

AGREEMENT

between

CITY OF CARLSBAD

and

CARLSBAD POLICE OFFICERS ASSOCIATION

April 1, 2018 to April 1, 2021

CARLSBAD, NEW MEXICO

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PREAMBLE

This Agreement is entered into by and between the CITY OF CARLSBAD, (“CITY”) a New Mexico municipal corporation and the CARLSBAD POLICE OFFICER’S ASSOCIATION (“UNION”). This Agreement has as its purpose the promotion of harmonious relations between the CITY and the UNION, the establishment of an equitable and peaceful procedure for the resolution of differences as well as the establishment of rates of pay, hours of work, and other conditions of employment.

ARTICLE 1

UNION RECOGNITION

Section 1: Recognition

A. The CITY recognizes the UNION as the sole and exclusive collective bargaining representative for the Employees employed by the CITY in the Police Department as shown in Appendix A.

B. The CITY extends to the UNION representing the unit of Employees the following rights:

1. To represent the Employees in negotiations and in settlement of grievances;
2. To membership dues deduction, upon presentation of dues deduction authorization cards signed by individual Employees; and
3. To exclusive representation status during the term of this Agreement.

Section 2: Union Shop

All present Employees who designate the UNION as their representative covered by this agreement must, as a condition of employment, become and remain Members of the UNION in good standing 30 days after the signing of this agreement. All future Employees covered under this agreement must be required to become and remain UNION Members within 30 calendar days after being employed. Employees who fail to comply with this requirement must be discharged by the CITY within 30 days after receipt of written notice to the CITY from the UNION.

The CITY must not discharge an Employee for non-membership in the UNION (a) if it has reasonable grounds for believing that such membership was not available to the Employee on the same terms and conditions generally applicable to other Members of the UNION, (b) if the CITY has reasonable grounds for believing that membership was denied or terminated for reasons other than failure of the Employee to tender periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership in the UNION.

Section 3: Checkoff

Upon the receipt of a duly executed authorization-assignment, the CITY agrees to deduct from the pay of all Employees covered by this Agreement, all established monthly dues, initiation fees and uniformly levied assessments of the UNION. It is further agreed that the CITY must remit such deductions to the Treasurer of the UNION within ten (10) days after such deductions are made. A copy of said authorization-assignment has been delivered to the CITY. All such authorizations must be voluntarily signed by the Employee.

The CITY further agrees, that upon the remittance of such monthly deductions, to furnish the Treasurer of the UNION with an itemized statement showing the name of each Employee and the amount checked off for membership dues, initiation fees, reinstatement fees and any other uniformly levied assessments of the UNION.

Section 4: Association Presentation at Orientation

The CITY must grant the Association an opportunity during work hours to present to new Employees the benefits of membership in the Association and assist the new Employees in becoming familiar with the contract book provided the Employees are agreeable. This opportunity must be granted within 30 days of employment and must be limited to a maximum of two (2) hours.

Section 5: Union Representative

A. The CITY must have an open door policy for the UNION representative. The UNION and the CITY agree to attempt to handle all grievances at the lowest level.

B. A maximum of two (2) representatives of the UNION must be granted leave during regular work hours with pay for the purpose of meeting with other CITY Employees or officials on business relating to the CITY and the UNION. When possible, the representatives must give the Chief of Police advanced notice of the needed leave which must not be unreasonably denied. Pay must be granted to the UNION representatives when they are meeting with other CITY Employees or officials in order to process grievances filed by members covered in this Agreement and/or presenting any cases covered in this Agreement.

C. The President of the UNION must be allowed up to eight (8) hours per week during working hours to perform UNION business with the permission from the Chief of Police for each incident, when applicable, which permission must not be unreasonably withheld.

ARTICLE 2

HOURS OF WORK

Section 1

Insofar as is possible, the days of work in a regular work week must be consecutive. Insofar as practicable, the regular hours of work each day must be consecutive, except for interruptions for lunch periods for those divisions of the Police Department having regularly scheduled lunch periods. The Employees of the Police Department must agree with the CITY to adjust lunch periods to afford Employee convenience and more effective operation of the department or section of the Police Department.

Section 2

A. The regular work week must consist of 40 hours per week. With five (5) working days prior notice, Employees can be scheduled for a 40-hour week consisting of four 10-hour days.

B. An Employee who suffers an injury on the job which requires medical attention must be paid in full for the balance of the shift if the injury is of such severity it prevents an Employee from completing his shift.

C. Any Employee who, without good cause, fails to report to work for three consecutive days without prior notice to his immediate departmental supervisor must be deemed to have abandoned his employment and may be discharged.

Section 3

A. All Employees must be scheduled to work on a regular shift and each work shift must have a regular starting and quitting time.

B. All Employees, during the time of employment, shall be carried on the Active Personnel List.

Section 4: Work Schedules

A. At all times, work schedules showing the employees shifts, work days and hours must be posted in such places or locations as mutually agreed by the Chief of Police and UNION President so as to easily inform the Employees of their respective schedules. Except for emergency situations, work schedules must not be changed unless the Employees received notice in writing five (5) working days prior to the commencement of the new work

schedule. Division work schedules can be changed without five (5) working days notice if the CITY and the majority of divisional employees agree to such change in writing.

B. Except for emergency situations, work schedules must not be changed for individual employees unless the change is mutually agreed upon between the Employee and the CITY, or the employee receives notice in writing of such change at least five (5) working days in advance. The Employee can request that a UNION representative be present at any discussion regarding a change of schedule.

C. No Employee can be denied work on his regularly scheduled shift, or sent home, to avoid payment of overtime, or to provide work for another Employee.

Section 5: Manning of Shifts

The City recognizes that proper manning of the shifts for patrol officers and dispatchers is necessary to provide adequate protection to the citizens of Carlsbad and for the safety of the patrol officers and dispatchers. In order to meet both goals the following minimal manning requirements must be in effect:

Shift - Police Officers	Minimal Manning
Day	5 Officers, 1 Supervisor
Evening	5 Officers, 1 Supervisor
Graveyard (Sunday through Thursday)	5 Officers, 1 Supervisor
Graveyard (Friday and Saturday)	5 Officers, 1 Supervisor

Shift - Telecommunicators	Minimal Manning
Day	2 Telecommunicators and 1 Dispatch Supervisor or Patrol Supervisor
Evening	3 Telecommunicators and 1 Dispatch Supervisor or Patrol Supervisor
Graveyard (Sunday through Thursday)	2 Telecommunicators and 1 Dispatch Supervisor or Patrol Supervisor
Graveyard (Friday and Saturday)	3 Telecommunicators and 1 Dispatch Supervisor or Patrol Supervisor

For the purpose of Section 5 only as it relates to the manning of shifts, the term “Dispatch Supervisor” means the on-duty Supervisor for Dispatch. In the absence of a Dispatch Supervisor the Patrol Supervisor must also serve as the Dispatch Supervisor. However, this in no way shall alleviate the scheduling of a “Dispatch Supervisor” for all shifts when resources exist.

Section 6: Rest Periods

A. All Employees must have two 15-minute rest periods during each shift with the first in the first half of the shift and the second in the second half of the shift. Insofar as practicable, the rest period must be provided near the middle of each one-half shift. Each Employee must be granted a fifteen (15) minute rest period for every four-hour period worked consecutively. The CITY must adjust times for rest periods with the consent of the majority of Employees in each division.

B. Rest periods are granted and cannot be accrued, or further compensated for if the Employee chooses not to take a break, shift activity does not permit the break or the Employee is called off his break. A 15-minute rest period must be allowed for an Employee between shifts, or as soon as possible when working a second eight (8) hour shift.

C. Employees must be allowed a period of at least eight (8) consecutive hours of rest after working 16 consecutive hours or more before being required or allowed to return to work. Meal breaks and otherwise approved rest periods must not factor into the continuity of the 16 hours. The Chief of Police or his designee maintains the right to make exceptions to this provision as it applies to working a major case.

Section 7: Court Appearances

A. Employees appearing before a court on CITY business during duty hours must be paid their regular wages. Employees appearing before a court during off-duty hours must receive overtime pay at the rate of time and one-half for a minimum of two hours. Employees required to appear before a court on CITY business away from the CITY must receive compensation as previously set forth in this paragraph plus transportation to and from the location and must receive per diem in the amount allowed by New Mexico statutes.

B. Employees must incur no loss of compensation to which they are entitled pursuant to Section A above for any witness fee received by the Employee. Employees must comply with all applicable New Mexico law, rules and regulations in the acceptance of such witness fees.

Section 8: General Provisions

A. The CITY must bear all expenses incurred for mandatory and required training that is approved by the Department Head/Designee. Employees attending such training must be paid their straight time pay based on a 40-hour week and any overtime accrued in actual training. Travel time for out-of-town training must be compensated as time worked. Transportation to out-of-town training must be provided by the CITY. If use of a personal vehicle is authorized by the Department Head, mileage must be paid at a rate and in a manner consistent with New Mexico Per-Diem Act. Time spent studying after training classes must not be compensable.

Section 9: College Classes

The CITY will attempt to accommodate Employees who are enrolled in college classes provided that any schedule change required does not necessitate overtime, does not create a staffing shortage and does not interfere with departmental or divisional operations.

ARTICLE 3

HOLIDAYS

Section 1

A. The following days shall be recognized and observed as paid holidays, and they will be observed on the traditional holidays and not changed by congressional action (except Memorial Day).

New Year's Day	Veteran's Day (Nov. 11)
Martin Luther King Jr.'s Birthday	Thanksgiving Day
Good Friday	Friday after Thanksgiving
Memorial Day	Christmas Eve
Independence Day	Christmas Day
Labor Day	Floating Holiday

B. Employees shall receive one day's pay for each of the holidays listed above on which they perform no work. This includes the Employee whose holiday falls on his/her scheduled day off.

Holiday pay will not be included as hours worked in computing overtime.

If an Employee works on a holiday, he/she shall have the following options:

1. The Employee may request an alternate day off within the same pay period, subject to approval by his/her supervisor.
2. If the alternate day off is not available, or if the employee wishes to be paid, he/she will receive pay at the rate of time and one half for the hours worked on a holiday.

C. When any of the holidays listed above fall on Saturday, the preceding Friday shall be observed as the holiday. When any of the holidays listed above fall on Sunday, then the succeeding Monday shall be observed as the holiday, except for those Employees engaged in continuous operations.

D. To be eligible for holiday pay, an Employee must be eligible for pay for his/her last scheduled work day prior to the holiday and his/her first scheduled work day after the holiday or must be entitled to pay for working on the holiday if he/she is scheduled to work on that day. However, any employee who calls in sick on his/her last scheduled work day prior to the holiday or calls in sick on his/her first scheduled work day after the holiday will be ineligible for holiday pay unless a written medical release to work or written verification of a physician office visit is presented by the employee to the Personnel Director on or before the day the employee returns to work. The CITY agrees that suspensions of three (3) days or less will not be scheduled in conjunction with a holiday so as to deprive an Employee of eligibility for holiday pay.

ARTICLE 4

VACATIONS

Section 1

A. All full-time Employees of the CITY shall be entitled to a vacation as outlined hereafter in this Article.

B. Annual vacation time shall be allotted to all employees on the basis of years of service as follows:

Years of Service	Months of Service	Monthly Accrual	Annual Accrual	Maximum Accrual
1-5 Years	1- 60 months	6.67 Hours	80 Hours	120 Hours
6-10 Years	61-120 months	10.00 Hours	120 Hours	180 Hours
11-15 Years	121-180 months	13.33 Hours	160 Hours	240 Hours
16 Years	181-192 months	14.00 Hours	168 Hours	252 Hours
17 Years	193-204 months	14.67 Hours	176 Hours	264 Hours
18 Years	205-216 months	15.33 Hours	184 Hours	276 Hours
19 Years	217-228 months	16.00 Hours	192 Hours	288 Hours
20 Years	229-240 months	16.67 Hours	200 Hours	300 Hours
21 Years	241-252 months	17.33 Hours	208 Hours	312 Hours
22 Years	253-264 months	18.00 Hours	216 Hours	324 Hours
23 Years	265-276 months	18.67 Hours	224 Hours	336 Hours
24 Years	277-288 months	19.33 Hours	232 Hours	348 Hours
25 Years	288+ months	20.00 Hours	240 Hours	360 Hours

C. Vacation leave may be used by an Employee as soon as it is earned. Employees may accumulate annual vacation leave provided their accumulated vacation hours do not exceed one and one half the annual accrual rate based on the years of service as listed in this article. Except with prior written approval of the City Administrator, those Employees exceeding the annual accrual rate will lose those excess hours.

D. Subject to the efficient operation of the department and allowing for emergency provisions, earned vacation dates shall be granted on the basis of seniority preference within the Department in cases of conflict of requests between Employees for available vacation dates, provided the senior Employee requests his vacation at least 30 calendar days prior to dates in conflict.

E. Provided he previously advised his Division Supervisor of such action, at his option, previously earned vacation time may be used by an Employee to extend his sick leave.

F. Definitions:

- Schedule change - a change in the regular work schedule, whether days or hours.
- Status change - a change in the type of pay or leave for which the employee is compensated.
- Required to return to work - the employee is mandated by their supervisor to report to work. An employee voluntarily reporting to work for either their regular shift or an overtime shift is not considered required to return to work for this policy.
- Vacation period - an employee is considered on vacation from the time their last regular scheduled shift ends until the time the first regular scheduled shift starts upon return.

When a CPOA employee is required to return to work while on vacation, it is considered a status change not a schedule change.

The procedure for keying the hours worked and the vacation time is dependent upon whether or not the employee works during his/her regularly scheduled shift.

When an employee is required to return to work during their regular scheduled, the time worked is keyed as straight time. Vacation is only keyed for any time not worked during their regular shift. The employee's vacation balance is credited .5 times the hours deemed worked.

Example: Employee's regular shift is 6 a.m. to 2 p.m. Employee was scheduled for vacation and is required to report to work at 10 a.m. Employee worked from 10 a.m. to 1 p.m. Employee is paid straight time for 3 hours, vacation time for 5 hours (not 8) and 1.5 hours of vacation is added to his/her vacation balance.

When an employee is required to return to work outside their regular scheduled, the time worked is keyed as overtime. Vacation is keyed for the entire regular shift. The employee's vacation balance is credited .5 times the hours deemed worked.

Example: Employee's regular shift is 6 a.m. to 2 p.m. Employee was scheduled for vacation and is required to report to work at 3 p.m. Employee worked from 3 p.m. to 7 p.m. Employee is paid overtime for 4 hours, vacation time for 8 hours, and 2 hours of vacation is added to his/her vacation balance.

Sometimes an employee is required to return to work both outside and overlapping with their regular shift.

Example: Employee's regular shift is 6 a.m. to 2 p.m. Employee was scheduled for vacation and is required to report to work at 4 a.m. Employee worked from 4 a.m. to 7 a.m. Employee is paid 2 hours overtime, 1 hour straight time, vacation time for 7 hours and 1.5 hours of vacation is added to his/her vacation balance.

When an employee is required to return to work on their scheduled day off during a period of vacation, the time worked is keyed as overtime. The employee's vacation balance is credited .5 times the hours deemed worked.

Example: Employee's regular days off are Saturday and Sunday. Employee was scheduled for vacation Thursday through Monday. Employee is required to report to work at 8 p.m. on Sunday. Employee worked from 8 p.m. to 11 p.m. Employee is paid 3 hours overtime and 1.5 hours of vacation is added to his/her vacation balance.

G. If a holiday occurs while an Employee is scheduled on vacation, his vacation shall be extended one (1) day to allow for the holiday.

H. Upon the death of any Employee, the accrued accumulated vacation benefits shall be paid to the beneficiary of the deceased Employee.

I. Employees desiring to split earned vacations shall be permitted to do so as follows, subject to Paragraph D above:

1. Seniority prevails on first choice, and after everyone has had first choice, then seniority starts over for second choice. But the second choice shall not deprive anyone of their first choice.
2. Vacations in any increment may be taken with approval of a Lieutenant or above.
3. Vacation requests must be approved or denied within three (3) working days by a Lieutenant or above.

J. In order to promote greater work performance and reward Employees for superior work product, the CITY agrees to give the Employee of the Quarter two (2) additional days of vacation.

K. An Employee who desires to take a vacation increment shall give advance notice to the on-duty shift supervisor no later than one hour prior to the start of the shift.

L. For the calculation of vacation accrual, lateral transfers shall accrue vacation at the appropriate rate commensurate to their total years of continuous experience, up to a maximum credit of ten years of service.

M. Upon completion of the initial training period, lateral transfers shall be granted vacation hours equal to half of the maximum allowed based on their years of service and shall continue to accrue vacation monthly commensurate with their total years of service, up to a maximum credit of ten years of service.

ARTICLE 5

HEALTH AND WELFARE

Section 1: Disability Leave

A. An Employee who cannot or should not work because of his/her illness or injury may, or if requested by the CITY shall, remain absent from work and shall be granted a Disability Leave for the duration of such disability not to exceed twelve (12) months, subject to the following provisions of this Section of this Agreement:

(1) As a condition of Disability Leave being granted, notice of the reason for the absence must be given to the CITY as soon as possible. The Employee shall, as soon as possible thereafter, notify the Supervisor of the anticipated length of the absence.

(2) As a condition of granting or continuing a Disability Leave, the CITY may require a physical/mental examination by a duly licensed and practicing medical practitioner of the CITY's choice.

(3) In the event that an Employee requires time off for a period that extends beyond the specified 12 months, the Employee may submit a letter of request to the City Administrator. The City Administrator, at his/her discretion, may require additional documentation from the Employee's physician in considering such a request, and may grant up to an additional 12 months of disability leave.

B. In case of sickness or injury, an Employee may obtain the services of a duly licensed and practicing medical practitioner of his/her own choice. The Employee must obtain a release from such medical practitioner if off duty five (5) or more consecutive days.

C. Employees suffering from on-the-job injuries may be allowed to return to limited duty within limitations imposed by policies of the CITY provided the Employee can furnish a medical release stating he/she can perform the essential functions of the limited-duty assignments.

Section 2: Sick Leave

A. Sick Leave benefits are intended to be paid to an Employee during Disability Leaves of Absence to protect him/her from loss of earnings and for that purpose only. Benefits are not to be used to extend a vacation or to cover all absences. Upon separation from employment, no right shall accrue the Employee for unused sick leave benefits.

B. Sick Leave benefits shall be accumulated for all CITY Employees at the rate of one (1) day's pay per month worked, beginning the date of employment, and continuing until employment is terminated. There shall be no limitation on the amount of sick leave benefits accumulated.

C. Sick leave benefits, when paid, shall only be paid for hours an Employee was actually scheduled to work and would have worked had he/she not been ill or injured. Employees on disability leave due to an on-the-job injury shall continue to accrue sick leave benefits. Benefits shall be deducted from an Employee's sick leave accumulation.

D. Any Employee who is going to be absent from work on the Employee's regularly scheduled shift, due to being sick, shall as is reasonably possible, let his Supervisor know at least one hour prior to the Employee's regularly scheduled shift time.

E. Except in emergencies, any Employee desiring to take sick leave for treatment, minor surgery, etc., for a period of one (1) to three (3) days, may first be required to obtain permission from his/her Department Head.

F. An Employee who has used all his/her accumulated sick leave benefits and is unable to return to work, shall use previously accumulated vacation benefits in lieu of sick leave benefits until paid leave is exhausted, unless the Employee notifies the City Personnel Office that they do not wish to use accrued vacation time prior to the use of such leave. Subsequent approved absences for sick leave purposes will be leave without pay.

G. 1. Any Employee who requests and takes sick leave benefits and found not actually to have been sick or injured may be subject to disciplinary action by his/her department head.

2. Notwithstanding any provision to the contrary, Employees may utilize sick leave benefits for disability leaves of absence from work due to the illness or injury of the Employee's spouse, child, parent or other person living in an immediate family relationship in the Employee's home. Any Employee desiring to utilize sick leave benefits for non-employee disability leave shall notify his/her supervisor as far in advance of the date and time of such leave as is reasonably possible. Requests for non-employee disability leave in excess of two days must be approved by the Personnel Director or the City Administrator.

H. Employees must furnish a doctor's release before returning to work after having drawn sick leave benefits of five (5) or more consecutive days.

I. Accrued benefits shall be coordinated with Weekly Indemnity insurance benefits and Temporary Total Disability benefits under the Workmen's Compensation Act in order to allow Employees to be compensated equal to his/her straight-time, hourly earnings, but no greater, as if he was working.

J. The CITY will pay to the designated beneficiary of an Employee killed in the line of duty the total amount of unused sick leave benefits accrued as of the date of death. For purposes of this section, “killed in the line of duty” shall mean a death, the proximate of which was sustained in the lawful discharge of duties and limited to:

1. Death resulting from the unlawful application of force to the person of the Employee;
2. Death resulting from the accidental or negligent application of force to the person of the Employee; or
3. Death resulting from an infectious disease or other accidental injury compensable under the New Mexico Workers’ Compensation Act.

For purposes of this section “line of duty” shall mean the act or acts of an Employee in the lawful performance or discharge of a duty incumbent upon the Employee whether on duty or off duty.

K. Any Employee who retires from the City under PERA will be afforded the option of selling their sick leave back to the City. The City will purchase the sick leave hours at 1/3 the value of the total hours accumulated.

Section 3: Catastrophe Leave

A. Any Employee sustaining a death in that Employee’s or the Employee’s spouse’s immediate family, or sustaining a catastrophe such as a loss of his/her home by fire, flood or storm, shall be allowed a leave with pay up to a maximum of three (3) days for local situations and up to five (5) days for out-of-town situations to address catastrophe needs. Additional time may be allowed for unusual travel distances. Such time will be fixed by the Department Head or the City Administrator after consultation with the Employee, and the Department Head shall notify the Employee of such fixed time. If a portion of the catastrophe leave falls on a holiday, the Employee shall receive pay for that holiday. The immediate family shall be defined as spouse, children, mother, father, sister, brother, grandparents and spouse's mother, father, sister or brother, grandparents, or anyone who is living with or has lived in an immediate family relationship. Local situations shall be defined as all destinations within a 150 mile radius of the City of Carlsbad. All other destinations shall be considered out-of-town situations. Destinations over 150 and up to 250 miles radius of the City of Carlsbad shall be allowed four (4) days and destinations beyond 250 miles radius of the City of Carlsbad shall be allowed five (5) days.

B. Employees shall be granted sufficient time off with pay to attend local funerals of fellow departmental workers.

Section 4: Jury Duty Leave

A. Employees shall be granted a leave of absence with pay any time they are required to report for jury duty or jury service.

B. Employees shall be paid the difference between any jury duty compensation they receive and their regular wages for each day of jury service. If jury duty for a day is less than a full day, the Employee shall return to work.

Section 5: Military Leave

Employees shall be granted military leave according to the laws of the United States and the State of New Mexico. An Employee who is going to take military leave, shall give two weeks notice to that Employee's immediate supervisor.

Section 6: UNION Business

A. Members of the UNION selected by the UNION to participate in training courses, seminars or other similar UNION activities or other reasonable purposes may be granted a leave of absence at the request of the UNION. A leave of absence for such UNION activity may not exceed one (1) month, but it may be renewed or extended for similar periods at any time upon the request of the UNION. The Employee shall continue to accrue seniority, vacation and sick leave time while on short-term leaves of absence of less than one (1) month.

B. Any Employee elected or appointed to a position in the UNION when such position or office interferes with his/her regular duties may be granted a leave of absence for the term of office or position. Such Employee shall retain his/her seniority and shall be returned to the position in the Bargaining Unit to which his/her seniority entitles him/her.

Section 7: Education Leave

Employees may be granted leave of absence for educational purposes not to exceed one (1) year to attend seminars, conferences, briefing sessions, or other functions of a similar nature that are intended to improve or upgrade the individual's skill or professional ability in the CITY's employ. Such a request may be granted if the CITY Employee agrees to return to work for the CITY for a period of one (1) year.

Section 8: Personal Leaves without Pay

An Employee may be granted a personal leave of absence for a period not to exceed 30 days for good and sufficient reasons provided he requests such leave from the Department Head, and provided such leave is agreed to by the Department Head and Employee involved prior to the start of such leave. Such leave of absence may be extended by mutual consent between the Employee and the Department Head.

Section 9: Religious Accommodation

The CITY agrees to accommodate the religious beliefs of the Employees to the extent possible and as afforded the Employee under state and federal law. If a request for religious accommodation is received from an Employee, a good-faith effort will be made to accommodate the request provided the accommodation will not cause an undue hardship on the affected Department and that it will not disrupt continued operations in any manner.

Section 10: Family and Medical Leave Act

Qualified Employees shall be afforded leaves of absence pursuant to the Family and Medical Leave Act as specified in Appendix C of this Agreement.

Section 11: Insurance

A. Matters relating to group health, accident and life insurance shall be handled in accordance with the Memorandum of Understandings (dated September 1996, July 2009, April 2017 & any future related MOUs) which is made a part herein by reference.

B. The Parties hereto agree and understand that the CITY will abide by the provisions of the Workmen's Compensation Act of the State of New Mexico.

Section 12: Return to Work Release

An Employee, in case of disability, may obtain the services of a duly-licensed and practicing medical practitioner of his/her own choice and shall obtain a release from such practitioner to return to work as required by this Agreement. The CITY shall have the right to require the Employee to furnish a release from a practitioner selected by the CITY, it being understood that such examination will be without cost to the Employee. In such case, the Employee will receive a copy of the practitioner's report in writing.

In the event the practitioner selected by the Employee and the CITY cannot agree as to the Employee's fitness to return to work, then the matter shall be referred to a committee of three practitioners, one practitioner of the CITY's choice and one practitioner of the

Employee's choice. Such practitioners shall then agree upon the third practitioner and the committee of three practitioners shall pass upon the Employee's fitness to return to work. The majority decision of such committee shall finally determine the fitness of the Employee to return to work under this Agreement, but shall not be binding upon either party in any litigation for compensation or otherwise arising out of an injury sustained by the Employee in the course of employment. The cost of the third practitioner shall be borne equally by the CITY and the Employee.

Any Employee aggrieved by the decision of the CITY with regard to involuntary disability leave shall have recourse through the grievance procedure.

Section 13: Leaves of Absence Request Forms

Requests for leaves of absence shall be made on a form provided by the CITY. Except for bona fide emergencies, all leave requests shall be made no later than one hour prior to the beginning of the Employee's scheduled shift.

ARTICLE 6

WAGES

Section 1: Wage Scale

A. Employees shall be compensated as follows and in accordance with the Wage Schedule attached to this Agreement and marked APPENDIX A. The attached Wage Schedule shall be considered a part of this Agreement.

1. Animal Control Officers and Records Clerks: Each newly-hired Animal Control Officer or Records Clerk shall enter service at the step 1 rate of pay and annually at the Employee's date of hire anniversary, receive an increase to the next step until the highest wage rate is attained for that classification.
2. Uncertified Telecommunicators and Patrol Officers: Each newly hired Uncertified Telecommunicator and Patrol Officer shall enter service at the step 1 (Uncertified) rate of pay and upon certification be immediately raised to the step 2 (Certified) rate of pay and, thereafter, at the Employee's certification anniversary date, be raised to the step 3 (Senior) rate of pay.
3. Laterally Transferred Police Officers and Telecommunicators who hold an active New Mexico Certification: Each newly hired Police Officer and Telecommunicator who hold an active New Mexico Law Enforcement or an active New Mexico Telecommunicator certification (whichever is applicable) shall enter at the appropriate pay rate commensurate with their total years of service and shall be considered a lateral transfer.
4. Laterally Transferred Police Officers and Telecommunicators who previously held a New Mexico Certification: Each newly hired Police Officer and Telecommunicator who previously held a New Mexico Law Enforcement or a New Mexico Telecommunicator certification (whichever is applicable) and are eligible for the "Certification by Waiver" course shall enter at the step 1 (uncertified) rate of pay and upon successful completion of the "Certification by Waiver" shall be immediately raised to the appropriate pay rate commensurate with their total years of service and shall be considered a lateral transfer.
5. Laterally Transferred Out of State Certified Police Officers: Each newly hired Police Officer who holds a law enforcement certification from another state that is accepted by the New Mexico Law Enforcement Academy for a "Certification by Waiver" course and has less than one year of service as a Police Officer shall enter at the step 2 (Certified) rate of pay. Upon successful completion of the "Certification by Waiver" course the Police Officer shall remain at the Step 2 (Certified) rate of pay until they complete

one year of service as a Police Officer with the Carlsbad Police Department and shall be considered a lateral transfer. Each newly hired Police Officer who holds a law enforcement certification from another state that is accepted by the New Mexico Law Enforcement Academy for a "Certification by Waiver" course and has two (2) or more years of service as a Police Officer shall enter at the step 2 (Certified) rate of pay. Upon successful completion of the "Certification by Waiver" course the Police Officer shall be immediately raised to the Step 3 (Senior) rate of pay commensurate with their total years of law enforcement service and shall be considered a lateral transfer.

6. Laterally Transferred Out of State Certified Telecommunicators: Each newly hired Telecommunicator who holds a Telecommunicator certification from another state and has less than one year of service as a Telecommunicator shall enter at the step 2 (Certified) rate of pay. Upon successful completion of the Telecommunicator Academy the Telecommunicator shall remain at the Step 2 (Certified) rate of pay until they complete one year of service as a Telecommunicator with the Carlsbad Police Department and shall be considered a lateral transfer. Each newly hired Telecommunicator who holds a Telecommunicator certification from another state and has two (2) or more years of service as a Telecommunicator shall enter at the step 2 (Certified) rate of pay. Upon successful completion of the New Mexico Telecommunicator Academy the Telecommunicator shall be immediately raised to the Step 3 (Senior) rate of pay commensurate with their total years of Telecommunicator service and shall be considered a lateral transfer.
7. Laterally Transferred Animal Control Officers: Each newly hired Animal Control Officer who has completed NACHO "A" or NACA 100 Level 1 training and has two (2) or more years of service as an Animal Control Officer shall enter at the step 3 (Senior) rate of pay commensurate with their total years of Animal Control experience and shall be considered a lateral transfer.

B. When an Employee works in a higher base pay classification other than his regular classification, he shall draw the higher rate of pay for the time worked.

C. When any position not listed on the Wage Schedule is established, the CITY may designate a job classification and rate structure for the position. In the event the UNION does not agree that the classification and rate are proper, the UNION shall have the right to submit the issue as a grievance.

D. Records and Dispatch personnel assigned to administrative duties in the absence of an administrative supervisor shall receive pay at the rate of Supervisor for all hours worked performing such administrative duties.

Section 2: Travel Time

All Employees shall have a normal reporting place and time. In case an Employee's daily assignment requires that he travel outside the City, his/her paid time will continue until he/she arrives back at hi/hers regular reporting place.

Section 3: Pay Period

The salaries and wages of Employees shall be biweekly, on every other Friday. In the event this day is a holiday, the preceding day shall be the pay day.

Section 4: Call Back Time

A. Any Employee called back to work outside of his/her regularly scheduled shift shall be paid for a minimum of two (2) hours at the rate of time and one half.

B. If the call back work assignment and the Employee's regular shift overlap, the Employee shall be paid the call back time rate of time and one half until he/she completes the two (2) hours of work. The Employee shall then be paid for the balance of his regular work shift at the appropriate rate.

C. Call out during an Employee's regular scheduled shift on a holiday shall be paid at time and one half for a minimum of two (2) hours, but will not affect the holiday pay when time in excess of two (2) hours are worked.

Section 5: On-Call Duty

A. Animal Control Officers and Detectives who are assigned to on-call duty status shall assure their availability to perform duties within one hour of receiving notification. Except as may be required in order to be available for duty within one hour of notification, on-call duty status shall not require an Employee to remain at home or otherwise unreasonably restrict his or her personal activities.

B. Animal Control Officers and Detectives assigned to on-call duty shall receive \$30 per day for each day of such assignment. When called back to duty, Animal Control Officers and Detectives will receive call time as specified in Section 4 of this article. On-call time shall in no case be considered "time worked" for the calculation of any overtime compensation.

C. Due to limited staffing and inability to sustain an on-call rotation in Evidence Tech and Evidence Clerk positions, Evidence Technicians and Evidence Clerks will receive \$30 each time they are requested to respond when they are willing and able to do so within one (1) hour of notification.

D. Cell phone stipends of \$25.00 per pay period will be provided for Animal Control Officers, Sergeants, Evidence Technician, Evidence Clerk, Patrol Officers, Community Service Officers, SRT Team Members, Senior Detectives and Detectives for business use of personally owned cell phones during duty hours, provided that the employee agrees:

1. To carry and utilize the cell phone for business purposes during duty hours and scheduled standby hours, if any;
2. Agrees the cell phone telephone number may be published for departmental use;
3. Agrees that the cell phone stipend shall be total compensation for all business use including air time charges, long-distance charges and roaming charges; and
4. Agrees to immediately provide the Chief of Police and Director of Finance notification of any change in the cell phone number.

D. For purposes of this section only, “on-call duty” shall be defined as those times outside the Animal Control Officer’s or Detective’s regularly scheduled hours of work, during which time such employees are subject to a call out to return to duty. Assignments for on-call duty shall be made at the sole discretion of the Chief of Police or his designee.

Section 6: Sick Leave Buy Back

Employees who have a balance of at least 100 hours of sick leave on November 1 of each year shall be entitled to buy back all sick leave hours in excess of the 100 hours minimum balance at 1/3 (one third) value up to a maximum of 120 hours in any calendar year. Employees who elect to buy back excess sick leave shall fill out a Sick Leave Buy Back Request Form and submit the form to the Payroll Department not later than the first work day in November. Sick leave buy back shall be paid by separate check on or before the last payday prior to Thanksgiving.

Section 7: Narcotics Officers

Officers assigned to the Narcotics Unit shall be entitled to the following:

1. Pay at the current rate of Detective classification upon assignment to Narcotics.
2. Pay at the current rate of Senior Detective upon two years of continuous service in Narcotics, provided that no disciplinary action resulting in suspension has occurred within the first two years. If the suspension occurs within the first two years, the Officer must wait an additional year after their two year anniversary in Narcotics to be eligible for Senior Detective pay.

3. Officers who voluntarily or involuntarily return to their respective divisions will surrender the Detective or Senior Detective pay, unless they have participated in a competitive process to be promoted to such pay in their respective divisions and are promoted. Otherwise, they will be given their former rate of pay and rank.

Section 8: Specialty Pay

A. The following Employees shall receive \$0.60 (60¢) per hour additional base pay for all hours worked.

1. Bi-lingual Employees (must meet spoken fluency qualifications in Spanish established by the Department)
2. Employees fluent in a commonly recognized sign-language for the hearing impaired (fluency to be determined by the Department).

B. The following Employees shall receive \$0.60 (60¢) per hour additional base pay for all hours worked with a cap of \$2.40 per hour for four (4) or more specialties:

SRT Members	Field Training Officers
Instructors (Academy certified)	Arson Investigators
Hostage Negotiators (certified)	Communication Training Officer
CVSA/Polygraph Operator	Key Operator
Traffic Crash Reconstructionist	Physical Fitness Instructor
Euthanasia Technician	Crimes Against Children (ICAC)
Drug Recognition Expert (DRE)	Armorer
Cruelty Investigator	Child Safety Technician
Certified Crime Scene Investigator	TAC Officer

Section 9: Shift Differential

On July 1, 2015 in lieu of shift differential all covered Employees shall receive a shift differential allowance of \$.14 per hour added into their base hourly wage rate which shall be full compensation for shift differential previously paid for appropriate hours worked on evening and graveyard shifts.

Section 10: Educational Incentive Pay

Recognizing the value of highly educated Public Employees to the public, and to encourage CITY Employees in all classifications to pursue academic degrees, education incentive pay is offered as follows:

Associates Degree	\$.50 per hour
Bachelor's Degree	\$1.00 per hour
Master's Degree	\$1.50 per hour

To be eligible for educational incentive pay, an Employee must have received a degree from a fully-accredited college or university verified by a certified official transcript.

Employees who have received relevant academic degrees shall receive education incentive pay as follows:

Associates Degree	\$1.00 per hour
Bachelor's Degree	\$2.00 per hour
Master's Degree	\$3.00 per hour

Relevant academic degree shall mean a degree conferred by an accredited college or university in a major field of study which corresponds directly with the classification duties of the Employee. The City shall, after a review of the official transcript and Employee's job description, determine the relevance of the academic degree to the Employee's classification duties. Compensation for educational incentive pay shall not be cumulative.

Any Employee receiving an adverse determination maintains all rights and privileges under the grievance procedures contained in this agreement.

The following Employees are not eligible for educational incentive pay:

- A. Employees who have earned degrees incidental to courses of study provided or paid for by the CITY and which entitle the Employee to a promotion to a higher-paying classification;
- B. Employees in classifications for which a degree is a bona fide qualification for employment.

Section 11: Valedictorian

The CITY recognizes the effort of the police officers and telecommunicators attending the New Mexico Law Enforcement Academy who, due to their hard work, graduate as class valedictorian. The CITY agrees that all police officers and telecommunicators who graduate from the New Mexico Law Enforcement Academy as class valedictorian will, upon their return, be advanced one step level in the wage scale. Class valedictorian shall be designated by the New Mexico Law Enforcement Academy.

ARTICLE 7

OVERTIME

Section 1: Rate of Pay

Time and one-half the Employee's hourly rate of pay shall be paid for work under any of the following conditions, but compensation shall not be paid twice for the same hours.

A. Daily Overtime

All work performed in excess of eight (8) hours will be paid at time and one-half. Overtime for Employees scheduled for four (4) ten hour days shall apply to all hours worked after ten (10) hours in any day on which the Employee is scheduled to work. All overtime work performed contiguous to the end of a regularly scheduled work shift shall be compensable at the applicable rate for only actual hours worked. For those hours worked in excess of 16 hours in a day, the Employee will be paid overtime at double the Employee's regular hourly rate. However, the CITY and the UNION agree to work together to minimize instances in which employees would work beyond 16 hours as a concern for health and safety.

B. Weekly Overtime

All work performed in excess of 40 hours in any work week. An Employee will be paid overtime at double the Employee's regular hourly rate for all worked performed for the 7th consecutive day of work in the Employee's work week, provided that the Employee worked a minimum of 8 hours of overtime on their 6th consecutive work day in their work week.

C. Before or After Regular Hours

All work performed before or after any scheduled work shift.

Section 2: Distribution for Call-Out Overtime

A. Overtime work shall be distributed equally to the Employees working within the same job classification within each division or individual work unit. The distribution of overtime shall be equalized as nearly as practicable using a Call-Out overtime list or accumulation cards. The list or cards shall document the last employee to accept forcible overtime. The list or cards will also be used to document the number of forcible overtime hours worked by each employee. Forcible overtime hours include hours worked to meet minimum manning or staffing requirements, staffing mandatory special projects, SWAT callouts or callouts due to critical or time sensitive situations where additional staffing is needed. Forcible overtime will not include voluntary overtime hours worked for non-

mandatory special projects, grant projects, training or travel due to training. In all other circumstances, the Division Captain will determine if the over time is forcible and if it will be added to the list or cards.

B. The overtime list or accumulation cards shall be kept up-to-date with the total overtime hours worked for call-outs/force-outs. The overtime list will be updated following each call-out and posted in the briefing room. The list will also be accessible on the Carlsbad Police Department server.

Employees will not be forced-out more than three consecutive days.

The calling supervisor will document on a call-out sheet, listing all Employees and subsequent results, (accepted, refused, no contact, etc.).

Prior to a force-out, a sergeant/supervisor may be offered the overtime, but shall not be forced out as a patrolman.

C. Force-out is the involuntary assignment of work hours due to a staffing requirement where no Employee voluntarily accepts the assignment. Force-out shall be based upon the Employee within a classification, department or unit with the lowest number of voluntary overtime hours worked. Employees are entitled to protected days off and shall not be forced out during their scheduled time off except when all other employees, not on days off are ineligible. In the event the calling supervisor has to force-out an employee on their day off the supervisor will force-out the employee with the least amount of accumulated overtime hours on days off.

Employees scheduled time off begins at the end of their last scheduled shift and ends at the beginning of their next scheduled shift. Protected time off includes days off, scheduled vacation, scheduled sick leave or any other approved absences. Employees shall not be forced to work in excess of 16 consecutive hours.

This system may create a disadvantage to employees who are away from work for an extended period of time. To insure returning employees are not forced out back to back multiple times, the following process will be followed if an employee is gone from work for more than four weeks. The supervisor will average the number of overtime hours worked by all the employees in the list or cards. The returning employee will be credited with the average number of overtime hours worked in an attempt to place the employee near the middle of the list or cards. Employees joining the Division or individual work unit will be treated in the same manner.

During emergency conditions, and in accordance with the UNION contract, the CITY may take necessary steps to deal with a “real emergency” situation without complying with the terms of this agreement.

D. The overtime provisions of this agreement shall not apply to members of the detective division, except as follows:

1. The on-call detective shall handle all overtime within his expertise during his call period.

2. If the call out involves an expertise that the on-call detective does not have, the Employee having the expertise shall be called without cause for a grievance.

3. General call-out overtime shall be distributed equally to the Employees working within the same job classification within the division.

4. On occasion, it may be necessary to call out a detective not on call and not involving expertise. The call out would involve a detective that is assigned to a specific case and only that detective could be called. A detective not attached to the case would have no cause for a grievance.

5. In case of a real emergency, the CITY may take necessary steps to deal with the emergency situation without complying with the section.

E. Any Employee who is made aware of a Call-out in progress, and is told he/she is up for the force-out by the calling supervisor, shall not enter into any activity which would exempt them from a force-out. If an employee deliberately engages in any activity, which makes them exempt, the employee shall be subject to disciplinary action.

Section 6: Work at Employee's Option

Overtime work shall be voluntary except as noted in this Article. There shall be no discrimination against an Employee who declines to work overtime, but such refusals of overtime shall appear on the overtime list the same as overtime worked. If an Employee is unintentionally overlooked for overtime and makes it known to the CITY in the required time limits, the CITY shall offer him the opportunity to work the overtime within 20 working days of receiving notification. If the CITY fails to offer him the overtime, he shall be paid for the time lost.

ARTICLE 8

SENIORITY

Section 1: Employee Seniority

For issues within a particular classification, which include, in no particular order, Sergeant, Senior Detective, Detective and Corporal, seniority shall be established as follows:

- A. Length of service in that classification from the effective date of promotion.
- B. Length of service within the department.
- C. Overall service with the City from the last date of hire.
- D. For any downward movements in classification, whether voluntary or involuntary, seniority shall be established by the previous date of rank.

For issues pertaining to the entire department, seniority shall be established as follows:

- A. Length of service within the department;
- B. Overall service with the CITY from the last date of hire;
- C. When two or more certified Employees are hired on the same date, their general seniority shall be established as follows:
 1. If the new hire has prior experience as an Employee of a police department, then that Employee shall be entitled to seniority.
 2. If all the new hires have prior experience as an Employee of a police department, their seniority shall be determined by length of their prior experience, with preference to experience within the State of New Mexico, then out of state experience and lastly military police experience.
 3. If none of the new hires have any experience as an Employee of a police department or military police experience, then seniority shall be determined by flip of a coin.

Section 2: Probationary Employees

The seniority of a new Employee shall be subject to a probationary period of twelve (12) calendar months. For newly hired, uncertified Telecommunicators and Police Officers, the probationary period shall be one (1) year, or until proper certification is achieved, whichever is longer.

During the probationary period, the Employee will accrue seniority. The CITY shall have the right to discharge a probationary Employee and that Employee shall not have recourse to the grievance or arbitration procedure. All other provisions of the Agreement with respect to wages, hours, and other terms and conditions of employment shall apply during the probationary period.

Section 3: General Seniority

General seniority is defined as the overall length of service with the CITY and shall be used to establish pensions, vacation rights, lay-off and recall rights, and any other general benefits not specifically limited to a Department. In the event of lay off and recall, consolidation of work, or elimination of jobs, it shall be done by general seniority.

Section 4: Departmental Seniority

A. Departmental seniority shall be the length of service within a specific department.

When an employee transfers to another division, they keep their general seniority. However, their seniority in that newly appointed or promoted division starts at the entry level seniority.

EXAMPLE FOR CIVILIAN MEMBERS:

- a. If an employee with five (5) years of experience in records transfers to dispatch, said employee keeps general seniority but does not have divisional seniority and will enter at the bottom of the seniority list.
- b. However, if said employee returns to the original division they will return with the seniority they had when they departed the original division.

EXAMPLE FOR LAW ENFORCEMENT MEMBER:

- a. For the purposes of the law enforcement aspect of the union, your seniority will begin the date you become a commissioned police officer for the Carlsbad Police Department.

- B. Department and general seniority shall be terminated:
 - 1. When an Employee is discharged for just cause;
 - 2. When an Employee quits;
 - 3. When an Employee fails to report for work after a lay off, when properly notified in accordance with Article 10;
 - 4. When an Employee has been laid off for a period exceeding two (2) years.

C. When any Employee is taken from the regular employment routine to be a supervisor for the CITY, except for temporary periods of time of 30 days or less, the Employee shall retain his general seniority. But, upon being demoted or returned to the regular working force in the same department, he shall be allowed to use only departmental seniority in the department accumulated up to the time of being promoted. If he is placed into another department, he shall go to the bottom of the department's seniority list.

D. If, for any reason, an Employee voluntarily terminates employment with the Carlsbad Police Department and is later rehired, the seniority of such Employee shall be placed at the bottom of the departmental seniority list.

Section 5: Seniority List

Within 10 days after the signing of the Agreement, each department shall post a complete seniority list showing rank, departmental and general seniority ratings. Such list shall remain posted for a period of at least 30 days and shall be available to the shop steward at any time thereafter. Such list shall be revised and brought up to date each six (6) months.

Section 6: Employee Transfer

A. Employees who are transferred from one Department to another for the convenience of the CITY, and for a definite time, shall carry their general seniority to that Department and retain and accumulate departmental seniority in the department from which they are transferred. When returned to the department, he shall be assigned to his former job classification or a higher classification.

B. Any Employee, at his option, may refuse a transfer. However, the junior Employee within the department may be assigned to fill the position.

C. Any Employee requesting a transfer from one department to another and granted such request shall be placed at the bottom of the departmental seniority list within the department to which he transfers. Then, Section 3 of this Article shall apply to said Employee.

ARTICLE 9

FILLING OF VACANCIES

Section 1: Permanent Vacancies

A. A permanent vacancy is created when an employee holding the job has resigned, is discharged, demoted, promoted, transferred, reassigned or when a new job is created.

B. Permanent vacancies can be filled in one of five ways; promotion, assignment, transfer, demotion or hiring a new employee.

C. A promotion is the upward movement of an employee from one classification to another. Positions which are filled by promotion are defined in Article 9, Section 3.

D. If the CITY chooses to fill a permanent vacancy or new job, notice of the vacancy or new job shall be posted by the CITY on departmental bulletin boards for seven (7) calendar days.

1. Any Employee who desires to be considered for any vacancy within the City shall, within the seven (7) calendar day posting period, sign a written bid for the posted vacancy in the office of the Personnel Director at City Hall.

E. If the Police Department chooses to promote, assign or transfer an Employee within the department, a notice of the opening shall be posted on the main department bulletin board for seven (7) calendar days.

1. Any Employee who desires to fill an opening within the Police Department shall, within the seven (7) calendar day posting period sign and date the posting indicating their interest in the position available.

2. An Employee of the department who meets the job qualifications shall be given preference for filling the vacancy.

F. In the event a qualified Employee is on authorized leave of absence during the seven (7) calendar day posting period, he shall be given an opportunity to file a bid for the vacancy upon his return to work, provided he files a bid within three (3) working days after his return and provided the position has not been filled.

G. If two (2) or more vacancies are posted at the same time, Employees may bid on all posted vacancies. The CITY shall make arrangements so the selection process is scheduled to allow the Employee to participate in the selection process of each vacancy for which the Employee has bid an interest.

H. With the exception of the minimum manning requirements in Article 2, Section 5 it is agreed that the CITY may set or determine the number of Employees to be carried in each job classification, and it is agreed that the decision to fill a vacancy is strictly the decision of the CITY.

I. For the purposes of this section, Telecommunications and Records Divisions shall be considered the same level of classification. Transfers between these two divisions shall be awarded to Employees based on departmental seniority provided the employee is able to meet the minimum requirements for that position.

J. If an Employee who has been notified that he or she has been awarded a bid for a vacant position is not moved to that position within 10 days of the notification, the Employee shall thereafter receive all wages and benefits for the awarded position.

Section 2: Temporary Vacancies, Temporary Assignments and Temporary Transfers

A. A job will be considered vacant when the Employee holding the job has resigned, is discharged, demoted, promoted, transferred, or when it is a newly created job. All other vacancies shall be considered temporary.

B. Should the CITY choose to fill a temporary vacancy, it shall be filled by first asking the senior departmental Employee, provided he is qualified and willing, to perform the duties of the job. If the senior qualified department Employee declines to fill the temporary vacancy, the process shall be repeated beginning with the next senior qualified department Employee until the position has been filled. If no qualified department Employee accepts the temporary vacancy, the CITY may fill the position by assigning any qualified and willing Employee to fill the position. Temporary vacancies shall be filled by the same Employee for the duration of the temporary vacancy provided the Employee is willing.

C. Employees temporarily assigned or transferred to a lower paid job in their own department or in a different department shall receive their regular rate of pay.

D. Employees temporarily assigned or transferred to a higher paid job in their own department or in a different department shall be compensated in accordance with Article 6, Section 1, Paragraph B.

E. When a position has been filled as a temporary vacancy for thirty (30) or more consecutive work days, the Employees filling the vacancy shall receive all pay and benefits pertaining to that job classification.

F. Notwithstanding any provision to the contrary, law enforcement officers may be assigned or transferred temporarily for a period of time not to exceed six (6) months without a permanent vacancy being created as a result.

G. Article 6, Section 1, Paragraph B and Article 9, Section 2, Paragraphs D, E, and F does not apply to any Employee who is assigned to work in another classification due to injury, workers' compensation illness, or voluntary request.

H. In accordance with Article 9, Section 1, Paragraph H, the CITY may choose to fill temporary vacancies between March 31st and September 30th of each calendar year for the purpose of Beach Patrol.

I. Should the CITY elect to create temporary vacancies, the conditions and requirements of the assignment shall be displayed on a posted notice in which Employees would sign indicating their interest in the positions being offered.

1. After the notice has been posted for seven (7) calendar days it shall be removed and the positions offered to only those Employees who have indicated interest in accordance with Article 9, Section 2, Paragraph B. The CITY shall provide the necessary training to those Employees offered the position who have not previously been trained in this assignment.

2. In order to fill the absence of any Employee assigned to this position a call-out shall be conducted from a list of qualified and previously trained Employees. This list shall be maintained and the call-outs offered in accordance with the provisions as outlined in Article 7.

Section 3: Promotions

A. Corporal

Eligibility requirements for promotion to the rank of Corporal is two (2) years of service in the rank of Senior Patrolman. Senior Patrolman shall be promoted to the rank of Corporal immediately following two (2) years of service as a Senior Patrolman. Senior Patrolmen are not required to participate in a promotion process to achieve the rank of Corporal. Any lateral transfer holding a current New Mexico Law Enforcement Certification and has a minimum of two (2) or more years of law enforcement experience at the rank equal to or greater than Senior Patrolman shall be hired as a Corporal. Any lateral transfer who previously held a New Mexico Law Enforcement Certification, is eligible for the "Certification by Waiver" and has a minimum of two (2) or more years of law enforcement experience at a rank equal to or greater than Senior Patrolman shall be promoted to the rank of Corporal upon certification.

B. Detective / Senior Detective

1. Eligibility requirements for participation in the promotion process for Detective is the Employee:

a. Currently holds a certified position equal to or higher than the rank of Senior Patrolman, and

b. Has no disciplinary action resulting in suspension or demotion within the previous 12 months.

2. Candidates must successfully complete the standardized promotion process in Article 9, Section 3, Paragraph H, prior to being considered for a Detective position.

The promotion process shall be administered each time a Detective position is to be filled.

3. Eligibility requirements for promotion to the rank of Senior Detective is two (2) years of service in the rank of Detective. Detectives shall be promoted to the rank of Senior Detective immediately following two (2) years of service as a Detective. Detectives are not required to participate in a promotion process to achieve the rank of Senior Detective.

C. Sergeant

1. Eligibility requirements for participation in the promotion process for Sergeant are as follows:

a. Officers who were not hired as a lateral transfer who hold the rank of Corporal or Senior Detective are eligible for participation in the promotion process.

b. Officers who were hired as a lateral transfer must hold the rank of Corporal or Senior Detective and have a minimum of eighteen (18) months of service with the Carlsbad Police Department to be eligible for participation in the promotion process.

c. Any officer who is serving in positions such as Narcotics, Detectives or Evidence Technician shall be considered a Corporal if they would hold that rank if they were serving in the Patrol Division. The eighteen (18) month service requirement as stated above still applies to lateral transfers.

d. Eligible Employees must have no disciplinary action resulting in suspension or demotion within the previous 12 months.

2. Candidates must successfully complete the standardized promotion process in Article 9, Section 3G prior to being considered for a Sergeant position.

The promotion process shall be administered each time a Sergeant position is to be filled.

D. Telecommunication Supervisor

1. Eligibility requirements for participation in the promotion process for Telecommunication Supervisor are as follows:

a. Telecommunicators who were not hired as lateral transfers must hold the position of Senior Telecommunicator to be eligible for participation in the promotion process.

b. Telecommunicators who were hired as a lateral transfer must hold the rank of Senior Telecommunicator and have a minimum of eighteen (18) months of service with the Carlsbad Police Department to be eligible for participation in the promotion process.

c. Eligible employees must have no disciplinary action resulting in suspension or demotion within the previous 12 months.

2. Candidates must successfully complete the standardized promotion process in Article 9, Section 3H prior to being considered for the Telecommunication Supervisor position.

The promotion process shall be administered each time the Telecommunication Supervisor position is to be filled.

E. Animal Control Supervisor

1. Eligibility requirements for participation in the promotion process for Animal Control Supervisor are as follows:

a. Animal Control Officers who were not hired as lateral transfers must currently hold the position of Senior Animal Control Officer to be eligible for participation in the promotion process.

b. Animal Control Officers who were hired as a lateral transfer must hold the rank of Senior Animal Control Officer and have a minimum of eighteen (18) months of service with the Carlsbad Police Department to be eligible for participation in the promotion process.

c. Eligible employees must have no disciplinary action resulting in suspension or demotion within the previous 12 months.

2. Candidates must successfully complete the standardized promotion process in Article 9, Section 3I prior to being considered for the Animal Control Supervisor position.

The promotion process shall be administered each time the Animal Control Supervisor position is to be filled.

F. Records Supervisor

1. Eligibility requirements for participation in the promotion process for Records Supervisor are as follows:

- a. The Employee must currently holds the position of Senior Records Clerk.
- b. Eligible Employee must have no disciplinary action resulting in suspension or demotion within the previous 12 months.

G. Sergeant Promotion Process

The Sergeant promotion process will consist of three parts, a written exam, an assessment center and an oral board based on the following procedures:

a. Written Exam

- 1. The written exam will be a 100 question police supervisor test obtained from IPMA-HR.
- 2. The written exam is worth 50% of the candidates overall score.
- 3. Candidates must achieve a minimum of score of 70% to continue in the promotion process.

b. Assessment Center

- 1. The assessment center obtained from IPMA-HR, includes a subordinate role-play exercise, a video-based technical exercise and a video-based in-basket exercise.
- 2. The assessment center is worth 30% of the candidates overall score.
- 3. Scoring will be based on recommendations of IPMA-HR using an equal number of assessors who are appointed by the Union and the Chief of Police.
- 4. Assessors must have experience in the same or similar job classification as the vacant position when possible.

c. Oral Board

- 1. The oral board will be a set of questions written by the Chief of Police or his designee.
- 2. The oral board is worth 20% of the candidates overall score.
- 3. The oral board score will be calculated by dropping the highest and the lowest score then averaging the remaining four scores.

4. The oral board review panel will consist of six (6) persons, three (3) appointed by the Chief of Police and three (3) appointed by the UNION.
5. Panel members must have experience in the same or similiar job classification as the vacant position when possible.

H. Detective/Telecommunications Supervisor Promotion Process

The Detective/Telecommnications Supervisor promotional process will consist of two parts, a written exam and an oral board based on the following procedures:

a. Written Exam

1. The written exam will be a 100 question Police Detective or Emergency Communications Center First-Line Supervisor test obtained from IPMA-HR.
2. The written exam is worth 60% of the candidates overall score.
3. Candidates must achieve a minimum of 70% to continue in the promotional process.

b. Oral Board

1. The oral board will be a set of questions written by the Chief of Police or his designee.
2. The oral board is worth 40% of the candidates overall score.
3. The oral board score will be calculated by dropping the highest and the lowest score then averaging the remaining four scores.
4. The oral board review panel will consist of six (6) persons, three (3) appointed by the Chief of Police and three (3) appointed by the UNION.
5. Panel members should have experience in the same or similar job classification as the vacant position when possible.

I. Records Supervisor/Animal Control Supervisor Promotion Process

The Records Supervisor/Animal Control Supervisor promotional process will consist of an oral board based on the following procedures:

a. Oral Board

1. The oral board will be a set of questions written by the Chief of Police or his designee.
2. The oral board is worth 100% of the candidates overall score.
3. The oral board score will be calculated by dropping the highest and the lowest score then averaging the remaining four scores.
4. The oral board review panel will consist of six (6) persons, three (3) appointed by the Chief of Police and three (3) appointed by the UNION.
5. Panel members should have experience in the same or similar job classification as the vacant position when possible.

J. Promotion Awards

1. At the conclusion of each promotional process, the candidate with the highest overall score will be awarded the promotion. In the event that multiple positions are being filled at the same time, the candidates with the top scores at the end of the process will be awarded the promotions.

2. Candidates must achieve a combined score of 70% or higher to be considered for promotion.

3. If there are no qualified applicants for a vacant position, the vacancy may be made available to individuals outside the Department for the opportunity to test and fill that position. The minimum qualifications and promotional process would apply equally to applicants outside the Carlsbad Police Department.

Section 4: Job Awards

A. In the event the new job or job vacancy is awarded to other than the most qualified bidder who obtained the highest overall score, the reasons for such action shall be made known, in writing, to the affected Employee or Employees and the UNION within seven (7) calendar days.

B. In order to provide a better work force and an inter-departmental working relationship, the CITY shall provide and maintain selected Employee training for the purpose of educating those Employees promoted to a new job classifications so the Employee is able to perform the functions expected of him.

Section 5: Notice of Action

Any Employee who has been promoted, demoted, or transferred, shall promptly be provided a copy of any associated forms or instructions stating the reasons for such action. A copy of the form shall be provided to the Union President, or in his absence, the Union Vice President.

ARTICLE 10

PERSONNEL REDUCTION

Section 1: Lay Off

A. When a reduction in the working force is necessary, Employees must be laid off in accordance with their general seniority. That is, the Employee with the least general seniority shall be laid off first, etc., provided that in the selection of Employees for lay off, due consideration shall be given to the retention of Employees properly qualified and physically able to perform the available work. Probationary and temporary Employees will be laid off first.

B. When possible, Employees to be laid off shall be notified of their pending lay off at least 10 days in advance of the layoff. Under no circumstances shall an Employee be laid off without having received at least 48 hours prior notice. The UNION shall also be notified at the same time.

C. Employees on disability leave at the time of a layoff who would otherwise be laid off shall continue to be carried on disability leave until such time that they are certified as being physically able to return to work by competent medical authority, at which time they may be laid off.

D. Employees on lay off shall continue to be carried in the group insurance program with the Employee paying the total premium during such periods of lay off.

Section 2: Recall

A. Laid off Employees must be recalled in accordance with their general seniority. That is, the Employee with the greatest general seniority shall be recalled first, etc., provided he has the ability and is physically able to perform the duties of the job which is open.

B. The CITY shall notify Employees of the recall by registered mail at his last known address. Employees being recalled shall be allowed a maximum of 10 days to report to work after receiving notification. If the recalled Employee is not able to return within the 10 days because of legal or medical reasons, the CITY agrees to extend the time necessary for the return of the Employee. Failure to report for work within the 10 day time limit, or the extension thereof, shall be cause for termination.

C. No Employee shall be denied recall if he is in substantially the same physical condition he was in at the time of lay off.

ARTICLE 11

DISCIPLINE AND DISCHARGE

Section 1: Discipline

A. Disciplinary actions or measures shall include only the following:

1. Written warning;
2. Written reprimand;
3. Requirement of payment for intentionally or negligently destroying, damaging, or losing CITY property;
4. Involuntary demotion;
5. Suspension without pay (notice to be given in writing);
6. Discharge.

B. It is the policy of the CITY to administer appropriate discipline in a progressive manner. Each alleged violation will be given careful consideration, investigated thoroughly, and disciplinary action will be administered in a fair and equitable manner. An Employee cannot be disciplined or discharged from employment except for just cause. Just cause shall be limited to the following:

1. Carelessness or negligence in the performance of duty, including the operation of CITY vehicles or equipment;
2. Failure to meet prescribed standards of work;
3. Failure to follow instructions or directives;
4. Unauthorized absence from work;
5. Unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or violation of the drug and alcohol policy;
6. Acceptance of money, gifts, privileges, or other valuable consideration which was given with the expectation of influencing the Employee in the performance of his/her duties;
7. Use of official position for personal advantage;
8. Willful misuse, theft, or destruction of CITY, Employee or visitor property;
9. Unauthorized or fraudulent manipulation of time records or other CITY records;
10. Conviction of a felony or commission of an offense or act that substantially impairs the ability of the Employee to perform his/her assigned duties;
11. Tardiness and excessive absenteeism;
12. Insubordination which is defined as willful or unjustified failure to follow a directive of a supervisor or department policy;
13. Disorderly, immoral or indecent conduct;
14. Loss of certification or loss of driver's license, pursuant to the provisions of Appendix B.

C. In determining the appropriate disciplinary action, the violations or misconduct as enumerated above shall be categorized into one of the three following categories:

1. Minor violations of CITY or Departmental policy wherein the CITY incurs no potential liability by the commission or omission of any act by the Employee and does not place law enforcement certification in jeopardy.

2. Major violations of CITY or Departmental policy wherein the CITY does incur potential liability by the commission or omission of any act by the Employee which may or may not place a law enforcement certification in jeopardy.

3. Criminal violations committed by an Employee either on or off duty.

For purposes of determining the appropriate disciplinary action, the CITY shall not consider any minor violation occurring more than six (6) months preceding the current incident.

D. Any disciplinary actions or measures imposed upon an Employee may be processed as a grievance through the grievance procedure.

E. No Employee is to be reprimanded before his fellow workers or the public by the CITY or the CITY's representatives in such a manner that would cause him embarrassment.

F. Any Employee who has been recommended for disciplinary action shall promptly be provided a copy of the disciplinary action and accompanying forms stating the reasons for such actions. A copy of the disciplinary action and accompanying forms shall be provided to the Union President, or in his absence, the Union Vice President.

Section 2: Adverse Action Affecting Employee's Status

A. The CITY shall not discharge, suspend without pay, or involuntarily demote any Employee without just cause. If, in any case, the CITY feels there is just cause for discharge, suspension without pay, or involuntary demotion, the Employee involved shall, prior to any such action, be afforded the opportunity for a predetermination hearing before the City Administrator.

B. The CITY will provide ample notice to the Employee of the date, time and place of such predetermination hearing. The Employee may have a representative of his choice present at the hearing. Legal representation will be permitted provided the affected Employee notifies the City Administrator at least 48 hours in advance of the hearing of his decision to have legal counsel present. In no event will a pre-determination hearing be scheduled with less than 72 hours notice. This notice will be required to be made to the affected employee and the Union President, or in his or her absence, the Union Vice

President. The notice is required to be made through inter-departmental memorandum, or through verifiable departmental electronic communication such as e-mail or Power DMS.

C. Any recommended action which would adversely affect the employment status of an Employee will be reviewed fully prior to imposing such action. Adverse action is defined as:

1. Suspension without pay.
2. Demotion.
3. Discharge.
4. Payment for intentionally or negligently damaging City property.

D. The Chief of Police or his designee shall have the authority to recommend that adverse action be imposed upon an Employee for failure of the Employee to fulfill his or her responsibilities as an Employee. However, no adverse action shall be imposed against an Employee without the express written approval of the City Administrator, and not until such time as the affected Employee has been afforded the opportunity for a pre-determination hearing before the City Administrator.

E. Notwithstanding the provisions of the above paragraph, a supervisor may immediately remove from the work environment any Employee who poses a clear and present danger to himself or to others; who is committing or has committed a criminal act; or who otherwise is incapable of fulfilling the obligations of a job. In such cases, the employee will be placed on administrative leave with pay.

F. Upon recommendation by the Chief of Police of an action of adverse nature, the affected Employee will be given the opportunity to participate in a pre-determination hearing, the purpose of which is to provide the Employee with ample opportunity to present rebuttal to the recommended action consistent with the minimum standards of due process.

G. It is not mandatory that an Employee avail himself or herself of the right to a pre-determination hearing. Employees will not be required to appear for a hearing. However, an Employee, who has been properly notified of the pre-determination hearing in accordance with Article 11, Section 2, subsection B, who fails to appear for the hearing as scheduled will be deemed to have waived his rights to any further pre-determination hearing on this same matter.

H. The pre-determination hearing shall be informal in nature and shall not require adherence to the rules of evidence. Both sides will be given the opportunity to present evidence and testimony in support of their positions; however, extensive cross examination and argumentation will not be permitted. The Employee will be allowed to request the presence of witnesses at the hearing he or she deems pertinent or relevant in providing rebuttal, evidence and testimony in support of their position. The Employee and/or their union representative agrees to provide the Chief of Police, the City Administrator, and the Director of Human Resources, at least 24 hours prior to the hearing, a comprehensive list of witnesses the Employee intends on requesting to be present at the hearing.

I. Within five working days after the hearing, the City Administrator will issue a written determination either affirming, reversing, or modifying the original recommendation for adverse action. The affected Employee will be provided a copy of the written determination prior to the imposition of any adverse action.

J. The City Administrator will conduct the discharge pre-determination hearing. A copy of the recommendation package shall be provided to the Employee and the Union President, or in his or her absence, the Union Vice President, at least three (3) days in advance of the scheduled hearing.

K. A determination for discharge will be accompanied by a written overview of the hearing. A copy of the overview and recommendation will be provided to the Employee. The Employee may submit a written statement which will be included in the recommendation packet to the Mayor and Governing Body.

L. Any Employee discharged upon the recommendation and determination of the City Administrator will, upon request of the discharged Employee and/or their designated union representative, be given the opportunity to appear before the governing body in either open or closed session to appeal the decision of the City Administrator. All actions taken by the governing body, however, to affirm or reverse the decision of the City Administrator must be made in open session.

M. The governing body may affirm, reverse, or modify the decision of the City Administrator.

N. Subsequent to the decision of the City Administrator, the UNION shall have the right to take up the discharge, suspension without pay, or involuntary demotion as a grievance at the third step of the grievance procedure and the matter shall be handled in accordance with this procedure through the arbitration step if deemed necessary by either the UNION or the CITY. This procedure does not apply to an Employee who is discharged during his probationary period.

O. Any Employee found to be unjustly suspended or discharged must be reinstated with full compensation for all lost time and with full restoration of all other rights and conditions of employment.

Section 3: Administrative Investigations

A. In regard to all Employees of the department, any internal investigation or administrative investigation conducted by the department, the department must comply with the Peace Officer's Employer-Employee Relations Act, any other applicable law of the State of New Mexico and adopted departmental policies regarding internal investigations or administrative investigations.

B. The department shall implement a policy establishing guidelines and procedures for initiating and conducting internal or administrative investigations. The policy must be developed by a committee of eight (8) Police Department personnel, four (4) of whom shall be appointed by the Police Chief to represent the CITY and four (4) of whom shall be appointed by the Union President to represent the UNION. One of the eight (8) members shall be elected chairman.

C. The policy developed shall in no way limit the authority of the CITY nor unreasonably broaden the rights of the Employees in a manner inconsistent with the Peace Officer's Employee-Employer Relations Act or any other applicable New Mexico Law. The committee shall adopt such policy by a majority vote and present same to the Police Chief for implementation. In the case of a tied vote by the committee, the policy shall be presented to the CITY/UNION Grievance Committee for resolution of differences.

Section 4: Representation during Administrative Investigations

At all stages during an Administrative Investigation, an effected Employee must be entitled to and may upon request have an association representative and/or an attorney of his/her choice present. Nothing in this section shall be construed as to diminish or limit any rights of the Employer provided for in the Peace Officers Employer/Employee Relations Act, 29-14-1 et. seq. NMSA, 1978, as amended.

Section 5: Legal Protection

A. Should an Employee be sued in a civil action for any allegations arising out of the scope of duties, the CITY will defend and indemnify that Employee pursuant to the requirements of the New Mexico Tort Claims Act, Section 41-4-1 et. seq., NMSA 1978, as amended.

B. It is understood by the parties that it is against public policy to defend an Employee in a criminal suit once the Employee is indicted for a criminal act.

C. Any Employee receiving a summons or other notice of a threatened or pending job-related lawsuit shall, without unreasonable delay, notify the Chief of Police or in his absence the Assistant Chief. The CITY shall, within a reasonable time after receipt of any summons or tort claim notice, notify each Employee named as a party in the summons or tort claim notice. This provision shall apply only to summons or tort claim notices filed or received after the effective date of this contract.

D. Any Employee named in a job-related lawsuit shall have the right at all reasonable times to consult with the City Attorney and/or the Attorney-of-Record defending the CITY and Employee in order to be informed of the status of the litigation, any settlements offered or contemplated, and any other relevant information regarding the litigation. An

Employee named in a lawsuit or tort claim notice shall cooperate fully with the City Attorney and/or the City's Attorney-of-Record in the defense of the CITY and Employee.

E. Any Employee who is or may become a party in any job-related lawsuit pursuant to a summons or tort claim notice shall have the right to consult a personal attorney of the Employee's choice regarding such matter. The Employee's personal attorney may, at reasonable times, consult with the City Attorney and/or City's Attorney-of-Record to learn the status of the litigation, any settlements proposed or contemplated and any other relevant facts of the litigation. Nothing in this section shall be construed as giving the Employee or his personal attorney any authority to act on behalf of the CITY or its insurer.

F. If the CITY or its insurer declines to defend and indemnify an Employee named in a job-related lawsuit on the basis that the Employee acted outside his or her scope of duties, and if it is later determined by a court of competent jurisdiction that the Employee was acting within the scope of duties, the CITY or its insurer will defend and indemnify the Employee pursuant to the New Mexico Tort Claims Act. Further, the CITY or its insurer will pay any attorney fees or costs ordered by a court of competent jurisdiction in connection with such litigation. Nothing in this section shall be construed as depriving the CITY or its insurer of any right of appeal.

G. For purposes of this section, "scope of duties" means any duties that a public Employee is requested, required or authorized to perform by the governmental entity, regardless of the time and place of performance.

ARTICLE 12

GRIEVANCE AND ARBITRATION PROCEDURE

Section 1

Any grievance or dispute which may arise between the Parties, including the application, meaning, or interpretation of this Agreement, shall be settled in the following manner:

STEP 1. The UNION steward, with or without the Employee, shall take up the grievance or dispute, in writing, with the Employee's departmental supervisor within ten (10) working days, not including holidays, of its occurrence. The departmental supervisor shall then attempt to adjust the matter and shall respond to the steward within ten (10) working days, not including holidays. If the steward is not available, the response may be made to the chairman of the UNION Grievance Committee.

STEP 2. If the grievance has not been resolved, it shall be presented, in writing, by the UNION steward or the chairman of the UNION Grievance Committee, to the Police Chief within ten (10) working days, not including holidays, after the Departmental Supervisor's response is due. The Police Chief shall respond to the UNION steward or the chairman of the UNION Grievance Committee, in writing, within ten (10) working days, not including holidays.

STEP 3. If the grievance still remains unresolved, it may be presented by the UNION Representative or Grievance Committee Chairman to the City Administrator, or his representative, in writing, within ten (10) working days, not including holidays, after the response of the Police Chief is due. The City Administrator, or his representative, shall respond, in writing, to the UNION Representative or Grievance Committee Chairman (with a copy of the response to the local UNION President) within ten (10) working days, not including holidays.

Any and all grievances reduced to writing and resolved shall be signed by the CITY's and UNION's Committees for the records of each Party. In order to eliminate waste of time or delay, it may be agreed by the CITY's and the UNION's Committees to try to resolve one or more grievances at the same time. Also, the CITY or the UNION shall have the right to call any witnesses either Party feels necessary whose testimony would be pertinent to the settlement of a grievance.

STEP 4. If the grievance is still unresolved, either Party may, within thirty (30) days after the reply of the City Administrator or his representative is due, by written notice to the other, request Arbitration.

The Arbitration proceedings shall be conducted by an Arbitrator to be selected by the CITY and the UNION, within ten (10) working days, not including holidays, after notice has been given. If the Parties fail to select an Arbitrator, the Federal Mediation and Conciliation Service shall be requested, by either or both Parties, to provide a panel of seven (7) Arbitrators. The Party, other than the Party requesting arbitration, shall have the right to strike the first name; the other Party shall then strike one (1) name. The process will be repeated and the remaining person shall be the Arbitrator.

The decision of the Arbitrator shall be final and binding on the Parties, and the Arbitrator shall be requested to issue his decision within 30 days after the conclusion of testimony and argument.

Notwithstanding any provision herein to the contrary, no dispute shall be submitted to binding arbitration when the Governing Body of the City of Carlsbad has, pursuant to the provisions of 39-3-1.1 et. seq., NMSA 1978 as amended, previously made a final decision on the same dispute. Employees may appeal the decision of an arbitrator to District Court in accordance with State Statutes.

Section 2

Expenses for the Arbitrator's services and the proceedings shall be borne equally by the CITY and the UNION. Both Parties may mutually agree to provide and share equally in the cost of providing a verbatim record of the proceedings.

Section 3: Grievance Committees

A. Employees selected by the UNION to act as UNION representatives shall be known as "Stewards." The names of Employees selected as stewards, and the names of other UNION representatives who may represent Employees, shall be certified in writing to the CITY by the local UNION.

B. The UNION Negotiating and Grievance Committee shall consist of not more than six (6) Members of the UNION and two (2) alternates to replace regular members not able to attend.

C. The CITY shall meet with the UNION Committee at least once each month which shall be held during working hours on the CITY's premises and without loss of pay.

D. The purpose of Grievance Committee meetings will be to resolve pending grievances and to discuss procedure for avoiding future grievances. In addition, the Committee may discuss with the CITY other issues which would improve the relationship between the Parties.

E. If any grievance is not presented or arbitration is not requested within the time limits, and in accordance with the provisions of this Article, it shall be barred from consideration or action by and between the UNION and the CITY.

F. Should the CITY fail to answer or act upon a grievance during the time limits on or after Step 2 of the Grievance Procedure, the CITY forfeits the grievance.

Section 4: Investigating and Filing Grievances During Working Hours

Chief steward and/or shop stewards may investigate and file grievances during working hours without loss of pay provided prior approval has been obtained by the supervisor.

Section 5

The parties agree that they will make every effort to resolve any grievance or dispute arising between the Parties and related to any provision of this Agreement by recourse to the grievance procedure contained in this Agreement. This Collective Bargaining Agreement and the grievance procedure provided herein is intended by the Parties as the sole procedure to be used in resolving any grievance or dispute between the Parties.

Section 6

A. Notwithstanding any provision herein to the contrary, the Union may take up any grievance or dispute at Step 1 with the Police Chief when the grievance or dispute alleges inappropriate conduct by a Departmental Supervisor to whom the grievance would normally be presented at Step 1.

B. Notwithstanding any provision herein to the contrary, the Union may take up any grievance or dispute at Step 1 with the City Administrator when the grievance or dispute alleges inappropriate conduct by the Police Chief.

- C. For purposes of this Section, “inappropriate conduct” shall mean:
1. Any action that is alleged to be in violation of any Federal, State or City law or ordinance.
 2. Any alleged use of alcohol or drugs in violation of City policy.
 3. Any alleged violation of the City’s Sexual Harassment and Sexual Misconduct Policy.
 4. Any alleged conduct unbecoming an officer of the Carlsbad Police Department.
 5. Any act alleged to be retaliatory or discriminatory.

D. All grievances presented by the Union in accordance with the provisions of this Section 6 shall be presented in writing with sufficient detail to establish the basis of the inappropriate conduct allegation, including dates, times, places and witnesses to any such inappropriate conduct.

E. The Police Chief, upon receipt of a grievance alleging inappropriate conduct by a Department Supervisor, shall attempt to adjust the matter and shall respond to the Union in writing within fourteen (14) calendar days.

F. The City Administrator, upon receipt of a grievance alleging inappropriate conduct by the Police Chief, shall attempt to adjust the matter and shall respond to the Union in writing within fourteen (14) calendar days.

G. If a grievance still remains unresolved, it may be presented by the Union at Step 3 as set forth in Section 1 and thereafter, if still unresolved, to arbitration.

H. The provisions of Section 6 shall apply only to those grievances alleging inappropriate conduct by a Departmental Supervisor or the Police Chief. Except as permitted in Section 6, the Union shall in no way utilize the procedures set forth in Section 6 to circumvent the normal grievance and arbitration procedures established in Article 12, Section 1.

ARTICLE 13

SAFETY PROVISIONS

Section 1: Safety Committee

A. The CITY shall develop and maintain a good and comprehensive Safety Program for all Employees of the CITY.

B. The UNION will maintain a Safety Committee composed of three (3) members of the UNION.

C. The UNION Safety Committee shall work with the CITY's Safety Director and CITY representatives in maintaining an ongoing Safety Program.

D. Bimonthly, a member of the UNION's Safety Committee shall accompany the CITY's Safety Director on a departmental safety inspection.

E. A written report of all unsafe equipment, safety infractions and unsafe work practices observed on the tour shall be prepared by the Safety Director or Safety Director's designee and the UNION Safety Committee. The report shall be signed by both Parties and one (1) copy given to the City Administrator and one (1) copy given to the Local UNION President and one (1) copy given to the Chief of Police.

F. The UNION Safety Representative shall accompany all State or Federal Safety Inspectors (OSHA) on any safety inspections they may conduct.

G. The UNION Safety Committee and the CITY's Safety Director shall meet bimonthly to review the Safety Program and results of previous inspections and corrective measures taken.

H. The meetings and safety inspections shall be conducted on the CITY's time. Members of the Safety Committee shall lose no scheduled pay while performing the function.

Section 2: Safety Equipment and Supplies

A. The CITY shall provide all necessary personal safety equipment and foul-weather clothing for personnel requiring same.

B. The CITY will supply and maintain a ready supply of office supplies for use by the Employees in the performance of their duties.

Section 3: Equipment Sets

A. The CITY shall make available equipment sets for loan to probationary officers during their training period. This equipment is to be and remain the property of the CITY and issued under the direction of the Chief of Police.

B. All new hires will be loaned the following equipment during their training period: a Sam Brown belt, holster, pistol, mag pouches, three (3) magazines, handcuffs and handcuff case.

C. All equipment furnished by the CITY shall be in a serviceable condition and shall be replaced on an as needed basis. A retention level II holster will be the lowest level maintained by the CITY for distribution to new employees. The UNION Safety Committee and the Chief of Police or his designee shall meet and confer on equipment to be purchased.

D. Employees who have lost, damaged or have had CITY property stolen in the line of duty, regardless of the cost, will not be required to reimburse the CITY unless negligence is proven to the satisfaction of their chain of command. Employees who have been determined to have been contributorily negligent for lost, damaged, or stolen property may be subject to appropriate disciplinary action.

Section 4: Ballistic Armor

A. The CITY shall furnish ballistic armor to all police officers and shall replace such armor as recommended by the manufacturer, or as otherwise necessary.

B. All Employees furnished ballistic armor shall wear such armor as required by departmental policy.

Section 5: Ammunition

A. The CITY shall furnish all qualifying and duty ammunition for all calibers of weapons that each officer is authorized to carry.

B. The CITY will furnish ammunition for monthly qualification practice conducted by the Firearms Training Coordinator.

Section 6: Clothing Allowance, Uniforms & Safety Equipment

A. 1. The CITY will furnish three complete uniform sets to uniformed personnel (uniformed police officers, telecommunicators, animal control officers, community service officers and records clerks) on the date of hire.

B. The CITY shall reissue clothing replacements in the spring and the fall. Uniformed personnel (uniformed police officers, telecommunicators, animal control officers, community service officers and records clerks) shall receive three complete uniform sets in the spring and three complete uniform sets in the fall.

1. Uniform replacement guidelines for uniformed police officers, animal control officers and community service officers:

a. A complete uniform set is one shirt and one pair of pants.

b. When placing the bi-annual uniform order, employees have several options based on their uniform needs. Duty uniforms are the priority and employees must first insure their duty uniforms are serviceable and presentable before ordering something other than a duty uniform. Employees may order one training uniform set in lieu of a duty uniform set. Employees may also order one pair of light duty boots in lieu of one uniform set. Employees also have the option of ordering one pair of high quality duty boots in lieu of three complete uniform sets.

c. The employee's immediate supervisor must approve the purchase of boots or training uniforms. This decision is based on the condition of the employee's current sets of duty uniforms. Supervisors must insure the uniforms are serviceable and presentable before approving the purchase of boots or training uniforms.

d. The style, brand and model of boots shall be agreed upon between the Union and the CITY. Once the boots have been selected, the selected boots will be ordered for all personnel requesting boots in lieu of uniforms.

2. Uniform replacement guidelines for telecommunicators and records clerks:

a. A complete uniform set for telecommunicators and records clerks is one short sleeve polo shirt or one long sleeve polo shirt.

b. Telecommunicators and records clerks are responsible for purchasing their own pants.

3. All uniforms sets, training uniforms and boots will remain as property of the CITY. These items shall be returned to the CITY if the employee is no longer employed with the City of Carlsbad.

4. On July 1, 2015, the sums set forth below shall be added into the base hourly wage rates of the following employees:

- a. Detectives: \$0.94 per hour
- b. Patrol Officer: \$0.35 per hour
- c. Animal Control: \$0.40 per hour
- d. Dispatch / Records: \$0.43 per hour

5. The sums set forth in paragraph A4 are, and shall continue to be, full compensation for the cash allowances previously paid in annual lump sums for clothing, cleaning, boots, equipment purchases, equipment repair and maintenance, and for uniform pants purchases by communications and records employees. Employees shall continue to be responsible for the purchase, maintenance, cleaning, and repair of such clothing and equipment.

B. Newly certificated officers will be provided a lump sum payment of \$1500 upon completion of the basic law enforcement academy for the purchase of firearms, leather, handcuffs and other equipment and accessories. Such equipment must be fully acquired within 45 days of the payment. Payment shall be made no later than 14 days following the end of the newly certificated officer's probationary period.

C. Officers hired as lateral transfers will be provided the same lump sum payment (\$1500) upon completion of the training period for the same purpose provided that the Employee has not received the lump sum under a previous employment with the CITY.

D. Newly assigned Detectives will be provided a lump sum payment of \$600 upon promotion to the Detective Division for the purchase of appropriate clothing and other necessary accessories provided that the Employee has not received the lump sum under a previous employment with the CITY. Payment shall be made no later than 14 days following the date of promotion.

ARTICLE 14

GENERAL PROVISIONS

Section 1: Reservation of Rights

Both Parties to this Agreement understand that all matters not specifically contained within this Agreement are the exclusive rights of the CITY, and not subject to UNION action or consent or arbitration.

Section 2: Lockouts

No lockout of Employees shall be instituted by the CITY during the term of this Agreement.

Section 3: Strikes

The UNION agrees that during the life of this Agreement, it will not cause or sanction a strike. At no time shall Employees be required to act as strike breakers or pass through picket lines established by any other authorized Labor Union. Employees will cross only to quell riots, or similar disturbances, to keep the peace to enforce court orders, or conduct official police business.

Section 4: Contracting and Subcontracting of Departmental Works

During the life of this Agreement, the CITY shall not contract out or subcontract out any departmental work that regular employees are capable of performing when such contracting out would deprive such employees of the opportunity to work their regularly scheduled hours at their regular rate of pay for their classification.

Section 5: Pledge Against Discrimination and Coercion

A. The provisions of this Agreement shall be applied equally to all Employees in the UNION without discrimination as to age, sex, marital status, race, color, creed, national origin, political affiliation, or handicap. The UNION and CITY shall share equally the responsibility for enforcing this provision of the Agreement.

B. The UNION agrees with the CITY that it will cooperate and support the CITY's efforts to assure a fair day's work on the part of its Members; that it will combat absenteeism and other practices that will hinder such. The UNION further agrees that its Members will abide by the rules of the CITY and the UNION in their efforts to prevent accidents, eliminate waste, conserve materials and supplies, improve the quality of workmanship, and to strengthen good will between the CITY, the UNION and the Employee.

C. All references to Employees in this Agreement designate both sexes, and where the male gender is used, it shall be construed to include male and female genders.

D. The UNION and the CITY agree not to interfere with the rights of Employees to become Members of the UNION. There shall be no discrimination, interference, restraint, or coercion by the CITY or UNION or any CITY representative or UNION representative against any eligible Employee because of UNION Membership or non-UNION Membership.

E. The UNION recognizes its responsibility as the Bargaining Agent for all such Employees employed within the Bargaining Unit, and agrees to represent all such Employees in the Bargaining Unit without discrimination, interference, restraint, or coercion. The UNION agrees that it shall inform its membership of all modifications, amendments or changes in the provisions of this Agreement in a timely manner.

Section 6: UNION Activities on CITY's Time and Premises

The CITY agrees that during working hours on the CITY's premises and without loss of pay, UNION representatives shall be allowed to:

- A. Post UNION notices or bulletins;
- B. Attend negotiating meetings and grievance meetings;
- C. Attend safety meetings, including meetings with the State or Federal Safety Inspectors or representatives;
- D. Transmit communications authorized by the CPOA, or the officers of the CPOA, to the CITY or its representatives.

Section 7: Visits by UNION Representatives

The CITY welcomes visits with the CITY by any accredited representatives of the CPOA, Local UNION representatives, or State/National representatives for the purpose of improving EMPLOYEE-EMPLOYER relations, or in the solution of any problems that may develop.

Section 8: Bulletin Boards

The CITY agrees to allow the posting of Official UNION notices and bulletins on the bulletin boards provided by the CITY.

Section 9: Personnel Records

The personnel records of all Employees are to be available at the Personnel Department by appointment during that office's regular hours to the Employee and/or his authorized agent which shall be designated in writing by the Employee. It is agreed that any document not contained in the Employee's personnel file and not available for inspection shall not be used in any manner adverse to the Employee's interest provided that such document was, at the time of inspection, in the custody and control of the CITY and reasonably should have been contained within the Employee's personnel file.

Section 10: Mandatory Training Hours

The CITY shall take all reasonable steps to ensure that statutory training requirements, if any, are met for all Employees.

It is agreed that advance training and any training exceeding statutory requirements shall be provided solely at the discretion of the CITY.

The CITY agrees to provide, at the least, NACHO "A" level training for all newly hired animal control officers as soon as possible, yet not to exceed three (3) years from their date of hire. The CITY agrees to provide NACHO "B" and "C" level training within five (5) years of completion of "A" level training.

Section 11: Copies of Agreement

The CITY agrees to furnish each Employee with a copy of this Agreement, and each Employee is responsible for becoming familiar with the Agreement.

ARTICLE 15

TERM OF AGREEMENT

Section 1

This Agreement shall be effective as of midnight, April 1, 2018 and shall remain in full force and effect until midnight April 1, 2021.

It shall be automatically renewed from year to year thereafter, unless either Party shall notify the other, in writing, 60 days prior to the anniversary date, that it desires to modify this Agreement. In the event that such notice is given, negotiations shall begin no later than 30 days prior to the anniversary date; this Agreement shall remain in full force and be effective during the period of negotiations and until notice of termination of this Agreement is provided to the other Party in the manner set forth in the following paragraph.

In the event that either Party desires to terminate the agreement, written notice must be given to the other Party not less than 10 days prior to the desired termination date, which shall not be before April 1, 2021.

Section 2

All provisions of this Agreement that require the expenditure of funds shall be contingent upon the specific appropriation for wages by the City Council and the availability of funds. In the event that sufficient funds are unavailable and the City Council does not make the specific appropriation for wages, the CITY agrees to meet with the UNION and renegotiate the terms of the affected provision(s).

Section 3: Savings Clause

If any provisions of this Agreement or any application thereof, should be rendered or declared unlawful, invalid or unenforceable by virtue of any judicial action, or by any existing or subsequently enacted Federal or State legislation, or by any Executive Order or other competent authority, the remaining provisions of this Agreement shall remain in full force and effect. In such event, upon the request of either party, the parties shall meet promptly and negotiate with respect to substitute provisions for those provisions rendered or declared unlawful, invalid or unenforceable.

APPENDIX A

CLASSIFICATIONS AND WAGE RATES

July 1, 2018									
Classification	0-3 years	4-6 years	7-9 years	10-12 years	13-15 years	16-18 years	19-21 years	22-24 years	25+ years
Animal Control 1	\$17.63								
Animal Control 2	\$18.61								
Animal Control - Senior	\$19.59	\$19.79	\$19.98	\$20.18	\$20.37	\$20.57	\$20.77	\$20.96	\$21.16
Animal Control Supervisor	\$24.91	\$25.16	\$25.41	\$25.66	\$25.91	\$26.16	\$26.40	\$26.65	\$26.90
Community Service Officer	\$16.96	\$17.13	\$17.30	\$17.47	\$17.64	\$17.81	\$17.98	\$18.15	\$18.32
Corporal	\$31.50	\$31.82	\$32.13	\$32.45	\$32.76	\$33.08	\$33.39	\$33.71	\$34.02
Detective	\$32.20	\$32.52	\$32.84	\$33.17	\$33.49	\$33.81	\$34.13	\$34.45	\$34.78
Detective - Senior	\$33.53	\$33.87	\$34.20	\$34.54	\$34.87	\$35.21	\$35.54	\$35.88	\$36.21
Evidence Clerk	\$23.22	\$23.45	\$23.68	\$23.92	\$24.15	\$24.38	\$24.61	\$24.85	\$25.08
Evidence Technician	\$31.50	\$31.82	\$32.13	\$32.45	\$32.76	\$33.08	\$33.39	\$33.71	\$34.02
Patrolman 1 (Uncertified)	\$24.01								
Patrolman 2 (Certified)	\$27.01								
Patrolman - Senior	\$30.01	\$30.31	\$30.61	\$30.91	\$31.21	\$31.51	\$31.81	\$32.11	\$32.41
Sergeant	\$34.66	\$35.01	\$35.35	\$35.70	\$36.05	\$36.39	\$36.74	\$37.09	\$37.43
Records Clerk 1	\$16.45								
Records Clerk 2	\$18.50								
Records Clerk 3	\$20.56	\$20.77	\$20.97	\$21.18	\$21.38	\$21.59	\$21.79	\$22.00	\$22.20
Records Supervisor	\$22.98	\$23.21	\$23.44	\$23.67	\$23.90	\$24.13	\$24.36	\$24.59	\$24.82
Telecommunication Supervisor	\$29.10	\$29.39	\$29.68	\$29.97	\$30.26	\$30.56	\$30.85	\$31.14	\$31.43
Telecommunicator 1 (Uncertified)	\$20.87								
Telecommunicator 2 (Certified)	\$23.48								
Telecommunicator - Senior	\$26.09	\$26.35	\$26.61	\$26.87	\$27.13	\$27.39	\$27.66	\$27.92	\$28.18

July 1, 2019									
Classification	0-3 years	4-6 years	7-9 years	10-12 years	13-15 years	16-18 years	19-21 years	22-24 years	25+ years
Animal Control 1	\$18.16								
Animal Control 2	\$19.17								
Animal Control - Senior	\$20.18	\$20.38	\$20.58	\$20.79	\$20.99	\$21.19	\$21.39	\$21.59	\$21.79
Animal Control Supervisor	\$25.66	\$25.92	\$26.17	\$26.43	\$26.69	\$26.94	\$27.20	\$27.46	\$27.71
Community Service Officer	\$17.47	\$17.64	\$17.82	\$17.99	\$18.17	\$18.34	\$18.52	\$18.69	\$18.87
Corporal	\$32.45	\$32.77	\$33.10	\$33.42	\$33.75	\$34.07	\$34.40	\$34.72	\$35.05
Detective	\$33.17	\$33.50	\$33.83	\$34.17	\$34.50	\$34.83	\$35.16	\$35.49	\$35.82
Detective - Senior	\$34.54	\$34.89	\$35.23	\$35.58	\$35.92	\$36.27	\$36.61	\$36.96	\$37.30
Evidence Clerk	\$23.92	\$24.16	\$24.40	\$24.64	\$24.88	\$25.12	\$25.36	\$25.59	\$25.83
Evidence Technician	\$32.45	\$32.77	\$33.10	\$33.42	\$33.75	\$34.07	\$34.40	\$34.72	\$35.05
Patrolman 1 (Uncertified)	\$24.73								
Patrolman 2 (Certified)	\$27.82								
Patrolman - Senior	\$30.91	\$31.22	\$31.53	\$31.84	\$32.15	\$32.46	\$32.76	\$33.07	\$33.38
Sergeant	\$35.70	\$36.06	\$36.41	\$36.77	\$37.13	\$37.49	\$37.84	\$38.20	\$38.56
Records Clerk 1	\$16.94								
Records Clerk 2	\$19.06								
Records Clerk 3	\$21.18	\$21.39	\$21.60	\$21.82	\$22.03	\$22.24	\$22.45	\$22.66	\$22.87
Records Supervisor	\$23.67	\$23.91	\$24.14	\$24.38	\$24.62	\$24.85	\$25.09	\$25.33	\$25.56
Telecommunication Supervisor	\$29.97	\$30.27	\$30.57	\$30.87	\$31.17	\$31.47	\$31.77	\$32.07	\$32.37
Telecommunicator 1 (Uncertified)	\$21.50								
Telecommunicator 2 (Certified)	\$24.18								
Telecommunicator - Senior	\$26.87	\$27.14	\$27.41	\$27.68	\$27.94	\$28.21	\$28.48	\$28.75	\$29.02

July 1, 2020									
Classification	0-3 years	4-6 years	7-9 years	10-12 years	13-15 years	16-18 years	19-21 years	22-24 years	25+ years
Animal Control 1	\$18.71								
Animal Control 2	\$19.75								
Animal Control - Senior	\$20.79	\$21.00	\$21.21	\$21.41	\$21.62	\$21.83	\$22.04	\$22.25	\$22.45
Animal Control Supervisor	\$26.43	\$26.69	\$26.96	\$27.22	\$27.49	\$27.75	\$28.02	\$28.28	\$28.54
Community Service Officer	\$17.99	\$18.17	\$18.35	\$18.53	\$18.71	\$18.89	\$19.07	\$19.25	\$19.43
Corporal	\$33.42	\$33.75	\$34.09	\$34.42	\$34.76	\$35.09	\$35.43	\$35.76	\$36.09
Detective	\$34.17	\$34.51	\$34.85	\$35.20	\$35.54	\$35.88	\$36.22	\$36.56	\$36.90
Detective - Senior	\$35.58	\$35.94	\$36.29	\$36.65	\$37.00	\$37.36	\$37.71	\$38.07	\$38.43
Evidence Clerk	\$24.64	\$24.89	\$25.13	\$25.38	\$25.63	\$25.87	\$26.12	\$26.36	\$26.61
Evidence Technician	\$33.42	\$33.75	\$34.09	\$34.42	\$34.76	\$35.09	\$35.43	\$35.76	\$36.09
Patrolman 1 (Uncertified)	\$25.47								
Patrolman 2 (Certified)	\$28.66								
Patrolman - Senior	\$31.84	\$32.16	\$32.48	\$32.80	\$33.11	\$33.43	\$33.75	\$34.07	\$34.39
Sergeant	\$36.77	\$37.14	\$37.51	\$37.87	\$38.24	\$38.61	\$38.98	\$39.34	\$39.71
Records Clerk 1	\$17.46								
Records Clerk 2	\$19.64								
Records Clerk 3	\$21.82	\$22.04	\$22.26	\$22.47	\$22.69	\$22.91	\$23.13	\$23.35	\$23.57
Records Supervisor	\$24.38	\$24.62	\$24.87	\$25.11	\$25.36	\$25.60	\$25.84	\$26.09	\$26.33
Telecommunication Supervisor	\$30.87	\$31.18	\$31.49	\$31.80	\$32.10	\$32.41	\$32.72	\$33.03	\$33.34
Telecommunicator 1 (Uncertified)	\$22.14								
Telecommunicator 2 (Certified)	\$24.91								
Telecommunicator - Senior	\$27.68	\$27.96	\$28.23	\$28.51	\$28.79	\$29.06	\$29.34	\$29.62	\$29.89

Longevity benefits will be figured based on years of service completed with the City as follows:

<u>Years of Service</u>	<u>Months of Service</u>
0 through 3 years	0 - 47 months
4 through 6 years	48 - 83 months
7 through 9 years	84 - 119 months
10 through 12 years	120 - 155 months
13 through 15 years	156 - 191 months
16 through 18 years	192 - 227 months
19 through 21 years	228 - 263 months
22 through 24 years	264 - 299 months
25+ years	300+ months

APPENDIX B

1. A valid New Mexico driver's license of appropriate category is a mandatory requirement of any City job, classification, or position which requires an employee to operate a motor vehicle at any time in connection with City business.
2. Revocation or suspension of an employee's driver's license shall disqualify such employee from holding any City position which requires a driver's license.
3. An employee whose license has been suspended or revoked for any reason shall:
 - A. not operate any motor vehicle in connection with City business; and
 - B. notify his/her immediate supervisor as soon as possible, but in any event, prior to the start of his/her next work day.
4. Failure of an employee to comply with the provisions of Paragraph 3 shall be cause for disciplinary action.
5. Supervisors who learn that a subordinate employee's driver's license has been suspended or revoked shall:
 - A. take immediate action to ensure that the employee does not operate a motor vehicle in connection with City business; and
 - B. notify the Director of the department in which the employee works of the suspension or revocation as soon as possible.
6. Failure of a supervisor to comply with the provisions of Paragraph 5 shall be cause for disciplinary action.
7. An employee whose position requires a driver's license and whose license is suspended or revoked for 180 days or more shall:
 - A. be suspended without pay for a maximum of 30 calendar days during which time the employee may return to his/her regular job at any time upon providing the City Administrator or his designee with proof of a valid New Mexico driver's license of appropriate category;
 - B. be discharged if he/she is unable to obtain a valid New Mexico driver's license of appropriate category within 30 calendar days.

8. An employee whose position requires a driver's license and whose license is suspended or revoked for less than 180 days shall, until such time as the employee provides the City Administrator or his designee with proof of a valid New Mexico driver's license of appropriate category:
 - A. be immediately demoted to a City position which does not require a driver's license; or
 - B. if it is in the best interest of the City, be retained in the employee's regular position at a 10 percent reduction in pay.
9. Notwithstanding any provision to the contrary, an employee whose position requires a driver's license and whose license has been suspended or revoked for any length of time shall be discharged:
 - A. if the employee has had a prior license suspension or revocation within the five-year (5-year) period preceding the most recent suspension or revocation; or
 - B. if the loss of license resulted in whole or in part from:
 - (1) the operation of a City vehicle
 - (2) the operation of any vehicle in connection with City business; or
 - C. if the loss of license results in the loss of certifications essential to the performance of the employee's job.
10. The effective date of the license suspension or revocation by the New Mexico Motor Vehicle Division shall be the date from which the previous five-year (5-year) period is calculated.
11. For purposes of this policy, a valid New Mexico limited license or permit of appropriate category issued by competent authority shall be satisfactory evidence of a valid license if acceptable to the City's auto and general liability insurance carrier.

APPENDIX C

CITY OF CARLSBAD FAMILY AND MEDICAL LEAVE ACT POLICY AND PROCEDURES

SECTION 1: **Definitions**

1. "Eligible employee" is an employee who:
 - A. has been employed by the City of Carlsbad for at least 12 months, and
 - B. has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.
2. "Spouse" means a husband or wife as defined or recognized under the laws of the State of New Mexico.
3. "Parent" means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. This term does not include parent "in law."
4. "Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."
5. "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living." Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.
6. "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual.
7. "Persons who are in loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child.
8. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - A. any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility;

- B. any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by a health care provider; or
 - C. continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or for prenatal care.
9. "Continuing treatment by a health care provider" means one or more of the following:
- A. the employee or family member in question is treated two or more times for the injury or illness by a health care provider.
 - B. the employee or family member is treated for the injury or illness two or more times by a provider of health care services under orders of, or on referral by, a health care provider, or is treated for the injury or illness by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider to resolve the health condition.
 - C. the employee or family member is under the continuing supervision of, but not necessarily being actively treated by, a health care provider due to a serious long-term or chronic condition or disability which cannot be cured.
10. "Health care provider" means:
- A. a doctor of medicine or osteopathy who is authorized, by law, to practice medicine or surgery; or
 - B. others capable of providing health care services include only podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized, by law, to practice and perform within the scope of their practice as defined by the law; or
 - C. nurse practitioners and nurse mid-wives, if any, who are authorized, by law, to practice and who are performing within the scope of their practice as defined by law; and
 - D. Christian Science practitioners as defined by and limited by the Family and Medical Leave Act.

SECTION 2: Leave Entitlement

In any "rolling" 12-month period measured backward from the date an employee uses any FMLA leave, an eligible employee is entitled to a total of 12 work weeks of leave for any one or more of the following reasons:

1. The birth of a son or daughter, and to care for the newborn child;
2. The placement with the employee of a son or daughter for adoption or foster care;
3. To care for the employee's spouse, son, daughter, or parent with a serious health condition; and
4. Because of a serious health condition that makes the employee unable to perform the functions of his or her job.

SECTION 3: Compensability of FMLA Leave

1. FMLA leave shall be unpaid, except that an employee using FMLA leave for any permitted reason shall substitute his or her accrued sick leave, vacation and personal holiday leave to the extent such paid leave time is available to substitute for unpaid FMLA leave.
2. The designation of leave as "FMLA leave" and as paid or unpaid shall be made before the leave is granted.

SECTION 4: Continuation of Health Benefits During FMLA Leave

1. Benefits provided to employees through the City's group health plan will be maintained during periods of FMLA leave on the same conditions as such benefits would have been provided if the employee had been continuously employed during the entire leave period with the employee and City each continuing to pay their customary share of the cost of such benefits.
2. Prior to the start of unpaid FMLA leave, a payment schedule will be agreed upon for payment by the employee of his or her share of group health coverage cost.
3. If an employee on FMLA leave fails to make the required payment for his or her share of the group health coverage, coverage will be discontinued 31 days after the date the payment was due.
4. Group health coverage which has been discontinued for non-payment by the employee of his or her share will be restored at the same terms and conditions upon return to work.

5. If circumstances warrant, the City may elect to pay both the employee's and the City's share of health care premiums during periods of unpaid FMLA leave. However, the amount paid by the City for the employee's share shall be recovered from the employee upon his or her return to work. If the employee fails to return to work after the end of the FMLA leave period as established in the regulations, the City may recover from the employee the amounts paid on his or her behalf for health care coverage during the period of unpaid FMLA leave.

SECTION 5: Employee Rights Upon Return to Work

An eligible employee who takes FMLA leave will be restored to the same position he or she held when the leave started or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

SECTION 6: Requesting FMLA Leave

1. An employee must provide the City at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member.
2. If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the City may deny the taking of FMLA leave until at least 30 days after the date the employee provides notice to the City of the need for such leave.
3. In those instances where paid leave must be substituted for unpaid foreseeable FMLA leave, the City's customary notice requirements shall apply.
4. When the need for FMLA leave, or its appropriate timing, is not foreseeable, an employee shall provide notice to the City as soon as practicable under the facts and circumstances of the particular case.
5. In those instances where paid leave must be substituted for unpaid unforeseeable leave, the City's customary notice requirements shall apply.
6. Employees shall direct requests for FMLA leave to the City's Personnel Officer, or in his absence, the City Administrator.

SECTION 7: Medical Certification to Support FMLA Leave

1. Medical certification may be required by the City of an employee requesting FMLA leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform the functions of his or her position.
2. Medical certification, if requested by the City, must be provided in writing within 15 calendar days after the request is made or as soon thereafter as is possible depending upon the circumstances of the particular case.
3. Medical certifications shall be made on a form provided by the City for such purpose, a copy of which is attached to this policy.
4. If an employee fails to provide timely medical certification of a foreseeable leave after requested to do so by the City, the taking of FMLA leave may be denied until the required certification is provided.
5. If an employee fails to provide timely medical certification of an unforeseeable leave after requested to do so by the City, the City may deny the employee's continuation of leave.
6. Under certain circumstances, the City may require subsequent medical recertifications. If requested, such recertifications will be requested at reasonable intervals, but no more often than every 30 days.

SECTION 8: Return to Work

1. The City shall require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.
2. Employees returning to work from leave occasioned by the employee's own serious health condition shall provide a doctor's release prior to returning to work.

Both parties, having negotiated the terms and conditions of employment for those employees covered by this bargaining unit, have reached agreement on a new contract effective April 1, 2018, and terminating April 1, 2021.

FOR THE CITY OF CARLSBAD

FOR THE CARLSBAD POLICE OFFICERS ASSOCIATION

Dale Janway, Mayor

Shane Skinner, Union President

Steve McCutcheon, City Administrator

David Testa, Union Vice President

D. Kent Waller, Chief of Police

Patrick Bryant, Committee Member

Jonathan F. Moyers, Asst. Chief of Police

Andrew Carver, Committee Member

Michael A. Hernandez, Dep.City Admin.

C. Joanne Coggin, Committee Member

Scot D. Bendixsen, HR Director

Tina R. Dorado, Committee Member

Ruby Ahrens, Committee Member

Tonia Tiller, Committee Member