

MEMORANDUM OF AGREEMENT

between the

City of Del Mar

and the

Del Mar Firefighters Association

IAFF LOCAL 4163

Firefighter Unit

July 1, 2021 through June 30, 2023

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Preamble

This Agreement is made and entered into by and between the City of Del Mar (hereinafter "City") and the Del Mar Firefighters Association (hereinafter "Association").

This Agreement is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3511) and has been prepared jointly by the City and Association.

It is the purpose of this Agreement to achieve and maintain harmonious relations between the City and the Association to provide for equitable and peaceful adjustment of differences which may arise, and to establish proper standards of wages, hours and other conditions of employment.

Representatives of the City and the Association have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment and have exchanged freely information, opinions and proposals in a sincere effort to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

The parties agree that this Preamble is not subject to the grievance procedure.

Article 1 - Recognition

- 1.1 The City recognizes the Association as the exclusive representative for all classes assigned to the Firefighter Unit as well as such classes that may be added to this unit by mutual agreement of the parties.
- 1.2 All provisions and benefits of this Agreement shall be applicable to employees in classes in the above-mentioned bargaining unit, unless specifically provided otherwise herein.
- 1.3 The classes in this unit are listed in Appendix A.

Article 2 - Implementation

- 2.1 This Agreement constitutes a mutual recommendation to be jointly submitted to the City Council following ratification of the Agreement by the members of the Association.
- 2.2 If approved by the City Council, the City shall act in a timely manner to make the necessary changes to resolutions, rules, policies and procedures to implement and conform to this Agreement.

Article 3 - City Rights

3.1 It is agreed the City shall have the right to:

- Determine the mission of its constituent departments, commissions, and boards;
- Determine the procedures and standards of selection for employment and promotions;
- Direct its employees, take disciplinary action for just cause;
- Relieve its employees from duty because of lack of work or for other legitimate reasons;
- Maintain the efficiency of governmental operations;
- Determine the methods, means and personnel by which government operations are to be conducted;
- Determine the content of job classifications;
- Take all necessary actions to carry out its mission in emergencies;
- Exercise complete control and discretion over its organization and the technology of performing its work.

3.2 The exercise of such rights shall not preclude the Association from conferring with management representatives about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment.

3.3 Except in an emergency, management decisions shall not supersede the provisions of this Agreement.

3.4 Actions taken by management to meet an emergency that are not in compliance with this Agreement shall be in effect only for the duration of the emergency.

Article 4 - Employee Rights

4.1 It is agreed that each individual employee shall have the following rights which he/she may exercise in accordance with applicable laws, ordinances, and rules and regulations.

4.2 The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal on the part of the management representatives, the supervisor, other employees, or employee organizations, with respect to his/her membership or non-membership in any employee organization or with respect to any lawful activity associated therewith which is within the scope of representation.

Article 5 - Association Access

5.1 Authorized Association representatives shall be granted access to work locations for the purpose of conducting grievance investigations or contacting members of the Association concerning business within the scope of representation.

5.2 Association representatives shall not interfere with the work operations of the City.

- 5.3 Association representatives have the right to meet with employees only during coffee, rest, or lunch breaks at a public City facility as may be available.
- 5.4 It is agreed that the Association may use City facilities to conduct general meetings when such facilities are available, as determined by the City.

Article 6 - Bulletin Boards

- 6.1 It is agreed that the City will allow bulletin boards in agreed upon places for the use of the Association in posting appropriate notices and announcements of meeting, elections, social activities and any other Association official business.
- 6.2 Prior to posting, such notices shall be initialed by an authorized Association representative or shall appear on official Association letterhead.
- 6.3 Such notices shall not ridicule, or defame managers, officers, or agents of the City.

Article 7 - General Provisions

- 7.1 **No Discrimination:** There shall be no discrimination against any personnel or applicant because of race, color, marital status, non-job related medical condition, religion, sex, sexual orientation, age, national origin, ancestry, or non-job related handicap or disability.
- 7.2 **Personnel Folder:** Employees shall have the right to review their individual personnel folder. Access shall be scheduled at the convenience of the parties. Except for information received as part of the recruitment process, no derogatory information shall be placed in an employee's folder without notifying the employee and giving the employee an opportunity to read and initial the information. Upon request, an employee may have a copy of information in his/her file, with the exception of information received during the recruitment process.
- 7.3 **Negotiating Team:** The City agrees to provide reasonable time off without loss of pay, during scheduled work hours, for representatives of the Association when said representatives are negotiating on matters within the scope of representation.
- 7.4 **Grievance Representative:** A representative of the Association shall be allowed to be present at the request of any employee, at any meeting with management involving a grievance, or any pre-disciplinary matter. The representative shall not interfere with normal work operations of the Department.

Article 8 - Payroll Deduction and Association Dues

- 8.1 It is agreed that Association dues and such other deductions as may be properly requested and lawfully permitted shall be deducted by the City from the salary of each employee covered hereby who files with the City a written authorization requesting that such deductions be made.

- 8.2 Remittance of the aggregate amount of all dues and other proper deductions made from the salaries of employees covered hereunder shall be made to the Association by the City.
- 8.3 It is not the intent of this article to alter the current practice of remitting dues and other deductions to the Association.

Article 9 - Severability

- 9.1 This Agreement is subject to all current and future applicable Federal, State, and local laws.
- 9.2 All City ordinances, rules and regulations and policies shall be subject to the appropriate revisions, amendments and deletions necessary to conform with the purpose, intent and application of the Articles of this Agreement.
- 9.3 If any Article or section of this Agreement is found by a Court of competent jurisdiction to be in conflict or inconsistent with such applicable provisions of Federal, State, or local laws, the parties shall, where applicable, meet and confer for the purpose of arriving at a mutually agreeable replacement for such Article or section.
- 9.4 The validity of the remainder of this Agreement shall not be affected thereby.

Article 10 - Term

The term of this Agreement shall become effective July 1, 2021. This Agreement shall expire and otherwise fully terminate on June 30, 2023.

Article 11 - Renegotiations

In the event the Association desires to negotiate on the provisions of a successor Agreement, it shall serve upon the City, during the month of January of the last year of this Agreement, its written request to commence negotiations and its initial written proposals for such successor Agreement. Negotiations shall begin at a time mutually agreeable to the parties.

Article 12 - Agreement, Modifications, & Waivers

- 12.1 This Agreement sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements over these matters between parties, whether formal or informal, are hereby superseded or terminated in their entirety.
- 12.2 Except as specifically provided herein, it is agreed and understood that the parties hereto shall not be required, but do reserve the right upon mutual agreement, to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of representation, during the term of this Agreement.

- 12.3 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed by all parties hereto.
- 12.4 The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.
- 12.5 During the term of this agreement, the Association agrees to meet and confer in good faith, at the request of the City, on proposed changes in wages and City-paid benefit contributions. The City shall give the Association notice and provide an opportunity to meet prior to implementation. The parties shall meet promptly and endeavor to reach an agreement in a timely manner. If an agreement is not reached in a timely manner, the City reserves the right to proceed by management direction.

Article 13 - Authorized Agents

For purposes of administering the terms and provisions of this Agreement:

The City's principal authorized representative shall be the City Manager or his/her duly authorized representative (address: 1050 Camino del Mar, Del Mar, CA 92014, telephone (858) 755-9313).

The Association's principal authorized agent shall be the designated representative of the Del Mar Firefighters Association (address: Box 512, 2683 Via de la Valle #G, Del Mar, CA 92014).

Article 14 - Concerted Activities

- 14.1 It is agreed that there will be no strike, work stoppage, slow-down, picketing or refusal or failure to full and faithfully perform job functions and responsibilities, or other interference with the operations of the City by the Association or by its officers, agents, or members during the term of this Agreement, including the recognition of picket lines or additional compliance with the request of other labor organizations to engage in such activity.
- 14.2 Association recognizes the duty and obligation of its representatives to comply with the provisions of this Agreement and to make every effort toward inducing all employees to do so.
- 14.3 In the event of a strike, work stoppage, slowdown, or other interference with the operations of the City by employees who are represented by the Association, the Association agrees in good faith to take all necessary steps to cause those employees to cease such action.
- 14.4 It is agreed that any employee violating this Article may be subject to discipline up to and including terminations by the City.

Article 15 – Salaries

15.1 Effective July 1, 2022, the existing 12-step compensation range will be converted to a 5-step compensation range. An employee shall move through the compensation range in accordance with the City’s Personnel Rules and Regulations Manual.

15.2 New hires will be placed at Step A in the existing 12-step compensation range upon hire unless another step in the range is deemed appropriate based on their experience and qualifications, at the recommendation of the Fire Chief and approval by the City Manager.

15.3 Effective July 1, 2021, salaries for all classifications covered by this Agreement shall have their base pay adjusted by 1.7% on the first day of the pay period starting closest to July 1, 2021.

15.4 Effective July 1, 2022, salaries for all classifications covered by this Agreement shall have their base pay adjusted by 2% on the first day of the pay period starting closest to July 1, 2022.

Article 16 - Work Schedule and Staffing

16.1 This article is intended to define the normal hours of work and shall not be construed as a guarantee of work per day or per week, or of days of work per week.

16.2 **Workday/Workshift:** The normal workday shall be a twenty-four (24) hour period, beginning at 0800 and continuing until the next day, ending at 0800 hours (8 a.m. to the following 8 a.m.).

16.3 **Workweek:** The workweek shall average approximately 56 hours per week over a one (1) year period.

16.4 **Emergencies:** Nothing herein shall be construed to limit or restrict the authority of management to make temporary assignments to different or additional locations, shifts, or duties for the purpose of meeting an emergency. Such emergency assignments shall not extend beyond the period of said emergency.

16.5 **Staffing:** The minimum staffing for the Del Mar Fire Department shall be 1 Fire Captain, 1 Fire Engineer and 1 Firefighter/Paramedic.

16.6 **Shared Resource Pool:** City and the Association anticipate that City will enter into an agreement with neighboring cities to share fire safety personnel ("Shared Resource Pool"). City and the Association approve of a Shared Resource Pool, subject to approval by the City Council.

Article 17 - Overtime

- 17.1 All employees are eligible for overtime pay computed at one and one-half times their FLSA regular rate for all hours ordered by management and worked by the employee in excess of 182 hours worked in a twenty-four (24) consecutive day work period.
- 17.2 For the purpose of determining hours worked to satisfy the FLSA overtime requirements, "hours worked" shall include holidays (as provided for in Article 25, Holidays), sick leave and vacation time.
- 17.3 All holidays listed in Article 25, Holidays, shall be considered as hours worked when totaling hours worked for the purposes of computing emergency overtime eligibility. "Emergency" shall be defined as an unanticipated circumstance which requires immediate response.
- 17.4 The overtime work period shall be as determined by the City.
- 17.5 All overtime shall be authorized in writing by the department head prior to being compensated.
- 17.6 All overtime shall be paid to the nearest quarter hour worked.
- 17.7 Employees eligible for overtime pay may elect to receive compensatory time off (CTO) at time and one-half (1 1/2) in lieu of overtime pay.
- 17.8 An employee may accrue and have a maximum current credit of ninety-six (96) hours of CTO.
- 17.9 Effective upon implementation of this Agreement, the City and Union agree to modify the employee compensation to provide biweekly pay consisting of 106 hours of straight time and 6 hours of FLSA overtime for hours worked in accordance with FLSA regulations.

Article 18 - Work Clothes

- 18.1 The City shall continue to provide work clothes for those jobs where work clothes are currently provided and for such new jobs as determined by the City.
- 18.2 Such work clothes shall be of a color and design determined mutually by the parties, but if no agreement can be reached, then the determination shall be made by the City.
- 18.3 Employees shall give reasonable care to City provided work clothes.

Article 19 - Required Footwear

- 19.1 Employees required by the City to wear protective footwear for safety reasons, shall continue to be reimbursed for the purchase of such footwear or continue to have such footwear provided by the City, as appropriate.
- 19.2 The footwear shall have the safety features required by the City.

Article 20 - Exchange of Shifts

- 20.1 The exchange of shifts shall be a privilege which is allowed by the City and granted by the Fire Chief or his designee. An employee shall be allowed to trade hours worked with another employee, at the initiation of the employees involved only after the request has been submitted in advance, under the following conditions:
- 20.2 Exchanges shall be rank for rank except that employees may exchange with a rank for which they are qualified as determined by the Fire Chief.
- 20.3 The tracking and scheduling of trades shall be handled in the current scheduling system. All trades shall be entered into the current scheduling system prior to the trade time worked. The trade can only be entered into the scheduling system by the “Trade Working” employee, or by a shift Captain at the request of the employee. This confirms that the employee has agreed to the trade.
- 20.4 Upon approval of an exchange, the relieving employee is responsible for working on the subject date and the relieved employee is divested of responsibility for coverage on that date.
- 20.5 Sick leave cannot be used to cover trade payback hours. In the event the relieving employee calls in sick on a trade, or misses a scheduled trade, he/she will accrue “Time Owed” to the Department. Time Owed must be paid back, on an hour-for-hours basis, within one (1) year of accrual. Time Owed is to be paid back in lieu of overtime hours. Neither vacation time nor “Comp. Time” may be used to cover missed trades.
- 20.6 Relieved employees shall assume responsibility for repayment of shift exchanges.
- 20.7 The Fire Chief, or his designee, may refuse any shift trade that could affect the training or staffing needs of the Fire Department.
- 20.8 Exchanges shall be at no cost to the City. Hours traded are to be considered “time neutral” for FLSA accounting. Meaning they have no cost for, or against, hours worked.
- 20.9 An employee shall not be allowed to exchange shifts if the employee has more than seventy-two (72) hours in outstanding Time Owed to the Department for missed trades. The Fire Chief may suspend this rule for an individual for extended illness, injury, or other hardship.

20.10 In the event of an employee retiring or leaving service, any time trades owed must be paid back prior to departure. It is the responsibility of the employee who is “owed a time payback” to ensure the time is re-paid.

20.11 During the probationary period, employees cannot owe more than forty-eight (48) hours of time trades. The Fire Chief or designee may grant additional hours for hardship.

Article 21 - Tuition Reimbursement

21.1 A fund shall be established for tuition reimbursement. The City shall pay up to one thousand dollars (\$1,000) per employee per fiscal year (provided funds are available) towards tuition reimbursement.

21.2 Prior to enrolling in a course, an employee must secure department head approval that the course work is job-related and submit to the department a proposed expenditure request.

21.3 Upon conclusion of the course work, the employee must submit proof of a "C", "pass" or other appropriate notice of successful course completion to his/her department head along with an expenditure claim for tuition, books, or other required course materials.

21.4 This fund is not intended to preclude other training or course work which may have been contemplated by departments for such employees.

21.5 There shall be a joint Association/City committee established to develop and update a list of classes which shall be eligible for tuition reimbursement.

Article 22 - Mileage

22.1 Employees shall be reimbursed at the maximum allowable exempt rate of reimbursement provided by the Internal Revenue Service for the authorized use of their private vehicle on City business.

22.2 Employees shall also be reimbursed for parking fees paid while using their vehicle on City business.

Article 23 - Work Out-of-Grade

23.1 The term "work out-of-grade" shall be defined as the full-time performance of the significant duties of a vacant, funded position in one classification by an individual in a classification with a lower compensation range.

23.2 If an employee is required by management to work out of grade for more than one hour the department head shall appoint the employee on an out-of-grade position.

23.3 Compensation for such appointment shall be effective from the first hour of such appointment.

23.6 An employee eligible to be paid for working out-of-grade shall receive a 5% increase. In the event the 5% calculation results in a salary that is between salary steps (e.g.; if the 5% calculation is between steps C and E) the pay shall be computed at the 5% rate. It shall not be rounded up to the next step and the pay cannot exceed the salary range of the acting classification.

Article 24 - Call Back

- 24.1 Call back work is defined as work required by management of an employee who, following completion of the employee's workday or work week and departure from the employee's work site, is unexpectedly ordered to report back to duty to perform necessary work.
- 24.2 Employees who are called back shall receive a minimum of four (4) hours compensation at time and one half between 12 midnight and 6 a. m., and a minimum of two (2) hours compensation at time and one half between 6:01 a. m. and midnight.
- 24.3 Whenever an employee is called back, the employee shall receive the minimum provided or pay for hours actually worked, whichever is greater.
- 24.4 Hours worked shall be calculated beginning at the time the call back is received by the employee and ending when the employee is relieved of duty.
- 24.5 If an employee, who was called back to work and has completed his/her assignment and left work, is again called back to work, he/she will not receive another minimum if the time of return is within the previous call back minimum.

Article 25 - Holidays

25.1 The following days are the holidays for the employees in this unit:

Independence Day	July 4th
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
Day After Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24th
Christmas Day	December 25th
New Year's Eve	December 31st
New Year's Day	January 1st
Martin Luther King Day	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May

25.2 When a day is proclaimed by the Mayor of the City for a public fast, Thanksgiving, day of mourning, or holiday, then day shift employees shall be granted time-off and 24-hour shift employees shall receive an additional 11.6 hours of pay for the pay period in which the holiday proclaimed pursuant to this Article occurs.

Day Shift Employees:

25.3 An employee who works on the day a holiday is observed, as provided above, shall be paid for the holiday, just as all employees are paid for the holiday.

25.4 In addition to being paid for the holiday, the employee shall be compensated for the hours he/she actually works on the holiday.

25.5 Such compensation shall be either cash or compensatory time off, at the employee's option.

24-Hour Shift Employees:

25.6 If a holiday falls on an employee's regularly scheduled workday, the employee shall not receive the holiday as a day off. Rather, the employee shall be compensated for the holiday as provided in 25.7 below.

25.7 In each pay period in which a holiday occurs, each 24-hour shift employee shall receive holiday compensation of eleven and six-tenths (11.6) hours paid at their base hourly rate, in addition to their regular compensation.

Article 26 - Vacation

26.1 Except as provided for in section 26.2 below, employees shall earn vacation leave based on the following:

Years of Service	Vacation
0 - 3 years	114.5 hrs/yr or 4.404 hrs/pp
4 - 10 years	171.75 hrs/yr or 6.605 hrs/pp
11 years and above	229 hrs/yr or 8.808 hrs/pp

26.2 Employees shall not earn vacation once their accrued vacation balance has reached three hundred and eighty-four (384) hours.

26.3 Employees who have exceeded the maximum shall again begin to earn vacation when their balance is reduced below the 384 hour maximum.

26.4 Upon termination of employment with the City, an employee may opt to receive pay for his/her current vacation leave balance (at the employee's current base hourly rate) or choose to have the City deposit the pre-taxed funds into the employees 457(b) plan not to exceed Internal Revenue Service (IRS) annual limits.

- 26.5 When employees take vacation, their accrued vacation bank shall be reduced by one (1) hour for each one (1) hour taken.

Article 27 - Sick Leave

- 27.1 During the term of this agreement, sick leave shall be accrued at the rate of 11.6 hours for each calendar month of service.
- 27.2 There shall be no maximum to the amount of sick leave that an employee may accumulate.
- 27.3 When an employee takes sick leave, their accrued sick leave bank shall be reduced one (1) hour for each one (1) hour taken.
- 27.4 The City’s contract with PERS shall include sick leave conversion for retirement credit.
- 27.5 Sick leave may be used for personal illness or injury, emergency or routine medical or dental appointments, including pregnancy as provided in Article 29, Maternity Leave, and for reasonable travel time to and from health care facilities.
- 27.6 Up to forty-eight (48) hours of sick leave may be used to care for a member of the employee's immediate family who is ill or injured.
- 27.7 For purposed of this Article, immediate family means parent, step-parent, and any other family member, including a registered domestic partner,.

Article 28- Personal Leave

- 28.1 Employees have the option of taking a maximum of up to three (3) shifts of sick leave each year as personal leave.
- 28.2 An employee may take personal leave, if and only if, the employee has a current sick leave balance that is at least equal to the number of personal leave hours the employee wants to take.
- 28.3 Employees are required to obtain management approval prior to taking personal leave.

Article 29- Maternity Leave

- 29.1 An employee disabled by pregnancy, child birth, or related medical condition shall be granted leave for the duration of the disability, as needed for all disabilities related to each pregnancy.
- 29.2 An employee may utilize time from her accrued vacation balances or accrued sick leave balances to cover the period of her absences.

- 29.3 An employee who plans to take maternity leave shall give the City reasonable advance notice, and an estimate of the duration of her absence.
- 29.4 If the employee meets the requirements of 29.3 above, then upon return to work, the employee shall be placed in her same job.
- 29.5 The employee shall notify the City at least thirty (30) calendar days prior to her return from maternity leave of her intention to return to work, and provide the City with satisfactory written verification from a physician or other licensed health care practitioner, that her disability has ceased.

Article 30 - Bereavement Leave

- 30.1 Employees may have up to two (2) shifts leave of absence for each death in their immediate family for the purpose of bereavement, and for the arranging of and attendance at, the funeral.
- 30.2 For the purposes of this Article, immediate family means spouse, registered domestic partner, parent, step-parent, grandparent, child, step-child, brother, or sister.
- 30.3 If an employee must attend a funeral more than five hundred (500) miles from the City, or if the death is to a member of the employee's extended family, then the employee may use up to forty-eight (48) hours of sick leave from his/her current sick leave balances in addition to any leave provided in 30.1 above.
- 30.4 An employee who is requested by Management to represent the City of Del Mar at a funeral shall be compensated for such attendance.

Article 31 – Union Time Bank

- 31.1 During the month of January, Employees may voluntarily donate up to 4 hours of vacation or holiday leave per calendar year to a Union Time Bank to be used by employees to attend such activities as conferences, educational opportunities, and related union business as verified and authorized by the President of the Association (or his/her designee) and approved by the City Manager (or his/her designee). Such time shall not be considered City work time, but rather, off duty time engaged in voluntary union business activities. The use of such leave time shall be considered hours worked under the Fair Labor Standards Act (FLSA) in the same way as paid vacation/holiday leave.
- 31.2 Donated leave time shall be converted at the employee's current hourly rate. Funds placed in the bank must be used by the end of the calendar year and there will be no pay out of unused hours and no carryover of funds to the next calendar year.
- 31.3 In the event there are insufficient funds in the bank to cover the employee's time attending to union business, the employee is required to obtain advance approval for paid or unpaid leave to cover any absence from work.

- 31.4 The Association indemnifies and holds the City of Del Mar harmless from any claims of any kind arising from the use of these funds. An employee paid with these funds is not considered working or performing duties within the scope of his/her position for the City of Del Mar while engaged in union business activities under the Article.

Article 32 - Unpaid Leave

- 32.1 An employee may be granted up to eight (8) work shifts of unpaid leave of absence at the sole discretion of the City.
- 32.2 Such leave shall be granted only for compelling reasons if operational requirements permit such absence.
- 32.3 Leave without pay shall not be granted unless the employee has already used all appropriate paid leave.
- 32.4 Such leave may be extended beyond eight (8) work shifts with the approval of the City Manager.

Article 33 - Witness Pay

- 33.1 An employee who serves as a witness within the line of City duty, or on a case related to the employee's job, will receive paid release time for such service.
- 33.2 An employee required to be absent from work by a properly issued court subpoena which compels the employee's presence as a witness, unless the employee is a party or an expert witness, shall receive release time to comply with such subpoena.
- 33.3 To receive release time as provided above, the employee shall deposit with the City any witness fees actually received, except mileage.
- 33.4 An employee who serves as a witness within the line of City duty, or on a case related to the employee's job, on a day that is a regularly scheduled day off, shall be paid at the employee's base hourly rate or at time and one-half, if the employee otherwise qualifies for overtime compensation, for all hours the employee actually is required to be in Court.

Article 34 - Jury Duty Pay

An employee ordered by the Court to serve on jury duty, shall receive paid release time while actually serving such duty, if the employee deposits any fees for service, other than mileage, with the City.

Article 35 - Retirement

35.1 For classifications covered by this agreement hired in the unit **BEFORE** July 1, 2013:

Employees in classifications covered by this agreement, that were hired before July 1, 2013, shall pay a total of twelve-percent (12%) of the CalPERS costs.

The City will off-set that cost by contributing a total of three-percent (3%) to a City-sponsored 401(a) plan on behalf of employees in classifications covered by this agreement that were hired before July 1, 2013.

The City shall continue to provide the full three-percent (3%) off-set on an on-going basis for current employees in the unit that were hired before July 2013, as long as the employees are picking up twelve-percent (12%) of the CalPERS costs.

For classifications covered by this agreement hired in the unit **AFTER** July 1, 2013:

“Classic” CalPERS members that are hired after July 1, 2013, shall pay the full amount of twelve-percent (12%) of the Employee Contribution to CalPERS with no City off-set contribution, except for employees transferring or promoting from the cities of Encinitas, Solana Beach, or Del Mar who shall be eligible for the Off-Set payment into a City-sponsored 401(a) plan..

Pursuant to the Public Employee Pension Reform Act, (PEPRA) “New” CalPERS employees shall pay fifty-percent (50%) of the expected total normal cost rate for the retirement benefit formula as determined by the actuarial provided by CalPERS. In addition, if the employee’s portion of the total normal cost is below twelve-percent (12%), the new employee shall pay up to twelve-percent (12%) of the CalPERS costs.

- 35.2 An employee has no option to receive the contributed amounts directly instead of having them paid by the City to PERS on behalf of the employee.
- 35.3 The Association understands and agrees that employees bear the risk of payment of any increases in the employee contributions above the current percentage made by action of the PERS or the state legislature.
- 35.4 Parties agree that City payment of PERS contributions is made based upon tax treatment currently permitted by the State Franchise Tax Board and the IRS.
- 35.5 Should current tax treatment change, the Association and the employee hold harmless the City, its officers and agents from any and all claims or costs of any type including but not limited to liability for back taxes, arising out of this agreement to pay part of the employee’s PERS contribution.

- 35.6 Should current tax treatment change, the Association shall have the opportunity to meet and confer regarding any such changes.
- 35.7 The City shall continue payroll accounting procedures to allow the employee paid PERS contribution to be made on a pre-tax basis.
- 35.8 The City agrees to amend its contract with PERS to provide employees in this unit the option to purchase PERS service credit based on eligible prior military experience. The City also agrees to support employee efforts to purchase PERS service credit if PERS determines that prior work performed for the City is eligible for conversion. The Association understands that any and all costs associated with the purchase of PERS service credit based on military service or prior work with the City shall be the responsibility of the employee and not the City.
- 35.9 Second Tier Retirement Plan - Effective on or about July 1, 2011, the City amended its CalPERS contract to implement a second tier retirement formula, the 3% @55 Retirement Benefit, for all employees hired after its implementation.

Article 36 - Insurance Committee

- 36.1 The City and the Association shall continue to meet as a committee to investigate alternative health insurance plans and carriers in an effort to provide a reasonable plan at the lowest possible cost.
- 36.2 Such committee shall meet periodically as determined by the City.

Article 37 - Health Insurance

- 37.1 The parties agree that the City has the right to provide this insurance by self-insurance, through an insurance company, or by any other method which provides the coverage outlined. Unless otherwise recommended by the insurance committee, the City shall make at least two (2) insurance providers available for employees.
- 37.2 Prior to changing the current method of coverage, the City shall discuss the change with the Association.
- 37.3 During the term of the Agreement, the City shall make monthly contributions toward health and dental insurance premiums as provided in Section 37.4. It is intended that the City's contributions for health and dental benefits as set forth in this Agreement, match those provided to the Del Mar City Employees Association (DMCEA) during the term of this Agreement. If the DMCEA, or any other bargaining unit, receives a more desirable health care package (Article 37) than the existing plan with the DMFA, such benefits shall also be offered to the DMFA as a "most favored nations" (MFN) on health care provisions; this includes Opt Out Provisions (Article 37.6).

37.4 During the term of this Agreement, the City shall make monthly contributions towards health and dental insurance premiums as provided in the table below, which represents a 4% increase each year:

Coverage	July 1, 2021	July 1, 2022
Employee Only	\$1,093	\$1,137
Employee + 1	\$1,343	\$1,397
Employee + 2	\$1,428	\$1,485

37.5 In the event that the total cost of benefits selected exceeds the allowance, the difference shall be deducted from the employee’s salary as a “salary reduction” item; i.e. paid with pre-tax dollars. If the allowance exceeds the total cost of the benefits selected, the difference shall be paid to the employee in cash, or as allowed for by law.

37.6 Opt Out Provision: Employees who verify proof of coverage by an outside plan may opt out of the City coverage and be eligible for the Opt Out Provision (\$400 per month). In the event that the Opt Out Provision has a negative impact on the City’s ability to obtain health coverage due to declining enrollment in health plans, the City Manager has the authority to terminate the Opt Out Provision.

37.7 The City shall provide each employee a summary of the coverage for the plan under which the employee is covered.

37.8 Employees who retire from the City of Del Mar will have the opportunity to bear the entire cost of their access to the City’s health insurance programs and that continued access to health insurance benefits will require the approval of existing health insurance providers which is believed likely but not guaranteed by the City. In making any amendments to such contracts City shall have the right to agree to those terms and conditions to such amendments, if any, necessary to implement this benefit, so long as any such amendments provide access to health insurance programs as contemplated herein. In the event the current health insurance providers deny retiree access to health insurance benefits at any time during the term of this Agreement, the City shall have no obligation to contract for additional health insurance programs which provide access to health insurance benefits for retirees. Nothing herein contained is intended to guarantee the availability of any particular health insurance program to be offered to City’s employees and retired employees. The retiree health insurance availability is at the sole discretion of the City Manager and can be terminated at any time.

Article 38 - Life Insurance

38.1 The parties agree the City has the right to provide this insurance by self-insurance, through an insurance company, or by any other method which provides the coverage outlined.

38.2 Prior to changing the current method of coverage, the City shall discuss the change with the Association.

- 38.3 The City shall provide term life insurance for each employee in the amount of the employee's annual salary not to exceed \$50,000. Employees may, through payroll deductions, purchase dependent coverage in the amount of \$5,000 for their spouse and children (children 14 days to 6 months = \$500).
- 38.4 Effective not later than July 1, 2001, the City shall amend the current PERS contract to provide the fifth level of the 1959 Survivor Benefits for Local Fire Members.

Article 39 - Dental Insurance

- 39.1 The parties agree the City has the right to provide this insurance by self-insurance, through an insurance company, or by any other method which provides the coverage outlined.
- 39.2 Prior to changing the current method of coverage, the City shall discuss the change with the Association.

Article 40 - Deferred Compensation

- 40.1 Employees shall continue to have the option of participating in the City's deferred compensation plan.
- 40.2 The City has the option of changing plans or providers, however, prior to making any such change, the City shall notify the Association and shall discuss the reasons for the change.
- 40.3 The City agrees to explore the viability of adding more than one deferred compensation carrier and will involve the Association in that process.

Article 41 - Grievance Procedure

General Provisions

- 41.1 "Grievance" is defined as an alleged violation, misinterpretation, or misapplication of this agreement, which adversely affects an employee(s).
- 41.2 "Grievant" is an employee or a group of employees.
- 41.3 Time limits may be waived by mutual written agreement of the parties.
- 41.4 If time limits are not met, the grievance may be advanced to the next step at the option of the party waiting for the response.
- 41.5 A grievant may be represented by a representative of his/her own choice at any step in the presentation of his/her grievance.
- 41.6 No reprisal shall be taken against any employee for the legitimate use of this procedure.

- 41.7 A grievance shall be filed in writing within thirty (30) calendar days of the date on which the employee knew or reasonably should have known of the alleged grievable incident.
- 41.8 Any grievance not timely filed or appealed within specified time limits, shall be null and void.

Procedure

- 41.9 STEP 1: The grievant shall first attempt to resolve the problem through discussions with his/her immediate supervisor.
- 41.10 Such discussions shall be initiated within the time period defined in 40.7 above.
- 41.11 The parties shall make a sincere effort to resolve the problem at this step in a prompt and expeditious manner.
- 41.12 STEP 2: If the problem is not resolved at Step 1 and the grievant wishes to appeal, the grievant shall file a written grievance within the time limits defined in 40.7 above with his/her immediate supervisor.
- 41.13 Such grievance shall be filed on the form provided by the City and the form shall be completely filled out in clear, factual and concise language.
- 41.14 Each party has the option of requesting a meeting to discuss the grievance.
- 41.15 The supervisor shall respond in writing to the grievance within seven (7) days of receipt of the grievance.
- 41.16 STEP 3: If the problem is not resolved at Step 2 and the grievant wishes to appeal, the grievant shall file a written appeal with his/her department head within seven (7) days of the supervisor's response.
- 41.17 Such appeal shall be filed on the form provided by the City and shall state the reasons the answer at the previous step was not acceptable.
- 41.18 The department head shall hold a meeting with the employee to discuss the grievance.
- 41.19 The department head shall respond in writing to the grievance within seven (7) days of receipt of the grievance.
- 41.20 STEP 4: If the problem is not resolved at Step 3 and the grievant wishes to appeal, the grievant shall file a written appeal with the City Manager or his/her designee within seven (7) days of the department head's response.

- 41.21 Such appeal shall be filed on the form provided by the City and shall state the reasons the answer at the previous step was not acceptable.
- 41.22 The City Manager or designee shall hold a meeting with the employee to discuss the grievance.
- 41.23 The City Manager or designee shall respond in writing to the grievance within ten (10) days of receipt of the grievance.

Mediation

- 41.24 STEP 5: If the problem is not resolved at Step 4 and the grievant wishes to appeal, the grievant shall, within ten (10) days from the response of the City Manager, request that the City Manager set up mediation.
- 41.25 A State Mediator shall mediate the dispute according to the normal rules governing mediation.
- 41.26 There shall be no cost to the parties.

Article 42 - Layoffs and Re-Employment

- 42.1 In the event of a layoff, employees who have been promoted during their service with the City may bump back one classification in their career series to a position they formerly held, if there is an employee in the lower classification with less seniority than the employee who wants to bump.
- 42.2 For purposes of this Article, seniority shall be defined as the number of months of paid time since the employee's most recent date of hire with the City.
- 42.3 Employees on layoff shall be offered re-employment in the inverse order of layoff, provided no intervening factors have occurred which essentially change the ability of the employee to perform the offered employment.
- 42.4 Employees recalled to work shall return to work at the time specified by the City.
- 42.5 The City shall give the employee reasonable advance notice.
- 42.6 Employees who fail to report to work shall be considered as having resigned.
- 42.7 Any laid-off employee who refuses an offer of employment to the classification from which they were laid off shall be considered as having resigned.
- 42.8 Employees on a layoff re-employment list shall have preference over new hires.

Article 43 - Personnel Rules & Regulations

43.1 The Articles of this agreement listed below are also covered in the City Personnel Manual. It is the intent of the parties that the provisions in both the Personnel Manual and the agreement be the same. If there is a conflict between the two the provisions of this agreement shall prevail over the Personnel Manual. The affected Articles are:

- | | |
|----------------------------------|-----------------------------------|
| Article 16 Work Schedules | Article 27 Sick Leave |
| Article 17 Overtime | Article 28 Personal Leave |
| Article 21 Tuition Reimbursement | Article 29 Maternity Leave |
| Article 22 Mileage | Article 30 Bereavement Leave |
| Article 23 Work Out-of-Grade | Article 31 Unpaid Leave |
| Article 24 Call-Back | Article 32 Witness Pay |
| Article 25 Holidays | Article 33 Jury Duty Pay |
| Article 26 Vacation | Article 40 Grievance Procedure |
| | Article 41 Layoffs & Reemployment |

Article 44 - Americans with Disabilities

44.1 The parties recognize that the City may be required to make accommodations in order to carry out its obligations under the Americans with Disabilities Act (ADA). Some of these accommodations may require actions which are contrary to the language or intent of existing provisions of this agreement. In such cases, the parties agree that such accommodation shall not constitute a "past practice" or waiver by either party of its right to fully enforce such provisions in the future with regard to persons not subject to the protections of the ADA.

44.2 The parties recognize that circumstances surrounding ADA compliance in individual cases may involve matters which are personal and require the utmost confidentiality. Specifics of an individual case may not be divulged by the City.

Article 45 – Job Fitness Evaluations

45.1 Transitional Return to Work (TRTW) Policy

Purpose

The City is committed to providing a work environment that is free from discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting discrimination and harassment of injured employees.

The City’s Transitional Return to Work (TRTW) Program is designed to assist full-time employees in recovering from work-related and non-work-related injuries or illnesses and returning them to their usual and customary occupation as early as possible.

Policy

It is the policy of the City of Del Mar that:

A. DEFINITIONS:

1. Temporary Return To Work (TRTW) Assignment is defined as a temporary work assignment, which is made as a result of a work-related or non-work-related injury or illness that has resulted in the employee being unable to perform the essential job duties specified in the employee’s job description. TRTW assignments that are medically appropriate will be offered whenever possible to injured full-time employees, who are temporarily precluded from performing their normal duties.
2. TRTW Coordinator: The City Manager’s designee will act as the TRTW coordinator.

B. ELIGIBILITY:

To be eligible for or to continue a TRTW assignment, the employee must:

1. Inform the Supervisor of the work related or non-work-related injury or illness no later than the first regular workday following knowledge of the injury or condition or as soon as possible if the specific circumstances do not allow such notice. If the injury is work-related, the employee must follow all workers’ compensation procedures.
2. Be expected to return to full duty in his/her regular position.
3. Provide a statement from the Health Care Provider on the required City form, Attachment A, which indicates all modified work restrictions. The information provided by the Health Care Provider should be based upon the job description for the employee’s position and be as specific as possible to ensure that any TRTW assignments will not exacerbate the employee’s injury or illness.
4. Comply with all modified work restrictions that the Health Care Provider specifies. The TRTW Coordinator may request clarification of work restrictions from the Health Care Provider.
5. Provide an updated statement from the Health Care Provider after each related appointment (medical, physical therapy, etc.), unless otherwise specified by the TRTW Coordinator.
6. Keep supervisors and the TRTW Coordinator notified of upcoming medical appointments related to the injury or illness, status of work restrictions and anticipated date of returning to full duty.
7. Comply with all City personnel rules and regulations and safe work practices as required.
8. Schedule related appointments (medical, physical therapy, etc.) for the first or last two hours of the work day whenever possible and not attend medical or physical therapy appointments more than three times per week during work hours without prior approval of the TRTW Coordinator.
9. Submit at any time to a medical evaluation performed by a CITY Health Care Provider at City expense. Such evaluations shall be the final determination as to duration and assigned duties of all TRTW assignments.

C. TRTW ASSIGNMENTS:

1. TRTW assignments might consist of the following:

- i. The employee’s regular job, modified to be within the work restrictions;
 - ii. One or more job duties in the employee’s department which are within the work restrictions; or, when (a) and (b) are not available,
 - iii. Other job duties in other City departments, which are within the work restrictions.
2. An assignment will be considered as a TRTW assignment when it is temporary, medically suitable, and the employee possesses the qualifications and skills necessary to satisfactorily perform the duties.
3. An employee on a TRTW assignment will not work overtime assignments or holidays without the express permission of the Department Head and/or the TRTW Coordinator.
4. An employee on a TRTW assignment must promptly notify the appropriate Supervisor/Department Head if they are unable to perform the duties of the TRTW assignment.
5. Subject to the applicable conditions/requirements of the Family and Medical Care Act (FMLA) and the California Family Rights Act (CFRA), a TRTW assignment is mandatory if it is due to a work-related injury or illness and an assignment within the employee’s work restrictions is available.
6. An employee with a non-work-related injury and/or illness may voluntarily request a TRTW assignment. If the employee refuses or chooses to discontinue a TRTW assignment offered by the City, the City is not obligated to provide alternatives.
7. An injured workers’ regular position will not remain vacant indefinitely. However, the City will follow all applicable laws when considering filling positions that are vacant due to an injury and/or illness and will attempt to first exhaust all reasonable alternatives to hiring a regular replacement.
8. When more than one employee at any given time is eligible for a TRTW assignment, the employee injured as a result of a work-related injury or illness will be given priority over an employee not cleared for full unrestricted duty due to a non-work-related injury or illness.
9. The City will comply with all applicable laws to provide a “reasonable accommodation” for “qualified individuals” under the California Fair Employment and Housing Act (FEHA) and the Americans with Disability Act (ADA) as well as all conditions/requirements of the Family and Medical Care Leave Act (FMLA) and the California Family Rights Act (CFRA).

D. APPROVAL AND DURATION OF TRTW ASSIGNMENT:

1. Upon approval for a TRTW assignment by a Health Care Provider, the TRTW Coordinator shall determine if a specific short term need exists in an appropriate assignment that complies with the eligibility requirements of this policy.
2. If eligibility requirements can be met, the TRTW Coordinator authorize a TRTW assignment in a specific department. The TRTW Coordinator may, with the concurrence of the Department Head and the City Manager, approve those TRTW assignments deemed to be in the best interest of the City.
3. Once the TRTW assignment has been identified, the TRTW Coordinator will prepare an agreement which outlines the duties of the assignment as well as the

employee's restrictions as provided by the employee's Health Care Provider. Both the employee and the employee's Supervisor will be required to sign the agreement to assure that they understand what is expected of them throughout the term of the TRTW assignment. Failure by either the employee or the Supervisor to comply with the conditions stipulated in the agreement may result in disciplinary action.

4. The TRTW assignment will be limited to ninety (90) calendar days in duration. Following each related appointment (medical, physical therapy, etc.), the TRTW Coordinator will re-evaluate the appropriateness of continuing the TRTW assignment. The City may determine that it has a bona fide business necessity to fill vacant positions in order to continue levels of public service. Therefore, TRTW assignments may not be guaranteed for the full ninety (90) days.
5. If circumstances warrant, the duration of the TRTW assignment may be extended if recommended by the TRTW Coordinator and approved by the employee's Department Head and the City Manager.
6. The City may discontinue the TRTW assignment at any time if the City deems it is no longer in the best interest of the City to continue the assignment.

E. COMPENSATION:

1. Employees performing in a TRTW assignment capacity shall continue to receive the rate of pay of their regular assignment. Therefore, if the injury or illness is work-related, the employee will not be eligible for workers' compensation temporary total disability (TTD) benefits, during periods of full-time assignment. Also, the employee will not be eligible for long-term disability benefits.
2. If a TRTW assignment is part-time, the employee will continue to receive the rate of pay of their regular assignment and applicable accrued benefits will be pro-rated based on the number of hours worked each pay period. In addition, the employee's workers' compensation temporary total disability (TTD) benefits and/or long term disability benefits may be pro-rated or discontinued based on the number of hours worked each pay period.

F. TERMINATION OF TRTW STATUS:

Termination of TRTW status will become effective if and when:

1. The employee engages in employment other than that authorized by the transitional duty assignment and not in accordance with the medical restrictions;
2. The employee is terminated from employment for any reason;
3. The treating Health Care Provider's restrictions expire or are rescinded;
4. The employee refuses to follow the treating Health Care Provider's instructions; or
5. The ninety (90) day time period for the assignment has expired and no extension has been granted.

If the employee still has work restrictions that prevent them from performing their job duties, the employee will be placed on workers' compensation, long-term disability or the appropriate leave per California Labor Code.

G. RETURN TO REGULAR WORK ASSIGNMENT:

1. Employees on a TRTW assignment will be returned to their regular work assignment on the date that their treating Health Care Provider returns them to full duty without restrictions.
2. If the employee's Health Care Provider releases the employee to work with permanent work restrictions and the employee is not a "qualified individual with a disability" under state or federal law, the City will determine on a case-by-case basis whether there is a full-time regular City position that the employee can perform with his/her work restriction(s). The City Manager's Department has the responsibility of determining who is a "qualified individual with a disability" under state or federal law for purposes of employment with the City and whether or not a specific request can be accommodated by the City.
3. In the event the City is concerned with a performance-related issue due to the injury or illness, the City reserves the right to send a returning employee to a City Health Care Provider for a "fitness for duty" examination that specifically exams the cause for the leave from full duty prior to his/her return to work.
4. When the employee has been on a modified duty assignment for sixty (60) or more working days and returns to a regular work assignment, the employee's next performance evaluation date and/or probationary period (as applicable) will be extended for the period of time the employee served in a modified duty assignment. The extension of time will be applicable to all probationary employees. In the event the City is concerned with a performance related issue, for those employees who have successfully passed probation and are on a regular performance evaluation schedule, the extension of time will be applicable only when the employee is on a TRTW assignment in category "b" or "c" of Section C (1).

H. REFERENCES:

Family and Medical Care Act (FMLA),
Workers' Compensation laws including Labor Code, Section 4850
California Fair Employment and Housing Act (FEHA)
Americans with Disability Act As Amended (ADAA)
California Family Rights Act (CFRA)
City's Personnel Rules and Regulation

Article 46 – Educational Incentives

- 46.1 Employees with an Associate of Arts (AA) or Associate of Sciences (AS) degree shall receive an additional one-hundred dollars (\$100) per month, in addition to their base salary. This provision is available upon starting employment with the City of Del Mar. This will be reported to CalPERS as an "Off-Salary-Schedule Pay."

46.2 Employees with a Bachelor of Arts (BA) or Bachelor of Science (BS) degree shall receive an additional two-hundred dollars (\$200) per month, in addition to their base salary. This provision is available upon starting employment with the City of Del Mar. This will be reported to CalPERS as an “Off-Salary-Schedule Pay.”

46.3 The maximum incentive to be received by an employee for education is \$200 monthly.

Article 47 – Paramedic Pay

47.1 A Captain or Engineer with a current Paramedic license shall receive a five-percent (5%) increase in base pay for any shift in which he/she is serving as the only certified Paramedic on duty.

47.2 To further incentivize employees to retain their Paramedic Certification for the duration of their employment with the City of Del Mar, the City will cover the cost of the bi-annual recertification.

Article 48- Retirement Health Savings

48.1 The City agrees to continue to administer the ICMA-RC Retirement Health Savings (RHS) account for the employees represented by this agreement.

Article 49- Survey Market

49.1 The Association acknowledges the City Council’s philosophy and City practice of surveying the entire San Diego County region for employee salary and benefit data and, in the spirit of cooperation and collaboration, the Parties agree to share, review and provide feedback on the data collected by each Party with each other during future negotiations.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS THEREOF, the Parties whose signatures appear below represent that they are authorized to sign this MOA, approved by the Del Mar City Council on June 21, 2021, on behalf of their respective agencies.

Del Mar Firefighters Association



Joel Carrington, President



Giovanni Maniscalco, Vice President

City of Del Mar



Ashley Jones, Interim City Manager



Sarah Krietor, Acting City Clerk

**Appendix A
City of Del Mar
Firefighter Unit**

Firefighter/Paramedic
Fire Engineer
Fire Captain