

May 27, 2014

AGENDA

**REGULAR JOINT MEETING OF THE CITY COUNCIL OF THE
CITY OF DUARTE, SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT
AGENCY OF THE CITY OF DUARTE, THE DUARTE HOUSING AUTHORITY, AND
THE DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY**

TUESDAY, MAY 27, 2014

7:00 p.m. – Regular Session

COUNCIL CHAMBERS, 1600 HUNTINGTON DRIVE, DUARTE, CALIFORNIA 91010

MISSION STATEMENT

With integrity and transparency, the City of Duarte provides exemplary public services in a caring and fiscally responsible manner with a commitment to our community's future

LIZ REILLY, MAYOR
TZEITEL PARAS-CARACCI, MAYOR PRO TEM
JOHN FASANA, COUNCILMEMBER
MARGARET FINLAY, COUNCILMEMBER
SAMUEL KANG, COUNCILMEMBER

City/Agency/Authority Staff:

Darrell George, City Manager
Kristen Petersen, Assistant City Manager and Director of Administrative Services
Craig Hensley, Community Development Director
Cesar Monsalve, Director of Parks and Recreation
Brian Villalobos, Director of Public Safety Services
Jeffrey Melching, City Attorney
Marla Akana, City Clerk

ADDRESSING THE CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AND FINANCING AUTHORITIES:

If you wish to address the City Council, Successor Agency, Housing Authority, or Financing Authority on any item on the Agenda, you should fill out a Speaker Card indicating which item or items on the Agenda you wish to speak about, and hand the card to the City Clerk. You will be called to the Podium when that item is heard by the City Council/Successor Agency/Housing Authority/Financing Authority. If you wish to address the City Council, Successor Agency, Housing Authority, or Financing Authority on any item that is not on the Agenda, but that is within the subject matter jurisdiction of the City/Agency/Housing Authority/Financing Authority, you may do so under the “Oral Communications” portion of the Agenda. At the podium, before starting your remarks, please state your name and city of residence for the record.

ADA ACCESSIBILITY NOTICE: In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, you should contact the City Manager’s office at (626) 357-7931. Notification no later than 1:00 p.m. on the day preceding the meeting will enable the City to make reasonable arrangements to assist your accessibility to this meeting.

Notice: Any documents distributed by the City/Agency/Authorities to a majority of the City Council/Successor Agency/Housing Authority/Financing Authority Board less than 72 hours prior to the City Council/Successor Agency/Housing Authority/Financing Authority meeting will be made available for public inspection at City Hall, 1600 Huntington Drive, Duarte, CA 91010, during normal business hours, except such documents that relate to closed session items or which are otherwise exempt from disclosure under applicable law.

Notice: Duarte City Council meetings are videotaped for later broadcast on DCTV. Attendance at the meeting constitutes consent by members of the public to the City’s and any third party’s use in any media, without compensation or further notice, of audio, video, and/or pictures of meeting attendees.

1. CALL TO ORDER OF CITY COUNCIL, SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY, HOUSING AUTHORITY, AND COMMUNITY FACILITIES FINANCING AUTHORITY, AND NOTATION OF ANY ABSENCES
2. ADOPTION OF THE AGENDA
3. PLEDGE TO THE FLAG
4. MOMENT OF REFLECTION
5. FITNESS/MENTAL WARM-UP
6. SPECIAL ITEMS – Page 1
 - A. Recognition – Janet Malone, Duarte Senior Center Volunteer of the Year, and presentation of Proclamation for Older Americans Month
 - B. Recognition – Mt. Sierra College students – Duarte business marketing brochure
 - C. Presentation by Southern California Edison Company – Las Lomas Access Road Construction Update
 - D. Presentation by Assistant Fire Chief Steve Martin – Overall fire update
 - E. Redevelopment dissolution update
7. ANNOUNCEMENTS OF UPCOMING COMMUNITY EVENTS
Any person who wishes to make a brief announcement of a future community event that is open to the general public may do so at this time.
8. ORAL COMMUNICATIONS—ITEMS NOT ON THE AGENDA (30 MINUTES)
Any person wishing to speak on any issue that is not on the Agenda, but that is within the subject matter jurisdiction of the City/Agency or Authorities, may do so at this time. The opportunity to speak is on a first come, first serve basis. Each person may speak once for no more than 3 minutes and there is a maximum of 30 minutes for all Oral Communications at this time. Under the Brown Act, members of the City Council/Successor Agency/Housing Authority/Financing Authority, and staff can respond only with a brief reply to issues raised in Oral Communications, and no action on such matters may take place at this meeting.
9. ITEMS TO BE ADDED TO THE CONSENT CALENDAR
10. CONSENT CALENDAR – Page 6
All matters listed on the Consent Calendar are to be approved with one motion unless a member of the City Council/Successor Agency/Housing Authority/Financing Authority removes an item for separate action. Any consent calendar item for which separate action is requested shall be heard as the next Agenda item. The respective entity's consent items are shown in parentheses at the end of each item as "CC" for City Council, "SA" for Successor Agency, "HA" for Housing Authority, and "FA" for C.F. Financing Authority.
 - A. Approval of Minutes – May 13, 2014 (CC/HA/SA/FA)
 - B. Approval of Warrants – May 27, 2014 (CC/HA/SA/FA)
 - C. Motion to introduce and/or adopt all resolutions and ordinances presented for consideration by title only and waive further reading (CC/HA/SA/FA)
 - D. Recommendation to approve Memorandums of Understanding with City of Duarte employees (Service Employees International Union, Local 721) (CC)
 - E. Council Bill 14-R-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS IN 2014/15 (CC)
 - F. Council Bill 14-O-02 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE REPEALING CHAPTER 9.74, "REGISTERED SEX OFFENDERS," OF THE DUARTE MUNICIPAL CODE (Second Reading) (CC)
 - G. Notice of absence by Ana Lisa Hernandez from Planning Commission Meeting of 4/21/14 (Receive and File) (CC)
 - H. City Council/City Manager Conference Attendance – Independent Cities Association Summer Seminar, July 10-13, 2014, San Diego (CC)

11. ITEMS REMOVED FROM CONSENT CALENDAR
12. PUBLIC HEARING – Page 104
Council Bill 14-O-03 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADDING CHAPTER 12.20 TO THE DUARTE MUNICIPAL CODE TO REGULATE THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES WHICH UTILIZE STREETS, PUBLIC RIGHTS-OF-WAY, AND EASEMENTS (First Reading)
13. BUSINESS ITEM – Page 123
Update on comprehensive multimodal transportation assessment
14. CONTINUATION OF ORAL COMMUNICATIONS
*Any person who did **not** speak during the initial 30 minute Oral Communications period earlier in the meeting, who wishes to speak on any issue that is not on the Agenda but that is within the subject matter jurisdiction of the City Council/Successor Agency/Housing Authority/Financing Authority, may do so at this time. Each person may speak once for no more than 3 minutes. Under the Brown Act, members of the City Council/Successor Agency/Housing Authority/Financing Authority, and staff can respond only with a brief reply to issues raised in Oral Communications, and no action on such matters may take place at this meeting.*
15. ITEMS FROM CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY/FINANCING AUTHORITY MEMBERS AND CITY MANAGER/EXECUTIVE DIRECTOR (AB 1234 reports on trips, conference attendance, and meetings)
16. ADJOURNMENT

MEMORANDUM

TO: City Council
FROM: Assistant City Manager
DATE: May 21, 2014
SUBJECT: Comments on Agenda Items, Meeting of May 27, 2014

ITEM 6A. The City Council will be recognizing Janet Malone as the Senior Center's Volunteer of the Year. Janet has generously served the Duarte Senior Center since 1989. Janet and her family have been residents of Duarte since 1960. On May 27th the LA County Board of Supervisors will recognize Janet at the annual Older American's Recognition Day for her dedication and commitment to the City of Duarte. The Duarte Senior Center will further honor Janet at the Duarte Senior Center Volunteer Recognition Dinner on June 20th.

ITEM 6B. The City Council will be recognizing Jose Robles and Stacey Tory, students from Mt. Sierra College, for their work on both the marketing signs and printed piece that were developed particularly for distribution at the International Conference of Shopping Centers.

ITEM 6C. A representative from Southern California Edison will give an update on the Las Lomas Access Road Construction particularly in regard to the retaining wall.

ITEM 6D. Steve Martin, Assistant Fire Chief for LA County Fire Department will be giving a general Fire Department update.

ITEM 6E. The City Attorney will give a brief update on cases related to the dissolution of Redevelopment.

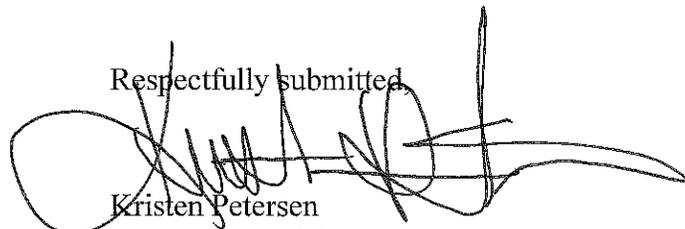
ITEM 10D & E (Consent Calendar). These items are to consider approval of the Memorandums of Understanding with the City of Duarte employees, and to approve the related CalPERS resolution. The City of Duarte has two employee bargaining units: the general employees and the management & professional employees. Both of these units are represented by the Service Employees International Union, Local 721 (SEIU 721). The City most recently entered into Memorandums of Understanding ("MOUs") with these two bargaining units in 2013. These MOUs are scheduled to expire on June 30, 2014. In anticipation of this expiration, the representatives of the two bargaining units submitted a joint proposal in February 2014. The Assistant City Manager and a labor attorney analyzed the proposal, met with the City Manager and City Council, and presented a counter proposal to the bargaining units. After several meetings with both the bargaining units and City Council, a tentative agreement was reached, and the Union members voted to ratify the terms of the tentative agreement on Thursday, May 8th. Now the final drafts of the MOU are being presented to the City Council and are available to the public for review.

ITEM 10F. (Consent Calendar) In January, the California Court of Appeals rendered a decision that city ordinances regulating and restricting the access to parks and other public facilities by registered sex offenders are pre-empted by State law, and otherwise invalid. This is the second reading of the ordinance that reflects this recent change in State law, and brings the City into compliance.

ITEM 12. (Public Hearing) This is a Public Hearing to consider Municipal Code Text Amendment 14-03 - Adding Chapter 12.20 to the Duarte Municipal Code relating to regulation of the installation of wireless communication facilities, which utilize streets, public rights-of-way and easements. The City recently became aware that the current Municipal Code does not adequately address wireless facilities in public right-of-way areas. The proposed Ordinance would bring the Code into conformance with Federal Law. The Ordinance addresses design requirements, such as location, height, pole material, and pole width. The Council Bill is on tonight's meeting for introduction and first reading.

ITEM 13. The City Council and City Management met on March 4, 2014, for a strategic planning meeting. As part of this meeting, City Council stated that it wanted an assessment of the current transportation systems in the City and recommendations on how those systems should be revised, expanded or changed to better interconnect and complement the future Gold Line Station and the Transit Oriented Development provided for in the Metro Gold Line Specific Plan. Since that time staff has conducted some research and is recommending that a Multimodal Transportation Assessment will be best addressed with two separate proposal processes. One process is for an RFP or RFQ for a comprehensive assessment of and optimization plan for the Duarte Transit fixed route system, particularly focused on providing better multimodal connections to the future Gold Line Station in Duarte. The second proposal would be for the development of a bicycle and pedestrian master plan to address the needs near the future Station.

Respectfully submitted,



Kristen Petersen
Assistant City Manager



MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: CESAR MONSALVE, PARKS AND RECREATION DIRECTOR

SUBJECT: RECOGNITION OF DUARTE SENIOR CENTER'S VOLUNTEER OF THE YEAR – JANET MALONE

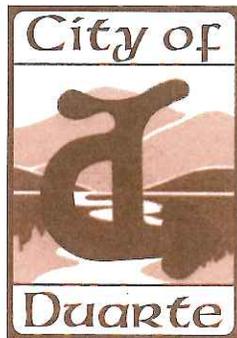
DATE: 5/27/14

The Duarte Senior Center has chosen Janet Malone as the Senior Volunteer of the Year. On May 27, 2014 the Los Angeles County Board of Supervisors will recognize Janet at the annual Older Americans Recognition Day for her dedication and commitment to the City of Duarte. The Duarte Senior Center will further honor Janet at the Duarte Senior Center Volunteer Recognition Dinner on June 20.

The Duarte Senior Center is honored to have the opportunity to recognize Janet Malone who has generously served the Duarte Senior Center since 1989. At that time the Senior Center was located in small one room facility and when the City of Duarte completed the construction of the new Senior Center in 1994, Janet was there to move right in and continue her volunteer work, and to this day, she is still energetically lending a hand. Janet, her husband Eddy and their three children moved from Wilksburg Pennsylvania to sunny Southern California in 1960 and settled in Duarte where she has resided ever since. Among her many interests, education and the Duarte schools became a focus and she channeled her energies by becoming involved in the Duarte PTA and published the PTA newsletter for a few years.

Janet is very involved at the Duarte Senior Center and specializes in making wonderful favors for all our holiday luncheons and dinners, and is very helpful with the setup of these events as well. Additionally, Janet adds a touch of elegance and class to events with her decoratively folded napkins and proper table settings. Janet is also heavily involved with our boutiques, working each one and handling different roles including cashiering. Janet is instrumental in organizing inventory for our parking lot sales. There are so many things Janet helps with at the Duarte Senior Center and she is always willing to volunteer her time. Janet is a great asset to the Senior Center and the Duarte senior community and we can't thank her enough for all she has done at the Duarte Senior Center.

Janet and her family have been invited to the May 27 Council meeting to be recognized for her volunteer efforts.



Proclamation

OLDER AMERICANS MONTH

WHEREAS, May is traditionally Older Americans Month, a time to celebrate and pay tribute to seniors; and

WHEREAS, California's older population remains one of the State's most enduring resources; and

WHEREAS, older Americans have contributed many years of service in their communities through volunteer programs; and

WHEREAS, seniors possess and share a wealth of experience, background and history, making them an important part of the ties that bind both family and community; and

WHEREAS, today's efforts in designing a coordinated community-based system of care and services for seniors will contribute to the well-being of older Californians in the 21st century; and

WHEREAS, recognition within the State of California offers the State's residents an opportunity to reflect upon the multiple talents and accomplishments of the State's older residents; and

WHEREAS, Janet Malone has been chosen as the Duarte Senior Center's 2014 Volunteer of the Year;

NOW, THEREFORE, LET IT BE RESOLVED, that the City of Duarte hereby declares May 2014 as OLDER AMERICANS MONTH, and expresses appreciation and congratulations to Janet Malone, and urges all residents to participate in appropriate ceremonies honoring these men and women who have given of their time and talents to improve the quality of life for all.

Mayor Liz Reilly

ATTEST:

City Clerk Marla Akana
Duarte, California

May 27, 2014



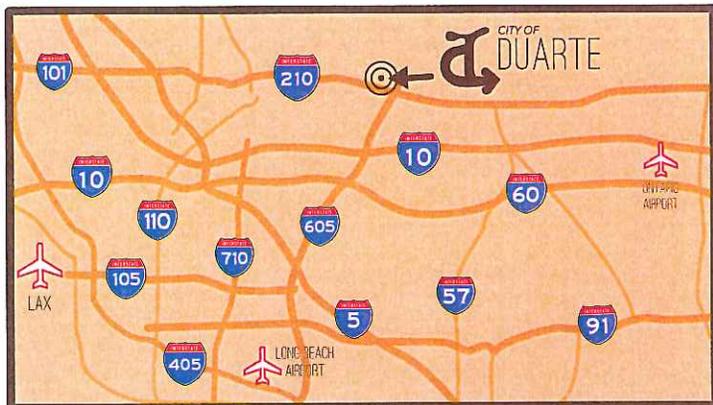


CITY OF DUARTE

1600 Huntington Drive, Duarte, CA 91010
(626) 357-7931
www.accessduarte.com

Mission Statement

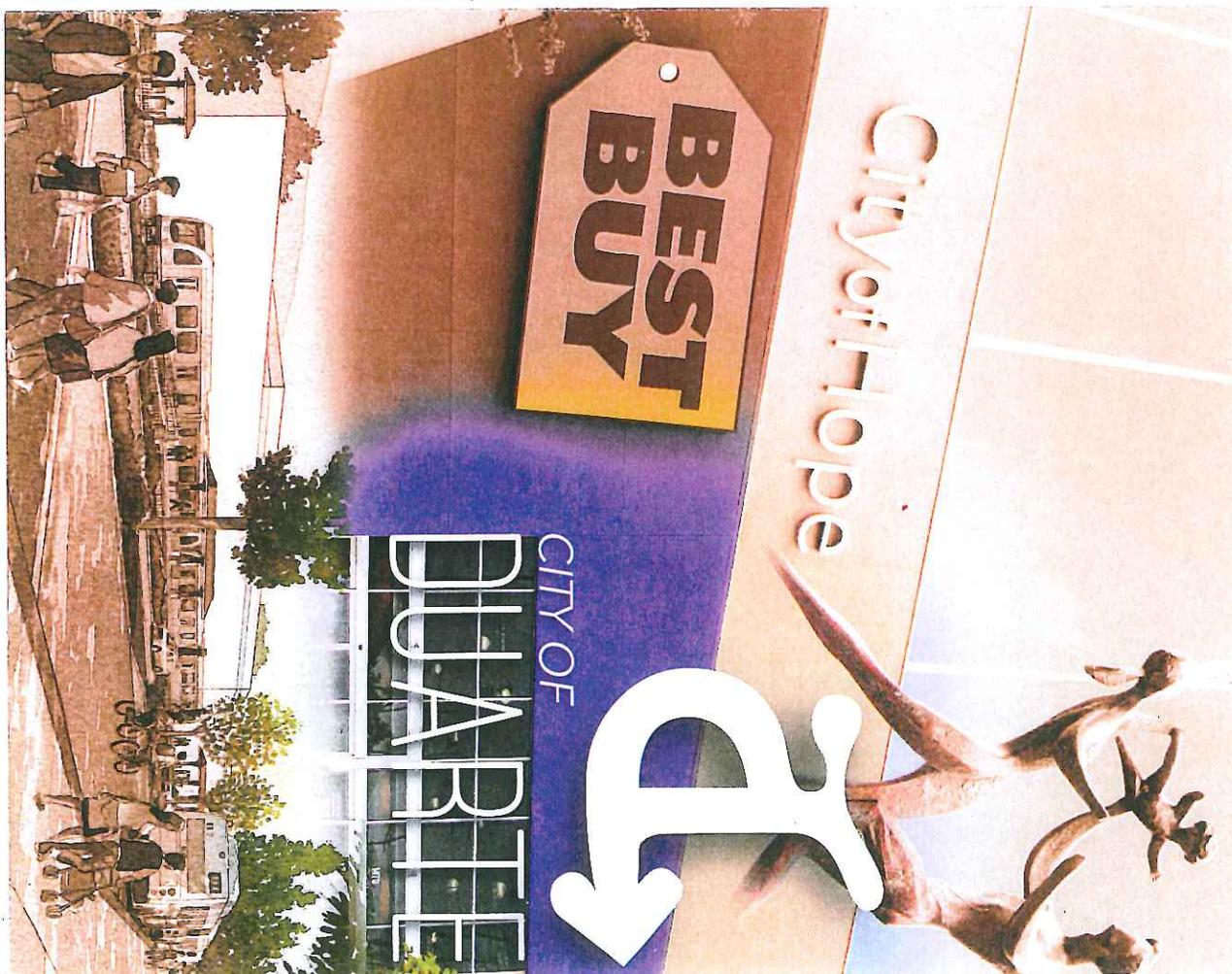
"With integrity and transparency, the City of Duarte provides exemplary public services in a caring and fiscally responsible manner with a commitment to our community's future."



Sign up on **Nextdoor**
www.nextdoor.com



Follow us on **Twitter**
[@cityofduarte](https://twitter.com/cityofduarte)



TOP RETAIL SALES (PER CAPITA)

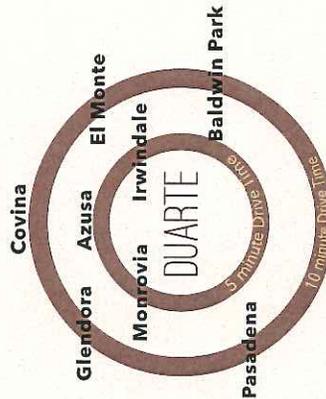
1. Auto/Transportation \$ 7,970
2. General Consumer Goods \$ 6,037
3. Restaurants/Hotels \$ 1,496
4. Fuel/Service Stations \$ 1,406
5. Food/Drugs \$ 642

Sales Tax Rate: 9%
Annual Sales Tax: \$ 4,853,000
(fiscal year 2013-14)

ANNUAL CONSUMER SPENDING

Total Consumer Spending \$ 436,000,000
Consumer Spending per HH \$ 53,564

CENTRAL LOCATION



Recognized by the LAEDC as Los Angeles County's 2012 Most Business Friendly City, Duarte's low business license and permit fees, no utility user's tax, low property tax, multi-modal transit options, strategic access to the 210, 605, and 10 freeways, and the soon to open METRO Gold Line, have fostered a dynamic business environment.



BUSINESS INDEX

1. City of Duarte
2. Pioneer Park
3. Target
4. Walmart
5. Best Buy
6. SONIC
7. Nissan
8. The Old Mill Factory
9. Rancho Duarte Golf Course

Ranked as one of the San Gabriel Valley's safest communities, Duarte provides 54 miles of walkable, well-maintained streets amongst a variety of residential dwellings. Over 52 acres of open space and 14 parks create an ideal setting for any outdoor enthusiast or family outing.

Duarte, an ethnically diverse community, capitalizes on this strength and was recently recognized by the National League of Cities with a first place 2014 City Cultural Diversity Award.

Sources:
Claritas.com; City-Data.com; Hinderliter, DeLamas and LAEDC
Economic & Policy Analysis Group

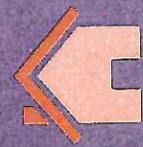
DEMOGRAPHICS

INCORPORATED: 1957
POPULATION: 21,321

Size of City = 7 sq. miles
 = one square mile
 Population Density: 3,540 persons /sq. mile

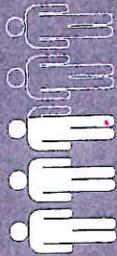
Age Distribution

0 - 20: 31.2% 21-40: 27.2% 41-60: 25% 60+: 15.6%

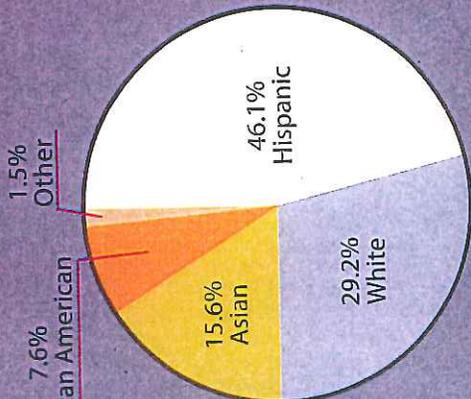


7,013 Households

Owner Occupied: 4,703
 Renter Occupied: 2,310
 Median Home Price: \$395,500
 Median Household Income: \$58,600



Average Household Size: 2.98



Population by Race



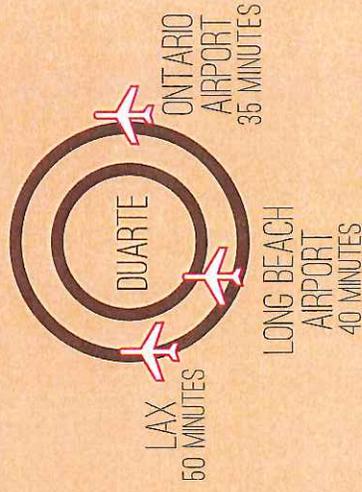
WHY CHOOSE DUARTE?



CITY OF HEALTH

City of Hope, the Internationally recognized research and treatment center for cancer, diabetes, and other life-threatening diseases is a non-profit hospital located in Duarte.

STRATEGIC ACCESSIBILITY TO 210, 605 & 10 FREEWAYS



LOW BUSINESS LICENSE AND PERMIT FEES
 NO UTILITY USERS TAX

14 PUBLIC PARKS / **FREE** PUBLIC PARKING
 WELL MAINTAINED & SAFE WALKABLE STREETS

CLOSE TO **16** COLLEGES & UNIVERSITIES

TRANSIT ACCESS DUARTE TRANSIT FOOTHILL TRANSIT METRO GOLD LINE (WINTER 2016)



NLC 2014 CITY CULTURAL DIVERSITY AWARD

LAEDC'S MOST BUSINESS FRIENDLY CITY AWARD



MINUTES

JOINT CITY COUNCIL/CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY/HOUSING AUTHORITY/COMMUNITY FACILITIES FINANCING AUTHORITY OF THE CITY OF DUARTE REGULAR MEETING – MAY 13, 2014

- CALL TO ORDER** The City Council/City Council as Successor Agency to Dissolved Redevelopment Agency/Housing Authority/Community Facilities Financing Authority of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Reilly called the meeting to order at 6:00 p.m.
- RECORDATION OF ATTENDANCE** The following were in attendance:
PRESENT: Fasana (arrived prior to Closed Session), Finlay (arrived prior to Closed Session), Kang, Paras-Caracci, Reilly
ABSENT: None
ADMINISTRATIVE STAFF PRESENT: City Manager George, City Attorney Melching
- ADOPTION OF AGENDA** Kang moved, Paras-Caracci seconded to adopt the Agenda, and carried with Fasana and Finlay not present for the vote.
- CLOSED SESSIONS**
1) Conference–Labor Negotiators
2) Conference – Real Property
There was no public input. Melching announced the first Closed Session is pursuant to Government Code Section 54957.6; Conference with Labor Negotiators; Negotiators: Darrell George, Kristen Petersen; Regarding SEIU Local 721 Management and Professional Employees and General Employee Units. The second Closed Session is pursuant to Government Code Section 54956.8; Conference with Real Property Negotiators; Negotiating parties: City of Duarte and Duarte Nissan Motor Group, LLC; City Negotiators: Darrell George, Craig Hensley; Under negotiation: Price and terms of payment; Concerning property located at 1434 Buena Vista Street, Duarte. The Closed Sessions concluded at 6:58 p.m. City Council reconvened at 7:12 p.m., with all members present.
- PLEDGE TO THE FLAG** Brian Barreto led the Pledge of Allegiance to the Flag.
- MOMENT OF REFLECTION** A moment of reflection was observed.
- FITNESS/MENTAL WARM-UP** Melching and Finlay provided the warm-up.
- PUBLIC REPORT OF CLOSED SESSION ITEMS** Melching reported that during the first Closed Session, City Council received a confidential report from the negotiators, considered the current status of the negotiations, and unanimously continued the item forward, with no reportable action taken. During the second Closed Session, City Council received a confidential report about the item, and unanimously gave direction to the negotiating team, with no reportable action taken.
- ANNOUNCEMENTS** Joanna Gee, Duarte Library, announced upcoming volunteer,

teen, and reading programs in May and June, and stated the Library is a cooling center.

Karen Herrera announced upcoming community activities, meetings, and events in May and June, and stated the Senior Center is a cooling center.

ORAL COMMUNICATIONS

The following spoke on items not on the Agenda.

Cindy Blandford – GP Homestay international students.

Guadulesa Rivera – Smoke free outdoor air.

James Urias – Residential smoking survey, second-hand smoke.

Kassandra Lopez – Smoke-free public opinion survey results.

Katrina Miller – Second-hand smoke newspaper ad.

Bryan Zaragosa – Harmful effects of smoke and marijuana.

CONSENT CALENDAR

Finlay moved, Kang seconded to approve the Consent Calendar as follows, and carried unanimously.

Approve Items A, B, C, E, G, H.

Receive and File Item D.

Remove Item F.

RESOLUTION NO. 14-09
Gann Appropriations Limit
F/Y 2014/15

Item E – Council Bill 14-R-09 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO THE PROVISIONS OF ARTICLE XIII B OF THE CALIFORNIA CONSTITUTION

ITEM REMOVED – Item F
Council Bill 14-R-10
Voluntary 20% Water Reduction

Mayor Reilly read by title Council Bill 14-R-10:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE ENCOURAGING ALL DUARTE RESIDENTS AND BUSINESS OWNERS TO TAKE IMMEDIATE ACTION TO VOLUNTARILY REDUCE WATER USE BY TWENTY PERCENT

Brian Barreto, Cal-Am Water, thanked Council for considering this resolution, suggested ways to conserve water, and provided information about home water surveys and rebates.

Tony Fellow, Upper SGV Municipal Water District, stated he supports the resolution to conserve water, and provided information about increasing awareness of drought conditions and grants.

Item F – Approved
RESOLUTION NO. 14-10

Mayor Reilly read Council Bill 14-R-10 in its entirety. Finlay moved, Paras-Caracci seconded to adopt Resolution No. 14-10, and carried unanimously.

ORDINANCE
Council Bill 14-O-02
Repeal DMC Chapter 9.74
Registered Sex Offenders
(First Reading)

Council Bill 14-O-02 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE REPEALING CHAPTER 9.74, "REGISTERED SEX OFFENDERS," OF THE DUARTE MUNICIPAL CODE (First Reading)

Melching presented a staff report about the proposed ordinance, and stated the California courts recently ruled that city ordi-

nances about restricting access to parks and public facilities by registered sex offenders are pre-empted by State law, and are unenforceable.

Fasana moved, Paras-Caracci seconded to introduce Council Bill 14-O-02 for first reading, and carried unanimously.

ITEMS FROM CITY COUNCIL/
CITY MANAGER

FASANA: Announced Joint Public Safety/Traffic Safety Commission meeting on June 20 at 7:00 p.m. to consider a Citywide street sweeping ordinance, stated he received pipeline safety information in the mail, and requested a report back about whether there are oil or gas pipelines in the City, attended Temple City's opening of the Rosemead Boulevard project, and inquired about the status of the task force regarding transportation assessment strategies (George stated staff will be presenting a report on the process at the next meeting).

FINLAY: Stated the Duarte business marketing brochure looks great, she loves the idea of cooling stations and appreciates staff implementing one at the Senior Center, inquired about the status of the Edison wall on the mountain (George stated this item will be reported on at the next meeting), the helicopter above the hills today was searching for a lost hiker, and provided an update on black flies and tiger mosquitoes.

PARAS-CARACCI: Stated she hosted a table at the Mother's Day Tea at the Senior Center, she received texts about Edison's unplanned outage on Mother's Day and stated it was handled fairly quickly, her family attended Community Movie Night, thanked staff for the budget meeting workshop, and welcomed Mr. Melching.

REILLY: Invited all to attend the Public Safety/Traffic Safety Commission joint meeting to discuss a proposed Citywide street sweeping ordinance, inquired if we have an ordinance about gray water and requested a report, thanked Joan Schmidt for the article about Coffee and Conversation with the Mayor, stated the Arcadia Register is a new newspaper, she read an article about the city of South Pasadena extending its moratorium ordinance on massage parlors, and inquired if we could do the same.

Finlay moved, Fasana seconded to adjourn the meeting at 8:32 p.m., and carried unanimously.

ADJOURNMENT

Mayor Elizabeth Nowak Reilly

ATTEST:

City Clerk

MEMORANDUM

TO: Darrell J. George, City Manager
FROM: Kristen Petersen, Assistant City Manager
DATE: May 19, 2014
SUBJECT: **Recommendation to Approve Memorandums of Understanding between City of Duarte and SEIU Local 721 – Management & Professional Employees and General Employees and Adopt Resolution 14-R-11**

Recommendation

It is recommended that the City Council authorize the Mayor to execute the attached Memorandums of Understanding with the General Employees and the Management & Professional Employees and Adopt Resolution 14-R-11 and direct staff to submit a certified copy of the resolution to the Board of Administration of the Public Employees' Retirement System.

Background

The City of Duarte has two employee bargaining units; the general employees and the management & professional employees. Both of these units are represented by the Service Employees International Union, Local 721 (SEIU 721). The City most recently entered into Memorandums of Understanding ("MOUs") with these two bargaining units in 2013. These MOUs are scheduled to expire on June 30, 2014. In anticipation of this expiration the representatives of the two bargaining units submitted a joint proposal in February 2014. The Assistant City Manager and a labor attorney analyzed the proposal, met with the City Manager and City Council and presented a counter proposal to the bargaining units. After several meetings with both the bargaining units and City Council, a tentative agreement was reached and the Union members voted to ratify the terms of the tentative agreement on Thursday, May 8th. Now the final drafts of the MOU are being presented to the City Council and are available to the public for review.

Terms of the MOU

The key elements of the tentative agreement that are different from the previous MOUs are as follows:

- The term of each MOU is to be three years.
- A salary increase of 3.0% effective July 1, 2014, 2.0% effective July 1, 2015, 1.0% effective July 1, 2016
- Employees hired before March 19, 2012 (first tier) will contribute 8% towards CalPERS retirement

- Employees may voluntarily contribute to a sick leave donation bank that can be utilized by employees who suffer a catastrophic illness or injury and have exhausted their paid leaves of absences.
- A fixed list of recognized holidays has been established, no longer requiring that the City Council go through the process of designating holidays annually.
- The definition of holiday pay was clarified in that it is an amount equal to an employee's regular schedule and regular rate of pay.
- The pay for employees who are placed on standby for the week will increase to \$275 per week.

If the City Council votes to approve and execute the MOUs with the two bargaining units, the attached resolution must be adopted by City Council and submitted to PERS reporting that the City will no longer pay any portion of the Employer Paid Member Contribution and that the employees will be paying the full 8% of the normal contributions to PERS as indicated in the MOUs.

**Memorandum of Understanding
Between City of Duarte and
SEIU Local 721 – Management & Professional
Employees**

Fiscal Year 2014-2015 to 2016-2017

TABLE OF CONTENTS

	Page
1. Recognition	1
2. Term	1
3. MOU Distribution.....	1
4. Salaries	2
5. Medical Insurance.....	2
6. Dental and Vision	3
7. Sick Leave.....	4
8. Vacation.....	5
9. Bereavement	6
10. Standby Pay	6
11. Call Back Pay	7
12. Salary Upon Appointment To A Position In An Acting Capacity.....	7
13. Tuition Reimbursement	8
14. Section 125.....	9
15. Overtime and Premium Pay.....	9
16. Bilingual Pay	11
17. Holidays	11
18. Disability Insurance.....	12
19. Life Insurance	12
20. Retirement.....	12
21. Work Schedule	14
22. Classification Revision	15
23. Mileage Reimbursement	15
24. Uniforms.....	15
25. Deferred Compensation.....	15
26. Computer Loan Program.....	15
27. Fitness Center Membership.....	16
28. Layoffs	16
29. Severance Pay	16

TABLE OF CONTENTS
(continued)

	Page
30. Appeals.....	16
31. Dues Deduction.....	20
32. Political Action Committee.....	20
33. Stewards	21
34. Grievance Procedure	21
35. Union Business	23
36. Employee Relations Consultation Meetings	25
37. Personnel Rules and Regulations	25
38. Agency Shop.....	25
39. Administrative Leave.....	28
40. City Vehicles	28
41. Joint Labor-Management Committee	28
42. Severability	28

**Memorandum of Understanding Between
City of Duarte
And
SEIU Local 721 – Management & Professional Employees**

This Memorandum of Understanding (“MOU”) is made and entered into by and between the City of Duarte (“City”) and the Service Employees International Union, Local 721 (“SEIU 721”).

1. Recognition

The City recognizes SEIU 721 as the representative for those employees employed by the City in the following classifications:

- Assistant to the City Manager
- Assistant Civil Engineer
- Associate Civil Engineer
- Associate Planner
- City Clerk
- City Planner
- Public Safety Manager
- Deputy City Manager
- Director of Community Development
- Director of Parks & Recreation
- Director of Public Safety Services
- Public Works Manager
- Facilities Maintenance Supervisor
- Field Services Manager
- Financial Service Manager
- Information Technology Manager
- Recreation Superintendent
- Recreation Supervisor
- Senior Planner
- Transit Supervisor

2. Term

The term of this MOU shall be from July 1, 2014 to June 30, 2017.

3. MOU Distribution

The City will provide all current and new employees, covered by this MOU, with a copy of the MOU.

4. Salaries

Effective July 1, 2014, the base salary range of each classification in the bargaining unit shall be increased by three percent (3%).

Effective July 1, 2015, the base salary range of each classification in the bargaining unit shall be increased by two percent (2%).

Effective July 1, 2016, the base salary range of each classification in the bargaining unit shall be increased by one percent (1%).

The resulting salary range for each classification is set forth in Appendix A.

5. Medical Insurance

a. Employees

Each full-time and three-quarter-time employee will be provided medical insurance coverage through the PERS system. Effective July 1, 2013, the City will contribute toward the cost of any insurance program for employees and dependents at the following monthly rates.

	Full Time Employees	3/4 Time Employees*
Employee Only	\$362.68	\$272.01
Employee + One	\$725.36	\$544.02
Employee + Two or More	\$942.97	\$707.22

* Employees hired, or converted, into three-quarter-time status on or after July 1, 2008, will be entitled to seventy-five percent (75%) of the City's contribution to insurance premiums, listed above.

Employees will pay any excess premiums through payroll deduction. The City will reimburse employees who waive medical insurance coverage an amount equal to sixty percent (60%) of the cost of the applicable premium.

Employees who choose a plan where the premiums are lower than the amounts paid by the City listed in the chart above will not receive the difference between their chosen plan and the City's maximum coverage.

b. Retirees

The City will provide medical insurance coverage for retirees and their dependents through the PERS system. To be eligible, employees must retire within one hundred and twenty (120) days of their separation from employment from the City of Duarte. The City's contribution to insurance premiums for retirees will be set at the same levels as they are for active employees. Retirees

will pay any excess premiums through deductions in their retirement benefits. The City will reimburse retirees who waive medical insurance coverage an amount equal to sixty percent (60%) of the cost of the applicable premium.

c. Changes to Health Care Laws

The parties recognize that certain changes to State or Federal laws, programs, taxes or regulations including, but not limited to, the Affordable Care Act, may impact future medical plan offerings. In the event that such reform measures or resulting changes in the healthcare marketplace alter healthcare coverage options, costs or other elements of healthcare and materially alter the provisions of this MOU, either party may request to reopen Article 5 regarding medical insurance to meet and confer over any changes to the medical insurance.

6. Dental and Vision

a. Dental Insurance

Each full-time and three-quarter-time employee will be provided dental coverage through the City-sponsored dental plan. Enrollment in the plan is mandatory and no cash alternative will be provided. Eligibility will begin the first day of the month following hire. The Delta Dental PPO plan allows the covered employee and their eligible dependents to receive care from any licensed dentist; however, the highest level of benefits will be received when utilizing a Delta PPO Provider. The City will provide all employees with information from Delta Dental regarding the details of the plan, and will provide any information regarding changes made to the plan.

Effective July 1, 2014, the City will contribute toward the cost of the City sponsored dental plan for employees and their dependents at the following monthly rates.

	Full Time & Part Time ³ / ₄ Employees
Employee Only	\$51.47
Employee + One	\$91.09
Employee + Two or More	\$145.35

The City will pay for any increases due to renewal rates through the term of this MOU up to ten percent (10%). In the event that the cost increases by more than ten percent (10%) over the term of the MOU, the City shall notify the Union and the parties shall meet and confer regarding the Dental Plan coverage.

b. Vision Insurance

Each full-time and three-quarter-time employee will be provided vision coverage through the City sponsored vision plan. Enrollment in the plan is mandatory and no cash alternative will be provided. Eligibility will begin the first day of the month following hire. The Vision Service Plan (VSP) plan allows the covered employee and their eligible dependents to receive care from any vision provider; however, the highest level of benefits will be received when utilizing a VSP contracted provider.

Effective July 1, 2014, the City will contribute toward the cost of the City sponsored vision plan for employees and their dependents at the following monthly rates.

	Full Time & Part Time $\frac{3}{4}$ Employees
Employee Only	\$9.98
Employee + One	\$14.49
Employee + Two or More	\$26.28

The City will pay for any increases due to renewal rates through the term of this MOU up to ten percent (10%). In the event that the cost increases by more than ten percent (10%) over the term of the MOU, the City shall notify the Union and the parties shall meet and confer regarding the VSP coverage.

7. Sick Leave

All full-time employees will receive ninety-six (96) hours of sick leave per year. Three-quarter-time employees will receive seventy-two (72) hours of sick leave per year.

a. Accrual

There will be no limit to the amount of sick leave an employee may accrue. The last day of each pay period, each eligible employee will have 1/26th of his or her annual sick leave added to his or her earned sick leave balance.

b. Use of Sick Leave

Sick leave may be used only for a bona fide illness or injury of the employee. In cases where lost work time due to illness or injury exceeds two days, or when the employee has been frequently ill, the City Manager or designee may require a written physician's confirmation of the nature of the illness or injury. Should work time lost due to illness or injury exceed the employee's accrued sick leave balance, then any available vacation, floating holidays, or compensated time off will be used as compensation.

c. Conversion to Service Credit upon Retirement

Pursuant to the terms of the City's contract, as amended, with the California Public Employees' Retirement System (CalPERS), upon voluntary retirement the employee may convert one hundred percent (100%) of his/her accrued sick leave balance, less any amount used under the provisions to retirement service credit.

d. Notification

In cases of illness or injury, the employee will notify their respective department head or other supervisor designated by the department head at the earliest possible time as to the nature and possible duration of the injury or illness. It will be the employee's responsibility to keep the department head informed on a daily basis of his or her condition as it relates to absence from employment.

e. Sick Leave Donation Policy

Employees may voluntarily donate sick leave to a donation bank, which is maintained for the use of qualified employees who have suffered a catastrophic illness or injury and have exhausted their paid leaves of absence. This program is set forth in an administrative policy, which is also attached as Attachment B.

8. Vacation

Each employee will receive paid vacation in the amounts listed below.

Length of Service	Full-time	Three-quarter time*
Date of hire to 5 years of service	82 hours	61.5 hours
5 years plus one day to 10 years	120 hours	90 hours
10 years plus one day to 11 years	130 hours	97.5 hours
11 years plus one day to 12 years	140 hours	105 hours
12 years plus one day to 13 years	150 hours	112.5 hours
13 years plus one day to 14 years	160 hours	120 hours
14 years plus one day to 15 years	170 hours	127.5 hours
15 years plus one day or more	180 hours	135 hours

* Exception: Employees hired or converted to three-quarter-time employees before July 1, 2008 will receive forty (40) hours of vacation leave each year. They will not be allowed to carry over vacation leave from one fiscal year to the next.

a. Waiting Period

Employees of the City will not be permitted, until after six (6) months of continuous employment, to take paid vacation, unless otherwise approved in writing by the appropriate department head and the City Manager. The scheduling of vacation time is subject to the prior written approval of the

department head and verification of accrued vacation time by the Personnel Division. No employee will be permitted to take a vacation in excess of accrued vacation time unless specifically authorized in writing by the City Manager.

b. Accrual

At the conclusion of each pay period, every full-time or three-quarter-time employee will have added to his or her vacation balance 1/26th of the annual vacation hours for which the employee is eligible. Effective June 1, 2007, employees will not be allowed to accrue vacation leave in an amount greater than three-hundred and sixty (360) hours.

c. Annual Buyback

Employees with five (5) or more years of continuous service with the City will be allowed to sell accrued vacation leave back to the City at one-hundred percent (100%) of its full value. The maximum amount of the annual buyback is as follows:

Length of Service	
Date of hire to 5 years of service	0 hours
5 years plus one day to 10 years	40 hours
10 years plus one day or more	60 hours

Employees will be given the opportunity to sell accrued vacation leave back to the City annually, on or before July 31st of each fiscal year.

d. Payoff at Termination

Employees terminating from City employment will be paid in full for all properly earned vacation.

9. Bereavement

Each employee will be entitled to bereavement leave in an amount of forty (40) hours per incident. Bereavement leave will be granted only in those cases involving the death of a parent (including step-parents), parent-in-law, children (including step-children), spouse, sibling, grandparent, grandparent-in-law, or registered domestic partner.

10. Standby Pay

Employees placed on standby for the week (commencing at noon on Wednesday and ending at noon on the following Wednesday) shall receive two hundred and seventy-five dollars (\$275.00) per week. An employee will be required to carry a cell phone while on standby duty. Such time is not considered hours worked under the

Fair Labor Standards Act and will not be compensated in any manner except as set forth above.

Employees on standby are required to answer a call within five (5) to ten (10) minutes and are responsible for remaining within a fifty (50) mile radius of the City.

Standby duty assignments are rotated based on current practices. An annual list shall be established to give employees advance notice of their assignment.

All employees assigned to standby duty are expected to complete their duty week and will be held responsible for its completion. Exchange of duty week between employees is possible with approval of the Field Services Manager. In case of illness or other circumstance in which an employee cannot finish his/her assigned duty, the employee on standby duty shall contact the Field Services Manager who has the responsibility to provide coverage for the standby duty. The pay for each employee serving standby will be proportionately divided based on the amount of time each worked during the week.

The procedures in this section are subject to the joint labor-management committee on standby and call back pay as set forth in Article 41 of this Agreement.

11. Call Back Pay

Employees, whether on standby or not, who are called back to perform duties outside of their regular work schedule shall be paid at the rate of one and one-half (1½) times the employee's regular rate of pay for a minimum of two (2) hours.

If an employee is called back between the hours of midnight and 4:00 a.m. on a regular working day, minimum pay of three (3) hours at the rate of one and one half (1½) times the employee's regular rate shall apply.

If an employee is called back on a non-working day or holiday between the hours of midnight and 6:00 A.M., minimum pay of three (3) hours at the rate of one and one half (1½) times the employee's regular rate shall apply.

Note that this provision is irrespective of paid leave time exclusions as set forth in Section 15 (Overtime).

The procedures in this section are subject to the joint labor-management committee on standby and call back pay as set forth in Article 41 of this Agreement.

12. Salary Upon Appointment To A Position In An Acting Capacity

Whenever the needs of the City require an employee to temporarily perform the duties of a higher classification than that in which the employee is currently employed for a period of more than twelve (12) consecutive working days, the

employee shall receive the salary rate of the higher class in which he/she is performing the required duties. In such cases, the employee shall be paid at an appropriate step of the salary schedule of the higher classification which will ensure an increase of not less than five percent (5%) greater than the salary of his/her current position, but in no case shall such salary exceed the top salary step of the higher classification.

The higher salary rate payable shall commence on the thirteenth working day following the temporary reassignment to the performance of duties of the higher classification.

The requirement for the performance of duties of the higher classification shall be placed in writing by the Personnel Officer (or his/her designee) following recommendation by the affected Department Head. No employee shall be required to perform any of the duties of a higher classification unless that employee is deemed to possess the minimum qualification of the higher classification by the Personnel Officer as recommended by the affected Department Head.

The employee assigned to perform the duties of a higher classification shall not serve for more than ninety (90) working days in a higher classification whenever a vacancy exists (or it is apparent that a vacancy will be present) without the announcement by the Personnel Officer of an approved examination as otherwise provided in the rules and regulations. In no case shall an employee serve more than six (6) months in a higher classification without successfully passing the examination.

A person appointed in an acting capacity shall be eligible to receive performance increases in his/her permanent position during the acting appointment but shall not be entitled to performance increases in the position which he/she holds in an acting capacity. If successful in being promoted, the period of time of service in the higher classification shall be credited for the promoted employee toward the required period of probation for the higher classification as otherwise required in these rules.

The Personnel Officer shall obtain the employee's written consent for the temporary performance of any of the duties of the higher classification beyond a period of twelve (12) working days, prior to an employee assuming or continuing the duties and compensation of a higher classification, which consent shall clearly state that it is understood that a reduction of salary shall be effected to his/her original salary rate upon the expiration of the need for the performance of the duties of the higher classification. In no instance shall the salary rate of the higher classification extend beyond the six (6) months period as hereinabove set forth, unless otherwise promoted in accordance with the Personnel Rules and Regulations.

13. Tuition Reimbursement

Employees are eligible to be reimbursed for seventy-five percent (75%) of the cost of college accredited academic courses, taken for credit, outside regular working hours, that are directly related to their job duties, or are required for a degree in their occupational field in local government. The reimbursement will not exceed two-thousand eight hundred dollars (\$2,800.00) for full-time employees or two-thousand one hundred dollars (\$2,100.00) for three-quarter-time employees, during any fiscal year. Reimbursement costs include those for registration, parking, and books. Proof of course completion and a grade of "C" or better are required.

14. Section 125

Pursuant to Internal Revenue Service (IRS) Code Section 125, the City has established a voluntary flexible spending arrangement that is funded by salary reductions and reimburses employees for qualified expenses, such as dependent care assistance and medical care reimbursements. The City will continue to maintain a Section 125 program for all full-time and three-quarter-time employees.

15. Overtime and Premium Pay

a. Eligibility for Overtime or Premium Pay

Exempt and non-exempt classifications will be set by City resolution according to the requirements of the Fair Labor Standards Act (FLSA).

i. Non-Exempt Employees

Employees who are classified as non-exempt under the provisions of the FLSA are entitled to receive overtime compensation at the rates set forth in section 15.b, below. Non-exempt employees may be required to work overtime by their respective department head, subject to City Manager approval. Only time worked in excess of forty (40) hours in a given workweek will be considered overtime. Vacation leave, sick leave, holidays, and other time not actually worked will not be counted towards the forty (40) hours.

ii. Exempt Non-Department Head Employees

Employees who are classified as exempt under the provisions of the FLSA are not legally entitled to receive overtime compensation for time worked in excess of forty (40) hours in a given workweek. However, the City provides a non-FLSA premium pay to those employees for time worked in excess of forty (40) hours in a given workweek at the rates set forth in section 15.b, below. Vacation leave, sick leave, holidays, and other time not actually worked will not be counted towards the forty (40) hours.

iii. Department Head Employees

Department heads will receive administrative leave in lieu of overtime and premium pay (see Section 39).

b. Overtime and Premium Pay Compensation

Non-exempt employees will be compensated for overtime at one and one-half (1.5) times their regular rate of pay for all hours worked in excess of forty (40) in a workweek. For example, a non-exempt employee who works forty-three (43) hours in a workweek will receive forty (40) hours of compensation at his/her regular rate of pay, and three (3) hours of compensation at one and one-half (1.5) times his/her regular rate of pay.

As explained in Section 15.a.ii, exempt employees are not legally entitled to receive any additional compensation for hours worked in excess of forty (40) in a workweek. However, the City has elected to compensate exempt employees (except for department heads) with non-FLSA premium pay at their regular rate of pay for all hours worked in excess of forty (40) in a workweek. For example, an exempt employee who works forty-three (43) hours in a workweek will receive forty-three (43) hours of compensation at his/her regular rate of pay.

c. Emergency Call Back

Each employee may be required to come back to work in case of an emergency. Non-department head level employees will be guaranteed at least two (2) hours of overtime or premium pay when called back to work.

d. Attendance at Meetings

Any employee may be required by their department head or his/her designee to attend meetings. Employees will be compensated at regular pay rates for required attendance at meetings, and shall receive premium pay or overtime if such attendance requires the employee to work more than forty (40) hours in a workweek. Department Heads will not be additionally compensated for attendance at required meetings.

e. Use of Overtime and Premium Pay Discouraged

The City Manager will take all necessary measures to minimize the use of overtime and premium pay. All employees (other than Department Heads) must receive advance approval from their Department Head or his/her designee to work in excess of forty (40) hours in a workweek.

f. Compensatory Time Accumulated

In lieu of overtime or premium pay, non-department head employees may, with department head approval, receive compensatory time off. However, no

employee will be permitted to accrue more than sixty (60) hours of compensatory time off. Once an employee reaches sixty (60) hours of compensatory time off, he/she will automatically receive overtime pay until he/she has reduced his/her hours of compensatory time off.

16. Bilingual Pay

The City will compensate full-time and three-quarter-time employees one-hundred dollars (\$100.00) per month, if they speak a second language, and are regularly called upon to use this skill in the performance of City-related business. To be eligible for the benefit, employees must receive the recommendation of their respective department head and obtain City Manager approval. Council members, department heads, and part-time employees will not be eligible for bilingual pay.

17. Holidays

a. Holidays Observed

The City provides regular and probationary employees with the following ten (10) paid holidays during the calendar year:

<u>HOLIDAY</u>	<u>DATE OBSERVED</u>
New Year's Day	January 1 or January 2 if January 1 falls on a Sunday
Martin Luther King Day	third Monday in January
President's Day	third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	first Monday in September
Thanksgiving Day	fourth Thursday in November
Christmas Eve	December 24
Christmas Day	December 25
New Year's Eve	December 31

If a holiday falls on an employee's regularly scheduled day off, the employee will receive a floating holiday, according to the provisions of Section 17.b, below. In such a case, the floating holiday will accrue on the date of the holiday.

b. Floating Holidays

In addition to the scheduled holidays identified above, employees receive one (1) floating holiday granted on July 1st of each year. The employee may use all floating holiday time at any time before the end of the fiscal year, as long as the employee has obtained the advance permission of his/her department head for the scheduling of the holiday.

Unused floating holidays will be automatically cashed out at the end of the fiscal year.

In case an employee terminates employment with the City, he or she will be fully compensated for any accrued, but unused, floating holidays.

c. Amount of Holiday Pay

Employees shall receive holiday pay, including floating holidays, in an amount equal to their regular schedule and rate of pay. For example, an employee who is assigned to a 4/10 schedule shall receive ten (10) hours of holiday pay, and an employee who is assigned to a 5/8 schedule shall receive eight (8) hours of holiday pay.

d. Work on Holidays

An employee who is scheduled and required to work on a date that the City has observed as a holiday shall be compensated at twice (2x) the employee's regular salary for all time actually worked on the date the holiday is observed. The employee shall not be provided with an alternative day off to observe the holiday or with a floating holiday.

18. Disability Insurance

The City will provide full-time and three-quarter-time employees with short and long-term disability insurance coverage, which provides an annual benefit of 66.6667% of earnings. Employees will become eligible for coverage the first of the month after their date of hire. Benefits will begin after a 30-day elimination period.

19. Life Insurance

All full-time and three-quarter-time employees will be entitled to group life insurance coverage equal to their annual salary, rounded to the next higher one-thousand dollars (\$1,000.00). For three-quarter-time employees, annual salary will be based on their normal work schedule.

20. Retirement

The City offers a defined retirement benefit plan through the California Public Employees' Retirement System (CalPERS). An employee may be eligible for one of three (3) benefit tiers pursuant to the City's contract with CalPERS. Information provided here is a summary of the benefits that are fully set forth in the City's contract with CalPERS, and in the case of a conflict, either party may request to reopen Article 20 regarding Retirement to meet and confer over the conflict and/or changes to the retirement. The applicable benefit tier available to an individual employee depends on his/her date of hire and/or status as "new member", which

determines the retirement formula, final compensation calculation and employee contribution/cost sharing, as follows:

a. Tier 1: Employees Hired Before March 19, 2012

All full-time and three-quarter-time employees hired before March 19, 2012, including those who have a break in service and then later return to City employment, shall be provided with the CalPERS 2.5% @ 55 benefit formula. Final compensation is calculated as the highest average annual pensionable compensation earned during a period of twelve (12) consecutive months.

The City will make all employer contributions required by CalPERS.

Effective July 1, 2014, the employee will be responsible for paying fifty percent (50%) of normal cost (currently eight percent (8%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employees' salaries pre-tax.

b. Tier 2: Employees Hired On or After March 19, 2012

All full-time and three-quarter-time employees hired on or after March 19, 2012, including those who have a break in service and then later return to City employment, shall be provided with the PERS 2% @ 60 benefit formula, with final compensation calculated using the average of three (3) highest years of pensionable compensation.

The City will make all employer contributions required by CalPERS.

The employee will be responsible for contributing fifty percent (50%) of the normal costs (currently seven percent (7%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employees' salaries pre-tax.

c. Tier 3: Employees Hired On or After January 1, 2013

- i. Full-time and three-quarter-time employees hired on or after January 1, 2013, who, within six (6) months of employment with the City, were either employed by a public employer that contracted with CalPERS or with another public retirement system with which CalPERS has reciprocity, shall be provided with the CalPERS 2% @ 60 benefit formula, with final

compensation calculated using the average of three (3) highest years of pensionable compensation.

The City will make all employer contributions required by CalPERS.

The employee will be responsible for contributing fifty percent (50%) of the normal costs (currently seven percent (7%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employees' salaries pre-tax.

- ii. Any other full-time and three-quarter-time employees hired on or after January 1, 2013, who do not meet the criteria set forth in Section 20.c.i, above, shall be provided with the CalPERS 2% @ 62 benefit formula, with final compensation calculated using the average of the highest consecutive 36 months of pensionable compensation.

The City will make all employer contributions required by CalPERS.

The employee will be responsible for contributing fifty percent (50%) of the normal costs (currently six point five percent (6.5%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employees' salaries pre-tax.

d. Disability Retirement

The City may request PERS to retire an employee who becomes physically or mentally unable to perform the duties of his or her position, or may be subject to further injury if employment is continued. The City may make every effort to transfer or reassign the partially disabled employee to another existing position within the classification plan before a request for disability retirement is made.

e. No Employer Paid Member Contributions ("EPMC")

The City shall not pay any portion of the member contributions.

21. Work Schedule

General City working hours are Monday through Thursday, 7:30 A.M. to 6:00 P.M. The City Manager, with reasonable notice to the employee, may adjust the working

hours of individual departments, and department heads, with reasonable notice to the employee, may adjust the working hours of individual employees. Any adjustment to a work schedule will be based on the needs of the City, with consideration given to the preference of the employee.

Should the City exercise its discretion to change the current core hours of operation, the City shall notify the Union thirty (30) days in advance of the proposed change(s) and provide the Union with the opportunity to discuss the impact of such change(s) on the affected employees.

22. Classification Revision

SEIU 721 recognizes that the City has the discretion to create a new job classification/description and or modify an existing job classification/description. The City shall notify the Union and provide the Union with the opportunity to discuss the content and the job classification/description.

23. Mileage Reimbursement

Employees required or allowed by their department head to use private automobiles for City business will be reimbursed based on the Internal Revenue Service standard mileage rates.

24. Uniforms

The City Manager may require any and all employees to regularly wear uniforms. Should such a uniform be required, the City will provide it. Full-time and three-quarter-time employees will receive one-hundred and fifty dollars (\$150.00) per fiscal year for uniform maintenance, and two-hundred dollars (\$200.00) per fiscal year for safety shoes or other required footwear.

25. Deferred Compensation

The City will make a deferred compensation program available to benefited employees that complies with the rules and regulations established by the Internal Revenue Service.

Employees will be allowed to participate in the program through payroll deduction.

26. Computer Loan Program

The City will continue its present employee computer loan program. Generally, benefited employees may have two active loans, in a total amount not to exceed three-thousand dollars (\$3,000.00), for the purchase of new computer equipment. Loans will be interest-free and payable over a two-year period. The minimum loan payment will be 1/52 of the amount borrowed, and will be made through payroll

deduction. The balances of any outstanding loans become due and payable upon termination, and will be deducted from an employee's final check. Continuation of the program is subject to annual budget appropriations by the City Council, and will be administered according to policies and procedures established by the City Manager.

27. Fitness Center Membership

Full-time and three-quarter-time employees and retirees of the City will be entitled to free individual membership at the Duarte Fitness Center.

28. Layoffs

Layoffs will be made first and primarily on the basis of merit job performance and secondly on the basis of seniority (date of hire). Employees will receive notice of the layoff at least ten (10) working days prior to the effective date. Names of persons laid off shall be carried on a reemployment list for twelve (12) months. If the City restores the laid off position(s) within the twelve (12) months period, it shall first offer the position(s) to persons on the reemployment list before using any other selection method. The name of the individual re-appointed to a permanent position of the same class shall, upon reappointment, be removed from the list. An individual who declines reemployment shall be dropped from the list.

29. Severance Pay

When a full-time employee is laid off, and when the service of the employee being laid off has been deemed satisfactory, that employee will be entitled to receive severance pay as follows:

Length of Service	Amount
Date of hire to 2 years	none
2 years plus one day to 5 years	1 month's salary
5 years plus one day to 10 years	2 month's salary
10 years plus one day to 15 years	3 month's salary
15 years plus one day to 20 years	4 month's salary
20 years plus one day to 25 years	5 month's salary
25 years plus one day or more	6 month's salary

Employees terminated from employment due to physical inability to perform their job, and eligible for workers' compensation benefits, will not be entitled to severance pay. Any additional years of service purchased by the City towards retirement will be deducted from severance pay.

30. Appeals

Disciplinary Action: Any regular employee shall have the right to appeal a suspension without pay in excess of forty (40) hours, reduction in pay, non-probationary demotion and/or termination. The appeal process shall not be applicable to those positions that may be deemed exempt or to probationary appointments. The appeal process shall not be applicable to any other forms of discipline and/or grievances. An employee desiring to appeal the appointing authority's decision shall have ten (10) calendar days after receipt of the response to file an appeal. The employee's request for appeal must be addressed to the City Manager and received in the City Manager's office so that it is date stamped by the City Manager's office within the ten (10)-day period.

If within the ten (10)-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the appointing authority shall be considered conclusive and shall take effect as prescribed. If within the ten (10)-day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the City Manager, an appeal hearing shall be established as follows:

- a. The California State Mediation and Conciliation Service shall be requested to submit a list of seven (7) persons qualified to act as hearing officers to the City and the employee. Within ten (10) days following receipt of the list of hearing officers, the parties shall meet to select the hearing officer. The parties shall alternately strike one (1) name from the list of hearing officers (the right to strike the first name to be determined by lot) until one (1) name remains, and that person shall be the hearing officer.
- b. Where practicable, the date for a hearing shall not be less than twenty (20) calendar days, or more than sixty (60) calendar days, from the date of the filing of the appeal with the City Manager. The parties may stipulate to a longer or shorter period of time in which to hear the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing.
- c. All hearings shall be private provided, however, that the hearing officer shall, at the request of the employee, open the hearing to the public.
- d. Subpoenas and subpoenas *duces tecum* pertaining to a hearing shall be issued at the request of either party, not less than seven (7) calendar days, prior to the commencement of such hearing. After the commencement of such hearing, subpoenas shall be issued only at the discretion of the hearing officer.
- e. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted, if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper admission of such evidence over objection in

civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and Unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by technical rules of evidence. The hearing officer shall rule on the admission or exclusion of evidence.

- f. Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing, unless the parties (City, hearing officer, employee/employee representative) mutually agree that same is not necessary.
- g. The hearing shall proceed in the following order, unless the hearing officer, for special reason, otherwise directs:
 - 1. The party imposing discipline shall be permitted to make an opening statement;
 - 2. The appealing party shall then be permitted to make an opening statement;
 - 3. The party imposing disciplinary action shall produce the evidence on his/her part; the City bears the burden of proof and burden of producing evidence;
 - 4. The party appealing from such disciplinary action may then open his/her defense and offer his/her evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;
 - 5. The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case; and
 - 6. Closing arguments shall be permitted and written briefs may be permitted at the discretion of the hearing officer.
- h. The hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. He/she shall base his/her findings on the preponderance of evidence. During the examination of a witness, all other

witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, in his/her discretion, for good cause, otherwise directs. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing. The hearing officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to reaching a fair and proper decision. The hearing officer shall render his/her judgment as soon after the conclusion of the hearing as possible and in no event later than 30 days after conducting the hearing. His/her decision shall set forth which charges, if any, are sustained and the reasons therefore. The opinion shall set forth findings of fact and conclusions.

- i. The hearing officer may recommend sustaining or rejecting any or all of the charges filed against the employee. He/she may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee. He/she may not recommend for discipline more stringent than that issued by the department head.
- j. The hearing officer's opinion and recommendation shall be filed with the City Manager, with a copy sent to the charged employee, and shall set forth his/her findings and recommendations. In a termination case, if dismissal is not the hearing officer's recommendation, the opinion shall set forth the date the employee is recommended to be reinstated and/or other recommended action. The reinstatement date, if appropriate, may be any time on or after the date of disciplinary action.
- k. Within thirty (30) days of the receipt of the hearing officer's findings and recommendation, and transcript (which is optional only by the mutual consent of the City and the employee), whichever date is later, the City Manager shall adopt, amend, modify or reject the recommended findings, conclusions, and/or opinions of the hearing officer. Prior to making a decision, which modifies or rejects the recommendation of the hearing officer, the City Manager shall order and read the transcript of the Third Party Advisory Process. Prior to making a decision, which supports the hearing officer, the City Manager may order and read the transcript at his/her option. The City Manager shall not conduct a *de novo* hearing. The City Manager may, at his/her option, allow limited oral arguments and/or may request and review written statements from either side. The decision of the City Manager shall be final and conclusive. Copies of the City Manager's decision, including the hearing officer's recommendation(s) shall be filed where appropriate, including the employee's personnel file, unless no discipline is upheld by the City Manager.
1. Each party shall bear equally the cost of facilities, fees, and expenses of the hearing officer, including the court reporter and transcripts. Each party shall bear its own witness and attorney fees. If either party unilaterally cancels or postpones a scheduled hearing, thereby resulting in a fee charged by the hearing

officer or court reporter, then the party responsible for the cancellation or postponement shall be solely responsible for payment of that fee. This process shall not apply to mutual settlements by the parties, which result in an arbitration fee.

- m. In the case of dismissal prescribed by the City Manager, the time of such dismissal shall be effective from the first day after such delivery of said decision or shall relate back to and be effective as of the date the employee was disciplined pending hearing before and decision by the City Manager, whichever is applicable. If discipline imposed resulted in loss of pay, and the decision results in reduction or elimination of loss of pay, the pay loss shall be restored to the employee based on the number of standard work hours lost computed at his/her then base hourly rate.
- n. The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this Section.

31. Dues Deduction

During the term of this MOU, the City agrees to deduct from the pay of each employee who signs an authorized payroll deduction card a monthly sum certified to him/her by the Secretary of SEIU 721 as the regular monthly dues of SEIU 721. The City shall not deduct any pay for initiation fees, fines, or other special assessments. Dues deduction shall be a specified uniform amount for each employee and any change in the amount of dues deducted shall be by written authorization from SEIU 721.

The employee's earnings must be regularly sufficient, after other legal and required deductions are made, to cover the amount of the dues authorized. When a member in good standing of SEIU 721 is in a non-pay status for an entire pay period, no dues withholding shall be made to cover that period from future earnings, nor shall the member deposit the amount with the City which would have been withheld if the member had been in a pay status during that period. In the case of an employee who is in non-pay status during only a part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. All other legal and required deductions have priority over employee organization dues.

SEIU 721 shall indemnify, defend, hold the City harmless against any claims made, and against any suit instituted against the City on account of employee organization dues. In addition, SEIU 721 shall refund to the City any amounts paid to it in error, upon presentation of supporting evidence.

32. Political Action Committee

Union members may voluntarily authorize in writing a political action committee deduction from their salary. Employees wishing to participate shall provide written

authorization on a form furnished by the Union indicating the amount to be deducted. The parties agree that the employee may revoke any such deduction at any time. The parties further agree that neither the Union nor the City will bestow any special benefit or cause any detriment as a result of an employee's voluntary choice to make, decline to make, or revoke a contribution.

33. Stewards

SEIU 721 may designate up to three (3) persons to act as stewards. The names of the designated stewards shall be provided in writing to the City on July 1st of each year, or any time there is change in the designated stewards.

A steward shall be entitled to reasonable release time for the purpose of representing an employee in the grievance or discipline appeal process. Prior to participating in such business, the steward shall first obtain authorization from his/her immediate supervisor. The immediate supervisor may deny such request if it is deemed that such a request would unduly interfere with the efficiency, safety, or security of City operations. If the request is denied, the immediate supervisor shall establish an alternate time convenient to the parties when the representative can be released from his/her work assignment.

34. Grievance Procedure

a. Definition

A "grievance" is a formal, written allegation by a grievant that he/she has been adversely affected by an existing violation, misinterpretation or misapplication of the specific provisions of the Memorandum of Understanding and/or provisions of the Personnel Rules and Regulations. Other matters for which a special method of review is provided by law, ordinance, resolution, or by administrative regulations and procedures of the City, are not within the scope of this procedure. This procedure is not to be used in lieu of the Disciplinary and Appeals Procedure set forth in Section 21 of the Personnel Rules & Regulations or Section 30 (Appeals) of this Memorandum of Understanding.

b. Procedure

- (1) Every effort shall be made to resolve a grievance through discussion between the employee and his/her immediate supervisor. It is the spirit and intent of this procedure that all grievances are settled quickly and fairly without subsequent discrimination against employees who may seek to adjust a grievance. Every effort should be made to find an acceptable solution at the lowest level of supervision. Within eight (8) workdays after a grievant knew, or by reasonable diligence should have known, of the condition upon which a grievance may be based, the grievant shall attempt

to resolve it by an informal conference with the grievant's immediate supervisor.

- (2) If the problem cannot be resolved between the employee and the supervisor, the employee may, within four (4) workdays from the date of receiving the answer from his/her supervisor, request an interview with the division manager, if one exists, in order to discuss the grievance.
- (3) If the division manager and employee cannot reach a solution to the grievance, the employee may, within four (4) workdays from the date of receiving the answer from the division manager, request, in writing, an interview with the Department Head.
- (4) The division manager and/or Department Head shall render his/her decision in writing within eight (8) workdays of receiving the appeal. If the Department Head and employee are unable to arrive at a satisfactory solution, the employee may, within eight (8) workdays from the date of the decision by the Department Head, submit a written appeal to the City Manager.
- (5) The City Manager shall review the grievance and respond to the employee within twenty (20) workdays of receiving the appeal. The City Manager may request additional time, if necessary. The response shall be in writing and will be considered an expression of management's viewpoint, and shall be the final administrative review.
- (6) Mediation. If the grievance is not resolved at Step (5), the employee or the Union at the request of the employee may within ten (10) workdays following receipt of City Manager's response at Step (5), request mediation.

A request for mediation must be in writing and must be submitted to the City's Manager or his/her designee. If the parties mutually agree to submit the dispute to mediation, the Administrative Service Director or his/her designee shall obtain the services of a mediator from the State Mediation and Conciliation Service. The fees for mediation shall be shared equally by Union and the City.

The mediation procedure shall be informal. The primary effort will be to assist both parties in settling the grievance. If the grievance is resolved through mediation, the parties agree to reduce the agreement to writing, signed by all affected parties and accept the results of mediation as binding.

- (7) Should employee or Union fail to meet the deadlines as listed in this procedure, then the grievance shall be deemed withdrawn by the employee or the Union.

- (8) The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her appeal at any level of review. In the event the employee desires the presence of a representative who is an employee of the City, he/she shall make such request through the supervisor and the supervisor shall make the necessary arrangements for the employee representative to be present.
- (9) The employee and/or his/her representative may use a reasonable amount of work time as determined by the appropriate supervisor or Department Head in presenting the appeal. However, no employee shall absent himself/herself without first being excused by his/her supervisor.
- (10) Employees shall be assured freedom from reprisal for using the grievance procedures by both the City and the employee organization.
- (11) The settlement terms of a grievance which is processed by an employee individually or by an informally recognized employee organization shall not conflict with the express provisions of a Memorandum of Understanding between the City and the formally recognized employee organization for such unit, if any.
- (12) A group grievance may be filed when one (1) set of circumstances or occurrences affects more than one (1) employee in the same manner or to the same extent. The group may file one (1) document, which all members of the group have read and signed. Members of the group shall be limited to those who have signed the grievance. The resolution of a group grievance may not be consistent among all employees in the group grievance due to differences in the circumstances or occurrences that brought about the grievance.

A group grievance affecting all members of an employee organization may be brought by the employee organization itself. In such case the procedure shall be commenced directly at the City Manager level within eight (8) workdays after authorized representatives of the employee organization knew or by reasonable diligence should have known of the condition giving rise to the grievance and shall be subject to all applicable time limitations and the provisions set forth above.

35. Union Business

a. City Facilities

City facilities may be used with the prior approval of the City Manager, or his/her designee, for the purpose of holding meetings if such facilities can be made available without disrupting the normal operations of the facilities or disrupting the normal work schedules of the involved employees.

b. Bulletin Boards

Each work location (City Hall Break Room; Copy Room; Public Safety; and City Yard) will provide a bulletin board or reasonable space that may be used by the Union for the posting of notices of official Union business and/or Union related articles. Posting notices shall be limited to the following:

- Notices of recreational and social activities;
- Notices of Union elections and results of such elections;
- Notices of Union appointments; and
- Notices of Union meetings, reports, and minutes thereof.

If the Union desires to post any other information or material, the Union shall first submit it to the City Manager, or his/her designee, for approval. The City Manager, or his/her designee, shall have the sole discretion to approve or disapprove of said posting. The Union is responsible for posting and removing material on its bulletin boards and for maintaining the same in an orderly and neat fashion.

c. Employee Information

The City will provide, directly to the SEIU 721 office, a list with the following information:

- Employee name;
- Class title;
- Department;
- Work location;
- Residence address; and
- Residence telephone number.

Pursuant to Bakersfield City School District (1998) PERB Dec. No. 1262, 22 PERC 29089, adopting 21 PERC 28130, and Government Code Section 3507(a)(8), an employee may choose not to provide his/her residence address and residence phone number to the Union. An employee so choosing must provide written notice to both the City and SEIU 721 of his or her decision not to provide his or her residence address and residence phone number. Residence addresses and residence phone numbers, once submitted by the City, shall not be communicated by the SEIU 721 office to City employees represented by SEIU 721.

This list shall be updated on a yearly basis.

- d. The Chapter's Board shall meet on a quarterly basis beginning (March, June, September and December) on the third (3rd) Wednesday from 9:00 A.M. to 11:00 A.M.

e. During labor negotiations over a successor MOU, the elected negotiating committee members shall meet during work hours for the purposes of drafting proposals and discussing proposals. The Union will advise the City one week prior to each meeting or as soon as practically possible.

f. Union-Related Training.

Board members and stewards shall be entitled to up to ten (10) hours of release time during each fiscal year for the purpose of attending training that is related to his/her role as a board member or steward, or other union-related trainings. This release time is not to be used to participate in trainings related to the employee's job duties. Release time has no cash value and shall not be cashed out under any circumstances. If one person is both a board member and a steward, he/she shall only be entitled to ten total hours of training each fiscal year.

Prior to participating in trainings, the employee shall first obtain authorization from his/her immediate supervisor. The immediate supervisor may deny such request if it is deemed that such a request would unduly interfere with the efficiency, safety, or security of City operations. If the request is denied, the immediate supervisor shall establish an alternate time convenient to the parties when the employees can be released from his/her work assignment.

36. Employee Relations Consultation Meetings

The City Manager and Assistant City Manager or her designee will meet, at the request of the Union, on a quarterly basis (January, April, July and October). Meeting times will be mutually scheduled. The Union recognizes that the schedule of the City Manager may necessitate postponement/rescheduling of a meeting. The Union shall submit a proposed agenda, in writing, one (1) week prior to the meeting.

37. Personnel Rules and Regulations

The City and Union agree to meet and confer on any proposed changes to the City's Personnel Rules and Regulations that are within the scope of bargaining.

38. Agency Shop

a. Agency Shop

It is mutually agreed by the parties that this Unit is an agency shop Unit. It is the intent of the parties that the agency shop provisions in the Memorandum of Understanding comply with applicable state law (Government Code Section 3502.5).

b. Agency Shop Defined

It is mutually agreed by the parties that the term "agency shop" means that every employee represented by this Unit shall, as a condition of continued employment, either join the certified majority representative organization, or pay the organization a Fair Share Fee equal to Union dues or pay an Agency Shop Fee; or pay a sum equal to the Agency Shop Fee to a non-religious, and non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Service Code.

c. Rescission

It is mutually agreed by the parties that the agency shop provisions in this Memorandum of Understanding may be rescinded by a majority vote of all the employees represented by this Unit during the time period(s) set forth in the City's Employer-Employee Relations Resolution, Resolution No. 02-07.

d. Union Responsibilities – Hudson Notice

The Union agrees to provide notice and maintain constitutionally acceptable procedures to enable non-member agency shop fee payers to meaningfully challenge the propriety of the use of agency shop fees as provided for in Chicago Teachers Union, Local No. 1, AFT, AFL-CIO et al. v. Hudson, 106 S. Ct. 1066 (1986). Such notice and procedures shall be provided to non-member agency shop fee payers for each year that the agency shop Memorandum of Understanding is in effect.

e. Implementation

The parties acknowledge that the City has provided all current employees with an authorization notice advising them that the City has entered into an Agency Shop Agreement with the Union, and that all employees subject to the Agreement must either join the Union, pay a service fee to the Union, or execute a written declaration claiming a religious exemption from this requirement. The City will provide a similar authorization to all employees hired into positions represented by the Union. Such notice shall include a form for the employee's signature authorizing payroll deduction of Union dues or a service fee, or a charitable contribution equal to the service fee. Said employees shall have fourteen (14) calendar days from the date they receive the form to fully execute it and return it to the Finance Department.

If the form is not completed properly and returned within fourteen (14) calendar days, the City shall commence and continue a payroll deduction of service fees from the regular biweekly paychecks of such employee. The effective date of Union dues, service fee, or charitable contribution shall begin no later than the first full pay period after receipt of the authorization form.

The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee in a non-pay status only during part of the pay period, whose salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care and insurance deductions) have priority over Union dues and service fees.

f. Religious Exemption

Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list the following three:

- City of Hope
- Children's Hospital
- United Way

Charitable contributions shall be by regular payroll deductions only in order to qualify as a condition of continued exemption from the requirement of financial support to the Union.

Declarations of or applications for religious exemption and any other supporting documentation shall be forwarded to the Union within 14 calendar days of receipt by the City. The Union shall have 14 calendar days after receipt of a request for religious exemption to challenge any exemption granted by the City. If challenged, the deduction to the charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge.

g. Records

The Union shall keep an adequate itemized record of its financial transactions and shall make available annually, to the City, and to the employees who are members of the organization, within sixty (60) days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the Labor-Management Disclosure Act of 1959 covering employees governed by this provision, or

required to file financial reports under Government Code Section 3546.5, may satisfy the financial reporting requirement of this section by providing the City with a copy of the financial reports.

h. Indemnification

The Union shall indemnify, defend and hold the City harmless against any liability arising from any claims, demands, or other action relating to the City's compliance with the agency fee obligation, including claims relating to the Union's use of monies collected under these provisions. The City reserves the right to select and direct legal counsel in the case of any challenge to the City's compliance with the agency fee obligation, and the Union agrees to pay any attorney, arbitrator or court fees related thereto.

39. Administrative Leave

Department heads will receive 60 hours of administrative leave in July of each year. This leave may be used to take time off, or sold back to the City at 100% of its monetary value. Administrative leave will not accrue from one fiscal year to the next.

40. City Vehicles

In lieu of mileage reimbursement, and as additional compensation, vehicles will be provided for the use of department heads on City business. Department heads will be permitted limited personal use of their vehicles subject to policies established by the City Manager.

41. Joint Labor-Management Committee

The parties agree to form a joint labor-management committee (JLMC) for the purpose of studying the current practices related to standby and call back procedures. The committee may also draft any recommended changes to the provisions of this MOU regarding standby and call back procedures and present them for approval as a side letter agreement to this MOU. The General Unit and Management and Professional Unit may designate up to five total representatives (plus a SEIU 721 representative) to be part of the JLMC, and shall designate one person to act as Chief Spokesperson. The City may designate up to five total representatives to be party of the JLMC, and shall designate one person to act as Chief Spokesperson. The parties agree that the JLMC shall be formed and shall have its first meeting by no later than October 1, 2014.

42. Severability

If any section of this MOU shall be found to be in conflict with any statute or regulation of the United States or the State of California by a court of competent

jurisdiction, such section shall be deemed null and void and of no further effect. However, such sections shall be severable from the remainder of this MOU, and all other provisions hereof shall continue in full force and effect.

IN WITNESS WHEREOF, the PARTIES have executed this MOU as of the latter date written below.

THE CITY OF DUARTE

Mayor Liz Reilly

Date

SEIU LOCAL 721

Larry Breceda, Union Board Member

Date

Craig Hensley, Union Board Member

Date

Approved as to Form:

Kelly A. Trainer, Burke, Williams & Sorensen, LLP

Date

Jody Klipple, SEIU Local 721 Negotiator

Date

APPENDIX A

MOU Between City of Duarte and SEIU Local 721
Management & Professional Salaries
Effective July 1, 2014

Classifications	Salary Steps													
	A		B		C		D		E		F		G	
	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly
Assistant Civil Engineer	\$5,643	\$32.55	\$5,823	\$33.59	\$6,000	\$34.62	\$6,180	\$35.65	\$6,357	\$36.68	\$6,539	\$37.72	\$6,717	\$38.75
Assistant to the City Manager	\$7,295	\$42.09	\$7,509	\$43.32	\$7,721	\$44.55	\$7,936	\$45.79	\$8,151	\$47.02	\$8,366	\$48.26	\$8,583	\$49.52
Associate Civil Engineer	\$6,449	\$37.21	\$6,686	\$38.57	\$6,921	\$39.93	\$7,159	\$41.30	\$7,394	\$42.66	\$7,631	\$44.03	\$7,868	\$45.39
Associate Planner	\$5,778	\$33.33	\$5,973	\$34.46	\$6,169	\$35.59	\$6,365	\$36.72	\$6,561	\$37.85	\$6,759	\$38.99	\$6,956	\$40.13
City Clerk	\$6,937	\$40.02	\$7,139	\$41.18	\$7,339	\$42.34	\$7,541	\$43.50	\$7,741	\$44.65	\$7,941	\$45.82	\$8,144	\$46.99
City Planner	\$8,242	\$47.55	\$8,505	\$49.06	\$8,766	\$50.57	\$9,028	\$52.08	\$9,291	\$53.60	\$9,552	\$55.11	\$9,814	\$56.62
Deputy City Manager	\$8,025	\$46.29	\$8,260	\$47.66	\$8,494	\$49.01	\$8,730	\$50.37	\$8,966	\$51.72	\$9,203	\$53.10	\$9,441	\$54.47
Director of Community Development	\$10,326	\$59.58	\$10,726	\$61.88	\$11,124	\$64.18	\$11,524	\$66.49	\$11,923	\$68.79	\$12,321	\$71.08	\$12,721	\$73.39
Director of Parks & Recreation	\$9,787	\$56.46	\$10,106	\$58.30	\$10,423	\$60.13	\$10,742	\$61.97	\$11,061	\$63.81	\$11,378	\$65.64	\$11,695	\$67.48
Director of Public Safety Services	\$9,787	\$56.46	\$10,106	\$58.30	\$10,423	\$60.13	\$10,742	\$61.97	\$11,061	\$63.81	\$11,378	\$65.64	\$11,695	\$67.48
Facilities Maintenance Supervisor	\$5,158	\$29.76	\$5,356	\$30.90	\$5,554	\$32.04	\$5,751	\$33.18	\$5,949	\$34.32	\$6,148	\$35.47	\$6,345	\$36.61
Field Services Manager	\$7,693	\$44.38	\$7,955	\$45.89	\$8,215	\$47.39	\$8,477	\$48.91	\$8,737	\$50.41	\$8,999	\$51.92	\$9,260	\$53.44
Financial Services Manager	\$6,759	\$38.99	\$6,994	\$40.36	\$7,228	\$41.70	\$7,463	\$43.06	\$7,698	\$44.41	\$7,933	\$45.77	\$8,170	\$47.13
Information Technology Manager	\$7,693	\$44.38	\$7,955	\$45.89	\$8,215	\$47.39	\$8,477	\$48.91	\$8,736	\$50.40	\$8,999	\$51.91	\$9,260	\$53.43
Public Safety Manager	\$6,093	\$35.15	\$6,487	\$37.42	\$6,602	\$38.09	\$6,857	\$39.56	\$7,110	\$41.02	\$7,364	\$42.49	\$7,618	\$43.95
Public Works Manager	\$7,785	\$44.92	\$8,030	\$46.33	\$8,275	\$47.74	\$8,522	\$49.16	\$8,768	\$50.58	\$9,014	\$52.00	\$9,260	\$53.43
Recreation Superintendent	\$6,838	\$39.45	\$7,078	\$40.84	\$7,319	\$42.23	\$7,560	\$43.62	\$7,801	\$45.00	\$8,042	\$46.40	\$8,284	\$47.79
Recreation Supervisor	\$5,158	\$29.76	\$5,356	\$30.90	\$5,554	\$32.04	\$5,751	\$33.18	\$5,950	\$34.33	\$6,148	\$35.47	\$6,346	\$36.61
Senior Planner	\$7,207	\$41.58	\$7,434	\$42.89	\$7,663	\$44.21	\$7,891	\$45.53	\$8,118	\$46.83	\$8,346	\$48.15	\$8,575	\$49.47
Transit Supervisor	\$5,621	\$32.43	\$5,843	\$33.71	\$6,070	\$35.02	\$6,293	\$36.31	\$6,517	\$37.60	\$6,744	\$38.91	\$6,967	\$40.20

APPENDIX B

**MOU Between City of Duarte and SEIU Local 721
Management & Professional Salaries
Effective July 1, 2015**

Classifications	Salary Steps													
	A		B		C		D		E		F		G	
	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly
Assistant Civil Engineer	\$5,929	\$34.20	\$6,117	\$35.29	\$6,304	\$36.37	\$6,492	\$37.46	\$6,679	\$38.53	\$6,870	\$39.63	\$7,057	\$40.71
Assistant to the City Manager	\$7,664	\$44.21	\$7,889	\$45.51	\$8,112	\$46.80	\$8,338	\$48.10	\$8,563	\$49.40	\$8,789	\$50.71	\$9,017	\$52.02
Associate Civil Engineer	\$6,775	\$39.09	\$7,024	\$40.52	\$7,272	\$41.95	\$7,521	\$43.39	\$7,768	\$44.81	\$8,018	\$46.25	\$8,266	\$47.69
Associate Planner	\$6,070	\$35.02	\$6,275	\$36.20	\$6,481	\$37.39	\$6,688	\$38.58	\$6,893	\$39.77	\$7,101	\$40.96	\$7,308	\$42.16
City Clerk	\$7,288	\$42.04	\$7,500	\$43.27	\$7,710	\$44.48	\$7,922	\$45.70	\$8,132	\$46.91	\$8,343	\$48.14	\$8,557	\$49.36
City Planner	\$8,659	\$49.96	\$8,935	\$51.55	\$9,209	\$53.13	\$9,485	\$54.72	\$9,761	\$56.31	\$10,036	\$57.90	\$10,311	\$59.49
Deputy City Manager	\$8,431	\$48.63	\$8,678	\$50.07	\$8,924	\$51.49	\$9,172	\$52.92	\$9,419	\$54.34	\$9,669	\$55.78	\$9,919	\$57.22
Director of Community Development	\$10,849	\$62.59	\$11,269	\$65.01	\$11,687	\$67.43	\$12,107	\$69.85	\$12,526	\$72.27	\$12,944	\$74.68	\$13,364	\$77.10
Director of Parks & Recreation	\$10,282	\$59.32	\$10,618	\$61.25	\$10,951	\$63.18	\$11,285	\$65.11	\$11,621	\$67.04	\$11,954	\$68.96	\$12,287	\$70.89
Director of Public Safety Services	\$10,282	\$59.32	\$10,618	\$61.25	\$10,951	\$63.18	\$11,285	\$65.11	\$11,621	\$67.04	\$11,954	\$68.96	\$12,287	\$70.89
Facilities Maintenance Supervisor	\$5,419	\$31.26	\$5,627	\$32.46	\$5,835	\$33.67	\$6,042	\$34.86	\$6,250	\$36.06	\$6,459	\$37.26	\$6,666	\$38.46
Field Services Manager	\$8,082	\$46.63	\$8,357	\$48.21	\$8,631	\$49.79	\$8,906	\$51.38	\$9,179	\$52.96	\$9,455	\$54.55	\$9,729	\$56.14
Financial Services Manager	\$7,101	\$40.96	\$7,348	\$42.40	\$7,594	\$43.81	\$7,841	\$45.23	\$8,087	\$46.66	\$8,335	\$48.09	\$8,583	\$49.52
Information Technology Manager	\$8,082	\$46.63	\$8,357	\$48.21	\$8,631	\$49.79	\$8,906	\$51.38	\$9,178	\$52.95	\$9,455	\$54.54	\$9,729	\$56.13
Public Safety Manager	\$6,401	\$36.93	\$6,815	\$39.32	\$6,936	\$40.02	\$7,204	\$41.56	\$7,470	\$43.10	\$7,737	\$44.63	\$8,004	\$46.17
Public Works Manager	\$8,179	\$47.19	\$8,437	\$48.67	\$8,694	\$50.16	\$8,953	\$51.65	\$9,211	\$53.14	\$9,470	\$54.63	\$9,729	\$56.13
Recreation Superintendent	\$7,184	\$41.44	\$7,437	\$42.90	\$7,690	\$44.36	\$7,942	\$45.82	\$8,195	\$47.28	\$8,449	\$48.75	\$8,703	\$50.21
Recreation Supervisor	\$5,419	\$31.26	\$5,627	\$32.46	\$5,835	\$33.67	\$6,042	\$34.86	\$6,251	\$36.07	\$6,459	\$37.26	\$6,667	\$38.46
Senior Planner	\$7,572	\$43.68	\$7,811	\$45.06	\$8,051	\$46.45	\$8,291	\$47.83	\$8,529	\$49.20	\$8,769	\$50.59	\$9,009	\$51.97
Transit Supervisor	\$5,905	\$34.07	\$6,139	\$35.42	\$6,377	\$36.79	\$6,611	\$38.14	\$6,847	\$39.50	\$7,085	\$40.88	\$7,320	\$42.24

APPENDIX B

**MOU Between City of Duarte and SEIU Local 721
Management & Professional Salaries
Effective July 1, 2016**

Classifications	Salary Steps													
	A		B		C		D		E		F		G	
	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly
Assistant Civil Engineer	\$5,988	\$34.54	\$6,179	\$35.65	\$6,367	\$36.73	\$6,557	\$37.83	\$6,746	\$38.92	\$6,938	\$40.03	\$7,128	\$41.12
Assistant to the City Manager	\$7,740	\$44.66	\$7,968	\$45.97	\$8,193	\$47.27	\$8,421	\$48.58	\$8,649	\$49.90	\$8,877	\$51.21	\$9,108	\$52.54
Associate Civil Engineer	\$6,843	\$39.48	\$7,094	\$40.93	\$7,344	\$42.37	\$7,597	\$43.83	\$7,845	\$45.26	\$8,098	\$46.72	\$8,349	\$48.17
Associate Planner	\$6,131	\$35.37	\$6,338	\$36.56	\$6,545	\$37.76	\$6,754	\$38.97	\$6,962	\$40.17	\$7,172	\$41.37	\$7,381	\$42.58
City Clerk	\$7,361	\$42.46	\$7,575	\$43.70	\$7,787	\$44.93	\$8,001	\$46.16	\$8,214	\$47.38	\$8,427	\$48.62	\$8,642	\$49.86
City Planner	\$8,746	\$50.46	\$9,024	\$52.06	\$9,301	\$53.66	\$9,580	\$55.27	\$9,859	\$56.88	\$10,136	\$58.48	\$10,414	\$60.08
Deputy City Manager	\$8,516	\$49.12	\$8,764	\$50.57	\$9,013	\$52.00	\$9,263	\$53.45	\$9,514	\$54.89	\$9,766	\$56.34	\$10,018	\$57.80
Director of Community Development	\$10,957	\$63.22	\$11,382	\$65.66	\$11,804	\$68.10	\$12,228	\$70.55	\$12,651	\$72.99	\$13,074	\$75.42	\$13,498	\$77.87
Director of Parks & Recreation	\$10,385	\$59.91	\$10,724	\$61.86	\$11,060	\$63.81	\$11,398	\$65.76	\$11,737	\$67.71	\$12,073	\$69.65	\$12,410	\$71.60
Director of Public Safety Services	\$10,385	\$59.91	\$10,724	\$61.86	\$11,060	\$63.81	\$11,398	\$65.76	\$11,737	\$67.71	\$12,073	\$69.65	\$12,410	\$71.60
Facilities Maintenance Supervisor	\$5,473	\$31.57	\$5,683	\$32.79	\$5,894	\$34.00	\$6,103	\$35.21	\$6,313	\$36.42	\$6,524	\$37.64	\$6,733	\$38.84
Field Services Manager	\$8,163	\$47.09	\$8,441	\$48.70	\$8,717	\$50.29	\$8,995	\$51.89	\$9,271	\$53.49	\$9,549	\$55.09	\$9,826	\$56.70
Financial Services Manager	\$7,172	\$41.37	\$7,421	\$42.82	\$7,670	\$44.25	\$7,919	\$45.69	\$8,168	\$47.12	\$8,418	\$48.57	\$8,669	\$50.01
Information Technology Manager	\$8,163	\$47.09	\$8,441	\$48.70	\$8,717	\$50.29	\$8,995	\$51.89	\$9,270	\$53.48	\$9,549	\$55.09	\$9,826	\$56.69
Public Safety Manager	\$6,465	\$37.30	\$6,683	\$39.71	\$7,006	\$40.42	\$7,276	\$41.98	\$7,545	\$43.53	\$7,814	\$45.08	\$8,084	\$46.64
Public Works Manager	\$8,261	\$47.66	\$8,521	\$49.16	\$8,781	\$50.66	\$9,043	\$52.17	\$9,304	\$53.67	\$9,564	\$55.18	\$9,826	\$56.69
Recreation Superintendent	\$7,256	\$41.86	\$7,511	\$43.33	\$7,766	\$44.81	\$8,022	\$46.28	\$8,277	\$47.75	\$8,534	\$49.23	\$8,790	\$50.71
Recreation Supervisor	\$5,473	\$31.57	\$5,683	\$32.79	\$5,894	\$34.00	\$6,103	\$35.21	\$6,314	\$36.43	\$6,524	\$37.64	\$6,734	\$38.85
Senior Planner	\$7,647	\$44.12	\$7,889	\$45.51	\$8,131	\$46.91	\$8,374	\$48.31	\$8,614	\$49.70	\$8,856	\$51.10	\$9,099	\$52.49
Transit Supervisor	\$5,964	\$34.41	\$6,200	\$35.77	\$6,440	\$37.16	\$6,678	\$38.52	\$6,916	\$39.90	\$7,156	\$41.28	\$7,393	\$42.66

APPENDIX B

CITY OF DUARTE

SICK LEAVE DONATION POLICY

- I. **Purpose:** There have been occasions when an employee, due to a catastrophic illness or injury, has exhausted all forms of paid time off. Such seriously ill or injured employees have been forced to go without compensation after the exhaustion of their paid time off and the waiting period for commencement of benefits under short-term disability insurance, typically thirty (30) days. This Policy is designed to address such circumstances. The purpose of this Policy is to establish a program and procedures for employees to voluntarily donate a portion of their accumulated sick leave time for use by fellow employees who meet the criteria for eligibility. Participation by donors and/or recipients in the Sick Leave Donation Program is entirely voluntary.
- II. **Creation of Sick Leave Bank:** As a result, the City shall create a sick leave bank where donated sick leave will be held for the future use under the terms of this Policy.
- III. **Voluntary Sick Leave Donations:** Employees may voluntarily donate sick leave, subject to the following requirements:
 - A. **Employee Status:** Any full-time or $\frac{3}{4}$ time employee, who has obtained non-probation status with the City, is eligible to participate as a donor in this program. Only sick leave may be donated. Other types of leave may not be donated.
 - B. **Request to Donate:** A donating employee will prepare and submit to the Assistant City Manager a "Request to Donate to Sick Leave Donation Bank" form.
 - C. **Minimum Donations:** Employees may only donate from their accumulated sick leave balance. The donation must be in a minimum of four (4) hours. Donations must be in whole hour increments; no fractions of hours may be donated.
 - D. **Minimum Leave Balance:** An employee donating sick leave must retain at least one hundred and sixty (160) hours of accumulated sick leave in their own personal balance of sick leave. If a donation would require an employee's accumulated sick leave balance to drop below one hundred and sixty (160) hours, immediately after the donation, the employee shall not be eligible to make a donation.
 - E. **Maximum Donation Per Employee:** No individual employee may donate more leave than they accrued during any calendar year.
 - F. **Approval/Denial:** The Assistant City Manager shall approve or deny each offered donation, if any, to the Sick Leave Donation Bank in accordance with the requirements of this Policy.
 - G. **Transfer to Sick Leave Donation Bank:** The Assistant City Manager will transfer approved donated sick leave into the Sick Leave Donation Bank from the accrued sick leave balance of the employee making the donation.
 - H. **Donations Irreversible:** Donations of sick leave transferred to the Donated Sick Leave Bank will be dispersed as the need arises. Time is released on a pay period by pay period basis. All donations are irreversible. Retroactive donations are not permitted.
 - I. **Prohibition on the Sale of Sick Leave:** The sale of accrued sick leave to any employee is

not permitted.

- J. Confidentiality of Donations: Under no circumstances shall the City disclose participants in the program, either employees donating leave or employees requesting use of donated leave.
- K. Taxation: Pursuant to IRS Ruling 90-29, sick leave donated under this program shall not be considered wages for the donating employee and will therefore not be included in the donating employee's gross income or subject to withholding.

IV. Requesting and Using Donated Leave:

- A. Eligibility of Employee for Sick Leave Donations: To be eligible to receive donated sick leave from the Sick Leave Donation Bank, an employee must meet all the following conditions:
 - 1. Meet the criteria for use of sick leave in accordance with City Personnel Rules and/or applicable memorandums of understanding.
 - 2. Have been employed by the City in a full-time or ¾ time position for at least one year.
 - 3. Be on an approved leave of absence.
 - 4. Submit a confidential statement from a treating physician which indicates:
 - a) That the employee's absence is due to one of the following qualifying reasons:
 - i. The employee has a "serious health condition," as defined by the Federal Family and Medical Leave Act and the California Family Rights Act, that requires the employee's absence from work for longer than two (2) pay periods, including intermittent absences that are related to the same "serious health condition"; or
 - ii. The employee is caring for his or her spouse, registered domestic partner, or parent (including step-parents), parent-in-law, child (including step-child), spouse, sibling, grandparent, or grandparent-in-law. ("Immediate Family Member"), who has a "serious health condition" that requires the employee's absence for longer than two (2) pay periods.
 - and**
 - b) Estimates the duration of the employee's absence from work.
 - 5. Have applied for short-term disability or long-term disability insurance, if any, for Workers' Compensation benefits, if eligible, or for other supplemental benefits.
 - 6. Have exhausted all earned leave balances (including sick, vacation, compensatory time, and administrative leave), but have not begun receiving short-term disability benefits. However, the Assistant City Manager may approve the request for sick leave donations prior to all balances being exhausted when the physician's statement and existing leave balances indicate that all such balances will be exhausted within the next two pay periods.
- B. Request for Donated Leave: Eligible employees must submit to the Assistant City

Manager, a Request for Donated Leave form, accompanied by the statement from their treating physician described above. The request and accompanying physician's statement must be submitted in a sealed envelope labeled "Confidential – Request for Donated Leave." If the requesting employee is unable to make the request on his or her own behalf, the employee's authorized agent may submit a request on the employee's behalf.

- C. Approval of Request: The Assistant City Manager will approve or deny the Request for Donated Leave.
- D. Payment of Leave: Donated leave shall be paid to the employee on the first pay period following the approval date, and payments are not retroactive.
- E. Return to Work: Should the requestor return to work prior to the donated leave being utilized, the remaining leave amount will be re-credited to the Sick Leave Donation Bank.
- F. Use of Donated Leave: While using leave from the Sick Leave Donation Bank, the recipient will be treated as though he/she was using his/her own sick leave (for example, at their regular rate of pay, based on their regular work schedule, etc.). Donated sick leave payments will be suspended as of the date the employee becomes eligible to begin receiving wage replacement benefits, including but not limited to short-term disability benefits, long-term disability benefits, and workers' compensation benefits.
- G. Taxation: The donated hours used by the recipient are taxable to him/her in accordance with Internal Revenue Service regulations and are subject to withholdings as required by law.
- H. No Guarantee: There is no guarantee of the availability of leave donations under this Policy, and this Policy does not entitle employees to extra leave during a catastrophic illness or injury beyond that which meets all qualifications under the terms of this policy.

V. **Sick Leave Donation Bank**: The Sick Leave Donation Bank and program shall be administered as follows:

- A. Administration: The Assistant City Manager will administer the Sick Leave Donation Bank and coordinate the sick leave donation program. The Sick Leave Donation Bank may be abolished at any time, at the discretion of the City, subject to the meet and confer process on the effects of the abolishment.
- B. Accounting for Donated Leave: Sick leave donated to the Sick Leave Donation Bank shall be converted to a cash value based on the donating employee's hourly rate of pay. Leave paid out shall be converted to sick leave hours based on the recipient employee's hourly rate of pay.
- C. Taxation: State and Federal income tax on the value of the leave shall be reported as income and taxable to the recipient, in accordance with Internal Revenue Service regulations, and are subject to withholdings as required by law.
- D. Confidentiality: All persons who coordinate the leave donation program shall emphasize the voluntary nature of the contribution. The collection and distribution of sick leave time shall be done in a way to ensure confidentiality for the donors and the recipients. The names of the donors and recipients shall not be disclosed. The Assistant City Manager will receive an employee's request for leave confidential statement from the requestor's physician in a manner consistent with the Federal Family and Medical Leave Act and the California Family Rights Act.

- E. Sick Leave Drive: At any time, or when the Leave Donation Time Bank is depleted, the Assistant City Manager may hold a leave donation drive for eligible employees to donate sick leave under this program. Donors and recipients will not be disclosed.

- F. Modification/Termination: The City has sole discretion to modify this Policy as it deems necessary, subject to the meet and confer process on the effects of that decision. This Policy and Sick Leave Donation Bank may be abolished at any time, at the discretion of the City. If hours are remaining in the Sick Leave Donation Bank at the time it is abolished, the City will credit all donors' leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed, during the preceding 12 months.

CITY OF DUARTE
REQUEST TO DONATE SICK LEAVE

Donor's Name (printed): _____

Donor's Department: _____

I wish to donate to the City's Sick Leave Bank, a voluntary leave time donation bank.

I understand the following provisions related to my donation:

1. I certify that I am full-time non-probationary employee in regular status. I am currently accruing sick leave hours and am not on a leave of absence.
2. I understand that: The minimum donation is 4 hours. All donations must be in full hour increments. Leave that has not accrued is not eligible to be donated. Only sick leave currently accrued is eligible for donation. I cannot borrow future sick leave accruals for donation.
3. I understand that once hours are donated, I have given up all rights to the hours. The hours remain in the bank until used by an eligible employee. Donations are voluntary, confidential, and irrevocable. If the program is abolished, the City will credit all donors' leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed, during the preceding 12 months.
4. I understand that I am encouraged to carefully consider the number of hours that I elect to donate to ensure that I retain a leave balance that meets my personal needs. I further understand that I am required to retain a balance of at least 160 hours of accrued sick leave in my available sick leave bank.
5. I understand that donations are made to the City's Sick Leave Donation Bank, not specific employees. I further understand that it is the responsibility of the program administrators to determine payout based on the program guidelines.
6. Program decisions are made in accordance with the City's Sick Leave Donation Policy.

Please donate _____ hours of my accrued sick leave hours to this program.

Donor's Signature Date

For HR Office Use Only

_____ Allowable Hours \$ _____ Hourly Rate \$ _____ Total Dollar Value

Denied Approved

Approval by Assistant City Manager Date

CITY OF DUARTE
CONFIDENTIAL REQUEST TO RECEIVE DONATED SICK LEAVE

I am requesting to receive additional sick leave pursuant to the City's Sick Leave Donation Policy due to a Serious Health Condition: a serious debilitating illness or injury that incapacitates the employee or his or her family member and meets the qualification of a serious health condition as defined in the City's Sick Leave Donation Policy.

Name (printed): _____

Department: _____

Have you received Donated Sick Leave this calendar year? No Yes Date: _____

Number of hours requested: _____ Dates of Leave: From _____ to _____

Briefly state the reason(s) for additional leave hours (please do not include medical diagnosis): _____

I understand that:

- I must be a regular status employee who is eligible to accrue and use sick leave.
- I must be on an approved leave of absence.
- I must provide a medical provider's verification of illness or injury.
- I must exhaust all paid leave credits (sick, vacation, administrative leave, and CTO) before I am eligible to receive Donated Sick Leave.
- In order to use Donated Sick Leave, I may not be on any other City pay status, receiving City disability, Worker's Compensation or any other supplemental benefits.
- My participation in the Donated Sick Leave program is subject to provisions outlined in the City's Sick Leave Policy.
- Any unused hours will be returned to the Donated Sick Leave Bank.
- Review and approval or denial of my request will include a review to determine if my request meets the standards set forth in the City's Sick Leave Donation Policy.
- There is no guarantee that Donated Sick Leave will be available to me.

Signature: _____ Date: _____

For HR Office Use Only

Denied Approved _____ Hours Transferred

Assistant City Manager Approval/Authorization Signature:

Signature

Date

**Memorandum of Understanding
Between City of Duarte and
SEIU Local 721 General Employees**

Fiscal Years 2014/2015 to 2016/2017

TABLE OF CONTENTS

	Page
1. Recognition	1
2. Term.....	2
3. MOU Distribution.....	2
4. Salaries.....	2
5. Medical Insurance.....	2
6. Dental and Vision	3
7. Sick Leave.....	4
8. Vacation.....	5
9. Bereavement	7
10. Standby Pay	7
11. Call Back Pay	8
12. Salary Upon Appointment To A Position In An Acting Capacity.....	8
13. Tuition Reimbursement	9
14. Section 125.....	9
15. Overtime.....	10
16. Bilingual Pay.....	11
17. Holidays	11
18. Disability Insurance	12
19. Life Insurance	12
20. Retirement.....	12
21. Work Schedule	14
22. Classification Revision	15
23. Mileage Reimbursement	15
24. Uniforms.....	15
25. Deferred Compensation.....	15
26. Loan Program.....	15
27. Fitness Center Membership.....	16
28. Layoffs	16
29. Severance Pay	16

TABLE OF CONTENTS
(continued)

	Page
30. Appeals.....	16
31. Dues Deduction.....	20
32. Political Action Committee.....	20
33. Stewards	21
34. Grievance Procedure	21
35. Union Business	23
36. Employee Relations Consultation Meetings	25
37. Personnel Rules and Regulations	25
38. Agency Shop	25
39. Joint Labor-Management Committee	28
40. Severability	28

**Memorandum of Understanding Between
City of Duarte
And
SEIU Local 721 – General Employees**

This Memorandum of Understanding (“MOU”) is made and entered into by and between the City of Duarte (“City”) and the Service Employees International Union, Local 721 (“SEIU 721”).

1. Recognition

The City recognizes SEIU 721 as the representative for those employees employed by the City in the following classifications:

- Accountant
- Accounting Specialist
- Administrative Secretary
- Assistant Planner
- Bus Driver
- Civil Engineering Technician
- Clerk/Typist Receptionist
- Code Compliance/ Animal Control Officer
- Community Development Technician
- Crime Prevention Specialist
- Custodian
- Field Services Supervisor
- Irrigation Control Technician
- Human Resources Specialist*
- Lead Driver
- Public Safety Coordinator
- Recreation Coordinator
- Senior Code Compliance/ Animal Control Officer
- Senior Custodian
- Senior Maintenance Technician
- Senior Maintenance Technician/Electrician

* Confidential Employee – Pursuant to Government Code Section 3507.3 this classification is “restricted from representing any employee organization on matters within the scope of representation.”

2. Term

The term of this MOU shall be from July 1, 2014 to June 30, 2017.

3. MOU Distribution

The City will provide all current and new employees, covered by this MOU, with a copy of the MOU.

4. Salaries

Effective July 1, 2014, the base salary range of each classification in the bargaining unit shall be increased by three percent (3%).

Effective July 1, 2015, the base salary range of each classification in the bargaining unit shall be increased by two percent (2%).

Effective July 1, 2016, the base salary range of each classification in the bargaining unit shall be increased by one percent (1%).

The resulting salary range for each classification is set forth in Appendix A.

5. Medical Insurance

a. Employees

Each full-time and three-quarter-time employee will be provided medical insurance coverage through the PERS system. Effective July 1, 2013, the City will contribute toward the cost of any insurance program for employees and dependents at the following monthly rates:

	Full Time Employees	3/4 Time Employees*
Employee Only	\$362.68	\$272.01
Employee + One	\$725.36	\$544.02
Employee + Two or More	\$942.97	\$707.22

* Employees hired, or converted, into three-quarter time status on or after July 1, 2008, will be entitled to seventy-five percent (75%) of the City's contribution to insurance premiums, listed above.

Employees will pay any excess premiums through payroll deduction. The City will reimburse employees who waive medical insurance coverage an amount equal to sixty percent (60%) of the cost of the applicable premium.

Employees who choose a plan where the premiums are lower than the amounts paid by the City listed in the chart above will not receive the difference between their chosen plan and the City's maximum coverage.

b. Retirees

The City will provide medical insurance coverage for retirees and their dependents through the PERS system. To be eligible, employees must retire within one hundred and twenty (120) days of their separation from employment from the City of Duarte. The City's contribution to insurance premiums for retirees will be set at the same levels as they are for active employees. Retirees will pay any excess premiums through deductions in their retirement benefits. The City will reimburse retirees who waive medical insurance coverage an amount equal to sixty percent (60%) of the cost of the applicable premium.

c. Changes to Health Care Laws

The parties recognize that certain changes to State or Federal laws, programs, taxes or regulations including, but not limited to, the Affordable Care Act, may impact future medical plan offerings. In the event that such reform measures or resulting changes in the healthcare marketplace alter healthcare coverage options, costs or other elements of healthcare and materially alter the provisions of this MOU, either party may request to reopen Article 5 regarding medical insurance to meet and confer over any changes to the medical insurance.

6. Dental and Vision

a. Dental Insurance

Each full-time and three-quarter-time employee will be provided dental coverage through the City-sponsored dental plan. Enrollment in the plan is mandatory and no cash alternative will be provided. Eligibility will begin the first day of the month following hire. The Delta Dental PPO plan allows the covered employee and their eligible dependents to receive care from any licensed dentist; however, the highest level of benefits will be received when utilizing a Delta PPO Provider. The City will provide all employees with information from Delta Dental regarding the details of the plan, and will provide any information regarding changes made to the plan.

Effective July 1, 2014, the City will contribute toward the cost of the City sponsored dental plan for employees and their dependents at the following monthly rates:

	Full Time & Part Time ³/₄ Employees
Employee Only	\$51.47
Employee + One	\$91.09
Employee + Two or More	\$145.35

The City will pay for any increases due to renewal rates through the term of this MOU up to ten percent (10%). In the event that the cost increases by more than ten percent (10%) over the term of the MOU, the City shall notify the Union and the parties shall meet and confer regarding the Dental Plan.

b. Vision Insurance

Each full-time and three-quarter-time employee will be provided vision coverage through the City sponsored vision plan. Enrollment in the plan is mandatory and no cash alternative will be provided. Eligibility will begin the first day of the month following hire. The Vision Service Plan (VSP) plan allows the covered employee and their eligible dependents to receive care from any vision provider; however, the highest level of benefits will be received when utilizing a VSP contracted provider.

Effective July 1, 2014, the City will contribute toward the cost of the City sponsored vision plan for employees and their dependents at the following monthly rates:

	Full Time & Part Time ³/₄ Employees
Employee Only	\$9.98
Employee + One	\$14.49
Employee + Two or More	\$26.28

The City will pay for any increases due to renewal rates through the term of this MOU up to ten percent (10%). In the event that the cost increases by more than ten percent (10%) over the term of the MOU, the City shall notify the Union and the parties shall meet and confer regarding the VSP.

7. Sick Leave

All full-time employees will receive ninety-six (96) hours of sick leave per year. Three-quarter-time employees will receive seventy-two (72) hours of sick leave per year.

a. Accrual

There will be no limit to the amount of sick leave an employee may accrue. The last day of each pay period, each eligible employee will have 1/26th of his or her annual sick leave added to his or her earned sick leave balance.

b. Use of Sick Leave

Sick leave may be used only for a bona fide illness or injury of the employee. In cases where lost work time due to illness or injury exceeds two days, or when the employee has been frequently ill, the City Manager or designee may require a written physician's confirmation of the nature of the illness or injury. Should work time lost due to illness or injury exceed the employee's accrued sick leave balance, then any available vacation, floating holidays, or compensated time off will be used as compensation.

c. Conversion to Service Credit upon Retirement

Pursuant to the terms of the City's contract, as amended, with the California Public Employees' Retirement System (CalPERS), upon voluntary retirement the employee may convert one hundred percent (100%) of his/her accrued sick leave balance, less any amount used under the provisions to retirement service credit.

d. Notification

In cases of illness or injury, the employee will notify their respective department head or other supervisor designated by the department head at the earliest possible time as to the nature and possible duration of the injury or illness. It will be the employee's responsibility to keep the department head informed on a daily basis of his/her condition as it relates to absence from employment.

e. Sick Leave Donation Policy

Employees may voluntarily donate sick leave to a donation bank, which is maintained for the use of qualified employees who have suffered a catastrophic illness or injury and have exhausted their paid leaves of absence. This program is set forth in an administrative policy, which is also attached as Attachment B.

8. Vacation

Each employee will receive paid vacation in the amounts listed below.

Length of Service	Full-time	Three-quarter time*
Date of hire to 5 years of service	82 hours	61.5 hours
5 years plus one day to 10 years	120 hours	90 hours
10 years plus one day to 11 years	130 hours	97.5 hours

11 years plus one day to 12 years	140 hours	105 hours
12 years plus one day to 13 years	150 hours	112.5 hours
13 years plus one day to 14 years	160 hours	120 hours
14 years plus one day to 15 years	170 hours	127.5 hours
15 years plus one day or more	180 hours	135 hours

* Exception: Employees hired or converted to three-quarter-time employees before July 1, 2008, will receive forty (40) hours of vacation leave each year. They will not be allowed to carry over vacation leave from one fiscal year to the next.

a. Waiting Period

Employees of the City will not be permitted, until after six (6) months of continuous employment, to take paid vacation, unless otherwise approved in writing by the appropriate department head and the City Manager. The scheduling of vacation time is subject to the prior written approval of the department head and verification of accrued vacation time by the Personnel Division. No employee will be permitted to take a vacation in excess of accrued vacation time unless specifically authorized in writing by the City Manager.

b. Accrual

At the conclusion of each pay period, every full-time or three-quarter-time employee will have added to his or her vacation balance 1/26th of the annual vacation hours for which the employee is eligible. Effective June 1, 2007, employees will not be allowed to accrue vacation leave in an amount greater than three-hundred and sixty (360) hours.

c. Annual Buyback

Employees with five (5) or more years of continuous service with the City will be allowed to sell accrued vacation leave back to the City at one-hundred percent (100%) of its full value. The maximum amount of the annual buyback is as follows:

Length of Service	
Date of hire to 5 years of service	0 hours
5 years plus one day to 10 years	40 hours
10 years plus one day or more	60 hours

Employees will be given the opportunity to sell accrued vacation leave back to the City annually, on or before July 31st of each fiscal year.

d. Payoff at Termination

Employees terminating from City employment will be paid in full for all properly earned vacation.

9. Bereavement

Each employee will be entitled to bereavement leave in an amount of forty (40) hours per incident. Bereavement leave will be granted only in those cases involving the death of a parent (including step-parents), parent-in-law, children (including step-children), spouse, sibling, grandparent, grandparent-in-law, or registered domestic partner.

10. Standby Pay

Employees placed on standby for the week (commencing at noon on Wednesday and ending at noon on the following Wednesday) shall receive two hundred and seventy-five dollars (\$275.00) per week. An employee will be required to carry a cell phone while on standby duty. Such time is not considered hours worked under the Fair Labor Standards Act and will not be compensated in any manner except as set forth above.

Employees on standby are required to answer a call within five (5) to ten (10) minutes and are responsible for remaining within a fifty (50) mile radius of the City.

Standby duty assignments are rotated based on current practices. An annual list shall be established to give employees advance notice of their assignment.

All employees assigned to standby duty are expected to complete their duty week and will be held responsible for its completion. Exchange of duty week between

employees is possible with approval of the Field Services Manager. In case of illness or other circumstance in which an employee cannot finish his/her assigned duty, the employee on standby duty shall contact the Field Services Manager who has the responsibility to provide coverage for the standby duty. The pay for each employee serving standby will be proportionately divided based on the amount of time each worked during the week.

The procedures in this section are subject to the joint labor-management committee on standby and call back pay as set forth in Article 39 of this Agreement.

11. Call Back Pay

Employees, whether on standby or not, who are called back to perform duties outside of their regular work schedule shall be paid at the rate of one and one-half (1½) times the employee's regular rate of pay for a minimum of two (2) hours.

If an employee is called back between the hours of midnight and 4:00 A.M., minimum pay of three (3) hours at the rate of one and one half (1½) times the employee's regular rate shall apply.

If an employee is called back on a non-working day or holiday between the hours of midnight and 6:00 A.M., minimum pay of three (3) hours at the rate of one and one half (1½) times the employee's regular rate shall apply.

Note that this provision is irrespective of paid leave time exclusions as set forth in Section 15 (Overtime).

The procedures in this section are subject to the joint labor-management committee on standby and call back pay as set forth in Article 39 of this Agreement.

12. Salary Upon Appointment To A Position In An Acting Capacity

Whenever the needs of the City require an employee to temporarily perform the duties of a higher classification than that in which the employee is currently employed for a period of more than twelve (12) consecutive working days, the employee shall receive the salary rate of the higher class in which he/she is performing the required duties. In such cases, the employee shall be paid at an appropriate step of the salary schedule of the higher classification which will ensure an increase of not less than five percent (5%) greater than the salary of his/her current position, but in no case shall such salary exceed the top salary step of the higher classification.

The higher salary rate payable shall commence on the thirteenth working day following the temporary reassignment to the performance of duties of the higher classification.

The requirement for the performance of duties of the higher classification shall be placed in writing by the Personnel Officer (or his/her designee) following recommendation by the affected Department Head. No employee shall be required to perform any of the duties of a higher classification unless that employee is deemed to possess the minimum qualification of the higher classification by the Personnel Officer as recommended by the affected Department Head.

The employee assigned to perform the duties of a higher classification shall not serve for more than ninety (90) working days in a higher classification whenever a vacancy exists (or it is apparent that a vacancy will be present) without the announcement by the Personnel Officer of an approved examination as otherwise provided in the rules and regulations. In no case shall an employee serve more than six (6) months in a higher classification without successfully passing the examination.

A person appointed in an acting capacity shall be eligible to receive performance increases in his/her permanent position during the acting appointment but shall not be entitled to performance increases in the position which he/she holds in an acting capacity. If successful in being promoted, the period of time of service in the higher classification shall be credited for the promoted employee toward the required period of probation for the higher classification as otherwise required in these rules.

The Personnel Officer shall obtain the employee's written consent for the temporary performance of any of the duties of the higher classification beyond a period of twelve (12) working days, prior to an employee assuming or continuing the duties and compensation of a higher classification, which consent shall clearly state that it is understood that a reduction of salary shall be effected to his/her original salary rate upon the expiration of the need for the performance of the duties of the higher classification. In no instance shall the salary rate of the higher classification extend beyond the six (6) months period as hereinabove set forth, unless otherwise promoted in accordance with the Personnel Rules and Regulations.

13. Tuition Reimbursement

Employees are eligible to be reimbursed for seventy-five percent (75%) of the cost of college accredited academic courses, taken for credit, outside regular working hours, that are directly related to their job duties, or are required for a degree in their occupational field in local government. The reimbursement will not exceed two-thousand eight hundred dollars (\$2,800.00) for full-time employees or two-thousand one hundred dollars (\$2,100.00) for three-quarter-time employees, during any fiscal year. Reimbursement costs include those for registration, parking, and books. Proof of course completion and a grade of "C" or better are required.

14. Section 125

Pursuant to Internal Revenue Service (IRS) Code Section 125, the City has established a voluntary flexible spending arrangement that is funded by salary reductions and reimburses employees for qualified expenses, such as dependent care assistance and medical care reimbursements. The City will continue to maintain a Section 125 program for all full-time and three-quarter-time employees.

15. Overtime

a. Eligibility for Overtime

Exempt and non-exempt classifications will be set by City resolution according to the requirements of the Fair Labor Standards Act. City employees may be required to work overtime by their respective department head, subject to City Manager approval. Only time worked in excess of forty (40) hours in a given workweek will be considered overtime. Vacation leave, sick leave, holidays, and other time not actually worked will not be counted towards the forty (40) hours.

b. Overtime Compensation

Non-exempt employees will be compensated for overtime at one and one-half (1.5) times their regular rate of pay for all hours worked in excess of forty (40) in a workweek.

c. Emergency Call Back

Each employee may be required to come back to work in case of an emergency. Non-department head level employees will be guaranteed at least two (2) hours of overtime when called back to work.

d. Attendance at Meetings

Any employee may be required by their department head or his/her designee to attend meetings. Employees will be compensated at regular pay rates for required attendance at meetings, and shall receive overtime if such attendance requires the employee to work more than forty (40) hours in a workweek.

e. Use of Overtime Discouraged

The City Manager will take all necessary measures to minimize the use of overtime. All employees must receive advance approval from their Department Head or his/her designee to work in excess of forty (40) hours in a workweek.

f. Compensatory Time Accumulated.

In lieu of overtime pay, employees may, with department head approval, receive compensatory time off. However, no employee will be permitted to accrue more than sixty (60) hours of compensatory time off. Once an employee reaches sixty

(60) hours of compensatory time off, he/she will automatically receive overtime pay until he/she has reduced his/her hours of compensatory time off.

16. Bilingual Pay

The City will compensate full-time and three-quarter-time employees one-hundred dollars (\$100.00) per month, if they speak a second language, and are regularly called upon to use this skill in the performance of City-related business. To be eligible for the benefit, employees must receive the recommendation of their respective department head and obtain City Manager approval. Council members, department heads, and part-time employees will not be eligible for bilingual pay.

17. Holidays

a. Holidays Observed

The City provides regular and probationary employees with the following ten (10) paid holidays during the calendar year:

<u>HOLIDAY</u>	<u>DATE OBSERVED</u>
New Year's Day	January 1 or January 2 if January 1 falls on a Sunday
Martin Luther King Day	third Monday in January
President's Day	third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	first Monday in September
Thanksgiving Day	fourth Thursday in November
Christmas Eve	December 24
Christmas Day	December 25
New Year's Eve	December 31

If a holiday falls on an employee's regularly scheduled day off, the employee will receive a floating holiday, according to the provisions of Section 17.b, below. In such a case, the floating holiday will accrue on the date of the holiday.

b. Floating Holidays

In addition to the scheduled holidays identified above, employees receive one (1) floating holiday granted on July 1st of each year. The employee may use all floating holiday time at any time before the end of the fiscal year, as long as the employee has obtained the advance permission of his/her department head for the scheduling of the holiday.

Unused floating holidays will be automatically cashed out at the end of the fiscal year.

In case an employee terminates employment with the City, he or she will be fully compensated for any accrued, but unused, floating holidays.

c. Amount of Holiday Pay

Employees shall receive holiday pay, including floating holidays, in an amount equal to their regular schedule and rate of pay. For example, an employee who is assigned to a 4/10 schedule shall receive ten (10) hours of holiday pay, and an employee who is assigned to a 5/8 schedule shall receive eight (8) hours of holiday pay.

d. Work on Holidays

An employee who is scheduled and required to work on a date that the City has observed as a holiday shall be compensated at twice (2x) the employee's regular salary for all time actually worked on the date the holiday is observed. The employee shall not be provided with an alternative day off to observe the holiday or with a floating holiday.

18. Disability Insurance

The City will provide full-time and three-quarter-time employees with short and long-term disability insurance coverage, which provides an annual benefit of 66.6667% of earnings. Employees will become eligible for coverage the first of the month after their date of hire. Benefits will begin after a 30-day elimination period.

19. Life Insurance

All full-time and three-quarter-time employees will be entitled to group life insurance coverage equal to their annual salary, rounded to the next higher one-thousand dollars (\$1,000.00). For three-quarter-time employees, annual salary will be based on their normal work schedule.

20. Retirement

The City offers a defined retirement benefit plan through the California Public Employees' Retirement System (CalPERS). An employee may be eligible for one of three (3) benefit tiers pursuant to the City's contract with CalPERS. Information provided here is a summary of the benefits that are fully set forth in the City's contract with CalPERS, and in the case of a conflict, either party may request to reopen Article 20 regarding Retirement to meet and confer over the conflict and/or changes to the retirement. The applicable benefit tier available to an individual employee depends on his/her date of hire and/or status as "new member", which determines the retirement formula, final compensation calculation and employee contribution/cost sharing, as follows:

a. Tier 1: Employees Hired Before March 19, 2012

All full-time and three-quarter-time employees hired before March 19, 2012, including those who have a break in service and then later return to City employment, shall be provided with the CalPERS 2.5% @ 55 benefit formula. Final compensation is calculated as the highest average annual pensionable compensation earned during a period of twelve (12) consecutive months.

The City will make all employer contributions required by CalPERS.

Effective July 1, 2014, the employee will be responsible for paying fifty percent (50%) of normal cost (currently eight percent (8%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employees' salaries pre-tax.

b. Tier 2: Employees Hired On or After March 19, 2012

All full-time and three-quarter-time employees hired on or after March 19, 2012, including those who have a break in service and then later return to City employment, shall be provided with the PERS 2% @ 60 benefit formula, with final compensation calculated using the average of three (3) highest years of pensionable compensation.

The City will make all employer contributions required by CalPERS.

The employee will be responsible for contributing fifty percent (50%) of the normal costs (currently seven percent (7%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employee's salaries pre-tax.

c. Tier 3: Employees Hired On or After January 1, 2013

- i. Full-time and three-quarter-time employees hired on or after January 1, 2013, who, within six (6) months of employment with the City, were either employed by a public employer that contracted with CalPERS or with another public retirement system with which CalPERS has reciprocity, shall be provided with the CalPERS 2% @ 60 benefit formula, with final compensation calculated using as the average of three (3) highest years of pensionable compensation.

The City will make all employer contributions required by CalPERS.

The employee will be responsible for contributing fifty percent (50%) of the normal costs (currently seven percent (7%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employees' salaries pre-tax.

- ii. Any other full-time and three-quarter-time employees hired on or after January 1, 2013, who do not meet the criteria set forth in Section 20.c.i, above, shall be provided with the CalPERS 2% @ 62 benefit formula, with final compensation calculated using the average of the highest consecutive 36 months of pensionable compensation.

The City will make all employer contributions required by CalPERS.

The employee will be responsible for contributing fifty percent (50%) of the normal costs (currently six point five percent (6.5%)). In the event employee contribution rates are adjusted by CalPERS during the term of this MOU, the member contribution will be recalculated based upon the updated required member contribution rate established by CalPERS to ensure the employee contributes fifty percent (50%) of normal cost. All employee paid contributions will be deducted from employees' salaries pre-tax.

d. Disability Retirement

The City may request PERS to retire an employee who becomes physically or mentally unable to perform the duties of his or her position, or may be subject to further injury if employment is continued. The City may make every effort to transfer or reassign the partially disabled employee to another existing position within the classification plan before a request for disability retirement is made.

e. No Employer Paid Member Contributions ("EPMC")

The City shall not pay any portion of the member contributions.

21. Work Schedule Error! Bookmark not defined.

General City working hours are Monday through Thursday, 7:30 A.M. to 6:00 P.M. The City Manager, with reasonable notice to the employee, may adjust the working hours of individual departments, and department heads, with reasonable notice to the employee, may adjust the working hours of individual employees. Any

adjustment to a work schedule will be based on the needs of the City, with consideration given to the preference of the employee.

Should the City exercise its discretion to change the current core hours of operation, the City shall notify the Union thirty (30) days in advance of the proposed change(s) and provide the Union with the opportunity to discuss the impact of such change(s) on the affected employees.

22. Classification Revision

SEIU 721 recognizes that the City has the discretion to create a new job classification/description and or modify an existing job classification/description. The City shall notify the Union and provide the Union with the opportunity to discuss the content and the job classification/description.

23. Mileage Reimbursement

Employees required or allowed by their department head to use private automobiles for City business will be reimbursed based on the Internal Revenue Service standard mileage rates.

24. Uniforms

The City Manager may require any and all employees to regularly wear uniforms. Should such a uniform be required, the City will provide it. Full-time and three-quarter-time employees will receive one hundred and fifty dollars (\$150.00) per fiscal year for uniform maintenance, and two hundred dollars (\$200.00) per fiscal year for safety shoes or other required footwear.

25. Deferred Compensation

The City will make a deferred compensation program available to benefited employees that complies with the rules and regulations established by the Internal Revenue Service. Employees will be allowed to participate in the program through payroll deduction.

26. Loan Program

The City will continue its present employee computer loan program. Generally, benefited employees may have two active loans, in a total amount not to exceed three-thousand dollars (\$3,000.00), for the purchase of new computer equipment. Loans will be interest-free and payable over a two-year period. The minimum loan payment will be 1/52 of the amount borrowed, and will be made through payroll deduction. The balances of any outstanding loans become due and payable upon termination, and will be deducted from an employee's final check. Continuation of the program is subject to annual budget appropriations by the City Council, and will

be administered according to policies and procedures established by the City Manager.

27. Fitness Center Membership

Full-time and three-quarter-time employees and retirees of the City will be entitled to free individual membership at the Duarte Fitness Center.

28. Layoffs

Layoffs will be made first and primarily on the basis of merit job performance and secondly on the basis of seniority (date of hire). Employees will receive notice of the layoff at least ten (10) working days prior to the effective date. Names of persons laid off shall be carried on a reemployment list for twelve (12) months. If the City restores the laid off position(s) within the twelve (12) months period, it shall first offer the position(s) to persons on the reemployment list before using any other selection method. The name of the individual re-appointed to a permanent position of the same class shall, upon reappointment, be removed from the list. An individual who declines reemployment shall be dropped from the list.

29. Severance Pay

When a full-time employee is laid off, and when the service of the employee being laid off has been deemed satisfactory, that employee will be entitled to receive severance pay as follows:

Length of Service	Amount
Date of hire to 2 years	none
2 years plus one day to 5 years	1 month's salary
5 years plus one day to 10 years	2 month's salary
10 years plus one day to 15 years	3 month's salary
15 years plus one day to 20 years	4 month's salary
20 years plus one day to 25 years	5 month's salary
25 years plus one day or more	6 month's salary

Employees terminated from employment due to physical inability to perform their job, and eligible for workers' compensation benefits, will not be entitled to severance pay. Any additional years of service purchased by the City towards retirement will be deducted from severance pay.

30. Appeals

Disciplinary Action: Any regular employee shall have the right to appeal a suspension without pay in excess of forty (40) hours, reduction in pay, non-probationary demotion and/or termination. The appeal process shall not be applicable to those positions that may be deemed exempt or to probationary

appointments. The appeal process shall not be applicable to any other forms of discipline and/or grievances. An employee desiring to appeal the appointing authority's decision shall have ten (10) calendar days after receipt of the response to file an appeal. The employee's request for appeal must be addressed to the City Manager and received in the City Manager's office so that it is date stamped by the City Manager's office within the ten (10)-day period.

If within the ten (10)-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the appointing authority shall be considered conclusive and shall take effect as prescribed. If within the ten (10)-day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the City Manager, an appeal hearing shall be established as follows:

- a. The California State Mediation and Conciliation Service shall be requested to submit a list of seven (7) persons qualified to act as hearing officers to the City and the employee. Within ten (10) days following receipt of the list of hearing officers, the parties shall meet to select the hearing officer. The parties shall alternately strike one (1) name from the list of hearing officers (the right to strike the first name to be determined by lot) until one (1) name remains, and that person shall be the hearing officer.
- b. Where practicable, the date for a hearing shall not be less than twenty (20) calendar days, or more than sixty (60) calendar days, from the date of the filing of the appeal with the City Manager. The parties may stipulate to a longer or shorter period of time in which to hear the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing.
- c. All hearings shall be private provided, however, that the hearing officer shall, at the request of the employee, open the hearing to the public.
- d. Subpoenas and subpoenas *duces tecum* pertaining to a hearing shall be issued at the request of either party, not less than seven (7) calendar days, prior to the commencement of such hearing. After the commencement of such hearing, subpoenas shall be issued only at the discretion of the hearing officer.
- e. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted, if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may

be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by technical rules of evidence. The hearing officer shall rule on the admission or exclusion of evidence.

- f. Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing, unless the parties (City, hearing officer, employee/employee representative) mutually agree that same is not necessary.
- g. The hearing shall proceed in the following order, unless the hearing officer, for special reason, otherwise directs:
 - 1. The party imposing discipline shall be permitted to make an opening statement;
 - 2. The appealing party shall then be permitted to make an opening statement;
 - 3. The party imposing disciplinary action shall produce the evidence on his/her part; the City bears the burden of proof and burden of producing evidence;
 - 4. The party appealing from such disciplinary action may then open his/her defense and offer his/her evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;
 - 5. The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case; and
 - 6. Closing arguments shall be permitted and written briefs may be permitted at the discretion of the hearing officer.
- h. The hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. He/she shall base his/her findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, in his/her discretion, for good cause, otherwise directs. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing. The hearing officer, prior to or during a hearing, may

grant a continuance for any reason he/she believes to be important to reaching a fair and proper decision. The hearing officer shall render his/her judgment as soon after the conclusion of the hearing as possible and in no event later than 30 days after conducting the hearing. His/her decision shall set forth which charges, if any, are sustained and the reasons therefore. The opinion shall set forth findings of fact and conclusions.

- i. The hearing officer may recommend sustaining or rejecting any or all of the charges filed against the employee. He/she may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee. He/she may not recommend for discipline more stringent than that issued by the department head.
- j. The hearing officer's opinion and recommendation shall be filed with the City Manager, with a copy sent to the charged employee, and shall set forth his/her findings and recommendations. In a termination case, if dismissal is not the hearing officer's recommendation, the opinion shall set forth the date the employee is recommended to be reinstated and/or other recommended action. The reinstatement date, if appropriate, may be any time on or after the date of disciplinary action.
- k. Within thirty (30) days of the receipt of the hearing officer's findings and recommendation, and transcript (which is optional only by the mutual consent of the City and the employee), whichever date is later, the City Manager shall adopt, amend, modify or reject the recommended findings, conclusions, and/or opinions of the hearing officer. Prior to making a decision, which modifies or rejects the recommendation of the hearing officer, the City Manager shall order and read the transcript of the Third Party Advisory Process. Prior to making a decision, which supports the hearing officer, the City Manager may order and read the transcript at his/her option. The City Manager shall not conduct a *de novo* hearing. The City Manager may, at his/her option, allow limited oral arguments and/or may request and review written statements from either side. The decision of the City Manager shall be final and conclusive. Copies of the City Manager's decision, including the hearing officer's recommendation(s) shall be filed where appropriate, including the employee's personnel file, unless no discipline is upheld by the City Manager.
- l. Each party shall bear equally the cost of facilities, fees, and expenses of the hearing officer, including the court reporter and transcripts. Each party shall bear its own witness and attorney fees. If either party unilaterally cancels or postpones a scheduled hearing, thereby resulting in a fee charged by the hearing officer or court reporter, then the party responsible for the cancellation or postponement shall be solely responsible for payment of that fee. This process shall not apply to mutual settlements by the parties, which result in an arbitration fee.

- m. In the case of dismissal prescribed by the City Manager, the time of such dismissal shall be effective from the first day after such delivery of said decision or shall relate back to and be effective as of the date the employee was disciplined pending hearing before and decision by the City Manager, whichever is applicable. If discipline imposed resulted in loss of pay, and the decision results in reduction or elimination of loss of pay, the pay loss shall be restored to the employee based on the number of standard work hours lost computed at his/her then base hourly rate.
- n. The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this Section.

31. Dues Deduction

During the term of this MOU, the City agrees to deduct from the pay of each employee who signs an authorized payroll deduction card a monthly sum certified to him/her by the Secretary of SEIU 721 as the regular monthly dues of SEIU 721. The City shall not deduct any pay for initiation fees, fines, or other special assessments. Dues deduction shall be a specified uniform amount for each employee and any change in the amount of dues deducted shall be by written authorization from SEIU 721.

The employee's earnings must be regularly sufficient, after other legal and required deductions are made, to cover the amount of the dues authorized. When a member in good standing of SEIU 721 is in a non-pay status for an entire pay period, no dues withholding shall be made to cover that period from future earnings, nor shall the member deposit the amount with the City which would have been withheld if the member had been in a pay status during that period. In the case of an employee who is in non-pay status during only a part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. All other legal and required deductions have priority over employee organization dues.

SEIU 721 shall indemnify, defend, hold the City harmless against any claims made, and against any suit instituted against the City on account of employee organization dues. In addition, SEIU 721 shall refund to the City any amounts paid to it in error, upon presentation of supporting evidence.

32. Political Action Committee

Union members may voluntarily authorize in writing a political action committee deduction from their salary. Employees wishing to participate shall provide written authorization on a form furnished by the Union indicating the amount to be deducted. The parties agree that the employee may revoke any such deduction at any time. The parties further agree that neither the Union nor the City will bestow

any special benefit or cause any detriment as a result of an employee's voluntary choice to make, decline to make, or revoke a contribution.

33. Stewards

SEIU 721 may designate up to three (3) persons to act as stewards. The names of the designated stewards shall be provided in writing to the City on July 1st of each year, or any time there is change in the designated stewards.

A steward shall be entitled to reasonable release time for the purpose of representing an employee in the grievance or discipline appeal process. Prior to participating in such business, the steward shall first obtain authorization from his/her immediate supervisor. The immediate supervisor may deny such request if it is deemed that such a request would unduly interfere with the efficiency, safety, or security of City operations. If the request is denied, the immediate supervisor shall establish an alternate time convenient to the parties when the representative can be released from his/her work assignment.

34. Grievance Procedure

a. Definition

A "grievance" is a formal, written allegation by a grievant that he/she has been adversely affected by an existing violation, misinterpretation or misapplication of the specific provisions of the Memorandum of Understanding and/or provisions of the Personnel Rules and Regulations. Other matters for which a special method of review is provided by law, ordinance, resolution, or by administrative regulations and procedures of the City, are not within the scope of this procedure. This procedure is not to be used in lieu of the Disciplinary and Appeals Procedure set forth in Section 21 of the Personnel Rules & Regulations or Section 30 (Appeals) of this Memorandum of Understanding.

b. Procedure

- (1) Every effort shall be made to resolve a grievance through discussion between the employee and his/her immediate supervisor. It is the spirit and intent of this procedure that all grievances are settled quickly and fairly without subsequent discrimination against employees who may seek to adjust a grievance. Every effort should be made to find an acceptable solution at the lowest level of supervision. Within eight (8) workdays after a grievant knew, or by reasonable diligence should have known, of the condition upon which a grievance may be based, the grievant shall attempt to resolve it by an informal conference with the grievant's immediate supervisor.

- (2) If the problem cannot be resolved between the employee and the supervisor, the employee may, within four (4) workdays from the date of receiving the answer from his/her supervisor, request an interview with the division manager, if one exists, in order to discuss the grievance.
- (3) If the division manager and employee cannot reach a solution to the grievance, the employee may, within four (4) workdays from the date of receiving the answer from the division manager, request, in writing, an interview with the Department Head.
- (4) The division manager and/or Department Head shall render his/her decision in writing within eight (8) workdays of receiving the appeal. If the Department Head and employee are unable to arrive at a satisfactory solution, the employee may, within eight (8) workdays from the date of the decision by the Department Head, submit a written appeal to the City Manager.
- (5) The City Manager shall review the grievance and respond to the employee within twenty (20) workdays of receiving the appeal. The City Manager may request additional time, if necessary. The response shall be in writing and will be considered an expression of management's viewpoint, and shall be the final administrative review.
- (6) Mediation. If the grievance is not resolved at Step (5), the employee or the Union at the request of the employee may within ten (10) workdays following receipt of City Manager's response at Step (5), request mediation.

A request for mediation must be in writing and must be submitted to the City's Manager or his/her designee. If the parties mutually agree to submit the dispute to mediation, the Administrative Service Director or his/her designee shall obtain the services of a mediator from the State Mediation and Conciliation Service. The fees for mediation shall be shared equally by Union and the City.

The mediation procedure shall be informal. The primary effort will be to assist both parties in settling the grievance. If the grievance is resolved through mediation, the parties agree to reduce the agreement to writing, signed by all affected parties and accept the results of mediation as binding.

- (7) Should employee or Union fail to meet the deadlines as listed in this procedure, then the grievance shall be deemed withdrawn by the employee or the Union.
- (8) The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her appeal at any level of review. In the event the employee desires the presence of a representative who is an

employee of the City, he/she shall make such request through the supervisor and the supervisor shall make the necessary arrangements for the employee representative to be present.

- (9) The employee and/or his/her representative may use a reasonable amount of work time as determined by the appropriate supervisor or Department Head in presenting the appeal. However, no employee shall absent himself/herself without first being excused by his/her supervisor.
- (10) Employees shall be assured freedom from reprisal for using the grievance procedures by both the City and the employee organization.
- (11) The settlement terms of a grievance which is processed by an employee individually or by an informally recognized employee organization shall not conflict with the express provisions of a Memorandum of Understanding between the City and the formally recognized employee organization for such unit, if any.
- (12) A group grievance may be filed when one (1) set of circumstances or occurrences affects more than one (1) employee in the same manner or to the same extent. The group may file one (1) document, which all members of the group have read and signed. Members of the group shall be limited to those who have signed the grievance. The resolution of a group grievance may not be consistent among all employees in the group grievance due to differences in the circumstances or occurrences that brought about the grievance.

A group grievance affecting all members of an employee organization may be brought by the employee organization itself. In such case the procedure shall be commenced directly at the City Manager level within eight (8) workdays after authorized representatives of the employee organization knew or by reasonable diligence should have known of the condition giving rise to the grievance and shall be subject to all applicable time limitations and the provisions set forth above.

35. Union Business

a. City Facilities

City facilities may be used with the prior approval of the City Manager, or his or her designee, for the purpose of holding meetings if such facilities can be made available without disrupting the normal operations of the facilities or disrupting the normal work schedules of the involved employees.

b. Bulletin Boards

Each work location (City Hall Break Room; Copy Room; Public Safety; and City Yard) will provide a bulletin board or reasonable space that may be used by the Union for the posting of notices of official Union business and/or Union related articles. Posting notices shall be limited to the following:

- Notices of recreational and social activities;
- Notices of Union elections and results of such elections;
- Notices of Union appointments; and
- Notices of Union meetings, reports, and minutes thereof.

If the Union desires to post any other information or material, the Union shall first submit it to the City Manager, or his or her designee, for approval. The City Manager, or his or her designee, shall have the sole discretion to approve or disapprove of said posting. The Union is responsible for posting and removing material on its bulletin boards and for maintaining the same in an orderly and neat fashion.

c. Employee Information

The City will provide, directly to the SEIU 721 office, a list with the following information:

- Employee name;
- Class title;
- Department;
- Work location;
- Residence address; and
- Residence telephone number.

Pursuant to Bakersfield City School District (1998) PERB Dec. No. 1262, 22 PERC 29089, adopting 21 PERC 28130, and Government Code Section 3507(a)(8), an employee may choose not to provide his or her residence address and residence phone number to the Union. An employee so choosing must provide written notice to both the City and SEIU 721 of his or her decision not to provide his or her residence address and residence phone number. Residence addresses and residence phone numbers, once submitted by the City, shall not be communicated by the SEIU 721 office to City employees represented by SEIU 721.

This list shall be updated on a yearly basis.

- d. The Chapter's Board shall meet on a quarterly basis beginning (March, June, September and December) on the third (3rd) Wednesday from 9:00 A.M. to 11:00 A.M.

e. During labor negotiations over a successor MOU, the elected negotiating committee members shall meet during work hours for the purposes of drafting proposals and discussing proposals. The Union will advise the City one week prior to each meeting or as soon as practically possible.

f. Union-Related Training

Board members and stewards shall be entitled to up to ten (10) hours of release time during each fiscal year for the purpose of attending training that is related to his/her role as a board member or steward, or other union-related trainings. This release time is not to be used to participate in trainings related to the employee's job duties. Release time has no cash value and shall not be cashed out under any circumstances. If one person is both a board member and a steward, he/she shall only be entitled to ten total hours of training each fiscal year.

Prior to participating in trainings, the employee shall first obtain authorization from his/her immediate supervisor. The immediate supervisor may deny such request if it is deemed that such a request would unduly interfere with the efficiency, safety, or security of City operations. If the request is denied, the immediate supervisor shall establish an alternate time convenient to the parties when the employees can be released from his/her work assignment.

36. Employee Relations Consultation Meetings

The City Manager and Assistant City Manager or her designee will meet, at the request of the Union, on a quarterly basis (January, April, July and October). Meeting times will be mutually scheduled. The Union recognizes that the schedule of the City Manager may necessitate postponement/rescheduling of a meeting. The Union shall submit a proposed agenda, in writing, one (1) week prior to the meeting.

37. Personnel Rules and Regulations

The City and Union agree to meet and confer on any proposed changes to the City's Personnel Rules and Regulations that are within the scope of bargaining.

38. Agency Shop

a. Agency Shop

It is mutually agreed by the parties that this Unit is an agency shop Unit. It is the intent of the parties that the agency shop provisions in the Memorandum of Understanding comply with applicable state law (Government Code Section 3502.5).

b. Agency Shop Defined

It is mutually agreed by the parties that the term "agency shop" means that every employee represented by this Unit shall, as a condition of continued employment, either join the certified majority representative organization, or pay the organization a Fair Share Fee equal to Union dues or pay an Agency Shop Fee; or pay a sum equal to the Agency Shop Fee to a non-religious, and non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Service Code.

c. Rescission

It is mutually agreed by the parties that the agency shop provisions in this Memorandum of Understanding may be rescinded by a majority vote of all the employees represented by this Unit during the time period(s) set forth in the City's Employer-Employee Relations Resolution, Resolution No. 02-07.

d. Union Responsibilities – Hudson Notice

The Union agrees to provide notice and maintain constitutionally acceptable procedures to enable non-member agency shop fee payers to meaningfully challenge the propriety of the use of agency shop fees as provided for in Chicago Teachers Union, Local No. 1, AFT, AFL-CIO et al. v. Hudson, 106 S. Ct. 1066 (1986). Such notice and procedures shall be provided to non-member agency shop fee payers for each year that the agency shop Memorandum of Understanding is in effect.

e. Implementation

The parties acknowledge that the City has provided all current employees with an authorization notice advising them that the City has entered into an Agency Shop Agreement with the Union, and that all employees subject to the Agreement must either join the Union, pay a service fee to the Union, or execute a written declaration claiming a religious exemption from this requirement. The City will provide a similar authorization to all employees hired into positions represented by the Union. Such notice shall include a form for the employee's signature authorizing payroll deduction of Union dues or a service fee, or a charitable contribution equal to the service fee. Said employees shall have fourteen (14) calendar days from the date they receive the form to fully execute it and return it to the Finance Department.

If the form is not completed properly and returned within fourteen (14) calendar days, the City shall commence and continue a payroll deduction of service fees from the regular biweekly paychecks of such employee. The effective date of Union dues, service fee, or charitable contribution shall begin no later than the first full pay period after receipt of the authorization form.

The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee in a non-pay status only during part of the pay period, whose salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care and insurance deductions) have priority over Union dues and service fees.

f. Religious Exemption

Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list the following three:

- City of Hope
- Children's Hospital
- United Way

Charitable contributions shall be by regular payroll deductions only in order to qualify as a condition of continued exemption from the requirement of financial support to the Union.

Declarations of or applications for religious exemption and any other supporting documentation shall be forwarded to the Union within 14 calendar days of receipt by the City. The Union shall have 14 calendar days after receipt of a request for religious exemption to challenge any exemption granted by the City. If challenged, the deduction to the charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge.

g. Records

The Union shall keep an adequate itemized record of its financial transactions and shall make available annually, to the City, and to the employees who are members of the organization, within sixty (60) days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the Labor-Management Disclosure Act of 1959 covering employees governed by this provision, or

required to file financial reports under Government Code Section 3546.5, may satisfy the financial reporting requirement of this section by providing the City with a copy of the financial reports.

h. Indemnification

The Union shall indemnify, defend and hold the City harmless against any liability arising from any claims, demands, or other action relating to the City's compliance with the agency fee obligation, including claims relating to the Union's use of monies collected under these provisions. The City reserves the right to select and direct legal counsel in the case of any challenge to the City's compliance with the agency fee obligation, and the Union agrees to pay any attorney, arbitrator or court fees related thereto.

39. Joint Labor-Management Committee

The parties agree to form a joint labor-management committee (JLMC) for the purpose of studying the current practices related to standby and call back procedures. The committee may also draft any recommended changes to the provisions of this MOU regarding standby and call back procedures and present them for approval as a side letter agreement to this MOU. The General Unit and Management and Professional Unit may designate up to five total representatives (plus a SEIU 721 representative) to be part of the JLMC, and shall designate one person to act as Chief Spokesperson. The City may designate up to five total representatives to be party of the JLMC, and shall designate one person to act as Chief Spokesperson. The parties agree that the JLMC shall be formed and shall have its first meeting by no later than October 1, 2014.

40. Severability

If any section of this MOU shall be found to be in conflict with any statute or regulation of the United States or the State of California by a court of competent jurisdiction, such section shall be deemed null and void and of no further effect. However, such sections shall be severable from the remainder of this MOU, and all other provisions hereof shall continue in full force and effect.

IN WITNESS WHEREOF, the PARTIES have executed this MOU as of the latter date written below.

THE CITY OF DUARTE

Mayor Liz Reilly

Date

SEIU LOCAL 721

Pam Romero, Union Board Member

Date

Manual Perez, Union Board Member

Date

Mike Tarr, Union Board Member

Date

APPROVED AS TO FORM:

Kelly A. Trainer, Burke, Williams & Sorensen, LLP

Date

Jody Klipple, SEIU Local 721 Negotiator

Date

APPENDIX A

MOU Between City of Duarte and SEIU Local 721
General Employee Salaries
Effective July 1, 2014

Classifications	Salary Steps													
	A		B		C		D		E		F		G	
	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly
Accountant	\$5,030	\$29.01	\$5,214	\$30.08	\$5,399	\$31.14	\$5,585	\$32.22	\$5,771	\$33.30	\$5,958	\$34.37	\$6,144	\$35.44
Accounting Specialist	\$4,419	\$25.50	\$4,571	\$26.36	\$4,722	\$27.24	\$4,874	\$28.12	\$5,025	\$28.99	\$5,177	\$29.87	\$5,329	\$30.74
Administrative Secretary	\$4,011	\$23.15	\$4,166	\$24.04	\$4,321	\$24.93	\$4,474	\$25.82	\$4,630	\$26.71	\$4,782	\$27.59	\$4,936	\$28.48
Assistant Planner	\$4,832	\$27.88	\$5,020	\$28.96	\$5,209	\$30.05	\$5,397	\$31.14	\$5,490	\$32.23	\$5,774	\$33.31	\$5,963	\$34.40
Bus Driver	\$3,682	\$21.24	\$3,804	\$21.95	\$3,925	\$22.65	\$4,046	\$23.34	\$4,169	\$24.05	\$4,290	\$24.76	\$4,413	\$25.46
Civil Engineering Technician	\$4,349	\$25.09	\$4,530	\$26.14	\$4,713	\$27.19	\$4,893	\$28.23	\$5,077	\$29.29	\$5,260	\$30.34	\$5,441	\$31.39
Clerk/Typist Receptionist	\$3,309	\$19.09	\$3,429	\$19.78	\$3,548	\$20.47	\$3,667	\$21.16	\$3,787	\$21.85	\$3,907	\$22.55	\$4,032	\$23.26
Code Compliance/Animal Control Officer	\$4,698	\$27.10	\$4,895	\$28.24	\$5,090	\$29.37	\$5,287	\$30.50	\$5,483	\$31.63	\$5,679	\$32.76	\$5,874	\$33.89
Community Development Technician	\$4,577	\$26.41	\$4,769	\$27.51	\$4,959	\$28.61	\$5,151	\$29.72	\$5,340	\$30.81	\$5,532	\$31.92	\$5,724	\$33.02
Crime Prevention Specialist	\$4,869	\$28.09	\$5,048	\$29.12	\$5,232	\$30.18	\$5,420	\$31.26	\$5,605	\$32.33	\$5,793	\$33.42	\$5,978	\$34.49
Custodian	\$3,323	\$19.17	\$3,450	\$19.90	\$3,576	\$20.63	\$3,707	\$21.38	\$3,832	\$22.11	\$3,962	\$22.86	\$4,090	\$23.59
Field Services Supervisor	\$5,201	\$30.03	\$5,464	\$31.52	\$5,724	\$33.02	\$5,984	\$34.52	\$6,245	\$36.02	\$6,505	\$37.53	\$6,766	\$39.03
Irrigation Control Technician	\$3,989	\$23.01	\$4,141	\$23.89	\$4,293	\$24.77	\$4,445	\$25.65	\$4,600	\$26.54	\$4,753	\$27.43	\$4,904	\$28.29
Human Resources Specialist	\$4,577	\$26.41	\$4,769	\$27.51	\$4,959	\$28.61	\$5,151	\$29.72	\$5,340	\$30.81	\$5,532	\$31.92	\$5,724	\$33.02
Lead Driver	\$4,854	\$28.00	\$5,000	\$28.84	\$5,150	\$29.71	\$5,304	\$30.60	\$5,464	\$31.52	\$5,627	\$32.46	\$5,796	\$33.44
Public Safety Coordinator	\$3,926	\$22.65	\$4,074	\$23.50	\$4,223	\$24.36	\$4,372	\$25.22	\$4,521	\$26.09	\$4,671	\$26.94	\$4,821	\$27.81
Recreation Coordinator	\$3,925	\$22.65	\$4,074	\$23.50	\$4,223	\$24.36	\$4,372	\$25.22	\$4,521	\$26.09	\$4,671	\$26.94	\$4,821	\$27.81
Senior Code Compliance/Animal Control Officer	\$5,115	\$29.52	\$5,328	\$30.74	\$5,540	\$31.96	\$5,754	\$33.19	\$5,968	\$34.43	\$6,182	\$35.67	\$6,395	\$36.89
Senior Custodian	\$4,034	\$23.27	\$4,188	\$24.17	\$4,345	\$25.07	\$4,501	\$25.97	\$4,659	\$26.88	\$4,815	\$27.78	\$4,974	\$28.69
Senior Maintenance Technician	\$3,989	\$23.01	\$4,141	\$23.89	\$4,293	\$24.77	\$4,445	\$25.65	\$4,600	\$26.54	\$4,753	\$27.43	\$4,904	\$28.29
Senior Maintenance Technician*Electrician	\$4,310	\$24.86	\$4,439	\$25.61	\$4,573	\$26.39	\$4,709	\$27.17	\$4,852	\$27.99	\$4,996	\$28.83	\$5,147	\$29.70

APPENDIX B

**MOU Between City of Duarte and SEIU Local 721
General Employee Salaries
Effective July 1, 2015**

Classifications	Salary Steps													
	A		B		C		D		E		F		G	
	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly
Accountant	\$5,030	\$29.01	\$5,214	\$30.08	\$5,399	\$31.14	\$5,585	\$32.22	\$5,771	\$33.30	\$5,958	\$34.37	\$6,144	\$35.44
Accounting Specialist	\$4,419	\$25.50	\$4,571	\$26.36	\$4,722	\$27.24	\$4,874	\$28.12	\$5,025	\$28.99	\$5,177	\$29.87	\$5,329	\$30.74
Administrative Secretary	\$4,011	\$23.15	\$4,166	\$24.04	\$4,321	\$24.93	\$4,474	\$25.82	\$4,630	\$26.71	\$4,782	\$27.59	\$4,936	\$28.48
Assistant Planner	\$4,832	\$27.88	\$5,020	\$28.96	\$5,209	\$30.05	\$5,397	\$31.14	\$5,490	\$32.23	\$5,774	\$33.31	\$5,963	\$34.40
Bus Driver	\$3,682	\$21.24	\$3,804	\$21.95	\$3,925	\$22.65	\$4,046	\$23.34	\$4,169	\$24.05	\$4,290	\$24.76	\$4,413	\$25.46
Civil Engineering Technician	\$4,349	\$25.09	\$4,530	\$26.14	\$4,713	\$27.19	\$4,893	\$28.23	\$5,077	\$29.29	\$5,260	\$30.34	\$5,441	\$31.39
Clerk/Typist Receptionist	\$3,309	\$19.09	\$3,429	\$19.78	\$3,548	\$20.47	\$3,667	\$21.16	\$3,787	\$21.85	\$3,907	\$22.55	\$4,032	\$23.26
Code Compliance/Animal Control Officer	\$4,698	\$27.10	\$4,895	\$28.24	\$5,090	\$29.37	\$5,287	\$30.50	\$5,483	\$31.63	\$5,679	\$32.76	\$5,874	\$33.89
Community Development Technician	\$4,577	\$26.41	\$4,769	\$27.51	\$4,959	\$28.61	\$5,151	\$29.72	\$5,340	\$30.81	\$5,532	\$31.92	\$5,724	\$33.02
Crime Prevention Specialist	\$4,869	\$28.09	\$5,048	\$29.12	\$5,232	\$30.18	\$5,420	\$31.26	\$5,605	\$32.33	\$5,793	\$33.42	\$5,978	\$34.49
Custodian	\$3,323	\$19.17	\$3,450	\$19.90	\$3,576	\$20.63	\$3,707	\$21.38	\$3,832	\$22.11	\$3,962	\$22.86	\$4,090	\$23.59
Field Services Supervisor	\$5,201	\$30.03	\$5,464	\$31.52	\$5,724	\$33.02	\$5,984	\$34.52	\$6,245	\$36.02	\$6,505	\$37.53	\$6,766	\$39.03
Irrigation Control Technician	\$3,989	\$23.01	\$4,141	\$23.89	\$4,293	\$24.77	\$4,445	\$25.65	\$4,600	\$26.54	\$4,753	\$27.43	\$4,904	\$28.29
Human Resources Specialist	\$4,577	\$26.41	\$4,769	\$27.51	\$4,959	\$28.61	\$5,151	\$29.72	\$5,340	\$30.81	\$5,532	\$31.92	\$5,724	\$33.02
Lead Driver	\$4,854	\$28.00	\$5,000	\$28.84	\$5,150	\$29.71	\$5,304	\$30.60	\$5,464	\$31.52	\$5,627	\$32.46	\$5,796	\$33.44
Public Safety Coordinator	\$3,926	\$22.65	\$4,074	\$23.50	\$4,223	\$24.36	\$4,372	\$25.22	\$4,521	\$26.09	\$4,671	\$26.94	\$4,821	\$27.81
Recreation Coordinator	\$3,925	\$22.65	\$4,074	\$23.50	\$4,223	\$24.36	\$4,372	\$25.22	\$4,521	\$26.09	\$4,671	\$26.94	\$4,821	\$27.81
Senior Code Compliance/Animal Control Officer	\$5,115	\$29.52	\$5,328	\$30.74	\$5,540	\$31.96	\$5,754	\$33.19	\$5,968	\$34.43	\$6,182	\$35.67	\$6,395	\$36.89
Senior Custodian	\$4,034	\$23.27	\$4,188	\$24.17	\$4,345	\$25.07	\$4,501	\$25.97	\$4,659	\$26.88	\$4,815	\$27.78	\$4,974	\$28.69
Senior Maintenance Technician	\$3,989	\$23.01	\$4,141	\$23.89	\$4,293	\$24.77	\$4,445	\$25.65	\$4,600	\$26.54	\$4,753	\$27.43	\$4,904	\$28.29
Senior Maintenance Technician*Electrician	\$4,310	\$24.86	\$4,439	\$25.61	\$4,573	\$26.39	\$4,709	\$27.17	\$4,852	\$27.99	\$4,996	\$28.83	\$5,147	\$29.70

APPENDIX B

**MOU Between City of Duarte and SEIU Local 721
General Employee Salaries
Effective July 1, 2016**

Classifications	Salary Steps													
	A		B		C		D		E		F		G	
	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly
Accountant	\$5,080	\$29.30	\$5,266	\$30.38	\$5,453	\$31.46	\$5,641	\$32.54	\$5,829	\$33.63	\$6,017	\$34.71	\$6,206	\$35.80
Accounting Specialist	\$4,463	\$25.75	\$4,617	\$26.63	\$4,769	\$27.52	\$4,923	\$28.40	\$5,076	\$29.28	\$5,229	\$30.17	\$5,382	\$31.04
Administrative Secretary	\$4,052	\$23.38	\$4,207	\$24.28	\$4,364	\$25.18	\$4,519	\$26.08	\$4,676	\$26.97	\$4,830	\$27.86	\$4,986	\$28.76
Assistant Planner	\$4,881	\$28.15	\$5,070	\$29.25	\$5,261	\$30.35	\$5,451	\$31.46	\$5,645	\$32.55	\$5,832	\$33.64	\$6,023	\$34.75
Bus Driver	\$3,719	\$21.45	\$3,842	\$22.17	\$3,964	\$22.87	\$4,086	\$23.58	\$4,211	\$24.29	\$4,333	\$25.00	\$4,457	\$25.72
Civil Engineering Technician	\$4,393	\$25.34	\$4,575	\$26.40	\$4,761	\$27.46	\$4,942	\$28.51	\$5,127	\$29.58	\$5,313	\$30.64	\$5,496	\$31.70
Clerk/Typist Receptionist	\$3,343	\$19.28	\$3,464	\$19.98	\$3,584	\$20.67	\$3,704	\$21.37	\$3,825	\$22.07	\$3,947	\$22.77	\$4,072	\$23.49
Code Compliance/Animal Control Officer	\$4,745	\$27.37	\$4,943	\$28.52	\$5,140	\$29.66	\$5,340	\$30.81	\$5,538	\$31.94	\$5,736	\$33.09	\$5,933	\$34.23
Community Development Technician	\$4,623	\$26.67	\$4,817	\$27.79	\$5,008	\$28.90	\$5,202	\$30.02	\$5,394	\$31.12	\$5,588	\$32.23	\$5,781	\$33.35
Crime Prevention Specialist	\$4,917	\$28.37	\$5,098	\$29.41	\$5,284	\$30.48	\$5,474	\$31.57	\$5,661	\$32.66	\$5,851	\$33.75	\$6,038	\$34.83
Custodian	\$3,357	\$19.36	\$3,484	\$20.10	\$3,612	\$20.84	\$3,744	\$21.59	\$3,871	\$22.33	\$4,002	\$23.09	\$4,131	\$23.82
Field Services Supervisor	\$5,253	\$30.33	\$5,518	\$31.83	\$5,781	\$33.35	\$6,044	\$34.87	\$6,307	\$36.38	\$6,570	\$37.91	\$6,833	\$39.42
Irrigation Control Technician	\$4,029	\$23.24	\$4,183	\$24.13	\$4,336	\$25.02	\$4,490	\$25.90	\$4,646	\$26.80	\$4,801	\$27.70	\$4,953	\$28.58
Human Resources Specialist	\$4,623	\$26.67	\$4,817	\$27.79	\$5,008	\$28.90	\$5,202	\$30.02	\$5,394	\$31.12	\$5,588	\$32.23	\$5,781	\$33.35
Lead Driver	\$4,902	\$28.28	\$5,050	\$29.13	\$5,201	\$30.01	\$5,357	\$30.90	\$5,518	\$31.83	\$5,683	\$32.79	\$5,854	\$33.77
Public Safety Coordinator	\$3,965	\$22.87	\$4,114	\$23.74	\$4,265	\$24.60	\$4,415	\$25.47	\$4,566	\$26.35	\$4,717	\$27.21	\$4,869	\$28.09
Recreation Coordinator	\$3,964	\$22.87	\$4,114	\$23.74	\$4,265	\$24.60	\$4,415	\$25.47	\$4,566	\$26.35	\$4,717	\$27.21	\$4,869	\$28.09
Senior Code Compliance/Animal Control Officer	\$5,166	\$29.81	\$5,381	\$31.04	\$5,595	\$32.28	\$5,812	\$33.52	\$6,028	\$34.78	\$6,243	\$36.02	\$6,459	\$37.26
Senior Custodian	\$4,074	\$23.50	\$4,230	\$24.41	\$4,388	\$25.32	\$4,546	\$26.23	\$4,705	\$27.15	\$4,863	\$28.06	\$5,024	\$28.98
Senior Maintenance Technician	\$4,029	\$23.24	\$4,183	\$24.13	\$4,336	\$25.02	\$4,490	\$25.90	\$4,646	\$26.80	\$4,801	\$27.70	\$4,953	\$28.58
Senior Maintenance Technician*Electrician	\$4,354	\$25.11	\$4,483	\$25.87	\$4,619	\$26.65	\$4,756	\$27.44	\$4,900	\$28.27	\$5,046	\$29.12	\$5,199	\$29.99

APPENDIX B

CITY OF DUARTE

SICK LEAVE DONATION POLICY

- I. **Purpose:** There have been occasions when an employee, due to a catastrophic illness or injury, has exhausted all forms of paid time off. Such seriously ill or injured employees have been forced to go without compensation after the exhaustion of their paid time off and the waiting period for commencement of benefits under short-term disability insurance, typically thirty (30) days. This Policy is designed to address such circumstances. The purpose of this Policy is to establish a program and procedures for employees to voluntarily donate a portion of their accumulated sick leave time for use by fellow employees who meet the criteria for eligibility. Participation by donors and/or recipients in the Sick Leave Donation Program is entirely voluntary.
- II. **Creation of Sick Leave Bank:** As a result, the City shall create a sick leave bank where donated sick leave will be held for the future use under the terms of this Policy.
- III. **Voluntary Sick Leave Donations:** Employees may voluntarily donate sick leave, subject to the following requirements:
 - A. **Employee Status:** Any full-time or $\frac{3}{4}$ time employee, who has obtained non-probation status with the City, is eligible to participate as a donor in this program. Only sick leave may be donated. Other types of leave may not be donated.
 - B. **Request to Donate:** A donating employee will prepare and submit to the Assistant City Manager a "Request to Donate to Sick Leave Donation Bank" form.
 - C. **Minimum Donations:** Employees may only donate from their accumulated sick leave balance. The donation must be in a minimum of four (4) hours. Donations must be in whole hour increments; no fractions of hours may be donated.
 - D. **Minimum Leave Balance:** An employee donating sick leave must retain at least one hundred and sixty (160) hours of accumulated sick leave in their own personal balance of sick leave. If a donation would require an employee's accumulated sick leave balance to drop below one hundred and sixty (160) hours, immediately after the donation, the employee shall not be eligible to make a donation.
 - E. **Maximum Donation Per Employee:** No individual employee may donate more leave than they accrued during any calendar year.
 - F. **Approval/Denial:** The Assistant City Manager shall approve or deny each offered donation, if any, to the Sick Leave Donation Bank in accordance with the requirements of this Policy.
 - G. **Transfer to Sick Leave Donation Bank:** The Assistant City Manager will transfer approved donated sick leave into the Sick Leave Donation Bank from the accrued sick leave balance of the employee making the donation.
 - H. **Donations Irreversible:** Donations of sick leave transferred to the Donated Sick Leave Bank will be dispersed as the need arises. Time is released on a pay period by pay period basis. All donations are irreversible. Retroactive donations are not permitted.
 - I. **Prohibition on the Sale of Sick Leave:** The sale of accrued sick leave to any employee is

not permitted.

- J. Confidentiality of Donations: Under no circumstances shall the City disclose participants in the program, either employees donating leave or employees requesting use of donated leave.
- K. Taxation: Pursuant to IRS Ruling 90-29, sick leave donated under this program shall not be considered wages for the donating employee and will therefore not be included in the donating employee's gross income or subject to withholding.

IV. Requesting and Using Donated Leave:

- A. Eligibility of Employee for Sick Leave Donations: To be eligible to receive donated sick leave from the Sick Leave Donation Bank, an employee must meet all the following conditions:
 - 1. Meet the criteria for use of sick leave in accordance with City Personnel Rules and/or applicable memorandums of understanding.
 - 2. Have been employed by the City in a full-time or ¾ time position for at least one year.
 - 3. Be on an approved leave of absence.
 - 4. Submit a confidential statement from a treating physician which indicates:
 - a) That the employee's absence is due to one of the following qualifying reasons:
 - i. The employee has a "serious health condition," as defined by the Federal Family and Medical Leave Act and the California Family Rights Act, that requires the employee's absence from work for longer than two (2) pay periods, including intermittent absences that are related to the same "serious health condition"; or
 - ii. The employee is caring for his or her spouse, registered domestic partner, or parent (including step-parents), parent-in-law, child (including step-child), spouse, sibling, grandparent, or grandparent-in-law. ("Immediate Family Member"), who has a "serious health condition" that requires the employee's absence for longer than two (2) pay periods.
- and**
- b) Estimates the duration of the employee's absence from work.
- 5. Have applied for short-term disability or long-term disability insurance, if any, for Workers' Compensation benefits, if eligible, or for other supplemental benefits.
 - 6. Have exhausted all earned leave balances (including sick, vacation, compensatory time, and administrative leave), but have not begun receiving short-term disability benefits. However, the Assistant City Manager may approve the request for sick leave donations prior to all balances being exhausted when the physician's statement and existing leave balances indicate that all such balances will be exhausted within the next two pay periods.
- B. Request for Donated Leave: Eligible employees must submit to the Assistant City

Manager, a Request for Donated Leave form, accompanied by the statement from their treating physician described above. The request and accompanying physician's statement must be submitted in a sealed envelope labeled "Confidential – Request for Donated Leave." If the requesting employee is unable to make the request on his or her own behalf, the employee's authorized agent may submit a request on the employee's behalf.

- C. Approval of Request: The Assistant City Manager will approve or deny the Request for Donated Leave.
 - D. Payment of Leave: Donated leave shall be paid to the employee on the first pay period following the approval date, and payments are not retroactive.
 - E. Return to Work: Should the requestor return to work prior to the donated leave being utilized, the remaining leave amount will be re-credited to the Sick Leave Donation Bank.
 - F. Use of Donated Leave: While using leave from the Sick Leave Donation Bank, the recipient will be treated as though he/she was using his/her own sick leave (for example, at their regular rate of pay, based on their regular work schedule, etc.). Donated sick leave payments will be suspended as of the date the employee becomes eligible to begin receiving wage replacement benefits, including but not limited to short-term disability benefits, long-term disability benefits, and workers' compensation benefits.
 - G. Taxation: The donated hours used by the recipient are taxable to him/her in accordance with Internal Revenue Service regulations and are subject to withholdings as required by law.
 - H. No Guarantee: There is no guarantee of the availability of leave donations under this Policy, and this Policy does not entitle employees to extra leave during a catastrophic illness or injury beyond that which meets all qualifications under the terms of this policy.
- V. **Sick Leave Donation Bank:** The Sick Leave Donation Bank and program shall be administered as follows:
- A. Administration: The Assistant City Manager will administer the Sick Leave Donation Bank and coordinate the sick leave donation program. The Sick Leave Donation Bank may be abolished at any time, at the discretion of the City, subject to the meet and confer process on the effects of the abolishment.
 - B. Accounting for Donated Leave: Sick leave donated to the Sick Leave Donation Bank shall be converted to a cash value based on the donating employee's hourly rate of pay. Leave paid out shall be converted to sick leave hours based on the recipient employee's hourly rate of pay.
 - C. Taxation: State and Federal income tax on the value of the leave shall be reported as income and taxable to the recipient, in accordance with Internal Revenue Service regulations, and are subject to withholdings as required by law.
 - D. Confidentiality: All persons who coordinate the leave donation program shall emphasize the voluntary nature of the contribution. The collection and distribution of sick leave time shall be done in a way to ensure confidentiality for the donors and the recipients. The names of the donors and recipients shall not be disclosed. The Assistant City Manager will receive an employee's request for leave confidential statement from the requestor's physician in a manner consistent with the Federal Family and Medical Leave Act and the California Family Rights Act.

- E. Sick Leave Drive: At any time, or when the Leave Donation Time Bank is depleted, the Assistant City Manager may hold a leave donation drive for eligible employees to donate sick leave under this program. Donors and recipients will not be disclosed.

- F. Modification/Termination: The City has sole discretion to modify this Policy as it deems necessary, subject to the meet and confer process on the effects of that decision. This Policy and Sick Leave Donation Bank may be abolished at any time, at the discretion of the City. If hours are remaining in the Sick Leave Donation Bank at the time it is abolished, the City will credit all donors' leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed, during the preceding 12 months.

CITY OF DUARTE
REQUEST TO DONATE SICK LEAVE

Donor's Name (printed): _____

Donor's Department: _____

I wish to donate to the City's Sick Leave Bank, a voluntary leave time donation bank.

I understand the following provisions related to my donation:

1. I certify that I am full-time non-probationary employee in regular status. I am currently accruing sick leave hours and am not on a leave of absence.
2. I understand that: The minimum donation is 4 hours. All donations must be in full hour increments. Leave that has not accrued is not eligible to be donated. Only sick leave currently accrued is eligible for donation. I cannot borrow future sick leave accruals for donation.
3. I understand that once hours are donated, I have given up all rights to the hours. The hours remain in the bank until used by an eligible employee. Donations are voluntary, confidential, and irrevocable. If the program is abolished, the City will credit all donors' leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed, during the preceding 12 months.
4. I understand that I am encouraged to carefully consider the number of hours that I elect to donate to ensure that I retain a leave balance that meets my personal needs. I further understand that I am required to retain a balance of at least 160 hours of accrued sick leave in my available sick leave bank.
5. I understand that donations are made to the City's Sick Leave Donation Bank, not specific employees. I further understand that it is the responsibility of the program administrators to determine payout based on the program guidelines.
6. Program decisions are made in accordance with the City's Sick Leave Donation Policy.

Please donate _____ hours of my accrued sick leave hours to this program.

Donor's Signature Date

For HR Office Use Only

_____ Allowable Hours \$ _____ Hourly Rate \$ _____ Total Dollar Value

Denied Approved

Approval by Assistant City Manager Date

CITY OF DUARTE
CONFIDENTIAL REQUEST TO RECEIVE DONATED SICK LEAVE

I am requesting to receive additional sick leave pursuant to the City's Sick Leave Donation Policy due to a Serious Health Condition: a serious debilitating illness or injury that incapacitates the employee or his or her family member and meets the qualification of a serious health condition as defined in the City's Sick Leave Donation Policy.

Name (printed): _____

Department: _____

Have you received Donated Sick Leave this calendar year? No Yes Date: _____

Number of hours requested: _____ Dates of Leave: From _____ to _____

Briefly state the reason(s) for additional leave hours (please do not include medical diagnosis): _

I understand that:

- I must be a regular status employee who is eligible to accrue and use sick leave.
- I must be on an approved leave of absence.
- I must provide a medical provider's verification of illness or injury.
- I must exhaust all paid leave credits (sick, vacation, administrative leave, and CTO) before I am eligible to receive Donated Sick Leave.
- In order to use Donated Sick Leave, I may not be on any other City pay status, receiving City disability, Worker's Compensation or any other supplemental benefits.
- My participation in the Donated Sick Leave program is subject to provisions outlined in the City's Sick Leave Policy.
- Any unused hours will be returned to the Donated Sick Leave Bank.
- Review and approval or denial of my request will include a review to determine if my request meets the standards set forth in the City's Sick Leave Donation Policy.
- There is no guarantee that Donated Sick Leave will be available to me.

Signature: _____ Date: _____

For HR Office Use Only

Denied Approved _____ Hours Transferred

Assistant City Manager Approval/Authorization Signature:

Signature

Date

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE
FOR PAYING AND REPORTING THE VALUE OF EMPLOYER
PAID MEMBER CONTRIBUTIONS IN 2014/15**

WHEREAS, the Duarte City Council has the authority to implement Government Code Section 20636(c) (4) pursuant to Section 20691; and

WHEREAS, the Duarte City Council has a written Memorandum of Understanding which specifically provides for a portion of the normal member contributions to be paid by the employer, and reported as additional compensation; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the Duarte City Council of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions (EPMC); and

WHEREAS, the Duarte City Council has identified the following conditions for the purpose of its election to pay EPMC:

- This benefit shall apply to all employees of the Miscellaneous Category.
- This benefit shall consist of paying zero percent (0%) of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable {excluding Government Code Section 20636(c)(4)} as additional compensation.
- The effective date of this Resolution shall be July 1, 2014.

NOW, THEREFORE, BE IT RESOLVED that the Duarte City Council elects to pay and report the value of EPMC, as set forth above.

PASSED, APPROVED, and ADOPTED this 27th day of May, 2014.

Elizabeth Nowak Reilly

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 14-11 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 27th day of May, 2014, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE
REPEALING CHAPTER 9.74, "REGISTERED SEX OFFENDERS," OF
THE DUARTE MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF DUARTE ORDAINS AS FOLLOWS:

SECTION 1. The California Court of Appeal decision in *People v. Nguyen* (2014), No. G048228, Fourth Dist., Div. Three, filed January 10, 2014, held that city ordinances regulating and restricting the access to parks and other public facilities by registered sex offenders are preempted by State law because of the comprehensive regulatory scheme set forth in the California Penal Code [including Penal Code §§290 through 294 (*i.e.*, Chapter 5.5, "Sex Offenders," of Title 9 of Part I of the California Penal Code), and Penal Code §§626.81, 653b, 653c, 3000.07, 3003.5, 3004, and 3053.8]. Because city ordinances regulating registered sex offenders are preempted by State law, the Court of Appeal held that such city ordinances are invalid. In its published opinion, the Court of Appeal cited the multiple sections of the California Penal Code which regulate registered sex offenders:

- (1) a lifetime duty to register with local law enforcement for each city or county in which the offender resides and to update that registration annually or upon any relevant change (Penal Code §§ 290-290.024);
- (2) a state-maintained Web site that discloses information about the offender to the public (Penal Code §§ 290.4, 290.45, 290.46);
- (3) a sex offender's duty to submit to monitoring with a global positioning device while on parole and potentially for the remainder of the offender's life if the underlying sex offense was one of several identified felonies (Penal Code §§ 3000.07, 3004, subd. (b));
- (4) a prohibition against the offender "enter[ing] any park where children regularly gather without the express permission of his or her parole agent" if the victim of the underlying sex offense was under 14 years of age (Penal Code § 3053.8, subd. (a));
- (5) a prohibition against the offender residing with another sex offender while on parole and within 2,000 feet of a school or park for the rest of the offender's life (Penal Code § 3003.5);
- (6) a prohibition against the offender entering any school without "lawful business" and written permission from the school (Penal Code § 626.81);
- (7) enhanced penalties for the offender remaining at or returning to "any school or public place at or near which children attend or normally congregate" after a school or law enforcement official has asked the offender to leave (Penal Code § 653b, italics added);

- (8) a prohibition against the offender entering a day care or residential facility for elders or dependent adults without registering with the facility if the victim of the underlying sex offense was an elder or dependent adult (Penal Code § 653c);
- (9) a duty to disclose the offender's status as a sex offender when applying for or accepting a job or volunteer position involving direct and unaccompanied contact with minor children (Penal Code § 290.95, subds. (a) & (b));
- (10) a prohibition against the offender working or volunteering with children if the victim of the underlying sex offense was under 16 years of age (Penal Code § 290.95, subd. (c)); and
- (11) a prohibition against the offender receiving publicly funded prescription drugs or other therapies to treat erectile dysfunction (Penal Code § 290.02).

SECTION 2. The Orange County District Attorney, as the party that sought to enforce the local ordinance at issue in *People v. Nguyen*, filed a petition for review in the California Supreme Court seeking a further hearing on the Court of Appeal decision. On April 23, 2014, the California Supreme Court denied the petition for review of the Court of Appeal decision and thus the Court of Appeal decision is final. As a result, the City Council of the City of Duarte hereby adopts this Ordinance to conform to the Court of Appeal decision in *People v. Nguyen* and to avoid litigation against the City by the organization California Reform Sex Offender Laws (CA RSOL) which seeks repeal of city ordinances that are inconsistent with the Court of Appeal decision in *People v. Nguyen*.

SECTION 3. Chapter 9.74, "Registered Sex Offenders," of the Duarte Municipal Code is hereby repealed its entirety.

SECTION 4. In adopting this Ordinance the City Council declares that the City shall rely upon enforcement by the Los Angeles County Sheriff's Department within the City of Duarte of applicable State law with respect to registered sex offenders.

SECTION 5. The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2014.

Mayor Elizabeth Nowak Reilly

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. _____ was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the _____ day of _____, 2014, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California



MEMORANDUM

TO: CITY COUNCIL
FROM: COMMISSIONER Ana Lisa Hernandez
SUBJECT: NOTICE OF ABSENCE FROM PLANNING COMMISSION MEETING
DATE: 05.19.2014

REASON FOR ABSENCE:

ACCIDENT VACATION OTHER*
 SICKNESS DEATH IN FAMILY

DATE OF MEETING ABSENCE 4.21.2014

* EXPLANATION OF ABSENCE Chronic illness

Ana Lisa Hernandez
SIGNATURE

ABSENCE NOTED BY CITY COUNCIL

DATE

MEMORANDUM

TO: Mayor and Councilmembers

FROM: Darrell J. George, City Manager

DATE: May 22, 2014

SUBJECT: Conference Attendance – City Council Meeting of May 27, 2014



Independent Cities Association
Summer Seminar
July 10-13, 2014
Rancho Bernardo Inn, San Diego
Registration: \$650
Hotel: \$205 - \$320



July 10-13

Summer Seminar

REGISTRATION OPEN

July 10-13, 2014 is our Summer Seminar at Rancho Bernardo Inn in San Diego.

TOPICS INCLUDE

- Water — Drought, Delivery, Supply and Recycling.
- Three Cities-Three Stories Highlighting Change, Innovation and Progress.
- Cyber Security In Your City.
- Hydrogen Fuel Cell Technology In Your Neighborhood — Local Workshop.
- Countywide Solid Waste Conversion Technology.
- Legislative Updates.
- Elected Officials Role During A Crisis Or Disaster.
- Super Session Updates On AB109, SMART Justice System, Medical Marijuana.
- Human Trafficking and Commercial Exploitation Of Children In Our Communities.

Visit www.icacities.org to download registration forms for hotel & seminar.

Questions?

**Call Trish Pietrzak
(310) 995-9800**

*Sponsorship opportunities are available.
See website for details.*



SPONSORSHIP

Maximize the impact of your company's marketing efforts by becoming a sponsor of the ICA Annual Seminars and gain targeted exposure to the most influential people in local government. ICA's Business Partners and Sponsors provide an important role in supporting ICA and its member cities. In return, ICA recognizes and promotes the value of its partners. Sponsorship opportunities range from \$1,500 to \$15,000+.

Set your company apart by being an ICA sponsor. ICA conferences are considered as one of the pre-eminent gatherings of local elected officials where countless independent cities will attend to exchange information and learn innovative ways to plan for and solve the critical issues faced by cities today.

**Visit our website
for sponsorship
opportunity details.**

www.icacities.org



July 10-13, 2014
SEMINAR REGISTRATION

Type or print the following information exactly as you would like it to appear on the Seminar badges.

City/Organization _____

Registrants Name _____

Title _____

Registrant's Email: _____

Spouse's Name _____

I plan to arrive DAY: _____ Depart DAY: _____

ALL EVENTS WILL BE TICKETED

Please make reservations for (not to exceed 2):

REGISTRATION FEES:

_____ Persons - Friday Lunch

_____ Persons - Friday Reception/Dinner

_____ Persons - Saturday Lunch

_____ Persons - Saturday Reception/Banquet

_____ Persons - Sunday Brunch

Seminar Registrants @ \$650..... \$ _____

Total Fees Enclosed..... \$ _____

This registration form completed by _____ Phone No. (____) _____

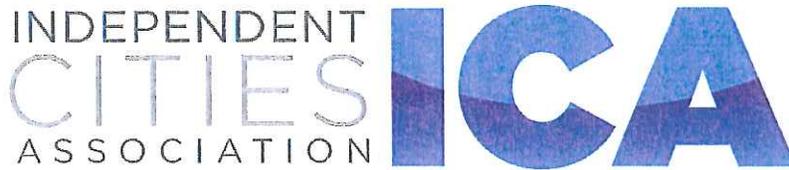
"Guest" is defined as a spouse, personal friend or significant other. Guest privileges will not be used to avoid paying a second registration fee for city or private sector representatives.

Fees **will not** be refunded unless a written request is received by the ICA Events Director no later than **June 20, 2014**. Please note that there will be a 25% processing fee for all requests received after June 20, 2014.

Enclose this reservation form with a check, payable to **INDEPENDENT CITIES ASSOCIATION**, and fax to:

TRISH PIETRZAK, EXECUTIVE DIRECTOR

Independent Cities Association
1601 N. Sepulveda Blvd., #744
Manhattan Beach, CA 90266
Phone: 310-995-9800
Fax: 310-321-7810
E-mail: trish@icacities.org



SUMMER SEMINAR
July 10-13, 2014
HOTEL RESERVATION

Arrival Date _____ Departure Date _____

Accommodations (Check One):

[] One Room.....(\$205)*

Please specify request: [] Two Queens [] One King

[] One Bedroom

Suite.....(\$320)*

(Parlor + One Bedroom - One King Or Two Queens In Bedroom)

[] Executive Room.....(\$235)*

(Two Queens Or One King)

[] Two Bedroom

Suite.....(\$525)*

(Parlor + Two Bedrooms - One King Or Two Queens In Bedroom)

Suites and room type availability is limited. Early reservations are encouraged!

SPECIAL REQUESTS: Please make note if you have a preferred room or preferred building location. We will make every effort to grant this request based on availability; preference is not guaranteed.

*(Plus 12.65% room tax/assessment)

Name _____ Number Of People In Party _____

City/Organization _____

Address _____ City _____ State _____

Zip _____ Phone Number: Business (_____) _____ E-mail: _____

This room reservation form completed by _____ Phone No. (_____) _____

Check-In Time: 4:00 PM

Check-Out Time: 12:00 NOON

Reservation guarantees must be by check, money order or credit card (American Express, Diners Club, Mastercard, VISA or Carte Blanche). If by credit card, the following information must be provided:

Credit Card No. _____ Expiration Date _____ Signature _____

FIRST NIGHT'S DEPOSIT IS REQUIRED. Reservations and deposit MUST be received by June 8, 2014. Room reservations will be accepted on a space-available basis. Deposit refunds will be made only if reservation cancellation is received by the hotel at least 72 hours prior to arrival date.

Enclose this reservation form with a check for the first night's deposit, payable to RANCHO BERNARDO INN, and fax to: GROUP ROOMS MANAGER Rancho Bernardo Inn 17550 Bernardo Oaks Drive, San Diego, California 92128

Phone: (858) 675-8500 Fax: (858) 332-1808

INDEPENDENT CITIES ASSOCIATION – SUMMER SEMINAR – JULY 10-13, 2014

THURSDAY, JULY 10

7am Golf Registration
4-7:30pm Registration
5:30pm Welcome Reception

FRIDAY, JULY 11

7:30am Continental Breakfast
8am Official Welcome
8:30am Session 1 (90 minutes) Water - Drought, Delivery, Supply and Recycling
10am Break
10:15am Session 2 (90 minutes) Three Cities-Three Stories Highlighting Change, Innovation and Progress
12pm Lunch Session (60 minutes) Tony Rice Legislative Update
1:15pm Session 3 (60 minutes) Elected Officials Role During A Crisis Or Disaster
2:30pm Session 4 (60 minutes) Cyber Security In Your City
3:30pm Session 5 (45 minutes) Countywide Solid Waste Conversion Technology
6:30pm Board Of Director's Reception on the Lawn
7pm Dinner In Ballroom and Election Of Officers

SATURDAY, JULY 12

7:30am Continental breakfast
8:30am Session 6 (90 minutes) Hydrogen Fuel Cell Technology In Your Neighborhood
10am Break
10:15am Session 7 (90 minutes) Super Session Updates On AB109, SMART Justice System, Medical Marijuana
12pm Lunch Session (TBD)
1:30pm Session 8 (60-90 minutes) Human Trafficking and Commercial Exploitation Of Children In Our Communities
Cancelled Sober Living Homes, Birthing Houses and Massage Outlet Legislation
3pm Board Meeting
5pm President's Reception By Invitation Only (30 people)
6:30pm Cocktails and Dinner on the Lawn

SUNDAY, JULY 13

8-10am Brunch

Duartean and Duartean Dispatch

Affiliated with SGV Newspaper Group
1210 N. Azusa Canyon Road
West Covina, CA 91790
626-962-8811 ext. 40918
sue.glynn@sgvn.com

5007700

CITY OF DUARTE
1600 E. HUNTINGTON DRIVE
DUARTE CA 91010

FILE NO. Notice-Public Hearing-wireless r

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA
County of Los Angeles**

I am a citizen of the United States, and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of DUARTEAN and DUARTEAN DISPATCH, a newspaper of general circulation printed and published weekly in the City of Duarte, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, on the date of July 6, 1948, Case Number POMO C986. The notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

5/10/2014

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at West Covina, LA Co. California
On this 14th day of May, 2014.



Signature

(Space below for use of County Clerk Only)

Legal No. 0010517644

**NOTICE OF PUBLIC HEARING
TO BE HELD BY THE DUARTE
CITY COUNCIL**

NOTICE IS HEREBY GIVEN that, pursuant to State law, the City Council of the City of Duarte will hold a Public Hearing at 7:00 p.m., on Tuesday, May 27, 2014, in the Council Chambers, 1600 Huntington Drive, Duarte, California, to consider adding Chapter 12.20 to the Duarte Municipal Code relating to regulation of the installation of wireless communication facilities which utilize streets, public rights-of-way, and easements. This addition to the Municipal Code is to bring the City into conformance with State and Federal Law.

Any interested party may appear in person, or by agent, and be heard. If this matter is challenged in Court, there will be a limit to only those issues that were raised at the Public Hearing described in this Notice, or in written correspondence delivered to the City Council at, or prior to, the Public Hearing. Written correspondence may be sent to Duarte City Hall, City Clerk's Office, 1600 Huntington Drive, Duarte, CA 91010-2592.

Further information may be obtained from Craig Hensley, Community Development Director, phone (626) 357-7931.

Marla Akana
City Clerk

PUBLISH: Duartean, Saturday, May 10, 2014
POSTED: Duarte City Hall, Duarte Public Safety Office, Duarte Library

Published: May 10, 2014
The Duartean Ad#517644



PLANNING COMMISSION STAFF REPORT

Date: May 27, 2014

Subject: Municipal Code Text Amendment 14-03

Description: Adding Chapter 12.20 to the Duarte Municipal Code relating to regulation of the installation of wireless communication facilities which utilize streets, public rights-of-way and easements

Location: City-Wide

BACKGROUND

Recently, the City was approached by CES/Prescott Communications, representing Verizon Wireless, regarding a wireless antenna proposed for City right-of-way on south Buena Vista Street. While the City does have Code requirements governing wireless facilities on private property and City parks, there are no Code requirements for public rights-of-way.

Staff referred the issue to the City Attorney and it was determined that the City should have specific regulations regarding this topic. Staff was advised to take administrative action to approve the Verizon Wireless proposal and immediately develop a Municipal Code section to address Federal Law.

The Ordinance provided has been developed by the City Attorney and Staff with the specific goal of meeting Federal requirements and setting reasonable design standards.

ANALYSIS

Ordinance 14-O-03 would add a new Chapter 12.20 to the Duarte Municipal Code relating to the installation of wireless telecommunications facilities in streets, public rights-of-way and easements. The City is limited by Federal Law from prohibiting such facilities.

The Ordinance addresses design requirements by: limiting the pole diameter to no more than 18"; setting a maximum height of 40'; requiring the pole to be made of marbelite (concrete material used in most street light poles) or metal; requiring antenna equipment to be located in a subterranean vault, when possible; and requiring an antenna shroud to screen antenna, when possible.

Although already approved, Verizon Wireless agreed to meet the requirements set forth in the Ordinance and will soon be constructing its new antenna and pole in the 2000 block of South Buena Vista Street, near Beardslee Park.

RECOMMENDATION

Staff recommends that the Council adopt Ordinance 14-O-03 adding Chapter 12.20 to the Duarte Municipal Code to regulate the installation of wireless telecommunications facilities which utilize streets, public rights-of-way, easements.

Respectfully Submitted,



Craig Hensley, AICP
Community Development Director



ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA
ADDING CHAPTER 12.20 TO THE DUARTE MUNICIPAL CODE TO REGULATE THE
INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES WHICH
UTILIZE STREETS, PUBLIC RIGHTS-OF-WAY, AND EASEMENTS**

THE CITY COUNCIL OF THE CITY OF DUARTE DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 12.20, “**WIRELESS COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS OF WAY,**” of the Duarte Municipal Code is hereby adopted to read as follows:

**Chapter 12.20
WIRELESS COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS OF WAY**

Sections:

- 12.20.010 Intent and Purpose.**
- 12.20.020 Definitions.**
- 12.20.030 Permits Required.**
- 12.20.040 Submittal Requirements.**
- 12.20.050 Expert Review**
- 12.20.060 Development Standards**
- 12.20.070 Special Telecommunications Permits**
- 12.20.080 Administrative Use Permit for Wireless Communications Facilities**
- 12.20.090 Review Criteria/Standard Conditions.**

12.20.010 Intent and Purpose.

The following regulations shall apply to the installation of wireless communications facilities in the public rights of way throughout the city. These regulations are intended to establish comprehensive guidelines for the permitting, placement, design and maintenance of wireless communications facilities in the public rights of way. These regulations are intended to prescribe clear, reasonable and predictable criteria to assess and process applications in a consistent and expeditious manner, while reducing impacts associated with wireless communications facilities. These regulations are intended to protect the health, safety and welfare of persons living and working in the city, preserve the aesthetic values and scenic qualities of the city, and allow for the orderly and efficient deployment of wireless communications facilities in accordance with state and federal laws.

12.20.20 Definitions.

“Agent” means a person authorized to act on behalf of a permittee or other person or entity in matters pertaining to the processing of a wireless communications facility as outlined in this Chapter.

“Amateur (ham) radio antenna” means an antenna constructed and operated for transmitting and receiving radio signals for noncommercial purposes, usually in relation to a person’s hobby.

“Antenna” means any system of wires, poles, rods, reflecting discs, panels, microwave dishes, whip antennas or similar devices used for the transmission or reception of electromagnetic waves, including antennas relating to personal wireless services as defined by the federal Telecommunications Act of 1996, when such system is either external to or attached to the exterior of a structure (building-mounted or roof-mounted), or ground-mounted. Antennas shall include devices having active elements extending in any direction, and directional beam-type arrays mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be a part of the antenna.

“Antenna support” means any pole, telescoping mast, tower, tripod or any other structure that supports an Antenna.

“Array” means a group of antennas located on the same structure.

“Base level radio frequency (RF) radiation” means the existing background power density radiation from a proposed telecommunication transmitting antenna site including all existing telecommunication transmitting antennas in operation.

“Cable” means any wire typically consisting of copper, coax or fiber used for utility service purposes.

“Cellular” refers to wireless telephone communication transmitted by electromagnetic waves.

“Co-location” refers to multiple wireless communications devices sharing the same site.

“Directional antenna” typically means a panel antenna used to achieve transmission or reception in a specified direction.

“Effective radiated power (ERP)” means the operative amount of power leaving the transmitting antenna. The ERP is determined by multiple factors, including, but not limited to, transmitter output power, coaxial line loss between the transmitter and the antenna, and the “gain” (focusing effect) of the antenna.

“Eligible facilities request” means a request for modification of an existing wireless tower or base station that involves (a) co-location of new transmission equipment, (b) removal of transmission equipment, or (c) replacement of transmission equipment.

“Federal Communications Commission (FCC)” means the independent U.S. governmental agency charged with regulating interstate and international communications by radio, television, wire, satellite and cable.

“Hazardous material” means any gas, material, substance or waste which, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local government to pose a present or potential hazard to human health, safety, property or to the environment.

“Height” means the vertical distance from any point at the top of an antenna and/or ancillary wireless communication structure to the finished or natural surface, whichever is more restrictive or lower, measured directly adjacent to the existing building or new structure. .

“Maximum radio frequency (RF) radiation” means the base level radio frequency (RF) radiation and the power density radiation from the proposed telecommunication transmitting antennas at a particular site where all the antennas’ channels are simultaneously operating or projected to operate at their maximum design effective radiated power (ERP).

“Monopole Tower” means an antenna support structure typically made of steel or marbelite.

“Omnidirectional antenna” means an antenna used to achieve transmission or reception in all directions.

“Permittee” means any person, persons or entity, including the city, who owns any facility or facilities that are or are proposed to be installed or maintained in the public right-of-way, or propose to conduct an excavation in, along or under the surface or subsurface of the public right-of-way.

“Preferred location” means commercial and industrial zones.

“Power density radiation” means the magnitude of the flow of electromagnetic energy at a point in space, measured in power, usually milliwatts (10^{-3} watts) or microwatts (10^{-6} watts), per unit area, usually centimeters squared.

“Public right-of-way” means any public highway, street, alley, sidewalk, parkway which is either owned, operated or controlled by the city, or is subject to an easement or dedication to the city, or is a privately owned area within the city’s jurisdiction which is not yet, but is designated as a proposed public right-of-way on a tentative subdivision map approved by the city.

“Radio frequency (RF) radiation” consists of electromagnetic waves moving together through space radiating from a transmitting device to a receiving device to achieve wireless communications typically operating in a frequency range of three kilohertz to three hundred gigahertz.

“Safety standards” means the most current adopted rules for human exposure limits for radio frequency (RF) radiation adopted by the Federal Communications Commission (FCC).

“Satellite antenna” means a parabolic antenna used to receive and/or transmit radio or television signals from orbiting communications satellites.

“Substantial change in physical dimensions” means a change in the physical dimensions or configuration of a wireless communications facility that results in public safety, visual, noise or other impacts that are materially greater than those that would have existed if the wireless communications facility were installed as originally permitted. The determination whether or not the proposed modifications to a wireless communications facility constitute a substantial change in physical dimensions is context-based to be made by the director of community development or his/her designee.

“Testing protocol” means the most current method of radio frequency (RF) radiation measurement adopted by the Federal Communications Commission (FCC).

“Wireless communications facility” means any facility that transmits and/or receives electromagnetic waves, including, but not limited to, commercial wireless communications antennas and other types of equipment for the transmission or receipt of such signals, communication towers or similar structures supporting said equipment, equipment cabinets, pedestals, meters, tunnels, vaults, splice boxes, surface location markers, equipment, equipment buildings, parking areas and other accessory developments.

12.20.030 Permits Required.

A. Upon adoption of this chapter all applicants seeking to install one or more wireless communications facilities in the public right-of-way shall, unless exempted, obtain a Special Telecommunications Permit which for the purposes of this Chapter shall be processed as a Site Plan and Design Review Case in accordance with Chapter 19.122 of the Duarte Development Code and shall be subject to the review and approval of the Architectural Review Board. Except as specified below, Architectural Review Board approval is required prior to installation of any wireless communications facilities in the public right-of-way and applicant shall pay all fees imposed in connection therewith. Such permit is in addition to any other excavation, encroachment or other permit required by Title 12 of the Duarte Municipal Code or any other provision of law.

B. The following wireless communications facilities are exempt from the requirement to obtain a Special Telecommunications Permit:

1. A receiving satellite antenna that is one meter (39.37 inches) or less in diameter;
2. A receiving satellite antenna that is two meters (78.74 inches) or less in diameter and is located in any commercial or industrial land use zoning district;
3. Eligible facilities requests that do not require a substantial change in physical dimensions to a wireless communications facility; and
4. Any wireless communications facilities exempted from design review by federal or state law.

C. Upon adoption of this Chapter, and unless specifically exempted by federal or state law, all eligible facilities requests that do not require a substantial change in physical dimensions of a wireless communications facility are subject to the granting of an Administrative Use Permit provided for in Section 12.20.080. In addition to such conditions as may be imposed pursuant to Section 12.20.080, all wireless communications facilities shall comply with the review criteria/standard conditions of Section 12.20.090.

12.20.040 Submittal Requirements.

In addition to the standard submittal requirements, all applications for a Special Telecommunications Permit (to be processed as a Site Plan and Design Review) or an Administrative Use Permit (the process used for eligible facilities requests) shall include the following information:

A. An accurate map, in such physical or electronic format as may be directed by the director of community development or his/her designee, indicating the proposed site and detailing existing wireless communications facility locations owned and operated by the applicant within the city on the date of application submittal;

B. An engineering certification demonstrating planned compliance with all existing federal radio frequency emissions standards, and indicating (i) existing base level radio frequency radiation, (ii) the maximum radio frequency radiation, (iii) the effective radiated power per channel and (iv) the total number of channels for an omnidirectional antenna or the maximum number of channels in any sector for a sectored antenna at the proposed site;

C. An engineering analysis providing technical data sufficient to justify the proposed height of the wireless communications facility;

D. An alternative configuration analysis, assessing the feasibility of alternative wireless communications facility construction configurations, both at the proposed site and in the surrounding vicinity, which would result in a more visually compatible antenna(s), as deemed necessary by the director of community development. This analysis shall include an explanation of why other wireless communications facility construction configurations were not selected;

E. A projection of the applicant's anticipated future wireless communications facility siting needs within the city, which information may be used by the city as part of a master planning effort designed to ensure a planned, integrated and organized approach to wireless communications facility siting;

F. An identification of the geographic service area for the subject installation, including a map showing all of the applicant's existing sites in the local service network associated with the coverage gap the wireless communications facility is meant to close, and describing how the coverage gap will be filled by the proposed installation;

G. An accurate visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening for the wireless communications facility. The analysis shall include photo simulations and other information as necessary to determine visual impact of the wireless communications facility. A map depicting where the

photos were taken shall be included. The analysis shall include a written description of efforts to blend the wireless communications facility with the surrounding area;

H. The height and mass of the facility, together with evidence that demonstrates that the proposed wireless communications facility has been designed to the minimum height and mass required from a technological standpoint for the proposed site;

I. A description of the maintenance and monitoring program for the wireless communications facility and associated landscaping;

J. Noise and acoustical information derived from the manufacturer's specifications for all equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties;

K. A concept landscape plan showing all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site;

L. A written description of all accessory wireless equipment for the wireless communications facility, including an explanation of the function of this ancillary equipment and the need to locate same on or near the wireless communications facility; and

M. Any other information related to the reasonable review of the project that is deemed necessary by the community development director.

N. All telecommunications sites subject to this ordinance that will utilize an emergency backup generator must adhere to all South Coast Air Quality Management District rules governing the operation of that equipment, including Rule 1470.

12.20.050 Expert Review.

In the event that the city, at the discretion of the director of community development or his/her designee, determines the need to hire a qualified consultant to evaluate technical and other aspects of the application, the applicant shall provide the city a deposit for the estimated cost of such consultation, and to replenish said deposit if consumed by reasonable costs associated with such consultation. Such consultation is intended to be a site-specific review of technical aspects of the proposed wireless communications facility and shall address all of the following:

- A. Compliance with applicable radio frequency emission standards;
- B. Height analysis;
- C. Configuration;
- D. The appropriateness of granting any requested exceptions;
- E. The accuracy and completeness of submissions;
- F. The applicability of analysis techniques and methodologies;
- G. The validity of conclusions reached; and
- H. Any specific technical issues designated by the city.

12.20.060 Development Standards.

The following development standards shall apply to all Special Telecommunications Permit and Administrative Use Permit applications for the installation of wireless communications facilities:

A. Permittee shall install and maintain permitted wireless communications facilities in compliance with the requirements of the Uniform Building Code, National Electrical Code, city noise standards and other applicable codes, as well as other restrictions specified in this Chapter and/or in a design review approval, conditional use permit or administrative use permit;

B. Visual Impact and Screening Standards. All wireless communications facilities shall employ and maintain camouflage design and appropriate screening to minimize visual impacts, such techniques shall be employed to make the installation, operation and appearance of the facility as visually inconspicuous as possible, to prevent the facility from visually dominating the surrounding area, and to hide the installation from predominant views from surrounding properties. Depending on the proposed site and surroundings, certain camouflage design techniques may be deemed by the city as ineffective or inappropriate and alternative techniques may be required. The following is a menu of potential camouflage design techniques:

1. For Pole Mounted Installations: Pole mounted installations are the generally preferred installation type for the public rights of way.
 - a. Pole mounted installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings or other structures to provide the greatest amount of visual screening;
 - b. All pole mounted installations shall be made of marbelite or metal, at the discretion of the permitting authority.
 - c. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used;
 - d. In those circumstances where an installation is within or easily visible from a zone that is not a preferred location, the director of community development or his/her designee may require additional measures designed to camouflage a wireless communications facility, including but not limited to enclosing the pole mounted installation entirely within a vertical screening structure (suitable architectural feature such as a clock tower, bell tower, icon sign, lighthouse, windmill, etc.) may be required through the permit process. All facility components, including the antennas, shall be mounted inside said structure; and

- e. The camouflage design techniques employed shall result in an installation that either will blend in with the predominant visual backdrop or will disguise the facility so it appears to be a decorative or attractive architectural feature.
2. For Structure Mounted Installations (excluding monopole installations): Unless the applicant can affirmatively demonstrate the absence of any other technically, financially, and physically feasible installation configuration, Structure Mounted Installations, including installations on traffic signals and light poles, are prohibited. If a showing of technical, financial, and physical necessity is made, then the following standards shall apply to Structure Mounted Installations (excluding monopole installations)
 - a. All antenna panels and accessory wireless equipment components mounted on the exterior of the structure shall be painted or otherwise coated to match the predominate color of the mounting structure;
 - b. When required by the director of community development or his/her designee, antenna panels shall be located and arranged on the structure so as to replicate the installation and appearance of the equipment already mounted to the structure; and
 - c. Accessory wireless equipment that is not otherwise placed within a pole shall be placed in an underground vault if reasonably feasible. Underground vaults shall employ flush-to-grade access portals and vents.
 - d. Where undergrounding of equipment is not reasonably feasible, wireless communications facility installations located above the surface grade in the public right-of-way shall consist of components that are compatible in scale and proportion to the facilities they are mounted on. Equipment shall be painted or otherwise coated to be visually compatible with lighting and signal equipment.
 3. Co-locations shall use screening methods similar to those used on the existing wireless communications facilities, or such other and additional screening methods as may be required by the director of community development or his/her designee.
 4. For Accessory Wireless Equipment. No accessory wireless equipment associated with the operation of any wireless communications facilities shall impair pedestrian use of sidewalks or other pedestrian pathways, nor inhibit equestrian activities on designated public or private trail systems. Accessory wireless equipment that is not otherwise placed within a pole shall be placed in an underground vault if reasonably feasible. Where placing such wireless communications facilities in an underground vault is not reasonably feasible, such wireless communications facilities shall comply with Public Utilities Commission General Order 95/128 and shall be visually screened through the use of walls, landscaping or walls combined with landscaping. All wall and

landscaping materials shall be (1) selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surroundings (2) placed and mounted in the least visually obtrusive feasible location; (3) painted or textured using colors to match or blend with the primary background, and (4) treated with a graffiti-resistant coating.

12.20.070 Special Telecommunications Permits.

A. Approval Body. The Architectural Review Board shall be the approval body for Special Telecommunications Permits.

B. Application. Application for a Special Telecommunications Permit shall be made by a property owner or agent. Applications shall provide the information required by Section 12.20.040, and such other information as prescribed by the director of community development or his/her designee.

C. Timing of Approvals. The Architectural Review Board review Special Telecommunications Permit applications within such times as are required by state and federal law.

D. Findings. The Architectural Review Board may approve a Special Telecommunications Permit provided that the following findings can be made.

1. The proposed Wireless Communications Facility is visually compatible with the surrounding neighborhoods.

2. The proposed Wireless Communications Facility is not detrimental to the public health, safety, or general welfare.

3. The proposed Wireless Communications Facility is proposed to function in compliance with all applicable regulations of the Federal Communications Commission.

12.20.080 Administrative Use Permit For Wireless Communications Facilities.

A. Intent and Purpose. It is the intent and purpose of this section to establish a procedure whereby an Administrative Use Permit may be granted for eligible facilities requests that do not involve a substantial change in physical dimensions of a wireless communications facility. Grants of Administrative Use Permits for such facilities is required by the Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, H.R. 3630, 126 Stat 156 (enacted Feb. 22, 2012). This section sets forth procedures through which standard conditions and site-specific conditions may be imposed to ensure that such facilities are compatible and harmonious with adjacent or nearby permitted uses, and in accord with existing conditions of the neighborhood site, topographic and street conditions.

B. Application. Application for an Administrative Use Permit shall be made by a property owner or agent. Applications shall provide the information required by Section 12.20.040, and such other information as prescribed by the director of community development or his/her designee.

C. Timing of Approvals. The director of community development or his/her designee shall review administrative use permit applications within such times as are required by state and federal law.

D. Findings. Prior to issuance of an Administrative Use Permit the community development director or his/her designee shall make all of the following findings:

1. The proposed use will have no substantial adverse effect upon abutting property;
2. The proposed use is consistent with the objectives and policies of the city's general plan;
3. The conditions stated in the Administrative Use Permit are deemed necessary to protect the public health, safety and general welfare;
4. To the maximum extent reasonably feasible, the proposed wireless communications facility has been designed to blend with the surrounding area and the facility is appropriately designed for the specific site;
5. The wireless communications facility has been conditioned to comply with the development standards set forth in Section 12.20.060; and
6. The proposed use is permitted in the public right-of-way and complies with all applicable provisions of the Municipal Code;
7. The proposed wireless communications facility will not interfere with the use of the public right-of-way and existing improvements and utilities thereon;
8. The proposed wireless communications facility will not physically or visually interfere with vehicular, bicycle, and/or pedestrian use of streets, intersections, bicycle lanes, driveways, sidewalks and/or walkways; and
9. The proposed wireless communications facility and its location will comply with the Americans with Disabilities Act.

G. Conditions of Approval. Conditions of approval on wireless communications facilities approved by an Administrative Use Permit shall include:

1. All conditions as are necessary and appropriate to allow the director of community development or his/her designee to make the findings required by Section 12.20.080(D);
2. All conditions required by Section 12.20.090;
3. That the right to use an Administrative Use Permit shall be contingent upon the fulfillment of all general and special conditions imposed by the Administrative Use Permit ;
4. That all conditions on the Administrative Use Permit shall constitute restrictions running with the land and shall be binding upon the owner of the land and the successors or assigns;
5. That all conditions on the Administrative Use Permit shall be consented to in writing by the applicants and all owners of interests in the land;

6. That the Administrative Use Permit, together with all consent forms, shall be recorded by the clerk-recorder of Los Angeles County;

7. That the Administrative Use Permit shall be subject to review at any time upon receipt of a written complaint. The director of community development may require a reconsideration of the permit at the end of a specified time period from the date of the original approval, which reconsideration shall take account of at least the following factors: conformance with all conditions of approval, operation of the facility in its intended manner, and conformance with all applicable laws, regulations, standards and updates thereof, including radio frequency emissions and toxic or hazardous materials;

8. The permittee shall provide certifications in accordance with Section 12.20.040);

9. The permittee shall submit as-built drawings confirming that the wireless communications facility has been constructed in substantial compliance with the approved plans and permit(s);

10. The permittee shall not use, generate, store or dispose of any hazardous materials on, under, about or within wireless communications facility in violation of any law or regulation; and

11. Such further conditions of approval of the Administrative Use Permit as required to mitigate safety impacts.

H. Appeals. Appeals are subject to the provisions of Chapter 19.144, except that an appeal from the director of community development or his/her designee's decision shall be heard by the City Council; Notwithstanding any other provision of this Code, if the applicant contends that any requirement imposed pursuant to this Chapter 12.20 violates state or federal law, the applicant shall use the appeal process to seek administrative relief from such requirements. Such administrative relief may be granted by the City Council, if the City Council determines that the failure to grant administrative relief would result in a violation of state or federal law. The scope of the City Council's authority on appeal of the grant of an administrative use permit for a wireless communications facility shall be limited if, and to the extent, required by state or federal law.

I. Revocations. Revocations are subject to the provisions of Chapter 19.152

J. Modifications. Additions, enlargements or modifications of uses or structures upon property for which an Administrative Use Permit has been granted shall not be allowed except pursuant to a subsequent Administrative Use Permit as might otherwise be required or granted pursuant to the terms of this Chapter.

12.20.090 Review criteria/standard conditions.

A. Zoning Compliance. Wireless communications facilities may be permitted in any right-of-way or easements. Notwithstanding the foregoing, location on Huntington Drive, Highland Avenue and Buena Vista Street north of Duarte Road shall only be permitting upon a demonstration by the applicant that the failure to allow a proposed installation within or along

those rights of way would violate state or federal law with regard to the siting of wireless communications facilities.

B. Height and Diameter. Wireless communications facilities shall be limited to a maximum height of forty (40) feet, to ensure compatibility with street lighting and other similar right-of-way equipment. The maximum pole diameter for wireless communications facilities shall be limited to eighteen (18) inches. Antenna, and antenna shrouds may be wider than 18" but in no case shall the area on the pole wider than 18" be less than 25' from the ground surface.

C. Meter Pedestals. No above-ground meter pedestals shall be permitted unless the applicant affirmatively demonstrates that an above-ground meter is the only feasible option for the proposed facility.

D. Safety. Access to wireless communications facilities shall be restricted to maximize public safety. Security measures should include fencing, screening and signage, as deemed appropriate by the Architectural Review Board.

E. Aesthetics. In an effort to reduce a proposed wireless communications facility's aesthetic visual impact, the design review board or director of community development or his/her designee may request that alternative designs be developed and submitted for consideration. Aesthetic visual impact review shall include consideration of public views, including but not limited to, views from the hillsides, as well as from public parks, trails and open spaces. Co-location of wireless communications facilities is desirable, but there shall not be an unsightly proliferation of wireless communications facilities on one site, which adversely affects community scenic and aesthetic values.

F. Radio Frequency (RF) Radiation Standard. Within three months after construction of a wireless communications facility which contains transmitting antenna(s), except in relation to amateur ham radio antenna(s) and transmitting antenna(s) with an effective radiated power (ERP) of five watts or less per channel, the maximum radio frequency (RF) radiation shall be measured and documented in a written report submitted to the city. The measurement and report shall be performed and prepared by a qualified, independent testing service/consultant retained by the city at the applicant's expense. The measurement shall be made utilizing the most current testing protocol established by the Federal Communications Commission (FCC). The maximum radio frequency (RF) radiation shall not exceed the most current FCC safety standards.

G. Long-Term Compliance. In order to guarantee long-term compliance with conditions of approval, that power levels remain as specified and that the equipment is operating as designed, the operator of an approved transmitting antenna shall submit an affidavit indicating that the wireless communications facility is operating as approved and that the facility complies with the most current FCC Safety Standards. The affidavit shall be submitted on a yearly basis prior to the anniversary date of the facility approval for as long as the facility remains in operation and shall incorporate a separate affidavit of a qualified,

independent testing service/consultant demonstrating and verifying compliance with the most current FCC Safety Standards and approved power levels. In addition, the city may conduct independent tests to verify compliance with the most current FCC Safety Standards and approved power levels. The director of community development or his/her designee shall periodically review the approved wireless communications facility sites and determine if testing is necessary. Approved wireless communications facility providers shall be notified of all such director's determinations. The operator(s) of the approved wireless communications facility shall be responsible for the full cost of such tests.

H. Lighting. Any exterior lighting for wireless communications facilities shall be fully shielded.

I. Identification. Each wireless communications facility shall be identified by a permanently installed plaque or marker, no larger than four (4) inches by six (6) inches, clearly identifying the addresses, email contact information, and 24-hour local or toll-free contact telephone numbers for a live contact person for both the permittee and the agent responsible for the maintenance of the wireless communications facility. Emergency contact information shall be included for immediate responses. Such information shall be updated in the event of a change in the permittee, the agent responsible for maintenance of the wireless communications facility, or both.

J. Maintenance.

- 1 All graffiti on any components of the wireless communications facility shall be removed promptly in accordance with city regulations. Graffiti on any facility in the public right of way must be removed within 48 hours of notification.
2. All landscaping attendant to the wireless communications facility shall be maintained at all times and shall be promptly replaced if not successful.
3. If a flagpole is used for camouflaging a wireless communications facility, flags shall be flown and shall be properly maintained at all times. The use of the United States flag is subject to the provisions of the United States Flag Code, 4 U.S.C. § 6 et seq.
4. All wireless communications facility sites shall be kept clean and free of litter.
5. All equipment cabinets shall display a legible sign clearly identifying the address, email contact information, and 24-hour local or toll-free contact telephone numbers for both the permittee and the agent responsible for the maintenance of the wireless communications facility. Such information shall be updated in the event of a change in the permittee, the agent responsible for maintenance of the wireless communications facility, or both.

K. Compliance. The permittee and the wireless communications facility shall adhere to and comply with all applicable requirements of federal, state and local laws, ordinances, rules, and regulations.

- L. Abandonment or Discontinuance of Use.
1. All permittees or operators who intend to abandon, discontinue, and/or terminate the use of any wireless communications facility, or co-located portion thereof, shall notify the city of such intentions no less than sixty (60) days prior to the final day of use. Said notification shall be in writing, shall specify the date of termination and shall include reference to the applicable permit number.
 2. All wireless communications facilities, or co-located portion thereof, not in use for ninety (90) days shall be considered abandoned.
 3. For wireless communications facilities in the public right-of-way, or co-located portion thereof, where operations have been abandoned, discontinued and/or terminated such facilities shall be physically removed no more than ninety (90) days following the final day of use or of determination that the facility has been abandoned, discontinued and/or terminated whichever occurs first. By that same time, at permittee's sole expense and responsibility, all component elements of an abandoned, discontinued and/or terminated wireless communications facilities, or co-located portion thereof, shall be removed in accordance with applicable health and safety requirements. The site upon which the wireless communications facility is located shall be restored to the condition that existed prior to the installation of the wireless communications facility, or co-located portion thereof.
 4. For wireless communications facilities in the public right-of-way, at any time after ninety (90) days following the abandonment, discontinuation, and/or termination of the use and/or operation of a wireless communications facility, or co-located portion thereof, the city may remove the wireless communications facility, repair any and all damage to the premises caused by such removal, and otherwise restore the premises as he/she deems appropriate. The city may, but shall not be required to, store the removed wireless communications facility (or any part thereof). The permittee of the wireless communications facility, or co-located portion thereof, and all prior owners and operators of the wireless communications facility, shall be jointly and severally liable for the entire cost of such removal, repair, restoration, and storage, and shall remit payment to the city promptly after demand therefor is made. If payment is not made in a reasonable amount of time, the city may pursue abatement cost recovery in compliance with the Municipal Code. The city may, in lieu of storing the removed wireless communications facility, or co-located portion thereof, convert it to the City's use, sell it, or dispose of it in any manner deemed appropriate by the City.
 5. For all wireless communications facilities, such bonds or cash deposit as shall be required in amounts and under terms as specified by the director of community development or his/her designee, which shall be reasonable in light of the scope and value of the proposed wireless communications facility(ies).
 6. For all wireless communications facilities, such proof of insurance as shall be required in amounts and under terms as specified by the director of community

development or his/her designee, which shall be reasonable in light of the scope and value of the proposed wireless communications facility(ies).

M. Relocation. Permittee shall modify, remove or relocate its wireless communications facility, or portion thereof, without cost or expense to city, if and when made necessary by any abandonment, change of grade, alignment or width of any street, sidewalk or other public facility, including the construction, maintenance or operation of any other city or service utility providers underground or aboveground facilities including but not limited to sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by city or any other public agency. Said modification, removal, or relocation of a wireless communications facility shall be completed within ninety (90) days of notification by city unless exigencies dictate a shorter period for removal or relocation. In the event a wireless communications facility is not modified, removed, or relocated within said period of time, city may cause the same to be done at the sole expense of permittee in compliance with the Municipal Code. Further, in the event of an emergency, the city may modify, remove, or relocate wireless communications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

Section 2. CEQA Compliance

This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

Section 3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 4. Posting of Ordinance.

The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

PASSED, APPROVED, AND ADOPTED this 27th day of May, 2014.

Mayor Elizabeth Nowak Reilly

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. _____ was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the _____ day of _____ 2014, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Council Members:

City Clerk Marla Akana
City of Duarte, California

MEMORANDUM

TO: Darrell J. George, City Manager
FROM: Kristen Petersen, Assistant City Manager
DATE: May 20, 2014
SUBJECT: **Update on Comprehensive Multimodal Transportation Assessment**

Recommendation

It is recommended that the City Council direct staff to address the Multimodal Transportation Assessment with two separate proposal processes. One RFP or RFQ for a comprehensive assessment of and optimization plan for the Duarte Transit fixed route system particularly focused on providing better multimodal connections to the future Gold Line Station in Duarte. The second proposal would be for the development of a bicycle and pedestrian master plan to address the needs near the future Station.

Background

The City Council and City Management met on March 4, 2014 for a strategic planning meeting. As part of this meeting, City Council stated that it wanted an assessment of the current transportation systems in the City and recommendations on how those systems should be revised, expanded or changed to better interconnect and compliment the future Gold Line Station and the Transit Oriented Development provided for in the Metro Gold Line Specific Plan.

Project Scope

In general our scope would focus on the area around the future new station and then look at potential linkages throughout the City. It will start with the specifics of the future Gold Line station design, the recently adopted Duarte Station Specific Plan and parking and access changes already planned for the area. The goal is to give the public as many options as possible to access the station through multimodal transportation and this is done through evaluating and then implementing recommendations for transportation related changes.

Transit Fixed Route Assessment – To address the Duarte Transit Fixed Route System’s linkage to the Gold Line station, Staff recommends that the City move forward with a comprehensive assessment of the fixed route ridership, routing and scheduling for the Duarte Transit, taking into consideration any duplication from the routes provided in the City by Foothill Transit and MTA. We would be looking for the consultant that we select to use this information to propose an optimized route to maximize ridership and develop linkages between the Duarte fixed route transit system and the future Gold Line station, identify gaps in transit route needs and propose infrastructure modifications if any that better provide multi-modal connections. We would also

be looking for recommendations on how to cut costs and work within the limited funding currently allocated to the fixed route system.

Staff will request proposals from transportation consultants with extensive experience in transit systems and multimodal networks near rail transit sites. The goal would be to send out an RFP or RFQ and have a preferred consultant selected by July. At that time, Council could consider the creation and appointment of an ad hoc committee, whose scope will be to provide public input for the consultant as they develop the optimized route options. It will be important for the consultant to determine if there are specific locations that must be serviced by the system even if it detracts from an optimized option.

Bicycle and Pedestrian Plan - To address the bicycle and pedestrian needs near the future Gold Line station, Staff recommends that the City move forward with a comprehensive bicycle and pedestrian master plan that is compatible with and implements Metro's First Mile, Last Mile Plan. While the plan would focus much of its attention on improving the efficiency of bicycle and pedestrian features near the Gold Line station, it would also address these needs citywide and focus on linkages. The plan will address: pedestrian and bike improvements in the station area; study of expansion of bike lane program city-wide; bike linkages between the local system, the planned Emerald Necklace Trail Head on Duarte Road, and the Royal Oaks Bike Trail; a pedestrian walkability study for areas near the station; a street furniture plan for the station area; and other related bike and pedestrian needs that will promote the efficiency of the future Duarte Gold Line station. Some of the items listed above are in the early stages on being completed. The City has submitted a proposal for an ATP Grant that would include: completion of sidewalk improvements on the north side of Duarte Road from Highland to Mountain Avenue, bike lanes along Duarte Road and Highland Avenue, a city-wide wayfinding sign program. Regardless of whether or not the City receives the ATP grant, the improvements included in the grant request will be included into the comprehensive bicycle and pedestrian master plan.

Staff will invite proposals from consultants with extensive experience in preparation of bicycle and pedestrian master plans near rail transit sites. The goal would be to have a preferred consultant selected by July and bring the proposal and budget amendment to the Council. It is estimated that a plan would be completed by November 2014.