

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF NEWPORT BEACH
AND
THE NEWPORT BEACH LIFEGUARD MANAGEMENT
ASSOCIATION



January 1, 2022 through December 31, 2025

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
NEWPORT BEACH AND THE NEWPORT BEACH LIFEGUARD
MANAGEMENT ASSOCIATION**

This Memorandum of Understanding (hereinafter referred to as "MOU") is entered into with reference to the following:

PREAMBLE

Authorized representatives of the CITY OF NEWPORT BEACH (hereinafter referred to as "CITY") and authorized representatives of the NEWPORT BEACH LIFEGUARD MANAGEMENT ASSOCIATION (hereinafter referred to as "NBLMA") a recognized employee organization, met and conferred, exchanging various proposals concerning wages, hours, fringe benefits and other terms and conditions of employment of employees represented by NBLMA (hereinafter referred to as "EMPLOYEES") for the period of January 1, 2022 through December 31, 2025.

SECTION 1. GENERAL PROVISIONS

A. Duration of Memorandum

The terms of this MOU are to remain in full force and effect from January 1, 2022 through December 31, 2025.

B. Scope

1. All present written rules and currently established practices and employee rights, privileges and benefits that are within the scope of representation shall remain in full force and effect during the term of this MOU unless specifically amended by the provisions of this MOU, or in the case of the Department's Standard Operating Procedures (SOPs) falling within the scope of representation, the City has given notice to the Association and, upon request, met and conferred on any proposed changes which fall within the scope of representation.

When the Department proposes to change any SOP departmental rule or regulation, it will provide a copy of such change to the Association no less than seven (7) days prior to implementation of the proposed change. If such proposed change materially impacts any matter within the scope of representation, then the parties agree to meet and confer over such impact.

2. Pursuant to this MOU, the City reserves and retains all its inherent exclusive and non-exclusive managerial rights, powers, functions and authorities ("Management Rights") as set forth in Resolution No. 2001-50.

C. Conclusiveness

Except as provided for in this agreement, this MOU contains all the covenants, stipulations and provisions agreed upon by the parties.

D. Savings

Should any part of this MOU or any provision herein contained be rendered or declared invalid, by reason of any existing or subsequently enacted Legislation, or by decree of a Court of competent jurisdiction, such invalidation of such part or portion of this MOU shall not invalidate the remaining portion hereto, and same shall remain in full force and effect.

E. Other Terms and Conditions

Except as to those matters expressly covered by this MOU, all terms and conditions of employment may be changed or amended after meeting and conferring, in good faith.

Unless specifically provided in this MOU, Part-time members shall only receive those benefits in this MOU which are specifically set forth as applicable to Part-time members.

F. Unit Classification Titles

Unit classifications are listed in Exhibit A.

For all compensation comparison purposes, actual job duties, and not classification titles, will be utilized.

SECTION 2. COMPENSATION

A. Salary Adjustments

Base salary increases for all NBLMA represented classifications shall be as follows and as specified in Exhibit A:

Effective the first day of the pay period following January 1, 2022, base salaries will be increased by two percent (2.0%) for all members of the bargaining unit. Individuals must be employed by the City on the first day of the pay period following City Council adoption to qualify for retroactive payment of the cost-of-living adjustment (COLA).

Effective the first day of the pay period following January 1, 2023, base salaries will be increased by two percent (2.0%) for all members of the bargaining unit.

Effective the first day of the pay period following January 1, 2024, base salaries will be increased by two percent (2.0%) for all members of the bargaining unit.

Effective the first day of the pay period following January 1, 2025, base salaries will be increased by two percent (2.0%) for all members of the bargaining unit.

B. One-Time Lump Sum Payment

All bargaining unit members in paid status for the entirety of the first full pay period following the adoption of the 2022-2025 MOU by the City Council will receive a signing bonus of \$2,000. The parties intend and understand that this lump sum payment is non-pensionable and will not be reported to CalPERS. The parties also agree that this payment is intended to be specific to the pay period in which it is paid and is to be considered part of the FLSA regular rate for this pay period only.

C. Special Assignment Pay

1. Boat Pay: Lifeguard Captains certified for and assigned to boat operations shall receive additional compensation of 2.5% of base salary for their job classification. Boat assignment pay will be assigned to a qualified Captain and compensated only when performing boat duties.

D. Overtime

Unit employees shall receive overtime compensation for all hours worked in excess of forty (40) in any work week. Time worked shall be rounded to the nearest quarter of an hour (seven (7) minutes or less round down; eight (8) minutes or more round up). Paid time off shall be considered time worked for the purposes of calculating MOU overtime.

The rate at which MOU overtime (overtime which is in addition to that which is required by the FLSA) is paid does not include any contributions to the City's Cafeteria Plan as set forth in Section 4 - Fringe Benefits of the MOU.

Unit employees shall have the option of requesting to earn compensatory time off (CTO) for all overtime, including training time, in lieu of overtime compensation. All use of compensatory time off shall be subject to existing City rules. The time during which an employee may use accrued CTO is subject to approval by the department head or *their* designee with due regard for the wishes of the employee and the need to provide service. However, an employee wishing to use *their* accrued CTO shall provide the City with reasonable notice of such request. A request to use CTO without reasonable notice may still be granted within the discretion of the supervisor or manager responsible for considering the request. Notwithstanding this paragraph, the parties agree that employees cannot use CTO from June 15 through Labor Day each year.

The maximum accrual of CTO shall be eighty (80) hours. Effective January 1, 2020, an employee may only accrue up to eighty (80) hours of CTO per calendar year.

E. Uniforms

The City shall pay the entire cost of providing full-time and part-time NBLMA members with each component of the required NBLMA uniforms. The required NBLMA uniform includes uniform pants, uniform shirts, safety shoes, badges and insignias, uniform jackets and liners, belts, dive equipment, foul weather gear, personal floatation device and helmet. The City shall not be responsible for providing employees with socks, underwear, cap, workout shoes, or other clothing. As permissible by law and subject to the provisions and limitations under the Public Employees' Retirement Law, including restrictions on reporting uniform allowance as pensionable compensation for "non-classic" members hired after January 1, 2013, the City shall report the value of provided uniforms at \$838 per year (\$32.23 per pay period) in accordance with PERS requirements. The parties agree the reported value of uniforms is intended to reflect clothing such as pants, shirts, jackets, and related attire and excludes health and safety related equipment.

F. Call Out

Call out compensation shall be in accordance with the following provisions:

1. All emergency call out time shall be calculated to the nearest one quarter (1/4) hour of time worked.
2. A minimum of two (2) hours (including travel time). If the two hours causes the employee to exceed forty (40) hours in the week, the rate of pay shall be at one and one half (1 1/2) times the employee's rate of pay. Employees will be considered "on duty" at the beginning of each emergency call out for a minimum of two (2) hours or until completed. Employees will not be compensated for additional call outs that occur during the initial two (2) hour response period, or during normal working hours.

G. Scholastic Achievement Pay

Employees in the classification of Lifeguard Captain shall receive two percent of base salary (2%) if they receive a Bachelor's Degree. Employees in the classification of Lifeguard Battalion Chief shall receive one percent (1%) of base salary if they receive a Master's Degree.

A "degree" shall be awarded by an institution accredited by the State of California, the United States Department of Education, the Council for Higher Education, or the Distance Education Training Council.

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

H. Night Standby

A full-time or part-time employee assigned to standby duty (as defined by Department Policy) for purposes of being on call to handle emergency situations arising at times other than during normal working hours shall be guaranteed two and a half (2.5) hours of pay at the employee's rate of pay for each calendar day of such standby duty. Employees shall have the option of receiving compensatory time off at straight time in lieu of pay for night standby. This compensatory time off is part of same bank which is subject to the maximum accrual of compensatory time off set forth in Section 2D above.

I. Move-up Pay

Temporary upgrading shall be defined as the temporary assignment of an employee to work in a job classification, which is assigned to a salary schedule higher than *their* regular job classification.

Employees temporarily upgraded to the following job classifications and equivalent positions shall receive a five percent (5%) pay differential over their rate of pay for all time worked in the higher job classification if they are assigned to work in the higher job classification for a period of one (1) working hour or longer.

Lifeguard Captain

Lifeguard Battalion Chief

All holiday, flex leave, and other paid leave shall be paid at the employee's rate of pay.

Assignments to higher rated classifications shall be made at the sole discretion of the City.

J. Move-down Pay

Employees who work down - a temporary assignment of an employee to work in a job classification, which is assigned to a salary schedule lower than *their* regular job classification (i.e., a Battalion Chief who moves down as a Lifeguard Captain or a Lifeguard Captain who moves down as a Lifeguard Officer) shall be paid at the top step of the classification to which the employee moved down unless the top step of the moved down classification is higher than their current rate of pay. In that case, they will be paid at the regular pay rate.

K. Court Standby Pay

All NBLMA members who, pursuant to subpoena compelling attendance to testify to acts, observations, or omissions occurring in the course and scope of employment or at the direction of their supervisor, are required, while off- duty, to remain within a certain response time from court, shall be on "court standby time" and shall receive four hours of pay for each eight hours of court standby time. NBLMA members shall, when required to appear in court pursuant to a subpoena or the direction of their supervisor to testify at to matters relating to their employment with the City, be on duty and shall be paid accordingly. Members shall

remit all witness fees received for testifying or appearing on any matter for which the member is eligible to receive court standby time.

L. Longevity Pay

Employees in the Unit shall receive Longevity Pay as follows:

Years of Service	Longevity Pay
16 but less than 20	1.0%
20 but less than 25	1.5%
25 and over	2.5%

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

M. Salary Differential

The Training Lifeguard Captain shall be assigned to routinely and consistently train employees and oversee the Junior Lifeguard Program. Training Lifeguard Captains shall receive an additional 7.5% of base pay over Line Lifeguard Captains. Assignment as a Training Lifeguard Captain is for one year unless extended by the Assistant Chief, Lifeguard Operations.

SECTION 3. LEAVES

A. Flex Leave

1. Basis for Accrual

Full-Time Members:

Regular full-time employees enrolled in the Flex Leave program will earn leave in accordance with the following schedule:

Years of Continuous Service in the Unit	Accrual per pay period/hrs	Maximum Hours Annual Accrual
1 but less than 5	5.54	288.08
5 but less than 9	6.15	319.80

9 but less than 12	6.77	352.04
12 and over	7.69	399.88

Part-Time Members:

Regular part-time employees shall be enrolled in the Flex Leave program and accrue leave time at the rate of .04 hours for each hour worked.

2. Limit on Accumulation and Cash Out of Flex Leave

Employees shall be entitled to accrue flex leave up to a maximum of fifty-two (52) times the member's bi-weekly accrual rate. This limit on accumulation shall apply to both full-time and part-time members. Earned flex leave in excess of the maximum permitted is currently paid bi-weekly at the member's hourly rate of pay ("spillover pay"). Members shall be eligible for flex leave spillover pay only if they have utilized at least eighty (80) hours of flex leave the previous calendar year. Employees who have not utilized eighty (80) hours of leave for full time and sixty (60) hours for part-time the prior calendar year shall not be eligible for "spillover pay". Once an employee accrues the maximum accrual limit, *they* will not accrue additional flex leave until *they* use leave and reduce *their* accrual below the accrual limit.

Employees shall have the option of converting accrued Flex Leave to cash on an hour-to-hour basis subject to the following: on or before the pay period which includes December 15 of each calendar year, an employee may make an irrevocable election to cash out accrued flex leave which will be earned in the following calendar year. The employee can elect to receive the cash out in the pay period which includes June 30 and the pay period which includes December 15 for those Flex Leave benefits that have been earned during that portion of the year. In no event shall the flex leave balance be reduced below one hundred and sixty (160) hours.

3. Method of Use

Flex leave may not be taken in excess of that actually accrued. The Department Director or designee shall approve all requests for flex leave taking into consideration the needs of the Department, and whenever possible the seniority and wishes of the employee. Flex leave may be granted on an hourly basis.

B. Use of Flex Leave

Level A staffing shall run from June 15th through Labor Day. During this period of time, full-time and part-time NBLMA personnel may be limited to a total of forty (40) hours usage of flex leave requiring backfill. Additional flex leave during this period may be approved if, in the opinion of management, adequate staffing levels can be maintained.

C. Family Sick Leave

Unit employees shall be entitled to use an amount of time equal to one-half (1/2) of their annual leave accrual for an illness of a family member as defined below which requires the presence of the employee. Such time may be taken from the employee's annual leave accrual or leave bank, at the employee's choice. Leave shall be administered in accordance with the provisions of the Employee Policy Manual (EPM)

For purposes of family sick leave, family member shall mean spouse, parent, (parent shall mean biological, foster, or adoptive), child (child shall mean biological, adopted, or foster child; a stepchild; a legal ward; or a child of an employee standing in local parentis), grandchild, grandparent, sibling or as modified by State or Federal law.

D. Holiday Time

As described in the following paragraph, employees shall receive leave or pay for the following holidays:

<i>New Year's Day</i>	<i>January 1</i>
<i>Martin Luther King Day</i>	<i>January – 3rd Monday</i>
<i>Washington's Birthday</i>	<i>February – 3rd Monday</i>
<i>Memorial Day</i>	<i>May – Last Monday</i>
<i>Floating Holiday*</i>	<i>July 1</i>
<i>Independence Day</i>	<i>July 4</i>
<i>Labor Day</i>	<i>September – 1st Monday</i>
<i>Veterans Day</i>	<i>November 11</i>
<i>Thanksgiving Day</i>	<i>November – 4th Thursday</i>
<i>Friday After Thanksgiving</i>	<i>November – 4th Friday</i>
<i>Christmas Eve</i>	<i>December 24 (last ½ of workday)</i>
<i>Christmas Day</i>	<i>December 25</i>
<i>New Year's Eve</i>	<i>December 31 (last ½ of workday)</i>

Full-time employees receive 96 hours of holiday time per year, 1/26th (3.69 hours) per pay period which will be paid or accrued each pay period. Part-time employees receive 72 hours of holiday time per year, 1/26th (2.77 hours) per pay period which will be paid or accrued each pay period. When an employee becomes an NBLMA member, *they* shall select to receive either pay, leave or a combination of both pay and leave for the holidays. When a part-time employee in the unit is appointed to a full-time classification, *they* shall select to receive either pay, leave or a combination of both pay and leave for the additional twenty-four (24) hours.

To the extent permitted by law, this holiday compensation shall be reported to PERS as special compensation *for those employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to the holidays and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(5) and 571.1(b)(4) Holiday Pay.*

E. Bereavement Leave

Bereavement Leave shall be defined as the necessary absence from duty by an employee because of the death or terminal illness in *their* immediate family. NBLMA full-time members shall be entitled to 40 hours bereavement leave per incident (terminal illness followed by death is considered one incident) and 32 hours bereavement leave for part-time members. Leave hours need not be used consecutively, but should occur in proximate time to the occurrence, but no more than 90 days from the date of the death of the family member. Immediate family shall mean an employee's father, stepfather, mother, stepmother, brother, sister, spouse/domestic partner, child, stepchild and grandparent, and the employee's spouse/domestic partner's father, mother, brother, sister, child, and grandparent. An employee requesting bereavement leave shall notify *their* supervisor as soon as possible of the need to take leave.

Probationary Employees. An employee serving *their* initial probationary period who takes leave under this section who for any reason terminates *their* employment prior to the completion of such probationary period shall have *their* final paycheck reduced by the value of the leave taken.

Section 4. FRINGE BENEFITS

A. Insurance

1. Benefits Information Committee

The City has established a Benefits Information Committee composed of one representative from each employee association and up to three City representatives. The Benefits Information Committee has been established to allow the City to present data regarding carrier and coverage options, the cost of those options, appropriate coverage levels and other health care issues. The purpose of this Committee is to provide each employee association with information about health care issues and to receive timely input from associations regarding preferred coverage options and levels of coverage.

2. City Contribution

The City has implemented an IRS qualified Cafeteria Plan. The City contribution toward the Cafeteria Plan shall be as set forth below. Employees shall have the option of allocating Cafeteria Plan contributions towards the City's existing medical, dental and vision insurance/programs. The City and NBLMA will cooperate in pursuing additional optional benefits to be available through the Cafeteria Plan. Any unused Cafeteria Plan funds shall be payable to the employee as taxable cash back. Employees shall be allowed to change coverages in accordance with plan rules and during regular open enrollment periods.

a. Full-Time Members:

The City's contribution towards the Cafeteria Plan is \$1,645 (plus the minimum CalPERS participating employer's contribution). Full time NBLMA members who do not want to enroll in any medical plan offered by the City must provide proof of minimum essential coverage ("MEC") through another source (other than coverage in the individual market, whether or not obtained through Covered California) and execute an opt-out agreement releasing the City from any responsibility or liability to provide medical insurance coverage on an annual basis.

Employees hired prior to *September 28, 2019* who elect to opt out of medical coverage offered by the City because they have provided proof of minimum essential coverage ("MEC") through another source (other than coverage in the individual market, whether or not obtained through Covered California) will receive \$1,000 per month in taxable cash. For these same employees, if they elect medical coverage and spend less than the City

contribution provided above, those unused cafeteria plan funds shall be paid to the employee as taxable cash.

Employees hired on or after *September 28, 2019* who elect to opt out of medical coverage offered by the City because they have provided proof of minimum essential coverage ("MEC") through another source (other than coverage in the individual market, whether or not obtained through Covered California) shall receive \$500 per month in taxable cash. For these same employees, if they elect medical coverage and spend less than the City contribution provided above, there shall be no cash back provided.

If, prior to December 31, 2025, a court of competent jurisdiction or formal legal opinion determines that the City's cafeteria benefit plan is a bona fide plan such that the City's contributions towards medical premiums will not be included in the employee's regular rate of pay under the Fair Labor Standards Act, the City will increase the monthly contribution towards the Cafeteria Plan by a total of \$200 over the remaining term of the agreement. The \$200 will be prorated annually over the remaining term of the agreement, beginning with the first day of the month following the day it becomes bona fide. Example: If the cafeteria benefit plan becomes bona fide at the beginning of the third year of the agreement, the City will increase the monthly contribution by \$100 per month in January of Year 3 and by an additional \$100 per month (total \$200) in January of Year 4. If the cafeteria benefit plan becomes bona fide at the beginning of the second year of the agreement, the \$200 will be spread evenly over the remaining three years of the agreement, or at \$67 per month in Year 2, another \$67 per month in Year 3 and another \$67 per month in Year 4. If the City's cafeteria benefit plan is not determined to be a bona fide plan as outlined above by a court of competent jurisdiction or formal legal opinion prior to December 31, 2025, this paragraph will become ineffective and the City's obligation to increase the cafeteria contribution by \$200 will cease on December 31, 2025.

b. Part-Time Members:

Part-time NBLMA members receive a monthly cafeteria benefit of \$601. For part-time employees enrolled in medical plans, the cafeteria amount is inclusive of the PERS designated minimum medical insurance contribution.

For employees who do not enroll in a medical plan there shall be no optout cafeteria benefit. Part-time time NBLMA members who do not want to enroll in any medical plan offered by the City must provide proof of minimum essential coverage ("MEC") through another source (other than coverage in the individual market, whether or not obtained through *Covered California*).

3. Dental Insurance

The existing or comparable dental plans shall be maintained as part of the City's health plan offerings for full-time employees as agreed upon by the Benefits Information Committee.

4. Vision Insurance

The existing or a comparable vision plan shall be maintained as part of the City's health plan offerings as agreed upon by the Benefits Information Committee for full-time employees.

B. Additional Health Insurance Programs

1. IRS Section 125 Flexible Spending Account

Section 125 of the Internal Revenue Code authorizes an employee to reduce taxable income for payment of allowable expenses such as childcare and medical expenses. The City shall maintain a "reimbursable account program" in accordance with the provisions of Section 125 of the Internal Revenue Code, pursuant to which a full-time Association member may request that medical, childcare, and other eligible expenses be paid or reimbursed by the City out of the employee's account. The base salary of the employee will be reduced by the amount designated by the employee for reimbursable expenses.

2. Disability Insurance

The City shall provide Short-Term (STD) and Long-Term (LTD) disability insurance to regular full-time employees with the following provisions:

	Short-Term Disability	Long-Term Disability
Benefit Amount	66.67% of covered	66.67% of covered
Maximum Benefit	\$1,846 weekly	\$15,000 monthly
Waiting Period	30 calendar days	180 calendar days

Employees shall not be required to exhaust accrued paid leaves prior to receiving benefits under the disability insurance program. Employees may not supplement the disability benefit with paid leave once the waiting period has been exhausted.

Employees shall pay one percent (1%) of base salary as a post-tax deduction for this benefit. *Effective the first premium payment after the City Council adoption of the 2022-2025 MOU, the City will no longer require unit members to pay one percent (1%) of base salary for this benefit.*

3. Life Insurance

The City shall provide life insurance for full-time employees in \$1,000 increments equal to one times the employee's annual salary up to a maximum of \$50,000. At age 70 the City-paid life insurance is reduced by 50% of the pre-70 amount (i.e., a maximum of \$25,000). This amount remains in effect until the employee retires from City employment. Employees may also purchase supplemental life insurance at their own cost.

C. Employee Assistance Program

The City shall provide an Employee Assistance Program (EAP) for Association members through a properly licensed provider. Association members and their family members may access the EAP subject to provider guidelines.

D. The Retirement Benefit

1. Retirement Benefit Formula

The City contracts with PERS to provide retirement benefits for its employees. Pursuant to prior agreements and state mandated reform, the City has implemented first, second and third tier retirement benefits:

Tier 1: For employees enrolled by the City of Newport Beach as Safety

members on or before November 23, 2012, the retirement formula shall be 3%@50 calculated on the basis of the single highest year.

Tier 2: For classic member (as defined in the Public Employees' Pension Reform Act) employees enrolled in CalPERS by the City of Newport Beach as Safety members on or after November 24, 2012, the retirement formula is 2%@50. For these same employees, final compensation will be based on the highest annual average compensation earnable during the three consecutive years of employment immediately preceding the effective date of *their* retirement or any other three consecutive year period chosen by the employee as set forth in Government Code section 20037.

Tier 3: For employees enrolled by the City of Newport Beach as Safety members on or after January 1, 2013 who are new members as defined in the Public Employees' Pension Reform Act), the retirement formula shall be 2.7%@57 provided for by the Public Employees' Retirement Law at Government Code section 7522.25(d).

For these same employees, final compensation will be based on the highest annual average compensation earnable during the three consecutive years of employment immediately preceding the effective date of *their* retirement or any other three consecutive year period chosen by the employee as set forth in Government Code section 7522.32(a).

The City's contract with PERS also provides for:

- a. The military buy-back provision pursuant to Section 20930.3 of the California Government Code and the highest year benefit pursuant to Section 20042.
- b. The Level 4 1959 Survivor Benefits
- c. The pre-retirement option settlement 2 death benefit (Section 21548)

2. Employee Contributions

Tier 1 and 2 Employees: All unit members in Tiers 1 and 2 will pay the full 9% "safety member" contribution of PERS reportable earnings. This payment will be made on a pre-tax basis through payroll deduction pursuant to IRS Code Section 414(h)(2). This contribution will not be considered as

part of employee's "compensation earnable" under Government Code section 20636.

Unit members will, in addition to the 9% normal member contribution, contribute 4.6% of pensionable compensation toward retirement costs as permitted under Government Code §20516(f), for a total contribution of 13.6%.

Tier 3 Employees: The minimum statutory employee contribution for employees in Tier 3 is subject to the provisions of the Public Employees' Pension Reform Act (PEPRA) and equals 50% of the "total normal cost" as determined by PERS. The employee Safety rate is subject to change based on annual PERS actuarial valuations.

In addition to the statutorily required 50% contribution of total normal costs, Tier III employees shall contribute *an additional percentage* of pensionable compensation toward retirement costs pursuant to Government Code § 20516(), for a total contribution of 13.6%. *If future fiscal year member contribution rates for employees in Tier III change, the additional contribution made by the employee under 20516(f) will be increased or decreased accordingly so that the total employee contribution equals 13.6%, provided however, that the employee contribution shall never fall below the statutory required contribution.*

In the event PERS pension provisions for new or existing employees are modified by State or Federal legislation resulting in changes to previously negotiated terms, the parties agree to meet and confer to discuss appropriate changes to the MOU.

E. Retiree Health Benefits Program (Full-Time Classifications Only)

1. Background

In 2005, the City and all Employee Associations agreed to replace the previous "defined benefit" retiree medical program with a new "defined contribution" program. The process of fully converting to the new program will be ongoing for an extended period. During the transition, employees and (then) existing retirees have been administratively classified into one of *three* categories. The benefit is structured differently for each of the categories. The categories are as follows:

- a. Category 1 - Employees newly hired after January 1, 2006.
- b. Category 2 - Active employees hired prior to January 1, 2006, whose age plus years of service as of January 1, 2006 was less than 50 (46 for public safety employees).
- c. Category 3 - Active employees hired prior to January 1, 2006, whose age plus years of service was 50 or greater (46 for public safety employees) as of January 1, 2006.

2. Program Structure

This is an Integral Part Trust (IPT) Retiree Health Savings (RHS) Plan (formerly the Medical Expense Reimbursement Program "MERP"? and applies only to regular full-time NBLMA employees.

- a. For employees in Category 1, the program is structured as follows:

Each employee will have an individual RHS account for bookkeeping purposes, called "Employee Account." This account will accumulate contributions to be used for health care expenses after separation. All contributions to the plan are either mandatory employee contributions or City paid employer contributions, so they are not taxable to employees at the time of deposit. Earnings from investment of funds in the account are not taxable when posted to the account. Benefit payments are not taxable when withdrawn, because the plan requires that all distributions be spent for specified health care purposes.

Contributions will be in three parts.

Part A contributions (mandatory employee contributions): 1% of salary.

Part B contributions (employer contributions): \$2.50 per month for each year of service plus year of age (updated every January 1st based on status as of December 31st of the prior year).

Part C contributions (leave settlement as determined by Association):

The Association will determine the level of contribution for all employees it represents, subject to the following constraints. All employees within the Association must participate at the same level. The participation level should be specified as a percentage of the leave balance on hand in each employee's leave bank at the time of separation from the City.

For example, if the Association wishes to specify 50% of the leave balance as the participation level, then each member leaving the City or cashing out leave at any other time, would have the cash equivalent of 50% of the amount that is cashed out added to the RHS, on a pre-tax basis. The remaining 50% would be paid in cash as taxable income. Individual employees would not have the option to deviate from this breakout.

The Association has decided to participate in Part C contribution, at the level of zero percent (0%). This amount may be changed, on a *going forward* basis, as part of the future meet and confer process. However, the participation level must be the same for all employees within the Association. Additionally, the purpose and focus of these changes should be toward long-term, trend type adjustments. Due to IRS restrictions regarding "constructive receipt," the City will impose restrictions against frequent spikes or drops that appear to be tailored toward satisfying the desires of a group of imminent retirees.

Spillover pay is not eligible for Part C contributions.

Nothing in this section restricts taking leave for time off purposes.

Part A contributions may be included in PERS compensation. Part Band Part C contributions will not be included in PERS compensation.

Part A contributions begin upon enrolment in the program and are credited to each RHS Employee Account each pay period. Eligibility for Part B contributions is set at five years of vested City employment (i.e., five years at full time status). At that time, the City will credit the first five years' worth of Part B contributions into the Employee Account (interest does not accrue during that period).

Thereafter, contributions are made bi-weekly. Part C deposits, if any, will be made at the time of employment separation.

Each Employee has a right to reimbursement of medical expenses (as defined below) from the Plan until the Employee Account balance is zero. This right is triggered upon separation. If an employee leaves the City prior to five years employment, only the Part A contributions and Part C leave settlement contributions, if any, will be in the RHS Employee Account. Such an employee will not be entitled to any Part B contributions. The exception to this is a full-time employee, participating in the program, who leaves the City due to industrial disability during the first five years of employment. In such cases, the employee will receive exactly five years' worth of Part B contributions, using the employee's age and compensation at the time of separation for calculation purposes. This amount will be deposited into the employee's RHS account at the time of separation.

Distributions from RHS Employee Accounts are restricted to use for health insurance and medical care expenses after separation, as defined by the Internal Revenue Code Section 213(d) (as explained in IRS Publication 502) and specified in the Plan Document. In accordance with current IRS regulations and practices, this generally includes premiums for medical insurance, dental insurance, vision insurance, supplemental medical insurance, long term care insurance, and miscellaneous medical expenses not covered by insurance for the employee and *their* spouse and legal dependents - again only as permitted by IRS Publication 502. Qualification for dependency status will be determined by guidelines in IRC 152. If used for these purposes, distributions from the RHS accounts will not be taxable. Cash withdrawal for any other purpose is prohibited. Under recent IRS Revenue Ruling 2005-24, any balance remaining in the Employee Account after the death of the employee and *their* spouse and/or other authorized dependents (if any) must be forfeited. That particular RHS Employee Account will be closed, and any remaining funds will become general assets of the plan.

The parties agree that the City's Part B contributions during active employment constitute the minimum CalPERS participating employer's contribution (i.e., the CalPERS statutory minimum

amount) towards medical insurance after retirement. The parties also agree that, for retirees selecting a CalPERS medical plan, or any other plan with a similar employer contribution requirement, the required City contribution will be withdrawn from the retiree's RHS account.

- b. For employees in Category 2, the program is the same as for those in Category 1, with the following exception:

In addition to the new plan contributions listed above, current employees who fully convert to the new plan will also receive a one-time City contribution to their individual RHS accounts that equates to \$100 per month for every month they contributed to the previous "defined benefit" plan, to a maximum of 15 years (180 months). This contribution will be made only if the employee retires from the City and at the time of retirement. No interest will be earned in the interim.

Employees in Category 2 who had less than five years' service with the City prior to implementation of the new program will only receive Part B contributions back to January 1, 2006, when they reach five years total service.

- c. For employees in Category 3, the program is the same as for those in Category 2, with the following exception:

For employees in this category, the City will make no Part B contributions while the employees are still in the active work force. Instead, the City will contribute \$400 per month into each of their RHS accounts after they retire from the City, to continue as long as the employee or spouse is still living.

Each employee will contribute a flat \$100 per month to the plan for the duration of their employment to partially offset part of this expense to the City. The maximum benefit provided by the City after retirement is \$4,800 per year, accruing at the rate of \$400 per month. There is no cash out option for these funds, and they may not be spent in advance of receipt.

Employees in this category will also receive an additional one-time City contribution of \$75 per month for every month they contributed

to the previous plan prior to January 1, 2006, up to a maximum of 15 years (180 months). This contribution will be made to the RHS account at the time of retirement, and only if the employee retires from the City. No interest will be earned in the interim.

3. Administration

Vendors have been selected by the City to administer the program. The contract expense for program-wide administration by the vendor will be paid by the City. However, specific vendor charges for individual account transactions that vary according to the investment actions taken by each employee, such as fees or commissions for trades, will be paid by each employee.

The City's Deferred Compensation Committee, or its successor committee, will have the authority to determine investment options that will be available through the plan.

F. Tuition Reimbursement

Full-time and part-time NBLMA members attending accredited community colleges, colleges or universities may apply for reimbursement of one hundred percent (100%) of the actual cost of tuition, books, fees, or other student expenses for approved job-related courses. Reimbursement is contingent upon the successful completion of the course. Successful completion means a grade of "C" or better for undergraduate courses and a grade of "B" or better for graduate courses. All claims for tuition reimbursement require the approval of the Human Resources Director.

NBLMA members attending pre-approved, directly job-related classes, courses and seminars given by recognized agencies, organizations, or individuals other than accredited college institutions may apply for reimbursement of actual cost of tuition, books, fees, or other student expenses. Reimbursement is contingent upon the successful completion of the course. Successful completion means a document or certificate showing successful completion of the course or seminar. All claims for reimbursement require the approval of Fire Chief or designee before submittal to Human Resources.

Maximum tuition reimbursement for full-time employees shall be \$1,500 per fiscal year and the maximum reimbursement for part-time employees shall be \$1,125 per fiscal year.

SECTION 5. MISCELLANEOUS PROVISIONS

A. Reductions in Force/Layoffs

The provisions of this section shall apply to full-time and part-time members when the City Manager determines that a reduction in the work force is warranted because of actual or anticipated reductions in revenue, reorganization of the work force, a reduction in municipal services, a reduction in the demand for service or other reasons unrelated to the performance of duties by any specific employee. Reductions in force are to be accomplished, to the extent feasible, *based on* seniority within a particular Classification or Series and this Section should be interpreted accordingly.

1. Definitions

- a. "Layoffs" or "Laid Off" shall mean the non-disciplinary termination of employment.
- b. "Seniority" shall mean the time an employee has worked in a Classification or Series calculated from the date on which the employee was first granted regular status in their current Classification or any Classification within the Series, subject to the following:
 - i. Credit shall be given only for continuous service (as described in the next paragraph) subsequent to the most recent appointment to regular status in the Classification or Series.
 - ii. Seniority shall include time spent on industrial leave, military leave and leave of absence with pay, but shall not include time spent on any other authorized or unauthorized leave of absence.
- c. "Classification" shall mean one or more full-time positions identical or similar in duties and embraced by a single job title authorized in the City budget and shall not include part-time, seasonal, or temporary positions. Classifications within a Series shall be ranked according to pay (lowest ranking, lowest pay).
- d. In this bargaining unit, there is one Series made up of three classifications represented by the Association – Lifeguard Officer, Lifeguard Captain and Lifeguard Battalion Chief.
- e. "Bumping Rights", "Bumping" or "bump" shall mean the right of an employee, based upon seniority within a series, to displace a less senior employee in a lower Classification within the Series.

2. Procedure

In the event the City Manager determines to reduce the number of employees within a Classification, the following procedures are applicable:

- a. Employees within a Classification shall be laid off in inverse order of seniority.
- b. An employee subject to layoff in one Classification shall have the right to Bump a less senior employee in a lower ranking Classification within a Series within the bargaining unit, provided, however, that the determination of the employee to be terminated from the position shall be based on seniority within the Series. An employee who has Bumping Rights shall notify the Department Director within seven (7) working days after *the* notice of layoff of *their* intention to exercise Bumping Rights.
- c. In the event two or more employees in the same Classification are subject to layoff and have the same seniority, the employees shall be laid off in inverse order of their position on the eligibility list or lists from which they were appointed. In the event at least one of the employees was not appointed from an eligibility list, the Department Director shall determine the employee(s) to be laid off.

3. Notice

Employees subject to layoff shall be given at least thirty (30) days advance notice of the layoff of thirty (30) days' pay in lieu of notice. In addition, employees laid off will be paid for all accumulated paid leave, holiday leave (if any).

4. Re-Employment

Regular and probationary employees who are laid off shall be placed on a Department re-employment list in reverse order of layoff. The re-employment list shall remain in effect until exhausted by removal of all names on the list. In the event a vacant position occurs in the Classification which the employee occupied at the time of layoff, or a lower ranking Classification within a Series, the employee at the top of the Department re-employment list shall have the right to appointment to the position, provided, he or she reports to work within

seven (7) days of written notice of appointment. Notice shall be deemed given when personally delivered to the employee or deposited in the U.S. Mail, certified, return receipt requested, and addressed to the employee at *their* last known address. Any employee shall have the right to refuse to be placed on the re-employment list or the right to remove *their* name from the re-employment list by sending written confirmation to the Human Resources Director.

5. Severance Pay

Regular employees who are laid off shall, as of the date of layoff, receive one week severance pay for each year of continuous service with the City of Newport Beach, to a maximum of ten (10) weeks of severance pay.

B. Discipline

Any discipline shall be in accordance with the Department SOP and the Employee Policy Manual.

C. Health and Fitness Evaluations

All NBLMA members shall participate in the Department Fitness Program.

D. Provision for Sun Protection

1. The first full pay period of each fiscal year the City will provide \$500 to each full-time unit member and \$300 to each part-time unit member for sunglasses and other sun protection materials (not restricted to use at Lifeguard Store).
2. Each unit employee shall receive an annual skin cancer screening, which will be conducted either on or off duty at the Department's discretion. Employees directed to receive this screening off duty shall receive one (1) hour of compensatory time off as compensation.

E. Fitness Equipment and Exercise Time

The City will provide up to \$3,000 per year towards the purchase of fitness equipment to be used on duty for the intended benefit of NBLMA. The actual equipment to be purchased shall be recommended by NBLMA, and shall require the final approval of the Fire Chief. Unit employees shall be allowed up to three (3) hours per week for on duty physical fitness training.

F. Employee Policy Manual

The City and NBLMA have agreed on implementation of the City's revised 2010 Employee Policy Manual. Should additional revisions to the Manual be proposed, the City will meet and confer on applicable policy manual provisions which are within the scope of bargaining.

G. Direct Deposit

All Unit employees shall participate in the City's Direct Deposit Program.

Signatures on the following page

Executed this 10 day of MAY, 2022:

**NEWPORT BEACH LIFEGUARD MANAGEMENT
ASSOCIATION**

By: [Signature]
Gary Connell, President

Signed in Counterpart

By: _____
Elizabeth Tourgeman, Counsel for NBLMA

CITY OF NEWPORT BEACH

By: [Signature]
Kevin Muldoon, Mayor

APPROVED AS TO FORM

By: [Signature]
Charles Sakai, Special Counsel for City of Newport Beach

ATTEST:

By: [Signature]
Leilani Brown, City Clerk



Executed this ____ day of _____, 2022:

**NEWPORT BEACH LIFEGUARD MANAGEMENT
ASSOCIATION**

By: _____
Gary Conwell, President

By:  _____
Elizabeth Tourgeman, Counsel for NBLMA

CITY OF NEWPORT BEACH

By: _____
Kevin Muldoon, Mayor

APPROVED AS TO FORM

By: _____
Charles Sakai, Special Counsel for City of Newport Beach

ATTEST:

By: _____
Leilani Brown, City Clerk

EXHIBIT A

NEWPORT BEACH LIFEGUARD MANAGEMENT ASSOCIATION

MOU Term: January 1, 2022 - December 31, 2025

2.0% Cost of Living Adjustment
Effective January 15, 2022

Represented Positions	Grade	Step	Hourly Rate	Annual Salary
Lifeguard Officer (part-time)	01	1	\$ 27.94	\$ 58,109
		2	\$ 29.33	\$ 61,014
		3	\$ 30.80	\$ 64,054
		4	\$ 32.34	\$ 67,272
		5	\$ 33.95	\$ 70,624
		6	\$ 35.65	\$ 74,156
		7	\$ 37.44	\$ 77,865
		8	\$ 39.32	\$ 81,777
Lifeguard Captain, Training	03	1	\$ 40.34	\$ 83,900
		2	\$ 42.36	\$ 88,102
		3	\$ 44.47	\$ 92,504
		4	\$ 46.69	\$ 97,108
		5	\$ 49.03	\$ 101,981
		6	\$ 51.47	\$ 107,054
		7	\$ 54.07	\$ 112,462
		8	\$ 56.77	\$ 118,072
Lifeguard Captain	11	1	\$ 37.53	\$ 78,067
		2	\$ 39.40	\$ 81,956
		3	\$ 41.38	\$ 86,068
		4	\$ 43.44	\$ 90,359
		5	\$ 45.63	\$ 94,918
		6	\$ 47.93	\$ 99,701
		7	\$ 50.33	\$ 104,685
		8	\$ 52.85	\$ 109,937
Lifeguard Battalion Chief	16	1	\$ 47.27	\$ 98,315
		2	\$ 49.61	\$ 103,187
		3	\$ 52.09	\$ 108,350
		4	\$ 54.68	\$ 113,736
		5	\$ 57.43	\$ 119,458
		6	\$ 60.27	\$ 125,358
		7	\$ 63.29	\$ 131,638
		8	\$ 66.45	\$ 138,209

Hourly pay rates are rounded to the nearest hundredth.

Annual salary is rounded to the nearest whole dollar.

NEWPORT BEACH LIFEGUARD MANAGEMENT ASSOCIATION

MOU Term: January 1, 2022 - December 31, 2025

2.0% Cost of Living Adjustment
Effective January 14, 2023

Represented Positions	Grade	Step	Hourly Rate	Annual Salary
Lifeguard Officer (part-time)	01	1	\$ 28.50	\$ 59,271
		2	\$ 29.92	\$ 62,234
		3	\$ 31.41	\$ 65,335
		4	\$ 32.99	\$ 68,617
		5	\$ 34.63	\$ 72,037
		6	\$ 36.36	\$ 75,639
		7	\$ 38.18	\$ 79,423
		8	\$ 40.10	\$ 83,412
Lifeguard Captain, Training	03	1	\$ 41.14	\$ 85,578
		2	\$ 43.20	\$ 89,864
		3	\$ 45.36	\$ 94,355
		4	\$ 47.62	\$ 99,050
		5	\$ 50.01	\$ 104,020
		6	\$ 52.50	\$ 109,195
		7	\$ 55.15	\$ 114,712
		8	\$ 57.90	\$ 120,434
Lifeguard Captain	11	1	\$ 38.28	\$ 79,628
		2	\$ 40.19	\$ 83,595
		3	\$ 42.21	\$ 87,789
		4	\$ 44.31	\$ 92,166
		5	\$ 46.55	\$ 96,816
		6	\$ 48.89	\$ 101,695
		7	\$ 51.34	\$ 106,778
		8	\$ 53.91	\$ 112,136
Lifeguard Battalion Chief	16	1	\$ 48.21	\$ 100,281
		2	\$ 50.60	\$ 105,251
		3	\$ 53.13	\$ 110,517
		4	\$ 55.77	\$ 116,011
		5	\$ 58.58	\$ 121,847
		6	\$ 61.47	\$ 127,865
		7	\$ 64.55	\$ 134,271
		8	\$ 67.78	\$ 140,973

Hourly pay rates are rounded to the nearest hundredth.

Annual salary is rounded to the nearest whole dollar.

NEWPORT BEACH LIFEGUARD MANAGEMENT ASSOCIATION

MOU Term: January 1, 2022 - December 31, 2025

2.0% Cost of Living Adjustment
Effective January 13, 2024

Represented Positions	Grade	Step	Hourly Rate	Annual Salary
Lifeguard Officer (part-time)	01	1	\$ 29.07	\$ 60,456
		2	\$ 30.52	\$ 63,479
		3	\$ 32.04	\$ 66,641
		4	\$ 33.65	\$ 69,990
		5	\$ 35.33	\$ 73,478
		6	\$ 37.09	\$ 77,152
		7	\$ 38.95	\$ 81,011
		8	\$ 40.90	\$ 85,080
Lifeguard Captain, Training	03	1	\$ 41.97	\$ 87,289
		2	\$ 44.07	\$ 91,661
		3	\$ 46.27	\$ 96,242
		4	\$ 48.57	\$ 101,031
		5	\$ 51.01	\$ 106,101
		6	\$ 53.55	\$ 111,379
		7	\$ 56.25	\$ 117,006
		8	\$ 59.06	\$ 122,842
Lifeguard Captain	11	1	\$ 39.05	\$ 81,221
		2	\$ 40.99	\$ 85,266
		3	\$ 43.05	\$ 89,545
		4	\$ 45.20	\$ 94,009
		5	\$ 47.48	\$ 98,753
		6	\$ 49.87	\$ 103,729
		7	\$ 52.36	\$ 108,914
		8	\$ 54.99	\$ 114,378
Lifeguard Battalion Chief	16	1	\$ 49.18	\$ 102,287
		2	\$ 51.61	\$ 107,356
		3	\$ 54.20	\$ 112,727
		4	\$ 56.89	\$ 118,331
		5	\$ 59.75	\$ 124,284
		6	\$ 62.70	\$ 130,423
		7	\$ 65.84	\$ 136,957
		8	\$ 69.13	\$ 143,792

Hourly pay rates are rounded to the nearest hundredth.

Annual salary is rounded to the nearest whole dollar.

NEWPORT BEACH LIFEGUARD MANAGEMENT ASSOCIATION

MOU Term: January 1, 2022 - December 31, 2025

2.0% Cost of Living Adjustment
Effective January 11, 2025

Represented Positions	Grade	Step	Hourly Rate	Annual Salary
Lifeguard Officer (part-time)	01	1	\$ 29.65	\$ 61,665
		2	\$ 31.13	\$ 64,749
		3	\$ 32.68	\$ 67,974
		4	\$ 34.32	\$ 71,390
		5	\$ 36.03	\$ 74,947
		6	\$ 37.83	\$ 78,694
		7	\$ 39.73	\$ 82,632
		8	\$ 41.72	\$ 86,782
Lifeguard Captain, Training	03	1	\$ 42.81	\$ 89,035
		2	\$ 44.95	\$ 93,494
		3	\$ 47.20	\$ 98,166
		4	\$ 49.54	\$ 103,052
		5	\$ 52.03	\$ 108,223
		6	\$ 54.62	\$ 113,607
		7	\$ 57.38	\$ 119,346
		8	\$ 60.24	\$ 125,299
Lifeguard Captain	11	1	\$ 39.83	\$ 82,845
		2	\$ 41.81	\$ 86,972
		3	\$ 43.91	\$ 91,335
		4	\$ 46.10	\$ 95,889
		5	\$ 48.43	\$ 100,728
		6	\$ 50.87	\$ 105,803
		7	\$ 53.41	\$ 111,092
		8	\$ 56.09	\$ 116,666
Lifeguard Battalion Chief	16	1	\$ 50.16	\$ 104,333
		2	\$ 52.65	\$ 109,503
		3	\$ 55.28	\$ 114,982
		4	\$ 58.03	\$ 120,698
		5	\$ 60.95	\$ 126,769
		6	\$ 63.96	\$ 133,031
		7	\$ 67.16	\$ 139,696
		8	\$ 70.51	\$ 146,668

Hourly pay rates are rounded to the nearest hundredth.

Annual salary is rounded to the nearest whole dollar.