

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE CITY OF OCEANSIDE**

**and**

**THE OCEANSIDE POLICE OFFICERS'**  
**ASSOCIATION**  
**(SAFETY EMPLOYEES)**



**Effective December 1, 2010 – December 31, 2013**

## **TABLE OF CONTENTS**

<b><u>SUBJECT</u></b>	<b><u>PAGE</u></b>
<b><u>ARTICLE 1.00. GENERAL</u></b>	
Section 1.01. Intent and Purpose.....	1
Section 1.02. Continuation.....	1
Section 1.03. Constitutionality.....	1
Section 1.04. Dues Deduction .....	1
Section 1.05. City Rights.....	2
Section 1.06. Duration of Memorandum .....	2
Section 1.07. Unit Description.....	2
Section 1.08. Access to Work Locations.....	3
<b><u>ARTICLE 2.00. BENEFITS</u></b>	
Section 2.01. Retirement .....	6
Section 2.02. Holidays .....	6
Section 2.03. Vacations .....	7
Section 2.04. Sick Leave .....	9
Section 2.05. Family and Medical Leave Policy.....	11
Section 2.06. Bereavement Leave.....	11
Section 2.07. Mileage Reimbursement.....	11
Section 2.08. Hours and Overtime.....	12
Section 2.09. Court Appearance Pay .....	13
Section 2.10. Marksmanship.....	14
Section 2.11. Special Compensation .....	14
Section 2.12. Callback Pay .....	15
Section 2.13. Bilingual Pay .....	15
Section 2.14. Shift Differential Pay .....	16
Section 2.15. Residence/Emergency Recall.....	16
Section 2.16. Review of Personnel File .....	16
Section 2.17. Physical Fitness .....	16
Section 2.18. Deferred Compensation Plan .....	16
Section 2.19. Health Insurance.....	16
Section 2.20. Long-Term Disability Insurance .....	18
Section 2.21. Uniform Allowance .....	18
Section 2.22. Education Incentive Plan .....	18
Section 2.23. Tuition Reimbursement.....	18
Section 2.24. Base Pay Rates .....	19

## **TABLE OF CONTENTS**

<b><u>SUBJECT</u></b>	<b><u>PAGE</u></b>
Section 2.26. Acting Assignment Pay .....	19
<b><u>ARTICLE 3.00. WORKING CONDITIONS</u></b>	
Section 3.01. Transfer Policy .....	20
Section 3.02. Discipline Procedure .....	23
Section 3.03. Grievance Procedures .....	25
Section 3.04. No Strike Clause .....	27
Section 3.05. Assignment of Vehicles.....	28
Section 3.06. Scope of Agreement .....	29

## **SUMMARY OF KEY CHANGES**

1. **TERM** – Contract continuation from date of ratification through December 31, 2013.
2. **COMPENSATION** – Provides bargaining unit employees with 2% base salary increase effective the first full pay period after ratification by the City Council; 2% base salary increase effective the first full pay period in July 2011; and 1% base salary increase effective the first full pay period in July 2012.
3. **RETIREMENT** – Employees will commence paying 4.5% into CalPERS effective upon ratification and an additional 4.5% effective July 2011 for a total of 9%.
4. **SERVICE PAY** – Provides \$3000 annually for each employee who completes twelve continuous years of City service.
5. **HOLIDAYS** – For the first full calendar year, employees will only be allowed to cash out a maximum of 56 hours of holiday credit.
6. **DELETE EXPIRED LANGUAGE**
7. **MODIFY EXISTING LANGUAGE TO CONFORM WITH EXISTING POLICIES AND PROCEDURES**

**MEMORANDUM OF UNDERSTANDING**  
**Between the**  
**CITY OF OCEANSIDE**  
**and the**  
**OCEANSIDE POLICE OFFICERS' ASSOCIATION**

**ARTICLE 1.00. GENERAL**

**Section 1.01. Intent and Purpose**

It is the intent and purpose of this Memorandum of Understanding to set forth the understanding of the parties reached as a result of meeting and conferring in good faith regarding, but not limited to, matters relating to the wages, hours and terms and conditions of employment between employees represented by the Oceanside Police Officers Association and representatives of the City of Oceanside.

The Association agrees to recommend ratification to its membership, and City representatives agree to recommend to the City Council of the City of Oceanside that all terms of the Memorandum be adopted in full by resolution of the City Council. Upon such adoption, all terms and conditions of this Memorandum shall then become effective without further action by either party.

**Section 1.02. Continuation**

Except as expressly set forth in this Memorandum of Understanding, all existing ordinances and resolutions and policies of the City pertaining to the employment relationship shall remain in full force and effect.

**Section 1.03. Constitutionality**

If any section, subsection, subdivision, sentence, clause or phrase of this Agreement is for any reason held to be illegal or unconstitutional, such decision shall not affect the validity of the remaining portions of this Agreement.

**Section 1.04. Dues Deduction**

The City agrees that, during the term of this Agreement, it will deduct monies and remit to the Association as authorized by payroll deduction cards submitted by employees in the same manner as existed prior to this Agreement.

The Association, upon receipt of the dues deducted, shall indemnify, defend and hold the City of Oceanside harmless against any claims made and against any suit instituted against the City of Oceanside on account of check-off of employee Association dues. In addition, the Association shall refund the City of Oceanside any amounts paid in error upon presentation of supporting evidence.

**In accordance with City Charter section 305, political contributions may not be deducted from the wages, earnings or compensation of any employee unless the employee provides a signed written authorization. Such authorization shall be renewed annually.**

### **Section 1.05. City Rights**

It is understood that all rights, powers and authority possessed by the City prior to the execution of this Agreement are retained by the City and remain exclusively and without limitation within the rights of the City. Such rights include determinations as to appropriate levels of service; consideration of the merits, necessity, or organization of any service; determining the missions of its constituent departments; setting standards of service; determining manning requirements; establishing work schedules; assigning and approving overtime; determining the procedures and standards of selection for employment and promotion; directing its employees; contracting for any work or operation; determining the number and location of work stations; determining employee performance standards including, but not limited to, quality and quantity standards; determining the methods, means, and personnel by which government operations are to be conducted; determining the content of job classifications; taking disciplinary action up to and including discharge for cause; relieving employees from duty because of lack of work or other economic reasons; taking all necessary actions to carry out its missions in emergencies including the determination of whether or not an emergency exists; exercising control and discretion over its organization and the technology in performing its work, and establishing reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of City services.

### **Section 1.06. Duration of Memorandum**

This Memorandum of Understanding shall be effective upon ratification by the City Council, through **December 31, 2013**, for all sworn personnel represented by the Association.

This Memorandum of Understanding shall continue in full force and in effect unless written notice to terminate or modify it is provided on or before **September 1, 2013**, or September 1 of any succeeding year.

### **Section 1.07. Unit Description**

The following classifications are represented by the Association and are members of this unit:

1. Police Officer

The following classifications are represented by the Association and are members of the Oceanside Police Sergeants' Unit.

1. Police Sergeant

Effective August 8, 1994, the City agrees to notify the Association in writing of the names of newly hired or service retired employees represented by the Association.

## **Section 1.08. Access to Work Locations**

### **A. GENERAL AND EXECUTIVE BOARD MEETINGS**

1. Association meetings may be held during work hours.
2. Association meetings shall be scheduled in advance at times approved by Department management.
3. The Department management shall not withhold approval of a requested meeting provided the proposed meeting does not interfere with the normal operations of the Department.
4. On-duty officers may attend an Association meeting provided the on-duty personnel obtains prior approval from their Division Commander.
5. With prior approval from the Chief of Police, OPOA members may be allowed duty time to organize and administer events and activities that enhance the image of the community and the Police Department.

### **B. PROCESSING GRIEVANCES**

1. Association officers or representatives shall be given release time from their normal duties to process employee grievances.
2. Authorization to process a grievance on City time must be obtained in advance from the officer's or representative's immediate supervisor.
3. Processing a grievance includes discussions with the employee regarding the grievance, reviewing grievance materials, interviewing witnesses and attending grievance hearings or interviews.
4. Depending on operational needs of the Department, reasonable preparation time will be allowed in conjunction with the processing of the grievance.

### **C. DISCUSSION OF WORK CONDITIONS OR POSSIBLE GRIEVANCES DURING ON-DUTY TIME**

1. Association officers or representatives shall be given release time from their normal duties to contact members of the Association concerning work conditions or possible grievances.
2. Authorization to contact members during working hours must be obtained in advance from the officer's or representative's immediate supervisor and also from the member's immediate supervisor.
3. Solicitation of membership, activities concerned with the internal management of the organization, collection of dues, campaigning for office, conducting elections, preparing or distributing literature is not to be performed during on-duty hours.

4. Members may contact Association officers and representatives during working hours regarding work conditions or possible grievances provided the member obtains authorization in advance from the member's immediate supervisor and the Association officer's or representative's immediate supervisor.
5. On-duty casual conversations regarding work conditions of short duration are not subject to the prior authorization requirements of this policy unless the number or frequency of such casual conversations or unplanned meeting negatively affect the Association officer's or representative's ability to satisfactorily perform his or her job assignment for the Department.

#### D. USE OF CITY FACILITIES

##### 1. Use of Mail Boxes

- a. General distribution of Association material to the membership must be done during off-duty hours.
- b. Departmental mailboxes may not be used to distribute inflammatory or disrespectful material (General Order 76.4).

##### 2. Attachment to Paychecks

Association documents may not be attached to paychecks.

##### 3. Department Materials, Equipment or Staff Time

- a. The Association, its officers or representatives may not use Department staff time to create, type, copy or distribute Association materials to the membership.
  - b. Departmental materials may not be used for Association purposes.
  - c. City equipment may not be used to create, copy, transport or deliver Association materials or for any other Association purpose.
4. The Association may use City facilities for meetings consistent with the provisions of the Civic Center Act.

#### E. DISCUSSION/ASSISTANCE/ENROLLMENT OF EMPLOYEES IN INSURANCE, LEGAL DEFENSE FUND AND ASSOCIATION MEMBERSHIP

##### 1. Departmental New Employee Orientation Program

Association representatives may take part in new employee orientations held on site by the Department to provide and discuss information regarding insurance, legal defense fund and Association membership.

##### 2. Welfare Issues

- a. Association representatives shall be given release time from normal duties to deal with members' concerns regarding serious family illness or a death in the family.



- b. If release time of significant duration is needed, the representative shall obtain prior authorization from the representative's immediate supervisor.
- c. If the Association representative is also a designated Department representative, release time will be authorized and not be considered as internal Association Business.

3. Insurance Inquiries

Association representatives may respond on duty to members insurance inquiries of short duration (5-10 minutes) without prior authorization unless the volume of inquiries prevent the representatives from satisfactorily performing his/her job assignment for the Department.

## **ARTICLE 2.00 BENEFITS**

### **Section 2.01. Retirement**

The City shall continue to provide retirement benefits 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 June 24, 2001, the 3% @ 50 retirement benefit will become effective and the City will amend the existing contract to provide for said benefit. The City shall contribute to PERS an amount equal to 9% of each sworn member's earnings as defined in Sections 92.0 through 98.1 and 100.8 of the "Procedure Manual for Public Agency Reporting to the Public Employees' Retirement System." Effective the first full pay period in January 2004, the City will commence the payment of the Employer Paid Member Contribution (EPMC).

**Effective the first full pay period after ratification by the City Council, all bargaining unit members will commence paying 4.5% of PERSable wages, of the employer portion, to CalPERS. Effective the first full pay period in July 2011, all bargaining unit members will commence paying an additional 4.5% of PERSable wages, of the employer portion, to CalPERS for a total of 9%.**

**This shall be in accordance with Government Code Section 20516(f).**

### **Section 2.02. Holidays**

Employees will be credited with 56 hours of holiday credit on January 1<sup>st</sup> and July 1<sup>st</sup> 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 designed City holidays.

- A. Effective August 29, 1994, a one-time bank will be established for all current holidays that an employee has previously earned. Banked Holidays and new Holidays will be shown on the Leave Summary portion of their paycheck. Employees may draw Holiday time from either the banked or new holiday balances. A separate code has been provided to the Police Department payroll section for each holiday balance.

**For the first full calendar year of the length of this MOU, employees will only be allowed to cash out a maximum of 56 hours of holiday credit per year. Upon completion of the first full calendar year of this MOU, holiday hour cash out will be unlimited.**

### **Section 2.03. Vacations**

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

A. 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.

B. Temporary, seasonal, part-time or extra-help employees.

C. 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.)

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.

- D. 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.
- E. 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 Police Chief 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 Police Chief.
- F. All employees shall schedule vacation time on the basis of seniority within their classification. 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 Police Department will prevail.
- G. 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.

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.

- H. In the event one or more municipal holidays fall within an annual leave, such holidays shall not be charged as vacation leave.
- I. 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.

#### **Section 2.04. Sick Leave**

- A. Employees shall be entitled to sick leave except temporary, seasonal or part-time employees. All eligible employees shall earn sick leave credits at the rate of one (1) hour for every 21.66 hours worked. For the purpose of accruing sick leave credits, hours worked include paid leave time such as vacation or sick leave but does not include any time worked in excess of the normal required work week such as overtime. Sick leave may be accumulated without limit for all employees.

Sick leave shall not be considered as a privilege which an employee may use at his/her discretion, but shall be allowed only in case of actual sickness or disability of the employee or in the imposition of quarantine regulations making it impossible for the employee to go to work.

- B. An eligible employee may use up to 40 hours of accumulated sick leave per fiscal year due to the sickness, injury or death of a member of the employee's family requiring the assistance of that employee. For the purpose of this section, family includes parents, grandparents, parents-in-law, brothers, sisters, spouse and children. Eligible members of an employee's "family" need not reside in the employee's home
- C. Accumulated sick leave may be used by an employee to consult with or be treated by a doctor or dentist providing advance approval has been secured from the employee's department head; such approval shall not unreasonably be withheld.

In order to receive compensation while absent on sick leave, the employee shall notify his immediate supervisor or the Personnel Manager prior to the time set for beginning his/her daily duties; provided, however, in the case of departments where particular work schedules require earlier notification, the respective department heads shall establish written rules governing reporting illness to assure adequate protection of the community. When sick leave is taken, the employee shall file with the department head a physician's certificate or a personal affidavit stating the cause of the absence. Said physician's certificate or personal affidavit shall accompany or be completed on forms prescribed by the Human Resources Director.

If, in the opinion of a department head, an employee appears to be abusing the privilege of sick leave, the department head may revoke the option of filing a personal affidavit and require instead a doctor's certificate for said illness. The employee shall be notified of such revocation in writing prior to or within 72 hours of the day the employee notifies the department that he/she will be absent because of illness or disability. Such notice shall be deemed to have been served upon personal delivery of such notice to the employee or upon such notice at the

employee's address of record. Such suspension of the use of personal affidavit shall remain in effect for such periods of time as the department head may determine.

## 1. 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 leaves 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.
- e. Employees may accrue sick leave on an unlimited basis effective January 1, 2006.

## 2. REIMBURSEMENT FOR ACCRUED SICK LEAVE

- a. 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.
- b. 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 or may apply the entire accumulated sick leave accrual balance to PERS service credit at the employee's option. 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.
- c. 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.
- 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 may be compensated for fifty (50) percent of the employee's accrued sick leave up to a maximum payoff level of 800 hours or may apply the entire accumulated sick leave accrual balance to PERS service credit at the employee's option. 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. 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 an 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.

The City agrees to continue discussions regarding the conversion of unpaid sick leave hours into an option of off-setting retirement medical costs at no additional cost to the City.

#### **Section 2.05 Family and Medical Leave Policy**

Effective August 8, 1994, adopt the Family and Medical Leave Policy. Effective March 27, 1998, the use of sick leave may be authorized for all approved Family Medical Leave Act (FMLA) leaves.

#### **Section 2.06 Bereavement Leave**

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.

An employee's immediate family shall consist of the employee's spouse, children, step children and foster children; the employee's or spouse's grandparents, parents, step parents, brothers or sisters; and other members of the employee's family residing in the employee's home.

Upon approval of the Police Chief, an additional two (2) days of bereavement leave may be granted. These two (2) days, if granted, shall be chargeable to sick leave.

#### **Section 2.07. Mileage Reimbursement**

The Watch Commander or Division Head may authorize the use of the employee's personal vehicle or provide for commercial transportation.

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 set rate is intended to be a total amount paid for use of the vehicle, inclusive of gas, oil, insurance and maintenance.

Employees are not authorized to claim anything beyond that set standard rate. The choice to accept the standard rate is the employee's. Where the employee feels that this rate is insufficient for his/her purposes or for his/her vehicle, he/she may decline to use his/her own car.

In such cases, the least expensive commercial transportation will be furnished to the requesting employee, i.e., bus or rail transportation to the city of destination.

## **Section 2.08. Hours and Overtime**

### **A. HOURS**

Unit members shall work a scheduled duty assignment of eight and one-half hours per day, five days per week, which includes a one-half hour duty-free meal period. Notwithstanding the above, the City reserves the right to continue to assign employees to a 4/10 shift schedule. Such employees shall work ten and one-half hours per day, four days per week, which includes a one-half hour duty-free meal period.

Police Sergeants, and Police Officers in the Field Operations Division assigned to work the 3/12 shift schedule at the discretion of the Field Operations Captain shall work three 12 and ½ hour shifts per week with one additional 10-hour shift within a 28-day period. The 12 and ½ hour shifts includes briefing and lunch period. Any work performed in excess of the 12 and ½ hour shift or the one 10 hour shift shall be paid as overtime based on the employee's regular rate of pay. Employees assigned to the 3/12 shift schedule shall receive an additional four (4) hours of straight time pay when working on a recognized holiday as defined in this Memorandum of Understanding. There will be a minimum of 7 (seven) hours off between shifts (including court time) to ensure an appropriate rest period for employees assigned to the 3/12 or the 4/10 shifts.

### **B. OVERTIME COMPENSATION AND COMPENSATORY TIME OFF**

All authorized time worked exceeding scheduled assignments shall be compensated at the rate of one and one half times the employee's hourly straight time rate, except that no compensation shall be paid for overtime work of less than six (6) minutes duration.

Overtime must be authorized beforehand by a department supervisor. Authorization should be made by the member's immediate supervisor, however, when necessary, may be made by any supervisor on duty.

All overtime must be claimed at the time it is worked. Upon completion of the work, the member's supervisor must verify the overtime. If that supervisor is not available, verification shall be obtained from an on-duty supervisor.

Overtime pay is not authorized for members who attend schools in an off-duty status.

With prior approval from a Division Commander, travel to and from a training site may be done in one of the following ways:

- a. The member may drive to the station and pick up a department vehicle to travel to the training site. The time it takes a member to travel from the station to a training site is considered "time worked" and any travel time in excess of a member's normal workday will be compensated at the member's overtime rate of pay.
- b. The member may be provided with a department vehicle, when available, to travel directly from his/her residence to a training site. The department vehicle would alleviate the use of a member's privately owned vehicle (POV) and eliminate the need for the member to come to the station to pick up a vehicle. The member will not receive overtime compensation for travel while utilizing a department vehicle to travel directly from his/her residence to the training site and back.
- c. The member may utilize his/her POV to travel to and from a training site. The member would be entitled to mileage reimbursement for the use of his/her POV for travel to a training site outside the North County area, based upon the number of miles a member travels from the Oceanside Police Department to the training site and back. North County



encompasses the area from the north San Diego County line, south to the City of Del Mar, and east to Rancho Bernardo. Mileage reimbursement is paid at the rate established by this MOU. Members are not entitled to mileage reimbursement for travel sites within the North County area.

- d. Whenever a member is scheduled to attend a training school, the member's work schedule will be arranged so that the time spent attending the school constitutes that member's normal workday.
- e. Attendance at a school in an overtime status will not be approved except by the member's respective Division commander. In the event a training course is scheduled to run in excess of the member's normal work day then the member shall note that fact on the training request and must obtain written approval for such overtime prior to actual attendance.

Overtime compensation shall not be paid during a leave of absence taken by request or while on Injury on Duty status.

Overtime compensation shall be payable to employees in cash or compensatory time off at the election of the employee. The choice of pay or compensatory time off for overtime worked shall be made at the conclusion of the overtime worked. Such compensatory time off will be given at the rate of time and one half.

An employee may accrue a maximum of eighty (80) hours of compensatory time off. If compensatory time off cannot be scheduled by the department as requested and an alternative time acceptable to the employee cannot be arranged, the employee shall be paid in cash for the unapproved hours and the employee's compensatory time bank shall be reduced by the number of hours paid in cash. Compensatory time off shall be requested sufficiently in advance so as not to jeopardize the efficiency of the operation of the Department.

Overtime shall be paid bi-weekly and will be included in the regular paycheck.

All overtime will be compensated at the rate of one and one half times the employee's regular rate.

Overtime shall be paid to the next highest one-tenth hour increment.

All time must be entered in actual hours and minutes by the employee. The Chief's office will compute time and one half at the nearest tenth of one hour.

Overtime shall be paid each payday. The amount will be noted on the employee's paycheck stub. Cash out of compensatory time off may be made once each quarter by a written request to the Payroll Supervisor of the Finance Division.

#### **Section 2.09. Court Appearance Pay**

All employees of the City of Oceanside Police 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 the same 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. 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.

#### **Section 2.10. Marksmanship**

Every sworn police officer of the Oceanside Police Department must shoot for qualification as scheduled by the Police Department.

#### **Section 2.11. Special Compensation**

##### **A. MOTORCYCLE ASSIGNMENT**

Each officer assigned to motorcycle duty shall receive four (4) hours of extra pay at his/her regular rate of pay for each week actually worked to compensate for storage and maintenance of the motorcycle at their homes.

##### **B. CANINE ASSIGNMENT**

**For purposes of complying with the Fair Labor Standards Act, the parties have agreed to the following terms:**

- A. That each Oceanside Police Department canine handler that kennels his/her canine at his/her home shall receive the equivalent of four (4) hours of pay for each seven day work period, to be paid biweekly, at his/her regular overtime rate of pay as compensation for the time spent working outside regular work hours on canine maintenance training and Ordinary Care and Maintenance of the canine, canine kennel, and the canine transport vehicle as set forth in A(1) and A(2) below. Such hours worked shall not be interpreted to be 1) shift extension, 2) callback to work, or 3) scheduled work performed in excess of the regular shift for overtime purposes. The aforementioned four hours of overtime pay shall be inclusive of the following:**

- (1) The parties have specifically considered the time that canine handlers typically spend on necessary off-duty canine-related work and determined it to be between four (4) and six (6) hours per week. Of the total biweekly payment set forth in A., the handler will be deemed to have spent six (6) hours per week outside regular work hours on Ordinary Care and Maintenance activities to be compensated at overtime rates (time and one half) of the then-existing median hourly rate for nonfarm animal caretakers as reported by the U.S. Department of Labor. "Ordinary Care and Maintenance" activities consist of various animal caretaking tasks including but not limited to feeding, grooming, inspecting, medicating, exercising, pest control, preparing and cleaning the canine kennel, and preparing and cleaning the canine transport vehicle.**

- (2) The parties expressly agree that the remainder of the biweekly payment will be considered sufficient and reasonable compensation for all other off-duty canine-related activities, such as incidental maintenance training, as well as incidental canine-related expenses.

B. Should any canine handler believe it necessary to engage in any canine-related work in excess of the above agreed upon good-faith estimates of time worked, he/she shall obtain written pre-approval to perform such work prior to performance of the work in accordance with the applicable Memorandum of Understanding and Oceanside Police Department Policies and Procedures.

This agreement represents a good faith estimate by the parties of the time reasonably necessary to accomplish the aforementioned tasks and is intended to be comprehensive, accurate and inclusive of all pertinent facts. The parties agree that this compensation is reasonable and satisfies the requirements of the Fair Labor Standards Act and, more particularly, 29 C.F.R. § 785.23, as it exceeds the Federal Minimum Wage paid at time and one half for the approximate amount of hours that the parties agree it will take to perform the fluctuating, unsupervised hours of off-duty work relating to maintenance training and Ordinary Care and Maintenance of the canine, canine kennel, and the canine transport vehicle.

#### C. FIELD TRAINING OFFICER

Sworn personnel who hold a valid POST Field Training Officer's certificate shall comprise a pool from which the Chief of Police 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 serve 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. As this assignment may be a periodic one, the procedures set forth in the Transfer and Assignment policy do not apply.

#### **Section 2.12. Callback Pay**

Whenever an employee is called back to work after he/she has left the worksite, the employee will receive time and one-half for the time actually worked or a minimum of two (2) hours at straight time, whichever is greater. Such callback pay minimum shall not apply for employees required to report to work two hours or less immediately preceding the start of a scheduled shift.

#### **Section 2.13. Bilingual Pay**

All members of the department 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 persons passing the test up to a maximum to be determined by the City shall be certified to receive the bilingual stipend of \$100.00 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 the bilingual skill, the employee shall perform the required service and seek resolution of the dispute through the grievance procedure.

#### **Section 2.14. Shift Differential Pay**

The decision to assign the hours of work per day for a shift is at the discretion of the Chief of Police or designee. When the morning shift is assigned to work an 8-hour 5-day week (normally 11 p.m. to 7 a.m.), or the 10 hour 4 day week (normally 8:30 p.m. to 7:00 a.m.), or when working the 12 hour three day shift sworn officers assigned to morning watch (normally 7:00 p.m. to 7:00 a.m.) shall receive three percent of the base rate as a shift differential.

#### **Section 2.15. Residence/Emergency Recall**

All employees of the Oceanside Police Department who are subject to emergency recall must live within a reasonable distance of their place of employment so as to be able to respond to emergency recalls within a reasonable length of time. The response time shall not exceed one hour of travel at the speed limit (at other than peak commute hours) measured from the Oceanside city limits.

#### **Section 2.16. Review of Personnel File**

Members of the Association may review their personnel files with the exception of pre-employment background examination results and psychiatric test results, providing reasonable notice by written request is made to the department head.

#### **Section 2.17. Physical Fitness**

It shall be the policy of the parties of this Agreement that all sworn Police Officers shall remain physically fit for the purpose of maintaining efficiency and reducing injuries. When feasible, facilities shall be made available to sworn members of the Police Association to promote this policy.

#### **Section 2.18. Deferred Compensation Plan**

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's adopted Plan: compensation for holidays, sick leave, and overtime. The City reserves the right to change, alter, amend, discontinue any Plan and to impose specific conditions upon the use of any Plan.

#### **Section 2.19. Health 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.

Each eligible employee may elect to use this contribution toward health coverage by enrolling in the City's group insurance plans.

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.

Medical:

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

6. 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 HMO plan; the Delta Preferred PPO plan and the vision plan.

## **Section 2.20. Long-Term Disability Insurance (LTD)**

- A. 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. Other details of the disability plans are contained in the insurance policies for sworn and non-sworn personnel.
- B. 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.
- C. 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.

## **Section 2.21. Uniform Allowance**

- A. Employees (excluding first time probationary employees) shall be entitled to the following annual cash uniform allowance payment:  
\$700.00 payable the first payday in August.

Uniform allowance will not be paid to employees on long term leave of absence, IOD, etc. until the employee returns to full duty

## **Section 2.22. Education Incentive Plan**

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

Intermediate    \$100 per month.

Advanced        \$250 per month.

Effective July 2006: Police Sergeants: Sgts possessing a P.O.S.T. Supervisory Certificate shall receive a cash allowance of \$300 per month. Newly promoted Sergeants will continue to receive their Advanced P.O.S.T. pay from date of appointment for a period of **30** months effective upon ratification. If Sergeants do not receive their Supervisory Certificate within this **30** month period, the Advanced P.O.S.T. pay will be discontinued.

## **Section 2.23. Tuition Reimbursement**

Commencing July 1, 1997, 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.

For degrees earned after July 1, 1997: 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.

#### **Section 2.24 Base Pay Rates**

**Effective the first full pay period after ratification by the City Council, employees shall receive a 2% base salary increase. Effective the first full pay period in July 2011, employees shall receive a 2% base salary increase; and effective the first full pay period in July 2012, employees shall receive a 1% base salary increase.**

**Service Pay: All employees, who have achieved twelve years of continuous years with the Oceanside Police Department in a sworn capacity as of December 1<sup>st</sup> of each year, shall receive a lump sum payment of \$3000 effective the first paycheck in December of each year.**

#### **Section 2.25. Acting Assignment Pay**

The City may, at its discretion, assign an employee to an acting capacity in a job classification different than the one currently held by the employee as follows:

- A. Police Officers assigned to an acting assignment as Police sergeant shall receive probationary Police Sergeant pay. Pay for acting Police Sergeant assignments shall be paid to those assigned for each full shift worked in the acting capacity. A full shift is the normal scheduled hours of the work unit on the day of the assignment, i.e. 5-8; 4-10; 9-80; or 3-12. Acting time is not cumulative and acting pay will not be paid for less than a full shift of acting Police Sergeant Assignment.
- B. Police Sergeants assigned to an acting assignment as Police Lieutenant or Watch Commander shall receive probationary Police Lieutenant pay. Pay for acting Police Lieutenant assignments shall be paid after a minimum of six hours in a continuous acting capacity. Acting time is not cumulative.

## **ARTICLE 3.00. WORKING CONDITIONS**

### **Section 3.01. Transfer Policy**

The following policy shall supersede all previous orders and policies related to departmental transfers and assignments, and establish a procedure regulating the movement of sworn personnel relative to transfer policy positions

#### **A. General Policy Statement**

It is the policy of the Oceanside Police Department that personnel will be assigned to positions and duties within the department at the discretion of the Chief of Police, for the purpose of insuring the most effective methods, means and personnel employed in the operation of the department. Police Officers and Sergeants will be selected, retained and removed from Transfer Policy positions by the Chief of Police, based on the procedures set forth in this policy.

#### **B. DEFINITIONS AND EXPLANATIONS**

1. Classification: The formal job title and position of the employee, as defined by City Human Resources, i.e., Police Officer, or Police Sergeant.
2. Transfer: A movement of an employee from one department division to another. An inter-divisional movement.
3. Assignment: A movement of an employee within the same division, or a movement of short, temporary nature between divisions.

#### **C. CLASSIFICATION OF PERSONNEL ASSIGNED TO TASKS AND POSITIONS**

The Chief of Police, as the Chief Administrative Officer of the department, has the duty and sole authority to determine the classification and number of employees to be assigned to each unit, division or position.

#### **D. SWORN POSITIONS WHICH REQUIRE A FORMAL TRANSFER BOARD**

When a vacancy occurs within one of the listed categories within a division, the respective Captain shall, with the concurrence of the Chief of Police, publish a written announcement of vacancy. Publication shall be department-wide and shall describe the position, its special requirements, working hours, etc., and shall invite qualified and interested personnel to apply on the appropriate "Request for Transfer" form.

The maximum filing period shall be 15 calendar days, but may be shortened in the event that all eligible and interested employees have been notified.

##### **Positions Within Prerequisite**

- |                           |  |
|---------------------------|--|
| 1. Training               | A minimum of three (3) years POST recognized |
| 2. Canine Unit            | and approved law enforcement experience; one |
| 3. Traffic                | year with the OPD and successful completion  |
| 4. Investigation Division | of probation at the time of transfer.        |



#### E. SWORN POSITIONS WHICH DO NOT REQUIRE A TRANSFER BOARD

1. Personnel for any positions within or directly under the control of the office of the Chief of Police shall be selected by the Chief of Police.
2. Temporary or special assignments will be made by ranking officers with the approval of Division Captains, when appropriate.
3. Assignments for Training Purposes will be made by Division Captains for cross training. The intent of these assignments is to enhance the ability of the individual, thereby increasing the effectiveness of the department.

#### F. APPLICATION FOR TRANSFER

Employees who meet the qualifications for the position and wish to transfer may apply by completing a departmental Transfer Request Form. The applicant may attach a resume or any other supporting documents that he or she feels are relevant to their candidacy for the position.

The Transfer Request Form is to be submitted through the employee's Chain of Command to their Division Captain on or before the closing date. Only in special circumstances will applications be considered that were submitted after the closing date.

#### G. COMPOSITION OF TRANSFER BOARD

##### Police Officers:

The Transfer Board for Police Officers shall consist of five (5) members. The Chief of Police or designee shall pick, by lot, annually, one sergeant from the day shift, one sergeant from the night shift, one sergeant from the combined pool of sergeants in field Operations Support and Administration, and one sergeant from the Investigations division. The fifth member shall be the captain or his/her designee from the Division receiving the selected member who will serve as the board chairperson. Alternates will be selected from each of the above identified work units.

There is no need for a transfer board if five (5) or fewer members apply for a position. The Division Captain shall forward a memorandum with the names of the interested members in alphabetical order to the Chief of Police for final selection.

##### Police Sergeants:

The Transfer Board for Police Sergeants shall consist of the three Division Captains or their designees. The representative of the Division receiving the selected member will serve as the board chairperson. The board is not just limited to the applicants and may consider all department Sergeants for a particular position. In the event there are three or less applicants for an open position, the Board will still convene to discuss all sergeants for the position.

The Board will submit three (3) names in alphabetical order on a memorandum to the Chief of Police for final selection.

## H. TRANSFER BOARD SELECTION PROCESS

The Board will evaluate the applicants on the basis of their written application, performance ratings and personal knowledge. They will take into account supervisory recommendations and may require, at their option, personal interviews with the applicants. Applicants also may request a personal appearance before the Board. Requests to appear must be made in writing by the candidate no later than the closing date and should accompany the transfer request form.

Selection for transfer will be based on the information submitted by the applicant, supervisory evaluations of the member's performance, the member's work record and disciplinary history, and other personnel data relevant to the position under consideration. The criteria of particular importance will include: the applicant's preparation for the position; technical and people skills demonstrated by the applicant; and the applicant's overall competence and professional attitude toward his or her responsibilities as a department member.

After all applicants have been evaluated, the chairperson will compute the standing. The top five (5) (Police Officer, or top three (3) (Sergeant) applicants will be certified alphabetically to the Chief of Police without numerical valuation. In case of multiple openings, names certified will exceed openings by two (2) names.

The Board shall in writing set forth the specific reasons for recommending or not recommending each applicant. Each member of the board shall sign the memorandum supporting the position of the board. Any dissenting member of the board shall provide a written document stating the reason for not agreeing with the recommendation/non-recommendation of any applicant.

If an applicant has any questions regarding the Transfer Review Board interview, the applicant shall address them to the Chairperson of the Board. The chairperson shall address all inquiries.

The Transfer Board memorandum to the Chief of Police listing specific reasons for recommending or not recommending each applicant, along with any written documentation by dissenting members of the Board, will be retained by the Chief of Police for a period of five (5) years.

## I. PERIOD OF SERVICE/RETENTION IN TRANSFER POSITION

All Police Officer/Sergeant positions under the Transfer Policy will be for four years. Upon completion of the fourth year of service, employees may remain in a Transfer Policy position with a two year continuation periods upon recommendation of their unit supervisor(s), section Lieutenant, Division Captain and approval by the Chief of Police. Eligibility for the two year extension periods is retroactive to those members still within their initial four year assignment at time of ratification. Members already on a one year extension at the time of ratification will automatically have one year added to their current extension. Employees serving in Transfer Policy Positions without time limits are not subject to time limits, unless they receive appointment to a Transfer Policy position under this agreement. Assignments within sections (General Investigations/Special Enforcement) are at the discretion of the Division Captain. Police Officers assigned to either section (General Investigations/Special Enforcement) must apply for a vacancy in the other section and compete for appointment.

The Chief of Police will select and appoint candidates from the transfer list based on merit; and in compliance with all City policies and state and federal laws applicable to selections, promotions and transfers. As soon as the position(s) is filled, the transfer list will be invalid.

#### J. ASSIGNMENT / REMOVAL FROM TRANSFER POSITIONS

Assignment / removal may be made by the Chief of Police in the event of any of the following:

1. Personal desire for change from the position held
2. Promotion
3. Ineffectiveness in the position
4. Inability to perform the required function or task
5. Personnel cutbacks and fiscal constraints
6. Discipline
7. Not recommended/approved for continuation at completion of term
8. To ensure effective operation of the department, the Chief of Police retains discretion to assign, reassign or transfer Sergeants in transfer positions. Assignment, reassignment or transfer of a Sergeant to ensure operational effectiveness is not considered punitive.

Removal from a Transfer Policy position of a punitive nature shall result in full appeal rights. No rotation shall be permitted hereunder which violates the Public Safety Officers Bill of Rights Act or which is otherwise arbitrary, capricious or discriminatory.

#### K. OTHER ASSIGNMENTS

All other assignments within divisions, sections or units not expressly mentioned by this policy, such as platoon assignments, specific task assignments, shift assignments, etc., are the responsibility and under the authority of the respective Division Captain.

### **Section 3.02. Discipline Procedure**

#### A. Application of Procedure:

The following disciplinary procedure shall apply to employees except that a suspension without pay, demotion in rank or discharge of sworn personnel shall be subject to an appeal to a third party neutral whose decision shall be final and binding.

All appeals by sworn employees to a third party neutral shall be advisory.

#### B. Procedure

1. 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 shall include, but not be limited to, any of the following:
  - a. Commission of an act which results in a criminal conviction and constitutes a misdemeanor or infraction involving moral turpitude or a felony.
  - b. Unauthorized use or possession of City property or equipment.
  - c. Causing damage to or waste of public property through misconduct or negligence.

- d. Unauthorized or excessive absence from regularly assigned duties.
  - e. Frequent and unexcused tardiness in reporting to regularly assigned duties.
  - f. Use of fraud or material misrepresentation but for such fraud or material misrepresentation the employee would not have secured employment.
  - g. Use of an employee's official position or office for personal gain or advantage.
  - h. Deliberate dishonesty related to the performance of an employee's duties.
  - i. Accepting favors or gratuities in return for service required to be performed as a part of the employee's official duties and responsibilities.
  - j. Discourteous treatment of the public or other City employees.
  - k. Failure to carry out assigned duties promptly, adequately or efficiently.
  - l. Insubordination.
  - m. Intentional or negligent act or omission which adversely affects, or threatens to adversely affect, the safety of the employee or others.
  - n. Failure to observe and comply with this Agreement or City or departmental rules and regulations.
  - o. Use of, possession of, or being under the influence of any alcoholic beverage while on duty.
  - p. Being under the influence of any drug which interferes with the performance of an employee's regular job duties.
  - q. Use or possession of any illegal drug while on duty.
  - r. Other serious or socially reprehensible conduct either during or outside of duty hours which is of such a nature it causes serious discredit to the employee's department or the City.
2. Full authority for discipline is retained by the City. The City agrees, however, that employees will be disciplined only for just cause.
  3. 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.
    - a. The employee shall be given written notice of the disciplinary action including a statement of the reason therefor. Service of such 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 Personnel Office of the City.

- b. 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 his/her 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.
  - c. The employee shall be given the right to respond to the proposed discipline either orally or in writing to the appropriate City appointing authority. 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.
  - d. An employee waives all rights to informally respond to the proposed discipline if he/she fails to submit such response within the time limit established by the City.
  - e. Following either the submission of the employee's informal response to the disciplinary action or the waiver of such right, the appropriate City appointing authority shall either impose, or 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 herein.
- 4. Notwithstanding the provisions of Section B hereinabove, any discipline which, in the judgment of the appointing authority, 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 VII.B. Such procedure shall be completed, however, within five (5) working days of the imposition of the discipline.
  - 5. Grievances of discipline must be initiated by the employee within five (5) calendar days after the imposition of the discipline or, in the case of discipline imposed under section D, after the completion of the informal response procedures. Failure to initiate a grievance within such time limit shall constitute a waiver by the employee of all rights to grieve such discipline hereunder.
  - 6. All disciplinary grievances shall be initiated at Step 3 of the Grievance Procedure delineated herein except grievances of disciplinary action involving reprimands, which shall be initiated at Step 1 and concluded at Step 4.

### **Section 3.03. Grievance Procedures**

During the life of this agreement, if the parties mutually agree to a permanent panel of neutrals, this provision shall be amended to include such permanent panel, as a means of expediting the process.

- 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, by Charter, 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 or Lieutenant within thirty (30) working days of the date on which the grievance arises, except as provided otherwise in this Agreement. Such grievance shall be in writing, and shall include: a statement of the grievance and the facts relative to it, a statement of the alleged violation of the Agreement and a statement of the remedy requested. 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.

The parties agree to submit any issue involving the grievability of a grievance, standing and/or timeliness of filing the grievance to Step 5 Arbitration in an expedited manner. Once an advisory arbitrator has been agreed to, the parties shall submit briefs to the arbitrator on the issue of grievability or timeliness. No hearing need be held on these issues unless one of the parties requests. Once the briefs have been filed and the hearing, if any, has been held, the arbitrator shall provide the parties with a decision within 30 calendar days. A hearing on the substance of the grievance will only be held if the arbitrator decides the grievance raises a grievable issue under the contract or has been timely filed.

2. STEP 2. If the grievance is not resolved in STEP 1, the grievant may appeal it to the appropriate Captain 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 grievance and the facts relative to it and a statement of the remedy requested. Within ten (10) working days of receiving such appeal, the Captain shall arrange a meeting between himself, the aggrieved employee, and the employee's representative (if applicable), to review the grievance. The Captain 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 Chief of Police within (5) working days from the date a decision was rendered in STEP 2, above. The Chief of Police may render a decision solely on the basis of a review of the record; or may arrange a meeting between those affected and a representative of the Personnel Department before rendering a decision. The decision shall be rendered within ten (10) working days of the filing of the appeal.
4. STEP 4. If the grievance is not resolved in STEP 3, 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 3, above. The City Manager, or designated representative, may render a decision solely on the basis of a review of the record; or may arrange a meeting between those affected before rendering a decision. The decision shall be rendered within ten (10) working days of the filing of the appeal.
5. STEP 5. If the grievance is not resolved in STEP 4, 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 4, 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 services 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 given time or times under any given 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.
6. 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 5, above. Any such City Council 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 a.m. and 4:30 p.m., except holidays on which the City Administrative offices are 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 fees 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.

#### **Section 3.04. No Strike Clause**

- A. It is agreed and understood that 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 the Association or by its officers, agents, or members during the term of this Agreement. Compliance with the request of other labor organizations to engage in such activity is included in this prohibition.
- B. The Association recognizes the duty and obligation of its representatives to comply with the provisions of this Agreement and to make every effort toward inducing its members not to strike, stop work, slow-down, or picket obstructively, and the Association agrees in good faith to actively take affirmative action to cause those employees to cease such action.

- C. It is agreed and understood that any employee concertedly 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. For purposes of this article, any employee deemed to have automatically resigned shall be eligible to utilize the Grievance Procedure as provided in this Agreement.
- D. It is understood that in the event this article is violated, the City shall be entitled to withdraw any rights, privileges, or services provided for in this Agreement or in any other City rules, regulations, resolutions and/or ordinances, from any employee and/or the Association. No such actions shall be taken by the City in the event that the Association acts in good faith in accordance with Section B, above.
- E. The expiration or violation of this Agreement shall not prejudice the City's right to assert to the illegality of any such activities mentioned above if engaged in by the Association or employees.

**Section 3.05. Assignment of Vehicles**

The "on call" Detective will be permitted flexible use of his/her assigned City vehicle during the period of time the Detective is in an "on call" status. While utilizing the assigned City vehicle during the "on call" period, the Detective must conform to the response requirement described in section 2.14 of this Memorandum of Understanding. The purpose of allowing flexible use of the assigned City vehicle is to ensure a prompt response from the Detective during a "call out".



**Section 3.06. Scope of Agreement**

It is understood that this Memorandum of Understanding sets forth the entire agreement of the parties on all matters within the scope of representation **until the period ending December 31, 2013** and no further negotiation shall be required.

IN WITNESS WHEREOF, this Memorandum of Understanding is entered into this **1st** day of **December, 2010**, pursuant to the provision of Government Code 3500, et seq., for presentation to the City Council of the City of Oceanside, California.

DATED \_\_\_\_\_, OCEANSIDE POLICE OFFICERS' ASSOCIATION

BY \_\_\_\_\_  
Houston Alvis, OPOA President

BY \_\_\_\_\_  
Sean Sullivan, OPOA Representative

BY \_\_\_\_\_  
Richard Castle, Esq.

DATED \_\_\_\_\_, CITY OF OCEANSIDE

BY \_\_\_\_\_  
Brian Kammerer, Director, Human Resources Department

BY \_\_\_\_\_  
Christine Singer, Principal Human Resources Analyst

