

Memorandum of Understanding FY 2024 - 2026

This **MEMORANDUM OF UNDERSTANDING (MOU)** was made and entered into at 12:01 am on **July 1, 2023**, and shall expire and otherwise be fully terminated at 11:59 pm on **June 30, 2026**.

By and Between:

The City of San Diego

and

Deputy City Attorneys Association (DCAA)

The City of
SAN DIEGO



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING was made and entered into this first day of July 1, 2023.

BY AND BETWEEN

THE CITY OF SAN DIEGO

AND

SAN DIEGO DEPUTY CITY ATTORNEYS ASSOCIATION

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PARTIES TO THE AGREEMENT

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into on July 1, 2023, by and between the City of San Diego (City) and the Deputy City Attorneys Association of San Diego (DCAA), collectively referred to as “Parties.”

PURPOSE

It is the purpose of this MOU, to promote and provide for harmonious relations, cooperation, and understanding between Management and the employees covered by this MOU; to provide procedures for an orderly and equitable means of resolving any misunderstandings or differences which may arise under this MOU; and to set forth the understanding of the Parties reached as a result of good faith negotiations regarding wages, hours of employment, and other terms and conditions of employment of the employees covered by this MOU. The Parties will jointly submit the MOU to the San Diego City Council (City Council) and recommend its approval and implementation.

MEET AND CONFER

City and DCAA agree to meet and confer during the term of this MOU only to the extent required by applicable law. Any agreement reached through required meet and confer will be in writing and signed by the Parties. The Parties will obtain any required ratification and approval before implementation of the new MOU becomes effective.

ARTICLE 1: Recognition

Management formally recognizes DCAA as the exclusive representative for all Deputy City Attorneys (DCA) employed in the Office of the City Attorney (Office), except that Assistant City Attorneys, Confidential Attorneys, and those Deputy City Attorneys involved in labor negotiations with DCAA on behalf of Management of the Office are excluded from the Bargaining Unit. Confidential attorneys are those with access to confidential information regarding Management positions with respect to the meet and confer process. No classification shall be removed from the Bargaining Unit exclusively represented by DCAA during the term of this MOU.

ARTICLE 2: Implementation of Agreement

In negotiating a successor MOU, once the Parties reach a tentative agreement, that tentative agreement will be reduced to writing and taken to City Council, and to the membership of DCAA for ratification of the tentative agreement, as soon as reasonably possible. It is the intent of the Parties that the tentative agreement shall become binding on the Parties once it is adopted by City Council and ratified by the membership of DCAA. The MOU effective date will be as set forth in Article 3, Term. When a successor MOU is completed, the Parties will work together to get the agreement finalized and signed by a target date of May 12, 2023. This MOU supersedes and replaces the MOU approved by the City Council, by San Diego for the term of July 1, 2021 through June 30, 2023.

ARTICLE 3: Term

The term of this MOU begins 12:01 a.m. on July 1, 2023. This MOU expires and is terminated at 11:59 p.m. on June 30, 2026.

ARTICLE 4: Renegotiation

- A. In the event DCAA desires to meet and confer in good faith on the provisions of a successor MOU, it will serve upon the City its written request to commence meeting and conferring in good faith, as well as its written non-economic proposals for successor MOU by no later than September 5, 2025. DCAA will submit its economic proposals no later than October 6, 2025. Upon receipt of the written notice and proposals, meet and confer over non-economic proposals will begin no later than November 3, 2025, and meet and confer over economic proposals will begin no later than January 12, 2026.
- B. The City agrees to notify DCAA no later than September 15, 2025 of its non-economic proposals and will submit its economic proposals no later than January 12, 2026. If federal or state governments take action that has a direct effect upon the areas which fall within the scope of representation, the City or the DCAA may submit proposals concerning these areas at later dates. Any terms and conditions of this MOU, not subject to this reopener provision shall remain in force and effect. The impasse hearing will take place in advance of the first reading of the salary ordinance for Fiscal Year 2027.
- C. The City will request the City Council to schedule an impasse hearing if necessary after 5:00 p.m. on a regular work day in order to permit DCAA Bargaining Unit members the opportunity to attend and testify.
- D. Unless otherwise agreed to, the Parties agree that DCAA's final offers are due by **March 9, 2026** and the City's final offers are due **March 23, 2026**. DCAA agrees to provide the City a written statement of its positions regarding any issues should there be impasse.
- E. The dates set forth in this Article can be changed by mutual agreement of the Parties, if confirmed in writing.
- F. Nothing in this Article is intended to waive the rights and obligations of either Party under the Meyers-Milias-Brown Act (MMBA) to bargain in good faith.
- G. **The parties agree to a reopener within six months of the effective date of this MOU to meet and confer over any amendments to the Long-Term Disability (LTD) Program. The parties agree that the existing LTD Program will remain in place until any amendments to the LTD Program are executed. The City will issue an RFI or RFP to explore fully insuring and administering the LTD Program by an outside vendor.**
- H. **In an effort to address and implement the 2021 Employee Sentiment Workforce Report, the Parties agree to reopen the following during the term of the MOU to meet and confer in good faith to streamline and automate administration and tracking of: Employee Performance Reports, Discipline, Fact Findings, Grievances, and Reasonable Accommodations.**

ARTICLE 5: Salary

A. General Salary

1. Employees in the Deferred Retirement Option Plan (DROP) program will continue to have a pay reduction of 3.2 percent of base salary, to correspond to the 3.2 percent reduction in the City offset of the employee contribution to San Diego City Employees' Retirement System (SDCERS) by non-DROP employees, which was initially negotiated in prior contract negotiations.
2. **Effective July 1, 2023, or the first full pay period following City Council approval of this MOU, whichever date is later, there will be a general wage increase of 5% for all employees covered by this MOU. The Fiscal Year 2024 salary tables for the classifications covered by this MOU will be modified to reflect this increase.**
3. **Effective January 1, 2024, there will be a general salary increase of 5% for all employees covered by this MOU. The Fiscal Year 2024 salary tables for the classifications covered by this MOU will be modified to reflect this increase.**
4. **Effective July 1, 2024, there will be a general salary increase of 5% for all employees covered by this MOU. The Fiscal Year 2025 salary tables for the classifications covered by this MOU will be modified to reflect this increase.**
5. **Effective January 1, 2025, there will be a general salary increase of 5% for all employees covered by this MOU. The Fiscal Year 2025 salary tables for the classifications covered by this MOU will be modified to reflect this increase.**
6. **Effective July 1, 2025, there will be a general salary increase of 5% for all employees covered by this MOU. The Fiscal Year 2026 salary tables for the classifications covered by this MOU will be modified to reflect this increase.**
7. A structured salary schedule for DCAs has been implemented. The DCAA Salary Schedule is attached as Appendix A and incorporated into this MOU.

ARTICLE 6: Special Assignment Pay

A. Chiefs and Leads/Supervising Attorneys

Employees while occupying special assignments will qualify for 5% additional pay for Chiefs and 2.5% additional pay for Leads/Supervising Attorneys. The special assignments are for two years in duration and may be extended thereafter in one-year increments at the sole discretion of the City Attorney. The City Attorney's decision to promote, remove or extend the term of a Chief or Lead/Supervising Attorney is a management right not subject to appeal or the grievance procedure.

ARTICLE 7: Flexible Benefits Plan

A. General Nature of Plan and Eligibility

1. The City offers an IRS-qualified cafeteria-style benefits program called the Flexible Benefits Plan (FBP) to all eligible employees. Under the FBP, an annual dollar value is set for each eligible employee who may use these “FBP credits” for a variety of tax-free benefit or cash-in-lieu options, or take these FBP Credits as taxable cash under certain circumstances.
2. An “eligible employee” means any employee in one-half, three-quarter, or full-time status. Employees in non-standard hour positions are not eligible to participate in the FBP.
3. **“Hired” for purposes of determining FBP credits is based on the employee’s most recent hire date with the City. If an employee experiences a break in service and is then rehired, the rehire date would be considered the most recent hire date.**
4. During the annual open enrollment process for the FBP, eligible employees are required to acknowledge that no amount of FBP Credits is included in “Base Compensation” under the SDCERS defined benefit pension plan. Employees are also required to acknowledge that the FBP credits allocated to them for the fiscal year will be paid out over 24 of 26 pay periods, as a lump sum benefit for all hours worked during each month within the fiscal year. For months that have three pay cycles, the middle paycheck will not include any FBP transactions. If an employee separates from City employment, the FBP credits payable through their last day on the City payroll will be added to their final paycheck.

B. FBP Options for Eligible Employees Hired Before July 1, 2020

1. For eligible employees hired before July 1, 2020, total Flex Credits of \$9,942 (Waiver) and \$13,643 (Employee Only) are available with the customary cash-back option. These options allow the maximum cash-back opportunity for employees who waive medical insurance or cover only themselves. However, beginning July 1, 2020, there is also an option for employees who wish to cover a Spouse or Domestic Partner, Children or Family, where more Flex Credits will be available to them for these tiers of coverage but they will have no cash-back option and no amounts can be deposited into their 401(k) account. Eligible employees hired before July 1, 2020, may change the option they select (Option No. 1 – Cash-Back; Option No. 2 – No Cash-Back) from one fiscal year to the next at the time of open enrollment.
2. Option No. 1 to Choose \$9,942 (Waiver) or \$13,643 (Employee Only) in FBP Credits and Take Cash-Back

During open enrollment, employees hired before July 1, 2020 who wish to maximize the cash available to them from their total \$9,942 (Waiver) or \$13,643 (Employee Only) in FBP Credits, must select a Life Insurance option and either the Waiver or an Employee-Only Medical Coverage Option from the FBP component plan offerings.

An employee may select the “Waiver” option to opt out of any medical insurance offering under the FBP without providing the City with proof of other medical insurance coverage. After selecting Life Insurance and the Health Waiver or Employee Only Health Coverage, the employee may allocate their remaining +Flex Credits: to pay for other FBP insurance offerings; to be deposited to their 401(k) account; to fund an FSA account for dental/medical/vision reimbursements or child/dependent care; or

to be returned to them over 24 pay periods as taxable cash.

3. Option No. 2 to Choose Increased Medical Insurance for Employee-Plus Tiers and Not Take Any Cash-Back From FBP Credits

During open enrollment, employees hired before July 1, 2020, who choose a medical insurance option and cover one or more dependents, will have the option to get more Flex Credits to cover themselves plus a spouse, domestic partner, children or family as follows:

Effective July 1, 2021, or the first full pay period following City Council approval of this MOU, whichever date is later.	
Employee and Children	\$16,150
Employee and Spouse/Domestic Partner	\$18,250
Employee and Spouse/Domestic Partner and Children	\$24,100

Once an employee has selected one mandatory Life Insurance option and one of the above-described tiers for medical coverage, any remaining FBP credits may be used to pay for other FBP insurance offerings or to fund an FSA account for dental/medical/vision reimbursements or child/dependent care. However, no FBP Credits remaining after selecting required or optional coverages or funding FSA accounts may be deposited to their 401(k) account or be taken as cash-back.

C. FBP Options for Eligible Employees Hired On or After July 1, 2020

1. For eligible employees hired on or after July 1, 2020, there will be two options available under City's FBP: (1) a \$1,000 cash-back option for an employee who provides proof of qualifying medical coverage outside the FBP and selects the waiver; or, (2) a no-cash-back option which provides FBP Credits in varying amounts for Employee Only and for Employee-Plus tiers.
2. Option No. 1 to Choose \$1,000 in Cash In Exchange for Waiver of Medical Insurance With Proof of Alternative Qualifying Medical Coverage

This option is an eligible opt-out arrangement under City's FBP. It is the *only* means for an eligible employee to have \$1,000 in taxable cash paid out to them in increments over 24 pay periods of the fiscal year so long as they remain employed and eligible. However, an employee who chooses this option is also forfeiting the opportunity to have thousands of additional Flex Credits available for other qualifying benefit opportunities under the FBP.

During open enrollment, this eligible opt-out arrangement allows an eligible employee to decline medical benefits coverage under the FBP for the upcoming Plan Year and instead receive a \$1,000 cash payment. An eligible employee can waive coverage without restriction, but to receive the \$1,000 cash payment, the eligible employee must provide during open enrollment reasonable evidence of enrollment in "minimum essential coverage" under another employer-sponsored group medical plan (a spouse's plan, for example), or under a qualifying government program, which covers the employee and their tax dependents for the upcoming Plan Year. Individual coverage, including insurance purchased through the Affordable Care Act

(ACA) Exchange, will not qualify as minimum essential coverage under the eligible opt-out arrangement. If an eligible employee selects the Waiver to decline medical coverage under City's FBP but fails to provide proof of other qualifying coverage during open enrollment or the City know or has reason to know that the eligible employee and their tax dependents will not be enrolled in minimum essential coverage (other than individual coverage) during the Plan Year, they will not receive any cash payment under the FBP.

To elect and enroll in this opt-out arrangement, an eligible employee must complete and execute an online Election Form and file the completed form -- together with the employee's certification that they and their tax dependents have (or will have) other minimum essential coverage (other than individual coverage) during the Plan Year -- with the City's Risk Management Department during open enrollment before the Plan Year begins for which the opt-out election is to be effective. Once made, an employee's election to participate in this opt-out arrangement is irrevocable until the end of the Plan Year unless the employee is entitled to change their election under the FBP due to a mid-year election change event as described under section 3.07 of the City's FBP.

An eligible employee must provide the certification of other minimum essential coverage (other than individual coverage) annually during each open enrollment period. An employee who elected to participate in this \$1,000 cash-back opt-out arrangement will no longer be eligible to receive cash payments: (1) after the last day of employment if the employee terminates employment with the City; (2) if the employee is no longer eligible to participate in the FBP; (3) if the employee enrolls in a medical plan offered under City's FBP; or (4) if the employee ceases to maintain minimum essential coverage for them and their tax dependents under another employer-sponsored group medical plan or qualifying governmental program. If the City knows or has reason to know that the eligible employee or any of their tax dependents will not be enrolled in other minimum essential coverage (other than individual coverage) during the Plan Year to which the election to participate in the opt-out arrangement applies, it will not make any cash payment.

An eligible employee who elects the \$1,000 cash-back waiver under this opt-out arrangement will have no remaining FBP Credits to "spend" on other FBP component plan offerings. However, the employee may elect benefits offered through these other component plans by paying for the cost of those benefits with pre-tax salary reduction contributions.

3. Option No. 2 to Choose A Medical Insurance Option and Use Remaining FBP Credits For Other Benefits But Take No Cash-Back

All eligible employees hired on or after July 1, 2020, who choose a medical insurance option, will have the following Flex Credits available. Once the employee selects a medical plan offered under the FBP for Employee Only or for one of the Employee-Plus tiers below, the employee may use the remaining Flex Credits for other insurance plans offered under the FBP (life, dental, vision), or to fund a flexible spending account (FSA) for dental/medical/vision reimbursements or child/dependent care. However, no FBP credits remaining may be deposited to their 401(k) account or be taken as cash-back. An eligible employee who has other medical coverage outside the FBP may still select the lowest cost Employee Only medical insurance option and then use the remaining Flex Credits for other benefits but no cash-back.

Effective July 1, 2021, or the first full pay period following City Council approval of this MOU, whichever date is later.	
Employee Only	\$ 7,600
Employee and Children	\$16,150
Employee and Spouse/Domestic Partner	\$18,250
Employee and Spouse/Domestic Partner and Children	\$24,100

For employees hired on or after July 1, 2020, only Eligible Employees who elected the “Waiver” under the Option No. 1 “opt-out arrangement” can receive FBP credits in cash-back payments.

Any unused Flex Credits will be forfeited at year-end and cannot be carried over from year-to-year.

- D. On or about April 1 of each year during the term of this MOU or earlier if mutually agreed, the Parties will exchange premium rates for the Parties’ respective plan offerings. If the term of the Health Plans is changed to a calendar year basis, then the exchange of rates will occur on or about October 1 of each year during the term of this MOU.
- E. The benefits available through the FBP and the respective annual costs of the benefits are reflected in the Flexible Benefits booklet provided to each employee each year.
- F. Notes
 1. It is the intent of the Parties that all component plans offered under the FBP comply with all applicable state and federal laws, including IRS regulations as interpreted by the City Attorney. All disputes over interpretation of this Article shall be submitted to the appropriate agencies for interpretation.
 2. Eligible employees who do not have sufficient Flex Credits to enroll in insurance plans offered under the City’s FBP, will have appropriate amounts withheld from their paychecks to pay for the cost of coverage they select.
 3. Eligible employees may designate a specific amount of pre-tax money (IRS restrictions apply) to be withheld from their paycheck to reimburse eligible out-of-pocket Health Care Spending Account (HCSA) and Dependent Care Spending Account (DCSA) expenses. These payroll deductions must be designated during the open enrollment period, are irrevocable, and are subject to IRS regulations. These amounts are forfeited if not used within the fiscal year or during the grace period described in the Flexible Benefits Plan document.
 4. Eligible employees are required to enroll for their benefits each year during the designated open enrollment period. If an employee fails to complete enrollment within the open enrollment period, the employee’s current options for medical, dental, and vision coverage (or a comparable plan if that option is unavailable) including dependent coverage and life insurance will be automatically continued at the same level for the next year as if the employee had elected to keep them. All other benefit options will be cancelled. Employees agree that City may make a payroll deduction for employee and/or dependent medical, dental, vision and life insurance

coverage if the FBP Credits are insufficient to pay for the benefit options selected by the employee. Any FBP Credits remaining from the FBP allotment will be paid out as a taxable cash payment if a cash-back option is otherwise available to the employee. All payroll deductions, including HCSA and DCSA reimbursements, will continue and may not be stopped until the following open enrollment period, except when a qualifying event occurs as defined in the FBP document.

- G. With 90-days prior written notice to DCAA, City will have discretion to change the plan year of the City's Flexible Benefits Plan from a fiscal year basis to a calendar year basis beginning January 1, 2022:
1. Rate renewals with group health insurance providers in early calendar year 2021 will need to account for transition to calendar year plan (17-month rate renewal for coverage dates starting in August 1, 2021 through December 31, 2022).
 2. A first open enrollment will be held in June 2021 for short plan year. (Health plan coverage effective dates will be August 1, 2021 through December 31, 2021).
 3. A second open enrollment will be held in November 2021 for a new calendar year plan. (Health plan coverage effective dates will be January 1, 2022 through December 31, 2022).
 4. Thereafter, open enrollment would be held once a year in the late fall for the calendar year plans (effective dates January 1 through December 31), with rate renewals for 12-month coverage periods.
- H. The City has discretion to conduct an audit of employees' dependents at any time of its choosing to ensure that it is providing coverage to employees' dependents on a tax-free basis as required by the Internal Revenue Code.

ARTICLE 8: Retirement Benefits

A. New Pension Plan for Employees Hired on or After July 1, 2009 but before July 20, 2012

In accordance with the July 24, 2008, Memorandum of Agreement ratified by DCAA on July 25, 2008, and the September 21, 2009, Addendum 1 between City and DCAA, a new pension plan for DCAA-represented employees hired on or after July 1, 2009 but before July 20, 2012, is established. (See Appendix B, "Memorandum of Agreement and Addendum 1," which are attached and incorporated into this MOU). This plan will apply to all employees hired on or after July 1, 2009 but before July 20, 2012, whether unclassified, represented by DCAA, unrepresented or represented by another union.

B. Retirement Benefits for Employees Initially Hired on or After July 20, 2012.

On October 1, 2012, the City Council approved an agreement between the City and DCAA on the terms for an interim defined contribution plan under San Diego Charter sections 140 and 150 for employees initially hired on or after July 20, 2012 who are ineligible for the City's defined benefit plan. The agreement is attached as Appendix D and is incorporated into this MOU.

C. Drop

1. City contends that the Deferred Retirement Option Plan (DROP) is an employment benefit subject to modification through the meet and confer process. Despite DCAA's disagreement with this contention, the Parties agree that, during the term of this MOU, they will meet and confer over proposals to modify DROP to make DROP "cost free" to City. The Parties acknowledge that City's proposals will modify DROP to make DROP "cost free" as defined by City and may include any and all aspects of DROP, including but not limited to, all of the DROP alternative plan design proposals set forth in a study by Buck Consultants presented by City to DCAA on March 14, 2012, or any variations of the alternative proposals which change numbers or percentages reflected in the Buck study. However, by agreeing to meet and confer regarding proposals to modify DROP, DCAA is not waiving its right to challenge any proposed modification to DROP on the basis that it may impair a constitutionally protected, individually vested pension benefit, or on any other ground. DCAA further reserves its right to argue, despite any contrary assertion by City, that the current unmodified DROP is, in fact, "cost free" within the meaning of reasonable actuarial principles and appropriate margins of error. Moreover, in agreeing to meet and confer regarding proposals to modify DROP, neither Party is waiving its rights to make any legal arguments or pursue any legal action related to any proposed DROP modification.
2. In the event City and DCAA reach agreement on any modifications to DROP, these modifications will become effective on the date agreed upon. In the event the Parties fail to reach an agreement, any impasse hearing related to DROP will be conducted in accordance with Council Policy 300-06 on a date to be agreed upon by the Parties. However, any impasse hearing related to the Parties' meet and confer over DROP, including the aspects of DROP described above, will be separate from and not combined with any issues remaining for impasse in connection with the Parties' meet and confer process for a new MOU for Fiscal Year 2014.
3. Interest will be credited to the member's DROP accounts at a rate determined by the SDCERS Board of Administration.

D. Retiree Health Benefits

Notwithstanding any provision in this MOU to the contrary, the retiree health benefits for employees who retire on or after April 1, 2012 are determined by the City's MOU (including amendment with DCAA), which the City Council adopted by San Diego Ordinance O-20133 (February 17, 2012) and amended by San Diego Ordinance O-20174 (June 26, 2012).

E. Interim Death and Disability Plan for Employees Hired on or After July 20, 2012

Subject to the requirements of Exhibit C, numbered Paragraph 8 Death and Disability, the City provides Interim Death and Disability benefits through the City's Long Term Disability Plan for employees hired by the City on or after July 20, 2012 and who are not members of SDCERS.

**ARTICLE 9:
Bereavement Leave**

A. Eligibility

Under the terms of this Article and the California Fair Employment and Housing Act (FEHA) at Government Code section 12945.7, employees who have been employed by the City for at least 30 days are entitled to take up to five days of unpaid Bereavement Leave upon the death of each covered family member listed in Government Code section 12945.7. This unpaid Bereavement Leave will be referred to in this Article as “FEHA Bereavement Leave.”

Paid Bereavement Leave totaling 40 hours (regardless of the number of covered deaths) is available to each full-time employee for use during each fiscal year of this MOU upon the death of the employee’s spouse or state-registered domestic partner; parent (biological, step, adoptive, in-law, foster, legal guardian, or other person who stood in *loco parentis* (i.e., in place of a parent) to the employee when the employee was a child); sibling (biological, step, foster, adopted); child (biological, step, foster, adopted, miscarried, still born, legal ward, a child of a domestic partner, or a person to whom the employee stands in *loco parentis*); grandparent (biological, in-law); and grandchild (biological, adopted).

Bereavement leave is not authorized for a death that occurred before the employee’s hire date with the City of San Diego.

B. Bereavement Leave Hourly Totals

Five days of FEHA Bereavement Leave is the equivalent of 40 hours for full-time employees, 30 hours for three-quarter time employees, 20 hours for half-time employees, and 10 hours for non-standard employees.

Paid Bereavement Leave is prorated for three-quarter time employees at 30 hours and half-time employees at 20 hours per fiscal year of this MOU. Non-standard hour employees are not eligible for Paid Bereavement Leave.

C. Documentation

Documentation of the death of the family member (death certificate; published obituary; written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency; employee written attestation; etc.) or proof of miscarriage/stillbirth (a note from a healthcare provider) must be submitted within 30 calendar days of when the employee returns to work. Proof related to miscarriage/stillbirth may be submitted directly to the Human Resources Department in lieu of the employee’s department payroll specialist or supervisor, if preferred by the employee. If such proof is not submitted within the specified timeframe, the bereavement leave will revert to available compensated leave, or unpaid leave, at the employee’s direction.

D. Guidelines for Usage

Paid Bereavement Leave runs concurrently with FEHA Bereavement Leave. However, the leave days need not be consecutive. For FEHA Bereavement Leave in excess of an employee’s Paid Bereavement Leave allotment, the employee may use any accrued unused leave available to the employee or unpaid leave. Both Paid Bereavement Leave and FEHA Bereavement Leave must be taken in whole-hour increments.

Bereavement leave must be taken within 12 months of the covered death, not to exceed 40 hours of Paid Bereavement Leave total for any one covered death, which is prorated for three-quarter time and half-time employees. Unused Paid Bereavement Leave during a fiscal year does not carry over to the next fiscal year.

ARTICLE 10:
Mileage and Travel Reimbursement

Mileage reimbursement will be paid in accordance with the current IRS Standard Mileage Rates for business reimbursement. Reimbursement for travel will be as provided in City policies governing reimbursement for travel.

ARTICLE 11:
Management Rights

Unless specifically in conflict with this MOU, all Management rights remain vested exclusively with the City Attorney. City Attorney Management rights include, but are not limited to:

- A. All rights vested in the City Attorney pursuant to Charter section 40;
- B. The exclusive right to determine the mission of the Office and all of its departments;
- C. The right of full and exclusive control of the management of the Office; supervision of all operations; determinations of methods, means, location, and assignments of performing all work; and the composition, assignment, direction, location, and determination of the size and mission of the work force;
- D. The right to determine the work to be done by employees, including establishment of service levels, appropriate staffing and the allocation of funds for any position or positions within the Office;
- E. The right to review and inspect, without notice, all City-owned facilities, including, without limitation, desktop computers, work areas and desks, email, computer storage drives, voicemail systems, and filing cabinets and systems;
- F. The right to change or introduce different, new, or improved operations, technologies, methods or means regarding any City Attorney work, and to contract out for work;
- G. The right to establish and modify qualifications for employment, including the content of any job classification, job description, or job announcement, and to determine whether minimum qualifications are met;
- H. The right to establish and enforce employee performance standards;
- I. The right to schedule and assign work;
- J. The right to hire, fire, promote, discipline, reassign, transfer, release, layoff, terminate, demote, suspend, or reduce in step or grade, all employees;
- K. The right to inquire and investigate regarding complaints or concerns about employee performance deficiencies or misconduct of any sort, including the right to require represented attorneys to appear, respond truthfully, and cooperate in good faith regarding any City or City Attorney investigation;

- L. The right to maintain order and effective and efficient operations;
- M. The right to establish rules for the management and operation of the Office, including rules to maintain discipline and efficiency.
- N. Take all necessary actions to carry out its mission in emergencies; and
- O. Nothing in this Article shall be construed to limit or abrogate any constitutional or statutory rights of any employee.

ARTICLE 12:
DCAA Communications

A. Bulletin Boards

The City Attorney will furnish for the exclusive use of DCAA, adequate bulletin boards at reasonable locations. Additional bulletin boards or locations may be made available by mutual agreement as additional changes occur in work site locations during the year. DCAA representatives shall have access at any time to the bulletin boards. The bulletin boards and only these designated bulletin boards shall be used only for the following subjects:

1. Information on DCAA elections and the results, reports and notices.
2. Reports of official business of DCAA, including reports of committees or the Board of Directors.
3. Scheduled DCAA meetings and news bulletins.

DCAA agrees not to post controversial material, political material, or any material that violates the City's harassment policy and to remove dated material in a timely manner.

B. Mail Boxes

DCAA can utilize attorney mailboxes for information related to DCAA business. The information placed in attorney mailboxes shall relate to DCAA affairs such as reports of official business and meeting schedules. DCAA agrees not to place controversial or political material in attorney mailboxes.

C. Email

DCAA can utilize City's e-mail system for DCAA business, such as reports of official business and meeting schedules. DCAA agrees not to use the email system for political matters, and to comply with all City policies regarding the use of City's email system.

ARTICLE 13:
Professional Education

A. Bar Dues

The City will pay 100% of the cost of employees' California State Bar dues and dues for the San Diego County Bar Association. This section does not entitle an employee to have the City pay section membership dues.

B. Reimbursement for Job-Related Training and Professional Development

Effective Fiscal Year 2021, the City will reimburse each employee up to \$2000 per fiscal year for attending Continuing Legal Education, seminars, training and other educational or professional development events which will maintain or enhance the member's job-related skills or knowledge or contribute to the employee's broadening and diversification of their skills. Due to the necessity and demands of performing work remotely during the coronavirus pandemic and the changing workplace environment expected post-pandemic, for the term of the MOU effective July 1, 2021, the City of San Diego and its City Attorney's Office have agreed to allow DCA's to continue using the \$2,000 of professional development funds provided by this Article for purchasing job-related equipment, such as laptops, computer monitors, printers, and workspace equipment.

Reimbursement is subject to the following requirements:

1. Employee must submit a request for approval of the proposed reimbursable item in advance of attendance or purchase and obtain pre-approval by the City Attorney. Requests for approval must include the cost of the item or event as well as the likely expenses associated with the event, such as mileage, air fare, hotel, meals, rental car, and taxi expenses. Approval shall not be unreasonably denied by the City Attorney.
2. Employees must submit a request for reimbursement to the City Attorney within 60 days of completion of the specific course or purchase of the item for which reimbursement is being sought. The request for reimbursement must include receipts for all actual expenses incurred, in order to receive reimbursement. Employees will be reimbursed at the allowable per diem and U.S. GSA rates, as outlined in the City's Travel Policy (A.R. 90.30) or other City policies as applicable.
3. For participatory related expenses, such as attending conferences, seminars and Continuing Legal Education, the employee must also submit satisfactory evidence of attendance in order to receive reimbursement.
4. Attendance at pre-approved professional development events under this Article is considered compensable time. An employee will receive his or her salary for up to five working days per event while attending pre-approved professional development events. However, an employee must use leave time for absences for professional development after five days.
5. The following types of classes, courses, seminars and materials shall be eligible for reimbursement under this section II: Continuing Legal Education, attending conferences, seminars, or trainings, related to the employees' practice or duties, bar association dues, national, state and local bar section dues, subscriptions to legal journals or other legal periodicals, and legal source and reference materials.
6. To be eligible for reimbursement under this section II, proposed job-related equipment purchases must (1) fall within an equipment category, (2) meet or exceed minimum specifications, and (3) be within purchase frequency limitations detailed in the City Attorney's Office Equipment Employee Purchase Policy (EPP). Reimbursement is not available for job-related equipment purchases prior to receiving approval for reimbursement. Ownership of equipment purchased using

funds provided under this section II is determined pursuant to the EPP Ownership Schedule. Reimbursement may not be sought for a portion of the price of job-related equipment. Rather, to obtain reimbursement, an employee must have a sufficient professional development funds balance to receive reimbursement of the entire purchase price.

7. **For Fiscal Year end, expenses must be approved and expended by June 30 of the fiscal year, and receipts submitted for reimbursement by July 1 to qualify for the prior fiscal year.**

C. Discretionary Reimbursement

In addition to reimbursable items under sections I and II above, employees may request reimbursement for additional professional development that (1) does not meet the professional development requirements set forth in section II above or (2) would cause the employee to exceed the \$2,000 per fiscal year cap. This section III does not apply to reimbursements for the purchase of job-related equipment. Requests under this section must be pre-approved by the City Attorney in advance and approval shall be subject to the City Attorney's sole discretion. Employees requesting reimbursement under this section III must comply with the requirements of section II A through E above.

ARTICLE 14:

Review of Performance and Discretionary Merit Increases

- A. Effective July 1, 2009, a new structured salary schedule will be implemented. (See Appendix A, "DCAA Salary Schedule," which is attached and incorporated into this MOU.) This salary schedule is established solely pursuant to this Memorandum of Understanding. Deputy City Attorneys at all grades fall under the City employee classification of "Deputy City Attorney" in the Unclassified Service. Management has the affirmative duty to provide the employees with written performance evaluations; however, failure to provide the required written performance evaluation shall not be the basis for the denial of step advancement for employees in the DCA I, II, III, or IV grades as outlined below. Nothing contained herein shall affect the City Attorney's authority to hire a Deputy City Attorney at any salary.

1. Deputy I and II

Management of the Office will review the performance of employees in the DCA I and II grades every six months, in approximately June and December. Employees in the DCA I and II grades who have served at least six months at their current step will receive a step increase at the time of review, unless there is prior written finding in the form of a performance review that the DCA has rendered less than satisfactory performance. All step increases will be effective on the first day of the last pay period of the fiscal year that includes July 1 and the first day of the first pay period of the calendar year that includes January 1 of each year.

2. Deputy III

Management of the Office will review the performance of employees in the DCA III grade once per year, in approximately June. Effective July 1, 2010, employees in the DCA III grade who have served at least one year at their current **grade** will receive a step increase at the time of review, unless there is a prior written finding in the form

of a performance review that the DCA has rendered less than satisfactory performance. All step increases will be effective on the first day of the last pay period of the fiscal year that includes July 1 of each year.

3. Deputy IV

Management of the Office will review the performance of employees in the DCA IV grade once per year, in approximately June. Employees in the DCA IV grade who have served at least one year at their current **grade** will receive a step increase at the time of review, unless there is a prior written finding in the form of a performance review that the DCA has rendered less than satisfactory performance. See Appendix A. All step increases will be effective on the first day of the last pay period of the fiscal year that includes July 1 of each year.

4. Deputy V and Deputy VI

Management of the Office will review the performance of employees in the DCA V and DCA VI grades once per year, in approximately the month of June. These employees will be eligible to receive an increase **of one or more percent** at the time of review, provided that the increase is at the sole and absolute discretion of the City Attorney, is based on merit, and is within the budgetary constraints of the City Attorney.

5. Pilot Program for Term of MOU

As a pilot program for the term of the MOU, DCA V and DCA VI grades who have served at least one year at their current grade will receive a two percent increase effective July 1 of each year of this MOU if the employee receives a rating of satisfactory or above on their current performance evaluation. These employees will also be eligible to receive an additional increase of one or more percent at any time during the fiscal year, provided that the increase is at the sole and absolute discretion of the City Attorney, is based on merit, and is within the budgetary constraints of the City Attorney. Any discretionary increase awarded under this pilot program will be effective upon the determination of the City Attorney that a discretionary increase should be awarded. A DCA who is on a performance improvement plan or who has a performance review that states that the DCA has rendered less than satisfactory performance will not qualify for the two percent annual increase. Section A.5 of this Article will be effective July 1, 2023, or the first full pay period following Council approval of this MOU, whichever is later. This pilot program will terminate upon the expiration of the MOU.

B. Progression Between Grades

Placement in, and progression between grades shall be in the sole and absolute discretion of the City Attorney.

C. DCAA Performance Evaluation Process

The Parties have developed an agreed-upon performance evaluation process for employees in the DCAA Bargaining Unit. As such, during the term of this MOU, the Office will conduct performance evaluations consistent with the procedures developed by the Parties.

ARTICLE 15: Grievance Procedure

- A. This Grievance Procedure is provided for the orderly and efficient disposition of grievances. A grievance is as defined below, except that this Grievance Procedure does not apply to employment termination. This Grievance Procedure in no way limits the City Attorney's management rights as expressed in Article 10 of this MOU, nor does it change the fact that the City Attorney has the sole and absolute discretion to discipline, demote, terminate, or alter the employment relationship with any employee in accordance with Articles 15 and 26 of this MOU.
- B. The Parties recognize that City has other complaint procedures. This Grievance Procedure is not intended to limit or prohibit an employee from filing a complaint under any other City policy that is applicable to that employee, nor does it prohibit an employee from filing a complaint with an administrative agency or a court of law, once the employee has exhausted this grievance procedure with respect to violations of this MOU.

Definitions

1. The term "grievance" means a claimed or charged violation of this MOU, or Management policies or regulations including, but not limited to, applicable Administrative and Departmental Regulations which affect wages, hours, or other terms and conditions of employment.
2. The term "grievant" means an individual employee or the DCAA.
3. The term "working days" means the actual work days of the individual on whom the time limits are imposed, excluding Saturdays, Sundays, and City holidays.

Policy

1. Employees have the right to file grievances without jeopardizing their positions.
2. Employees may represent themselves or be represented by a DCAA Representative designated pursuant to this MOU at any or all steps in the grievance procedure.
 - a. The employee has the right to the assistance of a DCAA representative in the investigation, preparation and presentation of a grievance.
 - b. Employees may have no more than one employee and one non-employee as representatives for a grievance hearing. A person not acting as a representative may take notes or observe.
3. Grievances may be initiated by the employee and/or a DCAA representative on the employee's behalf. If an employee chooses to have representation on any formal grievance concerning a matter that directly involves the interpretation or application of the specific terms and provisions of this MOU, the representation must come from DCAA.
4. The employee's or DCAA's first contact regarding job and working conditions is with their immediate supervisor. The supervisor and the grievant shall attempt to settle grievances informally at this level.

5. A grievance will normally be presented and processed on City time, and a grievant attending a grievance meeting on their own behalf on City time will not lose pay. In scheduling the time, place and duration of any grievance meeting, the employee, and/or the DCAA Representative and Management will give due consideration to the operations of the City Attorney's Office. Management has the unequivocal right to schedule grievance hearings as convenient. Hearings may or may not be held during an employee's normal shift.
6. Actions which are covered in the Management Rights Article of this MOU are not grievable, but this does not preclude employees or their representatives from consulting with Management about the practical consequences the exercise of the Management Rights Article may have on wages, hours, and other terms and conditions of employment. In addition, actions covered by another applicable appeals process are not grievable and cannot be processed through this grievance procedure.
7. If the grievance system is abused by an unreasonable number of submittals by one individual or group, or if the grievances are patently irrelevant or incomprehensible, such grievances will be rejected as non-grievable. The rejection is grievable.

Waivers and Time Limits

1. Failure by Management to reply to the grievant's grievance within the time limits specified in this Article automatically processes the grievance to the next level.
2. Any level of review, or any time limits established in this procedure, may be waived or extended by mutual agreement confirmed in writing.
3. If a grievant fails to appeal from one level to the next level within the time limits established in this grievance procedure, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.
4. By mutual agreement, the grievance may revert to a prior level for reconsideration.
5. If a grievant fails to appear for a scheduled grievance meeting, the failure to appear without an approved excuse by the Appointing Authority entitles Management to decide on the grievance without the presence of the grievant, or to schedule another meeting at that level (in which case the time requirements for hearing and decision are automatically waived). Failure to appear at two meetings on the same grievance without an approved excuse automatically terminates the grievance and it is deemed denied. The grievance shall then not be subject to further appeal or reconsideration.
6. When a grievant is on approved leave the time limits established in this procedure shall be suspended for the period of the leave.
7. No grievance shall be finally dismissed for an unexcused failure to appear at a scheduled hearing unless the grievant had been given at least twenty-four hours advance notice of the hearing.
8. Management shall provide DCAA with copies of all grievances regarding this MOU filed by employees, within DCAA Bargaining Unit, who choose to represent themselves.

9. DCAA agrees to pursue all claims of violation of this MOU through the grievance procedure. Resort to other remedies shall not be pursued until all steps of the grievance procedure have been exhausted. If the grievant resorts to remedies outside the grievance process prior to its completion, the grievance process is automatically terminated. When DCAA reasonably believes that an employee will experience immediate and irreparable harm, DCAA will directly contact the Assistant City Attorney – Executive Operations prior to initiating some other type of action. DCAA must allow the City Attorney's Office a reasonable period of time to address the grievance prior to initiating action outside of the City. Use of this procedure shall be deemed to exhaust the grievance procedure.

General

1. Management of the department has the responsibility to inform a grievant of any limitation of a given level of Management's authority to fully resolve the grievance. In this regard, Management shall:
 - a. Supply the grievant with the necessary and relevant information to process the grievance at the proper step of the grievance procedure.
 - b. Advise a grievant when any matter under submission is determined by Management as not grievable according to the definitions in section A. The "grievance" paperwork submitted by the grievant shall be returned to the grievant along with a memorandum explaining why the matter is not grievable and what alternative procedures, if any, the grievant may follow to process their complaint. If a grievance is determined to be nongrievable, that decision may be appealed to the next step without reverting to a lower step. A decision favorable to the grievant at this step in the grievance procedure serves to reinstate the original grievance in whole.
2. When a group of identical grievances develop, only one grievance form shall be submitted. The grievants may select not more than two spokespersons who will be their representative "grievants." The acceptance of the decision by the spokespersons at any step (or final decision if the grievance moves to the Step 3) will be binding on all Parties.
3. A grievance shall be recognized if it is brought to the attention of the immediate supervisor either informally or formally within fourteen (14) working days of the incident's occurrence, unless an extension was approved by the City Attorney's Office.
4. If the grievance is between the employee and their immediate supervisor, Step 1 may be to the employee's next higher-level supervisor.
5. To be recognized, a grievance must state which policy, rule, regulation, etc., is involved in the matter and the nature of the remedy sought by the grievant. In the event that the grievance is rejected for failure to state which policy, rule, regulation, etc., is involved, it may be amended by the grievant.

The Grievance Procedure steps are as follows:

1. First Step – Chief Deputy: In order to minimize the possibility of misunderstanding, an employee shall discuss the problem or grievance with the Chief Deputy of their unit within fourteen calendar days of the occurrence of the problem creating the grievance. The Chief Deputy or their designee will investigate the matter and attempt

to provide a solution or explanation within fourteen calendar days after the grievant reported the grievance, unless additional time is required under the circumstances. At the grievant's sole option, grievances may be presented to the Chief Deputy either orally or in writing. Through either presentation method, it must be clearly identified as a grievance made pursuant to the terms of this MOU. If the complaint is presented orally, the procedure is informal and may be settled by an oral answer given within five calendar days to the grievant. If the grievance is presented in writing, the procedure is formal, a meeting with the grievant and DCAA shall be held, and the answer must be given in writing within five calendar days after the meeting at which the supervisor was given the written grievance.

2. Second Step – Assistant City Attorneys: If a grievant does not receive a satisfactory answer or resolution as a result of the First Step of this procedure, grievant, if not already done in the First Step, will reduce the grievance to writing and present the grievance to their supervising Assistant City Attorney or their designee, and an Assistant City Attorney or their designee who was not previously involved in the process or the issue subject to the grievance, within fourteen calendar days after receiving the explanation from the Chief Deputy referred to in the First Step of this procedure. After receiving the written grievance, the Assistant City Attorneys or their designees, will promptly schedule a meeting to provide the grievant with an opportunity to present the problem personally. Within fourteen calendar days after that meeting or a longer period if required under the circumstances to properly investigate and consider the matter, the Assistant City Attorneys or their designees will provide the grievant with a verbal or written response to the grievance.
3. Third Step – City Attorney: If a grievant is not satisfied with the decision at the Second Step of this procedure, they may request in writing, within fourteen calendar days after receiving the response from the Assistant City Attorney, , an appointment to meet with the City Attorney or their designee who was not previously involved in the process or the issue subject to the grievance. The City Attorney, or their designee, will discuss the concern with the grievant and investigate the basis for the grievance. The Assistant City Attorney's decision shall be provided to the City Attorney and the grievant, within 14 days and may be reviewed and considered by the City Attorney before any final decision is made. The City Attorney or their designee will provide either a verbal or written decision to the grievant within fourteen calendar days after that meeting, unless they determine that additional time is required under the circumstances. The decision regarding the grievance at this step is the final decision of the City Attorney.
4. It is the City Attorney's intention to be fair and impartial in order to establish the smoothest working relationship possible. No employee will be discriminated or retaliated against, or in any way penalized, for using this procedure.

ARTICLE 16:

Disciplinary Actions and Lay-Offs

A. Covered DCA Terminations or Suspensions for Cause

1. A "Covered Deputy City Attorney" ("Covered DCA") is a Deputy City Attorney who has served continuously as a Deputy City Attorney with the Office for one year or more. **A Covered DCA is also a City employee who transfers to a Deputy City Attorney position from an unclassified, unrepresented position within the City if the Deputy City Attorney (a) was previously a Deputy City Attorney with the Office for at least one**

- year and (b) has had no break in City Service in the one year immediately before the transfer.
2. For any Covered DCA who the City Attorney is considering terminating or suspending for cause, the following procedural steps will apply:
 - a. The City Attorney or designee will first provide the Covered DCA with a written “Advance Notice,” e.g., Advance Notice of Termination, setting forth the specific disciplinary action proposed, the grounds for the action, and all the materials supporting the proposed action. The Advance Notice will notify the Covered DCA of their right to be heard in an informal meeting prior to the discipline becoming final and their right to have representation at the informal meeting.
 - b. The City Attorney may place the Covered DCA subject to termination or suspension on paid administrative leave, with the Covered DCA to remain out of the workplace, pending final resolution of the discipline, including any appeal. If not placed on paid administrative leave, the Covered DCA will remain in the workplace and may be subject to a change in their assigned work or unit.
 - c. At least five business days following the issuance of the Advance Notice, an informal meeting will be held between the Covered DCA and a City Attorney designee to discuss the proposed discipline, unless the meeting is waived by the Covered DCA in writing. The Covered DCA may be accompanied at the informal meeting by a DCAA representative.
 - d. Following the informal meeting, the City Attorney will provide the covered DCA with a written Notice of Termination or Notice of Suspension, if determined appropriate, stating the specific disciplinary action being brought against the Covered DCA, the grounds for the action, all the materials supporting the action, and the effective date of the action, which must be at least fifteen business days after the date the Notice is issued. The Notice will advise the Covered DCA of their right to appeal the termination or suspension, and their right to present witnesses, confront adverse witnesses, and be represented at an appeal hearing. The Covered DCA may be represented by counsel at the appeal hearing, at the expense of the Covered DCA.
 - e. Within five business days of the Covered DCA’s receipt of the Notice of Termination or Notice of Suspension, the Covered DCA may request an appeal hearing by submitting a written request to the City Attorney.
 - f. If the Covered DCA requests an appeal hearing, the hearing will be held within five business days after the Covered DCA’s submission of their request for an appeal, unless an extension of time is mutually agreed upon in writing. The appeal hearing will be conducted by an unbiased hearing officer, who is either an Assistant City Attorney from a division other than that of the Covered DCA or, at the sole discretion of the City Attorney, a designee from outside the Office. If the appeal hearing officer is to be an Assistant City Attorney, the Covered DCA may choose the Assistant City Attorney from a list of at least two Assistant City Attorneys who have not participated in the Covered DCA’s disciplinary process. At the appeal hearing, the Assistant City Attorney who serves as the supervisor of the Covered DCA, or their designee, will present

evidence supporting the termination or suspension. The Covered DCA or their representative will be provided with an opportunity to **present evidence**, confront adverse witnesses, and present witnesses on behalf of the Covered DCA. The City Attorney shall contemporaneously make and maintain a record of the appeal hearing, which may be **by** audio recording.

- g. Following any appeal hearing, the appeal hearing officer will provide the Covered DCA with a **written** decision, setting forth whether there is sufficient evidence to uphold the charges, the evidence relied upon, and the reasons for the determination. The appeal hearing officer shall uphold, reverse, or **modify** the proposed discipline. The **written decision** will be provided to the Covered DCA within five business days following the appeal hearing. The **written** decision will include a notice of the final effective date of **the** discipline, if applicable.
- h. If a **termination** is upheld, the Covered DCA **will** receive three weeks' pay from the date of the Notice of **Termination**, minus **any** amount of pay already received.
- i. Regardless of whether the Covered DCA decides to appeal the termination or suspension, the Covered DCA will receive the equivalent of three weeks' notice, three weeks' pay in lieu of **the** notice, or a **combination of notice and pay, at the City Attorney's discretion, prior to the effective date of the termination or suspension. Any payment made in lieu of notice under this Article will be paid as of the effective date of the termination. In all cases, the employee will take appropriate steps to transition their duties to other attorneys in the Office.**
- j. Nothing included herein precludes the City Attorney from being involved in making the original disciplinary decision.

B. Non-Covered DCA Terminations, Other than Layoffs

Any DCAA represented employee, who is not a Covered DCA within the meaning of Paragraph A above, who has been terminated for any reason, other than a layoff due to lack of work, lack of funds, or reorganization, may, within five business days of their termination, request a meeting with the City Attorney or designee to discuss the termination decision. The meeting will occur within ten business days of receipt of the request.

C. Layoffs

- 1. In the event the City Attorney decides a layoff of Deputy City Attorneys is necessary, due to lack of work, lack of funds, or reorganization, the City Attorney will comply with the Meyers-Milias-Brown Act.
- 2. The Parties will continue the current negotiations regarding a layoff procedure in accordance with San Diego Charter sections 30 and 40.

D. Written Counselings, Written Warnings, and Reprimands

Written counselings, written warnings, or reprimands will be kept for a minimum of four years in accordance with Government Code section 12946. Written counselings, written warnings, or reprimands more than four years old will not be considered for purposes of promotions, transfers, special assignments, or disciplinary actions, except such may be

considered in disciplinary actions involving similar misconduct.

ARTICLE 17:
Inspection of Employee Personnel File

- A. Each employee has the opportunity to inspect the contents of their personnel file at reasonable times and at reasonable intervals, provided sufficient advance notice is given to Management of the Office of the employee's desire to do so. The inspection is limited to those records that the employee has the right to inspect under California Labor Code section 1198.5.
- B. A copy of any document which reflects negatively on an employee's performance that is placed in the employee's personnel file shall also be provided to the employee and signed and dated by the author. At the employee's request, the Office will place into an employee's personnel file a written response to any adverse document placed in an employee's personnel file.

ARTICLE 18:
DCAA Matters

- A. DCAA may, with the prior approval of Management, be granted the use of City Attorney meeting room facilities for meetings of its members. Membership meetings shall not be held during work hours.
- B. The City Attorney recognizes the right of DCAA to designate employee representatives from the employees in the Bargaining Unit. DCAA reserves the right to designate the method of selection of employee representatives. DCAA shall notify management of the Office in writing of the names of its employee representatives and shall also provide notice in writing of any changes regarding employee representatives and who they are replacing.
- C. When formal meetings are scheduled for the purpose of meeting and conferring on subjects within the scope of representation, DCAA may be represented by up to four members designated by DCAA. For purposes of conferring on a successor MOU, DCAA may designate up to four DCAA members to participate. Additional representatives may attend upon mutual written agreement of the Parties. These employees may attend these meetings during regular work hours without loss of compensation or other benefits. Nothing provided in this Article limits or restricts Management from scheduling meetings before or after regular duty or work hours under appropriate circumstances.
- D. Designated DCAA representatives will be entitled to devote a reasonable amount of time to the representation of its members, such as grievance handling, attending disciplinary meetings, and addressing meet and confer issues, during the course of the work day. This time will not result in a reduction in workload from current levels. At the time of the designation, DCAA will provide to Management contact information for its representatives.
- E. The City will provide DCAA, at least every thirty (30) days, with a current alphabetized list of DCAs contact information.
- F. **New Employee Orientation**
 - 1. **The City and DCAA mutually agree that the structure, time, and manner of DCAA's**

access to the City's New Employee Orientation Program (NEO) in accordance with the requirements of California Government Code section 3557 is as expressly stated in this Article.

2. City agrees to provide DCAA with an opportunity to make presentations to new employees during the benefits portion of the City's NEO or a separate meeting with new employees who do not attend the City's NEO. These presentations will be, but not exceed 45 minutes, and will be restricted to employees in job classifications represented by DCAA. DCAA will be provided a separate room for their presentation.
3. DCAA will have access to the City's NEO that will be held at least twice a month. The NEO will cover City policies, procedures, and benefits for new hires. The NEO will be conducted in-person and attendance by affected employees will be mandatory within 30 calendar days from the new employee's hire date. The City and DCAA agree that the City may determine that due to operational needs or a declared state of emergency by the Mayor or City Council the NEO may be moved from in-person to any virtual platform with reasonable advance written notice to DCAA.
4. The City will provide DCAA with at least 10 calendar days' notice in advance of the date of an NEO, except that a shorter notice may be provided in a specific instance where there is an urgent need critical to the City's operations that was not reasonably foreseeable. The City must not disclose the date, time, and place of the NEO to anyone other than the City's agents involved in the NEO, the affected employees, DCAA, or a vendor contracted to provide a service for purposes of the orientation. Absent the ten (10) day notification, the DCAA will be provided the identity of the new employee and an opportunity to meet with the employee at a City location while employee is on duty.

ARTICLE 19: Union Security

- A. The City agrees to deduct and transmit to DCAA all membership dues. The City will deduct membership dues on a bi-weekly basis, in accordance with the provisions of this section. The City and DCAA agree that the system of authorized dues deductions will be operated in accordance with the Government Code, or other controlling federal or state law. If anything in this Article conflicts with any existing or future federal, state, or local law or regulation, then the law or regulation controls and the conflicting provision in this MOU is deemed void and unenforceable. In the event there is a change to controlling federal or state regulations, the City and DCAA agree to meet and confer over an impacts subject to bargaining in accordance with the Meyers-Milias-Brown Act.
- B. DCAA will set the amount of membership dues and other lawful deductions and notify the City of these amounts in writing. DCAA will also provide the City with the list of DCAA employees who have affirmatively consented to or authorized dues deductions. The City will not request DCAA to provide a copy of any member's authorization unless a dispute arises about the existence or terms of the authorization. To the extent permitted by law, the City will rely on the information provided by DCAA in processing dues deductions for DCAA members. DCAA is responsible for providing the City with timely information regarding changes to member employees' dues deductions.
- C. DCAA agrees to indemnify, defend, and hold harmless the City, including its officers, representatives, and agents, against all liability arising from any claims, demands, or other

action relating to the City's compliance with this Article. This agreement to defend and indemnify includes liability arising from or related to the active or passive negligent acts or omissions of the City, its officers, representatives, and agents, which may be in combination with the active or passive negligent acts or omissions of the DCAA, its employees, agents, or officers, or any third party. In addition, the DCAA will refund to the City any amounts paid to it in error after the City provides DCAA with supporting evidence of the error.

- D. When a member is in a non-pay status for an entire pay period, the City will not deduct any dues to cover that pay period from any future earnings nor will the member deposit (with the City) the amount that would have been withheld if the member had been in a pay status during that period. When an employee is in a non-pay status during only a part of the pay period and the employee's **salary** is not sufficient to cover the full dues amount, the City will not deduct any dues to cover that pay period.
- E. No provisions of this Article nor any disputes arising from it are subject to the grievance and arbitration procedure set forth in this MOU.
- F. Payroll Deductions
 - 1. The City will deduct DCAA dues bi-weekly from the **salaries** of employees, who are members of DCAA, when the deductions are certified by DCAA, in accordance with federal and state law. The City will remit the aggregate amount of all DCAA dues deductions bi-weekly after completing the payroll process for each pay period in which DCAA dues' deductions were made.
 - 2. The City will deduct DCAA dues in a specified amount based on the information provided by DCAA. DCAA must provide information on dues' deduction authorizations and cancellations on a timely basis, in accordance with state law. If an employee submits a payroll deduction authorization change to the City which has not been processed by DCAA, the City will direct the employee to the DCAA promptly. The City will continue to deduct dues in reliance on the information provided by the DCAA, until the DCAA notifies the City of a deduction change authorization.
 - 3. Payroll authorization may, at the election of the DCAA, be for a specific term. The responsibility to enforce this provision lies solely with the DCAA.

**ARTICLE 20:
Employee Rights**

- A. The Parties mutually recognize and agree to fully protect the rights of all employees covered by this MOU to join and participate in the activities of DCAA (outside of work time).
- B. No employees shall be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.
- C. The Parties, in the conduct of their affairs, shall apply the provisions of this MOU equally to all covered employees without favor or discrimination based on any of the protected classes or categories listed in City's Equal Employment Opportunity (EEO) Policy – Annual Statement, or because of political or religious opinions or affiliations.

**ARTICLE 21:
Provisions of Law**

If any part or provision of this MOU is in conflict or inconsistent with applicable provisions of federal, state or local laws or regulations, or is otherwise held to be invalid or unenforceable by an agency or court of competent jurisdiction, those parts or provisions shall be suspended and superseded by applicable laws or regulations, and the remainder of the MOU shall not be affected.

ARTICLE 22: Holidays

A. Fixed Holidays

1. Fixed Holidays will be:
 - a. January 1;
 - b. Third Monday in January, known as “Dr. Martin Luther King, Jr.’s Birthday”;
 - c. Third Monday in February, known as “Presidents’ Day”;
 - d. March 31, known as “Cesar Chavez Day”;
 - e. Last Monday in May, known as “Memorial Day”;
 - f. **June 19, known as “Juneteenth”;**
 - g. July 4;
 - h. First Monday in September, known as “Labor Day”;
 - i. November 11, known as “Veterans; Day”;
 - j. Fourth Thursday in November, known as “Thanksgiving Day”; and
 - k. December 25; and
 - l. Every day appointed by the City Council for a public fast, thanksgiving or holiday.
2. If City Council changes City holidays, the Parties will re-negotiate the holidays for employees.
3. If January 1, March 31, **June 19**, July 4, November 11, or December 25 fall on a Sunday, the Monday following is City-observed holiday. If any of the dates listed in this section fall on a Saturday, the preceding Friday is City-observed holiday.

B. Floating Holiday

1. In each fiscal year covered by the term of this MOU, each eligible employee available for a duty assignment on July 1, (as defined in Personnel Regulation Manual Index Code H-2) shall accrue credit for hours of holiday time equal to the hours worked in the employee’s normal work day of up to eight hours. Each employee accruing such time shall schedule their floating holiday to comply with the following conditions:
 - a. Employee must schedule the floating holiday prior to June 1;
 - b. The floating holiday must be a one-time absence and it must be used before the last day of the last full pay period in June; and
 - c. The floating holiday must be taken at a time convenient to the City Attorney or their designee.

ARTICLE 23: Direct Deposit

The City Attorney agrees to offer direct deposit of employee paychecks. All employees who choose to electronically deposit their paychecks to a financial institution of their choice (subject to electronic compatibility) will be required to provide authorization to the Department of Finance. Employees will not be required to change financial institutions if their financial institution is not compatible with the Automated Clearing House (ACH) transfer.

ARTICLE 24:
Parking and Transportation Program

A. Parking

Employees who use the Concourse Parkade, Central Library, or Civic Center Plaza, Mission Hills Library, Horton Plaza, or any other facility as designated by the Mayor; and pay on a biweekly basis will be charged 25 percent of the prevailing general public monthly rate.

1. The City will provide reimbursement to employees who have a monthly parking pass and use the Concourse Parkade, Civic Center Plaza, Central Library, Mission Hills Library, Horton Plaza, or other facilities designated by the Mayor, and carpool with other City employees. The rate of reimbursement will be calculated so that an employee who carries three riders will receive free parking.
2. The City may expand parking opportunities to other facilities designated by the Mayor. The City will engage the DCAA in any impact bargaining required under the MMBA, related to new parking opportunities.
3. Management agrees to make its best effort to negotiate with Parking Facility Providers reduced rates comparable to those at the Concourse for employees assigned to City facilities.

B. Transportation Program

As part of the Transportation Alternative Program (TAP), the City will provide transportation subsidies as outlined in section B.1 and a free transit pass as outlined in section B.2 below. Employees may also participate concurrently in the City's discounted monthly parking program as outlined in section A. Transportation subsidies and free transit passes can only be used by the City employee it is issued to. Employees in violation of these provisions will not be eligible to participate in TAP.

1. Transportation Subsidies

Employees must use these subsidized transportation services to commute to and from work at least three days per week to be eligible.

- a. **A City-approved vanpool program is subsidized at 90%, subject to a \$100 monthly reimbursement cap.**
- b. **Use of the San Diego Bay Ferry is subsidized at 90%, subject to a \$100 monthly reimbursement cap.**
- c. **The monthly Adult 2-Zones Coaster Pass and Adult 3-Zones Coaster Pass is subsidized at 90%, subject to a \$100 monthly reimbursement cap.**

- d. **The SDM Coaster pass (3-Zones Senior/Disabled/Medicare Coaster Pass) is subsidized at 90%, subject to a \$100 monthly reimbursement cap.**
2. **Free Transit Pass**

The City will offer employees a free Universal Pass (U-Pass) through the San Diego Metropolitan Transit System (MTS). Enrollment for the U-Pass will occur on a rolling basis. The following terms apply for the U-Pass for the term of this MOU:

 - a. **If an employee receives a U-Pass for the year, the employee can also participate in other TAP subsidies or reimbursements identified in this Article for that same year.**
 - b. **The U-Pass includes the following transit passes:**
 1. **The All Trolley/Local Bus Pass (Regional)**
 2. **The Rapid Express/Premium Pass**
 3. **If MTS discontinues or modifies the free transit passes or employer discount program during the term of this MOU, the City will meet and confer before it adjusts the costs of the program, but in no event, will the reimbursement be less than 75%, subject to the \$100 monthly reimbursement cap.**

ARTICLE 25:
Recognition of City Policies

During the term of this MOU, all existing City policies and Administrative Regulations currently applicable to DCAs will remain in effect. In addition, the following Administrative Regulations will apply:

1. A.R. 45.10 - Employee Transportation Authorization
2. A.R. 63.00 - Industrial Leave
3. A.R. 75.40 - Administration of Light Duty Program
4. A.R. 95.60 - Conflict of Interest and Employee Conduct
5. A.R. 95.89 - Parental Leave
6. A.R. 95.90 - Unused Sick Leave and Accrued Annual Leave Reimbursement
7. A.R. 95.91 - Rewards and Recognition
8. **A.R. 95.95 - Telework Program**
9. A.R. 97.00 - Substance Abuse Policy
10. A.R. 97.10 - Threat Management Policy
11. A.R. 97.20 - Weapon-Free Workplace Policy

ARTICLE 26:
Jury Duty Scheduling

When feasible and appropriate, Management agrees to make reasonable adjustments in an employee's work schedule when the employee is assigned to jury duty.

ARTICLE 27:

DCAA Access for Non-Employees

- A. DCAA paid non-City employee representatives (Authorized Representatives) will be granted access to work locations in which employees covered by this Memorandum are employed, for the purpose of conducting grievance investigations and observing working conditions. Authorized Representatives seeking access to work locations must first request access from the appropriate Management representative, at which time the Authorized Representatives will inform the Management representative of the purpose of the visit. The Management representative may deny access to a work location if, in their judgement, it is determined that a visit will unduly interfere with the operations of the department or facility. In that event, the Management representative will recommend an alternative time for the visit within the next twenty-four hours unless the Management representative and Authorized Representatives mutually agree on an alternative time for the visit. Authorized Representatives will not unduly interfere with operations of the department during a visit.**
- B. Within thirty calendar days of the effective date of this Memorandum, DCAA will give to Management a written list of all Authorized Representatives. The list will be kept current by DCAA. Access to work locations hereunder will be granted only to representatives on the current list.**
- C. Upon reasonable prior notice to CAO management, Authorized Representatives will be given escorted access to work locations during working hours to conduct grievance investigations and observe working conditions on the condition that Authorized Representatives will comply with regulations established in this Article, and that Authorized Representatives will not interfere with work operations of the department.**

ARTICLE 28: Employee Representation

An employee is entitled, upon their request, to representation by DCAA during an interview or investigation by City representatives that the employee reasonably believes may result in disciplinary action, during any meeting at which Management intends to issue written disciplinary action, or to terminate an employee, and during any meeting conducted as an interactive process under the ADA or FEHA to identify whether a reasonable accommodation is needed and, if so, what reasonable accommodation might be offered. The employee shall be permitted to consult with their representative, prior to the interview, investigation or meeting, provided the representative is available within a reasonable time period. The DCAA representative may not disrupt the interview, investigation, or meeting being conducted by the City. However, DCAA representative can make suggestions, additions, or clarifications at an appropriate time during the interview, investigation or meeting. Performance Review meetings are specifically excluded from this Article.

ARTICLE 29: Fingerprinting

City shall bear the full cost of fingerprinting whenever fingerprinting is required of the employee.

ARTICLE 30:

Copies of the Agreement

DCAA may obtain copies of this MOU from City by reimbursing City for their cost. City will provide DCAA with an electronic version of this Agreement (MOU). The MOU will be posted electronically on the City's website in a location easily accessible to all DCAA-represented members.

ARTICLE 31:

Air Quality

- A. **The City agrees to inform DCAA when building or remodeling activities take place that involve the removal or containment of asbestos.**
 - B. **In cases of emergency removal or containment of asbestos, City will comply will all applicable state and federal laws, including the notification of employees in the affected areas.**
-

ARTICLE 32:

Weapon-Free Workplace

DCAA represented employees are prohibited from possessing or storing firearms, even if lawfully owned, on the job or in City-controlled parking locations.

ARTICLE 33:

Volunteers

- A. City's Volunteer Program is governed by City Council Policy 300-01. A "volunteer" is defined as an individual or groups of individuals who offer themselves for some service or undertaking without being compensated by City.
- B. In accordance with City Council Policy No. 300-01, City will continue to optimize the use of volunteers where it is economically feasible, by developing volunteer opportunities throughout City. Volunteers are to be utilized only to supplement and complement the work performed by City personnel and without decreasing bargaining unit work or displacing existing City personnel.
- C. Parties understand that departments participating in City's Volunteer Program shall utilize volunteers to perform a number of tasks necessary to support volunteer programs. Projects performed by volunteers include, but are not limited to, the following:
 - 1. Legal Interns - supervised by Deputy City Attorneys, assist in drafting pleadings and conducting legal research.
 - 2. Volunteer Attorneys (both Civil and Criminal Division) - attorneys who want experience in criminal prosecution, community justice, civil litigation and civil advisory matters.
 - 3. Retired Deputy City Attorneys - acting in a mentoring role based on extensive years of experience with City.

ARTICLE 34: Labor Management Committee

The Management Team, as designated by the City Attorney, and DCAA will establish a joint Labor Management Committee (LMC) for the purpose of informally discussing issues and maintaining open communication between the Parties. The LMC shall meet at least four (4) times per year for a duration that is mutually agreeable to both the Management Team and DCAA. Each party may appoint up to three members to the LMC. The Parties understand that any discussions or proposals made during LMC meetings are not considered meet and confer negotiations under the MMBA. The Parties also understand that only agreements reached by mutual consent, reduced to writing, and signed off on by authorized representatives of both Parties will be binding.

ARTICLE 35: Flexible Work Arrangements

A. Flexible Work Arrangements

To better adapt to the changing landscape of the workplace, the City supports where appropriate, flexible work locations and flexible work schedules to promote the City's Climate Action Plan and to optimize the use of City facilities and equipment. Based on a Department's operational needs and the job duties of a specific classification, various flexible work locations and flexible work schedules, collectively referred to as "Flexible Work Arrangements," may be made available to employees. Flexible Work Arrangements could include teleworking, alternative workstations, office sharing options for employees, alternative work schedules, and alternating office and teleworking schedules.

1. Teleworking – is an alternative work arrangement agreement between the employee and their Department where the employee may be permitted to work from their home, rather than the employee's permanent work location or other City-designated alternative workstations at the discretion of the Department appointing authority. Such an agreement may not be available if the employee's job duties rely on in-person services.
2. Alternative Workstation – is a City-designated alternative work location, shared by one or more employees from various Departments, where an employee has access to the City's information technology systems and can work at the remote work location rather than the employee's permanent Department work location. Alternative workstations are limited across the City and permitted on a case-by-case basis at the request of the employee. Alternative workstations may be approved at the Department appointing authority's discretion for implementation in cases in which there is no harm to departmental efficiency, productivity or costs, but will result in benefits for employees.
3. Department Office Sharing – a Department-designated office space to be shared by one or more employees within the Department who are participating in a Department approved agreement on flexible work locations.
4. Alternative Work Schedules – Schedule alternatives to the traditional eight-hour day, five-day work week, such as the 4/10 or 44/36 schedules and flexible hours within a Department's core hours.

5. Alternating Office and Teleworking Schedule – is a hybrid flexible work location and flexible work schedule. At the discretion of the Department appointing authority, an employee may be permitted to telework for part of the workweek and to be in the Department or City designated workspace for the remainder of the workweek.

B. For the Flexible Work Arrangement options described in section A above, the City will not be required to provide a five working days' notice prior to changing a flexible work location or flexible work schedule unless extenuating circumstances warrant a 24-hour notice to return to their original work schedule. All Departments and employees that participate in any Flexible Work Arrangements will enter into a Flexible Work Agreement. The Flexible Work Agreement is approved at the discretion of the Department appointing authority based on operational needs and feasibility. Flexible Work Arrangements may be modified by the Department at its sole discretion at any time for reasonable cause. This article is not subject to the grievance procedure.

C. **Teleworking**

1. **General Provisions**

DCAs are expected to work all hours necessary to competently accomplish their assignment and fulfill their responsibilities. It is an expectation and performance metric that, in the normal course, DCAs are required to work at least eighty (80) hours per pay period regardless of whether the DCA teleworks or works full-time in the office.

DCAs are responsible for keeping management apprised of their schedule, whereabouts, and the status of their work assignments. This includes providing a general description of the work to be performed on a telework day if requested to do so.

“Telework” or “Teleworking,” for purposes of this MOU, is defined in Administrative Regulation (A.R.) 95.95.

DCAs must be productive while teleworking. A DCA’s decision to participate in teleworking instead of working in the office full-time will not be considered when measuring performance.

2. **Policy**

It is the policy of the City Attorney’s Office (CAO) that DCAs are eligible to telework, subject to the terms of this Article 35, Office of the City Attorney Policy No. 6.00, and A.R. 95.95. Teleworking does not change the duties, obligations, responsibilities, or terms and conditions of City employment. Teleworking DCAs must comply with all City rules, policies, practices, and instructions, as well as CAO-specific policies and protocols.

Chiefs/Supervising DCAs/Lead DCAs are expected to monitor the work of teleworking and non-teleworking DCAs under their supervision. When delegating new assignments, supervisors are expected to review the workload of all employees under their supervision and assign work equitably.

A supervisor must provide notice and a reasonable amount of time for the DCA to

return to full-time, in-office work, unless operational needs require shorter notice and return times. Examples of operational needs that may necessitate full-time, in-office work include, but are not limited to, appearances in court, before administrative bodies, or before the City Council that are protracted in duration or require extensive in-person advance preparation with witnesses or staff. In the event the Telework Program Agreement is denied, modified or terminated, the DCA will be provided a written explanation for the action.

All City policies and procedures regarding the use of City computers/equipment and remote access standards established by the City's Department of Information Technology and the CAO's Information Technology unit, and all other City policies and procedures, apply while a DCA is teleworking.

3. Eligibility

Eligibility to telework is based on both the job requirements of the position and the DCA. DCAs are not eligible until they have been a DCA for a minimum of one year, unless otherwise authorized by the City Attorney or their designee. A DCA whose most recent performance evaluation included one or more ratings of "unsuccessful" or DCAs who are currently on a Performance Improvement Plan are not eligible to telework. DCAs who are not upholding CAO obligations, such as meeting performance or conduct expectations, are not eligible to telework.

Unless deemed ineligible based on the above criteria, all DCAs are eligible to telework up to three (3) days each work week, including DCAs who have flexible work schedules.

4. Work Hours

All worksite rules apply to teleworking, including the Professional Work Environment Policy (2021-04). Absent an approved flexible work schedule, teleworking DCAs must generally perform designated work during scheduled work hours and must be available during core business hours (Monday-Friday, 8 am-5 pm). In addition, teleworking DCAs must be accessible to their supervisor and team during core business hours by telephone or email. For purposes of this policy, accessible means that the DCA will respond to a telephone call from a CAO supervisor within one hour, and an email that requires immediate attention within two hours.

The demands of a DCA's practice may require in-person attendance at the CAO, court, City Council/Committee meetings or other meetings during a normally scheduled telework day. DCAs must be available to work at these regular worksites for such functions even on teleworking days if the needs of their assigned unit require it. Doing so does not create any right to flex an in-office workday to a telework day.

Teleworking schedules must be approved by both a DCA's unit/section Chief and Division Assistant City Attorney. The grant or denial of a teleworking schedule, or of a request to alter a regular teleworking schedule, is left to the discretion of Office management (the City Attorney (or designee), Assistant City Attorneys, and Chief) and is not grievable.

Any DCA's request for intermittent and temporary changes to regularly scheduled teleworking days must be approved by the unit/section Chief. This request to change a regularly scheduled teleworking day should be accommodated by the unit/section

Chief if the CAO's operational needs are met.

DCAs must obtain approval for vacation, sick, or other leave requests in the same manner as departmental employees who do not telework.

DCAs teleworking may be required to share an office or use an unassigned office when working in the CAO on non-telework days.

ARTICLE 36: Discretionary Leave

- A. During the term of this MOU, effective July 1, 2021, or the first full pay period following City Council approval of this MOU, whichever date is later, all full-time employees will receive twenty-four (24) hours of Discretionary Leave for use during each fiscal year of this MOU and the Discretionary Leave identified in this Section has no eligibility requirements except as set forth in this Section. Three-quarter time employees will receive eighteen (18) hours of Discretionary Leave for use during each fiscal year of this MOU. Half-time employees will receive twelve (12) hours of Discretionary Leave for use during each fiscal year of this MOU. Discretionary Leave does not continue at the expiration of the MOU.
- B. During Fiscal Year 2023 of this MOU, effective July 1, 2022, all fulltime bargaining unit members will receive eight hours of Discretionary Leave for use during the Fiscal Year 2023 and the Discretionary Leave identified in this Section has no eligibility requirements except as set forth in this Section. Three-quarter time employees will receive six hours of Discretionary Leave for use during Fiscal Year 2023. Half time employees will receive four hours of Discretionary Leave for use during Fiscal Year 2023. Discretionary Leave does not continue at the expiration of the MOU.
- C. Each employee will schedule their Discretionary Leave hours in the same manner as annual leave is presently scheduled pursuant to the Office's annual leave guidelines.
- D. All leave granted under this Article must be used by June 30 of each fiscal year, or it will be forfeited. The discretionary leave under this article does not have any cash value.
- E. Section C above does not amend, modify or alter any discretionary leave that may be granted under Administrative Regulation 95.91 (Employee Recognition and Rewards Program).

ARTICLE 37: Leave-Sharing Plans

A. Catastrophic Leave Plan Program Description

1. Purpose and Scope

Establish a City of San Diego-administered Catastrophic Leave Bank permitting City employees to assist other City employees who face extended leaves without pay due to a catastrophic occurrence in their lives. For the purpose of this plan, a "catastrophic occurrence" is defined as any event that would qualify the employee for a leave under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Americans with Disabilities Act (ADA), other local, state, or federally

protected leave, and other extraordinary circumstances as determined by the Human Resources Director or designee. Although this Program establishes a mechanism for leave transfers, participation is entirely voluntary.

Employees who are entitled to annual leave are eligible to request a Catastrophic Leave Bank from their date of hire. Catastrophic Leave determinations are non-grievable.

Catastrophic leave coverage shall be extended to events affecting registered domestic partners provided that a City of San Diego Affidavit of Domestic Partnership has been submitted.

2. Procedures

- a. The Employee initiates a request for a Catastrophic Leave Bank to be established in accordance with this policy.
 - 1) The employee must have exhausted or expect to exhaust their accrued leave, from both the employee's annual leave and Catastrophic Leave – Annual Leave (CatLv-AL) buckets (to be verified by the department Payroll Specialist), as a result of a qualifying event in order to establish a Catastrophic Leave Bank.
 - i. A recipient's total annual leave balance including donated leave cannot exceed 2,080 hours.
 - 2) The employee must receive approval for an unpaid leave of absence from their Department Head.
- b. Requests to establish a Catastrophic Leave Bank to receive donations will be processed by the Human Resources Department.
 - 1) An eligible employee must submit a completed "Request to Establish Catastrophic Leave Bank" form to the Human Resources Department, accompanied by:
 - i. A signed statement by the employee which includes a brief description of the nature and need for the leave and an estimated time the employee will be out of the workplace, or other appropriate documentation supporting the request. Clarifying documentation may be requested by the Human Resources Department. Any employee who misrepresents information on the signed statement provided to the Human Resources Department may be subject to discipline, up to and including termination.
 - ii. Evidence of the Department Head's approval of the leave of absence.
 - iii. Employees must also identify, on the Request to Establish Catastrophic Leave Bank Form, the names of individuals or groups that may be informed, upon request, if the Catastrophic Leave Bank has been approved. Employees who include a mailing address on the Request will be notified when the

Catastrophic Leave Bank is approved by the Human Resources Department.

- c. Donations of annual leave may be made to an employee eligible for Catastrophic Leave as defined in the Purpose and Scope of this document. The donor's annual leave donation will be deducted from the donor department in the amount donated.
 - 1) Donations of leave are strictly voluntary; the City will maintain the identity of Catastrophic Leave Bank donors in absolute confidence.
 - 2) Employees may only donate accrued annual leave.
 - 3) Donations must be made in whole-hour increments.
 - 4) Donation authorization requests that do not contain all requested information will not be processed.
 - 5) Donors must have at least 160 hours of annual leave (which includes donated Medical Leave) and Catastrophic Leave remaining after the donated time has been deducted.
 - 6) Once donated to the Catastrophic Leave Bank, donated leave cannot be returned to the donor.
 - 7) Employees who wish to donate leave must submit an electronic request through the Leave Administration section of the City's SAP System. Employees without access to the City's Active Directory may complete a "Confidential Authorization for Catastrophic Leave Donation" form and submit it to the Human Resources Department.
- d. Upon receipt of donation authorizations forms, the City's SAP System will:
 - 1) Verify that the donating employee has the minimum required leave balance of 160 hours.
 - 2) Convert the donated dollars as computed above to hours at the recipient's hourly rate. The donor will be taxed for the leave when it is donated to the recipient.
 - 3) Ensure that all deductions (e.g. health premiums, parking, credit union, union dues, etc.) that have previously been authorized by the recipient are made unless the recipient has notified their Payroll Specialist in writing to cancel deductions.
 - 4) Subtract the donated time from the donor's designated leave category; and
 - 5) Add the donated hours to the recipient's Catastrophic Leave – Annual Leave (CatLv-AL) bucket.
- e. An employee who receives Donated Catastrophic Leave hours under this Catastrophic Leave Plan may either take the Donated Catastrophic Leave as compensated time off or may request to receive a cash payment via SAP of the

Donated Catastrophic Leave, but may not re-donate that time to a Catastrophic Leave Bank, Medical Leave Bank, or Child Care Annual Leave Exchange bucket for use by another employee.

- f. Donated Catastrophic Leave is treated as annual leave accrued by the recipient of the donation, but the recipient will not be taxed on the donated annual leave. Payments up to 80 hours per pay period will be made to the recipient until the donated leave has been exhausted.
 - g. When donated Catastrophic Leave hours are taken as cash payment, the employee may take up to the amount of Catastrophic Leave hours available in their established Catastrophic Leave Bank at the time the employee processes their request for cash payment in the City's SAP System. Catastrophic Leave hours are cashed-out on a prospective basis only.
 - h. When donated Catastrophic Leave hours are taken as annual leave for purposes of taking compensated time off, instead of through a cash payment, the employee may take up to 80 hours per pay period until the donated leave has been exhausted.
 - 1) Donated Leave does not alter the employment rights of the City or the recipient, nor does it extend or alter limitations otherwise applicable to leaves of absence or annual leave, except as noted in this Plan.
 - 2) Employees using donated annual leave hours will continue to accrue annual leave in accordance with Personnel Manual Index Code I-2, Annual Leave.
 - 3) Donated Leave can only be used on a going forward basis.
3. Notification of the creation of a Catastrophic Leave Bank to potential donors is the responsibility of the employee, not the department. An employee may use City e-mail for a one-time notification to other City employees regarding the creation of their Catastrophic Leave Bank. Such e-mail should not contain confidential information (e.g. details of their medical condition). All policies and procedures regarding ethical conduct, and the use of e-mail, apply to such notices sent by employees. Employees **must receive prior management approval before** sending "e-mail blasts" (officewide or citywide e-mails), **per Office policy**. Employees may work with their recognized employee organizations to disseminate their request for leave donation. If requested by the employee in the Request for Establishing Catastrophic Leave Bank form, the City will publicize on the Leave Administration section of the City's SAP System, the employee requestor's name, and the dates the Catastrophic Leave Bank opens and closes. **The parties agree to reopen the MOU to negotiate the Office Policy on email use within the first year of this MOU.**

B. Medical Leave-Sharing Plan Program Description

1. Purpose and Scope

The City of San Diego offers a Medical Leave-Sharing Plan and Leave Bank (Medical Leave Bank) to give City employees the ability to assist other City employees who face extended leaves without pay due to a major health crisis, whether their own, or that of a family member. Although this Program establishes a mechanism for leave transfers, participation is entirely voluntary.

Employees who are entitled to annual leave are eligible to request a Medical Leave Bank from their date of hire. Medical Leave Sharing determinations are non-grievable.

For purposes of this plan, a “major health crisis” is defined as: (1) the employee’s own medically certified “serious health condition,” as defined by the federal Family and Medical Leave Act, (2) the medically-certified “serious health condition” of the employee’s spouse, parent, child, sibling, grandparent, or grandchild (or in-law or step-relative in one of these relationships), (3) the medically-certified “serious health condition” of the employee’s registered domestic partner, or (4) the death of the employee’s spouse, parent, child, sibling, grandparent, or grandchild (or in-law or step-relative in one of these relationships), or employee’s registered domestic partner (provided that a City of San Diego Affidavit of Domestic Partnership has been submitted). The determination of whether a major health crisis exists is made by the Human Resources Department Director or designee.

2. Procedures

- a. Employee initiates a request for a Medical Leave Bank to be established in accordance with this policy.
 - 1) The employee must have exhausted or expect to exhaust their accrued leave, from both the employee’s annual leave and Catastrophic Leave – Annual Leave (CatLv-AL) buckets (to be verified by the department payroll specialist), as a result of a qualifying event in order to establish a Leave Bank.
 - i. If an employee is diagnosed as terminally ill, a Medical Leave Bank may be established without meeting this requirement. In such cases, the donated leave will be paid out when the employee leaves work due to illness.
 - ii. A recipient’s total annual leave balance including donated leave cannot exceed 2,080 hours.
 - 2) The employee must receive approval for an unpaid leave of absence from their Department Head.
- b. Requests to establish a Medical Leave Bank to receive donations will be processed by the Human Resources Department.
 - 1) An eligible employee must submit a completed “Request to Establish Medical Leave Bank” form to the Human Resources Department, accompanied by:
 - i. A medical statement from the attending physician, including a brief statement describing the nature of the illness or injury and an estimated time the employee will be unable to work, or other appropriate documentation supporting the request.
 - ii. Evidence of the Department Head’s approval of the leave of absence.

- iii. Employees must also identify, on the Request to Establish Medical Leave Bank Form, the names of individuals or groups that may be informed, upon request, if the Medical Leave Bank has been approved. Employees who include a mailing address on the Request will be notified when the Medical Leave Bank is approved by the Human Resources Department.
- c. Donations of annual leave may be made to an employee eligible for medical leave because of a major health crisis, as defined in the Purpose and Scope of this document. The donor's annual leave donation will be deducted from the donor department in the amount donated.
- 1) Donations of leave are strictly voluntary; the City will maintain the identity of Medical Leave Bank donors in absolute confidence.
 - 2) Employees may only donate accrued annual leave.
 - 3) Donations must be made in whole-hour increments.
 - 4) Donation authorization requests that do not contain all requested information will not be processed.
 - 5) The donor will not be taxed on the value of the leave they donate, but also cannot claim an expense, loss deduction, or charitable contribution for the donated leave.
 - 6) Donors must have at least 160 hours of annual leave (which includes donated Medical Leave) and Catastrophic Leave remaining after the donated time has been deducted.
 - 7) Once donated to the Medical Leave Bank, donated leave cannot be returned to the donor.
 - 8) Employees who wish to donate leave must submit an electronic request through the Leave Administration section of the City's SAP System. Employees without access to the City's Active Directory may complete a "Confidential Authorization for Medical Leave Donation" form and submit it to the Human Resources Department.
- d. Upon receipt of donation authorization forms, the City's SAP System will:
- 1) Verify that the donating employee has the minimum required leave balance of 160 hours.
 - 2) Convert the donated dollars as computed above to hours at the recipient's hourly rate. The recipient will be taxed for the leave when it is taken.
 - 3) Ensure that all deductions (e.g. health premiums, parking, credit union, union dues, etc.) that have previously been authorized by the recipient are made unless the recipient has notified their Payroll Specialist in writing to cancel deductions.
 - 4) Maintain the donation information for each recipient in a summarized spreadsheet (Medical Leave Bank – Donation Spreadsheet) and forward

the spreadsheet to the Personnel Department.

- 5) Add the donated hours to the recipient's annual leave balance.
- e. Donated Medical Leave is treated as annual leave accrued by the recipient of the donation. Payments up to 80 hours per pay period will be made to the recipient until the donated leave has been exhausted.
- 1) Donated Medical Leave does not alter the employment rights of the City or the recipient, nor does it extend or alter limitations otherwise applicable to leaves of absence or annual leave, except as noted in this Plan.
 - 2) Employees who are using donated annual leave hours will continue to accrue annual leave in accordance with Personnel Manual Index Code I-2, Annual Leave.
 - 3) Donated Medical Leave can only be used on a going forward basis.
3. Notification of the creation of a Medical Leave Bank to potential donors is the responsibility of the employee, not the department. An employee may use City e-mail for a one-time notification to other City employees regarding the creation of their Medical Leave Bank. Such e-mail should not contain confidential information (e.g. details of their medical condition). All policies and procedures regarding ethical conduct, and the use of e-mail, apply to such notices sent by employees. Employees **must receive prior management approval before** sending "e-mail blasts" (officewide or citywide e-mails), **per Office policy**. Employees may work with their recognized employee organizations to disseminate their request for leave donation. If requested by the employee in the Request for Establishing Medical Leave Bank form, the City will publicize on the Leave Administration section of the City's SAP System, the employee requestor's name, and the dates the Medical Leave Bank opens and closes. The automated Catastrophic and Medical Leave Programs will be implemented January 1, 2020. **The parties agree to reopen the MOU to negotiate the Office Policy on email use within the first year of this MOU.**

C. Child Care Annual Leave Exchange

Annual Leave may be transferred between any city of San Diego employees who jointly parent a child (which includes a biological, adopted, or foster child, a stepchild, or a legal ward, and is under 18 years old or has a mental or physical disability and is incapable of self-care), for the purpose of the birth of the child or joint adoption of the child, or for child care purposes, in accordance with the City's policies, upon the request of both the receiving employee and the transferring employee, and upon approval of the employees' appointing authority, under the following conditions:

1. The receiving employee is required to be absent from work due to the birth of the employee's child or due to the joint adoption of a child, or for child care purposes.
2. Each transfer must be for a minimum of (8) hours and in whole hour increments thereafter.
3. The transferring employee must have at least 160 hours of annual leave (which includes donated Medical Leave) and Catastrophic Leave remaining after the donated time has been deducted.

4. The total annual leave received by an employee for the purposes of the Child Care Annual Leave Exchange bucket shall normally not exceed 350 hours per fiscal year; however, if approved by the employee's appointing authority, the total credits may be up to 700 hours. Total annual leave hours in excess of 700 hours will be considered on a case-by-case basis by the City Attorney.
 5. The transfers are irrevocable and will be placed in a separate bucket for Child Care Annual Leave Exchange. The transferred annual leave hours received by the employee for purposes of the Child Care Annual Leave Exchange will not count towards the employee's maximum accumulation of annual leave that is provided for in Personnel Manual Index Code I-2. The transferred annual leave cannot be used for pay-in-lieu cash outs. The transferring employee will be taxed for the leave when it is transferred to the receiving employee.
 6. The transfers shall be administered according to the rules and regulations promulgated by the City beginning on January 1, 2020.
- D. Any unused annual leave under this Article will be paid out upon the employee's separation from the City.

ARTICLE 38: Military Leave

- A. Employees who provide service in the "Uniformed Services," meaning the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency, are entitled to the rights and benefits provided by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), codified at 38 U.S.C. sections 4301 through 4335, and as amended in the future.

These members are also entitled to the leaves of absence provided by the California Military and Veteran's Code, as stated in Civil Service Rule X, codified at San Diego Municipal Code section 23.1107, and Personnel Manual Index Code I-10, Military Leave. Specifically, employees who have been regularly employed by the City for one year or more immediately prior to requested military leave will receive their regular City compensation during the military leave, but not to exceed 30 calendar days in any fiscal year. Calendar days are computed in the manner stated in the Personnel Regulations Index Code I-10.

- B. Employees must give no less than 21 days of notice to their supervisors prior to the start of the requested military leave, unless there are exceptional circumstances beyond the control of the employee originating from the employee's military unit. If exceptional circumstances occur, employees must provide reasonable notice. Employees must submit Form CS-14-25A (Request for Leave of absence) showing Military Leave.
- C. Union members may use annual leave, compensatory time, or special leave without pay, in addition to military leave to provide military service.
- D. If an employee is scheduled to work on a day of inactive duty training, City management will take all reasonable steps necessary to adjust the employee's schedule to facilitate the military leave.

- E. The Union agrees that the City Council may determine to extend these benefits beyond what is provided in this MOU in cases of national emergencies without an obligation to first meet and confer.

ARTICLE 39: Job-Sharing

Requests for job-sharing between two members may be submitted for consideration in a manner consistent with the Office Job-Sharing Policy. All job-sharing arrangements must be confirmed in writing via the Job-Sharing Agreement to be established by the City Attorney's Office. The grant, denial, suspension, or cancellation of a job-sharing agreement is not grievable.

City agrees to provide the reasonable notice provisions requested by DCAA in the policy.

ARTICLE 40: Flexible-Work Schedule

The City Attorney may approve an alternative work schedule for a unit, division or for individual members. Regardless of the schedule adopted, unless approved as a part-time schedule (e.g. job-share), it is an expectation and performance metric that in the normal course employees are required to work at least 80 hours per pay period.

Flexible-Work schedules include:

- a. Flextime – The employee works hours that differ from the standard work schedule (8:00 a.m. to 5:00 p.m.) or by one or more hours. For example, the employee works 7:00 a.m. to 3:30 p.m. or 9:00 a.m. to 5:30 p.m., with one-half hour for lunch.
- b. Compressed Work Weeks – Employees must work 80 hours per pay period; however, they may work fewer days per week and more hours per day to ensure the same total number of hours worked. For example, the employee works four 10-hour days Monday through Thursday with Friday off.
- c. All alternative work schedules are subject to the Office Flexible-Work Schedule Policy and must be pre-approved in writing via the Flexible-Work Schedule Agreement to be established by the Office. A Flexible-Work Schedule may be suspended or terminated at any time for any reason at the discretion of the City Attorney. The grant, denial, suspension or termination of a Flexible-Work Schedule is not grievable.

City agrees to provide the reasonable notice provisions requested by DCAA in the policy.

ARTICLE 41: Identification Badges

City agrees to provide flat badges to DCAs working in the Criminal and Community Justice Divisions. The flat badge remains property of the City, and at the time of employee termination the badge must be returned to the Department. However, if the DCA transfers to the Civil Division or ends their employment at the City Attorney's office, the DCA may choose to purchase the badge and have it encased at the employee's expense.

ARTICLE 42:
Legal Representation

Upon request of an employee and subject to any limitations provided by law, the City will provide for the defense of any civil action or proceeding initiated against the employee by a person or entity other than the City in a court of competent jurisdiction on account of any act or omission occurring within the course and scope of his/her employment as an employee of the City.

Nothing herein shall be deemed to require the provision of such defense when the discretion to provide such defense is vested in the City pursuant to the provisions of the California Government Code, now and as amended or where the act or omission was not within the scope of the employee's employment, or the employee acted or failed to act because of actual fraud, corruption or actual malice.

Nothing herein shall be construed to grant to any employee any rights or privileges in addition to those provided in the said Government Code, or to abrogate any rights provided under the Government Code.

ARTICLE 43:
Personal Security

An employee who is the subject of a threat verified by law enforcement or is wounded or seriously injured as the result of a criminal act by another during an incident arising from or directly related to the performance of his/her duties may, upon the determination of the appointing authority or their designee, be provided with appropriate security during the occasion of the threat and or during his/her period of hospitalization. The determination of appropriate security rests solely with the appointing authority and is not subject to the grievance and arbitration procedure.

ARTICLE 44:
Pay-In-Lieu

- A. Effective for all calendar years beginning on and after January 1, 2019, employees may convert up to 125 hours of annual leave to cash as pay-in-lieu each calendar year, subject to the following rules:
1. If an employee fails to elect by December 1st each year or by the preceding Friday if December 1st falls on a Saturday or Sunday, to receive any of the annual leave hours they will earn in the following calendar year as pay-in-lieu, their annual leave will accrue in accordance with the applicable Personnel Regulation, Index Code 1-2.
 2. If an employee irrevocably elects by December 1st each year or by the preceding Friday if December 1st falls on a Saturday or Sunday, to receive a portion of the annual leave hours they will earn in the following calendar year, not to exceed 125 hours total for the calendar year, as pay-in-lieu, the City will create an account where the employee's designated pay-in-lieu accruals will be credited. This account will be referred to as a "pay-in-lieu bucket" ("PIL Bucket") and will be kept separate from the employee's annual leave accrual account or "annual leave bucket" ("AL Bucket"). The employee's election must designate the amount of their annual leave being

earned each pay period which they wish to have credited to the PIL Bucket; this designation may be stated as an even percentage (e.g., 10 %, 20%, 30%, 40%, 'etc.) of the leave earned during each pay period up to 100%. Starting with the first pay period of the calendar year, the PIL Bucket will be credited with the designated amount of the employee's annual leave each pay period until the employee's full election amount is reached, not to exceed 125 hours. Any annual leave being earned in a pay period which is not credited to the employee's PIL Bucket will be credited to the employee's AL Bucket. The balance available in the employee's PIL Bucket, if any, will be specified on their timecard and paystub. In addition, the employee's anniversary date and AL cap will also be- displayed on the employee's timecard.

3. An employee must make an irrevocable election by December 1st each year or by the preceding Friday if December 1st falls on a Saturday or Sunday, if the employee wishes to participate in the pay-in-lieu of annual leave program for the following calendar year. Elections will not carry over from one calendar year to the next calendar year. An employee who fails to elect by December 1st each year or by the preceding Friday if December 1st falls on a Saturday or Sunday, to participate in the pay-in-lieu of annual leave program for the following year will be deemed to have elected not to participate and they will be prohibited from receiving any pay-in-lieu during that year except as, and only to the extent, permitted under Section 6.
 4. At least 60 days in advance of this annual December 1st deadline, the City will provide employees with notice and an explanation regarding the need for an irrevocable election as well as the relevant form for making the election. At the same time, the City will remind employees of the citywide cap maximums and how the pay-in-lieu election affects that cap.
 5. All pay-in-lieu hours which accumulate in the employee's PIL bucket must be paid out to the employee in the calendar year in which these hours are earned. Pay-outs will be either employee-initiated or City-initiated. An employee may make up to two requests during the calendar year for a payout from their PIL Bucket. The timing of either request is entirely up to the employee and payment will occur as designated on the City approved form. However, an employee cannot request the pay-out of any pay-in-lieu hours until those hours have been earned and accrued in their PIL bucket. Since no PIL hours may be carried over to the following year, the City will initiate a pay- out of all hours accrued in the employee's PIL Bucket no later than the final paycheck issued in the calendar year regardless of the number of pay periods in the calendar year and regardless of the number of hours.
- B. **When an employee chooses to cash out pay-in-lieu hours in the City's SAP Portal, they select the check date and the number of hours they wish to sell. The pay-in-lieu cash out request will be paid out based on their rate of pay on the pay period end date of the selected payment date.** All pay-in-lieu pay-outs are taxable income, subject to all applicable withholdings and payroll deductions.
- C. Existing caps on the accrual of annual leave will remain in effect. However, any hours up to the 125-hour maximum which an employee allocates to their PIL bucket for the ensuing calendar year will not count toward the calculation of this cap.
- D. Effective for calendar years beginning on and after January 1, 2019, an employee's election with regard to pay-in-lieu shall be irrevocable except in the event of an unforeseeable financial emergency subject to the following rules:
1. In the event of an unforeseeable emergency, as defined in subsection b, an employee

may apply to the Risk Management Department to receive pay-in-lieu of annual leave accrued on or after January 1, 2019, but limited to the amount that is reasonably necessary to satisfy the emergency need, including any amounts that may be necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated as a result of the cash out. If the Risk Management Department approves an employee's application, the City will pay the employee the pay-in-lieu amount the Risk Management Department deems necessary to meet the emergency need.

2. "Unforeseeable emergency" means a severe financial hardship of the employee resulting from an illness or accident of the employee, the employee's spouse, or the employee's dependent (as defined in Internal Revenue Code section 152, and, without regard to Internal Revenue Code sections 152(b)(1), (b)(2), and (d)(1)(B)); loss of the employee's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a direct result of events beyond the control of the employee. For example, the imminent foreclosure or eviction from the employee's home may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or dependent (as defined in Internal Revenue Code section 152, and, without regard to Internal Revenue Code sections 152(b)(1), (b)(2), and (d)(1)(B)) of the employee may also constitute an unforeseeable emergency. Neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency. Pay-in-lieu of annual leave on account of an unforeseeable emergency will not be paid to the extent that such an emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the employee's assets, to the extent liquidation of such assets would not itself cause severe financial hardship. For this purpose, an employee cannot receive any pay-in-lieu of annual leave on account of an unforeseeable emergency to the extent that they have unused amounts accrued in their PIL Bucket, if any.

ARTICLE 45: Drug and Alcohol Testing Post Accident

City employees are prohibited from consuming alcoholic beverages or being under the influence of a controlled substance or alcohol during their work shift. City employees may be required to undergo mandatory drug and alcohol testing if reasonable suspicion exists, in accordance with A.R. 97.00, Substance Abuse Policy. Furthermore, employees involved in an on-the-job accident while operating a vehicle or power equipment are required to undergo drug and alcohol testing.

ARTICLE 46: Overpayments and SDCERS Interest Charges

A. Overpayment

If it has been discovered that an overpayment or unauthorized payment has been made to a City employee, it is the responsibility of the department to notify the employee in writing and supply the employee with the documentation used to determine the overpayment.

If the employee contends that any portion or the entire amount is not owed, they shall be

entitled to request a meeting with the appointing authority to attempt to resolve the disagreement. If the dispute about the payment originates in another department, the employee has a right to request a meeting with the Appointing Authority in that department. The department will notify the employee that they shall be entitled to have a Union representative attend such meeting(s) with them. If the dispute regarding overpayment arises from the interpretation of a personnel regulation or administrative regulation, the employee shall be entitled to grieve this matter directly to the Department Head level.

B. Repayment of Funds.

An employee will pay no penalties, fees or interest as a result of the overpayment. The employee shall have the right to select one of the three following options for the repayment of the funds:

1. A lump sum payment with a date mutually established by the employee and the department.
2. Biweekly installment payments through payroll deduction (Installment payments must be a minimum of \$10.00 and repayment must be completed within twenty-six pay periods).
3. Any other repayment arrangement mutually agreed upon between the City and the employee but not to exceed a repayment plan of five calendar years.

The final agreement on the repayment plan will be in writing, with the lump sum payment date, or the biweekly amount, and the beginning and ending date of the installment plan identified.

If an employee leaves City employment with an outstanding repayment plan, the employee will be invoiced for any remaining balance owed.

Disputes over repayment of funds which were overpaid to an employee through no fault of the employee, shall not be a factor in Employee Performance Evaluations or discipline.

C. SDCERS Interest Payment for Overpayment/Underpayment Due to Error by City/SDCERS.

1. **For purposes of this section, “Eligible Employee” includes all DCAA-represented employees who are on City payroll or on an approved leave of absence on or after July 1, 2023, regardless of their employment status (i.e., active, separated, DROP, DROP Extension, or retired), and receive an SDCERS’ correction letter on or after July 1, 2023, in connection with the underpayment of contributions or the overpayment of pension benefits as a result of an error by SDCERS or City employee.**
2. **The rights described in this Section C are in addition to the rights an Eligible Employee has under the Parties’ Proposition B (Prop B) Make-Whole Settlement Agreement in the event an error arises regarding the calculations made when an Eligible Employee opted into SDCERS following the invalidation of Prop B. Nothing in this Section C is intended to alter or diminish the rights established in that Agreement.**
3. **The principal amounts owing for the underpaid contributions or overpaid pension benefits, as explained in an SDCERS’ correction letter, are and remain the Eligible Employee’s sole responsibility except as otherwise provided in the Prop B Settlement**

Agreement. However, the City will indemnify an Eligible Employee for any interest charges associated with the underpayment or overpayment correction, unless the City determines that the Eligible Employee knew or should have known that they were underpaying contributions or being overpaid a benefit, or intentionally or willfully contributed to the error.

- 4. SDCERS will not charge interest in its initial correction letter to an Eligible Employee notifying them of the underpayment of contributions or overpayment of pension benefits. However, if additional interest charges accrue due to the Eligible Employee's failure to make timely re-payment of the principal amount owed or their decision to enter into a repayment plan, these separate additional interest charges are deemed a matter of the Eligible Claimant's discretion, are not the City's responsibility to reimburse, and remain the Eligible Employee's sole responsibility.**
- 5. Interest payments made by the City to SDCERS under this section will be treated as employer contributions except as otherwise provided in the Prop B settlement Agreement.**
- 6. The provisions of this section do not limit or supersede any Eligible Employee's right to challenge SDCERS's determination that an underpayment of contribution or overpayment of pension benefits has occurred or otherwise limit or supersede the Eligible Employee's right to challenge, on any available legal or equitable ground, SDCERS's demand for payment of the principal amount or any interest the City declines to pay.**

D. Referral to Collections.

- 1. A department may refer an employee to the City Treasurer, Collections Section, only when the employee, after being duly notified of the overpayment and having had the opportunity to review the relevant documentation, refuses to agree to a repayment of the amount owed.**

The employee will be notified of the referral and informed that the Collections Section will proceed with collection as it would for any other debtor.

**ARTICLE 47:
Electronic Leave Slips**

Effective July 1, 2021, employees are required to submit all requests for leave of absence, e.g. annual leave, sick leave, discretionary leave, parental leave, electronically through the Leave Request tab of the City's SAP Portal. Except in extenuating circumstances, the paper leave slip (Form CS-14-25A) will no longer be accepted. This applies to all leaves, except Military Leave which still requires the paper leave slip with supporting documentation. The City will provide employees with resources such as computer access at different City facilities, so employees are able to submit their leave requests electronically. All leave requests must be approved by an employee's department Supervisor.

**ARTICLE 48:
Emergency Contact Information**

The City and DCAA agree that it is in the mutual interest of the Parties and employees to keep the City updated on any changes to the employee's home and personal cellular telephone number, any personal email addresses on file with the City, and the employee's home address. This information is necessary for the City to ensure employees receive any and all communications from the City, and that any contact information the City provides the DCAA pursuant to Government Code section 3558 or any other provision in this MOU is accurate. To assist in this endeavor, employees are required to update any changes in the above referenced contact information that is on file with the City by using the Employee Self-Service Portal within 14 calendar days of such a change. Any employee who willfully fails to provide this information within 14 calendar days will be subject to discipline.

Notwithstanding the foregoing, limited to the express purpose of the requirements of Government Code section 3558 only and consistent with Government Code section **7928.300(c)**, an employee may direct the City to withhold disclosure of the employee's home telephone number, personal cellular telephone number, personal email address, or birth date, if maintained by the City, to the DCAA via the opt-out selection identified in the Employee Self-Service Portal in SAP.

APPENDIX A

Deputy City Attorneys Associate Salary Table Effective 07/01/23				
Grade	Step	Hourly	Biweekly Rate	Annual Salary
Deputy I	A	\$38.4670	\$3,077.3600	\$80,011
	B	\$40.0030	\$3,200.2400	\$83,206
	C	\$41.6042	\$3,328.3360	\$86,537
	D	\$43.2677	\$3,461.4160	\$89,997
 				
Deputy II	A	\$44.9984	\$3,599.8720	\$93,597
	B	\$46.7982	\$3,743.8560	\$97,340
	C	\$48.6719	\$3,893.7520	\$101,238
	D	\$50.6160	\$4,049.2800	\$105,281
 				
Deputy III	A	\$53.6705	\$4,293.6400	\$111,635
	B	\$55.8172	\$4,465.3760	\$116,100
	C	\$58.0504	\$4,644.0320	\$120,745
	D	\$60.3728	\$4,829.8240	\$125,575
	E	\$62.7897	\$5,023.1760	\$130,603
	F	\$65.2996	\$5,223.9680	\$135,823
 				
Deputy IV	A	\$67.9097	\$5,432.7760	\$141,252
	B	\$70.6263	\$5,650.1040	\$146,903
	C	\$73.4509	\$5,876.0720	\$152,778
	D	\$76.3889	\$6,111.1120	\$158,889
	E	\$79.4456	\$6,355.6480	\$165,247
 				
Deputy V	Min	\$81.8442	\$6,547.5360	\$170,236
	Max	\$105.5528	\$8,444.2240	\$219,550
 				
Deputy VI	Min	\$100.5740	\$8,045.9200	\$209,194
	Max	\$119.7526	\$9,580.2080	\$249,085

Deputy City Attorneys Associate Salary Table Effective 01/01/24

Grade	Step	Hourly	Biweekly Rate	Annual Salary
Deputy I	A	\$40.3904	\$3,231.2320	\$84,012
	B	\$42.0032	\$3,360.2560	\$87,367
	C	\$43.6844	\$3,494.7520	\$90,864
	D	\$45.4311	\$3,634.4880	\$94,497
Deputy II	A	\$47.2483	\$3,779.8640	\$98,276
	B	\$49.1381	\$3,931.0480	\$102,207
	C	\$51.1055	\$4,088.4400	\$106,299
	D	\$53.1468	\$4,251.7440	\$110,545
Deputy III	A	\$56.3540	\$4,508.3200	\$117,216
	B	\$58.6081	\$4,688.6480	\$121,905
	C	\$60.9529	\$4,876.2320	\$126,782
	D	\$63.3914	\$5,071.3120	\$131,854
	E	\$65.9292	\$5,274.3360	\$137,133
	F	\$68.5646	\$5,485.1680	\$142,614
Deputy IV	A	\$71.3052	\$5,704.4160	\$148,315
	B	\$74.1576	\$5,932.6080	\$154,248
	C	\$77.1234	\$6,169.8720	\$160,417
	D	\$80.2083	\$6,416.6640	\$166,833
	E	\$83.4179	\$6,673.4320	\$173,509
Deputy V	Min	\$85.9364	\$6,874.9120	\$178,748
	Max	\$110.8304	\$8,866.4320	\$230,527
Deputy VI	Min	\$105.6027	\$8,448.2160	\$219,654
	Max	\$125.7402	\$10,059.2160	\$261,540

Deputy City Attorneys Associate Salary Table Effective 07/01/24

Grade	Step	Hourly	Biweekly Rate	Annual Salary
Deputy I	A	\$42.4099	\$3,392.7920	\$88,213
	B	\$44.1034	\$3,528.2720	\$91,735
	C	\$45.8686	\$3,669.4880	\$95,407
	D	\$47.7027	\$3,816.2160	\$99,222
Deputy II	A	\$49.6107	\$3,968.8560	\$103,190
	B	\$51.5950	\$4,127.6000	\$107,318
	C	\$53.6608	\$4,292.8640	\$111,614
	D	\$55.8041	\$4,464.3280	\$116,073
Deputy III	A	\$59.1717	\$4,733.7360	\$123,077
	B	\$61.5385	\$4,923.0800	\$128,000
	C	\$64.0005	\$5,120.0400	\$133,121
	D	\$66.5610	\$5,324.8800	\$138,447
	E	\$69.2257	\$5,538.0560	\$143,989
	F	\$71.9928	\$5,759.4240	\$149,745
Deputy IV	A	\$74.8705	\$5,989.6400	\$155,731
	B	\$77.8655	\$6,229.2400	\$161,960
	C	\$80.9796	\$6,478.3680	\$168,438
	D	\$84.2187	\$6,737.4960	\$175,175
	E	\$87.5888	\$7,007.1040	\$182,185
Deputy V	Min	\$90.2332	\$7,218.6560	\$187,685
	Max	\$116.3719	\$9,309.7520	\$242,054
Deputy VI	Min	\$110.8828	\$8,870.6240	\$230,636
	Max	\$132.0272	\$10,562.1760	\$274,617

Deputy City Attorneys Associate Salary Table Effective 01/01/25

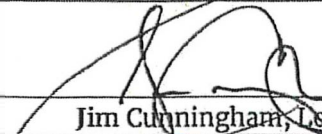

Grade	Step	Hourly	Biweekly Rate	Annual Salary
Deputy I	A	\$44.5304	\$3,562.4320	\$92,623
	B	\$46.3086	\$3,704.6880	\$96,322
	C	\$48.1620	\$3,852.9600	\$100,177
	D	\$50.0878	\$4,007.0240	\$104,183
Deputy II	A	\$52.0912	\$4,167.2960	\$108,350
	B	\$54.1748	\$4,333.9840	\$112,684
	C	\$56.3438	\$4,507.5040	\$117,195
	D	\$58.5943	\$4,687.5440	\$121,876
Deputy III	A	\$62.1303	\$4,970.4240	\$129,231
	B	\$64.6154	\$5,169.2320	\$134,400
	C	\$67.2005	\$5,376.0400	\$139,777
	D	\$69.8891	\$5,591.1280	\$145,369
	E	\$72.6870	\$5,814.9600	\$151,189
	F	\$75.5924	\$6,047.3920	\$157,232
Deputy IV	A	\$78.6140	\$6,289.1200	\$163,517
	B	\$81.7588	\$6,540.7040	\$170,058
	C	\$85.0286	\$6,802.2880	\$176,859
	D	\$88.4296	\$7,074.3680	\$183,934
	E	\$91.9682	\$7,357.4560	\$191,294
Deputy V	Min	\$94.7449	\$7,579.5920	\$197,069
	Max	\$122.1905	\$9,775.2400	\$254,156
Deputy VI	Min	\$116.4269	\$9,314.1520	\$242,168
	Max	\$138.6286	\$11,090.2880	\$288,347

Deputy City Attorneys Associate Salary Table Effective 07/01/25


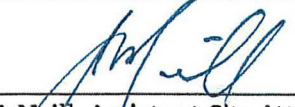
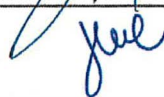
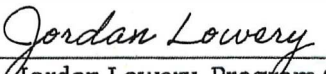

Grade	Step	Hourly	Biweekly Rate	Annual Salary
Deputy I	A	\$46.7569	\$3,740.5520	\$97,254
	B	\$48.6240	\$3,889.9200	\$101,138
	C	\$50.5701	\$4,045.6080	\$105,186
	D	\$52.5922	\$4,207.3760	\$109,392
Deputy II	A	\$54.6958	\$4,375.6640	\$113,767
	B	\$56.8835	\$4,550.6800	\$118,318
	C	\$59.1610	\$4,732.8800	\$123,055
	D	\$61.5240	\$4,921.9200	\$127,970
Deputy III	A	\$65.2368	\$5,218.9440	\$135,693
	B	\$67.8462	\$5,427.6960	\$141,120
	C	\$70.5605	\$5,644.8400	\$146,766
	D	\$73.3836	\$5,870.6880	\$152,638
	E	\$76.3214	\$6,105.7120	\$158,749
	F	\$79.3720	\$6,349.7600	\$165,094
Deputy IV	A	\$82.5447	\$6,603.5760	\$171,693
	B	\$85.8467	\$6,867.7360	\$178,561
	C	\$89.2800	\$7,142.4000	\$185,702
	D	\$92.8511	\$7,428.0880	\$193,130
	E	\$96.5666	\$7,725.3280	\$200,859
Deputy V	Min	\$99.4821	\$7,958.5680	\$206,923
	Max	\$128.3000	\$10,264.0000	\$266,864
Deputy VI	Min	\$122.2482	\$9,779.8560	\$254,276
	Max	\$145.5600	\$11,644.8000	\$302,765

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding effective July 1, 2023, to the appropriate bodies.

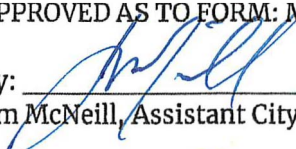
Deputy City Attorneys Association

 _____ Jim Cunningham, Lead Negotiator	<u>6/01/2023</u> _____ Date
 _____ Shelley Webb, President	<u>June 1, 2023</u> _____ Date

City of San Diego

 _____ Timothy L. Davis, Lead Negotiator	<u>June 6, 2023</u> _____ Date
 _____ Jim McNeill, Assistant City Attorney	<u>June 7, 2023</u> _____ Date
 _____ Jonnabelle Domingo, Supvg Human Resources Officer	<u>June 7, 2023</u> _____ Date
 _____ Jordan Lowery, Program Coordinator	<u>June 7, 2023</u> _____ Date
 _____ Brian Mallard, Program Coordinator	<u>June 7, 2023</u> _____ Date

APPROVED AS TO FORM: MARA ELLIOTT, CITY ATTORNEY

By: 

Jim McNeill, Assistant City Attorney

DATE SIGNED: June 7, 2023