

May 29, 2021 – June 24, 2022

BUENA PARK POLICE MANAGEMENT ASSOCIATION



MEMORANDUM OF UNDERSTANDING

No. 21-22

ADOPTED MAY 25, 2021, RESOLUTION No. R14327

**MEMORANDUM OF UNDERSTANDING
BUENA PARK POLICE MANAGEMENT ASSOCIATION**

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MEMORANDUM OF UNDERSTANDING
Between
THE CITY OF BUENA PARK, CALIFORNIA
(Hereinafter called CITY)

and

BUENA PARK POLICE MANAGEMENT ASSOCIATION
(Hereinafter called ASSOCIATION)

PREAMBLE

Pursuant to California law representatives of the City and the Association (a duly recognized employee organization) have met and conferred in good faith and reached an agreement and recommend that the Buena Park City Council adopt this Memorandum of Understanding.

EMPLOYER – EMPLOYEE RELATIONS

ARTICLE 1 – TERM

The term of this Memorandum of Understanding shall be May 29, 2021 through midnight on June 24, 2022, unless otherwise specified in provisions hereinafter. Terms and conditions of employment already in effect on May 28, 2021, shall be considered minimums for the purpose of this agreement except as amended or repealed by specific provisions hereinafter.

ARTICLE 2 – REPRESENTATIONAL UNIT

The Association is the only employee organization entitled to meet-and-confer in good faith on matters within the scope of representation on behalf of employees in the Police Management Unit, which shall consist solely of the classifications of Police Captain and Police Lieutenant.

ARTICLE 3 – MANAGEMENT RIGHTS

Except as expressly abridged or modified herein, the City retains all rights, powers and authority with respect to the management and direction of the performance of City services and the work forces performing such services, provided that nothing herein shall change the City's obligation to meet-and-confer on all matters relating to employment conditions and employer-employee relations including, but not limited to, wages, hours, and terms and conditions of employment or be construed as granting the City the right to make unilateral changes on matters within the scope of representation. However, the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law and executive order.

Neither the City nor the Association waives any rights under the law by agreeing to this clause and it is the intent of the parties that the scope of representation be defined by California statutory and case law.

ARTICLE 4 – EXISTING CONDITIONS OF EMPLOYMENT

Except as expressly provided herein, during the term of this Memorandum of Understanding there shall be no changes in existing benefits, and terms and conditions of employment which have been expressly provided in prior Memoranda of Understanding, and/or expressly provided for in the various Ordinances and Resolutions of the City of Buena Park.

ARTICLE 5 – MEET AND CONFER PROCESS

The Association and City have met and fully discussed terms and conditions of employment. Under the Meyers-Millas-Brown Act, no additional items will be placed under discussion for purposes of meet-and-confer unless mutually agreed.

The parties shall cooperate to improve the format, clarity, and consistency of the Memorandum of Understanding.

PAY

ARTICLE 6 – ASSIGNMENT OF CLASSES TO PAY RANGES

Each classification is assigned to a pay Range as shown in Exhibit A.

ARTICLE 7 – BASE SALARY SCHEDULE

- A. For active employees as of May 29, 2021 (beginning date of the Term of this MOU), previously agreed cost of living adjustment of 2.5% and 3% salary adjustment increase to each step within the pay schedule are reinstated back to the previous effective date of June 27, 2020. Eligible employees will be paid a lump sum payment based on the number of hours worked.
- B. The above section is contingent upon the City receiving its first installment of the American Rescue Plan (ARP) funds, expected in May 2021. If the City does not qualify to receive ARP funds, the City and Association Agree to continue to meet and confer in good faith.

ARTICLE 8 – LONGEVITY PAY

- A. The City Agrees to implement a longevity pay program to be administered in the following manner:

1. Employees with 20-24 years of City service shall receive a three (3%) base salary adjustment on an annual basis.
 2. Employees with 25 years or more of City Service shall receive a five (5%) base salary adjustment on an annual basis.
- B. Two-Tier Longevity Pay System. For employees hired after October 13, 2012, the following longevity pay program will be administered in the following manner:
1. Employees with 20 years but less than 25 years of current continuous City service shall receive an additional \$175 per month.
 2. Employees with 25 years or more of current continuous City Service shall receive an additional \$300 per month.

ARTICLE 9 – OVERTIME PAY

- A. OVERTIME. Employees in this unit are not eligible for overtime compensation, except that a Lieutenant working as the Watch Commander/Patrol who is required to perform in excess of 40 hours in a 7-day cycle shall receive compensation at the rate of time and one-half his/her regular rate of pay. The regular rate of pay shall include the following components in addition to base salary:
- Longevity Pay
 - Educational Incentive
 - Excess Medical
 - Waiver of Medical Insurance

In determining an employee's eligibility for the regular rate, paid and unpaid leaves of absences shall be excluded from the total hours worked. Paid leave of absence includes, but are not limited to, the following:

- Vacation
- Holiday Leave
- Sick Leave
- Management Leave
- Workers' Compensation Leave
- Jury Duty
- Bereavement Leave
- Military Leave

There shall be no pyramiding of overtime. Hours worked by an employee in any workday or workweek on which premium rates have once been allowed shall not be

used again in any other overtime calculation other than computing total actual hours worked.

ARTICLE 10 – EDUCATION PROGRAM

A. REIMBURSEMENT.

1. An employee who is pre-approved by the department head to attend a specified, off-duty education course shall receive reimbursement for certain expenses. An approved education course is defined as off-duty instruction that will be mutually and immediately beneficial to the employee and the City.
2. Prior to enrolling in the class, an employee desiring reimbursement for expenses shall acquire the department head's approval as to course content and its relationship to the employee's City employment. On completion of the course, with a grade of "C" or better, the employee shall submit a Request for Educational Reimbursement form to the department head along with a copy of the official transcripts, and receipts for total cost of the course.
3. On approval by Human Resources and Finance, the employee shall then be reimbursed up to a maximum of \$2,000 per fiscal year for tuition, transportation costs where appropriate, registration fees and related expenses necessary for completion of the course. The cost of books required for the course shall be reimbursed at actual cost; this reimbursement is not part of the \$2,000 maximum described above.
4. Reimbursement will be made only for coursework taken within the current fiscal year (July 1 – June 30). The difference between the City's maximum obligation during any fiscal year and the total amount of actual reimbursement received by the employee during that fiscal year shall not be carried over or be available for use by the employee in any subsequent year.
5. A copy of the official transcript shall be forwarded to the Human Resources Office for retention in the employee's education file.

B. EDUCATIONAL INCENTIVE ALLOWANCE. Sworn employees hired before October 13, 2012 shall receive an additional allowance as follows:

- P.O.S.T. Advanced Certificate, and/or B.S. or B.A. degree 5.0% of base pay
- M.A., M.S. or J.D. degree 7.5% of base pay

No employee may receive more than one educational incentive benefit at one time.

Sworn employees hired on or after October 13, 2012 shall receive an additional allowance as follows:

- P.O.S.T. Advanced Certificate, and/or B.S. or B.A. degree \$300 per month
- M.A., M.S. or J.D. degree \$400 per month

No employee may receive more than one educational incentive benefit at one time.

ARTICLE 11 – CLOTHING ALLOWANCE

Each employee shall receive an \$800 annual allowance for the replacement and maintenance of uniforms.

Sworn personnel assigned to the Special Weapons and Tactical Unit (SWAT) shall receive an additional \$150 annual allowance for the replacement and maintenance of uniforms.

Any part or portion of a uniform rendered unacceptable by any act of employment shall be replaced at City expense. Upon separation, these employees shall return to the City any usable items that were obtained from City funds.

The clothing allowance for the Association shall be the same amount as the Buena Park Police Association.

ARTICLE 12 – MILEAGE

An employee required to use a personal vehicle for City business shall be reimbursed at the rate allowed by the Internal Revenue Service.

RETIREMENT

ARTICLE 13 – PUBLIC EMPLOYEES RETIREMENT SYSTEM

A. RETIREMENT PLAN. The City shall maintain its contract for a pension plan with the California Public Employees Retirement System (CalPERS), as originally adopted on March 1, 1964 and amended thereafter.

B. CONTRACT OPTIONS. The City's contract with CalPERS for employees hired before October 13, 2012 shall include the following options:

	<u>Government Code Section</u>
1. One Year Highest Compensation	20042
2. Military Service Credit as Public Service	21024
3. 3% at 50 – Full Formula	21362.2
4. Fourth Level of 1959 Survivor Benefit	21574
5. Post Retirement Survivor Allowance	21624 and 21626
6. Pre-Retirement Optional Settlement 2 Death Benefit	21548

C. SECOND TIER CONTRACT OPTIONS. The City's contract with CalPERS for employees hired on or after October 13, 2012 shall include the following options:

	<u>Government Code Section</u>
1. Three Highest Years Compensation	20037
2. Military Service Credit as Public Service	21024
3. 2% at 50 – Full Formula	21362
4. Fourth Level of 1959 Survivor Benefit	21574
5. Post Retirement Survivor Allowance	21624 and 21626
6. Pre-Retirement Optional Settlement 2 Death Benefit	21548

D. THIRD TIER CONTRACT OPTIONS. The City's contract with CalPERS for employees hired on or after January 1, 2013, shall include the following options:

	<u>Government Code Section</u>
1. Three Highest Years Compensation	7522.32
2. Military Service Credit as Public Service	21024
3. 2.7% at 57 – Full Formula	7522.25
4. Fourth Level of 1959 Survivor Benefit	21574
5. Post Retirement Survivor Allowance	21624 and 21626
6. Pre-Retirement Optional Settlement 2 Death Benefit	21548

E. CONTRIBUTIONS – SAFETY EMPLOYEES.

1. Employees shall pay the full nine percent (9%) member contribution via payroll deduction on a pre-tax basis.
2. Employees hired on or after January 1, 2013, shall pay 50% of the normal cost rate for the benefit formula 2.7% at Age 57 via payroll deduction on a pre-tax basis (Government Code Section 7522.30).
3. 1959 Survivor. Each employee shall pay the employee share required by CalPERS (currently \$2.00 per month) and the City will pay the employer cost.

ARTICLE 14 – SOCIAL SECURITY

In the event the City and its employees are required to participate in the Federal Social Security program, the contribution designated by law to be the responsibility of the employee shall be paid in full by the employee and the City shall not be obligated to pay or "pick-up" any portion thereof.

INSURANCE

ARTICLE 15 – MEDICARE

Employees hired by the City on or after April 1, 1986, shall pay the designated employee contribution to participate in the Medicare Program and the City shall be under no obligation to pay or “pick-up” any such contributions.

ARTICLE 16 – MEDICAL INSURANCE

A. The City shall provide group medical insurance under the California Public Employees' Medical and Hospital Care Act (PEMHCA).

B. City Contribution. The City shall contribute the following monthly amounts for group medical insurance. Any additional contribution necessary to maintain group medical insurance shall be borne solely by the employee.

1. Persons Hired On or Before June 30, 1999.

Employees

For coverage effective:	July 1, 2020
• Employee Only	\$ 946.00
• Employee & One Dependent	\$1,390.00
• Employee & 2 + Dependents	\$1,742.00

Retirees

• Retiree Only	\$200.00
• Retiree & 1 Dependent	\$310.00
• Retiree & 2 + Dependents	\$420.00

2. Persons Hired On or After July 1, 1999.

Employees

For coverage effective:	July 1, 2020
• Employee Only	\$ 946.00
• Employee & One Dependent	\$1,390.00
• Employee & 2 + Dependents	\$1,742.00

Retirees

The City's contribution for retirees who were hired on or after July 1, 1999 is determined by the California Public Employees Retirement System (CalPERS) in accordance with Section 22892 of the Public Employees' Medical and Hospital Care Act (PEMHCA). The contribution amounts are subject to change each calendar year based on changes to the medical care component of the Consumer Price Index.

- a. For coverage effective January 1, 2021: \$143.00/month per retiree
- b. For coverage effective January 1, 2022: \$149.00/month per retiree

C. EXCESS MEDICAL. An employee who selects a health insurance plan which costs less than the City's maximum monthly contribution may have the difference placed in his/her deferred compensation account, purchase products available through the City's Cafeteria plan, or receive a cash payout. For example, an employee with two or more dependents is entitled to a maximum monthly contribution of \$1,642. If he/she has a health insurance plan which costs \$1,203.05 per month, the employee is entitled to \$438.95 per month in excess medical.

D. WAIVER OF MEDICAL INSURANCE.

1. An employee may elect to not be covered by a City group medical insurance plan if he/she provides proof of coverage from another group medical insurance source. The City may require proof of coverage at any time.
2. An eligible employee may elect to have the City's monthly contribution applied to his/her deferred compensation account, the purchase of products offered through the Cafeteria Plan, and/or receive a cash payout.

The City Contributions shall be: \$896.00 per month

E. FLEXIBLE BENEFIT ALLOWANCE. Each employee shall also be entitled to a flexible benefit amount according to the following schedule:

	<u>Monthly Total</u>
• Employee Only	\$ 38.00
• Employee & 1 Dependent	\$132.00
• Employee & 2 + Dependents	\$161.00

This allowance may be used by the employee to purchase benefits from the City's benefits program or may be placed in the employee's deferred compensation program.

To make this election, the employee must complete a 'Health Benefit Redirection Form', and submit to the Human Resources Office. This election will be irrevocable for the calendar plan year for flexible benefits per IRS Code Section 125, and such election cannot otherwise negatively impact or violate the Cafeteria Plan (Article 20).

- F. SERVICE RETIREMENT ACCOUNT (SRA). In addition to the Contribution pursuant to the CalPERS contract, employees hired on or after July 1, 1999, will be allowed to bank accrued sick leave time for use upon Retirement from Service, into a Service Retirement Account to defer out-of-pocket expenses for purchasing group medical insurance under the City's program. The City will participate in the SRA by matching the employee contribution on a two-for-one basis.
1. SRAs are not subject to fellow employee donations of sick leave or any other leave provisions. However, the SRA will be coordinated with the City's Sick Leave Buyback program.
 2. To be eligible, an employee must have a sick leave balance of at least of 480 hours, and must maintain at least 480 hours of sick leave after making such deposit.
 3. An eligible employee may place up to one-half of any unused portion of his/her annual sick leave accrual into the SRA, with the City matching contribution of two-to-one. This provision will be coordinated with the sick leave buyback provision, thereby limiting buyback and SRA deposits to one-half of any unused portion of their annual sick leave accrual.
 4. The SRA is not subject to bearing interest. Eligible employee deposits and the City's matching contributions are flat deposits.
 5. Sick leave placed in the SRA will be converted into cash at the employee's base pay rate and thus will no longer be available as sick leave once deposited in the SRA.
 6. The donor employee shall have two options for withdrawal of funds:
 - a. At the option of the employee, upon retirement from service, the SRA will be paid at the then hourly rate for the depositor. This shall include the employee contribution as well as the City's matching portion, which will be used to offset/defer costs associated with purchasing group medical insurance plans during retirement.
 - b. The employee may, at any time, withdraw hours from the SRA to convert to cash, and will be paid at the base pay rate in effect when the original deposit was made. An employee making an early withdrawal from the SRA, shall not be entitled to any of the City's matching contribution, and shall lose that equal portion of the matching contribution as was withdrawn, i.e., two-to-one.

7. In the event that a participating employee separates from employment on other than a Retirement from Service (Service Retirement or Disability Retirement), the City shall payoff only the employee's portion of the contributions made to the SRA, at the base pay rate for each deposit and shall not be entitled to any of the City's matching contribution;
8. In the event the SRA survives an active employee, or a retired employee, the City will pay off the balance of the employee's contribution to the survivor of record. Payment will be at the then-current base pay rate for the active employee and/or at the base pay rate of withdrawal for retired employee, including the City's matching contribution.
9. The City reserves and retains the right to hear and make determinations regarding any disputes caused by this provision of the MOU. Determinations shall be made in a manner that no employee shall lose his/her portion of the SRA and the City will not lose its portion of the matching contribution. Any determinations made in hearing a dispute to grant the City's portion of the matching contribution will be made on a case-by-case basis, and will not be determined to be a past practice or official policy of the City.

Any person employed by the City prior to July 1, 1999 who is not currently a member of this unit of representation shall enjoy all benefits and rights of those employees hired prior to July 1, 1999, upon later occupying a position within this unit of representation.

10. Effective October 13, 2012, all employees not currently enrolled in the SRA program are not eligible to enroll in this program. This program is closed to new enrollees.
 11. The City will waive the requirement to have 480 hours of accumulated sick leave as described in sections (2) and (3) above if the employee was unable to accumulate the required sick leave due to COVID-19 related reasons. Furthermore, COVID-19 related sick leave will not be calculated as hours used in this section.
- G. RETIREE MEDICAL ACCOUNT (RMA). An employee may bank accrued sick leave upon Retirement (Service or Disability Retirement) from City service into a RMA to defer out of pocket expenses for medical premium payments under the City's group insurance program.

An employee who wishes to participate in the RMA program must file in writing with the Human Resources Office a request to participate at least 60 days prior to his/her anticipated retirement date. Exceptions to the notice requirement will be made for industrial disability retirements.

1. RMAs may be established on an individual basis only; and are an irrevocable determination;
2. RMAs are not subject to fellow employee donations of sick leave or other leave provisions. However, the RMA will be coordinated with the City's Sick Leave Pay on Separation provision. (See Article 25);
3. To qualify for conversion of unused sick leave into a RMA, an employee must separate from City service with a valid CalPERS retirement (Service Retirement or Disability Retirement);
4. An employee terminated for cause or who resigns from City service not associated with a CalPERS service or disability retirement does not qualify;
5. An employee must have a minimum of 480 hours of sick time on the books at the time of retirement;
6. For the purpose of determining eligibility for participation in the RMA program, the number of unused accrued sick leave hours will be calculated in the following manner:
 - a. Employees hired prior to September 20, 1982:
 - 1) Payment under the Sick Leave Pay on Separation provision will be calculated first. Under this provision, employees are eligible for payment of their unused sick leave up to a maximum of 480 hours, based on years of service, and must separate from the City on a service or disability retirement.
 - 2) The hours being paid will be deducted from the employee's unused sick leave up to the maximum of 480 hours.
 - 3) After payment of sick leave under the Sick Leave Pay on Separation provision, the remaining balance of unused sick leave must be 480 hours or more to qualify for participation in the RMA program. Sick leave balances of 480 hours or more will then be converted based on paragraph #8, below.
 - b. Employees hired between September 20, 1982 and July 1, 1999:

Employees in this category must have a minimum of 480 hours of unused sick leave on the books at the time of retirement.
 - c. Employees hired after July 1, 1999:

Employees in this category must have accumulated a minimum of 480 hours of sick leave, and have participated in the SRA program for a minimum of five years.

7. The City will convert sick leave balances over 480 hours to a RMA at the employee's base pay rate at retirement. These monies can be used for medical-only premium amounts not covered by the City's existing contribution to the retirement medical program.
8. The balance of sick leave hours will be converted on the following basis:

480 - 1000 hours	-	60% of the value of all unused sick leave based on the employee's base pay rate* at the time of retirement.
1001 - 1500 hours	-	80% of the value of all unused sick leave based on the employee's base pay rate* at the time of retirement.
1501 and above	-	100% of the value of all unused sick leave based on the employee's base pay rate* at the time of retirement.

*Base pay rate is defined as the amount listed in Exhibit A.

9. The RMA is not subject to bearing interest. No lump sum cash payouts will be offered on the remaining balance of unused sick leave.
10. The amount of unused sick leave placed into the RMA will be converted into cash at the employee's base pay rate at the time of retirement, and used to offset/defer costs associated with medical premium rates;
11. In the event the RMA has funds remaining at the time a retired employee dies, the spouse will continue to receive the benefit, in accordance with and under the terms of this program, until his/her death or until no funds remain.
12. The City reserves and retains the right to hear and make determinations regarding any disputes caused by this provision of the MOU. Any determinations made in hearing a dispute will be made on a case by case basis, and will not be determined to be a past practice or official policy of the City.

ARTICLE 17 – DENTAL INSURANCE

The City shall continue to provide the current dental program for both employees and their eligible dependents under the age of 26.

Each employee is responsible for choosing one of the three plans listed below. In the event that no choice is made, the employee will be deemed to have chosen no dental insurance coverage.

Employees may switch plans only during the open enrollment period designated by the City.

Payment of Premiums. Employees shall pay the amounts shown below. Any additional amount necessary to maintain group dental insurance shall be paid by the City.

A. **50/50 PLAN.** The insurance carrier pays 50% of major expenses (up to a maximum of \$2,000 per calendar year) and the employee pays 50%.

	<u>Monthly</u>
• Employee Only	\$3.00
• Employee & 1 Dependent	\$5.00
• Employee & 2 + Dependents	\$7.50

B. **80/20 PLAN.** The insurance carrier pays 80% of major expenses (up to a maximum of \$2,000 per calendar year) and the employee pays 20%.

	<u>Monthly</u>
• Employee Only	\$10.00
• Employee & 1 Dependent	\$15.00
• Employee & 2 + Dependents	\$20.00

C. **HMO PLAN.** The insurance carrier pays a portion of all services based on the fee schedule. Employees who enroll in this plan do not pay any monthly premium. Each employee is responsible for any co-payment associated with this plan.

ARTICLE 18 – LONG TERM DISABILITY INSURANCE

A. The City shall pay the entire premium for a City-owned long-term disability insurance policy affording coverage to each active employee.

B. The policy shall have a benefit waiting period of 60 calendar days of continuous disability. Anytime after the expiration of the benefit waiting period, the employee may apply for this insurance and may use accrued leave pursuant to the City's policy thereon.

C. The maximum benefit for total disability shall be 66 2/3 of the eligible employee's basic monthly earnings as defined in the policy document, or \$2500 per month, whichever is less.

ARTICLE 19 – LIFE INSURANCE

The City shall provide group term life insurance (including accidental death and dismemberment) for each employee in the amount of \$50,000. Each employee, at his/her own expense, may purchase additional life insurance from the insurer through the City.

ARTICLE 20 – CAFETERIA PLAN

- A. The City shall provide a full flexible Cafeteria Plan under IRS Code Section 125, to include Premium Only Conversion, Health Care Spending and Dependent Care Accounts.
- B. The City and individual participants shall divide the cost of the third-party administration service fee. Service fees are to be paid only by employees enrolled in the Health Care Spending Account and/or Dependent Care Spending Account. There is no service fee for participants in the Premium Only Conversion plan. The service fee may be amended from time to time by the City and the third-party administrator. The City consult with employees, prior to increasing any deduction from employees, for any plan year.
- C. The City will utilize any assets remaining in the plan at the end of each plan year to off-set service fees for employees enrolled in either the Health Care Spending Account and/or Dependent Care Spending Account. "Plan year" is as defined in the plan documents. This item is governed by the Cafeteria Plan documents as it relates to Plan Year. Asset utilization to off-set service fees shall be determined no later than June 30 of any subsequent year.

ARTICLE 21 – ADMINISTRATION

- A. The City shall have the right to select any insurance carrier or other method of providing coverage to fund the benefits included under the terms of this MOU, provided that the benefits of the employees shall be substantially the same prior to implementation of this MOU.
- B. If, during the term of this MOU, any change of insurance carrier or method of funding for any benefit provided hereunder occurs, the City shall meet with the Association prior to any change of insurance carrier or method of funding the coverage.
- C. All group insurance benefits shall be provided and calculated in accordance with the City's contracts with insurance providers.

LEAVES

ARTICLE 22 – HOLIDAYS

A. The following dates, and such other day or portion of days as may be designated by motion of the City Council, shall be observed as paid holidays of 10 hours each by all employees in permanent positions, except sworn personnel shall receive an extra day of vacation or equivalent pay, whichever in the judgment of the department head best serves the interests of the Department. All unused holiday leave banked must be used by the end of the fiscal year or will be forfeited.

<u>Holiday</u>	<u>Date</u>
New Year's Day	January 1
Martin Luther King Jr. Day	3 rd Monday in January
Washington's Birthday	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 st Monday in September
Veterans' Day	November 11
Thanksgiving Day	4 th Thursday in November
Day after Thanksgiving	Friday following 4 th Thursday in November
Day before Christmas	December 24
Christmas Day	December 25

The City will waive the requirement that all unused holiday leave banked must be used by the end of the fiscal year or will be forfeited if the employee was unable to use holiday leave banked due to COVID-19 related reasons.

B. In addition, employees shall earn one floating holiday per fiscal year. This floating holiday shall be designated by the employee and requires management approval, in advance, before it is taken. New hires must be employed for three months before gaining eligibility for the floating holiday.

Notwithstanding the above paragraph, the City will waive the three month waiting period for eligibility for the floating holiday to be used for COVID-19 related reasons.

C. When a holiday occurs on a Saturday, the preceding Friday will be observed instead. When a holiday occurs on a Sunday the following Monday will be observed.

D. For personnel working on shift assignments, the holiday will be observed on the actual date listed on the designated holiday.

ARTICLE 23 – VACATION LEAVE

A. ACCRUAL. Vacation leave with pay shall accrue to each full-time regular and probationary employee at the following rates:

<u>Years of Service</u>	<u>Vacation Hours Per Year</u>
Less than 5 years	100 hrs. per year (8-1/3 hrs. per month)
5 years to 10 years	120 hrs. per year (10 hrs. per month)
10 years to 15 years	160 hrs. per year (13-1/3 hrs. per month)
15 years or more	200 hrs. per year (16-2/3 hrs. per month)

B. ACCUMULATION. Accumulation of vacation leave in excess of twice the employee's annual accrual rate is prohibited. All vacation leave exceeding the maximum authorized accumulation shall be forfeited, provided that if an employee has made reasonable efforts to utilize vacation leave prior to the end of the preceding year, but has been denied those opportunities the excess vacation leave shall not be forfeited and the employee shall be afforded a reasonable opportunity to use that leave as soon as practicable. Those employees with 15 years or more shall not exceed a maximum of 400 hours.

Notwithstanding the above paragraph, the City will waive the accumulation cap described above as long as vacation leave does not exceed the authorized accumulation cap by December 31, 2021. All vacation leave exceeding the authorized accumulation after December 31, 2021, shall be forfeited.

C. USAGE. Vacation leave shall not be in excess of that actually earned at the time the vacation starts.

1. Each employee must take an annual vacation of at least one week (40 hours). The department head may modify this requirement under appropriate circumstances.
2. The time during the calendar year at which an employee shall take vacation shall be determined with particular regard for the needs of the City and due regard for the wishes of the employee.
3. In the event one or more municipal holidays falls within a vacation leave, such days shall not be charged as vacation leave, and the vacation leave shall be extended accordingly for those employees eligible for such holidays.
4. Any leave of absence without pay for each 30 day period of such leave.
5. No newly hired probationary employee shall accrue or be entitled to any vacation until completion of 12 months of continuous service.

Notwithstanding the above paragraph, the City will waive the 12 month waiting period for eligibility for vacation leave to be used for COVID-19 related reasons.

D. ANNUAL CONVERSION. Once each fiscal year an employee may elect to convert up to 40 hours of vacation leave into a cash payment at the employee's then-current rate of base pay. To be eligible for this option, the employee must utilize 40 hours of vacation leave in the preceding fiscal year.

The City will waive the requirement to utilize 40 hours of vacation leave in the preceding fiscal year if unable due to COVID-19 related reasons.

E. VACATION PAY AT SEPARATION.

1. Upon separation, an employee who has completed his/her initial probation period with the City will receive compensation at the employee's current rate of base pay for all unused earned vacation up to and including the date of separation.
2. A probationary employee who has not completed 12 months continuous service shall not receive vacation pay at separation for regular vacation.
3. An employee who separates while serving a probation period in a classification to which the employee has been promoted shall receive separation vacation pay based on the hourly equivalent of the base pay received immediately prior to promotion provided the employee has successfully completed the probation period in the classification from which the employee was promoted.

ARTICLE 24 – MANAGEMENT LEAVE

Management personnel are not eligible for paid overtime (exception: Police Lieutenants may receive overtime compensation while working as Watch Commander, subject to the approval of the Police Chief and the City manager, in accordance with the Memorandum of Understanding (MOU)). Each employee shall receive 40 hours of management leave per fiscal year. Management leave must be taken by June 30th each year and no part of it may be carried over into the next fiscal year.

Additional time may be granted by the employee's department head for time spent at required meetings, special events, and job-related emergencies.

The definition of meetings and special events includes:

- City job-related emergencies
- City Council meetings
- City Commission or Committee meetings, or
- Any meeting or special event approved in advance by the City Manager or his/her designee.

Employees shall have the right to “sell back” to the City up to 40 hours of Management Leave per fiscal year (July 1 thru June 30) at the employee’s regular rate of pay. All hours not sold back to the City must be used by June 30th each year or they are forfeited.

Notwithstanding the above paragraph, the City will waive the requirement that all unused Management Leave banked must be used by the end of the fiscal year if the employee was unable to use Management Leave banked due to COVID-19 related reasons.

ARTICLE 25 – SICK LEAVE

A. ACCRUAL.

1. Each employee shall accrue sick leave with pay at the rate of eight hours for each full month of continuous service in which the employee has worked or has been authorized leave of absence with pay.
2. Any leave of absence without pay exceeding 15 consecutive days shall result in no accrual of sick leave during the consecutive days of the employee’s leave of absence without pay that is in excess of 15 consecutive days.

B. ACCUMULATION. Sick leave may be accumulated without limit.

C. USAGE.

1. Sick leave may be taken only when the employee has sick leave credits. An employee shall be eligible to take sick leave after he/she has worked one full calendar month.
2. Sick leave may be granted only with the approval of the department head and only in case of a bona fide illness or medical/dental appointments of the employee. The Department Head and/or City Manager may require a physician’s certificate or other evidence of the adequacy of the reason for the employee’s absence during the period for which sick leave was requested. A doctor’s verification may be required after the third working day of absence.
3. Sick leave may also be used for bona fide illness or medical/dental appointments of a family member (spouse, child, brother, sister, mother, father, mother-in-law, father-in-law, grandmother, grandfather) when the presence of the employee is required up to a maximum of three days per individual situation. The department head may require a physician’s certificate or other evidence of adequacy of the reason for the employee’s absence during the period for which sick leave was requested.
4. Maternity leave of absence. The employee shall submit a doctor's statement approving her fitness to continue working for a specified term. A post-natal release from the doctor must be submitted prior to returning to work.

5. Sick leave shall not be used in lieu of, or added to, vacation. Accrued vacation leave shall be used for sickness when all sick leave has been taken.
6. Sick Leave during vacation. An employee who becomes ill while on vacation may have such period of illness charged to accumulated sick leave instead of to vacation, provided that immediately upon return to duty, the employee submits to the department head a written request for sick leave and a written statement signed by the employee's physician describing the nature and dates of the illness.
7. Limitations. No employee shall be entitled to accrue or to take sick leave with pay while absent from duty for any of the following reasons:
 - a. Disability or illness arising from compensated employment other than with the City of Buena Park.
 - b. Leave of absence without pay.
 - c. Absence because of intoxication or for the purpose of recovering from intoxication.

D. MEDICAL LEAVE OF ABSENCE. Upon written request of the employee and recommendation by the department head, the City Manager may authorize in writing a leave of absence without pay for the purpose of recovering from an illness, provided:

1. The employee has used all accumulated sick leave.
2. The employee has been continuously employed in the City service for at least one year.
3. The employee presents to the department head for referral to and consideration by the City Manager a written explanation of the employee's illness and an estimate of the time needed for recovery signed by the employee's physician.
4. Prior to resuming work, the employee may be required to take a medical examination at the employee's expense and as prescribed by the City Manager. The employment record and the results of such examination shall be considered by the City Manager or designee in determining the employee's fitness to return to work.
5. The maximum period of such leave shall be three calendar months. If the employee desires an extension, the employee shall follow the procedure described in subparagraph 3 above. This must be done prior to the end of the initial leave.

E. PENALTY FOR ABUSE. When in the judgment of the department head, the employee's reason for being absent because of alleged sickness is inadequate, the

department head shall indicate on the payroll form that the absence was without pay. The department head may recommend to the City Manager that disciplinary action be imposed against the employee.

F. ANNUAL BUYBACK.

1. To be eligible, an employee must have:
 - a. 480 hours of accumulated sick leave on the books as of the first pay period of July of the preceding year, and
 - b. 480 hours of accumulated sick leave on the books after the cash out.

The City will waive the requirement to have 480 hours of accumulated sick as described in sections (a) and (b) above if the employee was unable to accumulate sick leave due to COVID-19 related reasons.

2. An employee who wishes to participate must file in writing with the department head within 30 days of the end of fiscal year on June 30. This request will apply for the previous fiscal year sick leave accumulation.
3. Participants will be paid for 50% of the hours accrued during the fiscal year. These hours being paid will be deducted from the employee's sick leave bank. The other one-half of hours accrued, but not used, will remain in the employee's sick leave bank. Payment will be at the employee's base hourly rate in effect at the time of payment.

G. SICK LEAVE PAY ON SEPARATION. Except as herein provided, no payment shall be granted to an employee for accrued sick leave at the time of separation. Termination of an employee's continuous service, except by reason of layoff for lack of work or funds, shall abrogate all sick leave accrued at the time of such separation, regardless of whether the employee subsequently reenters the City service.

An employee hired on or prior to September 19, 1982, shall be paid for 50% of the value of his/her unused sick leave based on the employee's rate of base pay at the time of honorable separation or retirement.

An employee appointed on or after September 20, 1982, shall not be eligible for sick leave pay on separation as provided for in this section.

An employee may only accrue 120 days (960 hours) of sick leave for the purposes of this section and for the purposes of compensation on separation.

H. COVID-19 RELATED ADVANCED LEAVE. In the event an employee has exhausted all leave banks (i.e. vacation, sick leave, and compensatory time off, etc.), an

employee has the option to be advanced (borrow) **up to 80 hours** of sick leave or the option to use leave without pay for COVID-19 related reasons.

To be advanced leave, the employee must enter into an agreement to repay such leave **within one year** from the date of the last day of approved leave used under this agreement using all available future leave banks (i.e. Sick, Vacation, Floating Holiday, Management Leave, etc.) and agree to all terms and conditions of the agreement.

All future monthly and annual leave accruals earned, including any applicable Sick Leave, Vacation Leave, Floating Holidays, Administrative Leave, Management Leave, Holiday Banked, Compensatory Time, and etc. shall be used to repay the advanced sick leave.

Except as modified by this Policy, all City policies, procedures, regulations, and Memoranda of Understanding remain in full force and effect. This is an emergency agreement due to COVID-19 and is not a binding practice. This Policy is subject to change at any time, based on changing circumstances and information known about the COVID-19 virus. The City will notify employees of any changes to this Policy and will comply with all applicable laws regarding notice to bargaining units, as required.

ARTICLE 26 – BEREAVEMENT LEAVE

Whenever an employee who is eligible to receive sick leave is compelled to be absent from duty by reason of the death (or critical illness where death appears imminent) of a family member, the employee shall, upon approval of the department head, be entitled to charge such absence to the employee's accumulated sick leave to a maximum of five working days for each such incident. Use of such leave shall not count against the sick leave buy back or deposits made to the SRA.

“Family member” is defined as the employee's or spouse's:

- Father
- Grandfather
- Sibling(s)
- Spouse
- Mother
- Grandmother
- Child
- Grandchildren

ARTICLE 27 – WORKERS COMPENSATION

- A. Sworn employees shall receive industrial accident leave according to the provisions of Section 4850 of the California Labor Code.
- B. Any employee so entitled, shall continue to accrue vacation, holidays and sick leave, and to earn eligibility for consideration for merit salary increases during an absence resulting from an on-the-job injury.

- C. Any employee shall continue to accrue vacation, holidays, sick leave and to earn eligibility for consideration for merit salary increases during an absence resulting from an on-the-job injury, provided the employee receives compensation payments under the provisions of the California Workers' Compensation law.

ARTICLE 28 – JURY DUTY

No deduction shall be made in the pay of an employee who serves on jury duty if the employee has waived or remitted to the City the fee for such jury duty. An employee who serves on jury duty on a scheduled day off shall not be required to remit his/her jury fees for that day. If the employee has not so waived or remitted the jury fee, the employee shall be paid only for the time actually worked in the City position. An employee summoned to jury duty shall immediately notify his/her supervisor in writing. The employee shall remit to the City all fees and allowances payable for jury duty, less reimbursements from the court for meals, travel or lodging.

An employee who is scheduled to work the swing or graveyard shift and is called to jury duty shall be given time off on his/her scheduled shift if he/she is required to serve on jury duty that day. An employee shall be given time off for the number of hours actually served on jury duty.

ARTICLE 29 – OTHER LEAVES

- A. Leave without pay. Upon the written recommendation of the department head, the City Manager may authorize special leaves of absence without pay for a period not to exceed 30 calendar days in a calendar year. This provision is available only to employees who are eligible to receive vacation leave.
- B. Authorized leaves of absence without pay of 30 calendar days or less, and leaves of absence with pay for any period shall not constitute an interruption of an employee's continuous service and shall not be deducted in computing total City service. Authorized leaves of absence without pay in excess of 30 calendar days, unless covered by the Family Medical Leave Act, shall be deducted in computing an employee's total City service for advancement in salary range and for other purposes specified in this MOU, but shall not serve to interrupt continuous service.
- C. MILITARY LEAVE. An employee having a probationary or regular appointment shall be entitled to such benefits as are provided in the California Military and Veterans Code. An employee requesting such military leave shall present a copy of the military orders to the department head prior to the beginning of the leave.

Employees who present military orders for active duty status shall continue to receive all forms of compensation he/she would be receiving as if at work for the first 30 days of such absence in any one fiscal year (except weekend drills and/or training).

Weekend drills and/or training are not considered active duty under the Military and Veterans Code and not eligible for salary continuation benefits.

If an employee is called to inactive duty and must report to such duty on days the employee is scheduled to work, the employee must request the time off and use their leave banks for such absence if necessary.

WORKING CONDITIONS

ARTICLE 30 – PAY PERIODS

The City shall utilize the biweekly payroll system. Pay periods shall begin at 12:01 a.m. every other Saturday and end at midnight the second Friday (i.e., 14 calendar days later) thereafter. Paydays shall occur on the Friday following the conclusion of each pay period. The one exception is when that Friday is a City holiday; the payday shall fall on the preceding business day.

ARTICLE 31 - ATTENDANCE

- A. Each employee shall be in attendance at his/her work station in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees, which shall be reported to Payroll on a designated form and on the dates specified. Absence without leave, whether voluntary or involuntary, for a period longer than five consecutive assigned working days, or four consecutive working shifts for personnel on the 4-10 or three consecutive working shifts for personnel on the 3-12 plan is an automatic resignation from City service.
- B. An employee who is absent from duty shall report the reason for such absence to the department head or immediate supervisor prior to the date of expected absence whenever possible, and in no case later than two hours after the beginning of the employee's normal work shift. Absences not reported in such manner may be considered absence without leave. A deduction of pay shall be made for the duration of any absence without leave. Upon return to work, such absence must be justified.

ARTICLE 32 – HOURS OF WORK AND SCHEDULES

- A. WORK WEEK. The work week for all full-time positions shall be 40 hours.
- B. WORK SCHEDULE. The work schedule for each position shall be established by the City Manager and/or department head.
- C. The decision to implement any alternative work schedule is at the sole discretion of the City. An alternative work schedule may be revoked at any time by the City as long as 30 days notice of revocation is given to the Association and employees. Any

modified work schedule shall not be considered a vested right or benefit, and the City has no obligation to meet-and-confer. However, the City agrees to meet with the Association prior to such revocation. Any revocation shall not be subject to any internal grievance or appeal process or court action.

ARTICLE 33 – 4/10 PLAN ALTERNATE WORK SCHEDULE – “4/10” PLAN

- A. Federal legislation in Air Quality Management District (AQMD) Rule 15 requires employers, including cities, to use alternative methods to reduce vehicular pollution emissions. The alternative work schedule will reduce the average number of vehicle trips to the work site between 6:00 a.m. and 10:00 a.m., and comply with the Federal requirements. It also satisfies Council’s direction to provide extended service hours to the public and employees.
- B. Plan Defined. Under this work schedule, employees work four consecutive, 10 hour days in a seven day workweek. The 4/10 schedule provides for a 40 hour workweek every seven days and three consecutive days off.

4/10 scheduling will be at the discretion of the Police Chief.

- C. Work Period. The work period for employees on the 4/10 who are exempt or non-exempt from FLSA requirements will remain the same Saturday through Friday. There are two 40 hour work periods per pay period. This schedule coincides with the current payroll reporting period.

- D. Payroll Period Report Dates – All Employees. Payroll will still be reported in accordance with our payroll calendar for all employees, including those on the 4/10 plan.

E. Payroll Reporting.

1. If an employee uses sick time, vacation time, holiday time or compensation time earned during the pay period and this time had not been reported on the payroll report submitted Monday morning, the time taken must be submitted to Finance by memo.
2. If an employee is in an Absence Without Pay (AWOP) status at any time during the pay period, and this had not been indicated on the payroll report submitted on Monday morning, the supervisor or payroll clerk shall contact Finance immediately to make a payroll correction.
3. All employees should make every effort to notify their supervisor on Thursday, if they will be using sick leave or AWOP time on Friday.

F. Enrolling in or Dropping off the 4/10 Plan.

1. Prior to enrollment in the 4/10 plan, each employee is required to read the 4/10 plan guidelines and sign a statement that he/she has read all the conditions of the plan. A copy will be placed into the employee's personnel file in the Human Resources office.

To expedite future shift changes that affect many employees' work plans and/or changes many employees' days off, a memo listing each employee's new work schedule and days off should be signed by each employee affected and submitted to Finance for payroll changes and to Human Resources where a copy of the memo will be filed in each affected person's employee file. These changes must coincide with the beginning of a new pay period.

2. When an employee separates from employment, the employee will be paid for all hours worked.
3. When an employee changes to a different work schedule, it must coincide with the start of a pay period.

G. Leave Time Accruals. Benefit leave time accruals will remain the same as designated in this MOU.

H. Holidays. For personnel not assigned to a unit operating on a 24 hour basis and with the approval of the employee's supervisor, when a holiday falls on a scheduled workday the employee may (but will not be required to) take the day off on holiday pay. When a holiday falls on a non-scheduled workday the employee may (but will not be required to) take off one day at a later date as agreed to by their supervisor.

I. Paid Sick Time/Vacation.

1. Employees using paid sick leave on a 10 hour day will be charged 10 hours.
2. If the scheduled hours are greater than the sick leave balance, the difference will be covered, by:
 - a. Use of vacation or management leave.
 - b. Other Leaves
 - c. Leave without pay
3. Vacation is charged in the same manner. Vacations occurring on 10-hour days will be charged 10 hours.

J. Workers Compensation. Employees will be paid for industrial accident leave hours in accordance with their current 4/10 work schedule. An employee will return on the same 4/10 work schedule.

K. Military Leave, Jury Duty and Paid Extended Sick Leave. Employees ordered to military duty, summoned to jury duty, or on paid extended sick leave will be paid according to their current work schedule. After the completion of the military leave, jury duty, or paid extended sick leave, the employee will return to his/her regular 4/10

work schedule. An employee shall not receive overtime (pay or comp time) when such leave falls on his/her day off.

- L. Meal Period. At the discretion of the Chief of Police, employee meal periods may be paid time. Employees understand that during such meal periods they are subject to calls for service. The Chief of Police shall determine who is included in meal period as part of work day.
- M. Department Head Responsibility. Changes in an employee's 4/10 work schedule must be coordinated through the department head, AQMD Transportation Coordinator/Administrative Analyst and Finance to ensure that the changes to and from the 4/10 Plan coincide with the beginning of a pay period.
- N. 4/10 Plan Review. A decrease in productivity will represent a negative impact to the alternative work plans. Productivity may be measured by various criteria which may include, but not limited to:

- Sick leave usage
- Inadequate staffing
- Measurable work output
- Employee turnover
- Tardiness
- Employee morale

Moreover, other impacts include service delivery to the public including citizen input through compliments, commendations, or complaints, energy savings, and related costs or funding to the City.

ARTICLE 34 – SUBSTANCE ABUSE

- A. It is the responsibility of all affected employees to cooperate to protect the lives, personal safety and property of co-workers and fellow citizens. The parties hereto and all affected employees shall take all reasonable steps to accomplish these goals and to minimize potential dangers.
- B. It is in the best interest of the City, the Association, employees and the public to ensure that employees do not appear for work under the influence of drugs or alcohol, or possess illegal substances or alcohol while at work, because such conduct is likely to result in reduced productivity, an unsafe working environment, poor morale and increased potential liability to the City. "Under the influence" means the knowing use of alcohol or illegal substance or knowing misuse of a prescribed drug in a manner and to a degree that substantially impairs the employee's work performance or the ability to use City property or equipment safely.
- C. An employee not on paid standby who is called at home to return to work may decline to return if he/she feels physically unable to perform his/her job even if the employee perceives that the inability to perform is the result of having consumed alcoholic beverages. No reason need be given by the employee and the employee shall not be subjected to discipline for his/her refusal to return to work.

- D. The City provides an Employee Assistance Program for employees who have problems with drugs and/or alcohol. Every effort shall be made by the City to refer employees who have such problems to this counseling service for assistance.
- E. The City may, upon showing of reasonable suspicion that this policy is being violated, compel an employee who is unable to perform the duties of his/her position to submit to a medical examination on City time and at the City's expense. "Reasonable suspicion" is a belief based on objective and articulable facts sufficient to lead a reasonable and prudent supervisor to suspect that an employee is "under the influence" in that the employee's ability to perform the functions of the job is impaired or the employee's ability to perform his/her job safely is reduced. Allegations of harassment pursuant to this paragraph shall be reported to the Human Resources office. The Human Resources office shall conduct an investigation into the alleged harassment and take appropriate corrective action as a result of its investigation. Nothing contained herein shall limit the City's right to discipline or discharge any employee.

ARTICLE 35 – NO SMOKING

Employees who become unit employees on or after January 1, 1987, shall, as a condition of their continued employment, refrain from smoking tobacco or any other non-tobacco substance at any time on or off duty. Violation of this condition of employment shall be deemed good cause for dismissal.

ARTICLE 36 – BUMPING PROCEDURE

In the event of layoff, the following procedure shall be used:

- A. All employees in each classification shall be rank ordered based on seniority in classification, irrespective of total City seniority. In the event of a tie in seniority in classification, the person with the highest placement on the eligibility list shall be deemed to have the highest seniority in classification. The employees with the least seniority in that classification shall be the first person(s) laid off.
- B. In the event that the classification series (i.e. Police Captain, Police Lieutenant, Police Sergeant, Police Corporal, Police Officer) from which the employee is laid off has a lower classification with incumbents, the laid off employee (irrespective of the laid off employee's seniority in the lower classification and/or total City seniority) may "bump" one of those incumbents out of the classification and assume his/her position. The determination of which incumbent, is bumped shall be made pursuant to paragraph A.

Bumping in each classification in the classification series shall continue until incumbents are bumped out of the lowest classification in the classification series.

- C. The names of employees who have been laid off shall be placed on an appropriate re-employment list in order of seniority, from highest to lowest. Such names shall remain on the re-employment list for a period of 18 months unless such persons are re-employed sooner. A re-employment list shall be used prior to establishing either an open or closed eligibility list.
- D. When a re-employment list is used to fill vacancies, the personnel officer shall certify from the top of such list, the number of names equal to the number of vacancies. An employee who is re-employed shall receive credit for former services for purposes of seniority, benefit compensation and salary advancement.

ARTICLE 37 – GRIEVANCE PROCEDURE

- A. DEFINITION. A grievance shall be considered as any matter for which appeal is not provided for concerning a dispute about the interpretation or application of this Memorandum of Understanding, or any ordinance, rule or regulation governing personnel practices or working conditions.
- B. PURPOSE.
 - 1. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.
 - 2. To afford employees individually, or through a qualified employee organization, a systematic means of obtaining further consideration of problems after every other reasonable effort has failed to resolve them through discussions.
 - 3. To provide that grievances shall be settled as near as possible to the point of origin.
 - 4. To provide that grievances shall be heard and settled as informally as possible.
- C. PROCEDURE. Whenever an employee feels that the policy of the City is not being appropriately applied to his/her circumstance, he or she can file a grievance to resolve the dispute. The limitation on filing a grievance must be within sixty (60) calendar days from the date the employee or the Association first became aware of, or should have become aware of, the issue(s) underlying the grievance. To file a grievance, he or she shall take the following action(s):
 - 1. The dispute should be discussed fully with the employee's most immediate supervisor who should make every effort to resolve the dispute in a fair and equitable manner and in accordance with established policy. After the employee and the supervisor have discussed the incident, the supervisor will give the employee a written response within two working days.

2. The process described above shall continue through the line of supervision, up to and including the department head, if the aggrieved party is not satisfied with the response at the initial or preceding step(s). The employee will receive a written response within five working days. However, the employee must notify the department head of the dispute in writing.
3. Should the dispute not be resolved by the department head, the employee will notify the Director of Human Resources of the dispute in writing. The Director of Human Resources may interview both parties in the dispute and others affected and report those findings to the City Manager and recommend steps to be taken to resolve the problem within the Department. Within 10 working shifts, the parties will be provided with a written response from the City Manager. The City Manager's decision shall be the final step in the Administrative process.

ARTICLE 38 – ADVISORY ARBITRATION

City Council Resolution 1883, Personnel Rules and Regulations, Rule XVI, Section 2 and Section 5 shall be amended and is incorporated herein and attached as Exhibit E.

ARTICLE 39 – MEDICAL EXAMINATION

The City shall provide an annual medical exam to sworn employees on a voluntary basis.

- A. The City shall pay the entire cost of such examination.
- B. The results of the examination shall be disclosed only to the individual participant and neither the City nor the Association shall have any rights to an individual's examination results, or general or specific medical information obtained from such examination.
- C. Neither the City nor the Association shall take any steps to inquire about any general or specific medical information obtained by any party as a result of the employee's participation in this Program.
- D. All medical examinations shall be conducted while the employee is in a paid capacity.
- E. The examination shall, at a minimum, entitle employee to a blood test, and for those age 40 or older a "Live-Scan" heart examination once every three years, and a treadmill test. The blood test shall not screen employees for drugs or alcohol.

SIGNATURES
Adopted May 25, 2021

FOR THE
CITY OF BUENA PARK

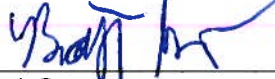


Eddie Fenton
Assistant City Manager /
Director of Human Resources



Alice Burnett
Human Resources Manager

FOR THE BUENA PARK POLICE
MANAGEMENT ASSOCIATION



Brad Geyer
Captain



Rick Pino
Lieutenant

EXHIBIT A -SALARY SCHEDULE – EFFECTIVE JUNE 27, 2020

Title	Range	Step 1			Step 2			Step 3			Step 4			Step 5		
		Hr.	Mo.	Ann.	Hr.	Mo.	Ann.	Hr.	Mo.	Ann.	Hr.	Mo.	Ann.	Hr.	Mo.	Ann.
Police Captain	720	74.87	12,977	155,730	78.57	13,619	163,426	82.45	14,291	171,496	86.5	14,993	179,920	90.76	15,732	188,781
Police Lieutenant	714	64.70	11,215	134,576	67.91	11,771	141,253	71.22	12,345	148,138	74.75	12,957	155,480	78.46	13,600	163,197

*Monthly and Annual Salary are only approximate rates based on the Hourly conversion.

EXHIBIT B – COMPENSATION PLAN

- A. **PURPOSE.** The purpose of this Plan is to establish a Merit system of compensation for all Police Department employees based upon performance and productivity, with due consideration for all qualities of service and contribution to the City.
- B. **SALARY RANGES AND SALARY RATES.** The establishment of salary ranges and salary rates and the allocation of classes thereto shall be by Resolution of the City Council. The type of appointment shall determine whether an employee's salary rate shall be on a biweekly or hourly basis.
1. **Full-time Probationary, Provisional, Temporary, and Acting Appointments.** An employee having a provisional, probationary, or acting appointment that is on a full time basis, shall be compensated at a biweekly rate.
 2. **Other Appointments.** An employee having any other type of appointment shall be compensated at an hourly rate.
- C. **RESPONSIBILITIES OF CITY MANAGER.** Employees shall be paid at biweekly or hourly rates as determined by the City Manager, subject to the provisions of this Resolution.

At least annually the City Manager shall review the existing Compensation Plan and recommend to the City Council a salary range and salary rates for each class for which the City Manager is the appointing authority. In determining salary ranges and salary rates, consideration shall be given to both base pay, fringe benefits, and working conditions.

D. COMPENSATION PROCEDURES - SALARY SCHEDULES

1. **In General.** Except as otherwise provided herein, all new employees shall be appointed at Step 1 of the salary range in effect for the class in which the appointment is made.
2. **Exceptions.** The City Manager may authorize such new appointments at a salary rate up to Step 5 of the appropriate salary range, when the City Manager determines that equity among employees and the interests of the City will best be served.
3. **Temporary Appointees.** Persons employed or re-employed for part-time, temporary, or seasonal service may, upon written recommendation of the Department Head and approval of the City Manager, be compensated at any rate established for the class.
4. **Acting Appointments.** Acting appointments may carry additional compensation if recommended by the Department Head and approved by the City Manager, or when the City Manager determines that equity among employees and the interests of the City will best be served.

5. Employees are eligible to progress to Step 2 after completing 12 months of services at Step 1 with a performance rating of satisfactory or better.
6. Employees are eligible for additional salary increases to Steps 2 through 5 after completion of one (1) year of service at the preceding step on their salary anniversary date. These increases shall be made only if recommended by the Department Head and approved by the City Manager and are awarded in recognition of good performance and as an incentive for continued work improvement. This requires an annual performance Evaluation by the employees' supervisor.

E. COMPENSATION UPON PROMOTION

1. Every promotion from one class to a higher class shall carry a minimum salary increase of five percent (5%). In the event a promotion is made within six (6) months of the employee's salary anniversary date, the placement on the new range shall be to the step of the new range which shall be seven and one-half percent (7-1/2%) or ten percent (10%) over the current rate.

F. COMPENSATION ON DEMOTION.

1. Involuntary Demotion. An employee who is involuntarily demoted shall be reduced in salary to the nearest lowest salary rate of the class of position to which demoted. The employee shall not be required to serve a probationary period in the lower position unless specifically determined by the City Manager.
2. Voluntary Demotion. An employee who is demoted at the employee's own request shall retain the current salary rate if such rate is within the salary range of the lower classification. If the employee's salary rate prior to the demotion was higher than the maximum salary of the lower position, the employee shall receive the latter. The employee shall not be required to serve a probationary period in the lower position unless specifically determined by the City Manager.

G. FAILURE TO COMPLETE PROBATION PERIOD. The compensation of an employee who is rejected during a probation period in a classification and who is assigned to a classification having a lower salary range shall be as follows:

1. If the employee had previously completed a probation period in a lower classification, the employee shall not be required to serve another one; the employee's last salary rate in the lower position shall be the new salary rate upon reassignment to that position and the employee shall earn eligibility to receive subsequent merit salary advancements in accordance with appropriate paragraphs in Section D or E.
2. If the employee had not previously completed a probation period in a lower classification, the effective date of reassignment to that class shall be the employee's new probationary anniversary date, and the employee shall be required to serve a probation period.

H. COMPENSATION ON POSITION RECLASSIFICATION. The salary of an employee in a position that is reclassified shall be determined as follows:

1. Class With Same Salary Range. If the position is reclassified to a class with the same salary range as the previous class, and if the incumbent is appointed to the reclassified position, the salary rate and the salary review date of the employee shall not be changed. This provision shall also apply to a change of class title provided there is no change in the basic duties of the position.
2. Class With Higher Salary Range. If the position is reclassified to a class with a higher salary range than the previous class, and if the incumbent is appointed to the reclassified position, the salary of the employee shall be governed by the Section on Compensation Upon Promotion.
3. Class With Lower Salary Range. If the position is reclassified to a class with a lower salary range than the previous class, and if the incumbent is appointed to the reclassified position, the employee's salary shall not change, and the employee shall not be required to serve a new probation period.

I. COMPENSATION ON TRANSFER. The salary rate and salary review date of an employee who is transferred in class shall not change.

J. COMPENSATION FOR PORTION OF PAY PERIOD. A regular or probationary appointee serving on a full-time basis who works less than a full biweekly pay period, except when on authorized leave of absence with pay, shall receive as compensation for such period an amount equal to the number of hours worked times the employee's hourly rate. The number of hours worked in such pay period shall include paid holidays.

K. CHANGE IN CLASS SALARY RANGE. If a class is allocated to a different salary range, an employee in a position in that class shall be compensated at the same lettered step in the new range as the employee was receiving in the previous range, and the salary review date shall not change.

L. COMPENSATION FOR ACTING APPOINTMENTS. Subject to the following conditions, an employee who is required on the basis of an acting appointment to serve in a class with higher salary range than that of the class in which the employee is normally assigned shall receive the entry level salary rate of the higher salary range or the rate five percent (5%) higher than the rate the employee normally receives, whichever is greater, for all such hours assigned.

1. The employee must perform all the duties and assume all the responsibilities of the higher class.
2. Compensation for acting appointments shall be limited to the temporary filling of a vacant regular position due to termination, promotion, or extended sick leave of

the incumbent or the temporary filling of newly budgeted positions, where the needs of the City require that the position be filled.

3. Acting appointments shall not receive merit increases and shall not be permitted for a period in excess of six continuous months, except in the manner provided in Section 2.20.080 of the Buena Park City Code.
4. The City Manager must approve all such appointments upon findings meeting the criteria set forth in this paragraph.

M. CHANGES IN SALARY ANNIVERSARY DATE. The granting of any leave of absence without pay exceeding 30 calendar days shall result in a new salary anniversary date plus the number of calendar days of the employee's leave in excess of 30 calendar days.

N. PROBATIONARY APPOINTMENT FOLLOWING PROVISIONAL APPOINTMENT. Notwithstanding the other provisions of this Resolution, a provisional appointee in a class who, without a break in service, receives a probationary appointment to a position in the same class shall be eligible for consideration for a salary advance after six months of satisfactory service, including the employee's provisional service, as evidenced in writing by the Department Head and approved by the City Manager, and shall accrue leave benefits from the date of the provisional appointment.

The employee's probation period shall commence with the date of the provisional appointment. Satisfactory completion of such probation period shall be on written recommendation of the Department Head and approval of the City Manager.

The salary advance provisions of this section shall not apply when a provisional appointee in a class receives, without a break in continuous City service, a probationary appointment to a position in a different class having a higher salary range. The salary review date of such appointee shall be the date of the probationary appointment.

O. CONSIDERATION OF EMPLOYEE REQUESTS. Any employee shall have the right to consideration by the City Manager of any request with respect to a claimed inequity resulting from the strict application of any of the sections contained herein. The employee shall submit to the Department Head a written statement of the claimed inequity and employee request. The Department Head shall promptly forward the statement and the request along with the Department Head's written recommendation to the City Manager.

P. CONTINUITY OF SERVICE REQUIREMENTS. Continuous service, as required for advancement within salary ranges and for other purposes specified in this Resolution, is defined as City Employment on a probationary, regular, or acting appointment basis without break or interruption.

- Q. AVOIDANCE OF INEQUITIES. The City Manager may authorize special adjustments to avoid or eliminate inequities resulting from the strict application of any of the provisions of this Resolution.

- R. ADMINISTRATIVE REGULATIONS. The City Manager is authorized to issue written administrative personnel regulations designed to augment or clarify the provisions of this Resolution. Prior to issuance, such regulations shall be referred to the City Attorney as to their conformance with this Resolution. At least annually, such regulations shall be considered for possible incorporation in a revision of this Resolution.

- S. ANNIVERSARY DATES AND SALARY RANGES. The anniversary dates and salaries within the various range classifications of the particular present City Employees are found on file in the Human Resources Division of the City of Buena Park.

EXHIBIT C – HIRING OF EMPLOYEE RELATIVES

The hiring of relatives of City employees is based upon the following criteria:

A "relative" is defined as a spouse, child, step-child parent, step-parent, parent-in-law, legal guardian, brother, sister, brother-in-law, sister-in-law, step-brother, step-sister, aunt, uncle, niece, nephew, grandchild, grandparent, regardless of their place of residence, or any other individual related by blood or marriage living within the same household as the City employee.

An "employee" is defined as any person who receives a City payroll check for services, full or part-time rendered to the City of Buena Park.

The employment of relatives of City employees within the City of Buena Park is limited to the following situations: Any relative of a Councilmember or the City Manager shall not be considered for employment within the City of Buena Park in any capacity, either full-time or part-time.

Any relative of a City-appointed commissioner, board or committee member, or department manager, may not be considered for employment within the department or area of responsibility of such City-appointed commissioner, board or committee member or department manager. The employment of relatives of all other City employees is prohibited within the department of the existing employee when such related employee may: perform joint duties; share responsibility or authority; report to the same immediate supervisor; or be supervised by or would supervise a relative.

Relatives of City employees, except for relatives of Council members, the City Manager, City-appointed commissioners, board or department managers may be hired for seasonal assignments. However, such employment shall not exceed twenty percent (20%) of the complement of seasonal employees in that classification and shall be selected only by an open recruitment process.

City employees who are related as described above, shall not be affected in their current job status except when the City Manager determines that the circumstances of such employment raises an undue hardship upon the other employees within the particular work unit and that such employment is detrimental to the supervision, safety, security or morale of the particular work unit.

If two existing City employees become married and their employment conflicts with the policy stated above, they may continue employment provided that such employment does not directly or indirectly place an undue hardship upon other employees within the particular work unit of the married couple and such employment is not detrimental to the supervision, safety, security or morale of the particular work unit. The City Manager shall determine whether or not such detriment or undue hardship exists.

The City Manager is authorized to issue written guidelines to implement and enforce this policy. All determinations made by the City Manager shall be final and conclusive and not subject to Section 2-136 of the Administrative Section of the City Code. In all situations

where the City Manager determines a conflict to exist between existing or future related employees, the City Manager shall attempt to resolve such conflict in the following manner:

- A. Attempt to redefine the job responsibilities of the related employees within the department to minimize the conflict.
- B. If such redefinition of job status is not feasible, attempt to transfer one of the employees to a similar position (without guarantee or identical salary) that would not be in violation of this policy.
- C. If transfer is not feasible or acceptable, request the voluntary resignation of one of the employees.
- D. If one of the employees does not voluntarily resign, the employee with the least employment experience in the City of Buena Park may be discharged by the City Manager.

EXHIBIT D – HARASSMENT IN EMPLOYMENT POLICY

I. PURPOSE OF POLICY

- A. To define and issue to all employees the City's policy on the prohibition and prevention of harassment, discrimination, retaliation and bullying in the workplace.
- B. To fully inform all employees of their right to have a safe work environment and be free of unlawful harassment, discrimination, retaliation, and bullying in the workplace.
- C. To fully inform all employees that the City of Buena Park does not and will not tolerate any conduct that is believed to violate this Policy in the workplace.
- D. To inform all employees of their rights if they believe that they are or have been the victim of harassment, discrimination, retaliation, and bullying.
- E. To provide a means for the prompt reporting and full and effective investigation of harassment, discrimination, retaliation, and bullying complaints and to provide for effective remedial action against the harasser and for the victim.

II. STATEMENT OF POLICY

It is the Policy of the City that it will not tolerate verbal or physical conduct by any employee which harasses, discriminates, retaliates, disrupts, or interferes with another's work performance or which creates an intimidating, offensive, or hostile environment. In addition to prohibiting all forms of harassment, discrimination and retaliation, the City also prohibits any form of "intimidation or bullying" in the workplace or elsewhere, such as at offsite events.

Harassment or discrimination against an applicant, unpaid intern, volunteer, or employee by a supervisor, management employee, elected or appointed official, co-worker, member of the public, or contractor on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), military or veteran status, or any other protected classification as defined below is prohibited and will not be tolerated.

This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

Harassment violates Title VII of the Civil Rights Act of 1974, the California Government Code, and regulatory guidelines of the Equal Employment Opportunity Commission and the California Fair Employment and Housing Commission.

All employees will be expected to comply with this Policy and take appropriate measures to ensure that such conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this Policy against harassment, discrimination, retaliation, and bullying in the workplace. Based on the seriousness of the offense, disciplinary action will be taken up to and including termination.

When a violation of this Policy is reported, an investigation shall be conducted to determine if there was knowledge, or should have been knowledge, on the part of any supervisor, and whether any supervisor had failed to take immediate and appropriate corrective action.

Negligent supervision, tacit approval by “turning a blind eye”, treating the situation as a joke, failure to take action, or concealing a situation will subject the supervisor involved to disciplinary action.

Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below.

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

III. DEFINITION OF HARASSMENT

- A. Protected Classifications: This policy prohibits harassment or discrimination because of an individual’s protected classification. “Protected Classification” includes race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), and military or veteran status.
- B. Policy Coverage: This Policy prohibits the employer, elected or appointed officials, officers, employees, or contractors from harassing or discriminating against applicants, officers, officials, employees, unpaid interns, volunteers, or contractors because of: 1) an individual’s protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- C. Discrimination: This policy prohibits treating individuals differently because of the individual’s protected classification as defined in this Policy.
- D. Harassment may include, but is not limited to, the following types of behavior that is taken because of a person’s protected classification. Note that harassment is not limited to conduct that city employees take. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such

as elected officials, appointed officials, persons providing services under contracts, or even members of the public:

1. Verbal Harassment – For example, epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
 2. Physical Harassment – For example, assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, proposition, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
 3. Visual Forms of Harassment – For example, derogatory posters, notices, bulletins, cartoons, emails, pictures or drawings related to a protected classification.
 4. Sexual Harassment – Unwelcome sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or creates an intimidating, hostile or offensive work environment.
- E. Guidelines for Identifying Harassment: To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:
1. Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.
 2. It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
 3. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
 4. Even visual, verbal, or physical conduct between two individuals who appear to welcome the conduct can constitute harassment of a third individual who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

5. Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).
- F. Retaliation: Any adverse conduct taken because an applicant, employee or contractor has reported harassment, discrimination, or bullying or has participated in the complaint and investigation process described herein, is prohibited. "Adverse conduct" includes but is not limited to: taking sides because an individual has reported harassment, discrimination, or bullying, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment, discrimination, or bullying, or real or implied threats of intimidation to prevent an individual from reporting harassment, discrimination, or bullying. The following individuals are protected from retaliation: those who make good faith reports of harassment, discrimination, or bullying, those who associate with an individual who is involved in reporting harassment, discrimination, or bullying, and those who participate in the complaint or investigation process.

IV. DEFINITION OF BULLYING

- A All employees, consultants, independent contractors, and visitors have the right to be treated with respect. Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and creates an intimidating or threatening environment.
- B Bullying comes in many shapes and sizes and can take many forms including, but not limited to, excluding, tormenting, taunting, abusive comments, using threatening gestures; pushing, shoving, punching, unwanted physical contact, or any use of violence; graffiti; name calling, sarcasm, spreading rumors, and teasing. Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chat room misuse, mobile threats by text messaging, or calls or misuse of cameras and video equipment. Under certain circumstances, bullying can also include conduct taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public.

V. DEFINITION OF EMPLOYEE

For the purposes of this policy, an employee shall be defined as any individual, regardless of classification, employed by the City of Buena Park, or job applicants, unpaid interns, volunteers, or contractors working under the supervision of the City, vendors and contract employees.

VI. COMPLAINT PROCEDURE

- A Any employee, job applicant, unpaid intern, volunteer, or contractor who believes he or she has been the subject of harassment or any form of bullying should report the alleged act immediately verbally or in writing with any of the following. There is no need to follow the chain of command:
1. Immediate supervisor;
 2. Any supervisor or manager within or outside of the department;
 3. Department Head; or
 4. Director of Human Resources.
- B The limitation on reporting alleged acts of harassment, discrimination, retaliation, and bullying must be within twelve months of the incident or incidents.
- C If a complaint involves a supervisor or manager, the complaint shall be filed directly with the department head or Director of Human Resources.
- D Any supervisor or department head who receives a harassment, discrimination, retaliation, or bullying complaint is to immediately notify the Director of Human Resources.
- E Upon notification of a harassment, discrimination, retaliation or bullying complaint, the Director of Human Resources will:
1. Inform the complainant of his or her right to initiate the complaint.
 2. Authorize the investigation of the complaint and supervise a fair and thorough investigation of the complaint by impartial and qualified personnel and/or investigate the complaint.
 3. Investigation of a complaint will include interviewing the complainant, accused harasser and any named or apparent witness. Employees shall be protected from coercion, intimidation, retaliation, interference, or discrimination for filing a complaint or assisting in an investigation.
 4. All complaints will be handled in a timely and confidential manner. In no event will information be released to anyone who is not involved with the investigation; nor will anyone involved be permitted to discuss the subject outside the investigation.
 5. Review factual information gathered through the investigation to reach a reasonable conclusion to determine whether the alleged conduct constitutes harassment, discrimination, retaliation, or bullying giving consideration to all factual information, the totality of the circumstances,

including the nature of the verbal, physical, visual or sexual favor aspect of the advance, and the context in which the alleged incidents occurred.

6. Timely report a summary of the results of the investigation and the determination as to whether harassment, discrimination, retaliation or bullying occurred to the appropriate person including complainant, alleged harasser, supervisor, and the department head. If discipline is imposed, the level of discipline will not be communicated to the complainant.
 7. If conduct in violation of this Policy occurred, take and/or recommend to the department head prompt and effective remedial action against the harasser. The remedial action will be commensurate with the severity of the offense. Notify the victim that necessary steps of corrective action have been taken to resolve the problem.
 8. Reasonable steps will be taken to protect the victim and other potential victims from further harassment, discrimination, retaliation, or bullying.
 9. Reasonable steps will be taken to protect the victim from any retaliation as a result of communicating the complaint.
- F The city takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination, retaliation or bullying may be occurring, regardless of whether the recipient or third party reports a potential violation.
- G Option to report to outside administrative agencies: An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal and a complaint process. The nearest offices and telephone numbers are listed on the posters that are located on City bulletin boards at the following locations:
- Human Resources Office
 - Community Center
 - Police Department
 - City Yard
 - Ehlers Event Center
 - California Welcome Center

VII. CONFIDENTIALITY

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. However, complete confidentiality cannot occur due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the

substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The employer will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

VIII. RESPONSIBILITIES

Elected Officials, Appointed Officials, Managers, and Supervisors are responsible for:

1. Modeling appropriate and respectful behavior.
2. Informing employees, volunteers, and contractors of this Policy.
3. Taking all steps necessary to prevent harassment, discrimination, retaliation or bullying from occurring.
4. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
5. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language and behavior.
6. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
7. Informing those who complain of harassment, discrimination, retaliation or bullying of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
8. Assisting, advising, or consulting with employees and the Director of Human Resources regarding this Policy and Complaint Procedure.
9. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with the City's Personnel Rules and Regulations, up to and including termination.
10. Implementing appropriate disciplinary and remedial actions.
11. Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Director of Human Resources or the department head.
12. Participating in periodic training and scheduling employees for training.

Each employee or contractor is responsible for:

1. Modeling appropriate and respectful behavior.

2. Treating all employees, volunteers, and contractors with respect and consideration.
3. Participating in periodic training.
4. Fully cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.
5. Maintaining the confidentiality of any investigation that the City conducts by not disclosing the substance of any investigatory interview, except as directed by the department head or Director of Human Resources.
6. Reporting any act he or she believes in good faith constitutes, harassment, discrimination, retaliation or bullying as defined in this Policy, to his or her immediate supervisor, or department head, or Director of Human Resources.

IX. MANDATORY TRAINING

As part of its commitment to ensuring a work environment free from bullying, harassment, and discrimination, the City requires that all of its supervisors and elected officials receive training on this Policy at least once every two years. Human Resources will schedule multiple training sessions in the Spring biennially to ensure that employees and elected officials are able to attend the mandatory training. Attendance at the training will be documented.

X. DISSEMINATION OF POLICY

All Elected Officials and City employees, supervisors and managers shall receive a copy of this Policy. All management personnel will be informed of their responsibilities in enforcing this policy. The Policy may be updated from time to time and redistributed with a form for the employee to sign and return acknowledging that the employee has received, read, and understands this Policy.

This Policy shall be posted in appropriate places.

EXHIBIT E – ADVISORY ARBITRATION

With respect to the bargaining members in this unit, City Council Resolution 1883, Rule XVI shall be amended as follows:

Section 2: Disciplinary Procedures

(h) Appeal to City Manager: The employee, upon receipt of notice of the imposition of disciplinary action against him, shall have the right to appeal the Department Head's decision in writing to the City Manager, except that an oral or written reprimand may not be so appealed. Said appeal shall be delivered to the City Manager within ten (10) business days of the employee's receipt of notice of the imposition of discipline. Otherwise, the Department Head's action shall be final and binding.

Should the employee desire to appeal the Department Head's decision directly to advisory arbitration rather than having the matter reviewed by the City manager, he may do so by filing with the Human Resources Director within ten (10) business days of his receipt of the notice of imposition of discipline by the Department Head, a written appeal to the City Council. Said written appeal shall be in form and content as required by these rules and, in addition, shall state that the employee knowingly and intentionally waives his opportunity to have the action of the Department Head first reviewed by the City manager. In such a situation, the provisions of subparagraphs (h) and (i) of this Section 2 shall be deemed inapplicable to the subject proceeding.

(j) Advisory Arbitration: The employee, upon receipt of notice of the affirmation of disciplinary action against him by the City Manager, whether by way of total affirmation or modification of the Department Head's action, shall have the right to appeal the City Manager's decision in an advisory arbitration; except that an oral or written reprimand as provided by these Rules may not be so appealed. Said appeal shall be delivered to the Human Resources Director within ten (10) business days of the employee's receipt of notice of the City Manager's action. Otherwise, the City Manager's action shall be final and binding. The advisory arbitration shall be conducted in accordance with the provisions of Section 5 of this Rule XVI.

Section 5: Advisory Arbitration

(a) Any regular employee shall have the right to appeal a decision by the City Manager involving dismissal, demotion, reduction in pay or suspension, or of a Department Head, if City Manager review is waived by the employee, provided, however that only one (1) advisory arbitration hearing shall be allowed as to any one (1) disciplinary action.

(b) The employee's appeal shall be heard in an advisory arbitration by an impartial hearing officer selected in a manner mutually agreeable to the City Manager and the employee; if no agreement is reached the hearing officer shall be selected from a list of advisory arbitrators from the California State Mediation and Conciliation Service (SMCS) or from a list agreed to between the City Manager and the employee. If the parties obtain a list of arbitrators from SMCS, the City will pay SMCS's fee for providing the list.

(c) The employee may be represented by his/her Association/Union representative, any other regular employee of the City, or his/her attorney.

(d) The hearing officer shall issue subpoenas to compel the attendance of witnesses, if such be necessary at the request of either party.

(e) If both parties request that the hearing be recorded by a certified shorthand reporter, then the expenses for such recording services shall be borne equally by the City and the employee. If only one party requests that the hearing be recorded by a certified shorthand reporter, then that party alone will bear the expenses. Each party shall be responsible for any specialized or extraordinary services they might individually request.

(f) The expenses for the hearing officer shall be borne equally by the City and the Association, and each party shall be responsible for expenses they incur. The maximum expense for the hearing officer borne by the Association is \$2,000.

(g) After the close of the hearing, the hearing officer shall prepare a written advisory award and findings of fact and conclusions of law based on the evidence presented at the hearing, and shall present his/her findings to the City Council and the employee within thirty (30) calendar days, or a longer period of time as stipulated by the parties. In rendering an award, the hearing officer shall be limited to the express terms of this document and shall not have the power to modify, amend, or delete any terms or provisions of this document. Failure of either party to insist upon compliance with any provision of this document at any given time or times under any given set or sets of circumstances shall not operate to waive or modify such provision, or in any manner whatsoever to render it unenforceable, as to any other time or times or as to any other occurrence or occurrences, whether the circumstances are, or are not, the same.

(h) At the hearing, both the appealing employee and the City shall have the right to be heard and to present evidence.

(i) Oral evidence shall be taken only on oath or affirmation. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issue even though the matter was not covered in the direct examination, to impeach any witness regardless of which party called him/her to testify, and to rebut the evidence against him/her.

(j) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

(k) The City Council shall review the hearing officer's recommendation, but shall not be bound thereby. The City Council shall adopt, amend, modify or reject the recommended findings, conclusions and/or opinion of the hearing officer. Prior to making a decision which adopts the hearing officer's recommendation, the City Council may order and read

the transcript, at the Council's discretion. Prior to making a decision which modifies or rejects the hearing officer's recommendation, the City Council shall order and read the transcript of the Board hearing.

(l) The City Council shall not conduct a *de novo* hearing. The City Council may, at its sole option, allow limited oral arguments from either party before making a decision.

(m) The decision of the City Council shall be final and binding, subject only to review by the courts under California Code of Civil Procedure section 1094.5.

(n) The City staff shall notify the appellant in writing, within five working days of the City Council's decision. Such notice shall indicate the effective date of the action to be taken.