

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF OCEANSIDE

and the

**OCEANSIDE HARBOR
POLICE OFFICERS' UNIT**



Effective January 1, 2008 – December 31, 2009

SUMMARY OF KEY CHANGES

1. **TERM** – Contract continuation from date of ratification through December 31, 2009.
2. **COMPENSATION** – Provides bargaining unit employees with 4.5% base salary increase effective the second full pay period in January 2008 and 4.5% base salary increase effective the first full pay period in January 2009.
3. **HEALTH INSURANCE** – The City agrees to pay the employee's health insurance premiums according to a graduated scale based on elected coverage as follows: For family coverage, the City agrees to pay 75% of the premium not to exceed 75% of the cost of the base plan; for two party coverage, the City agrees to pay 85% of the premium, not to exceed 85% of the cost of the base plan; for single coverage, the City agrees to pay 100% of the premium not to exceed 100% of the cost of the base plan.
4. **FTO PAY** – Effective July 2008, increase FTO pay from four hours of regular rate of pay to six hours of regular rate of pay.
5. **SERVICE PAY** – Provides for a one time, lump sum payment, in the amount of \$3000 per year for all employees who have achieved twelve years of qualifying law enforcement experience.
6. **HOLIDAYS** – Modify existing language to reflect holiday leave bank of 112 hours per year and eliminate designated holidays.
7. **DELETE EXPIRED LANGUAGE**
8. **MODIFY EXISTING LANGUAGE TO CONFORM WITH EXISTING POLICIES AND PROCEDURES**

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MEMORANDUM OF UNDERSTANDING
Between the
CITY OF OCEANSIDE
and the
OCEANSIDE HARBOR POLICE OFFICERS' UNIT

Pursuant to Section 3500, et seq., of the California Government Code, this Agreement is entered into between the City of Oceanside (hereinafter referred to as "City") and the Oceanside Police Officers' Association (hereinafter referred to as "Association").

I. RECOGNITION

The City recognizes the Oceanside Police Officers' Association as the recognized employee organization for a unit consisting of the classification of Harbor Police Officer.

II. MANAGEMENT RIGHTS

- A. The City retains all rights not specifically delegated by this Agreement including the exclusive right to determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action for proper cause; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operation; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise control and discretion over its organization and the technology of performing its work. The determination of whether or not an emergency exists is solely within the discretion of the City.
- B. Except as provided in Paragraph A above, or provided for by specific provisions of this Agreement, matters within the scope of representation shall continue for the life of this agreement or until such time as the City provides the Association with the appropriate notice and the opportunity to meet and confer upon request, pursuant to State law.

III. SALARY/CLASSIFICATION PLAN

A. THE SALARY STEP PLAN

The salary step plan as described in Appendix "A" of this agreement shall provide a salary range for each employee job classification. Such salary range will be divided into six (6) salary level steps which shall be interpreted and applied as follows:

1. "1" STEP. The "1" or first step salary level will be the minimum rate and normally shall be the starting or hiring rate. In special cases when it is merited by experience, education, training or other qualification, the City may approve the hiring of a candidate for employment at a higher level.
2. "2" STEP. The "2" or second step salary level may be granted to an employee after satisfactory completion of one year of service during the probationary period. The adjustment shall be made only if granted by the City. This second step must be granted at the time of satisfactory completion of the original probationary period.
3. "3" STEP. The "3" or third step salary level may be granted to an employee who has proven to be fully satisfactory in a given classification for one (1) additional year of service from the granting of the previous salary step increase only if granted by the City.
4. "4" STEP. The "4" or fourth step salary level may be granted to an employee who has proven to be fully satisfactory in a given classification for one (1) additional year of service from the granting of the previous salary step increase only if granted by the City.
5. "5" STEP. The "5" or fifth step salary level may be granted to an employee who has proven to be fully satisfactory in a given classification for one (1) additional year of service from the granting of the previous salary step increase only if granted by the City.

B. SALARY PLAN ADMINISTRATION

1. Employees shall normally receive salary compensation on a bi-weekly basis with paychecks being distributed on Friday. Each bi-weekly payperiod shall normally extend from 12:01 am on the Sunday before a normal payday through 12:00 pm on the second Saturday following a normal payday.
2. An employee will not receive any compensation of any type while on leave of absence without pay or while absent from duty without official leave.
3. If the salary range for a particular job classification is either increased or decreased, then all employees within that classification shall maintain the same salary step level in the adjusted salary range.
4. The City may accelerate salary step advancement for individual employees at its discretion.

5. To maintain any given salary step level, an employee must continue to maintain a fully satisfactory level of performance. All employees shall receive at least one (1) annual written performance evaluation. Additionally, the City may at any time assess an employee's performance by conducting an evaluation. If any such written performance evaluation does not demonstrate an employee's continued successful performance, that employee may be reduced in salary step level or demoted in job classification. Any such reduction will be reevaluated, at the City's discretion, after a specified period of time not exceeding one (1) year.
6. EVALUATION DATE DEFINED. The Evaluation Date on which an employee is to receive a performance evaluation in accordance with salary step plan and the probationary period. Any change in an employee's job classification shall be considered as an appointment which establishes a new Evaluation Date.
 - a. This definition shall be utilized, as appropriate, throughout this agreement unless specifically provided otherwise.
 - b. The Evaluation Date for any employee not present for duty, nor in a pay status, for one (1) or more full payperiod(s) shall be advanced that number of payperiods.

C. THE PROBATIONARY PERIOD

1. DEFINED. The probationary period is a working evaluation period following an employee's appointment to the City service or appointment to a new job classification, except by virtue of a reclassification, within the City service. Such a period may be extended by the City as a result of an employee's poor performance evaluation. The length of the probationary period shall normally be for one year, except as provided in 3, below.
2. Any appointment to, or within, the City service, except by virtue of a reclassification, shall not be deemed to be permanent until the successful passage of an employee's probationary period. Such probationary period shall be considered as part of the employee's examination process during which the City may reject any probationary employee whose performance or qualifications do not fully meet the required standards of employment.
3. Any appointment to the City service shall be tentative and subject to the probationary period during which any newly appointed employee may be discharged by the City without right of appeal, if during such probationary period, the City deems the employee unfit or unsatisfactory for permanent appointment.
4. Any appointment within the City service shall be tentative and subject to the probationary period during which any newly appointed employee may be discharged by the City without right of appeal, if during such probationary period, the City deems the employee unfit or unsatisfactory for permanent appointment.

D. TRAINEE LEVELS

The City may, at its discretion, establish trainee salary range levels and/or job classifications.

E. ACTING APPOINTMENTS

The City may, at its discretion, appoint an employee to an acting capacity in a job classification different than that one currently held by the employee. The employee shall receive any salary range increase which may be attendant to such acting service only after twenty (20) consecutive work days of City-recognized successful service in such acting capacity. Any salary range increase provided to an employee shall be determined in accordance with the promotion provisions of this Agreement. Service in an acting capacity shall not continue for a period of time exceeding one hundred eighty (180) days, nor be considered in establishing an employee's Evaluation Date for the purpose of applying the salary step plan.

F. Y-RATING

The City may, at its discretion, Y-Rate any employee in the City service. Such action shall not take effect until any employee has had fifteen (15) calendar days advance notice. Upon request, the City shall meet with the employee and/or the employee's representative concerning the impact of the City's decision to apply a Y-Rate.

Y-RATING DEFINED. Y-Rating shall mean that the salary range for the affected employee shall remain the same until the employee's salary range equals or exceeds the Y-Rating level.

G. PROMOTION

The City may, at its discretion, promote any employee to a different job classification within the City service having more responsible duties, and/or higher job qualifications and/or a higher salary range level. Upon promotion, any employee shall receive a minimum salary increase equivalent to one (1) salary step in the employee's current (pre-promotional) job classification, provided, however, that such increase shall be at least equivalent to the minimum and shall not exceed the maximum salary range level established for the new job classification. A promotion shall establish a new Evaluation Date for purposes of applying the salary step plan. Any promotional appointment shall be tentative and subject to the probationary period. Any employee rejected during such probationary period shall be reinstated to the job classification held prior to the promotion, unless the employee is discharged from the City service as provided in this agreement.

H. DEMOTION

The City may, in accordance with this agreement, demote any employee to a different job classification within the City service having less responsible duties, and/or lower job qualifications, and/or a lower salary range level. Upon demotion, any employee shall receive a minimum salary decrease equivalent to one (1) salary step in the employee's current (pre-promotional) job classification, provided, however, no employee shall receive a salary which exceeds the maximum salary range level established for the new job classification. A demotion shall establish a new Evaluation Date for purposes of applying the salary step plan, and may reinstitute the probationary period.

IV. COMPENSATION

All employees shall be compensated as follows:

A. SALARY

All employees shall be compensated as follows:

- 1. Effective the second full pay period in January 2008, all bargaining unit employees shall receive a 4.5% base salary increase. Effective the first full pay period in January 2009, all bargaining unit employees shall receive a 4.5% base salary increase.**
- 2. Service Pay: All employees, who have achieved twelve years of P.O.S.T recognized law enforcement experience (excluding all military service) and a minimum of five complete years, in a sworn capacity, with the City of Oceanside by December 1, 2008, shall receive a one-time, lump sum payment of \$3000 effective the first paycheck in December 2008. All employees, who have achieved twelve years of P.O.S.T recognized law enforcement experience (excluding all military service) and a minimum of five complete years, in a sworn capacity, with the City of Oceanside by December 1, 2009, shall receive a one-time, lump sum payment of \$3000 effective the first paycheck in December 2009. These one time lump sum payments shall be reported to CalPERS for the purposes of compensation. All parties agree, these one time lump sum payments are not considered as the regular rate of pay and are not included as compensation for the purposes of overtime and other special compensation including sick leave, vacation, holiday, canine, FTO, motorcycle, shift, or any other form of special compensation.**

Harbor District General Orders detail the requirements and responsibilities for Step 6 Officers.

Basic salaries shall be established for Harbor Police Officer as described above and may be amended by resolution of the City Council. Any such resolution shall contain the effective date and salary schedule for all classifications.

B. OVERTIME PAY

- 1. The City may assign employees work in excess of the normal, regularly scheduled forty (40) hour work week, which shall be compensated as overtime pay or as compensatory time off, as agreed upon by the appropriate immediate supervisor and the employee. Compensation will be at a rate of one and one-half times (1½) the employee's regular hourly rate of pay as overtime pay or at the rate of one and one-half times (1½) the hours worked as compensatory time. Payment of overtime will remain consistent with existing practices including schedule changes for watch change, training assignments and employee-generated requests.**
- 2. All overtime work shall be authorized in advance by an employee's appropriate immediate supervisor, or no compensation shall be provided. All time which an employee spends in a pay status shall be considered in establishing the employee's normal regularly scheduled forty (40) hour work week.**

3. Compensation as provided herein above shall not be granted to any employee for services for which the employee has otherwise been compensated. For purposes of this Section, compensation for paid time off shall not be considered as compensation for services rendered.
4. Nothing herein above shall be construed to be a guarantee of a minimum work week for any employee.
5. An employee may accrue a maximum of eighty (80) hours of compensatory time off. The employee shall be permitted to schedule the use of compensatory time off provided the employee requests the time off at least two work days in advance and the requested time off will not unduly disrupt the operation of the office or department. If the requested time off is not granted, the immediate supervisor and the employee shall meet to select an alternative date. If no alternative date is available, the employee shall be paid in cash in lieu of receiving time off.

C. RETIREMENT

The City shall continue to provide for employee retirement benefits through participation in the Public Employees' Retirement System (PERS) two percent (2%) at fifty (50) plan, as established by that system. The City shall contribute to PERS an amount equal to 9% of each member's earnings as defined in Section 92.0 through 98.1 and 100.8 of the "Procedure Manual for Public Agency Reporting to the Public Employees' Retirement System". The City shall continue to provide the same optional retirement benefits provided in the past for all represented employees in accordance with the existing contract with Public Employees' Retirement System. Such contract is on file in the Office of the City Clerk. Effective the first full pay period in January 2004 the City will commence the payment of the Employer Paid Member Contribution (EPMC).

Effective June 24, 2001, the 3% @ 50 retirement benefit will become effective and the City will amend the existing contract to provide for said benefit.

D. MEDICAL/DENTAL/VISION/LIFE INSURANCE

The City shall provide every eligible employee (defined as an employee receiving benefits) with the option of selecting medical and/or dental and/or vision insurance for the employee only or for the employee and all eligible family members. If eligible family members are enrolled, they must be enrolled in the same coverages as elected by the employee.

1. The City agrees to contribute a sum not to exceed \$545.00 per month toward City group insurance benefits for the employee and eligible family members. Each eligible employee may elect to use this contribution toward health coverage by enrolling in the City's group insurance plans. If the employee and his/her spouse are both eligible for coverage as City employees and enroll in the same plans under family coverage, the monthly City contribution may be combined to offset the costs of the premiums. Under no circumstances shall the City be required to pay any of the unused City contribution to the employee in cash.

2. Each eligible employee may elect to change the selection of optional benefits programs once per year at a time designated by the City and insurance provider.
3. The City shall continue health/dental/vision coverage for employees on approved leaves of absence without pay provided the employee pays the premiums in a timely manner. The City shall provide the employee with a payment schedule. For employees on approved leaves of absence without pay under the Family and Medical Leave Act, the city shall continue the monthly insurance contribution as provided by law.
4. Effective January 1, 1996, the City will provide an IRS-approved Flexible Spending Account (FSA) program that will enable employees to defer compensation on a pre-tax basis for eligible health care expenses and dependent care expenses. Administrative fees will be paid by the City.
5. Effective January 1, 2006, the City shall provide every eligible employee with \$50,000 in group life insurance coverage. The City shall contribute, as appropriate, monthly premiums for such coverage.
6. Effective September 1, 1999 the City will provide a voluntary life insurance program option for the employee and dependents. Employees who opt to participate in this program will pay the cost of such insurance purchased under this provision.
7. **Effective the first full month after ratification by the City Council, the City agrees to pay the employee's health insurance premium as follows:**

Medical:

For family coverage, the City agrees to pay 75% of the medical insurance premium, not to exceed 75% of the cost of the PacifiCare HMO plan.

For two-party coverage, the City agrees to pay 85% of the medical insurance premium, not to exceed 85% of the cost of the PacifiCare HMO plan.

For single coverage, the City agrees to pay 100% of the medical insurance premium, not to exceed 100% of the cost of the PacifiCare HMO plan.

Dental:

For family coverage, the City agrees to pay 75% of the dental insurance premium not to exceed 75% of the cost of the Delta Preferred PPO premium.

For two-party coverage, the City agrees to pay 85% of the dental insurance premium not to exceed 85% of the cost of the Delta Preferred PPO premium.

For single coverage, the City agrees to pay 100% of the dental insurance premium not to exceed 100% of the cost of the Delta Preferred PPO premium.

Vision:

For family coverage, the City agrees to pay 75% of the vision insurance premium.

For two-party coverage, the City agrees to pay 85% of the vision insurance premium.

For single coverage, the City agrees to pay 100% of the vision insurance premium.

If both husband and wife are employed full time with the City, the City will pay the full cost of the family plan for health, dental, and vision, not to exceed the cost of the PacifiCare HMO plan; the Delta Preferred PPO plan and the vision plan.

E. VOLUNTARY LIFE INSURANCE

The City will provide a voluntary life insurance program option for the employee and dependents effective April 1, 1997. Employees who opt to participate in this program will pay the cost of such insurance purchased under this provision.

F. LONG-TERM DISABILITY INSURANCE

The City shall provide for long-term disability insurance for all eligible employees. Minimally, such program shall provide a disability benefit equivalent to sixty-six and two-thirds percent (66 2/3%) of the employee's basic monthly salary up to the maximum per month benefit. The plan for sworn employees shall provide for a 60-day waiting period. The plan for non-sworn employees shall provide for a 90-day waiting period. Other details of the disability plans are contained in the insurance policies for sworn and non-sworn personnel.

1. Effective April 1, 1996, the City agrees to transfer the long-term disability coverage for sworn employees to the California Law Enforcement Association (CLEA) plan.
2. The monthly LTD premium for each covered sworn employee will be paid by each covered employee and will be subject to federal and state withholding taxes. The City will be responsible for remitting the monthly premiums due for each covered sworn employee directly to CLEA. The City's total monthly cost, up to the maximum of \$44.63 per employee per month, will not exceed the CLEA monthly LTD premium cost for each covered employee. The LTD program described above shall not be canceled or otherwise altered in scope except by the mutual agreement of the City and the Association.

G. SHIFT DIFFERENTIAL PAY

The regularly scheduled employee assigned to work the morning watch (normally 12:00 midnight to 8:00 am), including the relief assignment officer, shall receive additional hourly compensation of three percent (3%) for actual hours worked during that shift. Shift differential pay is not available to employees who are held over on their regular shift or are assigned to work the morning watch at the overtime rate.

H. PHYSICAL EXAMINATIONS

The City shall provide for any medical examinations required of any employee by the City at no cost to the employee.

I. COURT APPEARANCE/RECALL PAY

1. Any employee recalled to perform job duties after the close of the regularly assigned shift and after departure from the Harbor facilities shall receive a minimum of three (3) hours salary or three (3) hours compensatory time off, as agreed upon by the appropriate immediate supervisor and the employee. Any employee required to work longer than three (3) hours after being recalled shall receive overtime pay as provided in this agreement.
2. All employees of the City of Oceanside Harbor and Beaches Department who, on scheduled time off, vacation and/or holiday time, are required to be present in court (or other similar legal proceeding) in connection with the performance of their duties, shall receive a minimum of three (3) hours at time and one-half **the regular rate of pay**. This three hour minimum shall commence when the employee departs their place of residence and concludes upon arrival back at their residence. If the employee is called back to court on the same day in the afternoon, the employee will be paid at time and one half for all time spent in the afternoon court. If the employee is required to appear in two different cases (one court in the morning and one court in the afternoon) on the same day, the employee shall receive the three hour minimum for each court appearance. Payment is excluded for periods of leave of absence by request. Personnel on I.O.D. status may claim overtime benefits only for that amount of time in excess of eight (8) hours for each appearance.

J. REPLACEMENT OF PERSONAL PROPERTY

Any employee who suffers damage or destruction of personal property, except a motor vehicle, boat, airplane or similar such vehicle, in the performance of regular duties and as a result of performing those duties, shall be entitled to a replacement or repair thereof upon the approval of the Risk Manager not to exceed \$500.00, provided that such damage or destruction did not result from employee negligence. Any reimbursement provided under this subsection shall not exceed the reasonable value of functional replacement or repair. Specific replacement or repair value limitations on such articles as prescription eyeglasses and watches shall be established by the City. In lieu of replacement or repair of dive watches exceeding \$60.00, the City shall have available dive watches to be used by authorized personnel during assigned diving operations.

K. BILINGUAL PAY

All employees are eligible to apply to be tested for bilingual certification. Any employee may apply to be tested for bilingual certification and a certification examination shall be scheduled within a reasonable time thereafter by the City or its designee.

The City shall determine which languages are needed and the number of personnel needed to perform the service. All employees passing the test up to a maximum to be determined by the City shall be certified to receive the bilingual stipend of \$100 per month to be included in the regular rate of pay.

Employees who have bilingual skills and who are not receiving bilingual pay shall not be required to perform these duties on a regular basis. However, employees who have bilingual skills may not refuse to use those skills on a reasonable basis. If the employee disputes the need for the City to require the employee to use bilingual skill, the employee shall perform the required service and seek resolution of the dispute through the grievance procedure.

L. TUITION REIMBURSEMENT

The City shall provide reimbursement for tuition, books, lab fees, and mandatory fees, for permanent employees within a fiscal year up to a dollar amount which shall not exceed the per unit rate based on a normal semester full-load tuition rate at San Diego State University for courses related to the employee's current job. An employee shall be reimbursed upon submitting evidence that he/she has satisfactorily completed the approved course work. Employees shall obtain pre-approval prior to commencement of classes. Reimbursement will only be granted for courses taken at universities or colleges that are accredited with the Western Association of Schools and Colleges or one of the other five regional associations that accredit public and private schools, colleges and universities in the United States.

If a permanent employee attains a degree, while employed with the City of Oceanside in a subject related to his/her current job, the employee shall receive a one-time payment of \$300 for an Associate level degree and \$600 for a Bachelor's degree. Employees eligible for this one time payment must submit their request within one year of obtaining their degree.

M. DEFERRED COMPENSATION

The City shall provide a non-contributory Deferred Compensation Plan. In addition to salary, any portion of the following benefits may be diverted to the Plan at the employee's option, subject to restrictions established by the City adopted Plan: compensation for holidays, sick leave, and overtime. The City reserves the right to change, alter, amend, discontinue and Plan and to impose specific conditions upon the use of any Plan.

N. UNIFORMS

Upon completion of probation, sworn Harbor Police Officers shall be entitled to the following annual cash uniform payments: Effective August 2006: \$675.00 payable the first payday in August. The cash uniform allowance will increase to \$700.00 payable the first payday in August 2007. **Uniform allowance will not be paid to employees on long term leave of absence, IOD, etc. until the employee returns to full duty.**

The City agrees to provide each employee covered by this agreement with a protective (bullet-proof) vest.

O. STAND-BY PAY

Employees who are required to remain at home or a location mutually agreeable to the City and the employee on a standby, immediate recall basis will be credited with a total of two (2) hours of compensatory time for each day for which they maintain this status. This policy does not apply to any employee on standby with an electronic paging device ("beeper").

P. DIVE PAY

Dive pay, the double hourly rate, applies only to actual time in the water utilizing scuba equipment. Dressing time, planning time and clean-up time will be paid at the regular hourly rate. The minimum number of certified divers per dive shall be two (2).

Q. MILEAGE REIMBURSEMENT

When an employee is authorized to use his/her personally owned vehicle during work assignments, the City shall provide advanced mileage or mileage reimbursement at a level equivalent with the current IRS rate. This rate is subject to adjustment up or down based on actions of the Federal government. The rate is intended to be a total amount paid for use of the vehicle, inclusive of gas, oil, insurance and maintenance.

R. EDUCATION INCENTIVE PLAN

Officers possessing a POST Certificate(s) shall receive a cash allowance according to the schedule below:

Intermediate:	\$100 per month
Advanced:	\$250 per month.

S. EMT INCENTIVE PLAN

Non-probationary EMT certified employees shall receive a cash allowance of 5% of their base pay per pay period.

EMT certification shall become the minimum first-aid standard. The City will provide the training to employees either during duty time or on an overtime basis.

Employees who are unable to attend City-provided training due to approved leaves or absences (i.e. sick leave, vacation, I.O.D., etc.) or other duty requirements may be reimbursed for out-of-pocket expenses up to \$100, if the alternate training is provided by an approved outside agency.

Any employee hired prior to January 1, 1995, who does not meet the EMT certified job standard shall not be disqualified for failure to meet minimum standards, provided the employee attends training and takes the exam for certification each time such training and exam is given by the City.

T. FLEXIBLE SPENDING ACCOUNTS

The City agrees to implement an IRS-approved Flexible Spending Account (FSA) program that will enable employees to defer compensation on a pre-tax basis for eligible health care expenses and dependent care expenses. Administrative fees will be paid by the City.

U. FIELD TRAINING OFFICER

Personnel who hold a valid POST Field Training Officer's certificate shall comprise a pool from which the Harbor and Beaches Director may select individual officers to serve as Field Training Officers on an as-needed basis. For each week the officer is selected to serve as a Field Training Officer, that officer shall receive four (4) hours of extra pay at the employee's regular rate of pay to compensate for the added training officer's functions and responsibilities. **Effective the first full pay period in July 2008, for each week the officer is selected to service as a Field Training Officer that officer shall receive six (6) hours of extra pay at the employee's regular rate of pay to compensate for the added training officer's functions and responsibilities.**

V. ATTENDANCE AND LEAVES

A. HOURS OF WORK

1. The basic work week shall consist of five (5) eight (8) hour days or forty hours per week. However, employees for whom the City deems a different schedule to be desirable or necessary shall work according to such other schedule.
2. Lunch periods and break periods shall be as scheduled by the City.
3. If the work schedule is changed from five (5) eight (8) hour days to four (4) ten (10) hour days or some other flexible work schedule (or the reverse), employees shall receive two weeks' notice, unless the schedule change is necessitated by an emergency.

B. ATTENDANCE

Employees shall work the schedule assigned unless granted official leave by the City.

C. SICK LEAVE

1. DEFINED. Sick leave is leave from duty which may be granted by the City to an employee because of illness, injury, exposure to contagious disease, necessary consultation with or treatment by a doctor or dentist, necessary attendance to the illness or injury of a member of the employee's immediate family, or death within the employee's immediate family.

An employee's immediate family shall consist of the employee's: spouse; children; the employee's or spouse's grandparents, mother, father, brother, or sister; other members of the employee's family residing in the employee's home, or other members of the employee's family entirely dependent upon the employee.

2. SICK LEAVE USE

- a. An employee may be granted sick leave only in case of actual sickness as defined in Subsection V.C.1. above. In the event that an employee recovers from any such sickness after being granted sick leave, and during the regularly scheduled hours of work, then such employee shall notify the appropriate immediate supervisor and be available to return to duty.
- b. In order to receive compensation while absent on sick leave, the employee shall notify the appropriate immediate supervisor prior to or within one hour after the time set for beginning his daily duties, or as may be specified by the head of his division.
- c. Sick leave shall not be granted to any employee absent from duty as a result of any sickness, injury or disability purposely self-inflicted or caused by willful misconduct.
- d. Sick leave shall only be granted in even one-half ($\frac{1}{2}$) hour increments.

- e. Sick leave shall not be granted to any employee absent from duty after separation from City service, or during a City-authorized leave of absence without pay, or any other absence from duty not authorized by the City.
- f. Sick leave shall not be granted to any employee to permit an extension of the employee's vacation.
- g. Sick leave may be granted to any employee during the first six (6) full calendar months of the employee's original probationary period.
- h. In the event that an employee has applied for sick leave use for two (2) or more consecutive scheduled working days, the City may require a physician's certification as to the diagnosis of the illness or injury, the treatment recommended for it, and an approval of the employee's intended return to work. The City may, however, require such certification regarding sick leave use at any time.
- i. Accrued sick leave may be granted to an employee for necessary attendance due to illness or injury of a member of the employee's immediate family, or death within the employee's immediate family, not to exceed forty (40) hours in any calendar year.

3. SICK LEAVE ACCRUAL

- a. All employees shall accrue one (1) hour of sick leave for each 21.66 hours spent in a pay status beginning on the first day of service as a City employee. Such accrual shall take place on a payperiod basis. Hours spent in a pay status shall include all regular hours worked in the City service and all hours spent in a paid leave status from regular duties, and shall exclude any hours worked as overtime or special time.
- b. Sick leave granted by the City and used by an employee shall be deducted from the employee's accrued sick leave balance.
- c. Employees granted a leave of absence with pay or other approved leave with pay shall accrue sick leave as otherwise regularly provided by this agreement.
- d. Sick leave shall not be accrued by any employee absent from duty after separation from City service, or during a City-authorized leave of absence without pay, or any other absence from duty not authorized by the City.

4. REIMBURSEMENT FOR ACCRUED SICK LEAVE

- a. Upon separation by retirement following five (5) continuous years of City service, an employee shall be paid fifty (50) percent of the employee's total accrued sick leave. Such reimbursement shall be at the employee's salary rate at the time of separation, and shall reduce the employee's total amount of accrued sick leave to zero.

- b. Upon separation of any type, other than by disciplinary discharge, and following ten (10) continuous years of City service, an employee shall be paid fifty (50) percent of the employee's total accrued sick leave. Such reimbursement shall be at the time of separation and shall reduce the employee's total amount of accrued sick leave to zero.
- c. Each calendar year, an employee may elect to receive payment in lieu of accrued sick leave provided such employee has used thirty-two (32) hours or less of sick leave during the period. An eligible employee shall notify the City of the desire to receive such payment prior to December 1 of any calendar year. An employee receiving such pay shall receive, at the then-current salary rate, pay for one-fourth (1/4) of the number of hours of sick leave accrued less those hours used for the calendar year period. The employee's accrued sick leave shall be reduced by the number of sick leave hours for which pay is provided.
- d. Upon termination following ten (10) years of continuous employment or upon retirement following five (5) years of continuous employment with the City, the employee shall be compensated for fifty (50) percent of the employee's accrued sick leave up to a maximum payoff level of 800 hours, at the employee's current hourly rate of pay at the time of separation, which shall reduce the employee's total amount of sick leave to zero. Retirement as used herein shall mean retirement pursuant to the City's retirement system known as Public Employees' Retirement System (PERS). In the case of a sworn employee where an application for disability retirement has been filed and the City has made a final determination of the employee's eligibility for disability retirement prior to the expiration of the employee's Labor Code 4850 time, such employee shall not be authorized to utilize sick leave after termination of such 4850 time for absences caused by the disability for which the retirement application was filed.

D. HOLIDAYS

Effective July 1, 2008, employees will be credited with 56 hours of holiday credit on January 1st and July 1st of each year in lieu of designated holidays for a total of 112 holiday hours annually.

All such holiday credit between January 1 and June 30 shall be utilized by June 30 or the employee shall be paid for such hours at the employee's current hourly rate of pay. All such holiday credit between July 1 and December 31 shall be utilized by December 31 or the employee shall be paid for such hours at the employee's current hourly rate of pay.

Employees may utilize accrued leave (excluding sick leave) on designated City holidays.

E. VACATION LEAVE

1. All employees shall be entitled to annual vacation leave except the following:

Employees serving their original probationary period in the service of the City. However, vacation credit for the time shall be granted to each such employee who later receives a permanent appointment.

2. Vacation Accrual Rates

- (1) During an employee's first five (5) full consecutive years of employment, the employee shall accrue 3.08 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 10 days per year or equivalent.)
- (2) During an employee's 6th consecutive year of employment, the employee shall accrue 3.39 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 11 days per year or equivalent.)
- (3) During an employee's 7th consecutive year of employment, the employee shall accrue 3.69 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 12 days per year or equivalent.)
- (4) During an employee's 8th consecutive year of employment, the employee shall accrue 4.00 hours of vacation leave for each 80 hours in a pay status. (This accrual amounts to approximately 13 days per year or equivalent.)
- (5) During an employee's 9th consecutive year of employment, the employee shall accrue 4.31 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 14 days per year or equivalent.)
- (6) During an employee's 10th consecutive year of employment, the employee shall accrue 4.62 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 15 days per year or equivalent.)
- (7) During an employee's 11th consecutive year of employment, the employee shall accrue 4.93 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 16 days per year or equivalent.)
- (8) During an employee's 12th consecutive year of employment, the employee shall accrue 5.24 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 17 days per year or equivalent.)

- (9) During an employee's 13th consecutive year of employment, the employee shall accrue 5.55 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 18 days per year or equivalent.)
 - (10) During an employee's 14th consecutive year of employment, the employee shall accrue 5.86 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 19 days per year or equivalent.)
 - (11) Beginning with an employee's 15th consecutive year of employment, the employee shall accrue 6.15 hours of vacation leave for each 80 hours spent in a pay status. (This accrual amounts to approximately 20 days per year or equivalent.)
 - (12) Beginning with an employee's 20th consecutive year of employment, and extending through the remaining years of employment, the employee shall accrue 7.69 hours of vacation for each 80 hours spent in a pay status. (This accrual amounts to approximately 25 days per year or equivalent.)
3. For the purpose of accruing vacation credits, hours worked includes paid leave time such as sick leave or vacation but does not include any time worked in excess of normal required work week such as overtime.
4. Each eligible employee shall be required to have served the equivalent of one (1) year of continuous service in the City in order to be eligible for his/her annual vacation leave, provided, however, the City Manager may authorize an employee to take accrued vacation earlier if, in his/her judgment, valid reasons make it in the best interest of the service and the employee that an exception be granted. Under no circumstances shall an exception be made if an employee has not completed at least six (6) months of continuous service.
5. The time during a calendar year when an employee may take his/her vacation and the maximum length of that vacation shall be determined by the Department Head with due regard to the wishes of the employee, and particular regard to the needs of the service. The approval of the length and time of the requested vacation shall not be unreasonably withheld by the Department Head.
6. Employees shall schedule vacation time on the basis of seniority within the department. Employees shall select their vacation time and duration at the beginning of the calendar year. Employees may change their vacation times and duration with concurrence of their supervisor. In the event of a conflict of vacation schedules brought about as a result of an employee's transfer or reassignment, seniority within the department will prevail.
7. All eligible employees hired before July 1, 1994, may accumulate vacation leave up to a maximum of three hundred and sixty (360) hours. Once that maximum is reached, the employee shall stop accruing vacation credits until the maximum accumulated vacation leave balance is less than 360 hours.

8. All eligible employees hired after July 1, 1994, may accumulate vacation leave up to a maximum of two hundred (200) hours. Once that maximum is reached, the employee shall stop accruing vacation credits until the maximum accumulated vacation leave balance is less than 200 hours.
9. In the event one or more municipal holidays fall within an annual leave, such holidays shall not be charged as vacation leave.
10. In the event of termination of employment, the employee shall receive, in lieu of vacation, a sum of money equal to the number of hours of accrued and unused vacation time officially recorded by the City times the employee's then-current hourly rate of pay.

F. MILITARY LEAVE

The State Military and Veterans Code shall govern the City's granting and an employee's use of military leave.

G. LEAVE OF ABSENCE WITHOUT PAY

1. Any employee who has successfully completed the original probationary period may submit to the appropriate immediate supervisor a written request for a leave of absence without pay for a period not exceeding one (1) year for the specific purpose of obtaining improved job training, or recuperating from an extended illness for which sick leave is not available, including maternity leave, or for attending to urgent personal affairs. Use of a leave of absence without pay for a purpose other than that requested shall be considered as an employee's automatic resignation from City service. No leave of absence without pay shall be utilized to permit an employee to seek other employment or to permit an employee to engage in non-City employment. The City shall have sole discretion to approve or disapprove any such request.
2. Any employee having been granted a leave of absence without pay and not reporting for work promptly upon its expiration shall be considered to have automatically resigned from City service.
3. Requests for leaves of absence without pay for periods exceeding six months, up to a maximum of one year, must be submitted for approval of the Board of Directors.

The City Manager may grant a permanent employee a leave of absence without pay for a period not to exceed six months. No leave without pay shall be granted except upon written request of the employee or personal representative if the employee is incapacitated. An employee asking for special leave without pay shall submit a written request stating the reasons for the request. The supervisor shall make a recommendation to the City Manager as to whether or not the leave request should be granted. The City Manager shall determine whether such leave request shall be approved. If the request is denied, the employee may appeal the recommended action by proposing that the request be heard by the Board. Final decision shall be made by the Board of Directors. Upon expiration of an approved leave without pay, the employee shall be reinstated in the position held at the time

the leave was granted. Failure on the part of an employee on leave to report promptly at its expiration shall be considered to have automatically resigned from City service. For the period of the leave, the employee shall gain no seniority and such period shall not be included in computing the employee's seniority. The above shall apply to any leave of absence for periods exceeding one week. A leave of absence for one week or less may be granted by the supervisor with the approval of the City Manager.

H. BEREAVEMENT LEAVE

1. A permanent employee shall be eligible to take three (3) days leave of absence on account of the death of a member of the employee's immediate family.
2. Members of the immediate family shall be limited to: spouse; children; employee's or spouse's grandparents, mother, father, brothers, or sisters; and other members of the employee's family residing in the employee's home.
3. Upon approval of the Department Director, an additional two (2) days of bereavement leave may be granted. These two (2) days, if granted, shall be chargeable to sick leave.

I. FAMILY MEDICAL LEAVE ACT

The City of Oceanside Family and Medical Leave Policy shall govern the granting and employee use of family and medical leave.

J. SEPARATION FROM CITY SERVICE

Separation of an employee from the City service may be accomplished in any of the following alternative manners:

1. Completion of work assignment or project.
2. Resignation which may be either deliberate or automatic. Any deliberate resignation shall be submitted in writing to the appropriate immediate supervisor at least seven (7) calendar days prior to an employee's actual separation from the City service.
3. Retirement which may be either deliberate or by virtue of disability.
4. Layoff as provided in Section VII of this agreement.
5. Discharge as a result of disciplinary action as provided in this manual.
6. Death.

VI. LAYOFF AND RECALL POLICY

A. LAYOFF

1. Whenever it becomes necessary, in the judgment of the City, due to lack of work, lack of funds, or other legitimate economic reasons, or because the necessity for a position no longer exists, the City may abolish any position or employment, and the employee holding such position or employment may be laid off without disciplinary action and without the right to appeal the concept of the layoff, except as provided herein. This procedure shall not be used for disciplinary reasons.
2. Layoff of any employee shall be made in the following order:
 - a. Employees shall be laid off by classification in the reverse order of section seniority with probationary employees being laid off before permanent employees.
 - b. In the event that two or more employees in the same classification have the same section seniority, then layoff shall be made on the basis of City seniority.
 - c. In the event that two or more employees in the same classification have the same section and City seniority, then layoff shall be made on the basis of the employees' job performance as determined by the City Manager or his designee.
 - d. The only exception to the above described order shall be where an employee within an affected classification has an identified exceptional skill, knowledge or ability particular to the work being performed, and which more senior employees do not possess. The determination that such an employee has such a particular skill, knowledge or ability may be made only by the City Manager. Any employee who would not have been laid off but for such a determination by the City Manager may appeal the validity of such determination beginning with Step 3 of the established Grievance Procedure.
3. The City shall give all affected employees at least 30 calendar days written notice of any impending layoff, except in the event of an emergency situation the City shall give not less than 10 calendar days notice. If the City fails to give an affected employee the required notice, the employee shall be entitled to payment of regular wages in lieu of such notice for each additional day the employee would have been in a paid status had he or she received the required notice. In no case will an employee receive in excess of one calendar month (ten calendar days in cases of emergency) of regular wages. The notice shall include the following:
 - a. The effective date of the layoff;
 - b. The reason for the layoff;
 - c. The job classification, if any, within the employee's present section into which the employee may retreat as otherwise provided in this procedure;

- d. The vacancies in job classification, if any, in other sections into which the employee may retreat as otherwise provided in this procedure;
 - e. The rules governing recall; and
 - f. The availability of Administrative staff to assist the employee in seeking other employment.
4. Prior to implementing any layoff, the City will transfer an affected employee to a vacancy in equivalent job classifications in the same section or other sections provided the affected employee possesses the skills necessary to perform the new job.

B. RETREAT

1. An employee affected by layoff shall have retreat rights to displace an employee in the same section who has less seniority in a lower class in the same class series, or in a lower classification in which the affected employee once had permanent status. In order to retreat to a lower or former class, an employee must request such retreat action in writing to the City Manager within ten (10) calendar days of receipt of the notice of layoff. Employees retreating to a lower or former class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off. Employees retreating to a lower or former class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class.
2. An employee that is not eligible for retreat rights within the same section in which currently employed, as described above, and that has previously served in another City section, may displace an employee of such previous section who has less seniority in that section. Any such displacement shall only take place in the same classification that the affected employee currently holds, in a lower class in the same class series as that one currently held, or in a lower classification in which the affected employee once had permanent status. In order to retreat to a lower or former class, an employee must request such retreat action in writing to the City Manager within (10) calendar days of receipt of the notice of layoff. Employees retreating to a lower or former class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off. Employees retreating to a lower or former class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class.
3. Any retreat rights exercised under this procedure shall establish a new Evaluation Date for the affected employee.

C. RECALL

1. The names of persons laid off in accordance with this procedure shall be entered upon a recall list. Such lists shall be on the basis of job classification. If the affected job classification is utilized in only one section, then former employees shall be placed upon the recall list for that job classification in the inverse order of their layoff date. If the affected job classification is utilized in more than one section, then former employees shall be placed upon the recall list for that job classification according to descending City seniority first and then descending classification seniority in the event two (2) or more employees have identical City seniority. If two (2) or more employees have identical City and classification seniority, then the employees shall hold the same position on the recall list. The list shall contain the name of the former employee; the former employee's section, City and classification seniority; and the former employee's date of layoff. Names of persons laid off from different sections or different layoff dates shall be combined into a single list.
2. In the event that the job classification from which a former employee has been laid off no longer exists, then the former employee shall have the opportunity to qualify for other recall lists for different job classifications. A former employee's eligibility for any particular recall list in such circumstances shall be determined by the City's standard hiring practices for that position. A laid off employee shall notify the City Manager within ten (10) calendar days of their layoff to which positions, if any, for which they desire to attempt to qualify.
3. The recall list shall be made an addendum to any existing regular eligibility list for each affected job classification for a period of eighteen (18) months from the date of layoff. If no regular eligibility list exists, the recall list shall be used to establish a new eligibility list. Such recall list shall be considered by any appointing authority in filling a vacancy which arises in the same or lower job classification before consideration of an eligible list.
4. When a vacancy arises in a job classification for which a recall list exists, the City shall immediately notify those former employees whose names appear on the list. Such notification shall be by registered or certified mail sent to the employee's last address of record on file with the City. It shall be the responsibility of the former employee to keep the City informed of any address changes. Within ten (10) calendar days after receipt of the notice of vacancy, a former employee must inform the City of their availability and intention to accept re-employment, if offered. The names of all former employees on a recall list willing to accept re-employment shall be certified to the appropriate appointing authority for consideration for re-employment. Such names shall be certified in the order in which they appear on the recall list. No other applicant on any other eligibility list shall be considered for appointment to the vacancy until all former employees on the recall list have been considered for appointment.

5. Upon re-employment, the former employee's salary shall be established at the salary step level held at the time of layoff, and the evaluation date for use in accordance with the salary step plan shall be the date on which re-employment begins. A re-employed employee shall be entitled to credit for all unpaid sick leave accrued prior to layoff and shall accrue vacation and sick leave at the same rate and maximum limitation such accruals were made at the time of the layoff.

VII. INDUSTRIAL INJURIES AND ACCIDENTS

The State Workers' Compensation Laws and this manual shall govern all aspects of duty-related injuries, illnesses and accidents.

A. INJURY AND ILLNESS REPORTING

1. Any duty-related injury or illness which requires medical treatment shall be reported to the appropriate immediate supervisor by any injured or ill employee as soon as possible.
2. Any duty-related injury or illness which does not require medical treatment shall be reported to the appropriate immediate supervisor by any injured or ill employee by the end of the workday schedule in which the injury or illness occurred, or as soon as possible.

B. ACCIDENT REPORTING

1. Any duty-related accident which results in any injury or property damage shall be reported to the appropriate immediate supervisor by any accident-involved employee as soon as possible.
2. Any duty-related accident which does not result in any injury or property damage shall be reported to the appropriate immediate supervisor by any accident-involved employee by the end of the workday schedule in which the accident occurred, or as soon as possible.

C. MEDICAL TREATMENT FOR INJURY OR ILLNESS

Any employee suffering any duty-related injury or illness which requires either immediate or continued medical treatment shall immediately seek such treatment from a City-approved physician or medical facility except as provided herein.

1. If an employee has notified the City in writing prior to the date of injury that the employee has a personal physician as defined by State law, then the employee shall have the right to be treated by such physician from the date of injury.
2. After thirty (30) calendar days from the date any such injury or illness is reported, the employee may be treated by a physician of his/her own choice or at a facility of his/her own choice within a reasonable geographic area.

D. ABSENCE FOR INDUSTRIAL INJURY OR ILLNESS

1. Any employee suffering any duty-related injury or illness which prohibits that employee from the performance of regular job duties may request an absence from duty. Such request shall be submitted in the form of a Workers' Compensation claim. Upon the acceptance of any such claim by the City or the State Workers' Compensation Appeals Board, the employee shall be granted an absence from duty. However, such request for absence must be on the advice of a physician and accompanied by a certificate from the physician indicating the anticipated length of and reason for the absence. A doctor's release to return to

work must be provided to the City upon an employee's return to work following absence due to on-duty injury or illness of two or more consecutive working days. Any dispute regarding a Workers' Compensation Claim shall be resolved through the State Workers' Compensation Appeals Board process.

Pursuant to Section 4650 of the State Labor Code, any such authorized absence from duty shall not begin for three (3) calendar days following the occurrence of any duty-related injury or illness, unless the period of actual disability extends beyond twenty-one (21) calendar days, or unless the job-related injury or illness requires in-patient hospitalization. During any such three (3) calendar day waiting period, sick leave or vacation may be granted for regularly scheduled work days.

2. **COMPENSATION.** Any employee granted a leave of absence for industrial injury/illness shall receive salary and fringe benefit compensation from the City for the duration of any such leave, as delineated in the State Workers' Compensation Laws.

Pursuant to Section 4850 of the State Labor Code, Harbor Patrol Officers, if disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, are entitled to leave of absence (not exceeding one year) without loss of salary in lieu of temporary disability payments.

VIII. STANDARDS OF CONDUCT

- A. Employee misconduct may be cause for disciplinary action including, but not limited to: reprimand, reduction in pay, demotion, suspension with or without pay or discharge. Such misconduct shall include, but not be limited to, any of the following:
1. Commission of an act which results in a criminal conviction, and constitutes a misdemeanor or infraction involving moral turpitude or a felony;
 2. Unauthorized use or possession of City property or equipment;
 3. Causing damage to or waste of public property through misconduct or negligence;
 4. Unauthorized or excessive absence from regularly assigned duties;
 5. Frequent and unexcused tardiness in reporting to regularly assigned duties;
 6. Use of fraud or material misrepresentation but for such fraud or material misrepresentation the employee would not have secured employment;
 7. Use of an employee's official position or office for personal gain or advantage;
 8. Deliberate dishonesty related to the performance of an employee's duties;
 9. Accepting favors or gratuities in return for services required to be performed as a part of the employee's official duties and responsibilities;
 10. Discourteous treatment of the public or other City employees;
 11. Failure to carry out assigned duties promptly, adequately or efficiently;
 12. Insubordination;
 13. Intentional or negligent act or omission which adversely affects, or threatens to adversely affect the safety of the employee or others;
 14. Failure to observe and comply with this agreement or City or Section rules and regulations;
 15. Use of, possession of, or being under the influence of any alcoholic beverage while on duty;
 16. Being under the influence of any drug or controlled substance which interferes with the performance of an employee's regular job duties;
 17. Use or possession of any illegal drug or controlled substance while on duty; or
 18. Other serious or socially reprehensible conduct either during or outside of duty hours which is of such a nature that it causes serious discredit to the City.

- B. No employee shall be discharged for a minor violation of these standards of conduct delineated hereinabove as IX.A.11. or IX.A.14. without first having received a prior written warning concerning a related or similar violation.

IX. DISCIPLINE

- A. Full authority for discipline is retained by the City. However, employees will be disciplined only for just cause.
- B. Prior to the imposition of any discipline, excluding reprimand or suspension without pay for a period of less than five (5) working days, of any classified, permanent employee, the following procedure shall be utilized:
 - 1. The employee shall be given written notice of the disciplinary action including a statement of the reason therefore. Service of such a notice shall be considered complete upon the personal delivery of such notice in the U.S. mail, first class postage prepaid, addressed to the employee's latest known address on file in the City office.
 - 2. The notice of disciplinary action must also include a copy of the charges of misconduct and, whenever practical, a copy of the materials or documents upon which the charges are based. If it is impractical to provide the employee with a copy of such materials or documents, the employee and/or their representative shall be allowed reasonable time to review such materials or documents and the notice of disciplinary action shall set forth the procedure for such a review.
 - 3. The employee shall be given the right to respond to the proposed discipline, either orally or in writing, to the Harbor and Beaches Director. The City shall give the employee a reasonable time to submit his/her response and in no event shall such time period be less than forty-eight (48) hours from the completion of service of the notice of disciplinary action.
 - 4. An employee waives all right to informally respond to the proposed discipline if he fails to submit such response within the time limit established by the City.
 - 5. Following either the submission of the employee's informal response to the disciplinary action or the waiver of such right, the Harbor and Beaches Director shall either impose, modify or not impose the proposed discipline, as the situation warrants. Any discipline so imposed shall not be stayed by the initiation of a grievance by the employee as provided for herein.
- C. Notwithstanding the provisions of Section X.B. hereinabove, any discipline which, in the judgment of the Harbor and Beaches Director, must be imposed immediately to protect the health, safety or welfare of the community or other City employees, may be summarily imposed without affecting the pre-disciplinary procedure of Section X.B. Such procedure shall be completed, however, within five (5) working days of the imposition of discipline.
- D. Grievances of discipline must be initiated by the employee within five (5) working days after the notice of discharge, demotion or reduction in pay, or the initial date of suspension, whichever date is earliest, should a combination of discipline apply. Failure to initiate a grievance within such time limit shall constitute a waiver by the employee of all rights to grieve such discipline hereunder.

- E. All disciplinary grievances shall be initiated at Step 3 of the Grievance Procedure delineated herein except the following:
1. Grievances of disciplinary action involving verbal or written reprimand shall be initiated at Step 1 and shall not proceed beyond Step 3.
 2. Grievances of disciplinary action involving a suspension of less than five working days shall be initiated at Step 3.

X. GRIEVANCE PROCEDURE

- A. **DEFINED.** A grievance is an alleged violation of a specific clause of this agreement. Matters for which another method of review are provided by this agreement, by Resolution, by Ordinance or by State Law shall be excluded from this procedure.
- B. **PROCEDURE.** All grievances shall be presented in the following manner:
1. **STEP 1.** The aggrieved employee, who may be represented by another person, shall present the facts relative to the grievance to the appropriate immediate supervisor in writing within thirty (30) working days of the date on which the grievance arises, except as provided otherwise in this agreement. Prior to filing any such written grievance, every effort will be made to resolve the matter informally. The supervisor shall render a decision in writing to the grievant within five (5) working days from the day the grievance is presented.
 2. **STEP 2.** If the grievance is not resolved in STEP 1, the grievant may appeal it to the Harbor and Beaches Director within five (5) working days from the date a decision was rendered in STEP 1, above. Such appeal shall be in writing and shall include: a statement of the alleged violation of the agreement; and a statement of the remedy requested. Within ten (10) working days of receiving such appeal, the Harbor and Beaches Director shall arrange a meeting between himself, the aggrieved employee and the employee's representative (if applicable) to review the grievance. The Harbor and Beaches Director shall render a written decision on the grievance within ten (10) working days after the meeting.
 3. **STEP 3.** If the grievance is not resolved in STEP 2, the grievant may appeal it in writing to the City Manager within five (5) working days from the date a decision was rendered in STEP 2, above. The City Manager shall arrange a meeting between those affected before rendering a decision. The decision shall be rendered within twenty (20) working days of the filing of the appeal.
 4. **STEP 4.** If the grievance is not resolved in STEP 3, the grievant may submit it to an advisory arbitrator by filing a written request to do so with the City Manager within five (5) working days from the date a decision was rendered in STEP 3, above.
 - a. The City Manager shall request a panel of seven (7) advisory arbitrators from the California State Conciliation Service within fifteen (15) working days of receiving such a request. The Advisory Arbitrator shall be selected to hear the grievance by alternately striking names from such a panel beginning with the aggrieved employee.
 - b. The Advisory Arbitrator shall issue subpoenas to compel the attendance of witnesses, if such be necessary, at the request of either party.

- c. The hearing shall be recorded by a certified shorthand reporter or tape recorder as agreed by the parties. Expenses for such recording services shall be borne equally by the City and the employee, provided, however, that each shall be responsible for any specialized or extraordinary service they might individually request.
 - d. In rendering a recommendation, the Advisory Arbitrator shall be limited to the express terms of the agreement and shall not have the power to modify, amend or delete any terms or provisions of this agreement. Failure of either party to insist upon compliance with any provision of this agreement, at any time or times under any given set or sets of circumstances, shall not operate to waive or modify such provision, or in any manner whatsoever to render it unenforceable, as to any other time or times as to any other occurrence or occurrences, whether the circumstances are or are not the same.
5. CITY COUNCIL REVIEW. The City Council may, if it deems appropriate, review any recommendation rendered by an Advisory Arbitrator on the basis of a review of the materials prepared by the Arbitrator and/or record of the hearing conducted in STEP 4, above. Any such City Council review must be concluded within thirty (30) working days of the City's receipt of the Advisory Arbitrator's recommendation, and any Board of Directors action as a result of that review shall be final and binding upon the parties. Any Board of Directors decision shall not be arbitrary and shall be based on substantial evidence as contained in the record of the Advisory Arbitrator's hearing.
- C. WORKING DAYS DEFINED. As used in this procedure, the term "working days" shall mean regular work days Monday through Friday between 8:00 am and 4:30 pm, except holidays on which the City administrative office is closed to the public.
 - D. The fees and expenses of the arbitrator shall be shared equally by the parties involved, except that if either party rejects the advisory decision of the arbitrator, that party must pay the entire cost of the arbitrator's fee and expenses. All other expenses and costs incurred by the parties during arbitration shall be the responsibility of the individual party incurring the same.
 - E. The time limits in this procedure may only be waived by mutual agreement of both parties, in writing.

XI. NO STRIKE CLAUSE

- A. There will be no concerted strike, sympathy strike, work stoppage, slow-down, obstructive picketing, or concerted refusal or failure to fully and faithfully perform job functions and responsibilities, or other concerted interference with the operations of the City by any employee.
- B. Any employee violating this article may be subject to disciplinary action up to and including discharge, and/or may be considered to have automatically resigned from the City service.

XII. SAVINGS PROVISION

If any provision(s) of this agreement are held to be contrary to the law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

XIII. CONFLICT OF PROVISIONS

In the event of a conflict between a specific provision of this Agreement and a written rule, regulation or ordinance of the City or any of its divisions, the terms of this Agreement shall prevail.

XIV. DUES DEDUCTIONS

- A. The City shall deduct Association dues payments from the paychecks of those employees who authorize such deductions for the term of this Agreement. Association dues so deducted shall be of a uniform amount for each employee.

The language of any form by which employees authorize such deductions shall be mutually agreed upon by the City and the Association. Such form shall provide for one (1) rescission, at the employee's option. Such deductions shall be on a payperiod basis. The amount deducted on behalf of any particular employee may be changed only once in any calendar year.

- B. The Association agrees to hold harmless and indemnify the City against claims, causes of action, or lawsuits arising from such deductions or the transmittal of such deductions to the Association.

XV. TERM OF AGREEMENT

This Agreement and each of its provisions are effective upon ratification by the City Council, and shall continue in full force and effect until **December 31, 2009**, and from year to year thereafter unless one party serves notice on the other prior to the expiration date.

XVI. RATIFICATION AND EXECUTION

This Agreement shall be in full force and effect upon formal approval by the City Council and implementation of its terms and conditions by appropriate ordinance, resolution or other lawful action. Subject to the foregoing, this Agreement is hereby executed by the authorized representatives of the City and the Unit.

DATED _____, OCEANSIDE HARBOR POLICE OFFICERS' UNIT

BY Alvis #1038
Houston Alvis, Chairman, OPOA

BY Sean Sullivan
Sean Sullivan, OPOA Representative

BY Richard Castle
Richard Castle, Esq.

DATED 3/13/08, CITY OF OCEANSIDE

BY Otto Klein

BY Constance Adams



