

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF CARLSBAD
AND THE CARLSBAD POLICE MANAGEMENT ASSOCIATION**

Term: January 1, 2022 – December 31, 2024

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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into as of the date of formal approval hereof by the City Council of the City of Carlsbad, by and between designated management representatives of the City of Carlsbad (hereinafter referred to as the “city”) and the designated representatives of the Carlsbad Police Management Association (hereinafter referred to as “CPMA”).

PREAMBLE

It is the purpose of the Memorandum of Understanding (hereinafter referred to as “Memorandum”) to promote and provide for harmonious relations, cooperation and understanding between the city and the local safety police management employees covered under this Memorandum; to provide an orderly and equitable means of resolving any misunderstandings or differences which may arise under this Memorandum; and to set forth the agreement of the parties reached as a result of good faith negotiations regarding wages, hours and other terms and conditions of employment of the employees covered under this Memorandum, which agreement the parties intend jointly to submit and recommend for City Council approval and implementation.

ARTICLE 1. IMPLEMENTATION

This Memorandum constitutes a mutual recommendation to be jointly submitted to the City Council following ratification of the Memorandum by the membership of CPMA. It is agreed that the city will act in a timely manner to make the changes in city ordinances, resolutions, rules, policies and procedures and those of the Police Department necessary to implement this Memorandum.

ARTICLE 2. TERM AND RENEGOTIATION

- 2.1 The term of this Memorandum shall commence on January 1, 2022 and shall continue until December 31, 2024.
- 2.2 Negotiations for a successor Memorandum shall begin by the exchange of written proposals in approximately August 2024.

ARTICLE 3. AUTHORIZED AGENTS

For the purpose of administering the terms and provisions of this Memorandum:

- 3.1 City’s principal authorized agent shall be the City Manager or a duly authorized representative [Address: 1200 Carlsbad Village Drive, Carlsbad, California 92008; Telephone: (760) 434-2821] except where a particular representative is specifically designated in connection with the performance of a specific function or obligation set forth herein.

Throughout this document, any reference to the Police Chief or designee is understood to mean authorization from the City Manager who delegates authority to the Police Chief or designee to implement the provisions of this document.

- 3.2 CPMA’s principal authorized agent shall be its President or duly authorized representative [Address: 2560 Orion Way, Carlsbad, CA, 92010] and PORAC of California [Address: 4010 Truxel Rd. Sacramento, CA 95834-3725; Telephone: 916-928-3777].

ARTICLE 4. RECOGNITION

The city recognizes CPMA as the majority representation of the bargaining unit that includes the classifications of Police Captain and Police Lieutenant.

ARTICLE 5. SAVINGS CLAUSE

If any articles of this Memorandum should be found invalid, unlawful or unenforceable by reason of existing or subsequent enacted legislation or by judicial authority, all other articles and sections of this Memorandum shall remain in full force and effect for the duration of this Memorandum.

ARTICLE 6. NONDISCRIMINATION CLAUSE

Neither city nor CPMA shall interfere with, intimidate, restrain, coerce, or discriminate against employees covered by this Memorandum because of exercise of rights to engage or not engage in CPMA activity or because of the exercise of any right provided to the employees by this Memorandum.

ARTICLE 7. MANAGEMENT RIGHTS

The rights of the city include, but are not limited to, the exclusive right: to determine the mission of its major service areas, departments, commissions, and boards; to set standards of service; to determine procedures and standards of selection for employment and promotion; to direct its employees; to take disciplinary action; to relieve employees from duty because of lack of work or other legitimate reasons; to transfer employees among various department activities and work groups; to maintain the efficiency of city operations; to determine the methods, means and personnel by which city operations are to be conducted; to determine the contents of job classifications; to take all necessary actions to carry out its mission in emergencies; and to exercise complete control and discretion over its organization and the technology for performing its work.

Nothing in this Memorandum shall require the city to meet and confer over the exercise of its management rights, however, in so doing; the city shall comply with all applicable provisions of this Memorandum.

ARTICLE 8. BASIC WORK WEEK/WORK DAY

- 8.1 Police Captains are exempt from overtime requirements under the Fair Labor Standards Act.
- 8.2 In accordance with section 7(k) of the Fair Labor Standards Act (FLSA), the official work period for sworn employees begins on Sunday at 00:01 hours and ends 14 days later at 23:59 hours. Overtime shall be compensated in the manner prescribed by Article 12 of this Memorandum.
- 8.3 References in the Memorandum to a 3/12 schedule refer to a schedule in which employees work three 12-hour shifts during one of the workweeks in a two-week pay period and three 12-hour shifts plus one 8-hour shift during the other workweek in the pay period, for a total of 80 hours worked in the pay period.
- 8.4 Members of this bargaining unit will be given two 15-minute rest periods and one half-hour lunch break each workday without loss of pay.
- 8.5 All unit members may be assigned to either a 3/12, 5/8, 4/10 or 9/80 work schedule. In general, unit members assigned to patrol shall work a 3/12 schedule.

- 8.6 For Police Lieutenants in Patrol, deployments shall be six months in length and shifts shall be bid one month in advance according to seniority. The Police Chief has discretion to alter shifts as reasonably necessary at any time based on department needs. There are no vested rights to a specific shift.

ARTICLE 9. COURT AND HEARINGS

- 9.1 Compensation: Off duty Lieutenants who appear in court or at a hearing pursuant to an official request from a legally constituted body regarding matters arising out of, or associated with, their employment shall be compensated at a minimum of four hours per day of overtime compensation. Actual time spent in court over the four hour minimum on the same day is compensable overtime.

- 9.2 Contiguous Time: This minimum hour guarantee shall not apply if the court or hearing appearance is contiguous with the commencement or end of the Lieutenant's regularly scheduled work shift. In that situation, the Lieutenant shall receive overtime compensation at the following rate.

Any subpoena received with an appearance time of two hours prior to the commencement of the employee's work shift will receive two hours of overtime compensation.

Any subpoena received with an appearance time of one hour prior to the commencement of the employee's work shift will receive one hour of overtime compensation.

Lieutenants who receive subpoenas for separate cases on the same day that overlap minimum hour designations are entitled to contiguous time as opposed to separate three/four hour minimums.

- 9.3 Lunch Break Compensation: When personnel required to appear in court or at a hearing are held over during the normal lunch break for further appearance after lunch, they shall be entitled to credit for the lunch break as time worked.
- 9.4 Transportation: When available, Carlsbad Police Department vehicles shall be used for employee transportation. Mileage expenses will not be paid for appearances in court or at a hearing when the court or hearing location is within a 20 mile radius of the Carlsbad Police Department. If the court or hearing location is beyond a 20 mile radius of the Carlsbad Police Department and a Carlsbad Police Department vehicle is not available, the employee will receive reimbursement for mileage expenses to and from the court or hearing location, or the round trip distance between the court or hearing location and the Carlsbad Police Department, whichever is less. Employees shall be reimbursed for mileage expenses as set out in Council Policy Statement of the City of Carlsbad titled "Travel Policy" with an effective date of 12/14/99, including any subsequent changes to this policy.
- 9.5 Phone Testimony: When off duty Lieutenants provide court or hearing testimony via telephone, the employee shall be compensated for the actual time of the telephone testimony or a minimum of one hour of overtime compensation, whichever is greater.
- 9.6 District Attorney Conversation: When off duty Lieutenants receive calls from District Attorney personnel regarding criminal cases, employees will receive no compensation for conversations lasting less than 10 minutes. Lieutenants will receive overtime compensation for the actual time of the conversation or a minimum of one hour, whichever is greater, for conversations lasting 10

minutes or longer. Lieutenants receiving multiple calls within the same one hour period shall only receive one hour compensation.

ARTICLE 10. SICK LEAVE/BEREAVEMENT LEAVE

For the purpose of this section, the term “family member” shall be as defined in Section 10.4.2 of the Personnel Rules and Regulations.

- 10.1 Every employee will accrue sick leave at the rate of 16 minutes per calendar day. Sick leave may be used in 15- minute increments.
- 10.2 Accrued, unused sick leave may be carried over to succeeding years, but will not be paid out when an employee’s employment with the city ends.
- 10.3 Sick leave will be administered consistent with state and federal law and shall be allowed for the following purposes:
 1. Diagnosis, care or treatment of an existing health condition of, or preventative care for, an employee or an employee’s family member.
 2. If the employee is a victim of domestic violence, sexual assault, or stalking, for the purposes described in California Labor Code Sections 230(c) and 230.1(a), including obtaining relief (e.g., a restraining order), domestic violence services, or medical or mental health treatment.
- 10.4 The employee may request to use paid sick leave either orally or in writing. If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

If an employee separates from the city and is rehired by the city within one year from the date of separation, the employee’s previously accrued and unused sick leave shall be reinstated.
- 10.5 The employee must account for all sick leave hours requested via the city’s timekeeping system. Sick leave may not be taken as vacation time, nor compensated in cash at any time, except as provided for in this article.
- 10.6 Absences covered by workers’ compensation law, the pregnancy disability provisions of the California Fair Employment and Housing Act, the California Family Rights Act, and the federal Family and Medical Leave Act will be administered according to requirements of those laws.
- 10.7 Time off to take a physical examination for induction into or recall to active duty with the Armed Forces will be handled in accordance with applicable state and federal law.
- 10.8 An employee making a blood donation without charge will be given reasonable time off for that purpose. No charge will be made against the employee’s sick leave or vacation when the absence is approved in advance by the employee’s supervisor.
- 10.9 During the first pay period of each fiscal year, any regular employee who has accrued and maintains a minimum of 100 hours of sick leave will be permitted to convert up to 96 hours of accrued, unused sick leave to vacation at ratio of 24 hours of sick leave to eight hours of vacation.

However, an employee will not be permitted to convert sick leave to vacation if the conversion would cause the employee to exceed the vacation accrual maximum.

- 10.10 Any regular employee applying for retirement with the California Public Employees' Retirement System may convert accrued and unused sick leave to service time at the rate specified in California Government Code Section 20965.
- 10.11 In the event of the death of an employee's family member, the employee may take the equivalent of up to three shifts of paid time off for bereavement. Bereavement leave must be taken within one year of the event. Additional time off may be authorized by the Police Chief or designee and charged to any accrued leave or, when no accrued leave is available, treated as leave without pay.

The employee may be required to submit proof of the family member's death.

ARTICLE 11. ASSOCIATION RIGHTS

- 11.1 The city recognizes the right of the CPMA to govern its internal affairs.
- 11.2 The parties to this Memorandum fully support the concept of the Public Safety Officers Procedural Bill of Rights Act, Sections 3300, et seq., of the Government Code.
- 11.3 The CPMA shall provide and maintain with the city a current list of the names and all authorized representatives of the CPMA. An authorized representative shall not enter any work location without the consent of the Police Chief or designee. The Police Chief or designee shall have the right to make arrangements for a contact location removed from the work area of the employee.
- 11.4 The CPMA shall be allowed to designate employee representatives to assist employees in:
 - 11.4.1 Preparing and presenting material for Disciplinary Appeals hearings;
 - 11.4.2 Preparing and presenting material for any matter for which representation is granted pursuant to the provisions of California Government Code Sections 3300, et seq., known as the Public Safety Officers Procedure Bill of Rights Act.
- 11.5 Designated employee representatives shall be allowed reasonable release time from regularly scheduled duties to attend meet and confer sessions with the city.
- 11.6 Designated employee representatives requesting time off under this Article shall direct such request to their immediate supervisors in writing within a reasonable time period to the date requested, in order to assure that the Department meets its staffing needs and to assure sufficient coverage of departmental assignments.
- 11.7 The city will furnish bulletin board space in the Police Department for the exclusive use of the CPMA. Material placed on the bulletin boards shall be at the discretion of the CPMA and shall be removed by management only in the event the material is obviously offensive to good taste or defamatory, and shall be removed only on prior notification to a CPMA representative. The CPMA shall be responsible for maintaining bulletin boards exclusively used by the CPMA in an orderly condition and shall promptly remove outdated materials.

11.8 Use of City Facilities

- 11.8.1 The CPMA may, with the prior approval of the City Manager, be granted the use of the city facilities for off-duty meetings of CPMA members, provided space is available. All such requests will be in writing to the City Manager.
- 11.8.2 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 equipment in approved city facilities notwithstanding.

ARTICLE 12. OVERTIME

- 12.1 The city will use a 14-day work cycle for Lieutenants under the 7k exemption in the FLSA. The “work period” shall be 14 days in length. Based on the FLSA 7(k) guidelines, hours worked in excess of 86 in the 14-day work period will be paid out as FLSA overtime hours. In addition, when determining an employee’s eligibility for overtime, paid leaves shall be included in the total hours worked. Excluded from the total hours worked are duty free lunches, travel time to and from work (except for non-scheduled call-back), and time spent conducting bona fide volunteer activities.

Time worked shall be computed by rounding to the nearest quarter of an hour.

In addition, any employee required to perform in excess of an employee’s normal scheduled shift shall receive overtime compensation.

For FLSA overtime, the regular rate of pay shall be calculated in conformance with the FLSA.

- 12.2 Comp. Time Option: Lieutenants shall have the option (with the exception of “Pay Only Details”) of earning compensatory time off in lieu of cash, subject to a maximum accumulation of 150 hours of compensatory time off. The Lieutenant will be paid out the FLSA overtime premium at the regular rate of pay when compensatory time is selected. For every hour of overtime worked, 1.5 hours will be added to the comp time bank, if selected. When a Lieutenant has accumulated the maximum number of hours of compensatory time off, the Lieutenant shall receive all overtime compensation in cash until such time as the Lieutenant’s compensatory time off bank is no longer at the maximum.

Any accrued and unused compensatory time through December 31, 2019 will be cashed out on the last pay date in June 2020. Effective January 1, 2020, all accrued and unused compensatory time during the calendar year will be cashed out on the last pay date of the calendar year. No compensatory time may be accrued beginning on the last pay period of the calendar year through the end of the calendar year.

At any time an employee may elect to "cash out" any portion of the employee’s accrued compensatory time balance at the employee’s base rate of pay by requesting this "cash out" via the timekeeping system. Upon separation from the city service an employee who has a balance of unused compensatory time shall be paid out the remainder of their compensatory balance.

- 12.3 Comp. Time Exception: Special details where the city is reimbursed for employees’ compensation from an outside entity shall be for pay only. Lieutenants volunteering for such details are not eligible for compensatory time off in lieu of cash.

ARTICLE 13. CALL BACK

- 13.1 Only Lieutenants are eligible for Call Back Pay as described in this article.
- 13.2 Description: If an employee is required to return to his or her place of employment or other work location directed by the employer at a time that is not part of the employee's regularly scheduled work shift, that employee shall receive appropriate overtime pay, as described in Article 12, for the actual number of hours worked, subject to the following:
- 13.3 Scheduled Call Back Minimum: For Call Backs scheduled in advance, such as for training or firearms qualification, the employee shall receive a minimum of two hours of appropriate overtime compensation. No travel time is provided for scheduled call backs.
- 13.4 Non-scheduled Call Back Minimum: For Call Backs not scheduled in advance, the employee shall receive a minimum of four hours of appropriate overtime compensation.
- 13.5 Travel Time: Travel time is included as part of the call back minimum compensation or the call back overtime if the call back (travel time plus detail time) exceeds the approved minimum guarantees. The maximum approved travel time is set as follows:
- (a) Police Department: If the call back is to the Carlsbad Police Department or other site within a 20 mile radius of the Carlsbad Police Department, the travel time is capped at a maximum of one hour round trip.
 - (b) Other Site: If the call back is to a site outside of the 20 mile radius of the Carlsbad Police Department, travel time shall be the actual amount of time required to drive to the call back site and return to employee's residence.
- Employees who are called back for immediate service and who are required to return to his or her place of employment or other work location directed by the employer at a time that is not part of the employee's regularly scheduled work shift, are eligible for travel time.
- 13.6 Transportation: Mileage reimbursement for expenses to the Carlsbad Police Department or to any site within a 20 mile radius of the Carlsbad Police Department will not be compensated. If an employee is directed to a site beyond a 20 miles radius of the Carlsbad Police Department, the employee will receive mileage reimbursement for expenses to and from the directed site or the round trip distance between the directed site and the Carlsbad Police Department, whichever is less.
- 13.7 Contiguous Time: These minimums shall not apply to situations where the call back is contiguous with the commencement or end of the employee's regularly scheduled work shift. In that situation, the employee shall receive applicable overtime compensation for all time actually worked beyond the regularly scheduled work shift.

ARTICLE 14. SENIORITY

- 14.1 The seniority of an employee is based on the number of calendar months of continuous service in the Carlsbad Police Department. Within a rank, the seniority of an employee is based on the number of calendar months of continuous service in the Carlsbad Police Department in that rank.

An employee promoted to a higher rank and later demoted back to the original rank shall have seniority calculated for all time of continuous service in the higher rank and the original rank combined.

- 14.2 If an employee voluntarily leaves the city's employ or is dismissed for cause, the employee will lose all seniority credited prior to then. Reemployment will not restore the lost seniority. Instead, if an employee is reemployed, seniority will be based on the reemployment date. This section does not apply to employees who successfully appeal a termination for cause and are ordered to be reinstated to employment.
- 14.3 An employee laid off will, after reinstatement, regain the seniority credit the employee possessed at the time of layoff, provided the reinstatement occurs within 24 months of the layoff.
- 14.4 Refer to Article 22.3 for information re: the impact of a leave of absence on seniority.

ARTICLE 15. PEACEFUL PERFORMANCE OF CITY SERVICES

- 15.1 During the term of the Memorandum, the CPMA, its representatives, or members shall not engage in, cause, instigate, encourage or condone a strike or work stoppage of any kind against the City of Carlsbad.
- 15.2 During the term of the Memorandum, the city will not instigate a lockout over a dispute with the employees.
- 15.3 As used in this section, "strike or work stoppage" means the concerted failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions of compensation, or the rights, privileges or obligations of employment.

ARTICLE 16. DISCIPLINE OF AN EMPLOYEE

- 16.1 The city may only discipline regular employees for just cause. In the case of disciplinary action involving suspension, demotion or discharge, the employee shall be given notice of the action to be taken, the evidence or materials upon which the action is based, and an opportunity to respond to the Police Chief either orally or in writing, provided the employee requests the opportunity within seven calendar days of the notice of the action. The above process will occur prior to the imposition of the discipline.
- 16.2 Except as provided in Section 22.4, all employees have the right to appeal their discipline according to the appeal procedure as set out below. Written notice of discipline shall inform and remind the disciplined employee of this right.

Hearing Officer. The employee or employee organization and the city will attempt to develop a permanent list of five mutually acceptable hearing officers. If a mutually acceptable list cannot be developed, the parties agree that the advisory hearing will be conducted before a hearing officer selected by the parties from a list provided by the California State Mediation and Conciliation Service. If the parties cannot mutually agree on the hearing officer they will use a strikeout procedure using a list of seven names provided by the California State Mediation and Conciliation Service. The appellant will have the prerogative of striking the first name.

The city will bear all administrative costs associated with an appeal of discipline and the subsequent hearing including the hearing officer, court reporter and transcription costs, if any.

The employee or employee organization will be responsible for the cost of his or her own representation or attorney fees and preparation of documents.

- 16.3 Once discipline has been imposed, the Police Chief or an authorized designee shall specify the period of time, from two to four years that the discipline will remain in the affected employee's personnel records, unless a longer period is required by law. At the end of the designated period of time, the disciplinary action shall be removed from the employee's personnel file. It is the responsibility of the employee to initiate a request for removal of disciplinary action from the employee's personnel file. The only permitted use of the removed disciplinary action shall be in a later disciplinary proceeding where there is an allegation of similar or cumulative activity or misconduct.
- 16.4 Nothing in this Memorandum shall be construed to require "cause" or "just cause" for the rejection of a probationary employee prior to the expiration of the probationary period. A probationary employee rejected during the probationary period shall not be entitled to appeal such rejection to the Hearing Officer but shall be entitled to an opportunity to discuss the rejection with the Police Chief.
- 16.5 Right of Appeal. Any regular employee shall, within seven calendar days, have the right to appeal to the Hearing Officer any disciplinary action.
- 16.6 Method of Appeal. Appeals shall be in writing, subscribed by the appellant, and filed with the Human Resources Director, who shall, within 10 calendar days after receipt of the appeal, inform the Hearing Officer of the action desired by the appellant and the reasons why. The formality of a legal pleading is not required.
- 16.7 Notice. Upon the filing of an appeal, the Human Resources Director shall set a date for the hearing on the appeal not less than 10 calendar days nor more than 30 calendar days from the date of filing, unless the parties mutually agree to a later hearing date. The Human Resources Director shall notify all interested parties of the date, time, and place of the hearing.
- 16.8 Hearings. Unless physically unable to do so, the appellant shall appear personally before the Hearing Officer at the time and place of the hearing. The appellant may be represented at the hearing by any person or attorney the appellant selects and may produce any relevant oral or documentary evidence. The city shall bear the burden of proof; therefore, the city shall state its case first and, at the conclusion, the appellant may then present evidence. Rebuttal matter not repetitive may be allowed in the discretion of the Hearing Officer. Cross-examination of witnesses shall be permitted. The conduct and decorum of the hearing shall be under the control of the Hearing Officer, with due regard to the rights and privileges of the parties appearing before it. Hearings need not be conducted according to technical rules relating to evidence and witnesses. Hearings will be closed unless at least four business days prior to the hearing the appellant, in writing, requests an open hearing. At the conclusion of the hearing, the hearing officer will make a recommendation. If either party disagrees with the Hearing Officer's recommendation, that party may request, within 10 calendar days, to present their case to the City Council before the City Council renders a final decision.
- 16.9 Findings and Recommendations. The Hearing Officer shall, as soon as possible after the conclusion of the hearing, certify the Hearing Officer's findings and decisions in writing to the

City Council and to the appellant. The City Council shall review the findings and recommendations of the Hearing Officer and may then affirm, revoke or modify the action taken as, on its judgment, seems warranted, and the action taken shall be final. The Hearing Officer may submit a minority or supplemental finding and recommendation. In the case of suspension, discharge or demotion, the appointing power shall reinstate an employee to the employee's former status if the City Council determines that the action was for discriminatory reasons.

- 16.10 Disciplinary appeal hearing. During any disciplinary appeal hearing, either party may file a written motion with the City Clerk for the City of Carlsbad seeking authorization from the City Council to pursue an interlocutory writ in court to challenge a ruling or action by a hearing officer. The motion for authorization shall be heard in closed session, unless waived by the appellant. Either party's representative may make a statement to the City Council on the issue of whether authorization to seek a writ is justified. During this hearing on the motion for authorization to pursue a writ, neither party may discuss the merits or the factual basis of the underlying administrative hearing with the City Council. The parties should limit their discussion as to the ruling or action of the hearing officer and why the matter warrants the pursuit of an interlocutory writ before the conclusion of the disciplinary appeal hearing. The party appealing the discipline shall not be required to seek authorization from the City Council in order to pursue an interlocutory writ in court as to those issues in which the court has initial jurisdiction, including but not limited to, claims of a violation of the Public Safety Officers Procedural Bill of Rights Act.

ARTICLE 17. RETIREMENT BENEFITS

- 17.1 The city has contracted with CalPERS for the following retirement benefits:

Safety "Classic" Members (those that do not qualify as "New Members" as defined below)

- Safety Tier 1 - Employees entering City of Carlsbad safety CalPERS membership for the first time prior to October 4, 2010 – The retirement formula shall be 3% @ 50; single highest year final compensation.
- Safety Tier 2 - Employees entering City of Carlsbad safety CalPERS membership for the first time on or after October 4, 2010 – The retirement formula shall be 2% @ 50; three year average final compensation.
- Safety Tier 3 – Employees entering City of Carlsbad safety CalPERS membership for the first time on or after January 1, 2013 - The retirement formula shall be 2.7% @ 57; three year average final compensation.

"New Members"

Employees who are "New Members" as defined by the California Public Employees' Pension Reform Act of 2013 (PEPRA) (e.g., an employee hired on or after January 1, 2013 who has never been a CalPERS member or member of a reciprocal system or who has had a break in CalPERS service of at least 6 months or more) will be subject to all the applicable PEPRA provisions which include, without limitation, the following retirement benefit:

- Safety– The retirement formula shall be 2.7% @ 57; three year average final compensation.

- 17.2. Employee Retirement Contribution

The employee retirement contribution will be made on a pre-tax basis by implementing provisions of Section 414(h)(2) of the Internal Revenue Code.

Employees shall make the following employee retirement contributions through payroll deductions:

- Safety employees subject to the 3% @ 50 and 2% @ 50 benefit formula shall pay all of the employee retirement contribution (9%).
- Safety employees meeting the definition of “New Member” under PEPRA shall pay the required PEPRA member contribution rate as established by CalPERS.

17.3 If the Employer Paid Member Contribution (EPMC) is greater than zero, the city shall report the value of the EPMC as additional (special) compensation to CalPERS for all CPMA represented employees designated as “classic members”.

ARTICLE 18. FLEXIBLE BENEFITS PROGRAM

18.1 Employees represented by the CPMA will participate in a flexible benefits program that includes medical insurance, dental insurance, vision insurance, AD&D insurance and flexible spending accounts (FSAs). Each of these components is outlined below.

18.2 Benefits Credits and Medical Insurance: During the entire term of this agreement, represented employees will be covered by the Public Employees’ Medical and Hospital Care Act (PEMHCA) and will be eligible to participate in the California Public Employees’ Retirement System (CalPERS) Health Program. The city will pay on behalf of all employees covered by this agreement and eligible dependents and those retirees designated in Section 18.6 of this Article, the minimum amount per month required under California Government Code Section 22892 for medical insurance through the CalPERS. If electing to enroll for medical benefits, the employee must select one medical plan from the variety of medical plans offered.

The city shall contribute monthly amounts (called “Benefits Credits”) on behalf of each active employee and eligible dependents toward the payment of medical premiums under the CalPERS Health Program. The city contribution shall be based on the employee’s medical coverage level and shall include the mandatory payments to CalPERS. If the actual total premiums exceed the city’s total contributions, the employee will pay the difference.

Excess and Unused Benefits Credits: If the Benefits Credits exceeds the cost of the medical insurance purchased by the employee, the employee will have the option of using any “excess credits” to purchase city-sponsored dental insurance, vision insurance, accidental death and dismemberment (AD&D) insurance or to contribute to a healthcare or dependent care flexible spending account (FSA). Unused Benefits Credits will be paid to the employee in cash and reported as taxable income and included in the calculation of the regular rate of pay under the FLSA.

The Benefits Credits for calendar year 2022 shall be equal to those shown in the table below.

Medical Coverage Level	2022 Monthly Benefits Credits
Employee	\$659.00
Employee + 1	\$1,316.00
Family	\$1,737.00
Waive Medical	\$329.50

Effective the pay periods that include January 1, 2023, January 1, 2024 and December 31, 2024 the city monthly benefit credits associated with each medical coverage level (except waive medical) will be set to dollar amounts that equate to 80% of the average health (medical, dental and vision) premium for Employee, Employee Plus One and Family coverage levels, rounded to the nearest whole dollar based on the premiums that will take effect on January 1 of the respective calendar year.

Waiver Provision: CPMA-represented employees who do not wish to participate in the CalPERS Health Program will have the choice of waiving the city's medical insurance program, provided they can show proof of coverage under another group insurance program. Effective the pay period that includes January 1, 2023, the benefits credits associated with waiving medical coverage will be set equal to \$400 per month.

18.3 Dental Insurance

CPMA employees may choose to enroll in or opt out of the city-sponsored dental insurance plan at any coverage level.

18.4 Vision Insurance

CPMA employees may choose to enroll in or opt out of the city-sponsored vision insurance plan at any coverage level.

18.5 Accidental Death & Dismemberment Insurance

Effective January 1, 2020, all CPMA employees shall receive city paid Accidental Death & Dismemberment (AD&D) insurance in an amount equal to two times their base salary up to a maximum benefit of \$400,000. To determine the benefit, the amount of insurance is rounded to the next higher \$5,000 multiple, unless the amount equals a \$5,000 multiple.

CPMA employees may also choose to enroll in or opt out of the city-sponsored voluntary AD&D insurance plan at any coverage level.

18.6 Retirees

Each retired employee who was a member of this bargaining unit is covered by the PEMHCA and is eligible to participate in the CalPERS Health Program. Represented employees who retire from the city, either service or disability, shall be eligible to continue their enrollment in the CalPERS Health Program when they retire, provided that they are enrolled or eligible to enroll in a CalPERS medical plan at the time of separation from employment and their effective date of retirement is within 120 days of separation. The city will contribute the minimum amount per month required under California Government Code Section 22892 toward the cost of each retiree's enrollment in the CalPERS Health Program. Direct authorization may be established for automatic deduction of payments for health insurance administered by CalPERS.

Employees who retire from the city, either service or disability, shall be eligible to elect, upon retirement, to participate in the city's dental and/or vision insurance programs as a retiree. The cost of such dental and/or vision insurance for the retiree and eligible dependents shall be borne solely by the retiree. An individual who does not choose coverage upon retirement, or who chooses coverage and later drops it is not eligible to return to the city's dental and vision insurance programs.

The city will invoice the retiree for the retiree's monthly premiums for dental and/or vision insurance and the retiree must keep such payments current to ensure continued coverage.

ARTICLE 19. UNIFORM REIMBURSEMENT

As of January 1, 2019, reimbursement to represented employees for the cost of purchasing and maintenance of required uniforms shall be \$34.62 per pay period. Under PEPRA, this benefit is not reported to CalPERS as special compensation for new members.

ARTICLE 20. VEHICLES

Each represented employee who is working in the assignment of Professional Standards and Services Division Lieutenant, Investigations Lieutenant, Traffic Lieutenant, and all Police Captains shall be assigned a designated vehicle and shall be entitled to use the vehicle on each duty shift; provided, however, such assignment of a designated vehicle is expressly conditioned on the availability of vehicles and does not extend to any Lieutenant/Captain assigned in addition to the number assigned as of the date of this Memorandum.

ARTICLE 21. SHORT-TERM AND LONG-TERM DISABILITY INSURANCE

Short-Term Disability

Effective January 1, 2020, the city will provide represented employees with city-paid short-term disability insurance via an insurance provider. The insurance shall provide for a seven calendar day waiting period prior to payment eligibility and the short-term disability benefits shall be provided at 60% of the employee's pre-disability base salary, up to a maximum base salary of \$150,000.

Long-Term Disability

The city will provide employees with city-paid long term disability insurance. Prior to January 1, 2020, the insurance shall provide for a 30 calendar day waiting period prior to payment eligibility and the long-term disability benefits shall be provided at 60% of the employee's pre-disability base salary, up to a maximum base salary of \$100,000. Effective January 1, 2020, the waiting period prior to payment eligibility shall be 90 calendar days and the long-term disability benefits shall be provided at 66 2/3% of the employee's pre-disability base salary, up to a maximum base salary of \$150,000.

Use of Accrued Paid Time Off While Receiving Disability Benefits

The employee shall use their accrued paid time off (e.g., vacation, sick leave) during the disability insurance waiting period. The employee shall combine allowable types of accrued paid time off, with short-term and long-term disability payments for the purpose of achieving the equivalent of their base salary while receiving the disability payments. Refer to the disability plan documents for information on which types of accrued paid time off may be combined with disability payments.

Transition/Continuation of Benefits for Employees on a Short-Term or Long-Term Disability Leave of Absence as of December 31, 2019

An employee who is on a short-term or long-term disability leave of absence as of December 31, 2019 (including an intermittent leave), will be converted to short-term and/or long-term coverage with the city's new disability insurance provider as of January 1, 2020 without having to repeat the waiting period.

ARTICLE 22. LEAVE OF ABSENCE

22.1 Occupational Injuries or Illnesses

22.1.1 A sworn employee who is temporarily unable to work due to an occupational illness or injury will receive full pay for up to one year as provided in Section

4850 of the Labor Code (“4850 benefits”). The employee may not receive 4850 benefits concurrently with sick leave or any other form of paid time off.

If the employee continues to be unable to work after the employee’s 4850 benefits have been exhausted and the employee has not been retired, the employee will receive workers’ compensation temporary disability payments as provided in the Labor Code. To the extent these benefits are less than the employee’s full regular pay, the employee shall supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee’s full regular pay until the employee’s leave balances reach zero, at which time the employee would commence an unpaid leave of absence (i.e., the employee would not receive a city paycheck).

An employee shall not use accrued sick leave after the city approves the employee’s Industrial Disability Retirement (IDR). The employee who is approved for an IDR may choose to cash out up to 50% of their sick leave balance upon separation of employment. The remaining sick leave balance shall be converted to CalPERS service credit.

22.2 Non-Occupational Injuries or Illnesses

22.2.1 An employee who is temporarily unable to work due to a non-occupational illness or injury will receive those disability benefit payments for which the employee is eligible and applies. To the extent that these benefits are less than the employee’s full regular pay, the employee shall supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee’s full regular pay until the employee’s leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

22.2.2 Pregnancy Disability Leave shall be authorized and/or administered in accordance with the provisions of state and federal law. In the case an employee is disabled by pregnancy, childbirth or a related medical condition the employee shall be allowed to utilize a combination of accrued sick leave, vacation, and leave without pay to take a leave for a reasonable period of time, not to exceed four months. “Reasonable period of time” means that period during which the employee is disabled on account of pregnancy, childbirth, or related conditions.

The employee shall give the city reasonable notice of the date the leave shall commence and the estimated duration of the leave.

If the employee is disabled by pregnancy, the employee may be eligible to return to work on a light duty assignment per the department policy regarding a non-occupational illness/injury.

22.3 Extended Leave of Absence

Upon completion of either 84 consecutive calendar days (12 weeks) of leave of absence (paid or unpaid and except when leave is ordered by the city or when an employee is on an active duty military leave) or completion of a leave of absence related to Section 4850 of the Labor Code, whichever occurs later, an employee will not be eligible for the benefits listed below:

1. accrual of sick leave and vacation,
2. holiday pay,
3. cell phone allowance and
4. shift differential

On the day that the employee returns to work from the extended leave of absence, the employee will resume eligibility for the abovementioned benefits and the employee's vacation anniversary date and seniority will be adjusted for each calendar day the leave of absence lasted beyond either 84 consecutive calendar days or the completion of a leave of absence related to Section 4850 of the Labor Code, whichever was longer.

During or immediately following a leave of absence, if an employee returns to work for fewer than 14 calendar days before subsequently going back on a leave of absence for the same injury, illness or reason for the leave, (paid or unpaid and except when leave is ordered by the city or when an employee is on an active duty military leave), the second leave of absence shall be considered a continuation of the first leave of absence.

Exception for a Probationary Newly Hired Employee

When a probationary newly hired employee is on a leave of absence (paid or unpaid) that extends beyond 14 consecutive calendar days the probationary period shall be extended for each calendar day the employee was on a leave of absence. Other than this exception, all other provisions in this Extended Leave of Absence section apply to a probationary newly hired employee.

22.4 Leave of Absence Without Pay

A. General Policy

Any employee may be granted a leave of absence without pay pursuant to the recommendation of the Police Chief and the approval of the City Manager.

An employee shall utilize all the employee's vacation, and/or sick leave (if applicable) prior to taking an authorized leave of absence without pay.

B. Authorization Procedure

Requests for leave of absence without pay shall be made upon forms prescribed by the City Manager or designee and shall state specifically the reason for the request, the date when the leave is desired to begin, the probable date of return, and the agreement to reimburse the city for any benefit premiums paid by the city during the leave of absence. The request shall normally be initiated by the employee, but may be initiated by the Police Chief, and, upon written recommendation of the Police Chief that it be granted, modified or denied, shall be promptly transmitted to the City Manager or designee. A copy of any approved request for leave of absence without pay shall be delivered promptly to the Human Resources Director.

C. Length of Leave and Extension

A leave of absence without pay may be made for a period not to exceed six months, unless otherwise approved by the City Manager or designee. The procedure for granting extensions shall be the same as that in granting the original leave provided that the

request for extension is made no later than 14 calendar days prior to the expiration of the original leave.

D. Return From Leave

When an employee intends to return from an authorized leave of absence without pay either before or upon the expiration of such leave, the employee shall contact the Police Chief at least 14 calendar days prior to the day the employee plans to return. The Police Chief shall promptly notify the City Manager or designee of the employee's intention. The employee shall return at a rate of pay not less than the rate at the time the leave of absence began.

E. Leave Without Pay - Insurance Payments

An employee on leave without pay may continue the employee's city insurance benefits by reimbursing the city for the costs of insurance on a monthly basis during the period of the leave. Failure to reimburse the city for such benefits during the term of a leave of absence will result in the employee's coverage terminating on the first day following the month in which the last payment was received.

22.5 The city acknowledges the applicability of the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) and intends to apply and implement this document so as to comply with these laws. To the extent permitted by law, a leave of absence under this article will run concurrently with any FMLA or CFRA leave of absence an employee is entitled to receive.

22.6 Police Captains are exempt from overtime requirements under the Fair Labor Standards Act. Police Captains are paid on a salary basis versus an hourly basis. Pursuant to FLSA regulation 29 CFR Section 541.5d, the city can make deductions from salary or leave accounts for partial day absences for personal reasons or sickness because the city has a policy and practice of requiring its employees to be accountable to the public that they have earned their salaries. A partial day absence is an absence of less than the employee's regular work day. Pursuant to FLSA regulation 29 CFR Section 541.118 (a)(2) and (a)(3), the city may make salary or leave reductions based upon full day absences. Partial day or full day absences shall be first charged against the exempt employee's vacation, sick, or executive leave account. In the event the exempt employee does not have sufficient time in the employee's leave account to cover the absence, deductions without pay will be made on full days only.

22.7 Jury Duty

When called to jury duty, an employee shall be entitled to the employee's regular compensation. If the employee also receives any compensation from the court for serving on a jury, the employee will reimburse the city for the amount they received from the court. Employees shall be entitled to keep mileage reimbursement paid and/ or the transit pass paid or provided while on jury duty and will be reimbursed for any applicable parking fees. Employees released early from jury duty shall report to their supervisor for assignment for the duration of the shift. At the discretion of the supervisor, an employee may be released from reporting back to work if an unreasonable amount of the work day remains in light of travel time to the job site after release.

ARTICLE 23. DISABILITY RETIREMENT

An employee's eligibility for disability retirement will be determined in accordance with the standards and procedures contained in California Government Code sections 20000 et seq.

ARTICLE 24. VACATION

24.1 For employees active on payroll as of the first day of the pay period following City Council ratification of this MOU, retroactive to January 1, 2019, vacation accrual shall be as follows.

Beginning with the first working day through the completion of five full calendar years of continuous service – 14 minutes/day

Beginning the sixth year of continuous employment through the completion of 10 full calendar years of continuous service – 21 minutes/day

Beginning the 11th year of continuous employment through the completion of 15 full calendar years of continuous service – 26 minutes/day

Beginning the 16th year of continuous employment, vacation time shall be accrued, and remain at a rate of 33 minutes/day for every full calendar year of continuous employment thereafter.

CPMA-represented employees with comparable service in local government agencies may be granted credit for such service for the purpose of computing vacation at the discretion of the City Manager.

24.2 Vacation Accrual Maximum

No employee will be allowed to accrue vacation hours in excess of the 480 hour maximum.

The Police Chief will encourage the taking of accrued vacation leave. Although employees are responsible for actively managing their leave balances, the Police Chief will not unreasonably deny requests for vacation time off. If there are unusual circumstances that would require an employee to exceed the vacation accrual maximum, the employee must submit a request in writing to the Police Chief and the City Manager or designee. The Police Chief and the City Manager or designee 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.

24.3 Vacation Conversion

1. No later than December 10, 2019, employees will be provided an option to convert accrued and unused vacation to cash in an amount of up to 160 hours. All accrued and unused vacation earned up through the last full period in December 2019, that is not requested to be cashed out by December 10, 2019 is no longer eligible to be converted to cash, except upon separation of employment with the city.
2. Employees are also eligible to submit an irrevocable request to elect to cash out up to 160 hours of accrued vacation hours for the following calendar year.

3. All employees wishing to convert accrued vacation to cash 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.
4. Only vacation hours accrued during the calendar year following the election may be cashed out. Employees accruing less than the election amount may cash out no more than their total vacation accrual in the following calendar year.
5. The employee's accrued vacation to convert to cash will be credited first to the cash out account with the employee's earned vacation leave until the employee's full election amount is reached. The vacation hours designated to the cash out 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.
6. Payment of vacation hours elected for cash out will be in the last paycheck in December unless the employee has accrued all the elected vacation hours by June 30, in which case payment of the all the elected vacation hours may be cashed out in July at the employee's request. All vacation hours will be paid 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 payment amount will be reduced to the total number of vacation hours the employee actually accrues in the calendar year and the payout will be made no later than the last pay date in the calendar year.
7. The vacation payment amount will be based on the employee's rate of pay at the time of the payout. The vacation payment amount is taxable income, subject to all applicable withholding amounts and payroll deductions.
8. An employee who does not elect to cash out vacation by December 10 waives their right to do so and will not be allowed to cash out any vacation accruing in the following year.

24.4 Compensation for City Work During Vacation

Occasionally employees on vacation leave are needed for work assignments. Employees returning to work during vacation leave will be compensated as follows:

- (a) Court - --For Lieutenants only, mandated court appearances during the time of an employee's paid vacation leave from city service will result in overtime compensation, with a minimum of four hours.
- (b) Duty Time – Employees returning to their regularly scheduled work time while on vacation leave shall be paid their applicable base rate of pay and not be charged the corresponding vacation time.
- (c) Non-Duty Time – Lieutenants returning to work at a time other than their regularly scheduled work time while on vacation leave shall be paid overtime compensation.
- (d) Recall – This clause shall not limit the city's right to recall an employee from vacation in the event of an emergency.

24.5 Scheduling Vacations

An employee may take annual vacation leave at any time during the year, contingent upon determination by the Police Chief that such absence will not materially affect the department. Each employee must consider the needs of the service when requesting annual vacation leave. An employee shall normally provide 48 hour notice in advance of the day(s) the employee is requesting vacation time off. 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.

24.6 Terminal Vacation Pay

The dollar value of an employee's accrued vacation balance as of the employee's last day on payroll shall be paid to the employee upon separation of employment at the employee's base rate of pay at separation.

ARTICLE 25. HOLIDAYS

25.1 The city agrees to observe 11 scheduled paid holidays per year. The holiday schedule shall not interfere with, influence, or otherwise change the scheduling of shift employees by the department.

Employees will accrue 2 floating holidays each year on July 1st. The floating holiday must be used in full day increments. There is no partial day use of a floating holiday. The floating holiday will be treated in the same manner as the other 11 holidays except that unused floating holidays will not carry over to the next fiscal year and will not be paid out upon separation of employment.

25.2 The holiday schedule for the term of this agreement is as follows:

- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Thanksgiving Friday
- Christmas Day

25.3 CPMA-represented employees who work a 5/8 schedule will be paid eight hours of straight time for each holiday. CPMA-represented employees who work a 9/80 schedule will be paid nine hours of straight time for each holiday. CPMA-represented employees who work a 4/10 schedule will be paid 10 hours of straight time for each holiday. CPMA-represented employees who work a 3/12 schedule will be paid 12 hours of straight time for each holiday.

25.4 Lieutenants will be compensated in cash or compensatory time off (CTO) for holidays in the pay period in which they occur. Lieutenants scheduled to work on a holiday who desire the day off will utilize vacation or CTO.

Captains will be compensated in cash for holidays in the pay period in which they occur. Captains scheduled to work on a holiday who desire the day off will utilize vacation or executive time.

For purposes of this section, a shift trade will be considered part of an employee's regularly scheduled work shift.

ARTICLE 26. ALCOHOL AND DRUG POLICY

I. POLICY

It is the policy of the City of Carlsbad to provide, for its employees, a work environment free from the effects of drugs and alcohol consistent with the directives of the Drug Free Workplace Act. The City of Carlsbad agrees to use a clinical laboratory which is certified by the National Institute on Drug Abuse (NIDA), now known as the Substance Abuse & Mental Health Services Administration (SAMHSA). All procedures and protocols for collection, chain of custody and testing will be conducted consistent with standards required under SAMHSA certification. This policy will be interpreted consistent with the provisions of the Public Safety Officers Procedural Bill of Rights (Government Code Section 3300 et seq.). This policy is intended to accomplish that objective.

A. Definitions - As Used in This Policy:

1. "Drug" means any substance which produces a physical, mental, emotional or behavioral change in the user, including but not limited to, prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, methamphetamines, alcohol, marijuana, and other cannabinoids.
2. "Workplace" means any site where city-assigned work is performed, including city premises, city vehicles or other premises or vehicles, while city-assigned work is being conducted, or within a reasonable time thereafter.
3. "Reasonable suspicion" means a standard for evidence or other indication of impairment of normal physical or mental skills by alcohol or drugs where such impairment could negatively affect work performance or could pose a threat to public or employee safety.

B. Employee Responsibilities

1. As a condition of employment, employees shall:
 - a. not engage in the unlawful manufacture, distribution, dispensation, possession or use of alcohol or drugs nor be under the influence of alcohol or drugs in the workplace or while on-call;
 - b. submit to an alcohol and drug analysis and remain on the premises when requested to do so by city management, acting pursuant to this policy, or by law enforcement personnel;

- c. notify the city of any conviction under a criminal drug statute (including any pleas of nolo contendere), if such conviction was based on a violation which occurred in the workplace, no later than five days after such conviction;

(notification under this subsection does not relieve an employee from the disciplinary consequences of the conduct upon which a criminal conviction is based); and

- d. abide by all terms of this policy.
2. Employees are required to notify their supervisors when taking any medication or drugs, prescription or non-prescription (over-the-counter medications), which interfere with safe or effective performance of their duties or operation of city equipment.
 3. Off-duty involvement with any controlled substance including, but not limited to manufacture, distribution, dispensing, possession, use or any conviction under a criminal drug statute whose scope and employment are relevant to city employment may result in disciplinary action up to and including termination if there is relevant nexus between such off-duty involvement and the employee's employment with the city, consistent with the legal requirements for disciplinary due process.

C. Consequences of Violation of Policy

1. Failure to abide by the terms of this policy shall be grounds for disciplinary action, up to and including termination.
2. In addition to any disciplinary action, an employee who fails to abide by this policy may also be directed or allowed to satisfactorily participate in an approved alcohol or substance abuse assistance or rehabilitation program.

II. DRUG AND ALCOHOL ANALYSIS

A. Pre-employment Drug and Alcohol Analysis

1. Upon receiving a conditional offer of employment, an otherwise successful candidate must submit to a drug and alcohol analysis. At the city's discretion, this analysis may be in the form of "breathalyzer," urine, or blood analysis.
2. Persons whose results are positive for either drugs or alcohol will be rejected for city employment.

B. Employee Drug and Alcohol Analysis

1. If a manager or supervisor of the city has reasonable suspicion that an employee is under the influence of drugs or alcohol while in the workplace or subject to duty, the employee shall be:

- a. Prevented from engaging in other work; and
 - b. Required to submit to a drug and alcohol analysis. At the city's discretion, this analysis may be in the form of "breathalyzer," urine, or blood analysis.
 - c. An employee may also be required to remain on the premises for a reasonable time until arrangements can be made to transport the employee to his or her home.
2. Some examples of "reasonable suspicion" as defined in Section 1.A.3. include, but are not limited to, the following, when confirmed by more than one person having supervisory authority:
 - a. slurred speech.
 - b. alcohol odor on breath;
 - c. unsteady walking or movement not related to prior injury or disability;
 - d. an accident involving city property having no obvious causal explanation other than possible employee responsibility;
 - e. physical or verbal behaviors that are disruptive, non-responsive, unusual for that employee or otherwise inappropriate to the workplace situation;
 - f. attributable possession of alcohol or drugs;
 - g. information obtained from a reliable person with personal knowledge that would lead a reasonably prudent supervisor to believe that an employee is under the influence of alcohol or drugs.
 3. Refusal to remain on the premises or to submit to a drug and alcohol analysis when requested to do so by city management or by law enforcement officers shall constitute insubordination and shall be grounds for discipline, up to and including termination.
 4. A drug and alcohol analysis may test for the presence of any drug which could impair an employee's ability to effectively and safely perform the functions of his or her job.
 5. A positive result from a drug and alcohol analysis may result in disciplinary action, up to and including termination.
 6. City agrees to take steps to protect the chain of custody of any drug test sample.
 7. Employee will be placed on paid administrative leave pending the completion of any testing process and any investigation deemed necessary by the city.

- C. Random Selection Testing
Any CPMA-represented employee who operates a commercial vehicle (e.g., the Public Safety Command Post vehicle) during the course of employment shall be subject to random substance abuse tests. Refer to Administrative Order No. 64 for more information re: the drug and alcohol testing policy for employees in safety sensitive positions.

III. EMPLOYEE ASSISTANCE PROGRAM

- A. The city has a well established voluntary Employee Assistance Program (EAP) to assist employees who seek help for substance abuse problems. The EAP is available for assessment, referral to treatment, and follow-up. Any employee of the city wishing confidential assistance for a possible alcohol or drug problem can call the EAP office and arrange for an appointment with a counselor.
- B. Employees who are concerned about their alcohol or drug use are strongly encouraged to voluntarily seek assistance through the EAP. All self-referral contacts are held in confidence by the EAP.
- C. Participation in the employee assistance program will not replace normal disciplinary procedures for unsatisfactory job performance or for violation of any city policy.

ARTICLE 27. EMPLOYER SEARCHES

For the purpose of enforcing city or department policies, directives, and work rules, the city reserves the right to search, with or without prior notice to the employee, all work areas and property in which the city maintains full or joint control with the employee, including, without limitation, city vehicles, desks, lockers, file cabinets, and bookshelves. These areas and property remain part of the workplace context even if the employee has placed personal items in them. Employees are cautioned against storing personal belongings in work areas and property under full or joint city control since such work areas may be subject to investigation or search under this article.

Employer searches may occur when there is a reasonable suspicion that the employee has violated a city or department policy, directive, or work rule and that the area or property to be searched may contain evidence of that violation. Searches will be conducted by persons having supervisory and/or other legal authority to conduct them. Searches will not normally occur without the concurrence of more than one supervisor.

If the Public Safety Officers Procedural Bill of Rights Act (Government Code sections 3300 et seq.) is applicable to a particular search, then the city will comply with the Act notwithstanding anything to the contrary in this article.

Nothing in this article will prevent the city from taking appropriate action if there is inadvertent discovery of evidence of a policy, directive, or work rule violation.

ARTICLE 28. COMPENSATION

Effective January 1, 2022 all CPMA-represented employees active on payroll upon ratification of this MOU shall receive a base salary increase depending on their job classification as shown below.

	Increase	Base Pay
Police Captain	4.0%	\$195,156.23/yr
Police Lieutenant	4.0%	\$81.29/hour

Effective January 1, 2023, all CPMA-represented employees active on payroll shall receive a base salary increase depending on their job classification as shown below.

	Increase	Base Pay
Police Captain	3.3%	\$201,596.38/yr
Police Lieutenant	3.3%	\$83.97/hour

Effective January 1, 2024, all CPMA-represented employees active on payroll shall receive a base salary increase depending on their job classification as shown below.

	Increase	Base Pay
Police Captain	3.2%	\$208,047.47/yr
Police Lieutenant	3.2%	\$86.66/hour

ARTICLE 29. EXECUTIVE LEAVE

Police Captains shall receive 64 hours per fiscal year for executive leave. The 64 hours will be credited at the beginning of each fiscal year to individual leave balances. This leave must be used within the same fiscal year.

The City Manager is authorized to provide 10 additional hours of executive leave per year to any CPMA-represented employee who is required to work extended hours due to emergencies such as fires, storms, floods, or other emergencies.

ARTICLE 30. LIFE INSURANCE AND VOLUNTARY BENEFITS

All represented employees shall receive city paid life insurance in an amount equal to two times their base salary up to a maximum benefit of \$400,000. To determine benefits, the amount of insurance is rounded to the next higher \$5,000 multiple, unless the amount equals a \$5,000 multiple.

The city provides various voluntary benefits available at the employee's cost. Employees may select among various levels of coverage. For information regarding these benefits, contact the Human Resources Department at 760-602-2440.

ARTICLE 31. SEPARATION COMPENSATION

All employees involuntarily separated from the city service due to budget cutbacks, layoffs, contracting out of service or for other reasons not due to misconduct which would justify involuntary separation shall receive one month's salary computed at the employee's actual salary at the time of separation.

ARTICLE 32. PHYSICAL FITNESS REIMBURSEMENT

All employees shall be eligible for reimbursement of up to the amount of \$450 during each fiscal year for the costs associated with physical fitness.

Each employee claiming reimbursement shall be required to submit proof of payment to the Human Resources Department for approval and reimbursement.

The physical fitness reimbursement is offered to employees to promote optimum health. Services include, but are not limited to: health assessment testing and examinations, computerized heart risk profile, complete blood profile, fees paid to physical fitness providers (effective January 1, 2019), nutritional assessment and diet program.

ARTICLE 33. DEFERRED COMPENSATION

The city shall provide deferred compensation plan(s) which may be utilized by any employee. The city reserves the right to accept or reject any particular plan and to impose specific conditions upon the use of any plan.

The city and the CPMA agree to work with the city's deferred compensation provider to implement a personal loan provision for represented employees as soon as administratively possible. It is acknowledged that the city will assist in the administrative set-up of this benefit but that the city has no liability if an employee should default on the repayment of such a loan.

ARTICLE 34. EDUCATIONAL INCENTIVE

Level I

Applicable to all employees in CPMA as of the pay period to include January 1, 2022.

- (a) Requirement: Present proof to the Professional Standards Division Sergeant, Carlsbad Police Department, of evidence of the award of an Advanced certificate issued by the State of California Commission on Peace Officer Standards and Training.
- (b) Compensation: Satisfactory fulfillment of the above requirement shall be compensated at the rate of \$360 biweekly for a Police Lieutenant and a Police Captain. Eligibility for receiving the compensation will be based upon the date the employee provides evidence of eligibility to the Professional Standards Division Sergeant. It is the sole responsibility of the employee to make notification of eligibility for the education incentive pay.

Level II

Applicable to all employees in CPMA as of the pay period to include January 1, 2022.

- (a) Requirement: Present proof to the Professional Standards Division Sergeant, Carlsbad Police Department, of evidence of the award of a Management certificate issued by the State of California Commission on Peace Officer Standards and Training.
- (b) Compensation: Satisfactory fulfillment of the above requirement shall be compensated at the rate of \$452 biweekly for a Police Lieutenant and \$590 biweekly for a Police Captain. Eligibility for receiving the compensation will be based upon the date the employee provides evidence of eligibility to the Professional Standards Division Sergeant. It is the sole responsibility of the employee to make notification of eligibility for the education incentive pay.

An employee who meets the criteria for compensation under more than one level, above, shall receive compensation for only the highest such level for which the employee qualifies.

ARTICLE 35. RE-OPENER

35.1 Technology

At any time during the term of this Memorandum, the city may reopen negotiations on the implementation of technological changes affecting the Police Department. CPMA acknowledges that the city has the management right to decide to change the technology used in the Police Department and that any negotiations shall be regarding the effects of the city's decision on CPMA members.

At any time during the term of this Memorandum, the city may reopen negotiations on the issue of health insurance benefits in order to reduce or eliminate penalties under the ACA.

35.2 CalPERS Rate

At any time during the term of the MOU, after CalPERS announces its actual rate of return for the prior fiscal year, if the CalPERS actual rate of return is less than CalPERS' expected rate of return (the expected rate of return or "discount rate" in effect during that same prior fiscal year), the city may reopen negotiations on the issue of employee cost sharing toward the city's required contribution to CalPERS for CPMA members. Any changes shall be by mutual agreement only.

35.3 At any time during the term of this Memorandum, the parties agree to meet and confer upon request of the other party to discuss additional changes to this Memorandum in accordance with the Meyers-Milias-Brown Act (MMBA) based on the difference in compensation (i.e., base salary plus add-on pays) between Police Lieutenants and the employees supervised by Police Lieutenants.

ARTICLE 36. TEMPORARY UPGRADE PAY

Whenever the perceived needs of the city require an employee to temporarily perform all of the duties of a job classification that has a higher pay range than the pay range associated with their current job classification for a period of more than 21 consecutive calendar days, the employee shall be designated as being in an acting assignment and shall receive additional temporary upgrade pay while in the acting assignment. In such cases, the employee shall be paid at an appropriate level which will assure an increase of not less than five percent and not more than 15 percent greater than the employee's current

base salary. Subsequent to designation in an acting assignment, in the event that the city does not need the employee to serve in an acting assignment for at least 21 consecutive calendar days, the employee shall receive the temporary upgrade pay for that period of time the acting assignment lasts. In the event that at the beginning of an acting assignment, it is not perceived that the acting assignment will last at least 21 consecutive calendar days, and the acting assignment nonetheless extends beyond 21 consecutive calendar days, the employee in the acting assignment shall receive the temporary upgrade pay retroactive to the first day of the acting assignment. Temporary upgrade pay is reported to CalPERS except for those employees who are "New Members" as defined by the California Public Employees' Pension Reform Act of 2013 (PEPRA).

The additional pay shall commence on the first calendar day of the temporary reassignment of the performance of duties of the higher classification. The recommendation that an employee be required to perform duties of the higher classification shall be placed in writing by the Police Chief and submitted to the Human Resources Director for approval.

If an employee is serving in an acting assignment for a vacant position, the employee shall not serve more than 960 total hours, including leave and overtime hours, in a fiscal year. All other employees in an acting assignment shall not serve for more than 180 calendar days unless approved by the City Manager or designee. Temporary upgrade pay shall be reported to CalPERS in accordance with applicable regulations.

If an employee is on a leave of absence (paid or unpaid and except when leave is ordered by the city or when an employee is on an active duty military leave or on a leave of absence related to Section 4850 of the Labor Code) for more than 21 calendar days, the temporary upgrade pay shall cease on the 22nd day. On the day that the employee returns to work, if the supervisor determines that the employee is required to continue to perform the duties of the acting assignment, the acting pay will resume as of the day the employee returns to work.

An employee appointed to an acting assignment shall be eligible to receive merit increases in the employee's regular position during the acting assignment. The Human Resources Director shall obtain the employee's acknowledgement of the temporary performance of all of the duties of the higher classification prior to the employee's assuming or continuing the duties and additional compensation. The acknowledgement form shall clearly state that it is understood that a reduction in salary shall be effected to the employee's original salary rate upon the expiration of the need for the performance of the duties of the higher classification.

ARTICLE 37. POLICE CAPTAIN AND CITY OF CARLSBAD PERSONNEL RULES AND REGULATIONS

Article 6 (Examinations), Article 7 (Employment Lists) and Article 8 (Method of Filling Vacancies) of the City of Carlsbad Personnel Rules and Regulations do not apply to the Police Captain job classification.

ARTICLE 38. SHIFT DIFFERENTIAL

All Police Lieutenants who work or who take paid leave for a night shift (i.e., a shift in which five or more contiguous hours of their shift are after 1700 hours and before 0600 hours) shall be eligible for Shift Differential Pay. Shift Differential Pay shall be equal to three percent (3%) of the base pay rate and will be paid for the night shift (all hours worked), inclusive of all paid leave or paid time during a leave of absence, except 1) when the employee is on an extended leave of absence as defined in Article 22.3 or 2) time off due to a shift trade or 3) time off due to flex time. Shift Differential Pay shall be included in the

regular rate of pay in conformance with the FLSA as it relates to calculating overtime pay. Shift Differential Pay shall not be included in the definition of “straight time” for purposes of calculating holiday pay as defined in Article 25. In regards to compensatory time, the Police Lieutenant will be paid shift differential in the same manner as Carlsbad Police Officers’ Association (CPOA) represented employees.

A person regularly scheduled on a shift that meets the requirements defined in this section who temporarily works on another shift that does not meet the requirements defined in this section will not receive the Shift Differential Pay. This is not a vested right and is not grievable.

ARTICLE 39. PAID FAMILY LEAVE

Effective January 1, 2020, per Administrative Order No. 84, all CPMA-represented employees will be eligible for up to 160 hours per year of paid family leave to care for an immediate family member or bond with a new child.

ARTICLE 40. BILINGUAL PAY

Effective the first day of the pay period following ratification of this MOU, the city will provide additional compensation to an employee, designated by the Human Resources Department, in the amount of \$23.08 per pay period for the performance of bilingual skills. The determination of the number of persons/positions to be designated as bilingual is at the sole discretion of the city.

In order to qualify for and receive bilingual pay, employees must pass a bilingual proficiency test as determined by the city in the foreign language or American Sign Language (ASL). In order to maintain eligibility for bilingual pay, an employee must pass the bilingual proficiency test every three years from the date they first become eligible.

This Article shall not be subject to the grievance procedure.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Memorandum to be effective as stated herein.

CITY OF CARLSBAD



SCOTT CHADWICK, City Manager



Date

APPROVED AS TO FORM:



CELIA BREWER, City Attorney

1-12-2022

Date

CARLSBAD POLICE MANAGEMENT ASSOCIATION



JEFFERY SMITH, President

12/17/2021

Date