STAFF REPORT

ITEM NO. 7

CITY OF OCEANSIDE

DATE: June 28, 2006

TO: Honorable Mayor and City Councilmembers

FROM: Personnel Department

SUBJECT: **ADOPTION OF A RESOLUTION IMPLEMENTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OCEANSIDE AND THE OCEANSIDE POLICE MANAGEMENT ASSOCIATION (OPMA) EFFECTIVE JULY 1, 2006 THROUGH JUNE 30, 2008.**

SYNOPSIS

City management representatives have met and conferred with representatives of the Oceanside Police Management Association. A tentative agreement for a memorandum of understanding (MOU) was reached on May 24, 2006. OPMA has ratified the agreement. Staff recommends that the City Council adopt the resolution implementing the Memorandum of Understanding between the City of Oceanside and the Oceanside Police Management Association effective July 1, 2006, through June 30, 2008.

BACKGROUND

The City's negotiating team and OPMA representatives met and conferred, and on May 24, 2006, a tentative agreement was reached. On May 25, 2006, OPMA ratified the agreement. The proposed agreement is for a term from July 1, 2006, through June 30, 2007, and includes compensation and contract language clarification.

ANALYSIS

The key economic issues in the agreement include increases in compensation, life insurance, and uniform pay.

The agreement provides unit employees with a 4 percent base salary increase effective the first full pay period in July 2006; a 4.5 percent base salary increase effective the first full pay period in January 2007; and increases in uniform allowance and life insurance.

FISCAL IMPACT

The total projected cost to implement the proposed changes from all funds for Fiscal Year 2006/2007 is approximately $115,600.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The resolution has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt the resolution implementing the Memorandum of Understanding between the City of Oceanside and the Oceanside Police Management Association effective July 1, 2006, through June 30, 2008.

PREPARED BY:

Brian J. Kammerer
Personnel Director

SUBMITTED BY:

Barry E. Martin
Interim City Manager

REVIEWED BY:

Michelle Lawrence, Assistant to the City Manager

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE APPROVING AND IMPLEMENTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OCEANSIDE AND THE OCEANSIDE POLICE MANAGEMENT ASSOCIATION

WHEREAS, representatives of the City Council of the City of Oceanside have met and conferred in good faith pursuant to the Myers-Milias-Brown Act with representatives of the Oceanside Police Management Association; and

WHEREAS, as a result of the said meet and confer sessions a Tentative Agreement (Agreement) with said Association was signed by the Personnel Director and representatives of said Association.

NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

SECTION 1. That the Memorandum of Understanding for the period from July 1, 2006, through June 30, 2008 (attached hereto as Attachment I), between the City of Oceanside and the Oceanside Police Management Association is hereby approved and adopted. The Memorandum of Understanding hereby approved shall expire at 11:59 p.m., on June 30, 2008, unless extended or modified as set forth in the Memorandum of Understanding.

SECTION 2. That all terms and conditions contained in the Memorandum of Understanding shall prevail over any inconsistent provisions of prior Memoranda of Understanding adopted by the City Council.

SECTION 3. That the City Manager is hereby directed to implement all provisions of said Memorandum of Understanding and to prepare any required amendments to the

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Personnel Rules and Regulations of the City of Oceanside and to submit said amendments to this Council for its approval.

PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this _____day of _____, 2006, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF OCEANSIDE

AND

THE OCEANSIDE POLICE MANAGEMENT ASSOCIATION

Effective July 1, 2006 – June 30, 2008

SUMMARY OF CHANGES

1. **TERM** – Contract continuation from date of ratification through June 30, 2008.

2. **SALARY** – Effective the first full pay period in July 2006, all members in the bargaining unit will receive a 4% base salary increase; effective the first full pay period in January 2007 all members in the bargaining unit will receive a 4.5% base salary increase.

3. **LIFE INSURANCE** – Increase premium to one times annual salary.

4. **UNIFORMS** – Effective 2006, increase uniform allowance by an additional $25.00. Effective 2007 increase uniform allowance by an additional $25.00.

5. **HOLIDAYS –** Modify existing language to reflect holiday leave bank of 116 hours per year and eliminate designated holidays.

6. **DELETE EXPIRED LANGUAGE.**

7. **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 POLICE MANAGEMENT ASSOCIATION

I. GENERAL

A. 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 related to the wages, hours and terms and conditions of employment between employees represented by the Oceanside Police Management Group and representatives of the City of Oceanside.

The group 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.

B. UNIT DESCRIPTION

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

a. Police Captain
b. Police Lieutenant

C. MANAGEMENT RIGHTS

Except as limited by law, the City retains all rights not specifically delegated in this agreement and the provisions described herein including, but not limited to, the exclusive right to determine the mission of the Police Department; set standards of service; 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 operations; 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.

II. THE SALARY/CLASSIFICATION PLAN

A. SALARY PLAN ADMINISTRATION

1. Employees shall receive salary compensation in twenty-six (26) bi-weekly installments with paychecks being distributed on Friday. Each bi-weekly payperiod shall normally extend from 12:01 a.m. on the Sunday before a regular payday through 12:00 a.m. on the Saturday following a regular payday. Employees are "salaried" employees for the purposes of the Fair Labor Standards Act. Employees shall receive full pay for each payperiod without regard to the number of hours actually worked within a payperiod subject to rules relating to leave.

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. To maintain any given salary level, an employee must continue to maintain a fully satisfactory level of performance. All employees normally should receive at least one (1) annual written department evaluation. Additionally, the City may at any time assess an employee's performance by conducting an evaluation. If any such written departmental performance evaluation does not demonstrate an employee's continued successful performance, that employee may be reduced in salary level or demoted in job classification. Any such reduction may be reevaluated, at the City's discretion, after a specified period of time not exceeding one (1) year.

   A salary reduction or demotion in job classification may be appealed pursuant to the disciplinary appeals process provided for in this agreement.

4. Evaluation Date Defined: The date on which an employee is to receive a performance evaluation in accordance with the salary step plan and the probationary period. Any change in an employee's job classification or salary step 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 two or more consecutive payperiods shall be advanced that number of days.

5. **Effective the first full pay period in July 2006, all classifications in the bargaining unit will receive a 4% base salary increase.**

6. **Effective January 1, 2007, all classifications in the bargaining unit will receive a 4.5% base salary increase.**

B. ACTING APPOINTMENTS

Employees assigned to acting positions for more than 10 consecutive workdays (beginning on the 11th consecutive work day) shall receive ten percent (10%) acting pay retroactive to the first day of performing said duties.

C. H-RATING

1. Defined: "H-Rating" shall mean that the salary for the affected employee shall remain the same until the salary range for the employee's classification equals or exceeds the "H-Rating" level.

2. The City may, at its discretion, "H-Rate" any employee in the City Service. Such action shall not take effect until that employee has had 15 calendar days advance notice. Upon request, the City shall meet with an employee concerning the impact of the City's decision to apply an "H-Rate".

III. COMPENSATION

Compensation as provided hereinabove shall not be granted to any employee for services for which the employee has been otherwise compensated. For purposes of this subsection, compensation for paid time-off shall not be considered as compensation for services rendered.

Police Management employees shall not receive overtime or compensatory time off.

A. RETIREMENT - PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)

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

2. The City shall continue to provide for the same optional retirement including the following:

   a. 1959 Survivor Benefit pursuant to Section 20070 through 21583 of the California Government Code.

   b. Post Retirement Survivor's Benefits pursuant to Section 21624 through 21626 of the California Government Code.

   c. Military Service Credit pursuant to Section 21024 of the California Government Code.

   d. One Year Final Compensation pursuant to Section 20042 of the California Government Code.

   e. Third Level 1959 Survivor Benefits pursuant to Section 21573 of the California Government Code.

   f. Credit for Unused Sick Leave pursuant to Section 20965 of the California Government Code.

3. Effective December 12, 1999, the City agrees to include the Employer Paid Member Contribution (EPMC) as additional compensation pursuant to Section 20692 of the California Government Code.

4. The City will provide all employees covered by this Agreement with a contribution equivalent to 100% of each employee's contribution to PERS, or 9% of regular base salary, whichever is less.

B. HEALTH BENEFITS

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. The City and the Association agree to establish a joint committee to review the feasibility and implementation of a Voluntary Employee Benefit Association (VEBA) or similar plan. Implementation of such a plan will be at no cost to the City.

5. If any other bargaining unit receives an increase in the City's health insurance contribution in excess of $545.00 per month, prior to the expiration of this contract, the OPMA shall receive an equivalent increase.

C. LIFE INSURANCE

1. **Effective July 1, 2006, the City shall provide every eligible employee group life insurance coverage equal to one times their annual base salary with a minimum benefit of $30,000. the City shall contribute the appropriate monthly premium for such coverage. Employees may apply for supplemental life insurance coverage at the employee's expense. The City shall make payroll**

deductions for this coverage. The coverage is available in even $10,000 increments equivalent to six times the employee's annual salary up to a maximum of $300,000 and is entirely optional. Proof of good health may be required.

D. LONG-TERM DISABILITY INSURANCE

1. The City shall provide long-term disability insurance at the current rates and levels. The current program provides a disability benefit equivalent to $66^2/_3$% of the employee's basic monthly salary up to a maximum benefit of $6,000.00 per month. Any such disability benefit shall not become payable until the passage of 90 days from the date of disability, or until the use of all the employee's accrued sick leave, whichever is later. Such disability benefits shall be reduced by any disability retirement benefits, workers' compensation benefits, benefits equivalent to those provided in Labor Code Section 4850 or like benefits which may be imposed by state or federal mandate in the future. In no event shall the total benefits provided to any employee by this Subsection exceed $66^2/_3$% of the employee's basic monthly salary up to the maximum benefit.

2. The City shall contribute, as appropriate, the premium cost of the above-described long-term disability insurance program.

3. During the term of this agreement, the unit may elect to participate in the same LTD program offered to OPOA represented employees

E. SHORT-TERM DISABILITY INSURANCE

1. The City shall provide for Short-Term Disability insurance at the current rates and levels. The current program provides a disability benefit equivalent to 55% of the employee's basic weekly salary up to a maximum benefit of $336.00 per week. Any such disability benefit shall not become payable until the passage of seven days from the date of disability or until the use of all the employee's accrued sick leave, whichever is later. However, if the employee is hospitalized, there is no waiting period after all accrued sick leave is exhausted. Such disability benefits shall not be paid concurrently with sick leave benefits, disability retirement benefits, workers' compensation benefits, benefits equivalent to those provided in Labor Code Section 4850 or like benefits which may be imposed by state or federal mandate in the future. The maximum benefit period for Short-Term Disability Insurance shall be 90 days.

2. The City shall contribute the premium cost of the above-described weekly indemnity insurance program.

F. REPLACEMENT OF PERSONAL PROPERTY

Any employee that suffers damage, destruction or loss of personal property, except a motor vehicle, boat, airplane or similar such vehicle, required in the performance of regular duties and as a result of performing those duties, shall be entitled to 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 eyeglasses and watches shall be established by the City.

G. UNIFORMS

The City shall provide uniforms for any public safety employee required by the City to wear such uniforms in the course of regular job duties, or shall provide an annual cash uniform allowance payment of **$675.00**, effective the first payday in August 2006. **the cash uniform allowance will increase to $700.00 payable the first payday in August 2007.**

H. MILEAGE REIMBURSEMENT/CITY VEHICLES

No employee by virtue of this agreement has a right to a City-owned vehicle.

1. City-owned vehicles may be provided on a take-home basis during an actual emergency or due to operational needs as determined by the Police Chief at his/her sole discretion.

2. 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 the use of the vehicle, inclusive of gas, oil, insurance and maintenance.

I. 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, overtime and Suggestion Program Awards. The City reserves the right to change, alter, amend, discontinue any Plan, and to impose specific conditions upon the use of any Plan.

J. LEGAL DEFENSE FUND

The City shall continue to contribute to the Legal Defense Fund for employees.

K. FLEXIBLE SPENDING PLAN

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.

L. P.O.S.T. MANAGEMENT CERTIFICATE PAY

Effective September 12, 2004, , employees possessing the P.O.S.T. Management Certificate shall receive a cash allowance of $155.00 per pay period.

IV. ATTENDANCE AND LEAVES

Employees may not utilize accrued leave for the sole purpose of extending employment with the City.

A. WORKDAY/WORKWEEK

1. Employees shall be considered to work an "indefinite" workweek and not be entitled to overtime compensation.

2. Indefinite workweek is meant to imply some flexibility in the schedule so long as all responsibilities and obligations are covered. Employees who elect to leave a shift early or leave the worksite to conduct personal business shall, when practicable, inform the immediate supervisor or log in the time of departure and how the employee may be contacted in case of emergency. It shall also be the employee's responsibility to provide the oncoming supervisor with sufficient information to insure safe and efficient continuity of operations.

3. Nothing herein shall be construed to be a guarantee of a minimum workweek for any employee.

B. SICK LEAVE

1. Defined: Sick leave is leave from duty which may be granted by the City to an employee because of non-work-related 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.

   For purposes of this Section, 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 the case of actual sickness as defined in Subsection B.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 case of pregnancy, the beginning date of sick leave usage shall be at the employee's discretion, with the concurring written advice of her personal physician. Date of return shall be based upon the written recommendation of the employee's physician and, when deemed necessary by the City, the concurrence of the City's examining physicians.

c. Employees shall notify the appropriate immediate supervisor not later than one (1) hour after the time established for beginning daily duties if an employee intends to use sick leave.

d. 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.

e. Sick leave shall be granted in increments of even one-half (½) hour increments. Excessive absences may reflect upon an employee's performance and may be grounds for discipline, including termination.

f. 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.

g. Sick leave shall not be granted to any employee to permit an extension of the employee's vacation.

h. Sick leave equal to the amount accrued may be granted to any employee during the first six (6) full calendar months of the employee's original probationary period.

i. In the event that an employee has applied for sick leave use for two (2) or more consecutively 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.

j. Sick leave granted to any employee for necessary attendance to the illness or injury of a member of the employee's immediate family, or death within the employee's immediate family, shall not exceed five work days in any twelve (12) month period.

k. In the case of a safety employee for whom 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.

3. Sick Leave Accrual

   a. All employees shall accrue 3.69 hours of sick leave for each 80 hours spent in a pay status beginning on the first day of service as a City employee. (This accrual amounts to approximately 12 days per year or equivalent.) 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 Compensation Plan.

   d. Sick leave shall not be accrued by an 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. Sick leave shall not be authorized for the sole purpose of extending employment.

   e. Sick leave may be accrued without limitation.

4. Reimbursement for Accrued Sick Leave

   a. Upon separation of any type, other than by disciplinary discharge, an employee may be paid 50% of the employee's total unused and accrued sick leave (not to exceed 1400 hours) or may apply the entire accumulated sick leave accrual balance to PERS service credit. 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. Each calendar year, any employee may elect to receive payment in lieu of accrued sick leave. An eligible employee shall notify the City of the desire to receive such payment prior to December 1 of each calendar year. An employee receiving such pay shall receive, at the then-current salary rate, pay for 50% 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.

5. Bereavement Leave

   a. An employee shall be eligible to take three (3) days paid leave of absence on account of the death of a member of the employee's immediate family.

   b. Members of the immediate family shall be limited to spouse; children; the 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.

c. 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.

6. Family and Medical Leave Act

The City's Family and Medical Leave Act Policy shall govern the granting of leave for such purposes.

C. HOLIDAYS

1. **Effective July 1, 2006, employees will be credited with 58 hours of holiday credit on January 1st and July 1st of each year in lieu of designated holidays for a total of 116 holiday hours annually.**

2. **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.**

3. **Employee may utilize Executive Leave or other accrued leave (excluding sick leave) on designed City holidays.**

D. VACATION LEAVE

1. Vacation Use

a. All employees shall be entitled to annual vacation leave with pay as provided in this Agreement.

b. Scheduling of an employee's vacation leave shall be at the discretion of the City with due regard to the wishes of the employee and the work requirements of the City.

c. Vacation leave shall only be granted in even whole hour increments. Employees shall be responsible for assuring adequate supervisory coverage during the employee's absence and for providing the oncoming supervisor with sufficient information to assure safe and efficient continuity of operations.

d. Vacation leave shall not be granted to any employee 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. Vacation leave shall not be granted to any employee for the sole purpose of extending employment. This section does not prohibit the use of approved vacation time prior to a pre-identified separation date.

e. Vacation leave shall not be granted to any employee during the first six (6) full calendar months of the employee's original probationary period. However, on the successful completion of the probationary period, the employee shall then be credited with vacation leave that would otherwise have been accrued during the probationary period as provided in this Compensation Plan.

f. All employees are encouraged to take annual vacation leave away from their jobs.

2. Vacation Accrual

a. All employees shall accrue vacation leave on the basis of all hours spent in a paid status based on City Service (excludes any time worked as overtime or special time as provided below). Such accrual shall take place on a payperiod basis.

b. 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 16th consecutive year of employment, the employee shall accrue 6.46 hours of vacation leave for each 80 hours spent in pay status. (This accrual amounts to approximately 21 days per year or equivalent.)

(13) Beginning with an employee's 17th consecutive year of employment, the employee shall accrue 6.77 hours of vacation leave for each 80 hours spent in pay status. (This accrual amounts to approximately 22 days per year or equivalent.)

(14) Beginning with an employee's 18th consecutive year of employment, the employee shall accrue 7.07 hours of vacation leave for each 80 hours spent in pay status. (This accrual amounts to approximately 23 days per year or equivalent.)

(15) Beginning with an employee's 19th consecutive year of employment, the employee shall accrue 7.38 hours of vacation leave for each 80 hours spent in pay status. (This accrual amounts to approximately 24 days per year or equivalent.)

(16) 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.)

c. Vacation leave granted by the City and used by an employee shall be deducted from the employee's accrued vacation leave.

d. Employees granted a leave of absence with pay or other approved leave with pay shall accrue vacation leave as otherwise regularly provided by this Agreement.

e. Vacation leave shall not be accrued by any employee absent from duty after separation from City Service, during a City-authorized leave of absence without pay, or any other absence from duty not authorized by the City.

f. Employees covered by this Agreement hired prior to July 1, 1995, may accrue vacation up to a maximum of 360 hours. Employees hired after July 1, 1995, may accrue vacation hours up to a maximum of 200 hours. An employee who has reached the maximum accrual shall not accrue any further vacation leave until the accumulated leave balance is brought below the maximum accrual limit. In no instances shall employees accrue more than 360/200 hours, respectively, of vacation.

g. Employees with Leave Bank Accounts (LBA) shall be permitted to use, pursuant to departmental rules, the LBA as paid leave or be paid cash for these hours upon separation from City service.

3. Reimbursement for Accrued Vacation Leave

a. Upon separation, all employees covered by this Agreement shall receive compensation for accrued vacation leave. Such compensation shall be at the employee's salary rate at the time of separation.

E. MILITARY LEAVE

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

F. 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 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 the City service. No leave of absence without pay shall be utilized 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 the City Service.

G. LEAVE FOR JURY DUTY

Any employee called to serve as a juror shall receive compensation from the City for the difference between the pay received as a juror, except payment for mileage, and the employee's regular salary that would have been received but for jury duty.

H. EXECUTIVE LEAVE

1. Each employee will be credited with the necessary amount of Executive Leave each July 1 in order to bring the existing balance to fifty (50) hours. In no case will unused executive hours be carried over and added to the executive leave balance for the next fiscal year.

2. Upon separation, the unused portion of an employee's Executive Leave will be provided as direct compensation at the employee's then-current salary rate.

V. SEPARATION FROM CITY SERVICE

Separation of an employee from the City Service may be accomplished for any of the following reasons:

A. Resignation which may be either deliberate or automatic. Any deliberate resignation shall be submitted to the appropriate immediate supervisor at least seven (7) calendar days prior to an employee's actual separation from the City Service.

B. Retirement which may be either deliberate or by virtue of disability.

C. Layoff as provided in the Personnel Rules and Regulations.

D. Discharge as a result of disciplinary action as provided in this Compensation Plan.

E. Death.

VI. INDUSTRIAL INJURIES AND ACCIDENTS

The State Workers' Compensation Laws and this Compensation Plan 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 immediate supervisor by any injured or ill employees 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.

3. Within one working day of receiving notice or knowledge of injury, the supervisor will provide a claim form and a notice of potential eligibility benefits pamphlet to the injured worker.

   In the case of the employee's death, this information will be given to his or her dependents.

4. The completed claim form will be filed with the Employee Services Division by the injured employee, or, in the case of death, by a dependent of the injured employee, or by an agent of the employee or dependent.

   A copy of the completed form indicating date received will be provided by the Employee Services Division to the employee, dependent or agent who filed the claim form.

   Claim forms and benefit pamphlets will be available through the Employee Services Division.

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 30 calendar days from the date any such injury or illness is reported, the employee may be treated by a physician of choice or at a facility of choice within a reasonable geographic area.

D. ABSENCE FOR INDUSTRIAL INJURY OR ILLNESS

1. Any employee suffering a 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. Any dispute regarding any such claim shall be resolved through the State Workers' Compensation Appeals Board process.

   Pursuant to Section 4850 of the State Labor Code which is applicable to public safety employees, any such authorized absence from duty shall begin with the first day following such disability for the period of disability, but not exceeding one year. If the disability extends beyond one year, then Section 4650 applies.

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.

VII. STANDARDS OF CONDUCT

Employee misconduct may be cause for disciplinary action including, but not limited to, reprimand, reduction in pay, transfer/demotion, suspension without pay or discharge. Such misconduct shall include, but is not limited to, any of the following:

A. Commission of an act which results in a felony criminal conviction or conviction as a misdemeanor or infraction involving moral turpitude.

B. Misuse, misappropriation, negligent handling or unauthorized use or possession of City property, equipment or funds.

C. Causing damage to or waste of public property through misconduct or negligence.

D. Excessive absence from regularly assigned duties.

E. Excessive 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 or theft related to the performance of an employee's duties.

I. Asking for, agreeing to accept, or accepting favors, bribes or gratuities in return for services as a part of the employee's official duties and responsibilities.

J. Discourteous treatment of the public or other City employees.

K. Wrongdoing, misconduct or failure to carry out assigned duties promptly, adequately or efficiently.

L. Insubordination.

M. Incompetence, inefficiency, inability or negligence in the performance of duties.

N. Violation of the City Code, Personnel Rules, Memoranda of Understanding, safety rules or departmental rules and regulations.

O. Being in the unauthorized possession of, or being under the influence of, any alcoholic beverages or controlled substances while on duty.

P. Engaging in any outside employment or enterprise determined by the Police Chief to be conflicting with City employment.

Q. Gambling on City property or while on duty.

R. Other serious or socially reprehensible conduct either during or outside of duty hours which is of such a nature that it causes public discredit to the employee's department or the City.

VIII. DISCIPLINE

A. Full authority for discipline is retained by the City. The City agrees, however, that employees will be disciplined **for a violation of a workplace conduct rule and that the discipline will be imposed in good faith.**

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

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

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 permanent employee in the Classified Service, the following procedure shall be utilized.

1. The employee shall be given written notice of the proposed disciplinary action including a statement of the reason therefore.

2. The notice of proposed disciplinary action must include a copy of the charges of misconduct and, whenever practical, a copy of the material or documents upon which the charges are based, a statement of the rules, regulations or policies violated, and an explanation of the employee's right to respond. 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 proposed disciplinary action shall set forth the procedure for such a review.

   Notice of discipline should be handed to the employee, whenever feasible, before the employee has left the work premises. In any event, proof of delivery and the date of delivery is mandatory so there will be no doubt as to the beginning of any appeal period. If the notice cannot be given to the employee before leaving the work premises or cannot be delivered by the supervisor at the employee's home, a postal return receipt for certified mail must be used.

3. 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 a response and in no event shall such time period be less than 48 hours from the completion of service of the notice of disciplinary action.

4. An employee waives all rights to respond to the proposed discipline if he/she fails to submit such response within the time limit established by the City.

5. Following the response period, the proposed discipline may be imposed, modified or not imposed, as the situation warrants. The Department Director's decision shall be provided to the employee in writing and will include a statement of the charges upon which the action is based and notice of the employee's right to appeal, if any.

   This shall put the disciplinary action into effect and 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 Subsection 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 predisciplinary procedure of Subsection B. Such procedure shall be completed, however, within seven (7) calendar days of the imposition of the discipline.

D. Grievances of discipline must be initiated by the employee within seven (7) calendar days after the imposition of the discipline or, in the case of discipline imposed under Subsection C., 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.

E. All disciplinary grievances shall be initiated at Step 3 - City Manager of the Grievance Procedure delineated herein except grievances of disciplinary action involving reprimand which shall be initiated at Step 1.

IX. 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, 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 – Police Chief: The aggrieved employee, who may be represented by another person, shall present the facts relative to the grievance to the Police Chief within 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. Within ten (10) working days of receiving such appeal, the Police Chief shall arrange a meeting between himself/herself, the aggrieved employee, the employee's representative (if applicable), and a representative of the Personnel Division to review the grievance. The Police Chief shall render a written decision on the grievance within ten (10) working days after the meeting.

2. Step 2 - City Manager: If the grievance is not resolved in Step 1, 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 1, above. The City Manager, or a 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 meeting.

3. Step 3 - Advisory Arbitration: If the grievance is not resolved in Step 2, 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 2, above.

   a. The City Manager shall request a panel of seven (7) advisory arbitrators from the California State Conciliation Service within 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 to the City Manager, the advisory arbitrator shall be limited to the express terms of the Agreement and shall not 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 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.

4. Step 4 - 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 3, above. Any such City Council review must be concluded within 30 working days of the City's receipt of the advisory arbitrator's recommendation, and any City Council action as a result of that review shall be final and binding upon the parties. Any 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.

   a. 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.

   b. 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 same.

   c. The time limits in this procedure may only be waived by mutual agreement of both parties, in writing.

X. REEMPLOYMENT RIGHTS/ELIGIBILITY

The Reemployment List shall be made an addendum to any existing regular eligible list or in lieu of if no list exists for each affected job classification for a period of 24 months from the date of layoff.

XI. SAVINGS PROVISION

If any provision(s) of this Agreement is held to be contrary to the law by a court of competent jurisdiction, such provision(s) 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.

XII. BINDING ON SUCCESSORS

This Agreement shall be binding upon the successors and assignees of the parties hereto.

XIII. TERM OF THE AGREEMENT

This agreement is effective upon ratification by the City Council, and shall continue in full force and effect until June 30, **2008.**

XIV. RATIFICATION AND EXECUTION

This Agreement shall be in full force and effect upon formal approval by the City Council of the City 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 Association.

DATED _____, OCEANSIDE POLICE MANAGEMENT ASSOCIATION

BY _____
Shawn Murray, OPMA President

BY _____
Thomas Aguigui, OPMA

DATED _____, CITY OF OCEANSIDE

BY_____
Brian Kammerer, Personnel Director

BY _____
Christine A. Erb, Senior Personnel Analyst