

## STAFF REPORT

**DATE:** February 3, 2015  
**TO:** City Council  
**FROM:** Melissa Chaney, Director Human Resources/Parks and Community Services  
**SUBJECT:** Terms, Conditions and Understandings of Compensation and Employment for the Individual Fire Managers

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### **Recommendation**

Approve the attached Resolution Adopting new Terms, Conditions and Understandings of Compensation and Employment for the Individual Fire Managers.

### **Fiscal Impact**

The terms of the contract will result in increased costs totaling approximately \$48,000 and will come from the General Fund.

### **Background and Analysis**

Staff began negotiations with the Fire Management employees over a year ago in order to align the positions with a benefit package similar to the Police Management employees. Fire Management employees include the Deputy Fire Chief, the Division Fire Chief (Fire Marshal) and the Division Fire Chief positions.

When the Terms, Conditions and Understandings of Compensation and Employment for the Individual Fire Managers was originally implemented in March 2012, all the positions were vacant, and the City created a benefit package that was in line with the Guiding Principles of the Council. This initial contract expired June 30, 2013.

With the previous contract ratified in 2012, the Fire Managers received many of the reductions prior to any other group, such as a \$500 cafeteria cash out, employees paying an additional 3% of PERS, and a reduction in uniform allowance. However, they did not receive any of the COLAs or changes that were negotiated by the other groups in order for the City to enact those reductions. The intent of this current contract is to bring the Fire Managers in line with the Police Managers.

The proposed Terms, Conditions and Understandings of Compensation and Employment for the Individual Fire Managers includes changes to the following:

- Effective January 1, 2014 a two percent (2%) salary increase
- Effective January 1, 2015, a one percent (1%) salary increase
- City shall pay uniform allowance up to \$1,000 for a Uniform Allowance

- Up to 5% educational incentive pay for a Master degree and certain job specific certifications.
- Decrease in In-lieu of holiday pay from 6% to 1%
- Service term bonus of 2.5% for 5 years of service and 2.5% for 10 years of service for a maximum of 5%

These changes mirror the Police Management contract that was signed in November 2012. The proposed contract will expire on December 31, 2015. This date aligns the contract for the Individual Fire Management Employees with the other City employee contracts under negotiation in 2015.

Based on the information provided above, the attached resolution establishing Terms, Conditions and Understanding of Compensation for the Individual Fire Management Employees is consistent with the framework for negotiations that the City Council established with their Guiding Principles for Employee Compensation and Objective for Labor Negotiations in 2012.

**Attachments**

1. Resolution
2. Terms, Conditions and Understandings of Compensation and Employment for the Individual Fire Managers.

RESOLUTION NO. \_\_\_\_, SERIES 2015

A RESOLUTION ADOPTING TERMS, CONDITIONS AND  
UNDERSTANDING OF COMPENSATION AND EMPLOYMENT  
FOR THE INDIVIDUAL FIRE MANAGERS

WHEREAS, the City Council of the City of Davis, pursuant to California Government Code sections 3500 et seq., enacted an employer-employee relations policy with its adoption of Resolution No. 1303, Series 1973, dated June 26, 1973; and

WHEREAS, under the terms of that policy the City Manager and his representatives and the Fire Individual Management Employees have met and conferred in good faith; and

WHEREAS, these parties have reached agreement on matters relating to the employment conditions of the said employees, as reflected by the written Terms and Conditions of Employment, which is attached hereto and made a part hereof; and,

WHEREAS, this Council finds that the provisions and agreements contained in said Terms, Conditions and Understanding of Compensation and Employment, as written, are fair and proper and in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Davis that the terms and conditions contained in said Terms, Conditions and Understanding of Compensation and Employment are hereby adopted by the City Council subject ratification by individual Fire employees.

PASSED AND ADOPTED by the City Council of the City of Davis on this 17th day of February 2015, by the following vote:

AYES:

NOES:

ABSENT:

DANIEL M. WOLK,  
Mayor

ATTEST:

ZOE S MIRABILE, CMC  
City Clerk

**TERMS, CONDITIONS AND UNDERSTANDINGS OF  
COMPENSATION AND EMPLOYMENT FOR  
THE INDIVIDUAL FIRE MANAGERS**

The City Council of the City of Davis hereby establishes the following salary, benefits and other provisions related to the employment of the City's Individual Fire Managers during the period of January 1, 2014 through December 31, 2015.

**Section 1. Individual Fire Managers' Employee Group**

The following fire department managerial positions, formerly part of the Management Bargaining Group, will be considered part of this group and are collectively referred to as "Employees":

Deputy Fire Chief  
Fire Division Chief (Fire Marshal)  
Fire Division Chief

The Deputy Fire Chief position is an Executive Management position and is at-will, which means that such employment can be terminated at any time, with or without cause, by either the City of Davis or by the employee.

The Fire Division Chief (Fire Marshal) and Fire Division Chief have property rights in their employment and may only be terminated or disciplined for cause.

**Section 2. Agreement Controlling:**

The City's Personnel Rules and Employee Relations Resolution shall govern City employment for those in this group, unless this Agreement conflicts, in which case this Agreement shall control.

**Section 3. Nondiscrimination**

In the administration of this Agreement, no person covered by this Agreement shall be discriminated against because of race, national origin, religion, sex, sexual orientation, disability, age, marital status or any other characteristic protected by federal or state law.

This Agreement shall be administered and applied in a manner that complies with provisions of the federal, state and local disability and anti-discrimination statutes. The City reserves the right to administer and interpret the Agreement to ensure compliance with such laws.

This Agreement provision shall not be interpreted to grant rights in addition to those conferred by federal, state and local laws.

**Section 4. Term:**

The term of this Agreement shall commence January 1, 2014 and conclude December 31, 2015.

**Section 5. Management Rights:**

- A. The City retains, whether exercised or not, solely and exclusively, all express and inherent rights and authority pursuant to law with respect to determining the level of and the manner in which the City's fire protection activities are conducted, managed, and administered, and the Individual Fire Management Employees recognize the exclusive rights of the City to establish and maintain Departmental rules and procedures for the administration of the Fire Department during the term of this Agreement, provided that such rules and procedures do not violate any of the specified express provisions herein.
- B. The City retains the exclusive right and authority to schedule work and/or overtime work as required in the manner most advantageous to the City.
- C. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described, nevertheless, it is intended that all such duties shall be performed by the Employees.
- D. The City reserves the right to discipline or discharge Employees, subject to this Agreement and the City's discipline procedures. The City reserves the right to lay off personnel in accordance with the City's procedures.
- E. The City shall determine work assignments, and establish methods and processes by which assignments are performed.
- F. The City shall have the right to transfer or reassign Employees within the Fire Department in a manner most advantageous to the City.
- G. Except as otherwise specifically provided in this Agreement, the City retains unqualifiedly all rights and authority to which by law the City is entitled.
- H. The City shall have the authority to affect reorganization of the Fire Department.
- I. The City has rights and obligations in contracting for matters related to municipal operations. The right of contracting or subcontracting is vested exclusively in the City.
- J. Any and all rights concerning the management, organization, and direction of the Fire Department shall be exclusively the right of the City unless otherwise provided by the express terms of this Agreement as permitted by law.

**Section 6. Employee Rights:**

**A.** The Association and covered Employees shall have those rights conferred by the Meyers-Milias-Brown Act, Government Code section 3500, et seq.

**B.** Subject to this Agreement's provisions (e.g. Section 1), Employees shall not have any formal punitive personnel action taken which will result in any loss of pay or benefits, unless the Employee is notified in writing as to the reason or reasons thereof and given reasonable opportunity to respond. Nothing in this clause shall prevent the City from rejecting without cause an Employee during probationary status.

**C.** Formally recognized Employee organizations may select not more than two (2) Employee members of such organizations to attend scheduled meetings with the Employee Relations Officer or other management officials on subjects within the scope or representation during regular work hours without loss of compensation. Where circumstances warrant, the Employee Relations Officer may approve the attendance of additional Employee representatives with or without the loss of compensation. The Employee organization shall, whenever practicable, submit the names of all such Employee's representatives to the Employee Relations Officer at least three (3) calendar days in advance of such meetings. Provided further:

- 1) that no organization representative, who is a City Employee, shall leave his or her duty or work station without specific approval of the Department Head or other authorized City Management official;
- 2) that any such meeting is subject to scheduling by City management in a manner consistent with operations and work schedules; and,
- 3) nothing provided herein, however, shall limit or restrict City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances. No compensation shall be paid City Employees for any meetings or related work conducted out of the normal working hours.

**D.** Reasonable access to Employees' work locations shall be granted officers of recognized Employee organizations and their officially designated representatives, for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation. Such officers or representatives shall not enter any work location during normal duty hours without the consent of the Department Head or the Employee Relations Officer. Such consent shall not be unreasonably withheld. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of an Employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, shall not be conducted during normal business hours.

**E.** Recognized Employee organizations may, with prior approval of the Employee Relations Officer or Fire Chief, be granted use of the City facilities during off-duty hours for meetings of City Employees provided such space is available. All such requests shall be in writing and shall state the purpose or purposes of the meeting. The City reserves the right to assess reasonable charges for the use of such facilities.

The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs and blackboards, is strictly prohibited, the presence of such other equipment in approved City facilities notwithstanding.

**F.** Recognized Employee organizations may use portions of City bulletin boards under the following conditions:

- 1) Prior to posting, all materials must receive the approval of the Department or Division head in charge of the departmental bulletin board. Should the department head not approve any item for posting, and if after discussing the matter with the Employee organization representative a disagreement still remains, then the matter shall be referred to the Employee Relations Officer for determination.
- 2) All materials must be dated and must identify the organization that published same.
- 3) Unless special arrangements are made, materials posted must be removed thirty-one (31) days after publication date.
- 4) The City reserves the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to Employee organizations' material.
- 5) An Employee organization that does not abide by these rules shall forfeit its right to have materials posted on City bulletin boards.

**G.** A substantial body of statutory and case law has developed relative to the rights and obligations of an employer and the Employees pursuant to the Meyers-Milias-Brown Act. It is agreed by both parties that each will be bound by applicable statutory and case law. It is also agreed in the interest of maintaining improved employer/Employee relations, that each party will make a good faith effort to respect the rights of the other party at all times during the life of the Agreement.

**Section 7. Compensation:**

City and Employees agree the following shall be the base salary increase percentages for the term of this Agreement:

1. Effective January 1, 2014 this Agreement, Employees will receive a two percent (2%) salary increase.
2. Effective January 1, 2015, Employees will receive a one percent (1%) salary increase.

**Section 8. Probationary Period and Merit Review:**

**A. Probationary Period:** The Fire Division Chief (Fire Marshal) and Fire Division Chief positions shall serve a probationary period of twelve months. The Deputy Fire Chief is at-will and shall serve no probationary period.

**B. Merit/Review:** If appointed at (or promoted to) Step 1, Employees are eligible for a merit review six months after the date the action becomes effective. If appointed above Step 1, the merit review will be twelve months from effective date.

**Section 9. PERS:**

**A.** For current employees in this group who are “classic” CalPERS members, the CITY shall continue providing Employees with the CalPERS “3% at 50” local safety retirement plan. For “new” CalPERS members, the benefit shall be per statute.

**B.** The retirement plan shall continue to include unused sick leave credit option, single highest year final compensation, death benefits, disability benefits, military service credit as a public service and the 1959 Survivor Benefit (Level IV). The Employees will pay the Employee’s portion of the survivor benefit.

**C.** Employees will continue to pay one hundred (100) percent of the Employee’s nine (9) percent of PERS contribution.

**D.** Employees will continue to pay three (3) percent of the employer contribution rate.

**Section 10. Additional Compensation:**

Due to the fact that the classifications in this bargaining unit are deemed exempt from the overtime requirements of the Fair Labor Standards Act (FLSA), the following special provisions for the payment of overtime will apply to the Fire Division Chiefs (not including the FDC-Fire Marshal position). Overtime for Fire Division Chiefs will be compensated at the hour per hour rate for time worked due to emergencies, and it is based upon a 56 hour work week. Emergencies shall be determined by the Fire Chief, in his or her sole discretion, and may include but are not limited to such events as:

- Major storm damage requiring the dispatching of additional crews;
- The necessity to cover scheduled shifts and/or extra shifts
- Direct supervision of crews assigned to work during normal days off to accommodate the public;
- Break down of equipment and/or systems requiring the presence of the Fire Division Chief in order to restore service



Overtime shall not be incurred or paid for the following:

- Staff meetings
- Special projects
- Conferences, training and seminars
- Appearances before City Council and commissions,
- Public information presentations,
- Activities involved with the completion of normal activities or programs such as budgets, inventory, annual financial closings, labor negotiations, and recreation programs.

All overtime must be approved in advance by the Fire Chief. Any deviations from these guidelines must be approved in advance by the Fire Chief and the City Manager.

The Assistant Fire Chief and the Fire Marshal are considered exempt classifications not subject to any of the exceptions for overtime specified in the above section.

#### **OES Strike Team Response Compensation**

When an Employee in this group is assigned by the Fire Chief to respond to a request for mutual aid under the State Mutual Aid Program, (also known as the Six-Party Cooperative Agreement), that Employee will be compensated for that time worked that is not normally scheduled work time in the City of Davis. Such an Employee shall be compensated at straight-time pay (at the 56-hour rate) so long as City is reimbursed under the Six-Party Cooperative Agreement.

The Assistant Fire Chief and the Fire Marshal will be paid at straight-time pay (40-hour rate) for all Six-Party Agreement responses, for which the City is reimbursed by the State under the Six-Party Agreement.

#### **Section 11. Shift Trades:**

Fire Division Chiefs will be allowed to have unlimited shift trades with the approval of their supervisor.

#### **Section 12. City § 125 Benefit Contribution:**

##### ***Cash-Out of Cafeteria Plan***

If an Employee has outside health insurance coverage through a spouse, domestic partner or alternative retirement, an Employee can cash-out up to a maximum of \$500 per month or add this amount to deferred compensation.

##### **Health Benefits Contribution**

Cost Sharing of Health Benefits will be equal to that of Police Management.

Effective with implementation of this agreement, and each month thereafter, the CITY will contribute \$1561.55 towards the monthly health care premium for EMPLOYEES. Effective December 1, each following year, when health care premium increases take effect, the CITY will contribute up to the first three percent (3%) of any increases in health premiums (set to Kaiser-Bay Area Employee +2 plan). EMPLOYEE will contribute up to the next additional three percent (3%) of health premium increases for the benefit year. Any increase in the premium above six percent (6%) will be shared equally (50/50 cost sharing) between CITY and EMPLOYEE.

### **Dental Benefits Contribution**

For the term of this Agreement, City shall contribute towards each Employee member's dental plan or cafeteria benefit plan the total monthly premium, for the term of this Agreement, effective April 1, 2012 for the City's self-funded dental plan for Employee with two or more dependents. City will continue to include unmarried dependents through age 22 consistent with the City's health benefits, in the dental insurance program.

### **Additional Benefits**

The City will make available to each covered Employee a monthly amount equal to the sum of the following life and long term disability insurance benefit payments. Participation in the life insurance and long term disability insurance is mandatory and these premiums may not be taken as cash in lieu.

#### **Life Insurance**

For the term of this AGREEMENT, CITY shall contribute towards each EMPLOYEE member's cafeteria benefit plan the amount to purchase a \$100,000 policy. Purchase of this policy is mandatory.

This policy will carry an accidental death and dismemberment (AD&D) rider. The AD&D rider provides a benefit of up to \$100,000 subject to the terms and conditions of the policy.

#### **Long Term Disability Benefit**

The CITY shall provide long (LTD) term disability insurance coverage for all Employees. For the term of this Agreement, City shall contribute towards each Employee's cafeteria benefit plan the amount to purchase the Long Term Disability Benefit provided in City of Davis Self-Insured Long Term Disability Plan. Purchase of this policy is mandatory.

#### **Vision Care**

City shall continue to make vision care available to Employees at no cost to the City.

### **Flexible Benefit Plans**

IRC § 125 provides additional tax advantages, allowing for the establishment of individual Employee savings accounts called Flexible Spending Accounts (FSA). This alternative allows Employees to cover the following on a pretax basis at no cost to the City:

1. Uncovered Health Care Expenses up to \$2,000
2. Dependent Care Expenses up to \$5,000

Amounts will be made available to the Employee to pay premiums for enrollment of the Employee and his/her dependents in City-sponsored health and dental insurance programs of the Employee's choice. Enrollment of the Employee and his/her dependents in City-sponsored health programs is mandatory unless proof of acceptable current alternate coverage is presented. Any amount in excess of the premiums required for the health and dental insurance coverage selected by the Employee will be added to the Employee's gross pay prior to income tax withholding and paid with bi-weekly paychecks.

Once enrolled in a cafeteria distribution plan, Employees will only be permitted to modify the plan on the same basis as changes are permitted in health and dental insurance plans, that is, during open enrollment periods and when the Employee's dependent status changes.

City agrees to continue to enable an Employee, who is married to another Employee of City, to combine their respective City contributions for health insurance premiums for a plan available through City to offset the cost of their health insurance premiums for themselves and their eligible dependents up to the maximums for each Employee, as specified above, and/or, as applicable under the terms of another Memorandum of Understanding. Said Employees agree to enroll in the same plan as an Employee and dependent rather than as two separate Employees.

### **Retiree Health/Vesting Schedule**

Employees are 'public safety employees' and are subject to the same retiree health benefits negotiated and set forth in the Davis Professional Firefighters Local 3494 MOU.

### **Section 13. Employee Assistance Program (EAP):**

The Fire Chief and department managers may require Employees covered by this Agreement to attend an EAP counseling session(s) during working hours. The purpose of the session(s) is to assist the Employee in receiving advice about workplace issues. EAP benefits are also available to Employees at their request pursuant to the City's EAP plan.

### **Section 14. Uniform Allowance:**

City shall pay \$1,000 for a Uniform Allowance at the beginning of every fiscal year beginning in July 2014.

**Section 15. Uniforms and Safety Equipment:**

- A. Uniforms damaged in the line of duty shall be replaced or repaired in accordance with existing policy.
- B. Required equipment which is damaged or lost will be replaced or repaired in accordance with existing policy.

**Section 16. Tuition Reimbursement/Education Incentive:**

The City will provide a tuition and books reimbursement program for educational activities which are directly job-related and approved in advance by the Fire Chief, subject to reimbursement guidelines established by City Policy.

Employees shall be entitled to tuition reimbursement for undergraduate courses in pursuit of a BA or BS degree and graduate courses in pursuit of a Master's Degree. The amount for reimbursement shall be set to California State University rates, as per City Policy.

Fire Officer or Fire Marshall Certificate. Employees who have earned a Fire Officer or Fire Marshall Certificate issued by the CA State Fire Marshall shall receive an additional 2.5% above base salary.

Employees shall receive an educational incentive of 2.5% for a Master's Degree or a Chief Officer Certificate.

The total educational/certificate incentive shall not exceed a maximum of 5%. Incentive pay shall become operative at the time that the employee can demonstrate attainment of appropriate criteria, which may occur in advance of actual receipt of formal degree and/or certificates.

**Section 17. Service Term Bonus:**

In recognition of the substantial contribution to the community made by employees as a result of the length of their aggregate City service, the City shall award each applicable employee service term bonus pay indicated below.

Service Term	Service Term Bonus
Beginning of 5th year of service with the City of Davis	2.5% of base salary
Beginning of 10th year of service with the City of Davis	2.5% of base salary

Service term pay shall be included on each eligible employee's bi-weekly payroll. Eligible employees who leave City service and return within two years of separation will receive credit for prior service time. If an eligible employee leaves City service and returns after two years of separation, prior service time will not be credited.

**Section 18. Leaves:**

**A. Holidays:** Employees shall accrue vacation in lieu of holiday time on a pro rata basis per pay-period for an annual total of one-hundred sixteen (116) hours.

Twenty-four hour shift Employees shall be paid holiday- in-lieu pay at the rate of 1% of base pay.

**B. Vacation:** Vacation leave with pay shall accrue on the following basis retroactive to July 1, 2013:

<u>Years of Service:</u>	<u>40 Hour Employee</u>	<u>56 hour Employee:</u>
1 thru 3 years	120	168.0
4 thru 5 years	136	190.4
6 thru 10 years	160	224.0
During 11th Year	184	257.6
During 12th Year	192	268.8
During 13th Year	200	280.0
During 14th Year and up	208	291.2
During 15 <sup>th</sup> Year	216	302.4
During 16 <sup>th</sup> Year and up	224	313.4

The maximum vacation hours that may be accrued is equal to the Employee's current annual rate.

Upon separation from the City, Employees shall be paid for any unused vacation credit.

**D. Sick Leave:**

Accrual and Use: Employees shall receive twelve (12) working days of sick leave annually – i.e. ninety-six (96) hours for 40 hour work week Employees and one hundred and thirty-five (135) hours for 24 hours shift Employees. Employees are eligible to use sick leave as it is accrued. There shall be no limit on the amount of accumulated sick leave.

Sick leave shall be allowed and used solely for cases of actual personal sickness or disability, medical or dental treatment, or as authorized for other necessary health reasons and may be used by the Employee for attendance upon a member of his/her immediate family seriously ill and requiring the care and attention by the Employee as per City policy. An Employee intending to use sick leave for medical/dental appointments shall notify his/ her immediate supervisor in advance of the appointment.

Sick Leave at Retirement. The City shall continue its contract with PERS to provide that unused accumulated sick leave shall be credited as time in service at the time of retirement.

**E. Management Leave:**

Effective July 1, 2013, the Fire Division Chief, the Deputy Fire Chief and Fire Marshal shall earn ten (10) working days (i.e., eighty (80) hours) of management leave each calendar year, which shall be prorated and accrued on a bi-weekly basis. Employees shall not vest management leave time until it is actually accrued.

Employees are encouraged to take all of their management leave as time off with pay. However, Employee are entitled to three (3) options with respect to the manner in which they use this leave:

1. Take their accumulated time off with pay.
2. Receive a cash payment for fifty (50) percent of the management leave accrued in one (1) year, and take the remaining balance of their accumulated time off with pay.
3. Receive a cash payment for a hundred (100) percent of the management leave accrued in one year.

Any Employee, with the consent of the Fire Chief and the City Manager, may defer as many working days of their annual management leave as they accumulate during any given year to the succeeding calendar year.

**Section 19. No Strike:**

Employees agree that during the term of this MOU, and throughout all periods when there is any effort or procedure underway to arrive at a successor Agreement, and during any period when the law prohibits strike activity, there will be no strike, work stoppage, concerted unauthorized absences, slow-down, or refusal to cross picket lines of any sort, and that the Employees will not directly or indirectly encourage or condone such actions Employees.

Any Employee violating this provision shall be subject to disciplinary action, up to and including termination of employment.

This provision may be specifically enforced in any court of competent jurisdiction.

**Section 20. Residency:**

**A.** The primary residence of every Employee shall be within 60 minutes auto travel time from the central Fire station. Each Employee may have only one primary residence. Primary residence is defined as the residence where (1) the Employee sleeps a majority of the time; and, (2) if the Employee lives with a spouse or child, the residence where the Employee sleeps a majority of the time.

**B.** Those Employees who, prior to adoption of this provision, met the City's residency

requirement by establishing a secondary residence, shall be deemed in compliance with this residency requirement until the Employee changes his/her primary residence. Thereafter, the Employee must comply with the residency requirement set forth in subsection A.

**Section 21. Separability and Integration:**

Except as specifically provided herein, if any article or provision of this Agreement, or any portion thereof is in conflict or inconsistent with applicable laws, or otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such article or provisions, or portion thereof shall be suspended and superseded by such applicable law and the remainder of such article, provision, or portion thereof of the Agreement shall not be affected thereby.

This Agreement contains all of the covenants, stipulations and provisions agreed upon by the parties.

DATED: \_\_\_\_\_

EMPLOYEE RELATIONS OFFICER OF THE  
CITY OF DAVIS

By: \_\_\_\_\_

\_\_\_\_\_  
Timothy Annis

\_\_\_\_\_  
Shawn Kinney

\_\_\_\_\_  
Paul Swanson

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Joseph Tenney