regarding new employees and existing unit members as required by law. NBPTEA designated officers shall be entitled to solicit membership from new employees at their work site. This solicitation shall be made from the total release time for NBPTEA Officers and shall be scheduled in a manner that is not disruptive to departmental operations. Department heads may determine appropriate times for new employee contact, but they cannot reasonably deny such contact.

F. CONCLUSIVENESS

With the exception of a separate MOU covering retirement issues, this MOU contains all of the covenants, stipulations, and provisions agreed upon by the parties. Therefore, for the term of this MOU, neither party shall be compelled, and each party expressly waives its rights to request the other to meet and confer concerning any issue within the scope of representation except as expressly provided herein or by mutual agreement of the parties. No representative of either party has the authority to make, and none of the parties shall be bound by, any statement, representation or agreement reached prior to the execution of this MOU and not set forth herein.

As provided in the Employer-Employee Relations Resolution No. 2001-50, the City shall determine the way City services are to be provided, including whether the City should provide services directly or contract out work, including work that is currently being performed by Association members. In the event the City introduces a plan to outsource services currently being performed by Association members to achieve greater efficiency and/or cost savings, and upon request by the Association, the City shall meet and confer with Association representatives to discuss the impacts of the City's decision to contract out work. The City shall retain sole authority to decide whether or not to contract out work, including work that is currently being performed by Association members. This provision shall not limit the City's authority to enter into such an agreement for any City services.

G. MODIFICATIONS

Any agreement, understanding, or waiver or modification of any of the terms or provisions of this MOU shall not be binding upon the parties unless contained in a written document executed by authorized representatives of the parties.

H. ASSOCIATION DUES

1. The collection of Association dues shall be handled through the payroll deduction process.
2. The Association and LIUNA agree to defend, indemnify and hold harmless the City for its collection of Association dues.

SECTION 2. COMPENSATION

A. SALARY

Base salary increases for all NBPTEA represented classifications shall be as follows and as specified in Exhibit A:

Effective ~~the pay period that includes January 1, 2022~~ June 28, 2025, base salaries will be increased by ~~one~~ five percent (~~15.0~~%) for all represented classifications.

Effective the first full pay period ~~that includes~~ following January 1, 2023 July 1, 2026,

base salaries will be increased by ~~three~~ four percent (~~3~~4.0%) for all represented classifications.

Effective the ~~first full~~ pay ~~period that includes period following January 1, 2024~~ July 1, 2027, base salaries will be increased by three percent (3.0%) for all represented classifications.

~~Effective the pay period that includes January 1, 2025, base salaries will be increased by three percent (3.0%) for all represented classifications.~~

~~Salary Schedule Adjustment~~

~~Effective the pay period which includes July 1, 2023, the City will add a new top step ("New Top Step") to the salary schedule for all represented positions, which shall be five percent (5%) more than the current top step ("Current Top Step"). The Parties acknowledge and agree that the first step for all represented positions currently in effect is not eliminated.~~

~~With the following exception, step advancement through the salary ranges is unaffected by the addition of the New Top Step:~~

~~Employees who have been at the Current Top Step for longer than 12 months as of June 30, 2023, will advance to the New Top Step in the pay period which includes July 1, 2023.~~

B. OVERTIME

1. ~~Advanced~~ Approval - Employees must have ~~advanced~~ approval from their supervisor to work overtime.
2. FLSA Overtime - Overtime earned for actual work hours in excess of 40 in the employee's defined FLSA workweek.
3. Contract Overtime - Overtime earned for an employee whose hours paid in their defined FLSA workweek exceeds 40. For purposes of calculating hours paid for contract overtime, holidays occurring during the work week count as time worked. The use of other forms of leave do not count as hours worked for purposes of calculating hours paid for determining eligibility for contract overtime.
4. Rate at Which Overtime is Calculated -FLSA and Contract Overtime (paid at time and one half - 1.5) shall be calculated at the regular rate of pay, except that the rate at which Contract Overtime is calculated shall not include the City's Cafeteria Plan Allowance, the opt-out Cafeteria Plan Allowance, or any cash back an employee may receive from the Cafeteria Plan Allowance by choosing benefits which cost less than the Allowance.
5. Workweek for Purposes of Calculating Overtime - For employees who work the

9/80 work schedule, their defined FLSA workweek shall begin exactly four hours after the start time of their shift on their alternating regular day off (i.e., their eight-hour day) and end exactly 168 hours later. For employees who work a 5/40 work schedule, their workweek shall begin on Saturday at 12:01 a.m. and will end exactly 168 hours later the following Saturday at 12:00 a.m.

6. Work Schedule - Regardless of the type of work schedule an employee is assigned (e.g., 5/40 and 9/80), full-time employees are regularly scheduled to work 40 hours in their defined FLSA workweek.
7. Reporting Time - The City calculates overtime in tenths of an hour. Employees shall report their time worked to the nearest tenth of an hour.

C.

D. WEEKEND STANDBY DUTY

Information Technology staff assigned standby duty for the purpose of responding to calls for service during ~~the weekend off~~ hours shall be paid \$3 per hour for each hour of assigned standby duty. ~~Weekend will be defined as the 62 hours beginning on Friday at 5:00 p.m. and concluding Monday at 7:00 a.m. for a total of 62 hours per weekend.~~ Time on standby is not considered hours worked. Standby pay will not be piggybacked with any other paid time, such as call-back, scheduled or unscheduled overtime, or if working a scheduled shift. This provision is not intended to be a guarantee of hours and the City shall retain the right to determine when standby duty shall be assigned.

E. CALLBACK DUTY

1. Defined

Callback duty requires the employee to respond to a request to return to their workstation after the normal work shift has been completed and the employee has left their normal workstation. ~~These p~~Periods of overtime which ~~had~~ have been scheduled by the Department Director prior to the end of the normal work shift are not considered callback duty.

2. Compensation

All employees shall receive a minimum of ~~two-three~~ (2)3 hours pay. If an employee works more than ~~two~~ (2)three (3) hours, they shall receive pay for actual hours worked.

F. ACCUMULATION OF COMPENSATORY TIME OFF

Unit members who are non-exempt from overtime may receive compensatory time off (CTO), in lieu of cash, as compensation for overtime hours worked at the rate of one-and- one-half hours for each hour of overtime worked. An employee may only

earn CTO if requested and then approved by the employee's supervisor. Callback time may be converted to CTO with supervisor approval.

Employees may accumulate up to 80 hours of CTO. Any hours earned in excess of 80 will be paid out to the employee the following pay period. Once a unit member reduces the balance below 80 hours, additional hours may be earned again up to the 80 hour cap.

G. SHIFT DIFFERENTIAL

Unit members who are regularly assigned a work schedule of which four or more hours are worked between the hours of 5 p.m. and 5 a.m. shall receive a shift differential pay of \$1.00 per actual hour worked; payable for each hour worked after 5 p.m. Overtime worked as an extension of an assigned day shift shall not qualify an employee for shift differential.

The parties agree that to the extent permitted by law, the City shall report to the California Public Employees' Retirement System (CalPERS) shift differential pay as Special Assignment Pay pursuant to Title 2 CCR, Section 571(a)(4) and/or Section 571.1 (b)(3) Shift Differential. However, for "new members" as defined by the Public Employees' Pension Reform Act (PEPRA) of 2013, shift differential pay will not be reported as pensionable compensation to CalPERS.

H. ASSOCIATE CIVIL ENGINEER AND JUNIOR CIVIL ENGINEER

Employees in the class of Associate Civil Engineer and Junior Civil Engineer who are registered by the State of California shall receive an additional compensation of five (5%) percent of base pay per month.

I. COURT TIME

Employees who are required to appear in court during their off-duty hours in connection with City business shall receive a minimum of two hours pay. If an employee is actually in court for more than two hours, the member shall receive pay for actual hours worked.

J. CERTIFICATE PAY

Effective January 1, 2013, the certificate pay program was modified to eliminate "inactive" certificates and "sunset" certain active certificates. Employees currently receiving pay for a "sunset" certificate are considered grandfathered under the program, but no further employees shall be eligible. The complete list of eligible certificates and the corresponding benefit is listed in Exhibit B. All other procedures associated with certificate pay remain in effect, including a limitation of payment for a maximum of five certificates per employee.

The parties agree that to the extent permitted by law, the City shall report to the

California Public Employees' Retirement System (CalPERS) eligible certificate pays as Educational Pay pursuant to Title 2 CCR, Section 571(a)(2) and/or 571.1(b)(2).

K. ACTING PAY

NBPTEA employees are eligible to receive "acting pay" only after completing 80 consecutive hours in the higher classification. Once the 80 hour requirement has been satisfied, acting pay will be granted for all hours worked above 40 hours beginning with the 41st hour worked in the higher classification. Acting pay is an additional 7.5% of the employee's base pay rate.

The parties agree that to the extent permitted by law, and in accordance with Government Code §20480 Out-of-Class Appointment Limitations, the City shall report to the California Public Employees' Retirement System (CalPERS) acting pay as Premium Pay pursuant to Title 2 CCR Section 571(a)(3) Temporary Upgrade Pay. However, for "new members" as defined by the Public Employees' Pension Reform Act (PEPRA) of 2013, acting pay will not be reported as pensionable compensation to CalPERS. The employee must be performing 100% of the duties in the higher classification for temporary upgrade pay to be reportable.

L. BILINGUAL PAY

Upon determination of the Department Director that an employee's ability to speak, read and/or write in Spanish contributes to the Department providing better service to the public, employees in positions that require additional languages as part of their normal duties shall be eligible to receive One Hundred Fifty (\$150) dollars per month (paid each pay period) in bilingual pay. The certification process will confirm the employee is fluent at the street conversational level in speaking, reading and/or writing Spanish. Employees certified shall receive bilingual pay the first full pay period following certification.

Additional languages may be certified for compensation pursuant to this section by the Department Director with the concurrence of the Human Resources Director.

The parties agree that to the extent permitted by law, the City shall report to the California Public Employees' Retirement System (CalPERS) bilingual pay as Special Assignment Pay pursuant to Title 2 CCR, Section 571(a)(4) and/or 571.1(b)(3) Bilingual Premium.

M. ASSIGNMENT PAY

An employee appointed by the Community Development Director to regularly perform the duties of the Zoning Administrator as set forth in the Zoning Code shall be provided temporary assignment pay at five percent (5%) above the employee's base pay, to be paid on an hourly basis for all hours worked in the assignment. This assignment pay is temporary and will cease once the employee is no longer performing the duties of the

Zoning Administrator.

Assistant Planners appointed by the Planning Director to regularly perform the lead duties at the Plan Check Counter shall be provided temporary assignment pay at five (5%) percent above the employee's base pay, paid on an hourly basis for all hours worked in the assignment. This assignment pay will cease once the employee is no longer performing the duties of the lead person at the Plan Check Counter.

N. LONGEVITY PAY

Unit members shall receive longevity pay based on their continuous years of full-time service with the City of Newport Beach as follows:

<u>Completed—Years of Continuous Service</u>	<u>Longevity Pay</u>
<u>15 – 19</u>	<u>1%</u>
<u>20-24</u>	<u>1.5%</u>
<u>Over 25 years</u>	<u>2%</u>

These pays are not cumulative (e.g., at 20 years of service, total longevity pay will be 1.5%). The parties agree that to the extent permitted by law, Longevity Pay is special compensation and shall be reported to CalPERS as such pursuant to Title 2 CCR, Section 571(a)(1) and 571.1(b)(1).

N. — LUMP SUM BONUS (FY 2021-22).

~~All Bargaining Unit Employees in paid status for the entirety of the first full pay period following City Council adoption of this side letter in Fiscal Year 2021-22 will receive a one-time bonus in the amount of \$2,000. The parties intend and understand that this lump sum payment is non-pensionable and will not be reported to CalPERS. The parties also agree that this payment is intended to be specific to the pay period in which it is paid and is to be considered part of the regular rate for this pay period only.~~

SECTION 3. LEAVES

A. FLEX LEAVE

Members accrue flex leave in lieu of vacation and sick leave. An employee accrues a designated number of flex leave hours while in paid status and based upon years of service. Years of service is determined by the number of continuous, full-time years a member is employed by the City.

Unit members shall accrue *flex* leave at the following *hourly* rates:

<u>Years of Continuous Service</u>	<u>Hrs. Accrued Per Pay Period</u>	<u>Annual Hours</u>	<u>Max Allowable Balance (hours)</u>
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Less than 5	6.00	156.00	468.00
5 but less than 9	6.61	171.86	515.58
9 but less than 12	7.23	187.98	563.94
12 but less than 16	8.15	211.90	635.70
16 but less than 20	8.77	228.02	684.06
20 but less than 25	9.38	243.88	731.64
25 and over	10.00	260.00	780.00

Members shall accrue three (3) months (i.e., 39 hours) of flex leave *in the manner and* as provided above upon completion of three (3) months of continuous employment with the City, provided however, this amount shall be reduced by any flex leave time advanced during the first three (3) months of employment. At the completion of three (3) months of employment, three (3) months of accrued Flex leave will be placed in the employee's account.

1. Limit on Accumulation

Members hired ~~prior to~~ or before July 1, 1996:

Members hired ~~prior on or before~~ July 1, 1996, shall be paid for earned flex leave in excess of the maximum *allowable balance as spillover pay* at the member's hourly rate of pay provided that they have utilized at least eighty (80) hours of flex leave the previous calendar year. Employees accruing at the 16 years of continuous service level or above shall be required to use 120 hours of flex leave the previous calendar year *to receive spillover pay*. Employees who have not utilized the required amount of leave the prior calendar year shall not be eligible to accrue time above the maximum *allowable balance*.

Employees hired after July 1, 1996:

Employees first hired or rehired by the City ~~subsequent to~~ after July 1, 1996 are not eligible for flex leave spillover pay and are not entitled to accrue flex leave in excess of the flex leave *maximum allowable balance*.

2. Method of Use

The Department Director shall approve all requests for flex leave taking into consideration the needs of the Department, and whenever possible the wishes of the employee.

B. HOLIDAY LEAVE

The following days shall be observed as paid holidays (i.e., employees shall have the day off with pay). ~~With the exception of the "floating holiday" (where the employee chooses the day off), employees~~ Employees who are required to work on the holiday will receive their pay for the holiday ~~and~~ either pay or flex ~~leave~~ for the number of hours worked on the holiday.

New Year's Day	January 1
Martin Luther King Day	January- 3 rd Monday
Washington's Birthday	February - 3 rd Monday
Memorial Day	May - Last Monday
Floating Holiday*	July 1
Independence Day	July 4
Labor Day	September- 1 st Monday
Veterans Day	November 11
Thanksgiving Day	November - 4 th Thursday
Friday After Thanksgiving	November- 4 th Friday
Christmas Eve	December 24 (last ½ of workday)
Christmas Day	December 25
New Year's Eve	December 31 (last ½ of workday)
<u>Holiday Closure – Up to 3 Days</u>	<u>TBD based on closure dates*</u>

Holidays are paid based on the employee's regular workday schedule. For example, if an employee is on a 9/80 schedule and the holiday is observed on a day that the employee is regularly scheduled to work nine hours, the employee is entitled to receive nine hours of holiday pay. However, if an employee is on a 9/80 schedule and the holiday is observed on a day that the employee is regularly scheduled to work eight hours, the employee is eligible to receive eight hours of holiday pay. If an employee must work on one of the holidays listed above, (except the floating holiday), the employee will be credited with a maximum of eight hours per holiday.

1. Holidays listed above (except the floating holiday) occurring on a Saturday shall be observed the preceding Friday. Holidays occurring on a Sunday shall be observed the following Monday. ~~(Half day holidays shall be observed prior to the observed holiday).~~
2. Holiday pay will be paid only to employees who work their scheduled day before and scheduled day after a holiday or are on authorized paid leave (e.g. paid leave that has been reviewed and approved by the Department Director).
3. Holiday Closure – If the City Council approves a holiday closure for City Hall, the following applies:
 - a. Holiday Closure Pay Unit members will receive holiday closure pay for the days they would have normally been scheduled to work during the closure period, up to a maximum of three (3) days. The holiday closure pay is specifically for use during the approved holiday closure. Example: If your regular work schedule would have you working two days during a three-day holiday closure, you will receive two days of holiday closure pay, not three. You will not automatically get three days if your schedule does not call for it.

b. Working During a Holiday Closure If a unit member is required by their supervisor to work during a holiday closure, they may bank their holiday hours to flex, up to a maximum of eight hours for each day the employee is required to work during the holiday closure.

The Holiday Closure Pay aims to fairly compensate members while ensuring operational needs are met during approved holiday closures.

The floating holiday is awarded on July 1. Eight hours of holiday leave ~~is~~are added to the member's vacation or flex leave bank on the first pay period in July each year.

C. BEREAVEMENT LEAVE

Bereavement leave shall be defined as "the necessary absence from duty by an employee because of the death or terminal illness in of an immediate family member." Unit members shall be entitled to 40 hours of bereavement leave per calendar year per incident (terminal illness followed by death is considered one incident). Bereavement leave shall be administered in accordance with the provisions of the Employee Policy Manual. Leave hours need not be used consecutively, however they should be used in proximate time to the occurrence. For the purposes of this section, immediate family shall mean an employee's father, mother, stepfather, stepmother, brother, sister, spouse/domestic partner, child, stepchild, grandchild, grandparents and the member's spouse's/domestic partner's father, mother, brother, sister, child, grandchild and grandparents. The provisions of this section shall not diminish or reduce any rights a member may have pursuant to applicable provisions of state or federal law. A member requesting bereavement leave shall notify their supervisor as soon as possible of the need to take leave.

D. REPRODUCTIVE LOSS LEAVE

Eligible employees are entitled to five unpaid days for each reproductive loss event. Multiple reproductive loss events are covered, up to a maximum of 20 days of reproductive loss leave within a twelve-month period.

~~D.E.~~ LEAVE SELLBACK

Employees shall have the option (on two occasions) of selling back on an hour for hour basis, accrued flex or vacation leave. In no event shall the flex or vacation leave balance be reduced below one hundred and sixty (160) hours. Hours sold back will be subject to the Retiree Health Savings Plan Part C contributions, per Section 4 (F), Retiree Medical. For the term of this MOU the Association has elected Part C contributions for Flex at 0%.

Employees shall have the option of converting accrued flex /eave to cash on an hour for hour basis subject to the following: On or before the pay period which includes December 15 of each calendar year, an employee may make an irrevocable election to cash out

accrued flex leave which will be earned in the following calendar year. The employee can elect to receive the cash out in the pay period which includes June 30 and/or the pay period which includes December 15 for those flex /eave benefits that have been earned during that portion of the year. In no event shall the flex leave balance be reduced below 160 hours.

In addition to the above, an employee who has an "unforeseen emergency" (defined as an unanticipated emergency that is caused by an event beyond the control of the employee and that would result in severe financial hardship to the employee if early withdrawal were not permitted) shall be entitled to make a request to the Director of Human Resources for a payoff of accrued flex leave. The amount of flex leave which may be *cached out* is limited to the amount necessary to meet the emergency. If there is an unforeseen emergency, an employee can cash out flex /eave earlier in the year than described above provided that the remaining balance is not reduced below 160 hours.

SECTION 4. FRINGE BENEFITS

A. INSURANCE

1. Benefits Information Committee

The City has established a Benefits Information Committee (BIC) composed of one representative from each employee association group and up to three City representatives. The Benefits Information Committee has been established to allow the City to present data regarding carrier and coverage options, the cost of those options, appropriate coverage levels and other health programs. The purpose of the BIC is to provide each employee association with information about health insurance/programs and to receive timely input from associations regarding preferred coverage options and levels of coverage.

2. Medical Insurance

The City has implemented an IRS qualified Cafeteria Plan. In addition to the contribution amounts listed below, the City shall contribute the minimum CalPERS participating employer's contribution towards medical insurance for employees enrolled in a CalPERS medical plan, per Government Code Section 22892. Employees shall have the option of allocating Cafeteria Plan contributions towards the City's existing medical, dental and vision insurance/programs, provided that any cash-out option complies with IRS Section 125 requirements.

Unused Cafeteria Plan funds shall be payable to the employee as taxable cash back. Employees shall be allowed to change coverages in accordance with plan rules and during regular open enrollment periods.

The City's contribution towards the Cafeteria Plan is ~~One-Two Thousand Seven-Hundred and Twenty-Five Dollars (\$1,72,025)~~, plus the minimum CalPERS participating

employer's contribution.

NBPTEA members who do not enroll in any medical plan offered by the City must provide evidence of group medical insurance coverage and execute an opt-out agreement releasing the City from any responsibility or liability to provide medical insurance coverage on an annual basis.

Employees hired prior to March 16, 2019 who elect to opt out of medical coverage offered by the City because they have provided proof of minimum essential coverage ("MEC") through another source (other than coverage in the individual market, whether or not obtained through Covered California) will receive One Thousand Dollars (\$1,000) per month in taxable cash. *For these same employees, if they elect medical coverage and spend less than \$1,725 (plus the minimum CalPERS participating employer's contribution) of the City contribution provided above, the difference shall be paid to the employee as taxable cash biweekly. ~~if they elect medical coverage and spend less than the City contribution provided above, those unused cafeteria plan funds shall be paid to the employee as taxable cash.~~*

Employees hired on or after March 16, 2019 who elect to opt out of medical coverage offered by the City because they have provided proof of MEC through another source (other than coverage in the individual market, whether or not obtained through Covered California) shall receive Five Hundred Dollars (\$500) per month in taxable cash. For these same employees, if they elect medical coverage and spend less than the City contribution provided above, there shall be no cash back provided.

~~On or before July 1, 2023, at the request of either party, the parties shall meet and confer in good faith to discuss possible changes to the medical benefit program, contribution levels, or other elements of healthcare services, provided, however, that any changes to the MOU may only occur by mutual agreement of the parties.~~

3. Dental Insurance

The existing or comparable dental plans shall be maintained as part of the City's health plan offerings as agreed upon by the Benefits Information Committee.

4. Vision Insurance

The existing or a comparable vision plan shall be maintained as part of the City's plan offerings as agreed upon by the Benefits Information Committee.

5. Healthcare Reform

The parties recognize that certain state and federal laws, programs and regulations, including the Affordable Care Act, may impact future medical plan offerings., Either party may request to reopen Section 4A(2) regarding medical insurance for the purpose of discussing alternative approaches and proposals to providing healthcare coverage.

Additionally, should state or federal laws concerning taxation of healthcare benefits change, the parties agree to meet and discuss the impact of such change.

B. Additional Insurance Programs

1. IRS Section 125 Flexible Spending Account

Section 125 of the Internal Revenue Code authorizes an employee to reduce taxable income for payment of allowable expenses such as child care and medical expenses. An Association member may request that medical, child care and other eligible expenses be paid or reimbursed by the Section 125 Plan out of the employee's account. The base salary of the employee will be reduced by the amount designated by the employee for reimbursable expenses.

2. Disability Insurance

The City shall provide Short-term (STD) and Long-term (LTD) disability insurance to all regular full-time employees with the following provisions:

	Short-Term Disability	Long-Term Disability
Benefit Amount	66.67% of covered wages	66.67% of covered wages
Maximum Benefit	\$1,846 weekly	\$15,000 monthly
Waiting Period	30 calendar days	180 calendar days

Employees shall not be required to exhaust accrued paid leaves prior to receiving benefits under the disability insurance program. Employees may not supplement the disability benefit with paid leave once the waiting period has been exhausted.

3. Life Insurance

The City shall provide life insurance for all regular full-time employees in \$1,000 increments equal to one times the employee's annual salary up to a maximum of \$50,000. At age 70 the City-paid life insurance is reduced by 50% of the pre-70 amount. This amount remains in effect until the employee terminates from City employment.

C. Employee Assistance Program

City shall provide an Employee Assistance Program (EAP) through a properly licensed provider. Association members and their family members may access the EAP subject to provider guidelines.

D. Retirement Benefit

The City contracts with California Public Employees Retirement System (Ca/PERS) to provide retirement benefits for its employees. Pursuant to prior agreements and

state mandated reform, the City has implemented *three different tiers of retirement benefits, categorized as Tier I, Tier II and Tier III.*

1. Retirement Formula

Tier ~~I~~: For employees hired by the City on or before November 23, 2012, the retirement formula shall be the 2.5% @ 55 calculated on the basis of the single highest year.

Tier ~~II~~: For employees first hired by the City between November 24 and December 31, 2012 or hired on or after January 1, 2013 and who are current classic members of the retirement system, as defined in the Public Employees' Pension Reform Act ("PEPRA"), the retirement formula shall be 2% @ 60 calculated on the average 36 highest months' salary.

Tier ~~III~~: For employees first hired by the City on or after January 1, 2013, and who do not meet the Tier II criteria because they are new members as defined by PEPRA, the retirement formula shall be 2% @ 62 calculated on the average 36 highest months' salary.

2. Employee Contributions

~~The Association has agreed to share in the rising cost of pension obligations. Under the terms of this MOU, unit members will contribute additional amounts toward the CalPERS retirement benefit, to the extent permissible by law. Should any provision be deemed invalid, the City and Association agree to meet for the purpose of renegotiating employee retirement contributions.~~

~~Employee retirement contributions that are in addition to the normal CalPERS Member Contribution (of 7% or 8%) shall be calculated on base pay, special pays, and other pays normally reported as "PERSable" compensation and will be made on a pre-tax basis through payroll deduction, to the extent allowable by law. It is recognized that these payments will not be reported to CalPERS as contributions toward either the Member or Employer rate, as provided under Government Code Section 20516(f).~~

~~Under a separate agreement and ratified via a contract amendment with CalPERS in 2008, Tier I employees shall contribute 2.42% compensation earnable (as cost sharing) per Government Code section 20516(a).~~

~~Tier I Employees shall contribute a total employee contribution of 13% as follows: Tier I Eight percent (8%) member contribution, 2.42% of compensation earnable as cost sharing per Government Code section 20516(a) and 2.58% of compensation earnable as cost sharing per Government Code section 20516(f).~~

~~Temporary Reduction. Effective the pay period that includes January 1, 2023, Tier I Employees shall contribute a total employee contribution of 11.5% as follows: Tier I Eight percent (8%) member contributions, 2.42% of compensation earnable as cost sharing per Government Code section 20516(a) and 1.08% of compensation earnable as cost sharing~~

~~per Government Code section 20516(f). This reduction in the employee contribution rate sunsets at the end of the last full pay period in December 2025. Accordingly, effective the pay period that includes January 1, 2026, Tier I Employees shall contribute a total employee contribution of 13% as follows: Tier I – Eight percent (8%) member contribution, 2.42% of compensation earnable as cost sharing per Government Code section 20516(a) and 2.58% of compensation earnable as cost sharing per Government Code section 20516(f).~~

~~Tier II Employees shall contribute a total employee contribution of 13% as follows: seven percent (7%) (compensation earnable) member contribution and six percent (6%) of compensation earnable as cost sharing per Government Code section 20516(f).~~

~~Temporary Reduction. Effective the pay period that includes January 1, 2023, Tier II Employees shall contribute a total employee contribution of 11.5% as follows: seven percent (7%) (compensation earnable) member contribution and four and one-half percent (4.5%) of compensation earnable as cost sharing per Government Code section 20516(f). This reduction in the employee contribution rate sunsets at the end of the last full pay period in December 2025. Accordingly, effective the pay period that includes January 1, 2026, Tier II employees shall contribute a total employee contribution of 13% as follows: seven percent (7%) (compensation earnable) member contribution and six percent (6%) of compensation earnable as cost sharing per Government Code section 20516(f).~~

~~Tier III Employees – The minimum statutory employee contribution for employees in Tier III is subject to the provisions of PEPRA and equals 50% of the "total normal cost". Tier III employees shall make an additional contribution of pensionable compensation toward retirement pursuant to Government Code Section 20516(f), such that the total employee contribution equals 13% of pensionable compensation.~~

~~Temporary Reduction. Effective the pay period that includes January 1, 2023, the minimum statutory employee contribution for employees in Tier III is subject to the provisions of PEPRA and equals 50% of the "total normal cost". Tier III employees shall make an additional contribution of pensionable compensation toward retirement pursuant to Government Code section 20516(f), such that the total employee contribution equals no less than 11.5% of pensionable compensation (i.e., the greater of 11.5% or 50% of the "total normal cost"). This reduction in the employee contribution rate sunsets at the end of the last full pay period in December 2025. Accordingly, effective the pay period that includes January 1, 2026, the minimum statutory employee contribution for employees in Tier III is subject to the provisions of PEPRA and equals 50% of the "total normal cost". Tier III employees shall make an additional contribution of pensionable compensation toward retirement pursuant to Government Code section 20516(f), such that the total employee contribution equals no less than 13% of pensionable compensation (i.e., the greater of 13% or 50% of the "total normal cost").~~

~~The City contracts with Ca/PERS for the 4th Level 1959 Survivors Insurance Benefit, \$500~~

~~Lump Sum Death Benefit, Sick Leave Credit, Military Service Credit, 2% Cost of Living Adjustment and the pre-retirement option settlement 2 death benefit (Government Code Section 21548).~~

Tier I:

Tier I employees shall contribute eight percent (8%) of compensation earnable for the CalPERS member contribution.

Tier II:

Tier II employees shall contribute the statutory CalPERS Member Contribution equal to seven percent (7%) of compensation earnable, plus an additional one percent (1%) of compensation earnable toward retirement costs under Government Code Section 20516(f), for a total contribution of 8% of compensation earnable.

Tier III:

The minimum statutory employee contribution for employees in Tier III, subject to the provisions of the Public Employees' Pension Reform Act (PEPRA) equals 50% of the "total normal cost", and is calculated annually for possible adjustments as provided in the CalPERS valuations.

In addition to the statutorily required 50% contribution of total normal costs, Tier III employees shall contribute an additional amount of pensionable compensation toward retirement pursuant to Government Code section 20516(f) so that their contribution equals a total of 8% of pensionable compensation. Provided, however, that the employee contribution shall never fall below the statutory required contribution.

E. LIUNA Supplemental Pension

The unit members agree to pay any costs and/or contributions associated with its members' participation in the LIUNA Supplemental Pension Fund. The City's sole obligation is to forward the agreed upon amount to the fund. The City is not responsible for, nor does it make any representation regarding the payment of benefits to unit members.

The employees' contributions to the LIUNA Supplemental Pension Fund are deemed "picked-up" and treated as employer contributions. Employees cannot opt out of the "pick-up," or receive the contributed amounts directly instead of having them paid to the plan. Participation at the same level will continue to be mandatory for members of the Association.

The Association agrees with the procedural ~~change~~, and change and acknowledges that members who leave City employment prior to vesting in the LIUNA pension plan will still have no right to return of amounts contributed, or other recourse against the City

concerning LIUNA.

Effective March 16, 2019, unit members agree to pick up the actual costs and contributions required by LIUNA for participation in the LIUNA Supplemental Pension Fund for as long as its members participate in the LIUNA Supplemental Pension Fund. The parties are not precluded from discussing the LIUNA Supplemental Pension in future labor negotiations.

The Association and LIUNA agree to defend, indemnify and hold harmless the City for its actions pursuant to this section. This includes, but is not limited to, any challenge by any member of the bargaining unit related to making contributions to the LIUNA Supplemental Pension Fund or receiving benefits from the LIUNA Supplemental Pension Fund.

During the course of this MOU, either party may request a meeting to discuss the LIUNA Supplemental Pension Fund, however any alterations to the Plan administration must be agreed upon by both parties.

F. Retiree Medical Benefit

This is an Integral Part Trust (/PT) RHS Retiree Health Savings (RHS) plan (formerly the Medical Expense Reimbursement Program - "MERP"). Each member has an individual RHS account ("Account"), which accumulates based on the category they fall under (see Program Structure below). Funds from the Account may be used for eligible health care expenses after separation, retirement or a change in personnel status to a position that does not receive the RHS benefit. These changes in personnel status will activate the Account and allow funds to be withdrawn until the Account balance is depleted. Since the plan restricts all distributions to be spent for health insurance premiums and health care expenses, as defined by the Internal Revenue Code Publication 502, § 213(d) and the Plan document the contributions, fund investment earnings and benefit payments (when withdrawn from the Account) are not taxed. Additionally, certain contributions may only be deposited upon retirement from the City. The categories are detailed below.

1. Background

In 2005, the City and NBPTEA agreed to replace the previous "defined benefit" retiree medical program with a new "defined contribution" program. The process of fully converting to the new program is ongoing for an extended period. During the transition, employees and (then) existing retirees were administratively classified into different categories. The benefit is structured differently for each of the categories. The categories are as follows:

- (b) Category 1 - Employees who become eligible for the benefit after January 1, 2006. This may include new hires, rehires and part-time employees appointing to full-time status.
- (c) Category 2 - Employees who were active and enrolled in the previous

defined benefit as of December 31, 2005, eligible for the new defined contribution program as of January 1, 2006 and whose age plus years of service as of January 1, 2006 was less than 50.

- (d) Category 3 - Employees who were active and enrolled in the previous defined benefit as of December 31, 2005, eligible for the new defined contribution program as of January 1, 2006 and whose age plus years of service as of January 1, 2006 was 50 or greater.

2. Eligibility

All Association members are eligible for the RHS benefit. However, if a member separates or changes positions to a bargaining unit which does not offer this benefit, the member is no longer eligible for any contributions to the plan and their Account will be activated for use and withdrawal of funds by the employee (or former employee). This means if a unit member subsequently reappoints to a position which offers the RHS benefit, they will be enrolled in "Category 1" and must revest in the program. Any remaining balance deposited during prior eligibility will remain in the Account.

Employees who become ineligible (no longer covered by a City employee association offering the RHS benefit) before vesting forfeit the City's Part B contribution. Said employee will only receive Part A and Part C contributions. The only exception is an active employee who separates before vesting due to an approved industrial disability. In such case, the employee will receive exactly five years' worth of Part B contributions, using the employee's age and compensation at the time of separation for calculation purposes. This amount will be deposited into the employee's Account at the time of separation.

RHS accounts are deemed forfeited if the Participant dies with no IRS eligible Survivors to assume the account balance. An eligible Survivor is defined as (a) the Participant's lawful spouse, (b) the Participant's child under the age of 27 as defined by /RC Section 152(f)(1), or (c) any other individual who is a person described in /RC Section 152(a). Upon the death of the Participant's survivors, remaining RHS assets are returned to the employer's RHS trust after 12 months from the notification of death. Survivors may not designate a beneficiary under the RHS plan.

3. Account Contributions

Account contributions are categorized as Part A, Part B and Part C.

Part A contributions are a mandatory, automatic 1% employee contribution deducted each pay period and deposited into the Account through payroll. Deductions begin the pay period in which the employee becomes eligible and are reported to Ca/PERS as pensionable.

Part B contributions require a five year vesting period which begins when the employee becomes eligible for the RHS benefit. At the conclusion of the vesting period, the City will credit the first five years' worth of Part B contributions into the Account (interest does not accrue during that period and the contributions are calculated at \$2.50 per month for each year of the employee's full-time service plus age) and begin to contribute \$2.50 per month for each year of the employee's full-time service plus age (e.g. 30 years old and five years of service would be a factor of 35. $\$2.50 \times 35 = \87.50 per month). This factor is updated annually in the pay period including January 1. Part B contributions are not reported to CalPERS as pensionable.

The parties agree that the City's Part B contributions during active employment constitute the minimum CalPERS participating employer's contribution (i.e., the Ca/PERS statutory minimum amount) towards medical insurance after retirement. The parties also agree that, for retirees selecting a Ca/PERS medical plan, or any other plan with a similar employer contribution requirement, the required employer contribution will be deducted from the employer's contribution to the retiree's account.

Part C contributions are determined by Association election and deposited into the Account when flex leave hours are converted to taxable cash through leave cash-out or at the time of separation or status change. Spillover pay does not qualify for Part C contributions. Part C contributions are not reported to CalPERS as pensionable.

The Association determines the level of contribution for all unit members, subject to the following constraints. All employees within the Association must participate at the same level. The participation level shall be specified as a percentage of the flex leave balance available in each employee's leave bank at the time of separation from the City, or status change, or as a percentage of the flex leave balance being cashed out.

For example, if the Association wishes to elect 30% Part C contributions, then each member leaving the City, or cashing out eligible leave at any other time, would have the cash equivalent of 30% of the amount that is cashed out deposited to their RHS Account on a pre-tax basis. The remaining 70% would be paid in cash as taxable income. Individual employees do not have the option to deviate from this breakout.

The Association may change the Part C contribution amount as part of a meet and confer process. The purpose and focus of these changes should be toward long-term, trend type adjustments. Due to IRS restrictions regarding "constructive receipt," the City will impose restrictions against frequent spikes or drops that appear to be tailored toward satisfying the desires of a group of imminent retirees.

The Association has decided to participate in Part C contributions at the level of zero percent (0%) flex leave.

Nothing in this section restricts taking leave for time off purposes.

4. Benefit

- (a) Category 1: Employees in this category make Part A and receive Part B contributions (subject to vesting) automatically each pay period through payroll deductions. Part C contributions are received through cash outs. No contributions are made to Category 1 participants after separation.
- (b) Category 2: Employees in this category make Part A and receive Part B contributions (subject to vesting) automatically each pay period through payroll deductions. Part C contributions are received through cash outs. No contributions are made to Category 2 participants after separation.

If a Category 2 participant retires from the City with a minimum of 5 consecutive years of full-time service, the City will contribute to the participant's Account a one-time contribution equal to \$100 per month for every month the participant contributed to the previous "defined benefit" plan up to a maximum of 15 years (180 months). This contribution is deposited into the Account at the time of retirement, and only if the employee retires from the City and becomes a Ca/PERS annuitant of the City of Newport Beach. No interest will be earned in the interim.

For Category 2 participants with less than five years of continuous contributions into the prior defined benefit plan as of January 1, 2006, only the years of service after January 1, 2006 count towards Part B contributions upon vesting. Contributions in years before 2006 will be paid out as stated in the above paragraph.

- (c) Category 3: Employees in this category make Part A contributions automatically each pay period through payroll deductions. Category 3 participants do not receive any Part B contributions. Part C contributions are received through cash outs.

If an eligible Category 3 participant retires from the City of Newport Beach, the City will deposit \$400 per month into the Account upon retirement, up to a maximum of \$4,800 per year, less the CalPERS minimum required employer contribution as determined by CalPERS annually, which shall continue as long as the employee or surviving spouse/qualified dependent is still living. To offset this expense to the City, active Category 3 participants will contribute an additional \$100 per month to the plan until retirement. There is no cash out option for these funds and they cannot be spent in advance of receipt.

Category 3 participants also receive an additional one-time City contribution of \$75 per month for every month they contributed to the previous plan prior to January 1, 2006, up to a maximum of 15 years (180 months). This contribution is deposited into the Account at the time of retirement, and only if the employee retires from the City. No interest will be earned in the interim. Contributions are contingent upon remaining a CalPERS annuitant of the City.

5. Administration

Vendors have been selected by the City to administer the program. The contract expense for program-wide administration by the vendor will be paid by the City. However, specific vendor charges for individual account transactions that vary according to the investment actions taken by each employee, such as fees or commissions for trades, will be paid by each employee.

The City's Deferred Compensation Committee, or its successor committee has the authority to determine investment options that will be available through the plan.

G. Tuition Reimbursement

Subject to the limitations below, NBPTEA members attending accredited community colleges, colleges, trade schools or universities, or recognized professional organizations or agencies may apply for reimbursement of one hundred percent (100%) of the actual cost of tuition, books, fees or other student expenses for approved job-related coursework, seminars or professional development programs. Travel expenses are not eligible for reimbursement. The maximum annual benefit is \$2,000 per fiscal year. Reimbursement is contingent upon the successful completion of the course. Successful completion means a grade of "C" or better for undergraduate courses and a grade of "B" or better for graduate courses. All claims for tuition reimbursement require the approval of the Human Resources Director or designee.

H. Deferred Compensation

All members: —Each unit member shall have the right to enroll in the deferred compensation program set up by the City and subject to the rules of IRS Code section 457. Unit members who enroll in the City deferred compensation program are eligible for City contributions to their City deferred compensation account as follows:

~~One-Time Deposit: Effective the first day of the pay period which includes January 1, 2023, unit members who are enrolled in the City's deferred compensation program will receive a one-time deposit of five hundred dollars (\$500). The City is only obligated to make the contribution if the unit member has enrolled in the deferred compensation program as of the first day of the pay period which includes January 1, 2023. This deposit is for this pay period only and does not carry over to subsequent pay periods. There is no retroactivity.~~

Matching City Contributions: Effective the first day of the pay period which includes January 1, 2023, the City shall match a unit member's deferred compensation contribution up to a maximum of thirty dollars (\$30) per month. The City is only obligated to make the contribution if the unit member has enrolled in the deferred compensation program. There is no retroactivity.

Additional matching City contributions to Deferred Compensation Based on Years of Service: In addition to the City contribution provided above, the City shall match

contributions to eligible unit members' deferred compensation accounts as follows:

Years of Service	January 1, 2023	January 1, 2024	January 1, 2025
15-19	\$20	\$25	\$30
20-25	\$25	\$30	\$35
25+	\$30	\$35	\$40

Under federal law, there is an annual maximum contribution which may be made to an employee's IRS Code section 457 account. Although the City will be making contributions to the members' accounts each pay period as described above, it is the members' responsibility to track their total contribution amount. If a member's account contributions reach the annual IRS Code section 457 maximum, the City will stop making contributions for the remainder of the calendar year and shall not owe the member any additional compensation under this section.

SECTION 5. - Miscellaneous

A. Reductions in Force/Layoffs

The provisions of this section shall apply when the City Manager determines that a reduction in the work force is warranted because of actual or anticipated reductions in revenue, reorganization of the work force, a reduction in municipal services, a reduction in the demand for service or other reasons unrelated to the performance of duties by any specific employee. Reductions in force are to be accomplished, to the extent feasible, on the basis of seniority within a particular Classification or Series and this Section should be interpreted accordingly.

DEFINITIONS

1. "Bumping Rights", "Bumping" or "Bump" shall mean (1) the right of an employee, based upon seniority within a series to bump into a lower ranking classification within the same series, (2) to be followed by an employee being permitted to bump into a classification within a different series. The latter bumping shall be based upon unit wide seniority and shall be limited to a classification in which the employee previously held regular status.

No employee shall have the right to bump into a classification for which the employee does not possess the minimum qualifications such as specialized education, training or experience.

2. "Classification" shall mean one or more full time positions identical or similar in duties not including part-time, seasonal or temporary positions. Classification within a Series shall be ranked according to pay (lowest ranking, lowest pay).
3. "Layoffs" or "Laid Off" shall mean the non-disciplinary termination of employment.

4. "Seniority" shall mean the time an employee has worked in a Classification or Series calculated from the date on which the employee was first granted regular status in the current Classification or any Classification within the Series, subject to the following:
 - a. Credit shall be given only for continuous service subsequent to the most recent appointment to regular status in the Classification or Series; and
 - b. Seniority shall include time spent on a// City state and/or federally protected and authorized leaves but shall not include time spent on any unauthorized leave of absence.
5. "Series" shall mean two or more classifications within a Department which require the performance of similar duties with the higher-ranking classification(s) characterized by the need for less supervision by superiors, more difficult assignments, more supervisory responsibilities for subordinates. The City Manager shall determine those classifications following a meet and consult process which constitute a Series.

PROCEDURE

In the event the City Manager determines to reduce the number of employees within a classification, the following procedures are applicable:

1. Probationary employees within any Classification shall be laid off before regular employees.
2. Employees within a Classification shall be laid off in inverse order of Seniority.
3. An employee subject to Layoff in one Classification shall have the right to Bump a less senior employee in a lower ranking Classification within a Series. An employee who has Bumping rights shall notify the Department Director within three (3) working days after notice of Layoff of their intention to exercise Bumping Rights.
4. In the event two or more employees in the same Classification are subject to Layoff and have the same Seniority, the employees shall be laid off following the Department Director's consideration of finalized performance evaluations.

NOTICE

Employees subject to Lay-off shall be given at least thirty (30) days advance notice of the Layoff or thirty (30) days' pay in lieu of notice. In addition, employees laid off will be paid for all accumulated paid leave and holiday leave (if any).

REEMPLOYMENT

Employees who are laid off shall be placed on a Department re-employment list in reverse order of Layoff. The re-employment list shall expire in eighteen (18) months. In the event a vacant position occurs in the Classification which the employee occupied at the time of Layoff, or a lower ranking Classification within a Series, the employee at the top of the Department re-employment list shall have the right within seven (7) days of written notice of appointment. Notice shall be deemed given when personally delivered to the employee or deposited in the U.S. Mail, first class postage prepaid, and addressed to the employee at their last known address. Any employee shall have the right to refuse to be placed on the re-employment list or the right to remove their name from the re-employment list by sending written confirmation to the Human Resources Director.

SEVERANCE

If an employee is Laid Off from their job with the City for economic reasons, the City will grant severance pay in an amount equal to one week of pay for every full year of continuous employment service to the City up to ten (10) weeks of pay.

B. Recruitment and Selection

Position vacancy announcements for available City positions shall be distributed in a manner that reasonably assures unit members access to the announcements. In order to select the most qualified individual for vacant positions the City will continue its practice of "banding" candidates into one of the following ratings: Outstanding, Highly Recommended, Recommended, and Not Recommended, during the testing process. Department Directors review qualified candidates in band order, beginning with the top band and are permitted to hire any eligible candidate from the list (minimum rating of Recommended).

Where no less than 2 unit members achieve top three ranking on a certified eligible list, selection to the position shall be made with preference given to the unit members so qualified.

C. ~~9/80 Scheduling Plan~~ Alternate Work Schedule

Unit members may work either a 5/40 or 9/80 work schedule: an alternative work schedule (e.g., 9/80, 4/10) subject to supervisor approval.

Employees assigned to the 9/80 work schedule will have alternating Fridays off with the City determining which employees will work on each alternating Friday to ensure effective coverage of the work. Supervisors may approve a different alternating day off based on extenuating business circumstances.

The City agrees to maintain flex-scheduling where it is currently operating successfully in this unit.

D. Labor Management Committee

The City will work with NBPTEA leadership, through its managers, to establish labor-management committees departmentally whenever it is mutually determined it is appropriate to do so.

E. Grievance Procedure

Any employee or group of employees may file a grievance regarding the interpretation or application of the "Employer-Employee Relations Resolution" (RESOLUTION 2001-50), this MOU, or of rules and regulations, adversely affecting an employee's wages, hours, or conditions of employment. Except as otherwise provided by law, the Grievance Procedure is the sole and exclusive method by which an employee or the Association may challenge the interpretation and/or application of a provision of the MOU.

A grievance shall be filed according to the following procedure:

Step 1: A grievance may be filed by any employee on their own behalf, or jointly by a group of employees, or by the Association.

A grievance shall be brought to the attention of the immediate supervisor for discussion within ten (10) days after an employee or Association Board member knew, or in the exercise of reasonable diligence should have known, the act or events upon which the grievance is based. If the Employee or the Association (if filed by the Association is not satisfied with the decision reached through the informal discussion or if extenuating circumstances exist, the Employee or Association shall have the right to file a formal grievance in accordance with Step 2 of this section. Grievances not presented within the time period shall be considered resolved.

The supervisor shall meet with the grievant to settle grievance and give a written answer to the grievant within seven (7) calendar days from receipt of the grievance by the supervisor. When the immediate supervisor is also the department head the grievance shall be presented in Step 2.

Step 2: If the employee or the Association (if filed by the Association) is not in agreement with the decision rendered in Step 1, the grievant shall have the right to present a formal grievance to the Department Director within ten (10) Days after the discussion in Step 1. The right to file a grievance petition shall be waived in the event the Employee or Association fails to file a formal grievance within ten (10) Days after the occurrence of the incident that forms the basis of the grievance. All formal grievances shall be submitted on the form prescribed by the Human Resources Director and no formal grievance shall be accepted until the form is complete. The formal grievance shall contain a clear, concise statement of the grievance, the facts upon which the grievance is based, the rule, regulation or policy the interpretation of which is involved in the grievance, and the specific remedy or remedies sought by the grievant. The Department Director should render a written decision within ten (10) Days after receipt of the formal grievance.

Step 3: If the formal grievance has not been satisfactorily adjusted in Step 2, it may be appealed to the City Manager within ten (10) Days after the Employee receives the decision. The City Manager may accept or reject the decision of the Department Director and shall render a written decision within ten (10) Days after conducting a grievance hearing. The decision of the City Manager shall be final and conclusive. If mutually agreeable, a meeting may be conducted involving all affected parties at any step in the grievance procedure prior to a decision. The City Manager may delegate uninvolved Department Directors to act on behalf of the City Manager to provide findings and recommendations. The findings and recommendations of the uninvolved Department Directors are advisory only and the City Manager's decision shall be final.

Time Limits: Grievances shall be processed from one step to the next within the time limit indicated for each step. Time limits shall be strictly enforced. Any time limits can be waived or extended only by mutual agreement confirmed in writing. Any grievance not carried to the next step by the Employee or Association within the prescribed time limit shall be deemed resolved upon the basis of the previous decision.

F. Probation

1. Probationary Period

Newly hired employees shall serve a twelve (12) month probationary period. The probationary period for promoted employees shall be six (6) months.

Newly hired employees shall become eligible for their first step increase after twelve (12) months. All other City rules regarding step increases shall remain unchanged.

2. Failure of Probation

(a) New Probation

An employee on new probation may be released at the sole discretion of the City at any time without right of appeal or hearing.

(b) Promotional Probation

An employee on promotional probation may be failed at any time without right of appeal or hearing and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.

An employee who fails promotional probation shall receive a performance evaluation stating the reason for failure of promotional probation.

When an employee fails their promotional probation, the employee shall have the right to return to their former class provided the employee was not in the previous class for the

purpose of training for a promotion to a higher class. When an employee is returned to their former class, the employee shall serve the remainder of any uncompleted probationary period in the former class.

If the employee's former class has been deleted or abolished, the employee shall have the right to return to a class in their former occupational series closest to, but no higher than, the salary range of the class which the employee occupied immediately prior to promotion and shall serve the remainder of any probationary period not completed in the former class.

G. Salary on Reclassification

An employee who is reclassified will be provided with a salary increase to the nearest step closest to five (5%) percent (not to exceed the maximum of the new salary range).

H. Direct Deposit

All employees shall participate in the payroll direct deposit system.

I. Uniforms

For assigned Community Development, ~~and~~ Public Works Department and Harbor Department staff whose regular daily duties involve field work outside of the office, uniforms shall be worn at all times during regular business hours. *Field staff shall be provided with City designated apparel as determined by the Department which may include but is not limited to collared shirts (polo or button down as determined by Department hat(s), shirt(s), annually and one City designated winter jacket(s), and appropriate footwear; replacement on an as-needed basis. In addition, inspections staff (Building and Public Works) will be provided one pair of work boots annually.* If the provided ~~winter jacket or work boots~~ jacket or footwear are lost, the employee shall replace them with ~~one item~~ one item meeting Department specifications. Work boots shall provide toe protection and meet Department safety standards for construction sites. The Department Head or designee may approve exceptions to wearing uniforms.

J. Telecommuting Program

The City agrees to a telecommuting program that will provide for 80 hours per calendar year of telecommuting hours to be used in accordance with City policy. ~~While unit members are invited to participate in policy formation, the terms and conditions are subject to management approval before the program will be implemented. Additionally, the provisions of the policy shall not trigger any right of grievance or appeal. This will be a pilot program which shall terminate upon the expiration of this MOU. Once approved, a copy of the policy governing this program will be attached as an addendum to this MOU~~

K. Classification and Compensation Studies

In accordance with the City of Newport Beach Employee Policy Manual (EPM), the City Manager shall reclassify and/or adjust salary schedules for Association positions upon a determination that said adjustment(s) are warranted as a result of a job audit or classification and compensation study. The Association may submit up to three job study requests per fiscal year to the Human Resources Director. If the position requested requires analysis of other positions in the series, each position studied counts towards the total of three job audits per fiscal year.

The Human Resources Director may terminate a study upon a determination that there is no substantial evidence of a material change in duties, or of the need to adjust the compensation. At the time of the request for a job audit, the Association will provide the bases for the job audit request, including but not limited to, all substantial evidence of a material change in duties, and/or the bases for asserting said position's compensation requires adjusting. The job audit should include a detailed analysis of the work performed by, or expected of, the employee(s) and a comparison of that work with the job specifications for the classification. The Human Resources Director shall submit a completed job audit, together with recommendations to the Department Director, the City Manager and the Association.

In the event a position warrants adjustment in job duties and/or compensation, the salary range and effective date shall comply with section 9.2B of the City's EPM. This provision shall terminate upon the expiration of this MOU.

K.L. Separability

Should any part of this MOU or any provision herein contained be rendered or declared invalid, by reason of any existing or subsequently enacted Legislation, or by decree of a Court of competent jurisdiction, such invalidation of such part or portion of this MOU shall not invalidate the remaining portion hereto, and same shall remain in full force and effect.

M. Overpayment

Employees will be notified by Payroll or Human Resources prior to the recovery of overpayments on paychecks. Recovery of more than 15% of net pay will be subject to a repayment schedule established by the appointing authority under guidelines issued by the Finance Department or Human Resources. Such recovery shall not exceed 15% per month of disposable earnings, as defined by State law, except a mutually agreed upon accelerated payment plan for faster recovery.

Recoupments under this section shall be limited to forty-eight (48) months. However, nothing in this section is intended to preclude the City from seeking recoupment of overpayments due to fraud or other knowing concealment through any available legal forum.

Signatures are on the next page.

- ~~Side Letter – January 11, 2022~~
 - ~~Side Letter – August 23, 2022~~
 - ~~[Side Letter – November 29, 2022]~~
 - ~~Side Letter – April 11, 2023~~
- ~~Side Letter – September 24, 2024 – supersedes 11.29.22 SL~~