

**AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND
THE SAN DIEGO POLICE OFFICERS ASSOCIATION TO AMEND ARTICLE 41 AND ARTICLE 57 OF THE
MEMORANDUM OF UNDERSTANDING RELATED TO RESTRUCTURING OF THE SAN DIEGO POLICE
DEPARTMENT**

The City of San Diego (City) and the San Diego Police Officers Association (POA) enter into this Agreement under the Meyers-Milius-Brown Act (MMBA) and San Diego City Council Policy 300-06. The City and the POA are collectively referred to as the "Parties." The City and POA agree as follows:

1. In April 2024, the Parties reached agreement on a successor Memorandum of Understanding (MOU) for Fiscal Years 2025 and 2026, effective July 1, 2024. Subsequently, POA members ratified the MOU in May 2024. By San Diego Resolution R-315582 (June 11, 2024), the San Diego City Council (Council) approved the MOU.
2. On June 7, 2024, Scott Wahl was appointed Chief of Police for the City of San Diego Police Department.
3. Shortly thereafter, Chief Wahl announced his intent to restructure the San Diego Police Department (Department). As part of this Department restructure:
 - a. Chief Wahl is creating four new Commander positions and reducing the number of Assistant Chief positions from seven to three; and
 - b. The position of Executive Assistant Chief will be renamed to Deputy Chief; and
 - c. The Internal Affairs Division will have oversight by an Assistant Chief.
4. To maintain operational efficiency under the Department restructure, amendments to the MOU are necessary to:
 - a. Extend several job functions to the rank of Commander; and
 - b. Replace references to "Executive Assistant Chief" with "Deputy Chief"; and
 - c. Where applicable, recognize job functions of the Assistant Chief of Internal Affairs.
5. The Department restructure will take effect on August 3, 2024.
6. The Parties want to amend the MOU with retroactive application to August 3, 2024, to extend certain job functions to Commanders, rename the title of "Executive Assistant Chief" to "Deputy Chief" and clarify some of the oversight functions of the Assistant Chief of Internal Affairs.
7. The Parties agree that, in the interim prior to Council's approval, the title changes as described above and the addition of Commander to Article 41 as noted in the City's Notice to POA on July 18, 2024, will be effective on August 3, 2024. Additionally, given the restructure and elimination of certain positions, the Parties agree to utilize the applicable new representatives for both Article 41 and 57 prior to seeking Council's formal approval.
8. The Parties further agree that, upon Council approval of this Agreement by a two-thirds vote, the MOU will be amended as follows, retroactive to August 3, 2024:
 - a. Article 41(D)(1) will be amended to read:
 - D. Investigations.

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1. Any officer or officers under investigation will receive at least three working days' notice prior to an interrogation except where a delay will hamper the gathering of evidence as determined by an Assistant Chief or **Commander**. At the time an officer is advised that an interrogation is planned, the officer will be advised of the subject of the interrogation and told that they have a right to obtain representation.
- b. Article 41(D)(4) will be amended to read:
- D. Investigations.
4. Officers who are removed from the normal duties of the job during the pendency of an investigation will not be removed for longer than 30 calendar days except where the business necessities of the Department require the removal from duties to extend beyond 30 days. If the investigation requires an extension, the involved officer has the right to a hearing before an Assistant Chief or **Commander** concerning the business necessities alleged and will have the opportunity to argue and present evidence to contradict those business necessities. This hearing is an informal opportunity for the officer to present to the Chief of Police or their designee of not less than the rank of Assistant Chief or **Commander** regarding why the extension should not be granted. This is not to be confused with the evidentiary hearing afforded officers pursuant to the POBOR for punitive action.
- c. Article 41(E)(2)(a) will be amended to read:
2. Procedure. Hearings regarding punitive actions will be conducted as follows:
 - a. The hearing officer will be the Chief of Police or their designee of not less than the rank of Assistant Chief or **Commander**, except that for hearings regarding notes of counseling and written warnings not brought by a Police Captain, a Police Captain may be the designated hearing officer. The hearing officer cannot be an individual who had a role in the original decision to take punitive actions.
- d. Article 41(E)(3)(b) will be amended to read:
3. Denial of Promotion on Grounds Other Than Merit.
 - b. Written Statement Requesting Appeal.

An officer requesting an appeal following a denial of promotion on grounds other than merit must present a written statement with the Chief of Police setting forth facts sufficient to state the grounds the appellant was given as the reason for non-selection denied a promotion on grounds other than merit. The written factual statement requesting an appeal must be submitted to the Chief of Police's office within 20 working days of the alleged violation. In order to meet the threshold factual showing in the request for an appeal hearing, the appellant must make specific factual assertions of conduct, other than matters

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over which the Appointing Authority has discretion in making selections based on merit, which if true, would violate appellant's protected rights. The initial determination of whether an officer has presented sufficient facts to support that they were denied promotion on grounds other than merit will be determined by the Chief of Police or their designee not lower than the rank of Assistant Chief or **Commander** with a written decision issued within 20 working days from submission of the appeal. If the request to appeal is granted, the then appeal hearing will be scheduled with the Chief of Police within 20 working days from submission of the appeal. However, a decision denying an appeal hearing may be appealed to the Mayor or designee. The appeal will be submitted to the Mayor or designee in writing within ten working days of receipt of the denial from the Chief of Police or designee.

e. Article 41(G)(1) will be amended to read:

G. Separation of Probationary Employees.

1. Within 14 calendar days after the Department separates a probationary employee, unless extended by mutual agreement, the Department will provide one informal and non-evidentiary post-separation hearing, to be conducted by an Assistant Chief, **Commander**, or their designee. A reasonable number of witnesses may be presented. The Department will serve the decision within seven calendar days. There is no appeal from the Department's decision at this hearing, and the Department's decision is not subject to the Grievance Procedure.

f. Article 57(D)(3) will be amended to read:

D. Reporting Test Results.

3. If test results are positive for legally-prescribed medications, Personnel will request that the Employee provide written substantiation from their private doctor prescribing the medications. Written documentation from the Employee's private doctor is to be submitted to Personnel within seven business days from the date Personnel contacts the Employee. The ~~Executive Assistant Chief~~ **Deputy Chief or the Assistant Chief** of Internal Affairs will be notified and will be responsible for initiating an investigation.

g. Article 57(D)(4) will be amended to read:

D. Reporting Test Results.

4. If test results are positive for alcohol (0.02 or above), illegal drugs, or inadequately explained legal medications, the ~~Department's Executive Assistant Chief~~ **Deputy Chief or the Assistant Chief** of Internal Affairs will be notified and will be responsible for initiating an investigation. Disciplinary action may be imposed. Alternatively, the disciplinary action may be held in abeyance, and a Condition of Continued Employment (CCE) may be offered by City to an employee at the City's discretion. Any CCE will be held in a sealed envelope in the Employee's departmental personnel file. A copy of the CCE will be forwarded to Personnel's Medical Program Administrator

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for the duration of the CCE. Violation of the CCE may result in termination of employment. Upon request of the Employee or discovery by the designated department representative, the discipline related to the positive alcohol or drug test will be removed upon successful completion of the CCE.

h. Article 57(E)(1) will be amended to read as follows:

E. Independent Testing.

1. If the drug screening test results are positive, the affected Employee has the right to request that the split sample be sent for independent testing. The request must be made to the **Deputy Chief or the Assistant Chief of Internal Affairs** by the Employee within 30 calendar days of receipt of the notice of positive drug test results.

i. Article 57(F)(2) will be amended to read as follows:

F. Program Records.

2. Records related to a positive test result shall be maintained as directed by the ~~Executive Assistant Chief~~ **Deputy Chief** and the Personnel Director.

This Agreement is executed by the following authorized representatives of the POA and the City and presented to the Council for final determination:

For POA

By: Bradley M. Fields
Brad Fields
Lead Negotiator

Date: 11/20/2024

For the City of San Diego

By: [Signature]
Tim Davis
Lead Negotiator

Date: 11/19/2024

By: [Signature]
Jonnabelle Domingo
Supervising Human Resources Officer,
Human Resources Department

Date: 11/19/2024

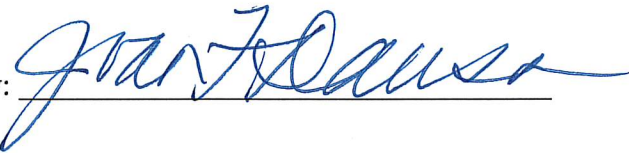
By: Erik Hanson
Erik Hanson
Senior Human Resources Officer,
Human Resources Department

Date: 11/19/2024

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Approved as to form this 27th day of November, 2024

MARA W. ELLIOTT, City Attorney

By: 

COR. Nov. 13, 2024