



Order No. 2024-11-060

**AN ORDER OF THE COUNCIL OF THE CITY OF NOGALES, ARIZONA APPROVING AN AGREEMENT WITH THE COMMUNICATION WORKERS OF AMERICAN (CWA)**

**WHEREAS**, the City of Nogales recognizes its intent in the development of harmonious and cooperative relations with its employees; and


**WHEREAS**, the City of Nogales and the Communication Workers of America have re-negotiated an agreement; and

**WHEREAS**, the current re-negotiated CWA contract will expire on June 30, 2028.

**NOW THEREFORE, BE IT ORDERED BY THE COUNCIL OF THE CITY OF NOGALES** that:

1. The agreement attached hereto as Exhibit "A" is hereby adopted and approved.
2. The City Manager is authorized and directed to execute the referenced agreement; staff is authorized and directed to take all appropriate steps and actions necessary to effectuate this agreement.

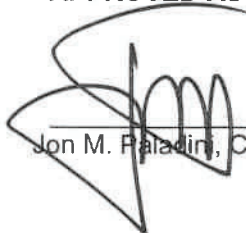
**PASSED, ADOPTED, AND APPROVED** by the City Council of the City of Nogales, Arizona, this 06th day of November, 2024.

  
\_\_\_\_\_  
Jorge Maldonado, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Leticia Robinson, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Jon M. Paladini, City Attorney

**STAFF SUMMARY**

**SUBJECT:** Approving an employment agreement between the City of Nogales and the Communications Workers of America (CWA).

**BACKGROUND:** The City of Nogales and the CWA have re-negotiated an agreement. Effective the November , 2024 to June 30, 2028.

**STAFF RECOMMENDATION:** It is the recommendation of staff the above Order is considered for approval.

**SUGGESTED MOTION:**

"I move to approve Order No: 2024-11-060"



Agreement

Between

Communications Workers of America

And

City of Nogales

Effective

November 6, 2024

Thru

June 30, 2028

# TABLE OF CONTENTS

		DEFINITIONS.....	3
ARTICLE	1	RECOGNITION.....	5
ARTICLE	2	INCORPORATION OF CITY OF NOGALES PERSONNEL MANUAL...	6
ARTICLE	3	CITY RIGHTS.....	7
ARTICLE	4	UNION RIGHTS.....	8
ARTICLE	5	UNION DUTIES AND OBLIGATIONS.....	11
ARTICLE	6	MEMBER RIGHTS.....	12
ARTICLE	7	GRIEVANCE PROCEDURE.....	14
ARTICLE	8	EVALUATIONS.....	16
ARTICLE	9	NEGOTIATION PROCEDURES.....	17
ARTICLE	10	COMPLIANCE WITH THE LAW.....	18
ARTICLE	11	PAY TREATMENT.....	19
ARTICLE	12	TRAINING AND WORK ASSIGNMENTS.....	23
ARTICLE	13	LAYOFF.....	24
ARTICLE	14	EDUCATION.....	25
ARTICLE	15	ENTITLEMENT AND PERSONAL DAYS.....	26
ARTICLE	16	UNIFORMS AND TOOLS.....	27
ARTICLE	17	JOB VACANCY PROCESS AND NOTICE.....	28
ARTICLE	18	APPEALS AND APPEALS HEARING.....	29
ARTICLE	19	NON-DISCRIMINATION.....	30
ARTICLE	20	TERMS AND CONDITIONS OF AGREEMENT.....	31
ARTICLE	21	SEVERABILITY.....	32
ARTICLE	22	RATIFICATION.....	33

## DEFINITIONS

1. **Basic Job Qualifications** means the minimum requirements necessary to perform the job as described in the job description approved by the Mayor and City Council.
2. **Blue collar members** means any member that works in Public Works including but not limited to: Fleet, Warehouse, Utilities, Sanitation, Facilities, Streets, Maintenance, Cemetery, Building Inspectors, Engineering, Parks and Recreation and Nogales Housing Authority.
3. **The City** means the City of Nogales and its management
4. **Confidential employee** shall mean any City employee who regularly assists or acts in a confidential capacity to an individual or supervisor who formulate determines and effectuates management, personnel or labor relations policies. The fact that an employee has access to confidential information does not deem them confidential.
5. **Days** means working days unless designated as calendar days.
6. **Department Director** means the appointed or acting head of any city department.
7. **Designee** means a management level employee of the City of Nogales authorized to act on behalf of the city manager or department director or a union member or other union representative authorized to act on behalf of the Union.
8. **Discipline** means direction and/or action intended to modify/correct specified pattern of behavior.
9. **Employee** means any non-supervisory, non-confidential employee of the City of Nogales covered under this contract
10. **Immediate Family** includes: Members spouse, or the parent(s), grandparent(s), child (children), siblings of the member or member spouse or step relationships.
11. **Layoff** means reduction in force with recall rights.
12. **May** specifies an optional act or actions.
13. **Member** means any eligible, employee paying dues to CWA Local 7000.
14. **Negotiating** means Labor and Management Representatives engaging in ongoing conversations to settle workplace related concerns/issues for the purpose of entering into memorandums of agreement.
15. **Personal Protective Equipment** means items for blue-collar members including but is not limited to: respiratory protection, eye protective goggles, hardhats, safety vests, safety shoes/boots, gloves, safety harnesses, hearing protection, heavy jackets, raincoats, insulated rubber gloves and voltmeters.
16. **Seniority** date means the first day of continuous employment with the City of Nogales. Non-continuous employment shall mean having a break in employment of one year or more.
17. **Shall** specifies a mandatory act or action.

18. **Supervisor** means an employee, having authority to hire, transfer, suspend, layoff, recall, promote, discipline or discharge other employees, or to adjust their grievances, or to effectively recommend such action if the exercise of such authority is not of a routine or clerical nature but requires the use of independent judgment in accordance with the job description approved by the Mayor and City Council. The term "supervisor" shall include only those individuals who perform a preponderance of the above-specified acts of authority on a day-to-day basis and does not include "lead" persons who direct employee work but lack such authority.
  
19. **The Union or CWA** means The Communications Workers of America Local 7000.

**ARTICLE ONE**  
**RECOGNITION**

- 1-1 The City of Nogales recognizes the Communications Workers of America, its officers, representatives and its agents as the exclusive representatives for purposes of administration and negotiation of this contract.
  
- 1-2 The City of Nogales recognizes CWA as the representative of the members in employee group as outlined in Ordinance No. 02008-07-004.

**ARTICLE TWO**  
**INCORPORATION OF CITY OF NOGALES PERSONNEL MANUAL**

- 2-1 The terms and conditions of the Personnel Manual of the City of Nogales, in effect on February 10, 2017, or as may be subsequently modified by City, are hereby incorporated herein as if fully set forth unless modified by any of the following Articles of this Agreement.
  
- 2-2 City agrees that any proposed modifications to the City's Personnel Manual shall be presented to CWA for its review and comment, at a minimum of ninety (90) days prior to the proposed enactment.



**ARTICLE THREE  
CITY RIGHTS**

- 3-1 **General:** The City retains all rights and powers, which have not been limited by the other articles of this agreement. In the event there is a conflict between the rights of the City under this article and the rights of the bargaining unit (as set forth in this agreement) the provisions of this agreement shall prevail.
- 3-2 **City Rights:** It is agreed that the City retains the right to manage its business, including the right to hire, layoff, assign, discipline, transfer, promote or terminate members, but will be subject to such regulations and restrictions governing the exercise of these rights as they are expressly provided in this agreement. If this agreement is silent on any matter, management reserves the right to exercise its discretion.
- 3-3 **Contracting Work:** It is the general policy of the City to continue to utilize its members to perform work they are qualified to perform. However, the City reserves the right to contract out any work it deems necessary, in the interest of efficiency, economy, improved work product, or emergency, as determined by the City Manager, or designee. The City shall notify CWA in writing at least sixty (60) days in advance of any proposed contracting that may involve the possible reduction of full-time union eligible positions.

## ARTICLE FOUR UNION RIGHTS

- 4-1 **Recognition:** The City recognizes CWA, its representatives and agents, as the exclusive representative of members as defined in Article One, and will negotiate wages, hours and other terms and conditions of employment with CWA and the City. The City and CWA shall each be equally responsible for paying share the cost of union printing costs for both English and Spanish copies of the Agreement between CWA and the City of Nogales for each CWA eligible member and management personnel within forty-five (45) days of ratification. The cost to the City will not exceed \$500.
- 4-2 **Access:** CWA representatives shall have the right of reasonable access to City facilities. The representatives may contact members during duty-free lunch periods and breaks, and before and after the member(s) hours of service. The representatives shall not interrupt any member(s) duties or assignments.
- 4-3 **Released Time for Negotiations:** No more than six (6) negotiating team member representatives, designated by CWA, shall be released from duty with compensable hours if during their normal scheduled hours for the purpose of contract negotiations with the City, pursuant to this Agreement. The Union will submit the list of the names of the Union Bargaining Committee members to the City Manager prior to negotiations.

Union negotiating team members would request release time from their immediate supervisor at least three (3) days prior to release time; if approved the release time request will be forwarded to the City Manager for approval. If not approved, the Union could escalate the matter to the City Manager. The Union understands there may be scheduling conflicts because of a potential critical need that could impact release time.

**Released Time for Negotiations: Preparation Time:** The Union Negotiating team member representatives shall be released from the normal scheduled duties with compensable hours for negotiating a new contract, reopener, and annual wage / sessions. Union Negotiating team members would request release time from their immediate supervisor at least three (3) days prior to release time; if approved the release time request will be forwarded to the City Manager for approval. If not approved the Union could escalate the matter to the City Manager. The Union understands there may be scheduling conflicts because of a potential critical need that could impact release time.

The Union Negotiating team member representatives shall be paid by the City for up to forty (40) hours of preparation time for negotiating a new contract, and up to twenty (20) hours of preparation time for reopener and annual wage / opener sessions.

- 4-4 **Released Time: Mutually Agreed Upon CWA/City Meetings:** Authorized representatives of CWA shall be allowed Released Time, paid at the member(s) hourly rate, while on-duty to attend CWA and Management meetings held on matters pertaining to the administration of this Agreement, or the relationship between the City and CWA and City Council study sessions and/or meetings where matters directly affecting the union, member wages, hours, and/or conditions of employment are scheduled for discussion. Member time for attending said meetings shall be considered actual work time.
- 4-5 **Released Time - Grievance Meetings:** Authorized representatives of CWA shall be allowed Released Time, paid at the member-(s) hourly rate, while on duty for the purpose of attending scheduled grievance meetings pursuant to Article Six (6) with City representatives. Member time for attending grievance meetings shall be considered actual work time.
- 4-6 The City retains the right to control and direct the union representatives during Release Time and the Union Representatives will continue to be subject to all City Personnel Policies during Release Time.
- 4-7 All Release Time shall be reported and documented as "Paid Release Time" on time cards or other work tracking time sheets.

4-8 **Request for Non-Paid Reimbursable Time Off for CWA Activities:** The City will grant any member designated by CWA the time off to handle Union business other than that covered by Sections 3, 4, and 5. CWA and the City of Nogales agree that the City of Nogales will pay Officer, bargaining committee members and stewards their hourly wage, in so that, no lost time is reflected in their regular paycheck. The City of Nogales shall invoice CWA for reimbursement of any approved paid union time. Request for time off for Union activities shall be made in writing to the City Manager or HR Director. Union business time shall be considered as actual work time.

4-9 **Information:**

- A. The City agrees to furnish designated CWA representatives available information concerning the financial resources of the City, including but not limited to financial reports, tentative budgetary requirements and allocations, agendas and minutes of Council meetings and seniority lists. The City also agrees to provide information needed by CWA to develop constructive negotiation proposals.
- B. Designated CWA representatives shall have access to all records and files of all unprivileged information necessary to the determination and processing of any grievances.
- C. Seniority Lists: The City shall mail to CWA in January and July (and when a written request is made to the Human Resources Office by CWA) two lists of bargaining unit members organized as follows: 1) in alpha order, including classification, worksite, grade, step, bargaining unit seniority date and number of hours worked; and 2) in alpha order by site/department, including classification, worksite, grade, step, bargaining unit seniority date and number of hours worked.
- D. The City shall allow authorized Union Representatives to utilize City resources such as computers, meeting rooms, internet access, and other City resources as mutually agreed to by the City Manager, or designee, and CWA Bargaining Agent, or designee.

4-10 **Special Committees:** From time to time, the City and CWA may establish ad hoc joint City- CWA committees to discuss and improve upon matters of mutual concern. Such committees shall in no way be construed as bargaining committees, nor shall they be empowered to modify in any way the terms and conditions of this agreement. Members designated by CWA to participate in these committees shall be on compensable time.

The City of Nogales and the CWA agree to maintain a Labor Council (LC) to collaborate to enhance communications and discuss workplace concerns, efficiencies, and proposed solutions and/or improvements. The LC will meet quarterly up to four (4) times per year. An agenda for the LC will be mutually agreed to before the meeting.

Management representatives will include the human resources manager, the city manager, or their designee. CWA representation will be the CWA Local President or their designee and two (2) union representatives from the City of Nogales bargaining unit.

4-11 **Communications:** CWA and its representatives shall have the right to post notices of activities and matters of CWA concern on a designated bulletin board (minimum of 2 feet by 2 feet) at reasonably accessible places at each worksite. Any material posted must have an authorized union representative(s) signature on the document. The responsible department director at the site, or his/her designee, shall be given a copy of all material to be posted.

4-12 **Payroll Deductions:**

- A. Upon receipt of written authorization from any individual, the City agrees to deduct on a bi-weekly basis from the salary of members of CWA the annual amount due and payable by the individual as now fixed and as hereafter increased or changed as certified by CWA. The City further agrees to promptly transmit such monies so deducted to CWA within five (5) days after deductions are made, along with a copy of the names of the members from which dues were deducted specifying the amounts. A copy of the names of the members

from which dues were deducted and any new written authorization cards will be sent to Local 7000 bi-weekly.

- B. The individual written authorization shall remain in effect during the term of employment of the individual unless he/she revokes his/her authorization. Revocation shall be accomplished exclusively in the following manner: Such cancellation must be individually sent to the City of Nogales - Finance Dept. and the Union Local by certified mail June 14th through 30th yearly.
  - C. The deductions shall be made in equal amounts starting with the first full pay period after the receipt of the payroll deduction card by the City.
  - D. In the event the individual(s) employment terminates; the City has no obligation to recover any unpaid dues amounts for CWA. In addition, CWA agrees to indemnify the City against any actions taken by any person for making any payroll deductions as specified in Article 4-10.
- 4-13 Upon receipt of written authorization from any member, the City agrees to deduct from the salary of members of CWA for the Political Action Fund (PAF) and submit it to CWA in a separate check.

**ARTICLE FIVE  
UNION DUTIES AND OBLIGATIONS**

- 5-1 CWA shall be the exclusive authorized member representative for wages, hours, benefits, and working conditions of members, as defined in Ordinance 02008-07-004.
  
- 5-2 Whenever a new, CWA eligible member is hired by the City, the name of that individual will be forwarded to CWA Local President at least a week in advance when possible. Once a month a new member orientation, not to exceed {30} thirty minutes shall be given at a mutually agreed upon time and place between the City Manager and CWA Local President for all eligible new hires occurring within thirty (30) days of their hire date.

## ARTICLE-SIX MEMBER RIGHTS

6-1 **Legal Counsel:** The City shall, at no expense to the member, provide legal counsel and representation in any legal action brought against the member as a result of the member acting within the scope of their employment. Except that the member shall be responsible for any criminal or civil traffic charges filed against them individually, the member shall be held harmless and indemnified from any and all demands, claims, suits, actions and legal proceedings brought against them in their official capacity as an agent of the City, provided the incident arose while the member was acting within the scope of their employment.

6-2 **Political Action:** A member shall have the liberty of political action outside of his/her work hours provided such action is within the laws of the United States of America and the State of Arizona; and provided further that such action does not impair his/her respective capacities.

A member shall be free from political coercion, or the pretended necessity of making political contributions of money, or other things of value, or engaging in any political work or activity against his/her wishes under the assumption that failure to do so will in any way affect his/her status as a member of the City.

6-3 **Job Description:** A description of duties for the specific classification shall be given to each new member when hired, when a member changes classification, or when the member(s) job is reclassified. If a job description is changed those changes shall be reviewed with affected employees. A copy of those changes shall be sent to the Local ten (10) business days prior to adoption. Said descriptions shall be made available through Human Resources. Job descriptions will be supplied to CWA within one (1) week upon request.

6-4 **Personnel Files:** No material derogatory to a member(s) conduct, performance, character or personality shall be placed in the member(s) personnel file unless a copy has been provided to the member for review, and unless the member has an opportunity to submit a reply to the material. Said reply shall be attached to the original document and shall remain attached throughout the term of that member(s) employment, unless removed by mutual agreement between the member and the City. Said agreement shall be in writing and signed by both parties. Any documentation of minor deficiencies of behavior or offenses with are over two (2) years old will not be admissible in any grievance procedure, unless the member uses as a defense in such procedure the claim that no minor behavior deficiencies or offenses had ever been brought to their attention. Any documentation of oral and/or written reprimand over two (2) years old is not admissible in any disciplinary proceeding unless such is evidence of a pattern or behavior. For purposes of this section "personnel files" shall mean "personnel files" as defined by the City of Nogales Personnel Manual, and no other files or records of the City. Individual departments are not required to maintain separate personnel files. Any additional files or records maintained by departments are unofficial in nature and should be restricted to matters of training, informal correspondence, temporary materials and other such departmental material. Members shall have the right to review the contents of their personnel files and to receive a copy of all material contained therein at City expense.

6-5 **Representative:** A member has the right, upon request, to select representation for the following:

- A. when receiving disciplinary action or investigations of possible disciplinary action
- B. during the grievance procedure
- C. meetings reasonably requested by a member for job-related concerns
- D. when there is a written or verbal notice received of possible disciplinary action

6-6 **Non-Discrimination:**

- A. Neither the City nor CWA shall discriminate against any member on the basis of race, religion, color, national origin, age, sex, sexual orientation, marital status, disability, status within any group protected by state or local law, or membership or participation in union activities, or on account of affiliation or non-affiliation with CWA or another union.

- B. Nothing in the provisions of this agreement shall be construed as a limitation upon the application of federal law including Title IV and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Equal Employment Opportunity Act of 1972, Age Discrimination in Employment Act, Americans with Disabilities Act of 1990, Civil Rights Act of 1991, and other nondiscrimination laws and regulations.
  - C. The member shall have the right to be free from physical and/or verbal abuse, sexual and/or mental harassment, and disparaging racial or ethnic statements.
- 6-7 **Outside employment:** A member may secure outside employment beyond their normal workday and no evaluation of performance or disciplinary action shall be predicated upon lawful, non-related employment which has no impact upon the member(s) job performance.

## **ARTICLE SEVEN GRIEVANCE PROCEDURE**

### **7-1 General**

Grievances may be initiated by the member affected. No grievance may be pursued without the member's consent. Grievances may also be filed by CWA-on behalf of its members in matters that affect more than one member.

It shall be the duty and responsibility of both the City and CWA to process grievances at each successive step of the grievance procedure, provided that a mutually agreeable settlement has not been reached. It shall be the objective of both the City and CWA, to the greatest extent possible, to settle grievances at the lowest step of the procedure.

The grievance procedure shall not be used as a means of collective bargaining.

Not more than two (2) authorized union representatives may attend grievance meetings on City compensable time. The grievance shall be presented on a mutually agreed upon form.

#### **Time Limits**

The grievant must comply with the time limits set forth in these procedures. If the grievant fails to comply with the time limits, it will constitute an abandonment of the grievance unless both parties have mutually agreed to extend the time limits as put forth in this article. If the City does not comply with the time limits, the grievance can be moved to the next step of the grievance procedure.

#### **Grievable Issues**

- A. Written reprimands and disciplinary action not appealable to the City Appeals Commission.
- B. Working conditions.
- C. Member Performance Evaluations.
- D. The application, operation, or alleged violation of the Rules and Regulations of the City of Nogales Personnel Manual, Administrative Directives, Human Resources policies, or departmental policies.
- E. Any violation to this Agreement.

### **7.2 Informal Problem Resolution Procedure**

A grievant who has a problem or complaint may first try to resolve it through discussion with their immediate supervisor. If, after this discussion, the grievant does not believe the problem has been satisfactorily resolved, the grievant may discuss it with the department director. Every effort should be made to find an acceptable solution by informal means at the lowest level of supervision. If an acceptable solution is not reached through the informal procedure, a formal grievance may be pursued.

### **7.3 Grievance Form**

Grievances shall be in writing, signed by the grievant or by an authorized union representative, and shall include the following information:

- A. The name(s) of the grievant.
- B. A clear and concise statement of the grievance and the facts upon which it is based.



- C. The specific section(s) of this Agreement, the City of Nogales Personnel Rules and Regulations, Administrative Directives, Human Resource or departmental policies, relied upon or claimed to have been violated.
- D. The remedy or correction desired.

#### 7.4 **Grievance Response Form:**

The response to a grievance shall be in writing, signed by the Department Director or City Manager, and shall include the following information:

- A. A clear and concise response to the grievance and the facts upon which it is based;
- B. The specific section(s) of this Agreement, the City of Nogales Personnel Rules and Regulations, Administrative Directives, Human Resources, or departmental policies which apply to the grievance and upon which the decision is based; and
- C. Denial or acceptance of the grievant proposed remedy or an alternative.

#### 7.5 **Written Grievance Filing Procedure**

Written grievances shall be processed in accordance with the following procedures:

**Step 1:** Grievances shall be presented in writing to the Department Director within twenty (20) working days following the occurrence of the act or incident giving rise to the grievance, or within twenty (20) working days following the date upon which the facts of the grievance first became known or should reasonably have become known. Within five (5) working days of receipt of the grievance, the Department Director, the grievant and/or the authorized union representatives, if requested by grievant, shall meet to resolve the grievance. Within five (5) working days of the meeting, the Department Director shall respond in writing. If the grievant is not in agreement with the Department Directors written decision, grievant may proceed to Step 2.

**Step 2:** Within five (5) working days following receipt of the Department Director's written decision, grievant may appeal to the City Manager. The appeal shall be presented in writing to the City Manager. Within five (5) working days of the receipt of the appeal, the City Manager or designee, the grievant and/or the authorized union representatives, if requested by grievant, shall meet to resolve the grievance. Within five (5) working days of the meeting, the City Manager shall respond in writing. If the grievant is not in agreement with the City Manager's decision grievant may proceed to Step 3.

**Step 3:** Within five (5) working days of receipt of the City Manager decision, grievant may appeal to the Grievance Board.

#### 7.6 **Grievance Board**

The Board Hearing shall be conducted in accordance with Chapter 27 in the City of Nogales Personnel Manual dated February 10, 2017.

#### 7.7 **Investigation**

The City and CWA agree to assist each other in the investigation of the circumstances surrounding and related to any grievance. The City agrees that once a grievance has been referred to CWA, no representative of the City will initiate discussions of the matter with the grievant(s) without notification to an appropriate representative(s) of CWA, and a reasonable opportunity for the CWA representative(s) to be present at the discussions.

## **ARTICLE EIGHT EVALUATIONS**

- 8-1 No evaluation shall be based upon any/all derogatory materials in the member(s) personnel files unless the member has previously been given sufficient prior notice of the same, an opportunity to review and comment upon them, and had such comments attached to the materials.
- 8-2 The evaluator shall discuss the written performance evaluation with the member. Both the evaluator and the member will sign the evaluation. The signature of the member only means that the member has received a copy of the evaluation and does not imply in any fashion concurrence on the content. The member may attach comments to the evaluation at the time of the conference or within ten (10) working days of the meeting.
- 8-3 Member evaluations are subject to the grievance procedure in Article Seven.
- 8-4 Discussions between the member and his/her supervisor concerning evaluations shall be conducted privately.
- 8-5 Discussions between the member and his/her supervisor concerning evaluations shall be conducted periodically and punctually.
- 8-6 The City of Nogales shall strive to conduct a Compensation Study every five (5) years starting in the fiscal year of 2024/2025.

**ARTICLE NINE**  
**NEGOTIATIONS PROCEDURES**

- 9-1 Both parties agree to negotiate in good faith. The obligation of good faith bargaining does not compel either party to agree or make concessions on a specific issue. The City shall make available to CWA the proposed budget for the next fiscal year as soon as it is available, including preliminary information concerning member salaries. The City shall provide CWA with public information requested by CWA.
- 9-2 Both parties may designate their own representatives.
- 9-3 Tentative agreement of individual items reached during negotiations shall be reduced to writing, dated and signed by each teams designated spokesperson. Tentative agreement of individual items shall be conditional upon the approval of the entire agreement by both parties. All tentative agreements are subject to approval by the Nogales City Council.

**ARTICLE TEN  
COMPLIANCE WITH THE LAW**

10-1 In the event any law or regulation or governmental order, or the final decision of any court or board of competent jurisdiction affects any one or more provisions of the Agreement, only the provision(s) so affected shall be made to comply with the requirements of such law, regulation, governmental order or decision. Compliance shall be immediate but the City shall immediately contact CWA to negotiate appropriate language. The only topic of these discussions shall be compliance; all other provisions of this Agreement and their intent shall remain intact. The interpretation of said law, regulation, order, determination or ruling shall be subject to the grievance procedure.

## **ARTICLE ELEVEN PAY TREATMENT**

11-1 **Work Week:** The work week of members shall normally be Monday through Friday. The City may establish a different work week for particular members, classes, or shifts as required to meet operational needs of the City.

11-2 **Flexible Work:** Flexible work arrangements are those varying work schedules that may be developed mutually between the City and the local union that will provide opportunities to meet the evolving and changing needs of the members. Listed below are the categories of flexible work arrangements:

A. Flex-Time: Is a work scheduling method in which starting/stopping times can vary.

B. Variable Work Week Schedules: Is a method of scheduling the assigned work hours within the calendar week.

11-3 **Notification:** The City shall give forty-eight (48) hours advance notification to the member prior to any substantial change of a member(s) work week and/or hours of work that is not considered permanent in nature. The City shall give one (1) week notice for a permanent change. However, these notification rights shall not produce any stoppages or delays in the change until such notifications are made. Emergency changes will not exceed one month and once a month when possible.

11-4 **Rest Breaks:** Members scheduled to work four (4) or more continuous hours shall be given fifteen (15) minutes during each four (4) hour period for personal rest breaks. Such breaks shall not be cumulative nor will they be available for late arrival to work, nor used in connection with meal breaks, nor early dismissal at the end of the work day.

Unpaid lunch breaks shall be scheduled for members working more than six (6) hours a day. The lunch period shall be for a period of one (1) hour unless other arrangements have been made.

11-5 **Overtime:** Members assigned to work over forty hours in any work week shall receive compensation for hours worked in excess of forty (40) at a rate equal to one and one half (1 1/2) times their regular rate of pay. Overtime that is available to more than one eligible member shall be done on a seniority rotational basis; if no volunteers are acquired then inverse seniority by rotation shall be used. Seniority list and overtime hour availability lists will be posted and distributed on a rotational basis in applicable departments. Agreement may be made to change this process by the Department head and the Authorized Union Representative but must be signed by same and initialed by the City Manager and Union President. Department head or designee shall maintain the overtime list.

### **11-6 On-Call and Call Back**

#### **A. Call-Back Period and Compensation**

1. An back to work after having left the place of work and having otherwise completed the work shift whether that shift was of and extended durations or not, shall be compensated at the rate of one and one-half (1 ½) times the member's regular hourly rate for the actual time worked during such call-back.

a. An called back to work shall receive compensation for not less than two (2) hours for the employee's initial call back, except for holidays as set forth below; subsequent call backs for the same day shall be compensated at the rate of one and one-half (1 ½) time the employee's -regular hourly rate for the actual time worked.

b. "Returns to work" shall not include responding to simple requests, taking telephone calls, or other activities not requiring an employee to leave work locate.

2. Employees who are called back to work on a scheduled day off shall also be compensated as provided above.
3. Employees called back to work on a scheduled holiday shall be compensated as forth in 11 10.
4. On call employees (section B, below) called back to work on a scheduled holiday shall be compensated as set forth in 11-9.
5. Compensation call back time shall include all time during which an employee is actively engaged in work activity plus reasonable travel time to and from the work site.

**B. On-Call Duty and Compensation**

1. On-call compensation is compensation paid for the restriction of an employee's time and movement.
2. Employee's on "on-call duty" shall receive compensation at the rate of one and one-half (1 ½) the employees regular hourly rate as follows:
  - a. Two (2) hours for on-call duty Monday through Friday and Saturday
  - b. Four (4) hours for on-call duty Sunday or holidays
3. The determination as to whether or not the time an employee is on-call needs to be counted as compensable working time depends upon the employee freedom while on-call.
4. Location of the employee-for on-call duty shall be at the employee's discretion with the stipulation that immediate contract can be made, and that the employee must be able to report fit for duty within thirty (30) minutes.
5. An employee-on "on-call duty" in addition to on call-call compensation, if called back to work shall be compensated as set forth in section A above.

**11.7 Court Appearance Pay (Days Off)** An employee shall receive compensation for not less than two (2) hours for an employee court appearance on their scheduled day(s) off that the City requests for them to appear.

**11.8 Differential Pay:** During a regular work schedule, a \$0.50 an hour differential pay shall be paid to members who work rotating shifts and are scheduled to work outside of the normal 6:00 a.m. to 6:00 p.m. window. The differential shall be paid for the hours worked outside this window.

**11-9 Show-up Pay:** A member who reports to a regular 8 hour day or overtime work and is sent home due to no fault of their own shall receive pay for actual hours scheduled.

**11-10 Holiday Pay/working:** Members who work on Holidays shall be paid at the regular rate plus one and a half (1 ½) times their regular rate and in no case shall be paid for less than eight (8) hours of pay. Holidays shall be worked on a rotational seniority basis and if no volunteers are acquired then inverse rotational seniority shall be used.

**11-11 Holidays:** Full time members shall be allowed time off with pay for the following holidays:

- A. New Years Day
- B. Martin Luther *King*, Jr.
- C. Presidents Day
- D. Memorial Day
- E. Independence Day
- F. Labor Day

- G. Veterans Day
- H. Thanksgiving Day
- I. Day Following Thanksgiving Day
- J. Christmas Day
- K. One Floating Day

If any of the above holidays fall on a member's regularly scheduled day off, the member shall be paid at their regular rate of pay for eight (8) hours.

**11-12 Paid Sick Leave:** Full time members shall accrue one (1) work day per month.

- A. Accrued sick leave may be used during scheduled work hours when a member is incapacitated due to medical, dental or vision reasons for themselves or their spouse, their immediate family/dependents.
- B. Members using sick leave shall notify their immediate supervisor as soon as possible of their absence or anticipated absence.
- C. Accrued sick leave shall be paid to eligible members upon retirement or termination as follows:
  - 1. After completion of 5 consecutive years, 15% of all unused sick leave.
  - 2. After completion of 10 consecutive years, 25% of all unused sick leave.
  - 3. After completion of 15 consecutive years, 35% of all unused sick leave.
  - 4. After completion of 20 or more consecutive years, 45% of all unused sick leave.

Members are eligible if:

- 1. They have more than five (5) years continuous service with the City, and
  - 2. They have more than 240 unused sick leave hours, and
  - 3. Termination is not the result of disciplinary action.
- D. Eligible members may transfer sick leave (up to 80 hours annually) to each other if the receiving member does not have any/enough entitlement/sick leave available to cover emergencies due to personal illness of a family member/dependent or is on FMLA (Family Medical Leave Act) leave. The person requesting and the person donating the leave shall make requests in writing to the Human Resources Director. Members receiving donated sick leave shall be paid at their normal rate of pay.

**11-13 Bereavement/ Funeral Leave:** Members shall receive paid leave for four (4) days, five (5) days if out of state travel is required, in the event of the death of members of members immediate family. Leave shall be granted to accommodate the needs of the member.

**11-14 Jury Duty Leave:** All members of the City who are called or required to serve as a trial juror shall be excused from work during the period of such service or while necessarily being present in court as a result of such duty. The member shall receive full compensation from the City and shall relinquish to the City any compensation paid from the court for such duty with the exception of mileage reimbursement for travel at the direction of the Court/Jury Commissioner. All hours spent on Jury Duty leave shall be considered time worked.

**11-15 Subpoena Leave:** All employees of the City shall be excused from work when required to appear in court pursuant to a subpoena. The member shall receive full compensation from the City and shall relinquish to the City any compensation paid for the court appearance with the exception of mileage reimbursement for travel at the direction of the Court/Jury Commissioner. All hours spent on Subpoena Leave shall be considered time worked except a member who has been subpoenaed to appear in court due to a personnel, or personnel business matter or due to the member(s) own unlawful conduct or misconduct shall not be entitled to Subpoena Leave with pay.

- 11-16 **Short Term Military Leave:** Members who are members of the National Guard, Naval Militia or reserve components of the armed forces of the United States Department of Defense and /or Department of Homeland Security shall be granted leaves of absence from their duties without loss of time, pay or efficiency rating on all days during which they are employed on training, active Duty or a combination of both. Short Term Military Leave shall not exceed 30 days in any two (2) consecutive years. While on active military leave the member will be paid at their current rate of pay and the City will equalize their pay and benefits to be 100% of its current amount including the member(s) portion.
- 11-17 **Government Pay:** As stated above, includes basic military pay, special pay, and hazardous duty pay. Pay for quarters and travel shall not be reimbursed to the City. The deduction from the City shall not exceed the member(s) pay for a basic workweek during the same period. All time spent on short term military leave shall be considered time worked.
- 11-18 **Family Medical Leave Act of 1993 (FMLA):** To be acted in accordance to Chapter 18.06 in the City of Nogales Personnel Manual dated February 19, 2017.



**ARTICLE TWELVE  
TRAINING AND WORK ASSIGNMENTS**

- 12-1 Training opportunities shall be visibly posted in a timely manner to allow an opportunity for all members to express interest. Assignment of trainings shall be done on a rotational seniority basis. When qualifications are deemed equal work assignments shall be assigned by seniority. The parties hereto agree that operational necessity may require a member be assigned to a temporary position.
- 12-2 When a member is temporarily assigned for a period longer than 5 working days or more to perform the work of a higher paid position, the member shall retain his/her title but shall receive the higher pay for all time worked while on temporary assignment.
- 12-3 Where the City deems temporary assignments necessary, the City agrees to make a good faith effort to rotate such assignments by seniority so as to provide opportunities for on-the-job training and financial benefits to all qualified employees.
- 12-4 If a member is working in a temporary higher classification assignment and the position becomes available, the member will be given consideration in the hiring process based on the job experience gained performing the higher temporary assignment.
- 12-5 If a member is working in an out of class position without appropriate compensation, CWA will notify the City Manager or the Human Resources director. A grievance may be initiated if no corrective action is taken by the City Manager or Human Resources director within ten (10) working days.
- 12-6 Each member will be provided an opportunity for professional development annually. The City and CWA Local 7000 will work cooperatively to identify professional development opportunities that will be mutually beneficial.
- 12-7 If a member is assigned to the FTO program and who are training a new dispatcher, shall receive the rate of 18.75% of their regular hourly rate while actually performing the field training officer training.

**ARTICLE THIRTEEN  
LAYOFF**

- 13-1 The City will notify the Union in writing thirty (30) days in advance of any reduction of members. Notification shall contain the intended purpose/goals of downsizing, how many must be eliminated, the monetary goal and the name, title and seniority date of all affected members.
- 13-2 Reductions shall be pooled to include all members citywide and shall be done by seniority. Bumping shall be accomplished based on seniority with the members having basic job qualifications and experiences for other positions within the City.
- 13-3 After the Union has been notified, the City along with a Union representative will together notify affected members.
- 13-4 Prior to any member reduction, all contracted part time and any other incidental use of members shall be discontinued for a period not less than one (1) year excluding seasonal jobs and specialty jobs which require a great amount of training or degree.
- 13-5 Members who have been laid off will have special recall rights with the City as follows: The order of recall shall be based on the seniority of the members laid off, with the most senior member being recalled first provided that they have the basic job qualifications and experience. In the event affected members have the same seniority and qualifications, the member(s) highest last two (2) digits of the social security numbers will be recalled first.

A member(s) inclusion on the recall list shall be for period of one (1) year from the member(s) layoff date. Only members who were in full-time positions at the time of work force reduction are eligible for recall. If a member is recalled and returns to a different position, there will be no probationary period.

- 13-6 Reassignment Pay Protection: All members who, because of a reduction of the workforce, accept another position within the City where the pay is less than their current rate of pay, shall receive the difference between their current position and their new position based upon their Term of Employment at the time of the assignment with the following method:

Term of Employment	Period of Payment
0 but less than 5 years	10 weeks
5 but less than 10 years	15 weeks
10 but less than 15 years	20 weeks
15 but less than 20 years	25 weeks
20+ years	30 weeks

- 13-7 Payments will be discontinued upon regular transfer movement if the new position is equivalent in pay to their previous position.

## **ARTICLE FOURTEEN EDUCATION**

### **14-1 Requirements:**

It is the expressed policy of the City to encourage and assist its members in enhancing their level of education and skills by providing educational assistance in the form of reimbursement of tuition and class costs. The courses, classes, or programs eligible for assistance must be offered by accredited institutions of learning.

- A. Members are eligible for education assistance if:
  - 1. They are regular full-time members.
  - 2. They have completed three (3) years of service with the City.

### **14-2 Procedure:**

- A. To receive educational assistance, a member must submit a written request to the department director. The department director will then forward the request to the City Manager and the Human Resources Director.
- B. Request for educational assistance must be made no later than ninety (90) days before the commencement of the City(s) fiscal year in which the educational assistance will be utilized.

### **14-3 Reimbursement:**

- A. Reimbursement of tuition and class costs shall be provided for all courses, classes, or programs in which the member receives grades of a "C" or better or passing for a "pass/fail" class. Upon completion of the course, the member shall submit to the Human Resources Director a certified transcript of the grade(s) received. The Human Resources Director shall, on behalf of the member, forward a memo and the appropriate documentation to the finance department for reimbursement.
- B. Members who take courses at the specific request or direction of their department director shall be reimbursed for all costs in advance.
- C. An member who is terminated during enrollment because of a reduction in force or abolition of a position, or who is unable to complete the course because of a transfer within the City service, shall be reimbursed the full amount of the costs incurred. A member, who voluntarily leaves the City or is terminated for cause prior to completing a course, shall not be reimbursed. A member who voluntarily withdraws will receive no reimbursement.
- D. Reimbursement for tuition and/or costs shall not exceed the amount of four thousand dollars (\$4,000.00) per fiscal year.

### **14-4 Committee:**

The City and the local union shall mutually agree upon the selection of a team to promote and support educational opportunities for all City members. The team may meet as needed.

**ARTICLE FIFTEEN  
ENTITLEMENT AND PERSONAL DAYS**

- 15-1 Entitlement time already allotted by the City at the time of this agreement shall remain intact. More entitlement time may be allotted to all members.
- 15-2 Vacation time shall be bid out by seniority in October for the vacation requested for the months of January through June. April of each year will be the month to bid for vacation requested for the months of July through December. All requests will be based upon seniority within the work group and when the accrual of time takes effect.
- 15-3 In addition to allotted entitlement time, each member not in the probationary period will have five (5) personal days. Personal days paid that may be taken in increments of a minimum of one (1) hour or day at a time. These days have to be taken within the fiscal year.
- 15-4 **Monthly Accrual Rates:** Full-time members shall accrue vacation leave as follows:

0 through 60 months	12	work days annually
61 through 120 months	15	work days annually
121 months or more	20	work days annually

**Authorized Use:** Department directors shall authorize use of accrued vacation leave as such time as will accommodate the operating needs of the work unit and, to the extent practical, accommodate the needs of the member. Members shall be entitled to the use of accrued vacation leave only upon the successful completion of their initial probationary period.

**Maximum Accrual:** A member may not accrue vacation leave in excess of 240 hours unless the member was denied the use of their vacation time. Any accrued vacation leave in excess of 240 hours, on balance as of December 31 of each year, shall be reduced to 240 hours on January 1 of each year, and the member shall forfeit the right to the use of such excess vacation leave.

**Sale of Hours:** The sale of vacation hours shall be governed in accordance with City of Nogales Personal Manual dated, February 10<sup>th</sup>, 2017

## ARTICLE SIXTEEN UNIFORMS AND TOOLS

- 16-1 If distinctive uniforms are required for a member, the cost of purchase, lease, rental of uniforms; identification badges; protective gear; emblems or cards for the member shall be borne by the City. They shall be replaced at City expense as they wear out or otherwise damaged. Such items provided by the City shall be returned to the City upon separation. Rental of uniforms will be mutually agreed upon for department members.
- 16-2 The City shall provide all members covered by this Agreement any and all tools and equipment necessary to perform assigned tasks. For blue collar members, personal protective equipment will be provided. If they get damaged they should be able to be exchanged with the immediate supervisor.
- 16-3 The City will provide all blue collar members with ten (10) shirts and ten (10) pants and safety shoes annually and in a timely manner; unless mutually agreed upon.
- 16-4 Police dispatchers, parking enforcement officers, records and evidence technicians who wear uniforms will be provided a one hundred fifty (\$150) dollar minimum monthly allowance to provide additional uniforms and maintenance.
- 16-5 Boot Allowance
- A. All members who require safety boots as part of their job assignments will be provided with a boot replacement allowance to replace worn out work boots as outlined in sections B and C below.
  - B. All members who require safety boots as part of their job assignments in the Community Development and Warehouse Departments will be provided with a boot replacement allowance of two hundred dollars (\$200) to replace worn out work boots every three (3) years.
  - C. All members who require safety boots as part of their job assignments in Housing, Parks & Recreation, P&R Cemetery, Facilities, Wastewater, Water, Sanitation and Fleet Departments will be provided with an annual boot replacement allowance of two hundred dollars (\$200) to replace worn out work boots.
  - D. The City of Nogales will issue a Purchase Order (PO) to local vendor(s) to purchase a safety boot up to the amount of boot allowance in B and C above.
  - E. Members who properly document and justify in writing the need to replace their required safety boots may receive an additional allowance. The worn-out boots are turned into the City of Nogales for proper disposal.
  - F. Member receiving a boot allowance shall always wear safety boots while at work.
  - G. Members who voluntarily leave the employment of the city within three (3) months of receiving a boot allowance shall reimburse the city \$150.00 from their final check.
  - H. During the life of this agreement, either party could request to add or delete departments entitled to a boot allowance or to increase the boot allowance.

**ARTICLE SEVENTEEN  
JOB VACANCY PROCESS AND NOTICE**

**17-1 Vacancies:**

- A. It is recognized that all position vacancies within the bargaining unit may represent a promotional opportunity for some bargaining unit member. Therefore, in recognition of the fact that the City encourages internal promotions/transfers in pursuing its intent to hire the best qualified person, the following procedures shall apply in filling all vacancies within the bargaining unit.
1. The Human Resources Director shall first announce the availability of the position to City full-time members.
  2. All member(s) meeting the required minimum qualifications may apply for a vacancy by submitting an application to Human Resources on or before the advertised date.
  3. For purpose of breaking a tie between two equally qualified candidates, the selection shall be based on seniority.
  4. After the ten (10) days, if there are no internal qualified candidates, external candidates may be considered.

**17-2 Job Vacancy Notices:**

- A. Human Resources shall post notices of all vacancies at all City Departments throughout the City and delivered to CWA Local 7000.
- B. Each vacancy notice shall include: position, hours, job description, salary range, work location and closing date.
- C. All vacancy notices shall be posted at job sites for at least ten (10) days prior to closing.

**ARTICLE EIGHTEEN  
APPEALS AND APPEALS HEARING**

**18-1 Pre-disciplinary Meetings**

A member shall have the right to have a Union Representative attend any and all pre-disciplinary meetings. A member will provide the name(s) of the representative prior to the scheduled pre-disciplinary meeting.

**18-2 Right to Appeal**

A member shall have the right to appeal to the City Appeals Commission (Appeals Commission) only in the following cases:

- A. Demotions.
- B. Suspensions without pay.
- C. Dismissals.

No other appeals shall be allowed.

**18-3 Method of Appeal**

Appeals shall be in writing, addressed to and filed with the Human Resources Director. Upon receipt of the appeal, the Human Resources Director will notify the Appeals Commission and the City Manager. The appeal shall specifically identify the basis of the appeal, and should include all previous correspondence concerning the issue. The appeal shall also propose a statement of the action desired by the appealing member, with any supporting arguments.

**18-4 Time for Appeal**

A member has ten (10) working days from the service of the notice of the disciplinary action, to file and deliver the appeal to the Human Resources Director.

**18-5 Appeal Hearing**

The member shall appear personally and may have representation/legal counsel. The member or legal counsel, if represented, has the right to produce all evidence relevant to the appeal, cross examine witnesses, and testify on his own behalf. The department director shall be represented by the City Attorney, has the right to produce all evidence relevant to the appeal, cross examine witnesses, testify on behalf of the action taken and appealed by the member.

**ARTICLE NINETEEN  
NON-DISCRIMINATION**

19-1 Eligible members have the right to join and remain a member of the Union, free from any form of harassment, intimidation, coercion, threats of force, or reprisal by management.

It is also understood and agreed that eligible members have the equal right to refrain from any or all Union membership, free from any form of harassment, intimidation, coercion, threats of force, or reprisal by the Union.

19-2 Neither the City nor the Union will discriminate against any eligible member or applicant for employment or Union membership because of race, creed, color or national origin, age, sex, religion, disability, or sexual orientation.

19-3 The City strictly prohibits any form of unlawful member discrimination or harassment based on race, color, religion, sex, national origin, age, disability, personal or political considerations, status as a military veteran, or status in any group protected by local, state or federal law.



**ARTICLE-TWENTY**  
**TERMS AND CONDITIONS OF AGREEMENT**

- 20-1 This agreement shall become effective as of date of signing. It shall remain in full force and effect from November 6, 2024 to June 30, 2028. Each party may reopen up to five (5) issues each, including proposal of new sections. Economic negotiations will be opened annually.
- 20-2 In the event that no agreement results under any reopening session pursuant to section 20-1 above, the current Agreement remains in full effect.
- 20-3 If at the time of expiration of this Agreement and City Council has not approved a new Agreement, but negotiations are continuing, this Agreement shall remain in full force and effect for a period of six (6) months.
- 20-4 By mutual consent of the parties, this Agreement may be opened at any time for amendment. Any request for amendment shall be in writing, and shall contain a detailed statement of the changes desired, and reasons therefore. It is agreed to schedule the first meeting for negotiating the amendment within a reasonable period of time, not to exceed ten (10) business days, after receipt of the notification of the desire to amend the Agreement. No changes shall be considered other than those directly related to the subject of the requested amendments. Agreement shall be evidenced by written Agreement duly enacted by both parties.
- 20-5 City agrees that benefits and/or rights negotiated for members under this agreement shall not be granted to other city employees eligible but not covered by this agreement.

**ARTICLE TWENTY-ONE  
SEVERABILITY**

- 21-1 If any provision of this Agreement is determined to be invalid or illegal by a court of competent jurisdiction, then such provision shall be severed from this Agreement, but the remainder hereof shall remain in full force and effect.
- 21-2 In the event changes are made in any State or Federal Law, Civil Service Rule or Regulation, City Code, or Charter provision, applicable and contrary to any provision herein contained, then such portion of this Agreement shall be automatically terminated. However, the remainder of this Agreement shall remain in full force and effect.

The parties hereto shall immediately commence to negotiate for the purpose of replacing any such invalid or illegal provision.

**ARTICLE TWENTY-TWO  
RATIFICATION**

22-1 The above is subject to final approval by the Nogales City Council and hereby ratified by the City of Nogales Bargaining Team and CWA members. The signatures below are an indication of the final Agreement and in witness whereof, the parties hereto agree:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date above written.

City of Nogales

By:   
Joel Kramer, Acting City Manager

Communications Workers of America

By:   
Joe Gosiger, CWA Staff Representative

By:   
Linda Hatfield, CWA Local 7000 – President

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.