

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF CARLSBAD  
AND THE CARLSBAD POLICE OFFICERS' 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 Officers’ Association (hereinafter referred to as “CPOA”).

### 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 management representatives and the local safety police 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 CPOA. 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. The parties will hold the first meeting in July 2024.

### ARTICLE 3. RETENTION OF BENEFITS

Existing benefits contained in this Memorandum shall not be changed during the term of this agreement without the mutual consent of the parties hereto. Existing benefits not set forth in this Memorandum which fall within the scope of representation shall not be changed by the city without advance notice and an opportunity to meet and confer regarding such change. The parties recognize and accept the concept of past practices as to matters within the scope of representation and agree to meet and confer regarding a proposed change in any such practices. The city shall not propose any such changes unless required to do so for operational or organizational reasons.

Notwithstanding the foregoing, during the term of this agreement, neither party will compel the other to meet and confer over any mandatory subject of bargaining.

#### ARTICLE 4. AUTHORIZED AGENTS

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

- 4.1 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.

- 4.2 CPOA's principal authorized agent shall be its President or duly authorized representative [Address: 300 Carlsbad Village Dr Suite 108A #191, Carlsbad, California 92008; Telephone: (760) 683-8765] and Bobbitt Pinckard & Fields, [Address: 8388 Vickers St. San Diego, California 92111-2109; Telephone (858) 467-1199].

#### ARTICLE 5. RECOGNITION

The city recognizes CPOA as the majority representation of the bargaining unit that includes the classifications as listed in the attached salary schedule.

#### ARTICLE 6. SAVINGS CLAUSE

- 6.1 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.
- 6.2 In the event of invalidation of any article or section, the extinguished benefit shall be replaced by a substitute benefit of comparable value. The city and the Association shall meet within 30 days following the invalidation for the purpose of determining the specific nature and form of the replacement benefit.

#### ARTICLE 7. NONDISCRIMINATION CLAUSE

Neither city nor CPOA 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 CPOA activity or because of the exercise of any right provided to the employees by this Memorandum.

ARTICLE 8. COMPENSATION ADJUSTMENTS

Effective January 1, 2022, all CPOA-represented employees active on payroll shall receive a base salary increase depending on their job classification as shown below.

Police Officer, Police Corporal & Police Recruit	4.0%
Police Sergeant	3.8%
All other classifications Effective upon the first full pay period after ratification of this MOU, employees in these classifications will also receive a non-persable stipend equal to 0.5% of an employee’s annual salary as of Jan. 1, 2022.	2.0%

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

Police Officer, Police Corporal & Police Recruit	4.0%
Police Sergeant	3.6%
All other classifications	2.0%

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

Police Officer, Police Corporal & Police Recruit	4.0%
Police Sergeant	3.6%
All other classifications	2.0%

ARTICLE 9. 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 10. GRIEVANCE PROCEDURE

10.1 Purpose. The purpose and objectives of the grievance procedure are:

- 10.1.1 To promote improved employer-employee relations by establishing grievance procedures on matters for which an appeal or hearing is not provided by other regulations.
- 10.1.2 To assure fair and equitable treatment of all employees and promote harmonious relations among employees, supervisors, and management.
- 10.1.3 To encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances throughout the several supervisory levels where necessary.
- 10.1.4 To provide that appeals shall be conducted as informally as possible.
- 10.1.5 To resolve grievances as quickly as possible and correct, if possible, the cause of grievances, thereby reducing the number of grievances and future similar complaints.
- 10.1.6 This grievance procedure is applicable to all employee classifications represented by the CPOA in the Police Department of the City of Carlsbad.

10.2 Definitions. For the purpose of this grievance procedure the following definitions shall apply.

- 10.2.1 City Manager: The City Manager.
- 10.2.2 Assistant City Manager: An Assistant City Manager.
- 10.2.3 Department: An office, department, or institution of the city.
- 10.2.4 Department Head or Head of a Department: The chief executive officer of a department.
- 10.2.5 Employee or City Employee: Any officer or employee of the city, except an elected official.
- 10.2.6 Employee Representative: An individual who appears on behalf of the employee.

- 10.2.7 Grievance: A complaint of an employee or a group of employees arising out of an application or interpretation of existing rules, regulations, or policies which come under the control of a Department Head.
- 10.2.8 Immediate Supervisor: The individual who assigns, reviews, or directs the work of an employee.
- 10.2.9 Interested Party: An individual having pertinent and/or immediate knowledge of the circumstances out of which the grievance arose.
- 10.2.10 Supervisor: The individual to whom an immediate supervisor reports.

### 10.3 Reviewable and Non-Reviewable Grievances

- 10.3.1 To be reviewable under this procedure a grievance must:
- (a) Concern matters or incidents that have occurred.
  - (b) Result from an act or omission by management regarding working conditions or other matters over which the head of the department has control.
  - (c) Arise out of a specific situation, act, or acts considered to be unfair which result in inequity or damage to the employee.
  - (d) Arise out of an interpretation and application of the Memorandum or Personnel Rules and Regulations.
- 10.3.2 A grievance is not reviewable under this procedure:
- (a) If it is a matter which would require a modification of a policy established by City Council or by law;
  - (b) Is reviewable under some other administrative procedure and/or rules of the City of Carlsbad (See, e.g., Article 22 hereunder), such as:
    - (1) Applications for changes in title, job classification, or salary.
    - (2) Appeals from formal disciplinary proceeding.
    - (3) Appeals from work performance evaluations.

- 10.4 Special Grievance Procedure Provisions: The following special provisions apply to the grievance procedure.
- 10.4.1 Procedure for Presentation: In presenting a grievance, an employee shall follow the sequence and the procedure outlined in Section 10.5 of this procedure.
  - 10.4.2 Prompt Presentation: The employee shall discuss the grievance with an immediate supervisor promptly after (i.e., when grievant knew or should have known) the act or omission of management caused the grievance.
  - 10.4.3 Prescribed Form: The written grievance shall be submitted on a form prescribed by the Human Resources Director for this purpose.
  - 10.4.4 Statement of Grievance: The grievance shall contain a statement of:
    - (a) The specific situation, act, or acts considered to be unfair and the reasons why.
    - (b) The inequity or damage suffered by the employee.
    - (c) The relief sought.
  - 10.4.5 Employee Representative: The employee may choose someone as a representative at any step in the procedure. No person hearing a grievance need recognize more than one representative for any one time, unless the person so desires.
  - 10.4.6 Interested Parties: There shall be no limit placed upon the number of interested parties which may provide information during the hearing of a grievance at any step of the grievance procedure.
  - 10.4.7 Handled During Working Hours: Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.
  - 10.4.8 Extension of Time: The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
  - 10.4.9 Consolidation of Grievances: If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances shall be handled as a single grievance.



10.4.10 Settlement: Any grievance shall be considered settled at the completion of any step if the grievant is satisfied or if the grievant does not present the matter to a higher authority within the prescribed time.

10.4.11 Reprisal: The grievance procedure is intended to assure a grieving employee the right to present a grievance without fear of disciplinary action or reprisal, provided the provisions of the grievance procedure are observed. Copies of grievance forms will not be placed in employee personnel records but will be maintained in separate files in the Human Resources Department.

10.5 Grievance Procedure Steps: The following procedure shall be followed by an employee submitting a grievance for consideration and action.

10.5.1 Discussion With Supervisor: The employee shall discuss the grievance with the employee's immediate supervisor informally. Within seven calendar days, the supervisor shall give a decision to the employee verbally.

10.5.2 Step 1: If the employee and the supervisor cannot reach an agreement to resolve the grievance, the employee may within seven calendar days present the grievance in writing to the supervisor. The supervisor shall memorialize the prior verbal decision on the grievance and present the grievance to the next-level supervisor within seven calendar days.

The next-level supervisor shall hear the grievance and shall give a written decision to the employee within seven calendar days after receiving the grievance. This portion of this step shall be repeated as necessary until the next-level supervisor is a Police Captain.

10.5.3 Step 2: If the employee and the next-level supervisor cannot reach an agreement to resolve the grievance, the employee may within seven calendar days present the grievance in writing to the Police Chief. The Police Chief shall hear the grievance and shall give the written decision to the employee within seven calendar days after receiving the grievance.

10.5.4 Step 3: If the employee and Police Chief cannot reach an agreement as to the solution of the grievance, the employee may file a written request with the Human Resources Director, within seven calendar days, to have the grievance heard by a Hearing Officer via the process described in Section 10.5.7. The Human Resources Director shall present a copy of the grievance to the Assistant City Manager who may conduct a meeting with the grievant and/or CPOA representatives

to identify and clarify disputed issues and attempt to resolve the grievance prior to presentation of the grievance to the Hearing Officer.

- 10.5.5 Step 4: If the matter is not otherwise resolved, the Hearing Officer shall, within 30 calendar days after receipt of the grievance, hear the grievance and render an advisory opinion to the City Manager. The City Manager shall, within 14 calendar days after receipt of the advisory opinion, notify the employee of the final action.
- 10.5.6 Any of the above steps may be waived by mutual agreement of the parties.
- 10.5.7 Hearing Officer. The employee or employee organization and the city will attempt to develop a permanent list of five mutually acceptable hearing officers. If the parties cannot mutually agree on the identity of the hearing officer from this permanent list, they will alternately strike names from the list of five using a strikeout procedure. The party striking the first name will be determined by lot.

If a permanent list of five mutually acceptable hearing officers cannot be developed, the parties agree that the advisory hearing will be conducted before a hearing officer selected by the parties from a list of seven hearing officers provided by the California State Mediation and Conciliation Service. If the parties cannot mutually agree on the identity of the hearing officer they will alternately strike names from the list of seven using a strikeout procedure. The party striking the first name will be determined by lot.

All administrative costs associated with the cost of a grievance and the subsequent hearing; including the hearing officer, court reporter and transcription costs, if any, will be shared equally between the city and the Carlsbad Police Officers' Association. In the case that the Carlsbad Police Officers' Association does not support the grievance continuing to the advisory hearing by a Hearing Officer, all administrative costs associated with the cost of a grievance and the subsequent hearing; including the hearing officer, court reporter and transcription costs, if any, will be shared equally between the city and the employee.

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

ARTICLE 11. STAND-BY

- 11.1 Due to staff limitations, it may be necessary for the Police Chief to schedule employees to be on stand-by to handle overtime work which may arise during other than the employee's normal working hours.
- (a) Incident Stand-by is defined as time in which an employee (a duty detective, detective sergeant or duty traffic investigator) is required, by the Police Chief or designee, to remain at a place where the employee can reasonably expect to respond and arrive at the Carlsbad Police Department within one hour. Employees are expected to respond in a safe and expeditious manner taking only the time necessary to arrive at the Carlsbad Police Department or other designated location. Response delays caused by traffic conditions or other factors beyond the employee's control will not be considered a failure to respond within the requirements of this article.
- (b) Staffing Stand-by is defined as time in which an employee (generally the assigned communications operator) is required, by the Police Chief or designee, to remain available to respond to the Carlsbad Police Department.
- 11.2 Contact Responsibility: An employee assigned to stand-by shall maintain current contact information, either telephone number and/or cell phone number, with the communications center. The employee assigned to stand-by shall be immediately available at the number(s) provided.
- 11.3 Compensation: Effective Jan. 1, 2022, an employee will be compensated for stand-by time at the rate of \$35 per 24 hours or fraction thereof. Employees on stand-by, called to perform work, will be compensated for all actual hours worked in accordance with overtime and call-back rules.
- 11.4 General Call Out: Certain special assignments, such as canine, investigations, field evidence technicians and traffic are expected to respond to call-outs if they are available but unless they are assigned to stand-by they are not required to maintain an available status.
- 11.5 Sick Notification: If any employee is unable to fulfill any portion of their stand-by assignment due to illness or other emergency, it is the employee's responsibility to notify their supervisor as soon as possible so that an alternate may be assigned.

ARTICLE 12. BILINGUAL PAY

Effective Jan. 1, 2022, the city will provide additional compensation to an employee, designated by the Human Resources Department, in the amount of \$50.00 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 and paid for by the city in the foreign language or American Sign Language (ASL). Bilingual proficiency testing will occur during the employee's regular work shift.

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.

### ARTICLE 13. BASIC WORK WEEK/WORK DAY

- 13.1 The official workweek for non-sworn employees who work a 9/80 schedule begins four hours after the regularly scheduled starting time for their Friday shift and ends 168 hours later (at four hours after the regularly scheduled starting time for their Friday shift).
- 13.2 The official workweek for non-sworn employees working any schedule other than a 9/80 schedule begins on Sunday at 12:00 a.m. and ends on the following Sunday at 12:00 a.m.
- 13.3 In accordance with section 7(k) of the Fair Labor Standards Act (FLSA), the official work period for sworn employees begins on Sunday at 12:00 a.m. and ends 14 days later at 12:00 a.m. Overtime shall be compensated in the manner prescribed by Article 17 of this Memorandum.
- 13.4 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. For employees who are not covered by the 7(k) exemption contained in Article 13.3 of the Memorandum, hours worked in excess of 40 in a workweek will be compensated in accordance with Article 17 of the Memorandum.
- 13.5 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 and dispatch shall work a 3/12 schedule.
- 13.6 Unit members assigned to motors shall be provided one hour of paid leave (at straight time) each regularly scheduled work day for care and maintenance of the motor.
- 13.7 Unit members assigned as canine handlers shall work a weekly 3/12+4 schedule consisting of three work days of twelve consecutive work hours plus one additional shift consisting of four consecutive work hours per week. Unit members assigned as canine handlers shall also be paid four hours of overtime each work week for care and maintenance of the canine.
- 13.8 Deployments shall be six months in length and shifts shall be bid one month in advance according to seniority.

- 13.9 Patrol employees (police officers assigned to patrol, canine, traffic, community policing and community service officers assigned to patrol and traffic) will be given two fifteen-minute rest periods and one half-hour lunch break each workday without loss of pay.
- 13.10 Communications Operators/Supervisors – The Police Communication Center is a fluid and ever changing environment and flexibility is paramount to efficient operations. To achieve effective operations and meet changing needs in activity and staffing levels, communication operators/supervisors are expected to remain flexible in their schedule in regard to rest periods and meal breaks. The following break policy for communication operators/supervisors is intended to balance the need for employee break time and the need for operational flexibility. During the life of this agreement and to the extent this agreement complies with state law, the provisions of (a) and (b) below shall be in effect:
- (a) Breaks – Communications operators/supervisors are entitled to two 15 minute rest periods and one 30 minute lunch break each workday without loss of pay. Due to the unique needs of a 911 center, there may be times when communications operators/supervisors will have to adjust break times or work through their breaks. At an employee’s request and with supervisor approval, the break periods may be combined into a one hour compensated break.
  - (b) Availability – Communications operators/supervisors are expected to be available to resume their duties during their break time and, therefore, are compensated for their breaks. When staffing and activity levels permit, communication operators/supervisors are allowed to leave the premises. When on a break communications operators/supervisors are subject to recall via cell phone, pager, and/or police radio and will remain within a 15 minute recall response to the Communications Center. Activities that may interfere with a communications operator/supervisor’s ability to return to the Communications Center within 15 minutes should not be conducted during break time but should be accommodated with other leave time such as comp. time or vacation time.
- 13.11 Effective the first day of the first full pay period following ratification of this MOU, with the understanding that the needs of the department will sometimes require short notice, reasonable efforts will be made to notify employees regarding a change to their regularly assigned work schedule with as much advance notice as reasonably possible. If the department does not provide 7 calendar days’ notice prior to the change to a regularly assigned work schedule, and the employee does not choose to waive the notification guideline, the employee shall be paid at 1.5 times their base pay rate for the first shift worked on the new regularly assigned schedule.

Notwithstanding the above, this section does not modify the rights of the department to require personnel to work a specific shift or assignment, or the responsibility of the employee to comply with such an order. This provision is intended to provide affected employees with prior notice of a regularly assigned work schedule change and to compensate those who may not receive such notice.

## ARTICLE 14. COURT AND HEARINGS

14.1 Compensation: Off duty personnel 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.

14.2 Contiguous Time: This minimum hour guarantee shall not apply if the court or hearing appearance is contiguous with the commencement or end of the employee's regularly scheduled work shift. In that situation, the employee 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.

Officers 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.

14.3 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.

14.4 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.

14.5 Phone Testimony: When off duty personnel 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, which ever is greater.

14.6 District Attorney Conversation: When off duty personnel receive calls from District Attorney personnel regarding criminal cases, employees will receive no compensation for conversations lasting less than 10 minutes. Employees 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. Employees receiving multiple calls within the same one hour period shall only receive one hour compensation.

- 14.7 When a district attorney (DA) representative places an employee in an “on-call” or “stand-by” status, the employee shall be compensated in accordance with Article 11- Stand-by.

#### ARTICLE 15. SICK LEAVE/BEREAVEMENT LEAVE

For the purpose of this section, the term “family member” shall be defined as a spouse, domestic partner, child, grandchild, member of immediate household, sibling, parent, or grandparent whether biological, foster, step, adopted, or in-law. It also includes any person who has served in place of a parent to the employee, or any person for whom the employee has served in place of a parent. The term “child” means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis. The term “parent” means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

Sick leave can be used in 15 minute increments.

- 15.1 Every CPOA-represented employee will accrue sick leave on a daily basis at the rate of 16 minutes for each continuous calendar day of service.
- 15.2 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.
- 15.3 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 (e.g., to recuperate from or receive treatment for personal injuries or illnesses, to care for an injured or ill family member or to attend medical, dental or optometry appointments).
  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.
- 15.4 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.

- 15.5 Sick leave may not be taken as vacation time, nor compensated in cash at any time, except as provided for in this article. The employee must account for all sick leave hours requested via the city's timekeeping system.
- 15.6 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.
- 15.7 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.
- 15.8 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.
- 15.9 During the first pay period of each fiscal year, any regular employee who has accrued and maintains a minimum of 160 hours of sick leave will be permitted to convert up to 120 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.
- 15.10 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.
- 15.11 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 16. ASSOCIATION RIGHTS

- 16.1 The city recognizes the right of the CPOA to govern its internal affairs.
- 16.2 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.



- 16.3 The CPOA will provide the city with information regarding the amount of dues deductions and the list of CPOA member employees who have affirmatively consented to or authorized dues deductions. The city shall deduct CPOA membership dues and any other mutually agreed upon payroll deductions, to the extent permitted by law, from the bi-weekly pay of each member employee and remit the deducted dues to the CPOA as soon as possible after the deduction.

The city agrees to direct each member employee to CPOA with regard to any questions or concerns related to membership dues or any other mutually agreed payroll deduction, to the extent permitted by law. CPOA is responsible for providing the city with timely information regarding changes to member employees' dues and any other lawful union-related payroll deduction.

The city shall make payroll deductions in reliance on the Union's certification certifying that CPOA has and will maintain an authorization, signed by each member employee who affirmatively consents to pay CPOA membership dues. The CPOA is responsible for providing the city with timely information regarding changes to member employee's dues and any other lawful union-related payroll deduction.

The city shall continue to withhold such deductions and shall only cancel or modify any membership dues or any other mutually agreed payroll deduction, to the extent permitted by law, for any member employees in reliance on the information provided by CPOA.

The city shall not request CPOA to provide a copy of any member employees' authorization unless a dispute arises about the existence or terms of the authorization.

The effective date of withholding, time of remitting withholdings to the CPOA, and all procedural matters shall be determined in accordance with the Rules and Regulations of the city.

Any dispute concerning the amount of the dues deductions is not subject to the grievance procedures contained in a comprehensive MOU between the Parties. CPOA will indemnify, defend, and hold harmless City, its officials, representatives, and agents from and against any liability arising from any claims, demands, or other action relating to City's compliance with this Article including any claims made by any member employees for any deduction cancellation or modification the city made in reliance on the information provided by the CPOA.

- 16.4 The CPOA shall provide and maintain with the city a current list of the names and all authorized representatives of the CPOA. 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.
- 16.5 The CPOA shall be allowed to designate employee representatives to assist employees in:

- 16.5.1 Preparing and processing grievances;
  - 16.5.2 Preparing and presenting material for Disciplinary Appeals hearings;
  - 16.5.3 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.
- 16.6 The CPOA may designate one employee representative to assist an employee in preparing and presenting materials for the above-listed procedures. The employee representative so designated shall be allowed reasonable release time from regularly scheduled duties for the purpose of investigating and preparing materials for such procedures. Employee representatives who investigate, prepare or present materials during off-duty time shall do so on their own time. Employee representatives and employees who attend Personnel Board or City Council hearings during the off-duty time shall do so on their own time; providing, however, that employees who are ordered or subpoenaed to attend such hearings shall be compensated in accordance with the overtime provisions of this Memorandum.
- 16.7 Designated employee representatives shall be allowed reasonable release time from regularly scheduled duties to attend meetings relative to other matters of employer-employee relations. If a police department manager schedules a work meeting to accomplish police department business and invites employee representatives to that meeting, the employee representatives who attend the meeting will be paid for the time worked. If the meeting occurs outside of the employee's regularly scheduled work shift, the employee shall receive a minimum of two hours of appropriate overtime compensation.
- 16.8 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.
- 16.9 The city will continue to furnish bulletin board space in the Police Department for the exclusive use of the CPOA. Material placed on the bulletin boards shall be at the discretion of the CPOA 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 CPOA representative. The CPOA shall be responsible for maintaining bulletin boards exclusively used by the CPOA in an orderly condition and shall promptly remove outdated materials.
- 16.10 Use of City Facilities
- 16.10.1 The CPOA may, with the prior approval of the City Manager, be granted the use of the city facilities for off-duty meetings of the Police

Department employees, provided space is available. All such requests will be in writing to the City Manager.

16.10.2 The CPOA may, with the prior approval of the Police Chief, be granted the use of Police facilities for off-duty meetings of the Police Department employees, provided space is available. All such requests will be in writing to the Police Chief. In the event the Police Chief denies use of Police Department facilities, an appeal can be made to the City Manager.

16.10.3 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 17. OVERTIME

The city will continue to use a 14-day work cycle for sworn employees under the 7k exemption in the FLSA as outlined in this article. 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 continue to 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 continue to receive overtime compensation.

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

17.1 Comp. Time Option: Each employee shall have the option (with the exception of "Pay Only Details") of receiving compensatory time off in lieu of cash, subject to a maximum accumulation of 150 hours of compensatory time off. The employee 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 an employee has accumulated the maximum number of hours of compensatory time off, the employee shall receive all overtime compensation in cash until such time as the employee's compensatory time off bank is no longer at the maximum.

An employee may use such compensatory time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operations of the

department. Required use of overtime to backfill staff shall not be considered to unduly disrupt operations.

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.

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

#### ARTICLE 18. CALL BACK

- 18.1 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 17, for the actual number of hours worked, subject to the following:
- 18.2 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.
- 18.3 Non-scheduled Call Back Minimum: For Call Backs not scheduled in advance (less than 24 hours' notice), the employee shall receive a minimum of four hours of appropriate overtime compensation.
- 18.4 Report Call Back Minimum: Employees are encouraged to complete reports prior to scheduled days off. A supervisor must determine if the report can be "pending" until the employee returns to regular scheduled work or if the report needs to be completed prior to that time. The supervisor's approved "pending completion date" will determine the employee's compensation for completing a "pending" report prior to the employee's next regularly scheduled duty as follows:
- (a) Before Next Duty Day: If an employee "pends" a report needing to be completed before the employee's next scheduled duty day, the employee shall receive a minimum of two hours of appropriate overtime compensation for returning to the station and completing the report.

- (b) Next Duty Day: If an employee “pends” a report not needing to be completed until the employee’s next scheduled duty day and it is later determined by a supervisor the report needs to be completed before the employee’s next scheduled duty day, the employee shall receive a minimum of four hours of appropriate overtime compensation for returning to the station and completing the report.

Employees called back pursuant to this section are not eligible for travel time.

18.5 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.

The following employees, 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: (1) Employees who are called back for immediate service; (2) employees who are in a 'stand-by' capacity as defined by Article 11.

18.6 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.

18.7 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 19. SENIORITY

19.1 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.

- 19.2 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.
- 19.3 An employee laid off after completing probation and acquiring regular status 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.
- 19.4 Refer to Article 31.3 for information re: the impact of a leave of absence on seniority.

#### ARTICLE 20. LEGAL REPRESENTATION

- 20.1 Upon request of an employee and subject to any legal limitations, the city will provide for the defense of the employee in any civil action or proceeding initiated against the employee by a person or entity other than the city because of an act or omission occurring within the course and scope of the employee's employment.
- 20.2 Nothing in this Memorandum requires the city to provide for the defense of an employee where: (a) the city has the discretion under the California Government Code not to provide for a defense; (b) the act or omission was not within the course and scope of the employee's employment; (c) the act or omission was the result of the employee's actual fraud, corruption, or malice; or (d) providing for the defense would create a specific conflict of interest between the city and the employee within the meaning of California Government Code section 995.2.
- 20.3 Nothing in this Memorandum is intended to give an employee more rights or privileges than those contained in the California Government Code.

#### ARTICLE 21. PEACEFUL PERFORMANCE OF CITY SERVICES

- 21.1 During the term of the Memorandum, the CPOA, 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.
- 21.2 During the term of the Memorandum, the city will not instigate a lockout over a dispute with the employees.
- 21.3 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 22. DISCIPLINE OF AN EMPLOYEE

22.1 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.

22.2 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.

22.3 Once discipline has been imposed, the Police Chief or an authorized designee shall specify the period of time, from one 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.

22.4 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.

- 22.5 Right of Appeal. Any regular employee shall, within seven calendar days, have the right to appeal to the Hearing Officer any disciplinary action, interpretation or alleged violation of the Personnel Ordinance or Personnel Rules, except in instances where the right of appeal is specifically prohibited by the Personnel Ordinance or Personnel Rules, or this Article.
- 22.6 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.
- 22.7 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.
- 22.8 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.
- 22.9 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.
- 22.10 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 23. PROBATIONARY PERIOD

- 23.1 For sworn personnel, the initial hire probationary period shall be one year from the date the employee is sworn as an officer. For non-sworn personnel, the initial hire probationary period shall be one year from the date of hire. The probationary period will permit both the supervisor and the employee to become acquainted and to determine the adaptability and the fitness of the employee to the assigned work. The employee will find this period helpful in evaluation of the city, the employee's duties, work and other satisfaction.
- 23.2 Refer to Article 31.3 for information re: the impact of a leave of absence on the probationary period.
- 23.3 All personnel promoted within the Department shall be on probation in the promotional position for a period of one year from the date of promotion.

#### ARTICLE 24. RETIREMENT BENEFITS

- 24.1 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)

- 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.
- 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.

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

- Employees entering City of Carlsbad miscellaneous CalPERS membership for the first time prior to November 28, 2011 – The retirement formula shall be 3% @ 60; single highest year final compensation.
- Employees entering City of Carlsbad miscellaneous CalPERS membership for the first time on or after November 28, 2011 – The retirement formula shall be 2% @ 60; 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, but are not limited to, the following retirement benefits:

- Safety– The retirement formula shall be 2.7% @ 57; three year average final compensation.
- Miscellaneous – The retirement formula shall be 2% @ 62; three year average final compensation.

24.2. 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 who meet the definition of “New Member” under PEPRA shall pay the required PEPRA member contribution rate as established by CalPERS.
- Miscellaneous employees subject to the 3% @ 60 benefit formula shall pay all of the employee retirement contribution (8%).
- Miscellaneous employees subject to the 2% @ 60 benefit formula shall pay all of the employee retirement contribution (7%).
- Miscellaneous employees who meet the definition of “New Member” under PEPRA shall pay the required PEPRA member contribution rate as established by CalPERS.

24.3. If the Employer Paid Member Contributions (EPMC) ever is greater than zero, the city will report the value of the EPMC as additional (special) compensation to CalPERS for all CPOA represented employees designated as “classic members.”

ARTICLE 25 FLEXIBLE BENEFITS PROGRAM

25.1 Employees represented by the CPOA 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.

25.2 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 25.5 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, an 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: CPOA-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 dollars per month.

25.3 Dental Insurance

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

25.4 Vision Insurance

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

25.5 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 26. UNIFORM REIMBURSEMENT

Effective upon the first day of the first full pay period following City Council approval of this agreement, reimbursement to represented employees for the cost of purchasing and maintenance of required uniforms shall be \$34.62 per pay period. (Under PEPRRA, this benefit is not reported to CalPERS as special compensation for new members).

ARTICLE 27. EDUCATIONAL INCENTIVE

27.1 Educational Incentive Compensation.

Effective Jan. 1, 2022, eligibility for education incentive is as follows:

For Police Officers and Police Corporals who are eligible to obtain a certificate issued by the State of California Commission on Peace Officer Standards and Training (POST):

Level	Eligibility Requirements	Incentive Pay Amount
1	POST Basic Certificate	\$93 biweekly
2	POST Intermediate Certificate	\$232 biweekly
3	POST Advanced Certificate	\$324 biweekly

For Police Sergeants who are eligible to obtain a certificate issued by the State of California Commission on Peace Officer Standards and Training (POST):

Level	Eligibility Requirements	Incentive Pay Amount
1	POST Basic Certificate	\$99 biweekly
2	POST Intermediate Certificate	\$248 biweekly
3	POST Advanced Certificate	\$347 biweekly

For non-sworn employees who are eligible to obtain a certificate issued by the State of California Commission on Peace Officer Standards and Training (POST) or who meet the education requirement outlined below:

Level	Eligibility Requirements	Incentive Pay Amount
1	POST Basic Certificate or High School diploma or GED	\$62 biweekly
2	POST Intermediate Certificate or Associate degree	\$152 biweekly
3	POST Advanced Certificate or Baccalaureate degree	\$218 biweekly

Eligibility for receiving the compensation will be based upon the date the employee provides evidence of eligibility to the Professional Standards Division Sergeant, Carlsbad Police Department. It is the sole responsibility of the employee to make notification of eligibility for the education incentive pay.

- 27.2 An employee that meets the criteria for compensation under more than one level, above, shall receive compensation for only the highest such level for which he or she qualifies.

## ARTICLE 28. FIELD TRAINING OFFICER

Effective upon the first day of the first full pay period after ratification of this MOU, field training officers or civilian personnel who are assigned to train co-workers shall be compensated at the rate of \$40 for each work shift the employee is engaged in the training function. The selection of field training officers or civilian personnel who are assigned to train co-workers shall be at the sole discretion of the Police Chief.

## ARTICLE 29. VEHICLES

Police Sergeants, Police Corporals and Police Officers who are certified and able to deploy as a solo, full-duty, peace officer shall be assigned a designated vehicle and shall be entitled to use the vehicle on each duty shift and take the vehicle to their residence in accordance with department policy. Assignment of a designated vehicle is expressly conditioned on the availability of vehicles.

## ARTICLE 30. 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 predisability 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.

### 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 31. LEAVE OF ABSENCE

### 31.1 Occupational Injuries or Illnesses

- 31.1.1 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).

A sworn 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.

- 31.1.2 A non-sworn employee who is temporarily unable to work due to an occupational illness or injury will receive full pay for the first 45 calendar days. If the employee continues to be temporarily unable to work after 45 calendar days, the employee will receive workers’ compensation temporary disability payments as provided in the Labor Code. 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.

### 31.2 Non-Occupational Injuries or Illnesses

- 31.2.1 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.

- 31.2.2 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.

### 31.3 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 pay.

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 salary anniversary date, 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 and salary anniversary date 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.

- 31.4 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.

ARTICLE 32. 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 33. VACATION

Vacation leave can be used in 15 minute increments.

- 33.1 All eligible CPOA-represented employees shall be entitled to accrue vacation on a daily basis according to the number of continuous full years of employment based on the following vacation accrual schedule:

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

Beginning the 16<sup>th</sup> 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.

Effective upon the first day of the first full pay period following ratification of this MOU, with approval of the Police Chief or designee, in addition to service time with the City of Carlsbad, current employees and new hires shall be eligible to receive service credit towards the vacation accrual rate based on their previous full-time law enforcement experience. This credit only applies to the vacation accrual rate. It does not apply to seniority or any other employee-related process, pay, benefit or accrual that is based on city service credit.

### 33.2 Vacation Accrual Maximum

Effective upon the first day of the first full pay period following ratification of this MOU 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. The Police Chief 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.

### 33.3 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.
9. The parties agree to discuss any CPOA concerns regarding vacation request denials as a standing agenda item at labor-management committee meetings. The CPOA agrees to discuss any issues regarding vacation scheduling with Police Department Management and attempt to resolve them. If the CPOA and Police Department Management are unable to resolve issues related to vacation scheduling after good faith efforts have been exhausted, the CPOA will continue discussions on their concerns with the city's Human Resources Department. The city and CPOA also agree that if the parties are unable to resolve CPOA issues related to vacation scheduling, then upon written mutual agreement between the parties the following procedure for vacation scheduling may be implemented during the term of the MOU:
  - a. Any employee with 40 or more accrued hours of compensation time that is paid out on the last pay date of December will be permitted to use a total of 20 hours of vacation in January or February of the following calendar year subject to the provisions of Article 17.

#### 33.4 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 - --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 – Employees 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.

33.5 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 hours 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.

33.6 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 34. HOLIDAYS

34.1 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.

34.2 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

34.3 Employees who work a 5/8 schedule will be paid eight hours of straight time for each holiday. Employees who work a 9/80 schedule will be paid nine hours of straight time for each holiday. Employees who work a 4/10 schedule will be paid 10 hours of straight

time for each holiday. Employees who work a 3/12 schedule will be paid 12 hours of straight time for each holiday.

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

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

ARTICLE 35. SALARY/ANNIVERSARY DATE ON PROMOTION

- 35.1 Any Police Officer or Police Corporal promoted to the rank of Police Sergeant will be compensated at a minimum of five percent above the top step of Corporal.
- 35.2 Any Communications Operator I or II promoted to the position of Communications Supervisor will have their compensation adjusted a minimum of five percent above the top step of Communications Operator II.
- 35.3 A police employee serving in Salary Step 5 will be eligible upon promotion for subsequent salary step increases in a higher range on the annual anniversary of the date of promotion. When a police employee is promoted from Step 1, 2, 3, or 4, that employee will retain the anniversary date that was in effect in the salary range from which the employee was promoted.

ARTICLE 36. 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). Testing shall be conducted in a manner to ensure a high degree of accuracy and reliability using techniques, equipment, and laboratory facilities, which have been approved by the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Department of Health and Human Services (DHHS). Collection, chain of custody, and testing procedures shall be conducted in accordance with FTA/DOT regulations, 49 C.F.R. Parts 40 and 655. 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.
4. "Medical Review Officer (MRO)" is responsible for receiving laboratory confirmed urine drug test results; determining whether there is a legitimate medical explanation for a laboratory-confirmed positive, adulterated, or substituted result; and reviewing and reporting a verified result to the employer in a timely and confidential manner.
5. "CCF" refers to the federal drug testing Custody and Control Form. This form will be completed for all urine specimen collections and requires the employee's signature each time a specimen is collected.
6. "Urine Collector" is responsible for collecting urine specimens using 49 C.F.R. Part 40 procedures; shipping the specimens to certified laboratories for analysis; and distributing copies of the CCF to the laboratory, MRO, employer, and employee in a timely and confidential manner.
7. "Breath Alcohol Technician (BAT)" is responsible for conducting alcohol screening and confirmation tests by collecting and analyzing breath specimens using an approved screening device and an evidential breath testing (EBT) device; documenting the results of the test; and transmitting the results to the employer in a timely and confidential manner.
8. Third Party Administrator: A service agent who coordinates a variety of drug and alcohol testing services for employers. These services can include random selections; and coordinating urine collections, laboratory testing, MRO services, alcohol testing, and SAP evaluations. The TPA is responsible for ensuring that its service agents are qualified.

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

All sworn employees in the Vice Narcotics Unit of the Carlsbad Police Department, with the classifications of Police Officer, Police Corporal, and Police Sergeant shall be subject to random substance abuse tests throughout the fiscal year. This includes detectives assigned to the narcotics taskforce and the gang taskforce. The ongoing testing will be conducted on an unannounced basis. Employees will have an equal chance of being selected and tested in each selection period. The names of all eligible employees will be placed in a pool, with the selection of employees made by a scientifically valid method via the Third Party Administrator of the program. Once an employee's name is pulled for testing, his or her name will be returned to the pool.

Any CPOA-represented employee who operates the Public Safety Command Post vehicle 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.

Random testing will be performed as follows:

- Drugs - 50% of the total number of covered employees shall be tested annually.
- Alcohol –25% of the total number of covered employees shall be tested annually.

### 1. Employee Notices

When an employee has been randomly selected, the employee will be discreetly notified of his or her test in a Testing Notice. The supervisor will document the date and time the Testing Notice is delivered and then the employee will be required to sign the Testing Notice, which also acknowledges that the employee being tested has been advised of the drug and alcohol testing policy. Additionally, the employee will be asked by the Urine Collector or BAT to complete the necessary form(s), either the CCF or ATF or both, for the test(s) to be conducted and analyzed.

### 2. Testing for Prohibited Drugs

A Urine Collector will collect a urine specimen to be analyzed by a certified laboratory for the presence of drugs prohibited under this policy. An employee must void 45 mL of urine all at once for an accurate collection. At the collection site, the Urine Collector will divide the specimen into two samples: 30 mL of which will be labeled as the primary sample (Bottle A) and 15 mL labeled as the split sample (Bottle B). The urine samples will be sent under seal, with required custody and control forms, to a laboratory approved by SAMHSA. An initial drug screen will be conducted on each primary sample. If the initial drug screen does not yield a negative test result, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in DOT regulations, as amended. If the result of the primary sample is not negative, the split sample as well as the primary sample will be retained in frozen storage for at least 1 year from the date the laboratory receives it.

### 3. Medical Review Officer

All drug test results shall be interpreted and evaluated by a qualified MRO, who shall meet the requirements set forth in DOT regulations. The MRO shall not convey test results to the city until the MRO has determined that the test result was positive or negative, or should be cancelled. When the MRO reports the result of the verified positive test, the MRO may disclose the drug(s) for which there was a positive result. The MRO may only reveal the levels of a positive drug test result to the City of Carlsbad, the employee, or the decision maker in a lawsuit,

grievance or other proceeding initiated by the employee and arising from a verified positive result, or as otherwise required by law.

If the MRO declares a drug test to be invalid for any reason, the test is considered canceled, and neither positive nor negative. However, a re-collection under direct observation may be ordered by the MRO.

#### 4. Split Specimen Testing

Any employee who questions the results of a required drug test under this policy may, within 72 hours of having been notified of a verified positive test by the MRO, request that an additional test be conducted on the split sample (Bottle B) of the original specimen that was voided. This test will be conducted at a different DHHS certified laboratory, selected by the employee. The test must be conducted on the split sample that was provided at the same time as the original sample. If Bottle B also tests positive, then the employee may be subject to disciplinary sanctions, up to and including termination. If the testing of Bottle B produces a negative result, or for any reason Bottle B is not available, the test is considered cancelled and no sanctions are imposed. However, a re-collection under direct observation may be ordered at the MRO's sole discretion. The employee shall bear the responsibility of paying for the testing of the split specimen (Bottle B).

#### 5. Alcohol Testing

Alcohol tests will be performed by a certified BAT. If the initial test on an employee using an approved EBT indicates a breath alcohol concentration (BAC) of 0.02 or greater, a second test will be performed no sooner than 15 minutes but no later than 30 minutes from the first attempt to confirm the results of the initial test. Employees whose confirmatory test results indicate a BAC of 0.04 or greater may be subject to discipline, up to and including termination.

#### 6. Refusal to Test

An employee that refuses to submit to drug or alcohol testing required by the city shall be prohibited from performing or continuing to perform public safety functions and shall be assigned to a light duty assignment or placed on paid administrative leave at the city's discretion. An employee's refusal to submit to drug or alcohol testing required by the city for any reason shall be considered an act of insubordination and may also result in disciplinary action, up to and including termination. Refusal to test shall include the following:

- a. Failure to appear for any test within a reasonable time, as determined by the employer, consistent with applicable DOT regulations, after being directed to do so by the employer;
- b. Failure to remain at the testing site until the testing process is complete;
- c. Failure to provide a urine specimen for any drug test required;
- d. In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of provision of a specimen;
- e. Failure to provide a sufficient amount of urine when directed, and it has been determined, through a medical evaluation, that there was not adequate medical explanation for the failure;
- f. Failure or decline to take an additional drug test the employer or collector has directed you to take;
- g. Failure to undergo a medical examination or evaluation, as directed by the MRO;
- h. Failure to cooperate with any part of the testing process;
- i. For an observed collection, failure to follow the observer's instructions;
- j. Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process; or
- k. Admit to the collector or MRO that you adulterated or substituted the specimen.

The above refusals to test shall incorporate any future amendments to DOT Regulation 49 CFR Part 40 Section 40.191.

## 7. Follow-up

Covered employees who test positive may be referred to a Substance Abuse Professional (SAP) for assessment. Any covered employee identified by the Substance Abuse Professional as needing assistance and who is not being terminated, will be subject to follow-up testing upon returning to duty. After the SAP has notified the city the employee has completed the SAP's requirements, which may include treatment and/or education, an eligible employee may return to work. However, the employee shall not perform public safety functions until the city has obtained negative drug test results from the MRO. This test is referred to as the "Return to Duty" test in the DOT regulations. Both Return to Duty and Follow-Up Tests shall be under direct observation.

The Follow-Up Tests shall appear in a testing plan. The testing plan will be developed by the SAP and will include the number of tests required over a specified duration. The city has no discretion to alter the SAP's testing plan and the employee shall not have the right to obtain a copy of the testing plan. A minimum of six unannounced tests will be performed

over the twelve month period following the employee's return to duty. Follow-up testing may be performed for up to 60 months following return-to-duty. Such testing shall be separate from participation in the random testing selection procedures. Follow-up testing may include tests for other substances beyond the employee's initial positive test of drug and/or alcohol use when the SAP has reason to believe that additional testing is warranted. If an employee is referred to a substance abuse program, payment for the program is the responsibility of the employee.

### 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 37. 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 Acts (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 38. FLEXIBLE JOB SHARING

Employees may, with the express written approval of the City Manager, the Human Resources Director, and the Police Chief, participate in a flexible job-sharing program. The specifics of such a program shall be determined by the employees and the city on a case by case basis. Prior to the implementation of any such program, a written agreement setting forth the specifics of the program shall be signed by the affected employees and the city. This article shall not be subject to the grievance procedure.

ARTICLE 39. DEFERRED COMPENSATION LOAN PROVISION

The city and the CPOA 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 40. LIFE/ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE AND VOLUNTARY BENEFITS

All CPOA-represented employees shall receive city paid life insurance in an amount equal to their base salary up to a maximum base salary of \$200,000. 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.

Effective January 1, 2020, all CPOA-represented employees shall receive city paid Accidental Death and Dismemberment (AD&D) insurance in an amount equal to their base salary up to a maximum base salary of \$200,000. 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.

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 41. RE-OPENERS

At any time during the term of this Memorandum, the city may reopen negotiations on the implementation of technological changes affecting the Police Department. CPOA 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 CPOA 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.

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 CPOA members. Any changes shall be by mutual agreement only.

At any time during the term of the MOU either party may reopen negotiations on the issue of a retiree medical trust. Any changes shall be by mutual agreement only.

If the September 2022 San Diego Area cpi percentage increase (published in October 2022) is 5.8% or higher, CPOA may reopen negotiations on the sole issue of the increases to base salary effective January 1, 2023 for all CPOA represented employees. The CPOA may exercise this option by sending written request to the HR Director no later than October 31, 2022.

If the September 2023 San Diego Area cpi percentage increase (published in October 2023) is 5.8% or higher, CPOA may reopen negotiations on the sole issue of the increases to base salary effective January 1, 2024 for all CPOA represented employees. The CPOA may exercise this option by sending written request to the HR Director no later than October 31, 2023.

#### ARTICLE 42. ACTING PAY

Effective the first day of the first full pay period after ratification of this MOU, whenever the perceived needs of the city require an employee to temporarily perform 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 14 consecutive calendar days, the employee shall receive additional pay while in the acting capacity. In such cases, the employee shall be paid at an appropriate level which will assure an increase of not less than five percent greater than the employee's current base salary. In the event that the city does not need the employee to serve in an acting capacity for at least 14 consecutive calendar days, the employee shall receive the acting 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 14 consecutive calendar days, and the acting assignment nonetheless extends beyond 14 consecutive calendar days, the employee in the acting assignment shall receive the acting pay retroactive to the first day of the acting assignment.

No employee shall be required to perform all of the duties of a higher classification unless that employee is deemed to possess the minimum qualifications of the higher classification by the Human Resources Director as recommended by the Police Chief. Exceptions to the minimum qualifications criteria may be recommended by the Police Chief on a case by case basis. If the employee does not meet the minimum qualifications for the higher classification the employee shall receive not less than 2.5% additional pay.

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 capacity 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 capacity shall not serve for more than 180 calendar days unless approved by the City Manager or designee. Acting 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 acting 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 capacity shall be eligible to receive step increases in the employee's regular position during the acting appointment. 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 43. FLEXIBLE CLASSIFICATIONS

An employee hired into one of the listed entry level positions shall be reclassified to the journey level position following 12 months of successful service in the entry level position and upon meeting journey-level requirements, if any, as established by the city. Any city-established requirements must be identified in the classification description. The employee shall be placed at the nearest step of the journey level salary range which represents a minimum five percent salary increase.

##### Entry Level Position

Community Service Officer I  
Communications Operator I

##### Journey Level Position

Community Service Officer II  
Communications Operator II

#### ARTICLE 44. JURY DUTY

When called to jury duty, an employee, having provided at least seven calendar days' written notice, shall be entitled to the employee's regular compensation. Employees shall be entitled to city-paid reimbursement for mileage, transit pass or any applicable parking fees while on jury duty. 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 released early from jury duty shall report to their supervisor for assignment for the duration of the work day. 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 45. SHIFT DIFFERENTIAL

Effective upon the first day of the first full pay period following ratification of the MOU, all CPOA-represented employees 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 31.3 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 34.3. In regards to compensatory time, the employee will be paid shift differential when compensatory time is used for time off during an eligible period, not when it is earned and not when unused compensatory time is paid out in accordance with Article 17.

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.

#### ARTICLE 46. SPECIAL STUDY

During the term of the MOU the City and CPOA will conduct a study on a binding post disciplinary appeal process. The city agrees to survey, at a minimum, all agencies listed in its total compensation survey market for purposes of the study. The parties can agree on additional agencies to survey based on mutual agreement. After the survey is completed, the parties will reopen Article 22.9 of this MOU for the purpose of determining whether or not the hearing officer’s decision will be administratively final or subject to City Council review.

#### ARTICLE 47. PAID FAMILY LEAVE

Effective January 1, 2020, per Administrative Order No. 84, all CPOA-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 48. SWAT HAZARD PAY

A sworn member’s assignment to the SWAT team is considered a hazardous assignment. As a SWAT team, responses to regional emergencies may include exposure to toxic, radioactive, explosive or other hazardous materials in the performance of duties. Effective Jan. 1, 2023, employees assigned to the SWAT team in accordance with Department Manual Section 1004, upon selection to the team, shall receive a Hazard Premium at the rate of \$60 per pay period.

Consistent with the Department policy, selection to the SWAT team will be based at the sole discretion of the Police Chief or designee.

In order to continue in the assignment after selection each employee must pass the required physical fitness and firearm qualifications consistent with the SWAT Operations Manual. A determination of whether an employee passed the physical fitness or shooting standards will be decided by the sole discretion of the Chief of Police consistent with the SWAT Operations Manual without any right of appeal.

Notwithstanding any rotational time periods set forth in the Department Manual, continued assignment on the SWAT team will be assessed and decided upon during an annual team member review in February of each year, where one year extensions of the assignment may be granted at the sole discretion of the Police Chief or designee and without any right of appeal.

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

*for* *Scott Chadwick* 6/8/22  
SCOTT CHADWICK, City Manager Date

APPROVED AS TO FORM:

*Celia K. McMahon, asst. City atty. for* 6/8/2022  
CELIA BREWER, City Attorney Date

CARLSBAD POLICE OFFICERS' ASSOCIATION

*James Willis* 5/25/2022  
JAMES WILLIS, President Date