



# MOU

## MEMORANDUM OF UNDERSTANDING

BETWEEN THE CITY OF MANHATTAN BEACH AND  
THE MANHATTAN BEACH POLICE OFFICERS' ASSOCIATION

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**JANUARY 1, 2022 – JUNE 30, 2025**



## MB POLICE OFFICERS' ASSOCIATION MOU

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## MB POLICE OFFICERS' ASSOCIATION MOU

### CHAPTER 1 – INTRODUCTION

#### PREAMBLE

This Memorandum of Understanding ("MOU") is prepared between representatives of the City of Manhattan Beach ("City") and the Manhattan Beach Police Officers' Association ("MBPOA"). Full consideration has been given to salaries, employee benefits and other terms and conditions of employment. Pursuant to the provisions of Section 3505.1 of the Government Code of the State of California and the City's Employer Employee Relations Resolution (EERO), Resolution No. 4506, said parties make this MOU effective January 1, 2022.

#### ARTICLE 1: RECOGNITION

Pursuant to the provisions of the Employee/Employer Relations Resolution of the City of Manhattan Beach and applicable State laws, the Manhattan Beach Police Officers' Association is recognized as the exclusive representative of all employees in the following classifications for the term of this agreement: Police Officer and Police Sergeant.

#### ARTICLE 2: TERMS AND CONDITIONS OF EMPLOYMENT

The parties agree that the City has the right to reopen labor negotiations during the term of this MOU regarding updating the City's personnel rules and any City policies subject to bargaining. Any changes are subject to mutual agreement of the parties. Any past practices, as defined under the law, identified during the term of this MOU by either party are also part of the terms and conditions of employment during the term of this MOU.

#### ARTICLE 3: EFFECTIVE DATES

This MOU shall become effective January 1, 2022, and will continue in effect through June 30, 2025. During the term of this MOU, any items concerning wages, hours, benefits and terms and conditions of employment provided by this MOU shall remain in effect unless the parties agree to revise the same by a written modification to this MOU, subject to the limitations expressed in Section 3504 of the Government Code.

### CHAPTER 2 – COMPENSATION

#### ARTICLE 4: SALARIES

- 1) **Salary:** The salary ranges established for classifications covered by this MOU are identified in Exhibit A. The salary ranges attached include the following salary increases:
  - a) Effective the first day of the pay period following January 1, 2022, employees shall receive a base salary increase of 3%.

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- b) Effective the first day of the pay period following January 1, 2023, employees shall receive a base salary increase of 3%.
  - c) Effective the first day of the pay period following January 1, 2024, employees shall receive a base salary increase of 3%.
  - d) Effective the first day of the pay period following January 1, 2025, employees shall receive a base salary increase of 1.5%.
- 2) **Salary Upon Appointment:** At the time of appointment, the Police Chief may recommend any salary step within the salary range that is commensurate with the experience, knowledge, skills, and/or abilities of the individual related to the classification above and beyond the minimum requirements for the position. Salary placement upon appointment up to the middle of the salary range is subject to the approval of the Human Resources Director, or designee. Appointment above the middle of the range is also subject to City Manager approval.
- 3) **Salary Upon Promotion:** At the time of promotion from Police Officer to Police Sergeant, the employee will be placed at the first Step of the Police Sergeant salary schedule. If placement at the first step of the salary schedule does not result in at least a 5% increase when special pays (as defined below) are factored in, placement at a higher step can be recommended and approved. In no event will an employee receive a decrease in pay (base and special pay) as a result of promoting to Police Sergeant.
- 4) **Movement Within the Salary Range:** Employees will be eligible for a one-step salary increase each year following appointment or promotion provided they receive a "Meets Standards" or above performance evaluation.

## **ARTICLE 5: SPECIAL PAYS**

- 1) **Specialty Assignment Pays:** Pursuant to the "Special Assignment and Collateral Duty Selection Process" in departmental policy, the Police Chief, or designee, may assign employees to any of the following regular specialty assignments. The tenure of such assignments is also governed by departmental policy. Additionally, the Police Chief, or designee, shall have the discretion to temporarily assign additional employees to any of these assignments, based on operational needs of the Department (as determined by the Police Chief). The Police Chief may assign and end these police officer assignments at any time. Any employees assigned to a specialty assignment, on either a regular or temporary basis, shall receive the appropriate premium pay during the period of such assignment. Specialty assignments and compensation shall be as follows:
- a) **Traffic Assignment Pay:** Any employee assigned to the traffic bureau will receive 5% of their actual base salary step. The parties agree that to the extent permitted by law, Traffic Assignment Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Traffic Detail Premium.
  - b) **Motorcycle Service Pay:** Any employee assigned to motorcycle service as part of their traffic assignment will receive 10% of their actual base salary step (in lieu of the 5% above) as compensation for the extra

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hazards faced in performing this assignment. All maintenance of the employee's motorcycle shall be conducted on duty. Any additional off-duty time spent on motorcycle maintenance must be approved in advance by a supervisor. Employees assigned to motor duty may, at their option, use their City assigned motorcycle to travel to and from work. Officers who use their motorcycle to travel to and from work must live within 50 miles of the City. For purposes of FLSA, such travel time will not be compensated in any manner whatsoever, even when the employee is required to leave the radio on and monitor the radio. The parties agree that to the extent permitted by law, Motorcycle Service Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Motorcycle Patrol Premium.

- c) Detective Service Pay: Any employee assigned to the Detective Bureau or the Narcotics Team will receive 5% of their actual base salary step. The parties agree that to the extent permitted by law, Detective Service Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Detective Division Premium.
- d) Dog Handler Pay: Employees assigned as dog handlers will receive 7.5% of their actual base salary step, which will be considered full compensation for the special skills associated with the on-duty responsibilities related to this assignment. Employees assigned as dog handlers shall be provided a City vehicle for this purpose, but such travel time to and from work shall not be compensated. Officers assigned as dog handlers must live within 50 miles of the City. The parties agree that to the extent permitted by law, Dog Handler Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Canine Officer Premium.

In addition to the above, dog handlers will receive compensation of 15 hours per month at the rate of \$15 dollars per hour (the first eleven hours will be paid at straight time and the last four hours will be paid at time and one half \$15 per hour (i.e., \$22.50)) for the off-duty caring, grooming, feeding, training and any other off-duty responsibilities of their canine. The parties acknowledge that the FLSA, which governs the entitlement to compensation for canine duties, entitles the parties to agree to a reasonable number of hours for the performance of off duty canine duties. The hours derived at in this agreement (fifteen hours per month) were determined after an actual inquiry of the officers assigned in the canine special assignment as addressed by *Leever v. City of Carson City*, 360 F.3d 1014 (9<sup>th</sup> Cir. 2004). It is the intent of the parties through the provisions of this section to fully comply with the requirements of the FLSA. In addition, both parties believe that this section of the MOU does comply with the requirements of the FLSA.

- e) Training Officer Pay: A maximum of six (6) police officers designated as Field Training Officers will receive 5% of their actual base salary step. The parties agree that to the extent permitted by law, Training Officer Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Training Premium.
- f) Court Liaison Officer Pay: Employees assigned to Court Liaison Officer will receive 5% of the employee's actual base salary step. The parties agree that to the extent permitted by law, Court Liaison Officer

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Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Police Liaison Premium.

- g) School Resources Officer Pay: Employees assigned as a School Resources Officer will receive 5% of the employee's actual base salary step. The parties agree that to the extent permitted by law, School Resources Officer Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Police Liaison Premium.
- h) Community Relations Crime Prevention Officer Pay: Employees assigned as a Community Relations Crime Prevention Officer will receive 5% of the employee's actual base salary step. The parties agree that to the extent permitted by law, Community Relations Crime Prevention Officer Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Police Administrative Officer.
- i) Field Training Officer Sergeant Pay: Employees assigned as a Field Training Officer Sergeant will receive two hundred and seventy five dollars (\$275) per month. The parties agree that to the extent permitted by law, Field Training Officer Sergeant Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Training Premium.
- j) Administrative Sergeant Pay: Employees assigned as an Administrative Sergeant will receive 5% of the employee's actual base salary step. The parties agree that to the extent permitted by law, Administrative Sergeant Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Police Administrative Officer.
- k) Traffic Sergeant Pay: Employees assigned as a Traffic Sergeant will receive 5% of the employee's actual base salary step. The parties agree that to the extent permitted by law, Traffic Sergeant Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Police Administrative Officer.
- l) Homeless Liaison Officer Pay: Police Officers assigned as Homeless Liaison Officers will receive 5% of the employee's actual base salary step. A maximum of two (2) Police Officers may be assigned as a homeless liaison officer. The parties agree that to the extent permitted by law, Homeless Liaison Officer Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Police Liaison Premium.
- m) Crime Scene Investigator (CSI) Pay: Employees designated as CSI's will receive \$325.00 per month for a maximum of six (6) police officers. The parties agree that to the extent permitted by law, Crime Scene Investigator Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Crime Scene Investigator Premium.

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- n) Defensive Tactics Instructor Pay: A maximum of eight (8) police officers designated as Defensive Tactics Instructors will receive \$250 per month. The parties agree that to the extent permitted by law, Defensive Tactics Instructor Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Training Premium.
  - o) Firearms Instructor Pay: A maximum of six (6) police officers designated as Firearm Instructors will receive \$250 per month. The parties agree that to the extent permitted by law, Firearms Instructor Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Training Premium.
  - p) Driving Instructor Pay: A maximum of eight (8) unit employees designated as Driving Instructors will receive \$250 per month. The parties agree that to the extent permitted by law, Driving Instructor Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Training Premium.
- 2) Acting Pay: Employees who are acting in a higher classification (i.e., working in a higher rank) shall begin to receive acting pay after working in the higher classification for fourteen (14) consecutive days. Acting pay shall be paid at the lowest step of the higher classification.
- If the position for which the employee is acting is vacant and the law limits the acting assignment to 960 hours, the City will follow the law and limit the acting assignment to no more than 960 hours. The parties agree that to the extent permitted by law, Acting Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(3) Temporary Upgrade Pay. Acting Pay is only reportable to CalPERS as special compensation for those who qualify as "classic members" and is not reportable for "new members", as defined by the Public Employees' Pension Reform Act of 2013 (PEPRA).
- 3) Bilingual Pay: Employees will receive bilingual pay for verbal skills in Spanish. Employees receiving bilingual pay are expected to use this skill, including assisting other employees and members of the public, in the course and scope of their duties, as needed.

In order to receive bilingual pay, employees must be certified as verbally bilingual in Spanish. Employees may make application for bilingual pay certification through the Human Resources Department. The certification process shall consist of such tests as determined by the Human Resources Department. Re-certification will be required every two (2) years. Should an employee fail the qualifying test, the employee may retake the test; however, an employee may only take the qualifying test two (2) times in a six (6) month period.

Employees certified as bilingual in Spanish will be compensated \$100 per month. The parties agree that to extent permitted by law, Bilingual Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(4) and 571.1(b)(3) as Bilingual Premium.



## **ARTICLE 6: EDUCATION INCENTIVE PAY**

- 1) **Bachelor's Incentive Pay:** Employees who have earned a Bachelor's Degree shall receive two and one half percent (2.5%) of the employee's current base salary.
- 2) **Master's or Juris Doctorate Incentive Pay:** Employees who have earned a Master's Degree or have earned a Juris Doctorate shall receive an additional (in addition to the 2.5% base salary for earning a Bachelor's Degree) two and one half percent (2.5%) of the employee's current base salary. For employees hired after January 1, 2019, to receive the additional pay for a Master's Degree, it must be in a subject matter which is sufficiently related to the job as approved by the Police Chief. For employees hired after January 1, 2019, who have earned a Master's Degree before being hired, they will be informed as to whether their Master's Degree qualifies for this compensation as part of their offer of employment. In addition, if approved for compensation for a Master's Degree by the Police Chief, the approval will continue to apply in the future and cannot be denied by a subsequent Police Chief.

Employees are eligible for a maximum of 5% education pay for the above qualifying degrees, even if they have more than two qualifying degrees (e.g., two Bachelor's degrees, a Master's and a Juris Doctorate etc.).

- 3) **Drug Recognition Expert (DRE) Pay:** Employees assigned and certified as Drug Recognition Experts (DRE's) who have completed the Drug Evaluation and Classification (DEC) Program and been certified as DRE's \$250 per month. A maximum of four (4) employees may receive Drug Recognition Expert Certification Pay.

The parties agree that to the extent permitted by law, Education Incentive Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(2) and 571.1(b)(2) as Educational Incentive.

## **ARTICLE 7: PEACE OFFICER STANDARDS AND TRAINING (POST) PAY**

- 1) **Intermediate P.O.S.T. Certificate Pay:** Any employee who receives an Intermediate P.O.S.T. certificate shall be paid an amount equal to five percent (5.0%) of the employee's current base salary.
- 2) **Advanced P.O.S.T. Certificate Pay:** Any employee who receives an Advanced P.O.S.T. certificate shall receive an additional (in addition to the 5.0% of base salary for receiving an intermediate P.O.S.T.) five percent (5.0%) of the employee's current base salary.

Employees are eligible for a maximum of 10% certification pay, provided they have both an Intermediate and Advanced P.O.S.T. certificate. The parties agree that to the extent permitted by law, Peace Officer Standards and Training Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(2) and 571.1(b)(2) as Peace Officer Standard Training (POST) Certificate Pay.

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### **ARTICLE 8: LONGEVITY PAY**

- 1) **Fifteen Year Longevity Incentive:** Employees with at least fifteen (15) years' experience as a sworn police officer (or higher ranked sworn peace officer) shall receive five percent (5.0%) of the employee's current base salary.
- 2) **Twenty Year Longevity Incentive:** Employees with at least twenty (20) years' experience as a sworn police officer (or higher ranked sworn peace officer) shall receive ten percent (10.0%) of the employee's base salary (in lieu of receiving five percent (5.0%) of base salary for longevity pay for having fifteen (15) years' experience as a sworn police officer or higher ranked sworn peace officer).

The parties agree that to the extent permitted by law, Longevity Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(1) and 571.1(b)(1) as Longevity Pay.

### **ARTICLE 9: UNIFORM ALLOWANCE**

Each employee shall receive a uniform allowance of \$700 per year, paid in bi-weekly installments. Motor Officers shall receive an additional \$15 per year (total \$715) and Canine Officers shall receive an additional \$180 per year (total \$880). The parties agree that to the extent permitted by law, the value of the uniforms provided in this article is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(5) Uniform allowance. Notwithstanding the previous sentence, uniform allowance may not be reported as special compensation for "new members", as defined by the Public Employees' Pension Reform Act of 2013.

## CHAPTER 3 – BENEFITS AND OVERTIME

### **ARTICLE 10: CALPERS RETIREMENT**

#### **California Public Employees Retirement System (CalPERS) Retirement**

- 1) **"Classic" CalPERS Members** within the meaning of the California Public Employees' Pension Reform Act of 2013 (PEPRA) receive the following retirement benefits and are subject to the specified retirement contributions:
  - a) **Retirement Formula:** 3% @ 50 formula per California Government Code 21362.2 with the One-Year Final Compensation option, "single highest year" per Government Code Section 20042.
  - b) **Retirement Contribution:** These employees shall pay the nine percent (9%) member contribution. Employees shall also pay an additional three percent (3%) retirement contribution as cost sharing pursuant to Government Code section 20516(a). In accordance with IRS Code section 414(h)(2), the cost sharing will then be treated as a pre-tax deduction.

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2) "New Members" within the meaning of the California Public Employees' Pension Reform Act of 2013 (PEPRA) receive the following retirement benefits:

- a) Retirement Formula: 2.7% @ 57 formula per Government Code 7522.25(d) with final compensation based on the highest annual average pensionable compensation during the three consecutive years (36 months) of employment per Government Code section 7522.32(a).
- b) Employee Paid Retirement Contribution: New Member employees shall pay the higher of twelve percent (12%) or the rate which CalPERS informs the City (each year) that new members are required to pay for their employee retirement contribution. If the rate established by CalPERS (each year) is below twelve percent (12%), the remaining contribution up to twelve percent (12%) is made per Government Code section 20516(a). In accordance with IRS Code section 414(h)(2), the cost sharing will then be treated as a pre-tax deduction.

As permitted by the Government Code 21163, the City shall not pay for accumulated sick leave for industrial disability retirements.

### ARTICLE II: HEALTH INSURANCE AND BENEFIT PLANS

#### 1) Medical

##### a) Medical Insurance:

The City contracts with CalPERS for medical insurance in accordance with the Public Employees' Medical and Hospital Care Act (PEMHCA)

Employees who enroll in a CalPERS medical plan will receive a City contribution to medical insurance of 95% of the PORAC premium, depending on the employee's enrollment (employee only, employee with one dependent, or employee with two or more dependents). The City's contribution will be inclusive of (not in addition to) the CalPERS statutory minimum per Government Code section 22892. To the extent out-of-pocket costs are incurred, the City will process the costs through premium conversion, thereby reducing the employee's taxable income.

If the plan chosen is less costly than the rates of the PORAC plan, the City will pay 95% of the premium for the plan chosen with the employee paying (with a deduction from their pay) for the remainder (5%) of the plan chosen. If an employee chooses a plan that is more costly than the PORAC premiums, the employee will pay the difference between the actual premium and 95% of the PORAC premium rate for the selected coverage level.

The City shall pay any administrative fee assessed by PERS on the health care premiums up to 3.3%. Any future administrative fee increases above 3.3% shall be paid by the employee.

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Once an employee exhausts 4850 pay and becomes eligible for Temporary Disability, the employee must supplement TD payments with at least one (1) hour of paid leave per bi-weekly pay period to be eligible for health insurance contributions from the City.

- b) Opt-Out of Medical Insurance: Employees, who are able to demonstrate to the City's satisfaction that they have minimum essential coverage as defined by the Affordable Care Act (through another source other than coverage in the individual market), may opt out of participation in the City's health plan.

Only employees who opt out of health insurance completely will receive a cash opt out incentive. Effective the pay period following City Council approval of this MOU, employees will be eligible for the following opt out incentive:

Employees opting out of health insurance who would have otherwise been eligible for either employee only or two-party medical coverage will receive \$2,700 per year (\$103.85 per pay period), paid biweekly as part of payroll. Employees opting out of health insurance who would have otherwise been eligible for family medical coverage (employee plus 2 or more qualified dependents) will receive an opt-out incentive of \$5,400 per year (\$207.69 per pay period), paid biweekly as part of payroll. This opt-out amount is taxable income and will not be considered compensation earnable (meaning it does not qualify as "special compensation" under the CalPERS regulations).

- c) Affordable Care Act Minimum Essential Coverage Requirements

Employees who are able to demonstrate to the City's satisfaction that they have minimum essential coverage as defined by the Affordable Care Act, (through another source other than coverage in the individual market, whether or not obtained through Covered California), may opt out of participation in the City's health plan. Pursuant to the Affordable Care Act (ACA) Employer Mandate "affordability" determination, an Eligible Opt-Out Arrangement requires the following for employees who opt-out of employer-provided health coverage and receive cash in lieu:

- (i) Employee must provide reasonable evidence that the employee and each member of the employee's expected tax family (individuals the employee expects to claim personal exemption deduction) have or will have minimum essential coverage (other than coverage in the individual market, whether or not obtained through Covered California) during the period of coverage to which the opt-out arrangement applies;
- (ii) The opt-out payment may not be made if the employer knows or has reason to know that the employee or any other member of the employee's expected tax family does not have or will not have the alternative coverage;
- (iii) The evidence of alternative coverage must be provided every plan year to which the eligible opt-out arrangement applies; and
- (iv) The reasonable evidence must be provided no earlier than a reasonable period of time before the plan year begins.

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### 2) **Dental**

The City will provide dental coverage at the level the employee is enrolled (either single, employee with one dependent, or employee with two or more dependents).

### 3) **Vision**

The City shall provide all represented employees and dependents the same vision care plan that is provided to Management/Confidential and miscellaneous employees.

### 4) **Retiree Medical Contribution**

#### a) **Employee Contribution to PORAC Medical Trust**

Employees who have passed their probationary period shall have a mandatory contribution to the PORAC Medical Trust of \$75.00 per pay period deducted on a pre-tax basis. The City shall transmit such contributions to the PORAC Medical Trust pursuant to the parties' agreement on the PORAC Retiree Medical Trust. No employee shall be permitted to opt-out of the mandatory contributions or receive any portion of the contribution in cash.

#### b) **Retiree Medical Stipend**

In accordance with the Public Employees' Medical and Hospital Care Act (PEMHCA), the City shall pay the CalPERS statutory minimum amount on behalf of all employees who retire from the City in accordance with the requirements of PEMHCA. In addition to the provision of the CalPERS statutory minimum, any employee who retires with a minimum of twenty (20) years of full-time service with the City of Manhattan Beach, shall receive a contribution of \$300 per month. However, any employee who has a minimum of twenty (20) total years of full-time service as sworn law enforcement in U.S. public agency(ies), with a minimum of ten (10) consecutive years at the City of Manhattan Beach in a sworn police status, shall receive a contribution of \$400 per month.

The additional contribution of \$300 or \$400 will be used toward health insurance costs, unless and until the following occur:

- (i) The retiree reaches 65 years of age; or
- (ii) The retiree becomes eligible for Medicare; or
- (iii) The retiree dies.

If any of the preceding conditions occur, the employee shall no longer be eligible to receive the additional (\$300.00 or \$400.00) retiree medical contribution.

### 5) **Section 125 Flexible Spending Accounts:** The City offers medical and/or dependent care flexible spending accounts. Participation in one or both plans is voluntary and funded by the employee.

## **ARTICLE 12: HOURS OF WORK, COMPENSABLE TIME, AND OVERTIME**

### **1. Fair Labor Standards Act (FLSA) Work Period and Work Schedules**

- a) FLSA Section 7(k) Exemption and Work Period: Employees are subject to the partial overtime exemption provided for by Section 7(k) of the FLSA and have a 28-day FLSA work period. Employees' entitlement to statutory overtime is per the provisions of the FLSA.
- b) Work Schedule: The work schedule for unit members assigned to patrol is a 3/12.5 + 10. Employees assigned to the 3/12.5+10 work schedule do not accrue any additional accrued leave (including, but not limited to, vacation, sick or holiday) hours as a result of their work schedules. The parties agree that if either side wishes to change this work schedule, it may request to meet and confer and the other side agrees it will come to the collective bargaining table expeditiously. Employees not assigned to patrol will work a 4/10 schedule.

Scheduling remains a management right. If an officer is placed on a multi-jurisdictional assignment, the officer shall work the schedule utilized by the assignment.

Temporary modified duty assignments may be assigned to employees who are temporarily incapacitated from performing the usual and customary duties of their position. The determination by administration of the days and hours of work to which an employee shall be assigned while performing "modified duty" is a management right.

### **2. Compensable Time Outside of Regular Work Schedule:**

- a) Firearms qualification - All sworn police department employees are required to qualify at the range each quarter. Time spent qualifying will be in a paid status. All employees on a work shift when the range is open will qualify while on duty. Employees who voluntarily shoot at the range other than for the required qualification or training will not be compensated for time spent at the range.
- b) Court standby pay - An employee who is on court standby status while off-duty, may leave a telephone number where they may be reached. Court standby time is not considered hours worked under the FLSA, however, the employee will be paid 1/2 his regular rate of pay.
- c) Court pay - When an employee is required to appear in court while off-duty, they shall be paid for all hours spent in court, with a minimum credit of three (3) hours for each morning court session and an additional two (2) hours for each afternoon court session. If an employee's regular work shift begins within two (2) hours from the time the employee is called to court, the employee will be paid for the time prior to the start of their regular shift. Travel time to court shall not be considered hours worked and shall not be compensated.
- d) Call-back pay - Call back duty occurs when an employee is ordered to duty on a non-regularly scheduled work shift. Call back does not occur when an employee is held over from their prior shift or is working prior to their regularly scheduled shift. An employee called back to duty shall

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be credited with a minimum of one (1) hour work commencing when the employee received the phone call to report to duty. Any hours worked in excess of 1 hour shall be credited on an hour for hour basis for actual time worked. Travel time home shall not be considered hours worked and shall not be compensated in any manner whatsoever. Thus, in determining time worked on call-back, the time shall begin when the employee receives the call and shall end when the work is done prior to the employee's travel back home. This provision is to be distinguished from "Court Standby" pay as defined above, which is to be used when an employee is called to appear in court.

- e) Training time - Attendance at training schools/facilities that improves the performance of regular tasks and/or prepares for job advancement is compensable for hours spent in class only. Any time spent in excess of the classroom time will not be counted as working time and is not compensable in any manner whatsoever. Time spent in studying and other personal pursuits is not compensable hours of work, even though the employee may be confined to campus or to barracks 24 hours a day. Travel time to and from the training facility outside of an employee's normal work shift is not compensable hours of work.

All local and non-local travel must be in accordance with the guidelines outlined in the City's Administrative Instruction/Policy. Whenever possible and practical, supervisors will try to arrange City-related travel to occur during working hours and minimize the impact to the employee's own time. It is the employee's responsibility to identify potential conflicts and bring them to their supervisor so that they may be addressed in the most feasible fashion.

- f) Clothes changing - Time spent in changing clothes before or after a shift is not considered hours worked and is not compensable in any manner whatsoever. The parties recognize that such time is not compensable because employees have the option per Department Policy to don and doff their uniform and protective gear at home whether they do so or not.
- g) City vehicle use - Employees who are provided with a City vehicle to travel to and from work shall not be compensated in any manner whatsoever for such travel time in the City vehicle. (This provision also applies in those situations where the radio must be left on and monitored).

### 3. Overtime and Comp Time

- 1) Overtime: Employees are entitled to receive MOU overtime (i.e., overtime provided for by this MOU in excess of the requirements of the FLSA) if they work in excess of their regularly scheduled full-time hours in each pay period (which may be 75, 80 or 85 hours depending on their work schedule). In determining an employee's eligibility for MOU overtime compensation in a pay period, paid vacations, holidays, bereavement leave, and compensatory time, shall count as hours worked. However, neither sick leave nor leave per Labor Code section 4850 count as hours worked for purposes of calculating MOU overtime. Employees will be paid at the rate of time and one-half the employee's rate of pay or compensatory (comp) time at the rate of one and one half (1.5) times hours worked at the employee's option. Employees will be paid their earned overtime on the pay day following the pay period in which it was earned.

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- 2) **Compensatory Time Bank and Use:** An employee's earned compensatory time bank shall not exceed 100 hours.

An employee wishing to use their accrued compensatory time off shall provide the City with reasonable notice. If reasonable notice is provided, the employee's request may not be denied unless it is unduly disruptive to the department to grant the request. A request to use compensatory time off without reasonable notice may still be granted within the discretion of the supervisor or manager responsible for considering the request.

- 3) **Overtime authorization:** All overtime requests must have the prior authorization of a supervisor prior to the commencement of such overtime work. Where verbal authorization is obtained, written authorization must be obtained as soon thereafter as practicable. Dispatched calls beyond the end of duty time will be considered authorized overtime.

An employee's failure to obtain prior written approval, or explicit verbal authorization followed by written authorization, will result in the denial of the overtime request. The overtime slip constitutes written authorization.

### **ARTICLE 13: SHIFT BIDS**

Employees in the classification of Police Officer and Police Sergeant shall be entitled to select the shift. However, it remains the sole discretion of the department to determine through the master schedule of available shifts, which days off are associated with any particular shift. Shift selection shall be made based upon seniority in the employee's current classification (including any time served in a higher or lower paying classification). The only exceptions to this entitlement are under the following conditions:

- 1) To accommodate a formal PIP.
- 2) To facilitate the separation of two employees who have a formal, documented hostile work environment and/or sexual harassment incident.
- 3) To facilitate the separation of two employees who have a formal, documented adverse situation which has impacted the effectiveness of the shift to which they are assigned.

Movement of individuals under the above circumstances shall only be done after all other reasonable efforts have been considered.

If a non-probationary Police Officer or Police Sergeant is displaced from their selected shift (after the shift bid has been finalized) by an officer being moved under one of the above circumstances, that displaced officer or sergeant shall be entitled to a 5% bonus of their current base salary for the period of the displacement.

Under this article, the placement of officers or sergeants for the purposes of balancing experience throughout the shift, equal distribution of FTOs or other officers assigned collateral duties such as CSI, DUI, DRE, or to assign premium shifts as inducements or rewards to less senior officers, are specifically excluded.



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Any dispute regarding the necessity of movement of officers or the accuracy of the asserted need shall be resolved by the City's Human Resources Director.

Notwithstanding any other provisions of this article, the last slot on a particular shift may be blocked out prior to the shift bid in order to assign probationary Police Officers or probationary Police Sergeants to specific shifts for training purposes. A maximum of two probationary Police Sergeants may be assigned such designated shifts for training purposes. Each slot blocked out for training purposes will be on a different shift and will be blocked out before the shifts are bid (there will be no bumping mid-cycle). The Department will have the right to closely or exactly match probationary sergeants' days off to that of the lieutenant on the shift to which they are assigned.

### **ARTICLE 14: TUITION REIMBURSEMENT PROGRAM**

Employees are eligible to participate in the City's tuition reimbursement program as outlined in the applicable Personnel Instruction/City Policy. The current annual reimbursement amount for tuition and books is \$3,000. The college or university at which courses are taken must be is accredited as defined by the U.S. Department of Education Data of Accredited Postsecondary Institutions and Programs.

### **ARTICLE 15: DIRECT DEPOSIT PAYCHECKS**

Employees covered under this MOU shall receive their bi-weekly compensation through the City's direct payroll deposit program.

## CHAPTER 4 – LEAVES OF ABSENCE

### **ARTICLE 16: VACATION**

- 1) **Vacation Leave Accrual and Caps:** Employees will begin to earn vacation at the time of appointment. If an employee terminates employment with the City and then returns, vacation shall be earned at the same rate as if they were a new employee. Vacation shall be earned for continuous periods of employment to the following maximum vacation accumulation amounts:

<b>Tenure</b>		<b>Vacation Accrual</b>	<b>Vacation Cap</b>
<i>Greater than:</i>	<i>Less than or equal to:</i>	<b>(Hours/Mo.)</b>	
6 months	5 full years	8.667	260 hours
5 full years	10 full years	10.833	315 hours
10 full years	15 full years	13.0	370 hours
15 full years	20 full years	15.167	425 hours
More than 20 full years		17.333	480 hours

If an employee reaches the vacation accrual maximum, the employee will not accumulate further vacation until such time that the employee's accrual rate returns to below the maximum amount. Under special circumstances, and with City Manager approval, an employee may be allowed to accrue over the maximum

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on a temporary basis.

- 2) **Vacation Cash Out:** On or before the pay period that includes December 15 of each calendar year, an employee may make an irrevocable election to cash out up to one hundred and five (105) hours of accrued vacation, which will be earned in the following calendar year, at the employee's base rate of pay. On the pay day for the first pay period in December each year in the following year, the employee will receive cash for the amount of vacation leave that the employee irrevocably elected to cash out in the prior year.

If an employee makes an irrevocable election to cash out vacation leave in the following calendar year and uses vacation leave in that subsequent year, the vacation leave used will come from vacation leave the employee had earned prior to January 1 of the year the employee has elected to cash out vacation leave. This is to ensure that assuming an employee had a vacation leave balance prior to January 1<sup>st</sup>, the vacation leave used will not result in a reduction in the amount of vacation leave the employee will be eligible to cash out. However, if in the first pay period in December, an employee does not have the amount vacation on the books that they irrevocably elected to cash out in the prior year, the employee will be cashed out for the hours the employee has on the books at that time.

### **ARTICLE 17: HOLIDAYS**

Non-probationary employees are entitled to 110 hours off in lieu of paid holidays each year. Holiday leave shall vest at the rate of 4.231 hours each bi-weekly pay period. If an employee is on unpaid leave during the year, their holiday leave accrual will be reduced by a proportionate amount to account for the unpaid leave.

Employees will be advanced the entire 110 hours of holiday leave hours effective the first full pay period of each calendar year.

Sworn, initial-hire probationary employees are entitled to 55 hours off in lieu of paid holidays each six (6) months. Holiday leave shall vest at the rate of 4.231 hours each bi-weekly pay period, however, each employee's holiday bank shall be advanced the 55 hours each July 1 and January 1 or pro-rata portion if their service as an initial hire probationary employee begins after these dates. For the purposes of cash out of holidays, employees are regarded as initial hire probationary employees until the end of the calendar year that they pass probation.

If any of the employee's holiday hours are not used during the calendar year, the employee has the following options with any remaining unused hours:

- 1) Any unused holiday hours at the end of each calendar year can be added to the employee's vacation accrual. If the placement of vacation in the employee's vacation accrual bank will cause the employee to be at or above their maximum accrual, the employee will not be permitted to accrue additional vacation until the vacation accrual amount is below the vacation accrual cap.
- 2) An employee may make an irrevocable election by December 15 of each calendar year to cash out up to 30 hours of unused holiday leave in the next calendar year. Any leave the employee elected to cash out will be paid to the employee in the final pay period of the following calendar year. In addition to electing this cash

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out option, an employee may convert any remaining holiday leave to vacation leave as described in option 1.

Employees who leave City service shall be paid for their unused, vested holiday leave upon separation. Any advanced holiday leave that is used but not vested, shall be deducted from an employee's final paycheck. In the event an employee's final paycheck is insufficient to cover the advanced leave, the City reserves the right to collect any monies due from the departing employee.

### **ARTICLE 18: SICK LEAVE**

- 1) **Sick Leave Accrual:** Employees shall earn sick leave at the rate of 7.67 hours per month for a total of 92 hours per year.
- 2) **Sick Leave Use:** Sick leave is permitted to be used once accrued for an appropriate sick leave reason contained herein or allowable under the law.
  - a) Three days continuous sick leave usage may require a note from a doctor verifying that the employee can return to work.
  - b) An employee shall be able to use his or her accumulated sick leave to supplement any temporary disability pay received by the employee.
  - c) When an employee uses sick leave for a purpose that qualifies for leave per the Federal Family and Medical Care Leave Act (FMLA) and/or the State California Family Rights Act (CFRA) or is disabled by pregnancy, the City may run the employee's FMLA/CFRA leave and/or Pregnancy Disability Leave (PDL) concurrently with the sick leave. In addition, if an employee uses FMLA/CFRA or PDL for a purpose which these laws would entitle the City to require the use of sick leave, the City may do so.
  - d) Per Labor Code section 233, employees may use one half of one year's annual accrued sick leave (46 hours per calendar year) to care for a 1) child (biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), 2) a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee, 3) the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child, 4) a grandparent, 5) a grandchild, or 6) a sibling.
- 3) **Sick Leave Conversion:** An employee is eligible to convert sick leave to vacation leave based on the amount of unused sick time remaining at the end of each fiscal year, as follows:
  - o 70-92 unused hours of sick leave earned remaining: one-half of the unused sick leave credited to vacation and the remainder carried over as sick leave.
  - o 46-69 unused hours of sick leave earned remaining: one-quarter of the unused sick leave credited to vacation and the remainder carried over as sick leave.

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- o 45 hours or less of unused sick leave earned remaining; no conversion to vacation and the entire unused sick leave is carried over as sick leave.

If an employee is at or near their vacation accrual maximum, sick leave may only be converted up to the amount of his or her vacation limit. The sick leave conversion is processed in the second full pay period after June 30 of each year.

- 4) **Sick Leave Credit Upon Retirement:** At retirement, an employee may apply any unused accrued sick leave as additional service credit in accordance with applicable CalPERS regulations, as provided by in Government Code Section 20965.

### **ARTICLE 19: BEREAVEMENT LEAVE**

An employee may use up to 40 total hours of bereavement leave per calendar year for grieving, receiving counseling, making arrangements, or carrying out last wishes as a result of the death of a member of the employee's immediate family (*i.e.*, the employee's husband, wife, parent, registered domestic partner, brother, sister, child, mother-in-law, father-in-law, sister-in-law, brother in law, foster child, and foster parent, grandparent or grandchildren.) If an employee experiences the death of more than one family member, the employee may request an exception to use an additional 40 hours of bereavement leave, subject to verification and approval of the Human Resources Department.

### **ARTICLE 20: JURY DUTY**

Employees who are summoned to perform jury service shall be entitled to their regular compensation while serving plus reasonable travel time (not to exceed one hour per day) up to a cumulative total of 80 hours of paid leave each calendar year, in accordance with City Policy.

Officers summoned to appear in court for jury duty purposes shall notify their supervisor when so summoned and will be required to provide court documentation of such appearance.

### **ARTICLE 21: CATASTROPHIC LEAVE DONATION**

Employees in the unit shall be permitted to donate accrued vacation leave and/or compensatory time off to other City employees who have exhausted all paid leaves, who have been granted an unpaid leave and who need to continue to be absent from work because of a catastrophic injury or illness. The value of the accrued vacation leave and compensatory time off will be determined based on the donating employee's compensation. It will then be converted to hours for the donee's use based on the donee's rate of pay. For example, if an employee who earns \$40 per hour donated ten (10) hours of accrued vacation leave and/or compensatory time off to an employee who earns \$30 per hour, the donee would receive \$400 divided by \$30 or 13 hours of catastrophic leave. The value of such leave will be converted to the donee's rate of pay. An employee wishing to donate leave must inform the Human Resources Department of their desire to donate leave, the amount of the donation and the employee to whom the employee wishes to donate. Employees may donate accrued vacation leave and/or compensatory time off to employees outside of their bargaining unit at their option.

## CHAPTER 5 – EMPLOYER-EMPLOYEE RELATIONS

### ARTICLE 22: GRIEVANCE PROCEDURE

#### 1) Definition of Grievance

For the purposes of this section, a grievance shall be defined as a dispute between (1) an employee, group of employees, or the Association on behalf of an individual employee or group of employees, and (2) the City, regarding the application or interpretation of specific provisions of this MOU or the City Personnel Rules. This procedure is not intended to discourage resolution of disputes regarding the MOU in an informal manner. Except as provided by law, the grievance procedure is the sole and exclusive method to challenge an alleged violation of the MOU. For purposes of this article, a working day is defined as a day City Hall is open.

#### 2) Grievance Submittal

Grievances must be submitted in writing and within the proper time frames to be considered. Time limits when filing formal grievances may be extended by mutual agreement between the parties.

#### 3) Grievance Procedure Steps

a) Informal Process: The employee, a representative of the group of employees if a group grievance, or a representative of the Association if filed by the Association, shall first discuss the issue with an appropriate supervisor as soon as practical and in any event no later than 20 working days from the occurrence or knowledge of the occurrence of the issue. The supervisor should respond and, when appropriate, resolve the issue within 20 working days from the date of the discussion with the employee(s) and/or Association representative(s).

#### b) Formal Process

1. If the grievant is not satisfied with the supervisor's response in the informal process, the grievance may be submitted for formal review in writing, stating the specific MOU or City Personnel rule or regulation that was improperly interpreted or applied and stating the specific resolution desired. The grievance shall be submitted to the Chief of Police for review within 20 working days of the supervisor's response in the informal process. The Chief will give a written reply by the end of the tenth (10<sup>th</sup>) working day following the date the grievance was submitted.
2. If the grievance is not resolved in Step 1 of the formal process, the employee(s) or Association must, within five (5) working days following receipt of the Chief's written reply, present the grievance form to the Human Resources Director for further processing. The failure of the grievant to take this action will constitute a waiver of the grievance, unless time limits are extended through mutual agreement.

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3. Within ten (10) working days of receipt of the grievance, the Human Resources Director will contact the grievant to schedule a meeting with the City Manager or their designee to hear the grievance. Either the City or the employee(s)' (or Association's) representative may call other employees as witnesses during the meeting.

A written decision will then be rendered within 15 working days of the hearing. The decision of the City Manager will conclude the grievance process.

### ARTICLE 23: DISCIPLINE AND APPEAL PROCESS

The City is committed to following the principles of progressive discipline. Disciplinary actions should be designed to fit the nature of the employee's performance or conduct needing to be addressed. The particular action imposed shall depend on the severity of the misconduct, the particular factual circumstances involved and take into consideration other incidents with comparable circumstances. All disciplinary action shall be based on the principles of just cause. For purposes of this article, a working day is defined as a day City Hall is open.

#### 1) Disciplinary Actions Defined:

- a) Performance Feedback: The use of oral or written performance feedback (including Blue Cards) is not considered disciplinary action, and is a tool supervisors may use to address performance problems or minor instances of misconduct, as well as accomplishments. When providing performance feedback, the supervisor or manager should review with the employee the specific instances and deficiencies in question, the City's standards, specific improvement needed, and expected behavior moving forward. Any written warnings will be kept in the supervisory file, not the official personnel file, and a copy given to the employee. The employee may respond in writing within 30 calendar days. The supervisory file is intended to be a temporary file to record performance, both positive and negative, throughout the performance year. When the performance evaluation is prepared for the employee, the entire contents of the supervisory file should be considered in determining the overall performance. Once the evaluation is completed and filed in the employee's personnel file, all written performance feedback prepared during the evaluation period, as well as any written response from the employee, will be removed from the supervisory file and provided to the employee.
- b) Letter of Reprimand: A Letter of Reprimand is considered the lowest level of formal discipline and generally is appropriate to correct an instance of more serious circumstance or employee misconduct which does not warrant suspension or discharge, repeated instances of minor misconduct or identified performance problems. The purpose of a Letter of Reprimand is to put the employee on notice that the City will take further disciplinary action unless improvement in performance is demonstrated. The supervisor or manager issuing the Letter of Reprimand shall meet with the employee to discuss specific improvements required within a defined time period to avoid further disciplinary action, where applicable. A copy of the Letter of Reprimand will be placed in the employee's official personnel file. The employee has the right to file a written response within 30 calendar days to be included as an attachment to the written reprimand in their personnel file.
- c) Suspension: Suspension is the temporary removal of an employee from their duties without pay for up

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to thirty (30) calendar days.

- d) Reduction in Pay: A Reduction in Pay is a reduction in hourly salary for a limited and defined period of time, and does not result in any classification change. The employee remains in their classification and continues to perform their regular and customary duties for the duration of the Reduction in Pay.
- e) Demotion: Demotion is the movement of an employee from his current classification to a different classification with a lower salary range.
- f) Discharge: Discharge is the involuntary termination of an employee from City employment for cause.

### 2) Pre-Disciplinary Procedure ("Skelly Meeting")

In the event disciplinary action is proposed, the Chief of Police shall provide the employee with a pre-disciplinary procedural due process meeting (Skelly) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the employee with:

- a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - (1) Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.
  - (2) If the employee elects to respond orally, the presentation may be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

Once the employee has completed their response or if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

### 3) Appeal Process

- a) Any action which qualifies as "punitive action" as defined by the Public Safety Officers' Procedural Bill of Rights Act, including a Letter of Reprimand and any suspension up to and including three (3) days, is appealable, as follows:

Step 1: The employee must, within twelve (12) working days, present the appeal to the Human Resources Director for processing. The failure of the employee to take this action shall constitute a waiver of the appeal, unless time limits are extended through mutual agreement.

Step 2: Within ten (10) working days of receipt of the appeal, the Human Resources Director will set up a meeting between the employee and their representative with the City Manager or their designee to

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review the issues. A written decision will then be rendered within fifteen (15) working days of the meeting. The decision of the City Manager will be final.

Either the City or the Association may call any employee as a witness to any of the above steps, and the City agrees to compensate said witness for his testimony. The parties agree to make every effort to call witnesses while they are on duty.

- b) Disciplinary action of suspension in excess of three (3) days, or if the result of the discipline is over 3 days total suspension time in a 12-month period, reduction in pay, demotion or discharge is appealable using the following process.

Step 1: The employee may appeal to an outside Arbitrator to hear the appeal by filing an appeal to the Police Chief's action within twelve (12) working days. The Arbitrator will be selected from a list supplied by the State Mediation and Conciliation Services. In the event agreement cannot be reached on the identity of the arbitrator, both parties will alternately strike names from the list until only one remains. The order of striking names will be decided by a flip of the coin.

Step 2: In cases of discharge, reduction of pay or suspension without pay in excess of five (5) days, a hearing will be granted. For suspensions of 4 or 5 days, the Arbitrator may make a decision without a hearing, after a review of the written materials submitted by all parties concerned. The City Manager may affirm, revoke or modify the action of the Arbitrator. The City Manager's decision shall be final.

The City and POA will each pay half of the cost of appeals to an Arbitrator if the Association assists the appellant in its representative capacity or in any way financially. Shared costs shall include only those charges from the Arbitrator.

## **ARTICLE 24: PROBATION**

The probationary period is regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to their position, and for rejecting any probationary employee whose performance does not meet the required standards of work.

The standard probationary period for original appointments of academy trainee and academy graduates shall be 18 months beginning at academy graduation/swearing in. The probationary period for lateral hires and promotional appointments shall be 12 months from the date of employment or appointment into the promotional rank. A probationary period may be extended upon the recommendation of the Police Chief and approval of the Human Resources Director and City Manager, for up to 6 months. In addition, an employee's probationary period shall be automatically extended where, (1) any cumulative absence during the probationary period from the performance of the employee's usual and customary duties is in excess of 240 hours or, (2) where the employee is present at the work site during the probationary period but is unable to perform all of the usual and customary duties of their job is in excess of 240 hours (for example, modified duty). In calculating said 240 hours, absences attributed to utilization of holiday time off and to the utilization of compensatory time off, shall be excluded. In those instances where one of the above conditions are met, the probationary period extension shall automatically occur regardless of notice of said extension being provided to the subject employee. The probationary period extension shall be in an amount of time equal to the total



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number of hours during the probationary period the employee was absent or unable to perform all of their usual and customary duties.

### **ARTICLE 25: ABANDONMENT OF POSITION**

Employees absent from work without authorization or notification for three (3) consecutive working days, shall be construed to have abandoned their employment with the City and be subject to termination.

### **ARTICLE 26: NO SMOKING**

Employees hired after September 3, 1988, must refrain from smoking tobacco or using any other tobacco substance at any time on or off duty as a condition of continued employment. This includes vaping and the use of e-cigarettes. Violation of this condition of employment shall be deemed good cause for discipline up to and including dismissal.

### **ARTICLE 27: DRUG TESTING PROGRAM**

The City and the Association agree to mutually work together for the prevention of alcohol and substance abuse in the workplace for the benefit of the employees, City, and the residents of Manhattan Beach. The agreed Alcohol and Substance Abuse Policy is incorporated herein as Exhibit B. The parties agree in addition to the causes for testing set forth in the policy, that all employees will be subject to drug testing at least once every five (5) years. If an employee changes the class of their license, they will still be subject drug testing once every five (5) years, not five (5) years after the change of the class of license.

### **ARTICLE 28: WORK STOPPAGE PROHIBITION**

#### **1) Prohibited Conduct**

- a) The Association, its officers, agents, representative, and members, agree that, during the term of this Memorandum of Understanding or any agreed upon extensions of the MOU, they will not call or engage in any strike, walkout, work stoppage, sickout, blue flu, concerted withholding of services by employees represented by the Association, disruption of City services, or honor any job action by any other employee or group of employees of the City or any union or association of employees by withholding or refusing to perform services; provided, however, that by executing this agreement neither the Association nor any of its members waive their rights (1) under Section 6300 et seq. of the California Labor Code to refuse to work under unsafe conditions and (2) under the United States and California Constitutions to exercise their rights of freedom of speech, assembly and association such as by engaging in lawful informational picketing.
- b) This article shall not constitute a waiver by the City of its position that any work stoppages are illegal, regardless of whether or not a valid MOU is or is not in effect. Nor shall this article constitute a waiver by the Association of its rights to engage in any strike walkout, work stoppage, sick-out, blue flu, or other job actions that are allowable under the law at the conclusion of the term of this MOU or any agreed upon extensions, and to assert that these actions are lawful.

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- c) In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited above, the Association shall utilize reasonable efforts to stop such conduct and immediately instruct, in writing, any persons engaging in such conduct that their actions are in violation of this Memorandum of Understanding and are unlawful, and that they must immediately cease such conduct and return to work.
- d) In the event the Association carries out in good faith its responsibilities set forth in Paragraph (b) above, it shall not be liable for the actions of any individual who participates in conduct prohibited by Paragraph 1 above. Any employee who participates in any conduct prohibited above or violates any other City rule or regulation, shall be subject to disciplinary action including termination by the City.

This shall not abrogate the right of any employee to receive all due process guaranteed to him or her in procedures relating to disciplinary action.

### **ARTICLE 29: EMPLOYEE/EMPLOYER RELATIONS RESOLUTION**

The parties have agreed that if, during the term of the MOU, the City requests to discuss the Employee/Employer Relations Resolution, no changes will be made without written agreement of the parties.

### **ARTICLE 30: ASSOCIATION DUES DEDUCTION**

The Association shall notify the City, in writing, as to the amount of dues uniformly required of all employees who elect to be members of the Association. The City will deduct dues from members of the Association and will remit them to the Association. Association membership dues shall be deducted by the City from the pay checks/direct deposits of such members.

It is the Association's responsibility to inform the Payroll Division as to which members of the bargaining unit are members of the Association. The Association shall inform the Payroll Division in writing of any changes in the membership status of any Association members. Employee requests to cancel or change deductions shall be directed to the Association. The Association shall indemnify the City for any claims made by an employee for deductions made in reliance on that information.

### **ARTICLE 31: RELEASE TIME**

Designated Association representatives may be granted release time to attend training or training conferences related to their duties of representation, at the discretion of the Police Chief or designee, provided the release time does not result with the employee's shift being backfilled on an overtime basis. The cost of the training or conference, and associated travel expenses, will be paid by the Association. The Chief's decision on whether to grant release time is not subject to any challenge, including the filing of a grievance.

Association representatives shall be granted release time to attend negotiations, pursue grievances and appeals, and represent their members, in accordance with the law.

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### **ARTICLE 32: GARNISHMENTS**

A \$25.00 initial set-up fee and \$7.00 service charge per garnishment per payroll check shall be charged to the employee. Child support garnishments will be subject to the \$25 set up fee and \$1.00 service charge per garnishment per payroll check.

### **ARTICLE 33: SAVINGS CLAUSE**

If any section, subsection, subdivision, sentence, clause, or phrase of this MOU is for any reason held to be illegal or unconstitutional, such decision shall not affect the validity of the remaining portion of this MOU.

### **ARTICLE 34: MANAGEMENT'S RIGHTS RESERVED**

The scope of representation does not include consideration by the City of changes in the merits, necessity or organization of any service activities provided by law or executive order and accordingly, the following determinations shall not be subject to the meet and confer process:

- a) Issues of public policy;
- b) The merits, necessity, or organization of any department, service or activity provided by the City pursuant to law or ordinance;
- c) Matters which relate to the management of the City or the direction of its work force, including the right to direct employees, to hire, promote, transfer, assign, or retain employees, or suspend, demote, discharge, or take other proper disciplinary action against employees, maintain the efficiency of the operation of the City Government, and take any actions necessary to meet conditions of an emergency nature, subject to the rules and regulations of the City. The City Manager need not meet with the representatives of any recognized employee organization to consider the personal grievance of an individual employee or group of employees until the procedure for the resolution of grievances provided for in this MOU has been completed.

MB POLICE OFFICERS' ASSOCIATION MOU

**ARTICLE 35: FULL AND COMPLETE UNDERSTANDING**

This Memorandum of Understanding represents the full and complete understanding between the parties related to the subject matter set forth herein and all preliminary negotiations of whatever kind or nature are merged herein.

The parties hereto have caused this Memorandum of Understanding to be executed this \_\_\_\_ day \_\_\_\_\_, 2022.

REPRESENTATIVES OF THE MANHATTAN  
BEACH POLICE OFFICERS' ASSOCIATION

REPRESENTATIVES OF THE CITY OF  
MANHATTAN BEACH

BY \_\_\_\_\_  
Dan Brandt, President MBPOA

BY \_\_\_\_\_  
Lisa Jenkins, Human Resources Director

BY \_\_\_\_\_  
David Gibbons, Treasurer MBPOA

BY \_\_\_\_\_  
Stephanie Swofford, Human Resources  
Manager

BY \_\_\_\_\_  
Derek Agustin, Vice President MBPOA

BY \_\_\_\_\_  
Peter J Brown,  
Liebert Cassidy Whitmore

BY \_\_\_\_\_  
Elizabeth Tourgeman  
Rains Lucia Stern St Phalle & Sliver, PC

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**EXHIBIT A**  
**SALARY SCHEDULES**

Effective 01/01/2022

	Step 1	Step 2	Step 3	Step 4	Step 5
Police Officer	7,842	8,236	8,647	9,079	9,533
Police Sergeant	11,415	11,985	12,586		

Effective 01/14/2023

	Step 1	Step 2	Step 3	Step 4	Step 5
Police Officer	8,077	8,483	8,906	9,351	9,819
Police Sergeant	11,757	12,345	12,964		

Effective 01/13/2024

	Step 1	Step 2	Step 3	Step 4	Step 5
Police Officer	8,319	8,737	9,173	9,632	10,114
Police Sergeant	12,110	12,715	13,353		

Effective 01/11/2025

	Step 1	Step 2	Step 3	Step 4	Step 5
Police Officer	8,444	8,868	9,311	9,776	10,266
Police Sergeant	12,292	12,906	13,553		

## EXHIBIT B

# CITY OF MANHATTAN BEACH AND MANHATTAN BEACH POLICE OFFICERS' ASSOCIATION DRUG AND ALCOHOL ABUSE POLICY

## I. PURPOSE

The City of Manhattan Beach and the Manhattan Beach Police Officers' Association recognize that behavior resulting from the use of alcohol and other drugs detrimentally affects work performance, safety, security, and public confidence in City employees and presents a risk to City employees and the health and welfare of the citizens of the City of Manhattan Beach.

While the City has no intention of intruding into the private lives of its employees, the special nature of the duties entrusted in public safety officers demands that the use of alcohol and other drugs which may affect an employee's ability to perform his or her job be strictly regulated.

Employees who think they may have an alcohol or drug usage problem are urged to seek confidential assistance from the Employee Assistance Program. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help.

## II. POLICY

It is the policy of the City of Manhattan Beach that employees shall not be under the influence of alcohol or drugs, nor possess alcohol or drugs while on City property, at work locations, or while on duty or on an "on-call" status; shall not utilize, sell or provide drugs or alcohol to any other employee or to any person while such employee is on duty or on an "on-call" status, nor have their ability to work impaired as a result of the use of alcohol or drugs.

The City reserves the right to search, without employee consent, all areas and property in which the City maintains control or joint control with the employee, except as restricted by the California Public Safety Officers Procedural Bill of Rights Act.

Refusal to submit immediately to an alcohol and/or drug analysis when requested by a sworn supervisor for the causes for testing listed in this policy may constitute insubordination and may be grounds for discipline up to and including termination.

## MB POLICE OFFICERS' ASSOCIATION MOU

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained until he or she can be reasonably transported from the work site.

The City provides an Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. The City and the Association encourage and support the rehabilitation of employees with alcohol and drug abuse problems through the constructive use of the EAP. It is understood that EAP counseling sessions are confidential except for compliance with mandatory EAP referral evaluations and program requirements. Records kept under this program shall be available only to those persons who administer the program or monitor, and/or manage employees participating in the EAP program.

### III. APPLICATION

This policy applies to all employees in the classification of Police Officer and Police Sergeant. This policy applies to alcohol and to all substances, drugs, medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

### IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- A. not report to work or be subject to duty while his or her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- B. not possess or use alcohol or impairing drugs (illegal drugs and prescriptions drugs without a prescription) during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City property, with the exception of substances which have been confiscated by arrest and are in transport to designated holding facilities, or incidents which are performed as part of the job and with the condoning by the Chief of Police;
- C. not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either the employee or both employees are on duty or on an "on-call" status;
- D. submit immediately to an alcohol and drug test when requested by a sworn supervisor;
- E. notify his or her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City equipment; and
- F. provide within 24 hours of request bona fide verification of a current valid prescription for any potentially impairing drug or medication declared by the employee before the drug test and identified when a drug test is positive. The prescription must be in the employee's name.

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### V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- A. Sworn supervisors are responsible for reasonable enforcement of this policy.
- B. Sworn supervisors may request that an employee submit to a drug and/or alcohol test when any of the "Causes for Testing" items listed in this policy occur.
- C. In cases of "reasonable suspicion", any sworn supervisor requesting an employee to submit to a drug and/or alcohol test must document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs and submit said documentation to the Chief of Police prior to the end of the shift.
- D. Any sworn supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy. Where there is reasonable suspicion that the employee is under the influence of drugs or alcohol, the sworn supervisor shall detain the employee until the employee can be safely transported to the testing facility by a manager or supervisor. The employee will be relieved of their weapon, which will be secured by the department until the employee is authorized to return to work.
- E. Sworn supervisors shall not physically search the person of employees, nor shall they search the personal possession of employees without the freely given consent of, and in the presence of, the employee, or unless a valid search warrant has been obtained, or where he or she has been notified in advance that a search will be conducted.
- F. Sworn supervisors shall notify the Chief of Police or designee when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City, or those other areas protected by the Public Safety Officers Procedural Bill of Rights Act.

### VI. CAUSES FOR TESTING

Employees covered by this policy shall be tested for drugs or alcohol for any of the following reasons:

- 1. Randomly during initial probationary period.
- 2. Prior to promotional appointment.
- 3. Within 30 days prior to renewal date of Driver's License.
- 4. Within 30 days of assignment to investigative detail.
- 5. Within 30 days of assignment to SWAT.
- 6. As soon as possible after reporting a traffic accident involving the employee which results in airbag deployment or bodily injury or death to anyone involved in the accident.
- 7. Whenever there is "reasonable suspicion" of an employee under the influence on work time.



## MB POLICE OFFICERS' ASSOCIATION MOU

Reasonable suspicion is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his or her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- a. Slurred or thick speech;
- b. Alcohol odor on breath;
- c. Inability to perform work properly;
- d. Unsteady walking and movement;
- e. Unusual or anti-social behavior so unusual that it warrants summoning a supervisor;
- f. Eyes that stare blankly or appear glassy;
- g. Possession of alcohol or drugs;
- h. Nystagmus (i.e., involuntary eye movement);
- i. Information obtained from a reliable person with personal knowledge whose identity is known.

## VII. PHYSICAL EXAMINATION AND PROCEDURE

The physical examination and procedure are detailed in an addendum to this policy. Amendments to the addendum shall not affect any other section in this policy.

Whenever a sworn supervisor deems a drug test necessary for any of the eight reasons listed in cause for testing, the manager or supervisor shall send the employee to the City's medical facility for testing. If the employee is impaired or is for any reason deemed unsafe to transport him or herself to the facility, the manager or supervisor or designee shall transport the employee to the City's medical facility for the test. The employee shall be paid for time spent at the examination. The City shall bear the expense of the examination, and shall provide transportation to and from the medical facility and the employee's work site.

The medical provider uses a certified National Institute of Drug abuse (NIDA) laboratory. The certification of laboratories performing drug testing for Federal agencies was developed by NIDA to assure strict adherence to the rigorous standards of testing and custody control form. Test results are returned to the Medical Review Officer (MRO).

The initial test is a process called Urine Drug Screen # 37042N. If all results are negative, the test is complete. If a positive test result is noticed, a secondary test using the Gas Chromatography/Mass spectrophotometry (GCMS) method is conducted by the laboratory to verify the results. This test has been used as binding legal and medical precedent. If the subsequent test is negative, then the test is considered negative for all purposes. If the subsequent test confirms a positive finding, it is noted on the report and sent to the MRO. At this point, in cases other than THC and cocaine, the MRO will contact the employee to discuss the possibility that the person has taken medication (prescription or otherwise) that was not indicated on the original form completed by the employee. The employee is not informed of a positive result, he or she is just asked to clarify any drug intake. The final results are then sent by the MRO to the City.

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Drugs tested for include, but are not limited to Amphetamines, Barbiturates, Benzodiazepines, Cocaine, Methadone, Methaqualone, Opiates, PCP, THC, Propoxyphene, and Alcohol. Cut off levels shall be consistent with the current guidelines issued by NIDA.

### VIII. RESULTS OF DRUG AND/OR ALCOHOL TESTING

#### During Employment Drug and/or Alcohol Tests

1. A positive result from a drug and/or alcohol analysis may result in appropriate disciplinary action, up to and including discharge, pursuant to the City's disciplinary policy.
2. If a drug screen is positive, the employee must provide within 24 hours of request, bona fide verification of a valid prescription for the drug declared by the employee before the drug test and identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action, up to and including discharge.
3. If an alcohol or drug test is positive for alcohol or drugs, the City shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out following an evaluation of the circumstances.

### IX. APPEALS

If the employee desires to appeal a positive test result, he or she may request a new testing of a remaining portion of the original urine sample, or split sample, within three (3) business days of notification of the original test result. The split sample test by Gas Chromatography/Mass Spectrophotometry (GC/MS) shall be conducted at the employee's expense and shall be conducted by any National Institute of Drug Abuse approved laboratory located in California.