

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF COLTON  
AND  
THE COLTON POLICE OFFICERS ASSOCIATION

February 1, 2017 – January 31, 2019

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**ARTICLE I  
EMPLOYER-EMPLOYEE RELATIONS**

Section 1: Recognition:

The City hereby recognizes the Colton Police Officers Association (Rank and File Unit) as the representative of employees in the following classifications:

I.D. OFFICER POLICE  
CORPORAL POLICE  
DETECTIVE POLICE  
OFFICER  
POLICE OFFICER TRAINEE \*  
POLICE SERGEANT

\* Non-Sworn

Section 2: Term of Agreement:

The term of this agreement is 24months beginning February 1, 2014 and ending January 31, 2019. This agreement may be extended by one year at the option of the Association by giving at least ninety (90) days' written notice to the City prior to the end of the contract (January 31, 2019).

Section 3: Grievance Procedure:

A. STATEMENT OF PURPOSE

The purpose and objectives of the grievance procedure are to:

1. Assure fair and equitable treatment of all employees and to promote harmonious relations among employees and their supervisors.
2. Afford employees a simple means of obtaining consideration of their grievance by informal means at supervisory level and review of the supervisor's decisions.
3. Resolve grievances as quickly as possible and to correct, if possible, the causes of grievances, thereby reducing the number of grievances and future similar complaints.

It is the spirit and intent of this procedure that all grievances be settled quietly and fairly without any subsequent discrimination against employees who may seek to adjust a grievance. Every effort shall be made to find an acceptable solution at the lowest level of supervision.

## B. DEFINITIONS

For purposes of this procedure, the following definitions shall apply:

1. Day - A work day, except where otherwise stated. A work day is a day on which City Hall is open for business for its full normal working hours.
2. Grievant - A current or former member of the bargaining unit employed full time by the City, except those persons elected by popular vote. An Association may file a grievance on behalf of itself or its members.
3. Grievance - An alleged violation or non-compliance with the provisions of this MOU, any supplemental MOU, the City of Colton's personnel rules and regulations, departmental rules and regulations, and other policies and practices.

Except as provided for in Section J, only the following major disciplinary actions taken against permanent employees are appealable under this grievance procedure:

- a. Suspensions in excess of 3 days;
- b. Disciplinary salary reductions;
- c. Demotions; and,
- d. Discharges.

Any appeal of the above disciplinary actions shall be initiated Grievance Step Four.

4. Representative - A person who, at the request of the employee or supervisor, is invited to participate in the grievance or conferences.
5. Immediate Supervisor - The person having evaluation responsibility for the grievant.
6. Association - The legal entity elected to be the exclusive representative of the employee group.
7. Class Grievance - A grievance involving more than one employee.
  - a. Each employee must submit his or her grievance in writing. Individual grievances may be treated as a single grievance or as a class at the discretion of the City.
  - b. Resolution of a class grievance may not be consistent among all grievants in the class grievance due to differences in circumstances or occurrences which brought about the grievance.
  - c. Any grievant not satisfied with the decision at any procedural step shall retain their individual right to appeal to the next step in the grievance procedure.

8. Answer - The response to the grievance at Steps One, Two, and/or Three as outlined in this procedure. All answers shall be written. If an answer does not resolve the grievance to the grievant's satisfaction, the answer will inform the grievant of the next step in the grievance procedure, and the deadline by which the grievant must request the next Step.

C. INFORMAL RESOLUTION STEPS

1. STEP ONE: Immediate Supervisor

Within 10 days after a grievant knew, or by reasonable diligence should have known, of the act or omission upon which a grievance may be based, the grievant shall request an informal resolution meeting with his or her immediate supervisor. Every effort shall be made to resolve a grievance through discussion between the grievant and the grievant's immediate supervisor.

This step will be deemed waived if the immediate supervisor, or the immediate supervisor's action, is the subject of the grievance. The supervisor shall prepare a written answer to the grievance within 10 days after the informal resolution meeting.

D. FORMAL RESOLUTION STEPS

2. STEP TWO: Appeal to Division Head or Designee

If the grievance is not resolved at Step One, the employee may request a meeting to discuss the grievance with the division head, if one exists, or his or her designee. The meeting must be requested in writing within 10 days after the Step One decision has been rendered.

The meeting will be scheduled within 10 days of receipt of the grievant's written request for the meeting. The division head or his or her designee shall prepare a written answer within 10 days after meeting with the grievant. If no division head exists, the grievant may proceed directly to Step Three.

3. STEP THREE: Appeal to Head of the Department or Designee

If the grievance is not resolved at Step Two, the employee may request a meeting to discuss the grievance with the head of the employee's department, or that person's designee. The meeting must be requested in writing within 10 days after the Step Two decision has been rendered.

In situations where a department has no division head to whom an appeal may be addressed at Step Two, the employee may request the Step Three meeting within 10 days of receiving the written answer from his or her immediate supervisor.

The meeting will be scheduled within 10 days of the employee submitting the request for the meeting. The head of the department or his or her designee shall render an answer within 10 days of meeting with the grievant.

4. STEP FOUR: Appeal to Arbitrator

If the grievance is not resolved at Step Three, the grievant may submit a written request to the City Manager for the grievance to be heard by an arbitrator, as outlined in more detail in section E of this procedure. This written request must be submitted within 10 days after the Step Three decision has been rendered.

In the case where a grievance is an appeal of major disciplinary action, the written request must be submitted within 10 days after the employee has been notified of the final decision to impose disciplinary action.

E. ARBITRATION

1. Written Request for Arbitration

To request a Step Four appeal to an arbitrator, a grievant must timely submit a written request to the City Manager. The request shall be considered timely only if the City Manager receives it no later than 10 days after the Step Three decision has been rendered. Such request may take the form of a memorandum or letter to the City Manager from the employee or an authorized union representative, and must clearly state the provisions of the MOU and/or rules, regulations, past practices or procedures which have allegedly been violated.

2. Private Hearing

Grievance arbitration hearings shall be private.

3. Selection of Arbitrator

Unless the parties agree to another method of selecting an arbitrator, following method shall apply:

The State Mediation and Conciliation Service shall be asked to submit a list of seven persons qualified to act as arbitrators. Within five days following receipt of the list of arbitrators, the parties shall select an arbitrator. The parties shall alternately strike one name from the list until no name remains. The right to strike the first name is determined by lot.

4. Costs of Arbitration

To the extent permitted by applicable law, each party shall bear equally the cost of the fees and expenses of the arbitrator and court reporter, if any. Each party shall bear its own witness and attorney fees.

5. Demand for Exchange of Evidence

Upon written request by either of the opposing parties in a pending hearing given at least 20 calendar days prior to the scheduled hearing date, each party shall supply to the other party copies of all documentary evidence to be used by that party at the hearing. Such evidence shall be provided no later than five calendar days prior to the scheduled hearing date. Any evidence not so provided may not be admitted or offered as evidence at the subsequent hearing except that any such documentary evidence discovered by a party after such a request for copies but not soon enough to comply with the above time limits may be admitted providing it could not have been

discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practicable after such discovery. Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.

6. Presentation of Evidence

At the arbitration hearing, both the grievant and the City shall have the right to be heard and to present evidence. The following rules shall apply:

- a. Oral evidence shall be taken only on oath or affirmation.
- b. Each party shall have these rights: to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called the witness to testify, and to rebut the evidence against the witness. If the employee does not testify on his or her own behalf, the employee may be called and examined as if under cross-examination.
- c. The arbitration hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding, unless the arbitrator finds that it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

7. Time for Arbitrator to Render Decision

The arbitrator shall render a decision, in writing, within 30 calendar days of the close of the hearing or of the arbitrator's receipt of closing briefs, whichever is later.

8. Findings of Fact and Remedies for Disciplinary Appeals

An arbitrator may sustain, modify, or rescind an appealed disciplinary action as follows and subject to the following restrictions:

- a. For any type of disciplinary arbitration: If the arbitrator finds that a disciplinary action was taken for reasonable cause, he or she shall sustain the action.
- b. For appeals of suspensions and reductions in class or salary: If the disciplinary action is modified or rescinded by the arbitrator, the grievant shall be entitled to restoration of pay and/or fringe benefits in a manner consistent with the arbitrator's decision.

c. For discharges:

- i. If the arbitrator finds that the order of discharge should be modified to another form of discipline, the grievant shall be restored to a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the grievant was removed from duty, as determined by the arbitrator.
- ii. If the arbitrator finds that the order of discharge should be rescinded and no discipline imposed, the grievant shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

d. Restrictions on remedies:

- i. The City shall not be liable for restoring pay and fringe benefits for any period(s) of time the grievant was reduced or removed from duty which results from the appealing party's request for written briefs and/or a transcript of the arbitration proceedings or from any unreasonable delay in the issuance of the arbitrator's award.
- ii. Restoration of pay and benefits shall be subject to deduction of all unemployment insurance payments received. Outside earnings received since the date of discharge which grievant would not likely have earned but for the discharge shall also be deducted.

9. Arbitration Final and Binding

The decision by the arbitrator shall be final and binding and not subject to any administrative or judicial appeal or review of any kind except pursuant to California Code of Civil Procedure Section 1286.2.

F. REPRESENTATION

1. An employee may request representation of his or her choice and at his or her expense at any stage of the grievance procedure.
2. The grievant and his or her designated representative, if any, shall receive release time for the purpose of representing the grievant at any step. For purposes of this section, representation includes reasonable preparation and consultation.
3. Only the grievant and one other person from the bargaining unit may be on paid status while engaging in tasks related to the representation. Representation shall not unduly interfere with the normal course of City business.

G. TIME LIMITS

1. Failure by a grievant to meet any deadline set in this procedure shall terminate the grievance. The grievant shall not have a right to refile on the same set of facts, unless good cause is shown for the delay or the City notifies the grievant in writing that it will waive the deadline.

2. Failure by the City to meet a deadline set forth in this procedure shall give the grievant the right to proceed to the next Step.
3. Time limits in this procedure may be extended by mutual written agreement between the parties.
4. The grievant and his or her representative, if any, will be given at least 10 days written notice of any meeting scheduled pursuant to any Formal Resolution Step. This provision may be waived by mutual written agreement between the parties.

H. WITHDRAWAL

Any grievance may be withdrawn by the grievant at any time. Withdrawal of a grievance will be with prejudice and shall remove the right of the grievant to refile on the same set of facts.

I. FREEDOM FROM REPRISAL

No grievant shall be subject to coercion, discrimination, reprisal, or disciplinary action for discussing a complaint or grievance with his or her immediate supervisor, or for the good faith filing of a grievance.

J. MINOR DISCIPLINARY ACTION APPEAL PROCESS

1. For purposes of this procedure, a "minor disciplinary action" means a suspension of 3 days or less, a written warning or written reprimand, or any other minor "punitive action" subject to administrative appeal within the meaning of the Public Safety Officers Procedural Bill of Rights Act. Only employees covered by the Act may initiate an appeal of minor disciplinary action.
2. Any permanent, full-time employee who is subjected to a minor disciplinary action may appeal such action to the head of the employee's department or his or her designee within 10 days of the date written notification of the action was rendered. Such appeal shall be submitted in writing, stating the reason(s) that the employee believes the disciplinary action should be modified or rescinded.
3. Within 15 days of receiving such an appeal, the head of the department or his or her designee shall schedule a meeting with the employee and the employee's representative, if any.
4. Within 15 days after the meeting, the head of the department or his or her designee shall issue a written determination. Such determination shall be final and binding, and shall not be subject to further appeal or grievance procedure of any kind whatsoever.

## **ARTICLE II COMPENSATION**

### Section 1: Salary

All employees in the above-represented classifications shall receive a base salary as set forth in the Pay and Classification Plan for the City of Colton. Employees represented by the Association shall receive the following base salary increase:

- Effective in the pay period after the City Council approves this MOU, there shall be a base salary increase of 1.5%.
- Effective in the pay period that includes January 1, 2018, there shall be a base salary increase of 1.5%.

For the purposes of salary surveys, the survey cities are: Barstow, Chino, Fontana, Montclair, Ontario, Redlands, Rialto, San Bernardino and Upland. No cities shall be added to or removed from this list during the term of the MOU.

### Section 2: Bilingual Pay

The compensation for bilingual skills assignment shall be the equivalent of \$100 per month for employees who must perform bilingual translation as part of their job function and regular duties, who successfully complete a bilingual examination, and who pass the annual tests. Bilingual pay will be for employees, who speak Spanish, perform sign language, or who speak any other language designated by the Chief of Police.

When the skill is no longer needed or the employee is not required to use it or ceases to possess it, the Department Director shall terminate the bilingual compensation by written notice to the Management Services Director or designee. The Management Services Director or designee may also terminate the bilingual compensation if he/she makes a like determination, and shall notify the Department Director. In either case, the Department Director shall notify the employee. The bilingual pay is tied to the classification rather than the individual employee and will terminate if the employee moves to a new classification.

### Section 3. Canine Premium Pay

Employees who are regularly assigned responsibility or canine handling and care shall receive twenty (20) hours per month paid at the premium rate equal to time and one half (1 ½) of the employee's base hourly rate. Those unit members assigned to canine duty agree that the above additional hours provided each week are reasonably necessary to provide for the care and maintenance of the assigned canine and that these additional "hours worked" are intended to compensate unit members assigned to canine duty for all off duty hours spent caring for and maintaining their assigned canine, in compliance with the FLSA and interpretive cases and rulings.

## Section 4: Retirement

### A. Sworn Employees

- 1) Each employee shall pay the full 9% employee/member portion of the required retirement contributions.
- 2) Upon agreement with or imposition through impasse on other City bargaining units representing sworn members, the City will amend its contract with the Public Employees Retirement System (PERS) to implement a 3% at 55 retirement formula as part of a two-tier system.

All sworn employees hired on or after October 16, 2011, will be subject to the 3% at 55 formula. Sworn employees hired prior to the effective date of this amended contract with PERS will continue to enjoy the 3% at 50 retirement formula.

To the extent permitted by the Public Employees Retirement System, any current sworn employee who leaves employment with the City and is reinstated within 18 months of leaving shall return at the 3% at 50 retirement plan.

- 3) Safety unit members hired on or after January 1, 2013 who are defined as "new members" under the PEPRAs, are covered by the 2.7% @ 57 formula provided for by the Public Employees' Retirement Law at Government Code section 7522.25(d). Safety employees subject to the 2.7% @ 57 formula shall pay the statutorily mandated employee contribution rate of one half the total normal cost.
- 4) In addition to the nine percent (9%) of compensation earnable employee-paid member contribution paid by "classic" members and the one half of the total normal cost paid by "PEPRA" members, effective on the beginning of the pay period when the City Council approves this MOU these employees shall pay an additional one and one-half percent (1.5%) of compensation earnable of the required employer contribution as cost sharing in accordance with Government Code section 20516(f).
- 5) Effective on the beginning of the pay period which includes February 1, 2018 these employees shall pay an additional one and one-half percent (1.5%) (for a total of twelve percent (12% for classic members and one half the normal cost plus three percent (3%) for PEPRA members) of compensation earnable of the required employer contribution as cost sharing in accordance with Government Code section 20516(f).

### B. Non-Sworn Employees

Each employee shall pay the full amount of the normal member contribution. Any Unit member that established CalPERS membership prior to the implementation of the Public Employees' Pension Reform Act of 2013 (PEPRA) in connection with City employment or that otherwise establishes "classic member" status, as defined in Section 579.1 of the California Code of Regulations, shall be subject to one of the following pre-PEPRA retirement formulas determined on the basis of their original date of hire: 2.7% at 55 or 2.5% at 55. The normal member contribution applicable to members participating in these retirement formulas continues to be 8%. Any Unit member that is considered a "new member" as defined in PEPRA shall be subject to the PEPRA retirement formula for miscellaneous members is a maximum of 2.5% at 67. The normal member contribution for "new members" will be determined by CalPERS in accordance with PEPRA.

All employee contributions shall be deposited in the members' retirement account.

Other benefits provided include:

- a. 3% at age 50 formula (sworn) -prior to 10/16/2011
- b. 2.7% at age 55 formula (non-sworn)-prior to 06/01/2012
- c. 3% at age 55 formula (sworn) - after 10/16/2011
- d. 2.5% at age 55 formula (non-sworn) after 06/01/2012
- e. One year final compensation
- f. Military buyback
- g. Post-Retirement Survivor Allowance (sworn)
- h. 1959 Survivor Benefit/4<sup>th</sup> Level

## Section 5: Overtime Work Period

A. The work period of sworn employees shall be 28 days in length and of non-sworn employees 7 days in length commencing the date the new work schedules described below are implemented.

### B. Overtime Pay

All sworn employees required to work in excess of their regularly scheduled shift or of 160 hours per work period, and all non-sworn employees required to work in excess of their regularly scheduled shift or of 40 hours per work period shall receive compensation at the rate of time and one-half the regular rate of pay. The regular rate of pay shall include (if applicable) educational incentive and special assignment pay in addition to base salary.

In determining an employee's eligibility for overtime at the regular rate of pay, paid leaves of absence shall be included in calculating the total hours worked.

There shall be no pyramiding of overtime. Hours worked by an employee in any workday or work period on which premium rates have once been allowed shall not be used again in any other overtime calculation other than computing total actual hours worked. Overtime shall be recorded and paid in minimum increments of 15 minutes.

### C. School Resource Officer

The parties agree that if an SRO leaves the program at a time other than the beginning of the school year, the compensatory time accrued as a result of the nine (9) hour workday should be handled in the following manner:

Retirement or Resignation from CPD: Employee will be cashed out as with any other accrued compensatory time.

Voluntary Transfer or End of Assignment: Employee will be provided a reasonable time to schedule time off to reduce the accrued compensatory time.

Involuntary Transfer: Employee may elect to cash out, bank, or schedule time off to reduce the accrued compensatory time.

### D. Compensatory Time Off

Each represented employee shall, at the employee's discretion, be entitled to payment of

overtime compensation in the form of cash or compensatory time off. If the employee chooses to receive overtime compensation in the form of compensatory time off, then such compensatory time off shall be earned at the same rate (one and one-half times the employee's hourly rate) as in the case of overtime earned.

The maximum number of compensatory time off hours which may be accumulated (after conversion at time and one-half) by a represented employee is 480 (320 hours worked times time-and-one-half). Once an employee has accumulated 480 hours, then all future overtime shall be paid in cash.

The number of compensatory time off hours which the employee has accumulated during any time period, shall carry over from year to year and month to month, and under no circumstance, shall be deleted unless such action is in accord with this section of the MOU.

No employee shall be involuntarily required to utilize all or part of his/her compensatory time off. Any employee desiring to utilize all or part of his/her accumulated compensatory time off shall make application to a supervisor vested with the authority to grant such application. If, as a result of the needs of the organization, the responsible supervisor, in his/her discretion is unable to grant the use of such compensatory time off, then the application shall be denied.

During the first payroll period of November and June of any calendar year, any represented employee having accumulated compensatory time off, may, at the employee's discretion, mandate that the City provide the employee with a cash disbursement at the regular rate existing at the time of disbursement and with reference to the number of hours designated by the employee. The City shall comply with such direction from the employee. Upon the employee's separation from City service, for any reason, the City shall disburse to the employee, at the hourly rate existing at the time of disbursement, the value, in cash, of all accumulated compensatory time off.

E. Overtime Authorization

All overtime requests must have the authorization of a supervisor prior to the commencement of such overtime work. Where prior written authorization is not feasible, explicit verbal authorization must be obtained. Calls for service beyond the end of duty time are considered as authorized.

An employee's failure to obtain prior approval may result in the denial of the overtime request.

F. Clothes Changing

Employees are not authorized to wear their uniforms or any part thereof that is distinguishable as such unless on duty. Each employee is provided with a locker for his/her own personal convenience. An employee may or may not utilize the locker for storage and changing purposes at his/her own discretion.

Nothing herein prevents an employee from wearing his/her uniform to and/or from his/her residence to work.

Time spent in changing clothes before or after a shift is not considered hours worked and is not compensable in any manner whatsoever.

G. Shift Trades

The practice of shift trading shall be voluntary on behalf of each employee involved in the trade. An employee must have supervisory approval prior to being allowed to trade shifts. The trade must be due to the employee's desire or need to attend to a personal matter and not due to the department's operations. The employee providing the trade shall not have his/her compensable hours increased as a result of the trade; nor shall the employee receiving the trade have his/her compensable hours decreased as a result of the trade. Any premium pay or other extra compensation will be waived for both individuals during the period they work for the other. Any hours worked beyond the normal work day will be credited to the individual actually doing the work.

"Paybacks" of shift trades are the obligation of the two employees involved in the trade. Any dispute as to paybacks is to be resolved by the involved employees, and under no circumstances will the department be obligated for any further compensation whatsoever to any of the involved employees. The department is not responsible in any manner for hours owed to employees by other employees that leave the employment of the City or are assigned other duties.

If one individual fails to appear for the other (regardless of the reason), the person who "traded in" will be listed as absent without leave and may be subject to disciplinary action.

H. Early Relief

The practice of early shift relief shall be voluntary on behalf of each employee involved in the relief. An employee must have the approval of the watch commander prior to being allowed early relief. The employee providing the early relief shall not have his/her compensable hours increased as a result of the early relief; nor shall the employee relieved early have his/her compensable hours decreased as a result of the early relief. "Paybacks" of early relief hours are the sole obligation of the two employees involved in the early relief. Any dispute is to be resolved by the involved employees. The department is not responsible in any manner for hours owed to employees by other employees that leave the employment of the City or are assigned other duties.

I. Firearms Qualifications

Employees required to shoot at the firing range while off duty shall receive credit for actual time spent at the range (a minimum of one hour shall be paid). Travel time to and from the range is not considered hours worked and shall not be compensated in any manner.

Employees who shoot at the range at times other than the required qualifications dates will be considered to be on personal time. Such time is not counted as working time and is not compensable in any manner whatsoever.

J. Training Time

Training time outside normally scheduled work hours shall be compensated pursuant to Code of Federal Regulations (CPR), Section 553.226, et. seq. When feasible, the department

will adjust the employee's work schedule to minimize the impact of travel and training time.

An employee attending mandatory training or called in to mandatory training shall receive credit for a minimum of one hour.

K. City Vehicle Use

Employees who are provided with a City vehicle to travel to and from work shall not be compensated in any manner whatsoever for such travel time in the City vehicle.

This provision also applies in those situations where the radio must be left on and monitored.

L. Call Back Pay

Call back duty occurs when an employee is ordered to return to duty on a non-regularly scheduled work shift. Call back does not occur when an employee is held over from his/her prior shift or asked to come in immediately prior to his/her regularly scheduled shift. An employee called back to duty shall be credited for actual hours worked. The employee shall receive a minimum compensation of two (2) hours call back pay. This provision is subject to all the current provisions in the MOU and will only apply to meetings if there is not 72 hours advance notice. Travel time shall not be considered hours worked and shall not be compensated in any manner whatsoever.

M. Court Pay

When an employee is physically called to court, while off duty, he/she shall be credited on an hour-for-hour basis for the time actually spent in court. An employee shall be credited with a minimum of four (4) hours of the court appearance. Travel time shall not be considered hours worked and shall not be compensated in any manner whatsoever.

N. Court Standby Pay

An employee may leave a telephone number or wear an electronic pager so that he/she may be reached while on court standby. Such time is not considered hours worked under the Fair Labor Standards Act and will not be compensated except as set forth below.

Alternatively, an employee on court standby may, with the permission of the department, report to the police facility, in uniform, for assignment while awaiting court. An employee shall be credited on an hour-for-hour basis for time actually worked while on standby. Travel time to the police facility shall not be considered hours worked and shall not be compensated in any manner whatsoever.

In recognition of the City's established practice, the City shall continue to compensate employees at the rate of four hours pay at time and one-half when placed on standby by the District Attorney's Office. This payment is being made pursuant to the MOU, not pursuant to FLSA. Time compensated in the above manner shall not constitute hours worked for purposes of FLSA.

O. Detective Standby

An employee may leave a telephone number or wear an electronic pager so that he/she may be reached while on detective standby. Such time is not considered hours worked under FLSA and will not be compensated except as set forth below.

Stand-by time is defined as being from the end of the work day on Friday to the end of the work day the following Friday (a period not to exceed seven days). Each detective on standby shall receive ten (10) hours at time and one-half per seven-day cycle. Said payment shall be made in cash or accrual of compensatory time, at the option of the employee.

#### Section 6: Acting Pay

Whenever the needs of the City require an employee to temporarily perform the duties of a higher classification than that in which the employee is currently employed for a period of more than eighty (80) continuous working hours, the employee shall receive the salary rate of the higher class in which he/she is performing the required duties. In such cases, the employee shall be paid at the appropriate step of the salary schedule of the higher classification which will assure an increase of not less than 5% greater than the salary of his/her current position, but in no case shall such salary exceed the top salary step of the higher classification. The higher salary rate payable shall commence after completion of eighty (80) working hours following the temporary reassignment to the performance of duties of the higher classification. The requirement for the performance of duties of higher classification shall be placed in writing to the City Manager following recommendation by the affected appointing authority. No employee shall be required to perform any of the duties of a higher classification unless that employee is deemed to possess the minimum qualifications of the higher classification by the City Manager as recommended by the affected appointing authority and agrees to perform those acting duties.

This provision shall not apply to Police Officers working as Police Corporals. [Section 7:](#)

#### Section 7: POST Certificates

Each affected employee shall receive the following monthly amounts if he/she possesses the requisite POST Certificates. An employee possessing one of the certificates listed below who is receiving acting pay shall be compensated for the certificate pay listed for the classification in which he or she is acting. FLSA overtime will include POST Certificate pay.

Intermediate	8%
Advanced	9%
Supervisory	10%

\*Non-cumulative. Maximum POST certificates percentage shall be 10%.

#### Section 8: Detective/Corporal Incentive

The position of Detective/Corporal shall maintain a minimum 10% salary alignment above the top step salary range of Police Officer.

#### Section 9: Field Training Officer/ ID Officer Incentives

Effective July 1, 2005 the City will pay any Police Officer or non-sworn employee who is assigned to train another employee an incentive of \$200 per month, or pro-rata portion thereof, while training.

Effective upon approval of this MOU by the City Council, any Police Officer assigned to ID Officer shall receive 5% special assignment pay over the salary range of Police Officer.

#### Section 10: Shift Differential

1. Shift differential shall be four percent (4%) above the base hourly rate.
2. Employees assigned to a night shift platoon or assignment where the majority of their work shift falls between the hours of 6:30 p.m. and 7:00 a.m., shall receive shift differential
3. Shift differential shall not be paid for any hours worked as overtime by employees not regularly assigned to these identified shifts/assignments.

### **ARTICLE III FRINGE BENEFITS**

#### Section 1: Health Insurance

The City participates in a Section 125 Cafeteria Plan. Under the cafeteria plan, all participating bargaining unit employees will receive a monthly allowance of \$1,100 per month from which employees can chose medical, dental and/or vision insurance. In addition, supplemental insurance opportunities will be provided, in order for employees to purchase supplemental medical insurance and child care coverage through pretax dollars.

The city will adhere to the cafeteria plan requirements for all bargaining groups. Should the monthly allowance change, the City and Association agree to meet and confer to discuss the impact of any changes.

Employees who provide the City with satisfactory proof of alternate group health coverage comparable to the City's offered health insurance plans can decline, in writing, coverage on the City's medical insurance plans. The alternative health coverage must meet all requirements of the Affordable Care Act (ACA) and related regulations for an eligible Opt-Out Arrangement. In those instances where the employee's medical insurance premium is less than the City's monthly contribution, the difference between said cafeteria dollar amounts shall be provided in the form of bi-monthly cash disbursements (payable 24 times per year). Cash disbursements to the employee are subject to being taxed, pursuant to the appropriate tax codes.

#### EMPLOYEES HIRED ON OR AFTER MAY 1, 2017

Employees hired on or after May 1, 2017, shall have a maximum cap of \$500 for cash in-lieu or for the difference between the medical insurance premium and the cafeteria dollar amount.

#### Section 2: Retirees' Health Insurance Participation

Members of this unit who retire (service or disability) from the City employ may, at the retiree's discretion, enroll in the City-provided health insurance plan of the employee's choice.

Employees who retire after having served a minimum of 20 years with the City shall have their and their spouse's HMO premiums paid for by the City up to Medicare age. After the retiree reaches Medicare age, he/she can maintain health insurance with the City, but the retiree must

pay his/her and their spouse's, premiums. If the retiree is ineligible for Medicare benefits, the City will continue to pay the premiums, as long as the employee remains insurable. For all other employees and their spouses, all premiums required by their participation in such health insurance plan shall be paid by the employee. Participation in any health insurance plan is contingent upon the health insurance carrier approving the enrollment of a retired employee or spouse.

The City will provide reimbursement to retirees who move out of an area where the city's health insurance carriers do not provide coverage. The city will reimburse the retiree monthly up to their previous HMO premium rate. Eligible retirees must show proof of insurance and of payment of monthly premiums.

#### ALL EMPLOYEES HIRED ON OR AFTER MAY 1, 2017

Employees hired on or after May 1, 2017; City's contribution for Retiree Health Insurance Benefit will be capped at \$500 per month.

The City and the Association agree to meet and discuss a Retiree Health Savings Plan before the end of this MOU.

#### Section 3: Life Insurance

The City shall provide each unit member with term life insurance coverage in the amount of \$50,000. The City shall provide an additional \$50,000 of term life insurance to members who participate in the Wellness Program.

#### Section 4: Uniforms

- A. Uniform Maintenance Allowance. The City agrees to pay the uniform maintenance allowance of \$75.00 per month per fiscal year. Such allowance shall be paid on the last pay period in June. Such payment shall be for the prior year and shall be prorated for employees not working the full year.
- B. With respect to Safety and Miscellaneous employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act (PEPRA), the City shall report to CalPERS the monetary value of uniforms for those employees required to wear uniforms in the amount of \$19.23 per pay period. The parties agree the reported value of uniforms is intended to reflect clothing such as pants, shirts, jackets, and related attire.

#### Section 5: Police Officer Trainees

Persons serving in the classification of Police Officer Trainee are designated as non-sworn employees for purposes of retirement and fringe benefits. Police Officer Trainees shall receive all benefits afforded other non-sworn employees of the bargaining unit with the exception of long-term disability.

Section 6: Educational Incentive (College Degree)

Effective February 1, 2014 the City will offer the following educational incentive pay:

AA Degree	2%
BA Degree	4%
MA Degree	6%

\* Non-cumulative. The maximum Educational Incentive shall be 6%.

Section 7: Social Security

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

Section 8: Medicare

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

**ARTICLE IV  
LEAVES**

Section 1: Vacation

A. Accrual

All employees shall accrue vacation time in accordance with the following:

During Years of Continuous Service	Hours of Accrual Per Month of Service	Annual Accrual	Maximum Accrual Accumulation
1-5	6-2/3	80	160
6-10	10	120	240
<b>11</b>	10-2/3	128	256
12	11-1/3	136	272
13	12	144	288
14	12-2/3	152	304
15+	13-1/3	160	320

Notwithstanding anything in this section to the contrary, employees do not accrue vacation time during the first six months of employment. Vacation time shall be deemed credited during this period with accrual affected upon the employee's monthly anniversary date. Vacation accrual may be accumulated to not more than the appropriate maximum accumulation except upon the written request of the affected employee and approval of the

City Manager. In this event, an employee may be permitted to exceed the maximum accumulation by an amount not in excess of his accrual for a four-month period.

Previous law enforcement experience during which vacation was accrued, may be considered as continuous service for the purpose of computing vacation rate upon the written request of the Chief of Police and approval of the City Manager.

B. Use

It is the intent that vacation time be used in time increments sufficiently long enough to permit the employee an adequate period of rest. The use of vacation time in less than weekly increments is to be discouraged. In no event may vacation be taken in increments of less than one hour nor for a period exceeding the number of accrued whole days, except upon the recommendation of the department director. The City Manager may authorize an eligible employee to incur a negative vacation balance of up to 40 hours. Vacation shall not be taken during the first six months of service.

Vacations shall be taken at times determined by the department director with due regard for the wishes of the employee and for the needs of the service.

In the event, one or more City holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave and the vacation leave shall be extended accordingly.

No person shall be permitted to work for compensation for the City during his/her vacation except with prior approval of the City Manager.

C. Buy-Back

Each employee shall be allowed to buy back up to 40 hours of vacation in November of each fiscal year provided a minimum of 100 hours is retained after cash-out. The CPOA President will submit the requests the first payroll period in November. Vacation hours shall be cashed out at the current FLSA regular rate.

D. Accumulated Hours at Termination of Employment

No person whose employment is terminated before the completion of six calendar months of continuous service shall be entitled to any vacation or pay in lieu thereof. An employee who terminates after six months or more of continuous employment shall be paid for all credited or accrued vacation at the current FLSA regular rate.

## Section 2: Holidays

Each unit member shall receive the following 10 hour holidays:

New Year's Day  
Martin Luther King's Birthday Presidents' Day  
Memorial Day  
Independence Day Labor  
Day Columbus Day  
Veterans' Day (To be observed as the second Monday in November)  
Thanksgiving Day

Christmas Eve  
Christmas Day  
New Year's Eve

If an employee is scheduled to work or be off on a regularly scheduled day off on one of the above fixed holidays, the Police Chief shall assign the employee another day off within the same work period contiguous to his/her regularly scheduled days off unless the employee and Police Chief mutually agree to another day off during that work period.

- a. All members shall receive 120 hours of holiday credit at the beginning to each fiscal year on July 1. The holiday credit will be prorated, with one-month equal to 10 hours for members hired after June 30th. Holiday credit is earned from the 1st if hired by the 15th. If hired from the 16th through the 31st holiday credit is earned the next month.
- b. Holiday leave must be taken in the fiscal year earned and cannot be carried over. Holiday leave that is not taken as paid leave during the fiscal year will convert to cash paid at the employee's regular rate of pay.
- c. Holiday leave shall not be taken in increments of less than one hour.
- d. The taking of holiday leave is subject to prior approval of the appointing authority.
- e. On May 15th of each year, an employee may designate any portion of his/her accrued holiday credit, which he/she would like to be paid for in lieu of having time off. This notification shall be in writing and is irrevocable. Payment for the holiday time shall be made by June 30 of each year. In the event that an employee separates from service and has used/or been paid for holidays in excess of 10 earned hours per month, the employee shall reimburse the city for the overage.
- f. **For the fiscal year 2016/2017** all members will receive the prorated balance of the 120 holiday hours (reminder of holiday accrual for the fiscal year ending June 30, 2017) credited to the members Holiday Leave bank.

The City will create a separate non-PERSable bank for members who have an excess of 120 hours of holiday time (i.e., holiday time accrued in prior fiscal years). Those excess hours will then be transferred (one time transfer) to the new non-PERSable bank. Members may use the non-PERSable bank hours as time off. All time off shall be subject to prior approval of the appointing authority. On May 15, 2017 and May 15, 2018 an employee may designate any portion of his/her remaining non-PERSable bank hours, which he/she would like to be paid for in lieu of having time off. This notification shall be in writing and is irrevocable. The non-PERSable bank will sunset June 30, 2018. All members must have a zero balance of hours no later than June 30, 2018. Any remaining balance as of June 30, 2018 will be paid in cash at the employee's regular rate of pay.

### Section 3: Sick Leave

#### A. Accrual

Sick leave with pay shall be granted by the appointing authority at the rate of eight hours for each calendar month of service. Sick leave shall not be considered as a privilege, which an

employee may use at his discretion, but shall be allowed only in case of necessity and actual sickness or disability. Unused sick leave shall be accumulated at the rate of 96 hours a year. There shall be no limit on the amount which can be accumulated.

**B. Sick Leave Reports**

In order to receive compensation while absent on sick leave, the employee shall notify his/her immediate superior or the City Manager prior to or within four hours after the time set for beginning his/her daily duties, or as may be specified by the Department Director. When absence is for more than three work days, the employee shall file a physician's certificate or a personal affidavit with the City Manager, stating the cause of the absence.

**C. Family Attendance**

Employees shall have the option of using sick leave for attendance to family members, or the employee may request to take leave without pay for attendance to family members. Family members include employee's father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, wife, husband, child, grandparent, grandchild or domestic partner.

**D. Accumulated Hours at Termination**

Except as otherwise herein stated, accumulated sick leave is lost when the employee is terminated. In no event shall employees who have not worked for the City as regular salaried employees for more than five years be entitled to use sick leave to defer termination of their employment by the City nor shall they be compensated for sick leave upon such termination for any reason including but not limited to retirement. An employee who is permanently disabled from performing the duties of the position shall be retired upon that fact being established. In the event such employee applies for and consents to such retirement, then upon the retirement being accomplished, the employee shall be compensated for his/her accumulated unused sick leave (if and only if he/she has five years of regular paid City service) by payment in a lump sum. That sum is determined as follows:

The number of days of sick leave accrued, multiplied by his/her gross daily earnings (including certification and education pay) at the time of termination, multiplied by a percentage as follows:

If employed more than five years, but less than ten	10%
If employed ten years, but less than fifteen	25%
If employed fifteen years or more	50%

Sworn personnel, who, by state law are entitled to up to one year of salary while temporarily disabled due to job incurred injuries, shall not be entitled to use sick leave to defer their retirement for disability. Such personnel are not entitled to use sick leave for job-incurred injuries. With regard to such personnel, they shall be retired as soon as it is determined that they are permanently disabled from performing the duties of their position. Upon it being determined that such a person is permanently so disabled, if he/she immediately applies for and consents to his/her retirement, then and only then shall he/she be entitled to payment for accumulated sick leave. Such payment shall be computed as described above.

A regular salaried employee who has worked for the City at least five years and has accumulated sick leave who terminates his/her employment for any reason shall be paid as full compensation for such sick leave as computed above.

The City shall provide members of the unit who are granted a service retirement (rather than disability retirement), a sum equal to the cash value of 75% of the employee's accumulated sick leave after 20 cumulative years of service with the City. The cash value shall be computed at the employee's FLSA regular rate in existence at the time the monies are disbursed.

E. Sell Back Program

Each represented employee shall be allowed to sell back up to 96 hours of sick leave per fiscal year. The requirements for the buyback are as follows:

1. Employee must have a minimum of 500 hours to participate in the program; and
2. A minimum of five (5) years' service; and
3. Employee can only buy back the amount of unused hours accumulated in any one fiscal year; and
4. The employee shall be compensated at their FLSA regular rate at the time of request; and
5. This item shall be considered on a fiscal year basis.
6. One time each fiscal year, during the first week of November, the buy-back requests will be submitted by the CPOA President to payroll.

Section 4: Bereavement Leave

Up to 40 hours per occurrence, two occurrences each fiscal year, may be taken by full-time employees with pay as bereavement leave in the case of the death of the eligible employee's father, step father, father-in-law, mother, step mother, mother-in-law, brother, sister, wife, husband, child, step child, grandchild, grandparent or grandparent of spouse. These hours shall not be eligible to be carried forward beyond the fiscal year. The City reserves the right to require reasonable verification of the need for such leave.

Section 5: Leave Usage

A. An employee, who is granted paid leave time off, other than sick leave, may choose which leave bank to take such leave from, namely vacation, holiday or compensatory time. Paid leave shall be scheduled off in accordance with procedures established by the Police Chief.

B. School Resource Officer (SRO)

- Generally shall schedule to be off during the year while school is not in session. This typically will include Winter Holidays (two weeks), Spring Break (one week), Summer Break (two weeks).
- Additionally, SRO's shall schedule to be off during school recognized holidays and "In Service" days when students are not attending school (approximately 15 days) unless previously arranged with their Supervisor for specialized training or other needs beneficial to the City.
- It is agreed that compensation for the days off outlined in this section shall be compensated via the use of compensatory time accrued as a result of the nine-hour

workdays or their Holiday Leave bank.

- o School Resource Officer's acknowledge that additional vacation time of 1- 4 weeks should be scheduled during summer break and will need to be coordinated with one another so that at least one SRO is working while summer school is in session.

#### Section 6: Cash out of Leave Accruals

To the extent authorized by this MOU, members may regularly cash out a certain amount of leave accruals. Notwithstanding sections of this MOU that reference the cash out rate for leave accruals, the rate at which all leave accruals shall be cashed out shall be the current "regular rate of pay" as defined by the Fair Labor Standards Act. Regular rate of pay includes base rate of pay plus any applicable incentive and/or premium pays, such as certificate pay, educational incentive, shift differential, special assignment pay, etc. All cash outs will be a separate non payroll check.

### **ARTICLE V GENERAL PROVISIONS**

#### Section 1: Promotional Procedure

The following shall only apply to Police Sergeant Promotions:

- A. The rule of four shall be followed for each promotional list when there is only one vacancy. When multiple vacancies exist, two names shall be added to the list for each additional vacancy.
- B. Written exams shall be validated tests procured from such sources as CPS and WRIB and be designed for the positions in question.
- C. The Human Resource Division shall be the only source of information about the applicants to the outside oral raters. They shall only give information contained in the evaluation and job application/resume. That information shall be given to the raters on the day of the interview.
- D. The oral and written examinations shall be weighted equally.
- E. No one shall be considered unless that person's previous annual evaluation is rated at "competent" or better.
- F. Human Resources shall notify all candidates of the breakdown of their scores following completion of the testing process. The date those scores shall be available shall be listed in the Notice of Oral Exam. Candidates desiring to review the arithmetic calculations of their scores for accuracy shall file a written request with the Human Resources Division by 5:00 p.m. the first business day after the date that their scores are made available as described above.

- G. If an error is found, it will be corrected. In case of a dispute between the promotional candidate and the Human Resources Division, the candidate may appeal to the City Manager. The City Manager's decision shall be final.
- H. Oral board rating sheets will not be disclosable or appealable except for mathematical computation or violation of no-contact provision.
- I. Promotional lists shall expire one year after they are constituted.

## Section 2: Procedure for selection of Corporal/Detective

Appointments to positions of corporal or detective shall be made by the Chief of Police, in his discretion, from a list of four candidates per position. These four candidates shall be selected from the pool of applicants by the three division commanders, based upon the commanders' overall assessment of the candidate's ability to successfully perform in the position, as determined by input from sergeants, personnel evaluations, current job performance, training, and experience.

## Section 3: Work Schedule

A regularly scheduled shift is one where the employee has received a minimum of one week's advance written notice.

Normally assigned shifts shall be as follows:

- A. Patrol Division - six 12-hour and one 8-hour shift per pay period.
- B. All others:
  - 1. Non-sworn - four 10-hour shifts per work period.
  - 2. Sworn - sixteen 10-hour shifts per work period.
    - a. SRO's shall have an optional work schedule of five (5) days a week, nine (9) hours per day as agreed by all parties. The purpose of this schedule is to replicate, as much as possible, the schools calendar so as to facilitate SRO's availability during school hours.
    - b. The SRO's acknowledge they will be required to attend additional school functions such as dances, graduation, sporting events, etc. Scheduling and compensation of such events shall be arranged between the SRO's and their supervisor and may include work schedule adjustments, compensatory time, or overtime.

There shall be no mandatory pre-planned rotation except for K-9 and special assignment to Detective/Sergeant.

#### Section 4: Nepotism

This policy applies to all City employees, appointed officials, and elected officials and includes any relative defined as father, father-in-law, step-father, mother, mother-in-law, step-mother, foster parent, grandparent, grandchild, brother, brother-in-law, step-brother, sister, sister-in-law, step-sister, wife, husband, child, step-child, foster child, adopted children, son-in-law, daughter-in-law, first cousin, niece, nephew, aunt, uncle and other relatives or employees living in the same household.

For purposes of this policy, 'immediate family' includes the applicant or employee's spouse and any lineal descendants of the applicant or employee or of the applicant or employee's spouse, whether natural or legally adopted.

This policy shall not affect employees employed by the City in the positions held as of July 1, 2003. Applicants will not be hired and employees will not be promoted into any position where the result would be that one person would:

Be supervised by or be in the chain of command of a relative. Participate in making, or advising on, employment decisions concerning a relative.

For purposes of this policy, employment decisions shall be defined as those affecting hiring, promotion or discipline. Be employed in the same department as a relative if, for reasons of supervision, morale, safety or security, it is determined that the work involves potential conflicts of interest. Be in one of the following or have a member of the applicant's or the employee's immediate family in one of the following positions: City Manager, Department Head or member of the City Council.

If a permanent full-time employee is denied a promotion or transfer under this policy, the employee may appeal such action to the City Manager within three (3) business days of the date the employee receives written notification of said action. Such appeal shall be submitted in writing, stating the reason(s) that the employment decision should be rescinded. The parties shall select and utilize an arbitrator. The arbitrator's decision shall be considered final and binding with no further administrative appeal rights.

#### Section 5: Maintenance of Terms & Conditions of Employment

All benefits enjoyed by bargaining unit members on the effective date of this MOU, and which have not specifically been amended by this MOU, shall remain in effect. If a court determines the City is required to change a benefit during the term of the MOU, the City shall meet and confer with the Association regarding the implementation of an alternative benefit of equal or similar value.

All "side letter" agreements between the City and the Police Officers' Association that have been entered into prior to the adoption of this MOU by the City Council shall automatically expire on the date this agreement is adopted. Any increases in compensation and/or benefits that were delayed, postponed or provided by those side letter agreements are hereby waived.

Section 6: Savings Clause

Should any provision of this MOU be held invalid by a court of competent jurisdiction, then the remaining provisions shall remain in full force and effect.

Section 7: Reopener

No further reopener will be considered unless both the CPOA and the City mutually agree to reopen the existing contract.

Section 8: Council Action

If this agreement is acceptable to the City Council, then the City Council shall adopt the agreement by appropriate action at the first scheduled meeting following the signing of this agreement.

Section 9: Association Release Time

The City shall provide Association Board members up to 200 hours per calendar year of release time to attend training, conferences, meetings or events related to the performance of Association business. This release time shall not include those hours otherwise granted to association representatives by California Government Code section 3505.3.

The Association recognizes it has the responsibility to give the City reasonable advance notice when requesting release time. The City reserves the right to deny any release time that would unduly impair the mission of the Department.

FOR CITY OF COLTON:



Richard A. DeLaRosa, Mayor

FOR CPOA:



CPOA, Representative

DATED: \_\_\_\_\_

5/24/17

DATED: \_\_\_\_\_

5/24/17