

**SIDE LETTER AGREEMENT
BETWEEN THE
THE CARLSBAD FIREFIGHTERS' ASSOCIATION, INC.
AND
THE CITY OF CARLSBAD
RELATING TO EMPLOYEE CONTRIBUTIONS TO A POST RETIREMENT
HEALTHCARE TRUST AND ESTABLISHMENT OF AN ASSOCIATION TIME BANK**

The City of Carlsbad (hereinafter referred to as “city”) and the Carlsbad Firefighters’ Association, Inc. (hereinafter referred to as the “CFA”) entered into a Memorandum of Understanding (“MOU”) with a term beginning on January 1, 2020 and terminating on December 31, 2022. The city and the CFA are collectively referred to herein as the “Parties.”

Background and Overview

This Agreement relates to modifications to Articles 11, 12 and 38 of the MOU that would 1) allow CFA represented employees to convert accrued and unused vacation and sick leave into a post-retirement healthcare trust account and 2) would increase the mandatory employee contribution to a post-retirement healthcare trust account over the term of the MOU.

This Agreement also relates to the establishment of an association time bank.

The specific provisions contained in this Agreement are intended to supersede any previous agreements, whether oral or written, regarding the matters contained in this Agreement.

The Parties have satisfied their obligations to meet and confer in good faith in accordance with the Meyers-Milias-Brown Act (“MMBA”) in response to the city’s determination.

Except as provided here, all wages, hours, and other terms and conditions of employment presently in the city’s MOU with the CFA remain in full force and effect. This Agreement will become effective the first pay period following Council approval in open session.

The Parties mutually agree to replace Articles 11, 12 and 38 in their entirety with the following and add Article 44:

ARTICLE 11. ANNUAL VACATION LEAVE

A. Basis of Accrual

The annual vacation leave accrual schedule for all employees working a 112 hour/pay period schedule will be:

Less than 3	full calendar years of continuous service	-21 minutes/day
3 through 4.99	full calendar years of continuous service	-26 minutes/day
5 through 9.99	full calendar years of continuous service	-32 minutes/day
10 through 10.99	full calendar years of continuous service	-34 minutes/day
11 through 11.99	full calendar years of continuous service	-36 minutes/day
12 through 12.99	full calendar years of continuous service	-38 minutes/day
13 through 14.99	full calendar years of continuous service	-40 minutes/day
15 or more	full calendar years of continuous service	-42 minutes/day

The annual vacation leave accrual schedule for all employees working an 80 hour/pay period schedule:

Less than 3	full calendar years of continuous service	-13 minutes/day
3 through 4.99	full calendar years of continuous service	-16 minutes/day
5 through 9.99	full calendar years of continuous service	-20 minutes/day
10 through 10.99	full calendar years of continuous service	-21 minutes/day
11 through 11.99	full calendar years of continuous service	-22 minutes/day
12 through 12.99	full calendar years of continuous service	-24 minutes/day
13 through 14.99	full calendar years of continuous service	-25 minutes/day
15 or more	full calendar years of continuous service	-26 minutes/day

Vacation leave is accrued on a daily basis. Vacation leave can be used in 15 minute increments.

A CFA-represented employee who is reinstated, as defined in the City of Carlsbad Personnel Rules and Regulations, upon reinstatement, shall resume the same vacation accrual rate that the employee had at the time of their separation.

When an employee changes from a 112 hour/pay period schedule to an 80 hour/pay period schedule, the employee's vacation balance (number of hours of accrued and unused vacation) is divided by 1.4 so that the dollar value of the employee's vacation balance at the time of the change remains the same.

When an employee changes from an 80 hour/pay period schedule to a 112 hour/pay period schedule, the employee's vacation balance (number of hours of accrued and unused vacation) is multiplied by 1.4 so that the dollar value of the employee's vacation balance at the time of the change remains the same.

B. Vacation Accrual Maximum

All employees working a 112 hour/pay period schedule shall be entitled to earn and accrue up to and including four hundred and forty-eight (448) hours of vacation. No employee working a 112 hour/pay period schedule will be allowed to earn and accrue vacation hours in excess of the four hundred and forty-eight (448) hour maximum. Each year, in the last paycheck in December, all accrued vacation hours over 384 hours will be deposited into the employee's individual post-retirement healthcare trust account.

All employees working an 80 hour/pay period schedule shall be entitled to earn and accrue up to and including three hundred and twenty (320) hours of vacation. No employee working an 80 hour/pay period schedule will be allowed to earn and accrue vacation hours in excess of the three hundred and twenty (320) hour maximum. Each year, in the last paycheck in December, all accrued vacation hours over 256 hours will be deposited into the employee's individual post-retirement healthcare trust account.

There shall be no cash option available to the employee for the conversion of unused accrued vacation hours.

Department Heads will encourage the taking of accrued vacation leave. If there are unusual circumstances that would require an employee to exceed the vacation accrual maximum, he/she must submit a request in writing to the Fire Chief or his/her designee and the City Manager. The Fire Chief or his/her designee and the City Manager may grant such a request if it is in the best interest of the city. Requests will be handled on a case-by-case basis and will be considered only in extreme circumstances.

C. Vacation Conversion

1. Employees working an 112-hour per pay period schedule are eligible to submit an irrevocable request to elect to convert up to 112 hours of accrued vacation hours for the following calendar year to be deposited into the employee's individual post-retirement healthcare trust account. Employees working an 80-hour pay period schedule are also eligible to submit an irrevocable request to elect to convert up to 80 hours of accrued vacation hours for the following calendar year to be deposited into the employee's individual post-retirement healthcare trust account. There shall be no cash option available to the employee for the conversion of unused accrued vacation hours.
2. All employees wishing to convert accrued vacation to fund their post-retirement healthcare trust in the year following the election will complete a form between November 10 and December 10 of each year. Elections will not carry over from one calendar year to the next calendar year.
3. Only vacation hours accrued during the calendar year following the election may be converted. Employees accruing less than the election amount may convert no more than their total vacation accrual in the following calendar year.
4. The employee's accrued vacation to convert to the healthcare trust will be credited first to the trust account with the employee's earned vacation leave until the employee's full election amount is reached. The vacation hours designated to the trust account will not be credited toward the employee's maximum vacation accrual. During this period of time, no earned vacation leave will be credited to the employee's vacation time off balance.
5. Conversion of vacation hours elected for the trust will be in the last paycheck in December unless the employee has accrued all the elected vacation hours by June 30, in which case conversion of the elected vacation hours may occur in July at the employee's request. All vacation hours will be converted in the calendar year in which the vacation hours accrue. If the employee does not accrue all requested vacation hours in the calendar year, the vacation conversion amount will be reduced to the total number of vacation hours the employee actually accrues in the calendar year and the conversion will be made no later than the last pay date in the calendar year.

The vacation conversion amount will be based on the employee's rate of pay at the time of the conversion.

6. An employee who does not elect to designate vacation hours to convert by December 10 waives their right to do so and will not be allowed to elect to convert vacation accruing in the following year. Mandatory conversion of vacation accrued over the designated accrual amount under Article 11B shall still occur.

D. Effects of Holiday on Vacation Leave

For all employees, except for those on an Administrative assignment, who work an 80 hour/pay period schedule, in the event one or more authorized municipal holidays fall within a vacation leave, such holiday shall not be charged as vacation leave, but shall be credited as a holiday.

E. Effect of Leave of Absence on Accrual of Vacation Leave

See Article 33 for the effect of an extended leave of absence on vacation accrual.

F. Compensation for City Work During Vacation Prohibited

No person shall be permitted to work for compensation for the city in any capacity, except compensation for mandated court appearances, during the time of his/her paid vacation leave from city service. This clause shall not limit the city's right to recall an employee from vacation in the event of an emergency and place him/her on regular pay status.

G. Scheduling Vacations

An employee may take his/her annual vacation leave at any time during the year, contingent upon determination by his/her Department Head that such absence will not materially affect the department. Each employee must consider the needs of the service when requesting annual vacation leave. All vacation requests must be placed in Telestaff per the Department Directive. When a family emergency arises which necessitates the use of vacation time, an employee shall provide as much advance notice as possible considering the particular circumstances.

H. Terminal Vacation Pay

Upon separation of employment, one hundred percent (100%) of the value of all remaining unused accrued vacation hours shall be converted to the employee's individual account in the Post-Retirement Healthcare Trust and/or a City-sponsored 457 Plan at the base rate of pay in effect at the time of separation from the City. Allocation amounts to either or both the Post-Retirement Healthcare Trust individual account and 457 Plan will be at the employee's discretion and subject to Internal Revenue Service regulations. The employee shall be responsible for ensuring their contributions to a 457 Plan do not exceed the maximum allowed per law. If the amount of terminal vacation pay the employee converts to a 457 Plan causes their 457 contributions to exceed the maximum allowed per the law and those contributions are returned to the City, the City will deposit the amount returned into the employee's individual account in the Post-Retirement Healthcare Trust. There shall be no cash option available to the employee for the conversion of unused accrued vacation hours at the time of separation. The default will

be to convert 100% of the unused vacation hours into the Post-Retirement Healthcare Trust individual account unless the employee designates conversion to the City-sponsored 457 Plan no later than 14 calendar days prior to the employee's last pay date.

ARTICLE 12. SICK LEAVE ACCRUAL

All employees working a 112 hour/pay period schedule shall be entitled to accrue sick leave at a rate of 25 minutes per day. All other employees shall be entitled to accrue sick leave at a rate of 16 minutes per day. Sick leave is accrued on a daily basis. Sick leave can be used in 15 minute increments.

An employee who is changed from a 112 hour/pay period schedule to an 80 hour/pay period schedule as a result of an administrative assignment or an occupational injury assignment (either full or light/modified duty) will continue to accrue at a rate of 25 minutes per day during this assignment.

A. Use of Sick Leave

Sick leave shall not be considered a right which an employee may use at his/her discretion. Sick leave shall be allowed as follows:

1. In the case of actual illness or disability.
2. Exposure to contagious disease that would jeopardize the health of others. When sick leave is granted under these circumstances, an explanatory medical certificate from the physician is required.
3. A pre-scheduled doctor, dental, or optometry appointment has been entered into Telestaff and approved by management.
4. Because illness of a member of the immediate family requires constant care and no other care is available and/or financially feasible except that of the employee. Immediate family is defined in the Personnel Rules.
5. All leave provisions will be administered consistent with state and federal laws.

B. Proof of Illness

The Fire Chief or his/her designee may request a certificate issued by a licensed physician or other satisfactory proof of illness when abuse is suspected and/or when sick leave use is in excess of three (3) consecutive scheduled work days (including days the employee is scheduled to work due to a shift trade). The Fire Chief or his/her designee may also designate a licensed physician to conduct a physical examination, and such examination shall be conducted at city expense. Employees shall be required to account for all hours they are requesting as sick leave via Telestaff. Violation of sick leave privileges may result in disciplinary action and/or loss of pay when, in the opinion of the Fire Chief or his/her designee, the employee has abused such privileges.

C. Effect of Leave of Absence

See Article 33 for the effect of an extended leave of absence on sick leave accrual.

D. Sick Leave Conversion

For an employee on an 80 hour/pay period schedule:

Any represented employee who has accrued and maintains a minimum of 160 hours of sick leave shall be permitted to convert up to 120 hours of accumulated uncompensated sick leave to either accrued vacation hours or to the employee's post-retirement healthcare trust account at a ratio of 24 hours of sick leave to 8 hours of vacation/ contributions to the employee's post-retirement healthcare trust. The sick leave conversion option will be provided during the first week of each fiscal year. Employees will not be allowed to convert sick leave to vacation if such conversion would put them over the vacation accrual maximum. No cash option will exist for sick leave conversion.

For an employee on a 112 hour/pay period schedule:

Any represented employee who has accrued and maintains a minimum of 240 hours of sick leave shall be permitted to convert up to 288 hours of accumulated uncompensated sick leave to either accrued vacation hours or to the employee's post-retirement healthcare trust account at a ratio of 72 hours of sick leave to 24 hours of vacation/ contributions to the employee's post-retirement healthcare trust. The sick leave conversion option will be provided during the first week of each fiscal year. Employees will not be allowed to convert sick leave to vacation if such conversion would put them over the vacation accrual maximum. No cash option will exist for sick leave conversion.

ARTICLE 38. POST-RETIREMENT HEALTHCARE TRUST

The city and CFA, Inc. agree that CFA, Inc. will contract directly with a company of its choosing to provide post-retirement healthcare trust benefits for all represented employees. All CFA represented employees will contribute into the post-retirement healthcare trust established by CFA, Inc. via payroll deductions. CFA, Inc., acknowledges that the city has no administrative responsibilities or liabilities related to this benefit, other than processing of payroll deductions. CFA, Inc. shall hold the city harmless for the city's actions related to this Article and indemnify the city against any liability the city incurs as a result of this Article, including but not limited to, its agreement to allow CFA, Inc., to participate in a post-retirement healthcare trust and/or the city's processing of payroll deductions as set forth in this section.

Effective the first pay period of calendar year 2020, the city will contribute \$100 per month per employee to the Post-Retirement Healthcare Trust. All CFA represented employees will contribute \$100 per month to the Post-Retirement Healthcare Trust until the pay period following ratification of a side letter agreement to amend this section of the MOU at which time the employee will contribute \$150 per month.

Effective the first pay period of calendar year 2021, the city will contribute \$125 per month per employee to the Post-Retirement Healthcare Trust and all CFA represented employees will contribute \$200 per month to the Post-Retirement Healthcare Trust.

Effective the first pay period of calendar year 2022, the city will contribute \$150 per month per employee to the Post-Retirement Healthcare Trust and all CFA represented employees will contribute \$250 per month to the Post-Retirement Healthcare Trust.

ARTICLE 44. ASSOCIATION TIME BANK

An association time bank will be established to provide leave allowance which can be used by eligible association members to attend conferences, meetings, or other events as approved by the association board.


Each year, in December, association members may designate an irrevocable donation of either 4 or 8 hours of the vacation they will accrue the following calendar year, to be converted in February to a dollar value using the employee's base salary rate that excludes additional pays. An association member will be taxed on the value of the hours at the time of the conversion. The total dollar value of the donated vacation hours will be held by the City and used solely for leave allowance for eligible association members.

With prior approval from the Fire Chief or his/her designee and in compliance with the Carlsbad Fire Department Directive #8.2: Vacation, an employee may use the association time bank for leave allowance (a dollar amount in the association leave bank will be converted to hours of leave using the employee's base salary rate that excludes additional pays). The allowance used for this purpose is not reportable to CalPERS, is not treated as taxable income based on State and Federal law and may not be considered as income available for contributions to a 457 plan. The association time bank will be used on a first come, first serve basis. To the extent the dollar value of the association time bank is less than the amount required for an employee's leave, the employee may supplement by using accrued vacation and/or compensatory time to reach the amount equal to the employee's full regular base pay.

Annually, the association board may determine a maximum number of hours to be donated in the following calendar year to the association time bank.

CITY OF CARLSBAD:

Date: 9/14/20



JUDY VON KALINOWSKI, HUMAN
RESOURCES DIRECTOR, CITY OF CARLSBAD

CARLSBAD FIREFIGHTERS' ASSOCIATION, INC.:

Date: 9/10/20



JOSHUA CLARK, PRESIDENT, CARLSBAD
FIREFIGHTERS' ASSOCIATION, INC.