

MEMORANDUM OF UNDERSTANDING

BETWEEN

CITY OF HERMOSA BEACH

AND

POLICE MANAGEMENT BARGAINING GROUP

JULY 1, 2015 - JUNE 30, 2016

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**MEMORANDUM OF UNDERSTANDING
FOR THE POLICE MANAGEMENT BARGAINING GROUP**

ARTICLE 1 – PARTIES TO THE MEMORANDUM

This Memorandum of Understanding, hereinafter referred to as the "MOU" or the "Agreement," has been entered into, pursuant to the laws of the State of California and the City of Hermosa Beach, California, by and between the CITY OF HERMOSA BEACH, hereinafter referred to as the "City" or as "Management," and the HERMOSA BEACH POLICE OFFICERS ASSOCIATION, hereinafter referred to as the "Association."

ARTICLE 2 – RECOGNITION

Pursuant to the provisions of the Meyers-Milias-Brown Act, (Government Code 3500, et seq.), the City agrees to, and does, recognize the Hermosa Beach Police Officers Association as the exclusive representative of the full-time positions in the classifications of Police Captain and Police Lieutenant of the City of Hermosa Beach.

ARTICLE 3 – SCOPE & IMPLEMENTATION OF THE MEMORANDUM OF UNDERSTANDING

- A. This Memorandum of Understanding constitutes the joint recommendation of Management and the Association. It shall not be binding in whole or in part upon the parties unless and until the following conditions have been complied with:
1. The association shall notify the City Council in writing that it has formally approved the Memorandum of Understanding in its entirety.
 2. The City Council shall approve this Memorandum of Understanding.
 3. This MOU has been reached following good-faith negotiations, by the authorized Management representative of the City Council and the authorized representative for the Hermosa Beach Police Officers Association.

ARTICLE 4 – JOB ACTION

- A. The Association and its members agree that during the term of this MOU there shall be no strike.
- B. In the event of an unauthorized strike, the City agrees that there will be no liability on the part of the Association provided the Association promptly and publicly disavows such unauthorized action; orders the employees to return to work and attempts to bring about a prompt resumption of normal operations; and provided further, that the Association notifies the City in writing, within 48 hours after the commencement of such strike, what measures it has taken to comply with the provisions of this strike.
- C. In the event such strike by the Association has not affected resumption of normal work practices, the City shall have the right to take appropriate disciplinary action.

ARTICLE 5 – NON-DISCRIMINATION

Both parties to this Agreement agree not to discriminate against any employee or applicant because of age, gender, race, national origin, religion, color, ancestry, marital status, sexual orientation, physical or mental disability, medical condition, and/or Association membership or activity. Additionally, the City expects and requires all employees to treat one another with dignity and respect. Harassment of fellow employees is a violation of law. No employment decision may be made based upon an employee's submission to or rejection of such conduct. It is the responsibility of any employee, who believes that they are the victim of such harassment, whether sexual, racial, ethnic or religious, to report the conduct to their Division Commander, Chief of Police, Human Resources Manager/Director or the City Manager in a timely manner.

ARTICLE 6 – MANAGEMENT RIGHTS

1. Manage the City.
2. Schedule working hours.
3. Establish, modify or change work schedules or standards.
4. Institute changes in procedures.
5. Direct the work force, including the right to hire, promote, demote, transfer, suspend, discipline or discharge any employee.
6. Determine the location of any new facilities, building, departments, divisions, or subdivisions thereof, and the relocation, sale, leasing or closing of facilities, departments, divisions, or subdivisions thereof
7. Determine services to be rendered.
8. Determine the layout of buildings and equipment and materials to be used herein.
9. Determine processes, techniques, methods and means of performing work.
10. Determine the size, character and use of inventories.
11. Determine the financial policy including accounting procedures.
12. Determine the administrative organization of the system.
13. Determine the selection, promotion, or transfer of employees.
14. Determine the size and characteristics of the work force.
15. Determine the allocation and assignment of work to employees.

16. Determine policy affecting the selection of new employees.
17. Determine the establishment of quality and quantity standards and the judgment of quality and quantity of work required.
18. Determine administration of discipline.
19. Determine control and use of City property, materials and equipment.
20. Schedule work periods and determine the number and duration of work periods.
21. Establish, modify, eliminate or enforce rules and regulations.
22. Place work with outside firms.
23. Determine the kinds and numbers of personnel necessary.
24. Determine the methods and means by which such operations are to be conducted.
25. Require employees, where necessary, to take in-service training courses during working hours.
26. Determine duties to be included in any job classifications.
27. Determine the necessity of overtime and the amount of overtime required.
28. Take any necessary action to carry out the mission of the City in cases of an emergency.

The exercise of the foregoing powers, rights authority, duties and responsibilities by the City, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and the discretion in connection therewith, shall be limited only by the specific and express terms of this Memorandum of Understanding, City Personnel Ordinance and Personnel Rules and Regulations, the Public Safety Officers Procedural Bill of Rights, and other statutory laws.

Except in emergencies, or where the City is required to make changes in its operations because of the requirements of law, whenever the exercise of management's rights shall impact on employees of the bargaining unit, the City agrees to meet and confer with representatives of the Association, upon request by the Association, regarding the impact of the exercise of such rights unless the matter of the exercise of such rights is provided for in this Memorandum of Understanding.

ARTICLE 7 – PROVISIONS OF LAW – INSEPARABILITY

It is mutually understood that this MOU is, and shall be, subject to all current and future applicable state, federal and local laws. If any article, part, provision or segment of this MOU is, or shall be, in conflict with or inconsistent with such applicable provisions of federal, state or local law, or is otherwise held to be invalid, or unenforceable by any court

of competent jurisdiction by final decree, such article, part or provision thereof shall be superseded by such applicable law and the remainder of this MOU shall in no way be affected thereby.

ARTICLE 8 – FULL UNDERSTANDING, MODIFICATION, WAIVER

- A. It is intended that this Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior to existing understanding or agreements by the parties whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.
- B. Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required to negotiate with respect to any subject or matter covered herein during the term of this Agreement.
- C. Any agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the City Council.
- D. The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

ARTICLE 9 – GRIEVANCE PROCEDURE

The Grievance Procedure is attached as Exhibit A and incorporated herein by reference.

ARTICLE 10 – WORK SCHEDULE

- A. Police Captains and Police Lieutenants shall have the choice of working a ten (10) hour day, four (4) days per work week; or an eight (8) hour day, five (5) days per work week.
- B. In the event of an emergency situation, the City may cancel, alter or amend the work schedule as necessary immediately.

ARTICLE 11 – COMPENSATION - METHODS OF COMPENSATION

- A. Methods of compensation:
 - 1. Compensation shall be determined on a monthly salary basis.
 - 2. Payments due shall be paid on a semi-monthly basis unless otherwise mutually agreed. By mutual consent early payments and other modifications can be made.
 - 3. Base monthly salary shall be considered the rate of pay for a particular classification without consideration of any other form of compensation.

B. Salary Advancements Within Base Pay Range:

1. Step Advancement:

- a. All salary advances shall be based on merit and fitness. All increases shall be recommended by the Department Head and approved by the Personnel Officer/City Manager. In the cases of exceptional merit, and upon the recommendation of the Department Director, an employee may, with the approval of the City Manager, be advanced a step within the salary range at other than one year intervals. Such advancements shall establish a new anniversary date for future advancements. Merit increases shall be effective at the beginning of the next pay period (1st or 16 of month).
- b. Upon the successful and satisfactory completion of twelve (12) months service, employees shall be advanced one step within their range and yearly thereafter until the maximum within the range achieved.

2. Promotion

- a. An employee who is promoted to a position in a class with a higher salary rate shall be entitled to the lowest step in the higher range which exceeds the present rate of pay (including base salary plus education/longevity pay) with the intent of increasing the salary rate in the new classification (base salary plus education/longevity pay) by at least 5%.

ARTICLE 12 – BASE SALARY

- A. Effective July 1, 2015 the base monthly salary ranges for the classifications represented by the Association shall be as follows: (Reflects a 5% increase)

	1	2	3	4
POLICE CAPTAIN	10,598	11,126	11,686	12,268
POLICE LIEUTENANT	9,909	10,405	10,926	11,470

- B. Upon commencement of 21 years service as a sworn peace officer in Hermosa Beach, employee will receive an additional 5% salary.

ARTICLE 13 – PEACE OFFICER STANDARD TRAINING (POST) CERTIFICATE PAY

Effective January 1, 2004, employees shall be eligible to receive additional compensation of 5% of base salary for possession of a POST Management Certificate.

ARTICLE 14 – EXEMPT EMPLOYEES

The Classifications of Police Captain and Police Lieutenant are designated as exempt under FLSA.

ARTICLE 15 – INSURANCE COVERAGE

A. Life Insurance

City shall provide a life insurance policy for each employee, payable in the amount of two times annual salary up to a maximum of \$200,000.

B. Mental Health

City shall make such a plan available to City employees; the full cost to be paid by the employee.

C. Vision Insurance

City shall make such a plan available to City employees; the full cost to be paid by the employee.

D. Medical Insurance

1. City shall provide for Association members a medical insurance plan to include a choice of an annuity plan or an HMO plan; both plans to include maternity care and prescription benefits. The current medical plan or its equivalent, to remain in force during the term of this MOU. City shall meet and consult should there be a change in providers.
2. City to pay employee costs and current dependent rate with any future increased dependent costs to be borne 80% City and 20% employee.
 - a. There shall be no increase in the amount of the City's contribution toward medical premium until such time as the premium cost for any offered plan exceeds the following rates:
 - b. For the HMO Plan: \$1,931.04 (family rate as in effect for the 2015 policy year)
 - c. For the PPO Plan: \$2,302.46 (family rate as in effect for the 2015 policy year)

E. Dental Insurance

1. City shall provide for Association members a dental insurance plan to include a choice of an indemnity plan or a pre-paid plan.
2. City to pay employee cost and current dependent rate with any future increased dependent costs to be borne 80% City and 20% employee.

ARTICLE 16 – DEFERRED COMPENSATION

City agrees to make available to all employees in the Unit either of the Citywide Deferred Compensation Plans. All participants being then eligible to vote on decisions of the Deferred Compensation Committee.

ARTICLE 17 – RETIREMENT

- A. Tier I. The City provides the PERS 3% at 50 Plan with one year final compensation for employees hired prior to July 1, 2011.

Tier II. For employees hired on or after July 1, 2011, the PERS retirement benefit formula shall be 2% @ 50, with retirement benefits calculated on one year final compensation. Other retirement benefits for employees hired on or after this adoption date will remain the same as employees hired prior to this effective date, including Section 20042, One Year Final Compensation and Sections 21624, 21626, and 21628, Post-Retirement Survivor Allowance.

Subject to the following AB 340-related provisions, all unit members employed prior to January 1, 2013, shall personally fund 3% of compensation earnable as and for the individual member's normal employee PERS contribution.

Effective the first payroll period commencing on or after July 1, 2013, all of the above unit members shall personally fund 6% of compensation earnable as and for the individual member's normal employee PERS contribution.

Effective the first payroll period commencing on or after July 1, 2014, all of the above unit members shall personally fund 9% of compensation earnable as and for the individual member's normal employee PERS contribution.

The City shall adopt the necessary resolution so that such payments made by employees may be excluded from taxable income pursuant to section 414(h) (2) of the U.S. Internal Revenue Code.

Whether as authorized by Government Code § 20692, 20636(c)(4) or any other statutory or other legal basis, the City shall not report to PERS as any type of compensation, any portion of the normal employee PERS contributions required by PERS which is funded by the employee.

To the extent that this 2012-2015 MOU mandates payment by the City of all or part of the above unit members' normal employee PERS contribution, the City shall make said payments on a pre-tax basis to the extent authorized to do so by the IRS and the Franchise Tax Board.

- B. AB 340 (signed by the Governor on 09/07/12, and effective January 1, 2013) shall in its entirety be given full force and effect as it may from time to time exist, during and after the term of the 2012-15 MOU, as described below. Any provision in the 2012-15 MOU which contradicts any provision of AB 340 shall be deemed null and void, with the contrary AB 340 provision(s) being given full force and effect.

Therefore, no provision of AB 340 shall be deemed to impair any provision of the 2012-15 MOU or any MOU, Agreement, Rule or Regulation predating the 2012-15 MOU.

Unit members who are “new members” as defined in the above AB 340, shall individually pay an initial Member CALPERS contribution rate of 50% of the normal cost rate for the Defined Benefit Plan in which said newly hired employee is enrolled, rounded to the nearest quarter of 1%, or the current contribution rate of similarly situated employees, whichever is greater. (AB 340 – Government Code section 7522.30)

Unit members who are “new members” as defined in the above AB 340, shall be enrolled in the AB 340 provided for SAFETY OPTION PLAN TWO (2.7% at 57) (Government Code section 7522.25(e), with final pensionable compensation (as defined for new members in Government Code § 7522.34) being determined by reference to the highest average annual pensionable compensation earned during a period of 36 consecutive months. (Government Code § 7522.32(a).)

- C. Retiree medical insurance stipends provided to employees who retired prior to July 1, 2005 shall remain at existing amounts. Employees covered by this agreement who retire from the City of Hermosa Beach after July 1, 2005 will be eligible for the following medical insurance benefits:
1. The City will pay an amount up to the employee only HMO premium available through the City’s medical insurance provider for employees who complete a minimum of twenty (20) years total full-time sworn police service with the City, regardless of the employee’s age at the time of separation from city service.
 2. For retirement at age fifty-five (55) with a minimum of fifteen (15) years total full-time service with the City, the City will pay an amount up to the employee only HMO rate available through the City’s medical insurance provider.
 3. Said benefit provided under Sections 1 and 2 above, shall commence with the first month following the employee’s approved retirement date by Cal PERS.
 4. In order to be eligible for medical supplement payments, an employee must either remain on a medical insurance plan offered by the City or provide proof of coverage on a self-procured medical insurance plan.
 5. Any payments made by the City shall normally be made directly to a medical insurance provider. However, other payment arrangements may be considered.
 6. Any employee receiving a benefit under this article agrees to apply for, and enroll in, any Federal and/or State medical insurance plan (e.g. Medicare, Medicaid, etc.) for which they may become eligible unless such Federal and/or State medical insurance plan or equivalent no longer exists.

7. Upon enrollment in Medicare, the City agrees to pay the premium for purchasing coverage equivalent to the benefits provided under the existing Medicare "Part B" program.
8. For employees not eligible for Medicare benefits, who were employed prior to the City's participation in the Medicare program, the City will continue retiree medical insurance benefits the employee is eligible for under section 1 or 2 above.

ARTICLE 18 – LEAVE OF ABSENCE

Management agrees to allow all employees covered by this MOU to take a leave of absence without pay, not to exceed 60 days, in conjunction with, or in addition to, their regular vacation time. This leave will only be allowed every other year. Timing and duration of leave is subject to approval of the Chief of Police and subject to the needs of the department. This provision shall not reduce any leave entitlement an employee may have under the Military and Veterans Code.

ARTICLE 19 – VACATION

- A. Vacation accrual rates shall be as follows:
 1. Upon hire, at the rate of 96 hours/year.
 2. Commencing with the 7th year, at the rate of 112 hours/year.
 3. Commencing with the 8th year, at the rate of 136 hours/year.
 4. Commencing with the 15th year, at the rate of 160 hours/year.
 5. Commencing with the 16th year, at the rate of 168 hours/year.
 6. Commencing with the 17th year, at the rate of 176 hours/year.
- B. An employee covered by this Agreement may accrue vacation time to a maximum of 270 hours. Cash out of any earned but unused vacation accrual in excess of 270 hours (as of September 30 of each year) shall be automatically cashed out as part of the October 20th payroll.

ARTICLE 20 – HOLIDAYS

The following holidays shall be considered as paid:

New Year's Day; Martin Luther King, Jr.'s Birthday; Presidents' Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Day after Thanksgiving (for those employees working a 5 day, eight hour work schedule); and Christmas Day. For all holidays that fall on a Saturday, employees will receive compensatory time. For all holidays that fall on a Sunday, the holiday will be observed on Monday.

ARTICLE 21 – SICK LEAVE

- A. Sick leave accrual shall be as follows:
1. Those employees having less than 176 accrued hours of sick leave shall accrue sick leave at the rate of 6 hours per month until their accrual accumulates to 176 hours at which time their accrual shall be 8 hours per month.
 2. A once a year cash-in can be up to 100% of the unused sick leave as long as at least 176 accrued hours remains on hand. An employee may accrue a maximum of three hundred and fifty hours (350); thereafter any excess shall be cashed out. Employees who have more than 350 hours of sick time on the books as of June 1, 1988 shall be frozen at that accumulation; any sick time in excess of that amount shall be cashed out.
- B. Employees shall receive cash out of 100% of unused sick leave upon resignation, retirement, or termination.
- C. In the case of serious illness of a member of the immediate family, the employee may utilize sick leave. Immediate family for the purpose of this section shall be defined as: father; mother; father-in-law; mother-in-law; brother; sister; spouse; or legal dependent. Employees may predesignate and substitute other members for those members defined as “immediate family”. The intent of this provision is not to expand the number of persons included in the definition of “immediate family” nor to increase paid leave opportunities, but rather, to recognize variation in family structure (e.g. stepmother for mother).

ARTICLE 22 – BEREAVEMENT LEAVE

Each employee shall receive a maximum of three shifts per calendar year to be utilized for bereavement leave because of a death in their immediate family. Immediate family shall be defined as in Article 21 - Sick Leave. Said time will not be cumulative from one twelve month period to another nor will pay in lieu of unused leave for bereavement be provided. The Chief of Police may grant one (1) additional shift in the event of a death which required extended travel. For the purposes of bereavement leave, parents in-law, step children and parents, and persons living within the same household are to be considered in the definition of “immediate family”.

ARTICLE 23 — JURY DUTY

If called for jury duty in a Municipal, Superior, or Federal Court, or for a Coroner's Jury, Employees covered by this Agreement shall remain in their regular pay status. All jury fees except mileage reimbursement shall be returned to the City.

ARTICLE 24 – MANAGEMENT LEAVE

Police Captains and Police Lieutenants shall be allowed one hundred (100) hours of additional leave each calendar year in addition to flex time for extraordinary assignments,

fixed holidays and bereavement leave. Management leave does not accumulate or carry over; it must be used each year. Said Management Leave shall have no monetary value.

ARTICLE 25 – EDUCATIONAL REIMBURSEMENT

The City agrees that Police Captains and Police Lieutenants who desire to enroll in training and academic courses that may provide the employee with general or specific skills and/or knowledge that contributes to their ability to perform their current position or enhances promotional opportunities, shall have their course fees (up to CSU rate), books, materials, and tuition (CSU rate) paid by the City, in advance, subject to the approval of the City Manager. The employee will reimburse the City for all expenses if the employee fails or does not complete the courses.

An annual fiscal year maximum reimbursement amount will be determined by the Human Resources Manager/Director using CSU rates. The amount will be determined based on the CSU schedule for attending a Fall semester, one winter session, a Spring semester, and one summer session.

ARTICLE 26 – UNIFORM ALLOWANCE

Said allowance for Police Captains and Police Lieutenants to be \$600 per year, payable through the regular payroll schedule.

ARTICLE 27 – AMMUNITION REPLACEMENT

- A. In addition to the quarterly qualification ammunition, each officer will be allowed to utilize fifty (50) rounds of ammunition for their primary duty weapon, at City expense, each month at the firing range used by the Department. The City will also pay for the expense of using the range. The ammunition will be used to practice on an approved course of fire so that officers will become more proficient with their service weapons.
- B. The City will not compensate officers for the time spent to utilize this ammunition. Officers must use the allotted ammunition each month; it does not accumulate.

ARTICLE 28 – DISCIPLINARY ACTIONS

- A. For the purpose of defining disciplinary actions, the following definitions shall be applicable:
 - 1. Dismissal
 - 2. Demotion
 - 3. Suspension
 - 4. Reductions in pay
 - 5. Reprimand (written)
- B. Reductions in pay are governed by the “Blue Section” of the Police Manual.

- C. Appeals from the disciplinary actions shall only be subject to the "Blue" section of the Police Manual entitled "Rules and Regulations".
- D. Prior to the commencement of any internal investigation which is likely to subject the officer to disciplinary action, the officer shall be advised of their rights pursuant to Section 3300, et. seq., of the California Government code as amended. All rights contained therein shall be applicable to the disciplinary actions and shall be used as a minimum guideline only.
- E. Any reprimand record or other writing containing negative comments (with the exception of Performance Evaluations) included in the employees personnel package is a written reprimand.
- F. Inclusionary periods as currently set forth in the Police Department rules and Regulations shall remain in effect during this MOU
- G. Any officer receiving time off dispensed as a result of disciplinary action can use either accumulated compensatory time or vacation time at their discretion. However, when exceptional circumstances arise and the City feels that it is in the best interest to keep an officer off duty for a limited period of time (not to exceed five (5) working days), the City may exercise this right.

ARTICLE 29 – LAYOFF

- A. Hermosa Beach Municipal Code Section 2-42 as currently enacted, is the governing provision regarding layoff. However, City further agrees that prior to implementation of any such layoff, discussions shall be held to explore other alternatives, mitigation, etc.
- B. It is further agreed that in the event the City should contract with another agency for provision of police services, the Association shall receive six (6) months advance notice prior to the effective date of any such change.

ARTICLE 30 – NO SMOKING

The parties agree that the City shall amend its class specifications for unit positions to provide that employees who become unit employees after March 1, 1988 shall, as a condition of their continued employment, refrain from smoking tobacco or any other non-tobacco substance at any time on or off duty. Violation of this condition of employment shall be deemed good cause for dismissal.

ARTICLE 31 – PHYSICAL FITNESS TIME

The City and the Association agree to a program providing for an on-duty workout period for Lieutenants and Captains under the following conditions and as approved by the Chief of Police:

- A. The work out shall be of thirty (30) minutes duration, beginning when the employee enters the workout facility. The workout shall take place within the City or within 1/4 mile of the City boundary.

- B. There is no interruption of service to the City.
- C. Release time to work out is at the discretion of the City.
- D. Individuals may be barred from this program at City discretion if there is evidence of abuse.

ARTICLE 32 – ANNUAL PHYSICAL

- A. All employees covered by this Agreement shall be provided with a complete physical examination (participation is voluntary) according to the following schedule:
 - 1. Every two (2) years up to and including age 38.
 - 2. Annually at age 39 and thereafter.
- B. Said physical to be at a location of the City's choice and at the City's expense.
- C. The physical exam is to include at least the following:

Review of medical history, physical examination; Urinalysis; VDRL; X-Rays (Chest PA, Lumbar Spine and Cervical) only if indicated; Blood groupings, CBC, Chem Panel 17; EKG and Treadmill; Lipid Analysis; Pulmonary Function Test; Hearing test; Strength and Flexibility testing.

ARTICLE 33 – DURATION OF CONTRACT

This MOU is effective July 1, 2015 and shall remain in full force and effect through June 30, 2016.

In witness whereof, the parties hereto have caused their duly authorized representatives to execute this Memorandum of Understanding this 23rd day of November, 2015.

HERMOSA BEACH POLICE
MANAGEMENT GROUP



Milton McKinnon, Police Captain



Thomas Thompson, Police Lieutenant



Garth Gaines, Police Lieutenant

CITY OF HERMOSA BEACH



Tom Bakaly, City Manager



Viki Copeland, Finance Director



Vanessa Godínez, HR Manager



Robert A. Blackwood, Interim Assistant to
the City Manager

**GRIEVANCE PROCEDURES
FOR
HERMOSA BEACH POLICE DEPARTMENT**

I. Purpose of Grievance Procedures

- a. To promote improved employee-employer relations by establishing grievance procedures on matters.
- b. To provide that grievances shall be heard and settled as informally as possible.
- c. To enable grievances to be settled promptly and/or as near to the point of origin as possible.

II. Definition

A grievance is defined as any dispute concerning the interpretation, intent or application of the written Memorandum of Understanding or departmental rules and regulations governing personnel practices or working conditions applicable to employees covered by the Memorandum of Understanding. An impasse in meeting and conferring upon the terms of a proposed Memorandum of Understanding is not a grievance.

III. Conduct of Grievance Procedure

- a. An employee may request the assistance of another person of his own choosing in preparing and presenting of his grievance at any level of review, or may be represented by a recognized employee organization, or may represent himself.
- b. The employee and his representative, if any, may use a reasonable amount of work time, as determined by the appropriate Division Commander, and a Police Association Board Representative, in conferring about and presenting a grievance.
- c. Any grievance relating to the retroactive status of monetary or fiscal matters shall be limited to the date of filing of the grievance in writing, except in such cases where it would be impossible for the employee to have prior knowledge of an accounting error, or where the error is departmentally or City caused.
- d. The time limits specified may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- e. Employees shall be free from reprisal for using the grievance procedure.

IV. Matters Subject to Grievance Procedure

Full-time employees having probationary or permanent status may process a personal grievance on one, or more than one, of the following grounds.

- a. Improper application of rules, regulations and procedures.
- b. Unfair treatment, including coercion, restraint, or reprisal.
- c. Reduction in force action – layoffs.
- d. Promotion procedures implemented unfairly.
- e. Classification of position.
- f. Non-selection for training opportunities.
- g. Discrimination because of race, religion, color, creed, or national origin.
- h. Any matter affecting an employee's work schedule, fringe benefits, holidays, vacation, sick leave, retirement, performance, rating, a change in classification, salary, work assignment, or any other matter affecting wages, hours or working conditions.
- i. Discharge, demotion, or suspension.
- j. Individual disputes over the intents or application of the provisions of the most recent officially signed agreement between the City and their recognized employee representatives.

Probationary employees may file grievances under all of the above, but not as applied to their performance rating or dismissal.

V. Grievance Procedure

Step One – Informal Process

An employee must attempt first to resolve a grievance through discussion with his immediate supervisor without undue delay on an informal basis. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, he shall have the right and obligation to discuss it with his supervisor's immediate superior, if any, and his department head if necessary. Every effort shall be made to find an acceptable solution by these informal means at the most immediate level of supervision. At no time may the informal process go beyond the department head concerned. In order that this informal procedure may be responsive, all parties involved shall expedite this process. In no case may more than fifteen (15) calendar days elapse from the date of the alleged incident or action and the

resolutions of the grievance or completion of the informal process. Said grievance shall be considered waived if not so presented to the immediate supervisor within fifteen (15) calendar days following the day during which the event upon which the grievance is based occurred.

Step Two – Formal Process – Management Supervisor

If the grievance is not resolved through the informal process, the employee shall have the right within ten (10) working days from the decision or completion of the informal process to file the grievance in writing on a specified form and present it to his Division Commander. The Division Commander shall discuss the grievance with the employee and shall render a decision and comments in writing and return them to the employee within ten (10) working days after receiving the grievance. Failure of the grievant to serve such written notice ten (10) calendar days following the termination of the informal step shall constitute a waiver of the grievance.

Step Three – Formal Process – Department Head

If the grievance procedure is not resolved at Step 2 and the employee is notified in writing, the employee may, within the next five (5) working days present the grievance in writing to the department head. In the event that no written response is given to the employee within ten (10) working days from the date of submission of the written grievance, the grievance will be assumed to have been valid and the employer will take steps to correct that problem. Failure of the employee to take appropriate action within the prescribed time periods will be deemed to constitute termination of the grievance. Failure of the employer to respond within the time provided will be deemed to be an admission as to the validity of the grievance and will require affirmative action to correct the grievance. The department head shall render his decision and comments in writing within five (5) working days from the date of receipt of the grievance and return them to the employee within that time.

Step Four – Advisory Arbitration

- a. If the grievance is not resolved in Step 3 the employee may within five (5) working days, present the grievance in writing to the City Manager or his designate for processing. Failure of the employee to take this action within five (5) working days from the date of receipt of rejection of the grievance in Step 3 will be deemed to constitute a termination of the grievance.
- b. The scope of the advisory arbitration of grievance shall include all of the grievable matters as set forth in Section 4 of this procedure. An exception would be those matters that by Peoples Ordinance NS 211 must be adjudicated by the Hermosa Beach Civil Service Commission. All other grievances shall bypass Step 4 of the grievance procedure and go to the Step 5 procedures. An employee who chooses advisory

arbitration shall be deemed to have made a choice between the Civil Service Board of Review and arbitration and, therefore, may not seek two hearings on the same grievance.

- c. As soon as possible, and in any event not later than ten (10) work days after either party received written notice from the other of the desire to arbitrate, the parties shall agree upon an arbitrator unless external constraints prohibit compliance, whereupon the earliest date available shall apply.
- d. Arbitrator shall be selected from a list of seven (7) arbitrators from a list provided by the Federal Mediation and Conciliation Service within two (2) working days. If a mutual agreement cannot be reached at a meeting of the two parties as to selection of an arbitrator, then each party shall strike off a name from the list on an alternating basis until one name remains which person shall become the arbitrator. The City shall have the first opportunity to strike a name from the list of (7) arbitrators. The priority of striking names shall alternate from one party to the other each time advisory arbitration is invoked by the same parties.
- e. Any arbitrator appointed must be familiar with employee/management relations in public employment.
- f. The arbitrator shall hold such hearings and conduct such proceedings as may be necessary, but such hearings and proceedings shall be conducted in an expeditious and confidential manner with the involved parties only. Employees called as witnesses shall be released from duty as needed.
- g. The rules of conduct of proceedings shall be according to those procedures utilized by the Arbitration Service.
- h. The findings of fact and the recommendations of the arbitrator shall be transmitted to the involved parties and the City Administrator.
- i. The fees and expenses, including the making of the record of the arbitrator, shall be borne equally by the parties. Calling of the witnesses by either party shall be done with a reasonable amount of restraint. An excessive use of witnesses will necessitate the cost of loss of work time to be paid by the party calling the witnesses. A decision of the arbitrator may be requested by either party as to whether there may have been an excessive use of witnesses.
- j. The arbitrator shall have no power or alter, amend, change, add to, or subtract from any of the terms of the Memorandum of Understanding. The decision of the arbitrator shall be based solely upon the evidence and arguments presented to him by the respective parties in the presence of each other.

- k. The decision of the arbitrator shall be final upon the parties to the dispute unless either party, within 60 days after the final written decision of the arbitrator is personally served upon the party, causes to be filed in a court of competent jurisdiction a complaint to review all or any part of the proceeding, upon litigation, the entire matter shall be reviewed and a trial de novo held.

Step Five – Final Process – City Manager

If the grievance cannot be resolved at Step 3, the employee may thereafter submit the matter to the City Manager or his properly appointed representative for the purposes of obtaining his review and settlement of the grievance. Thereafter the City Manager or his designated representative shall, in all non-arbitrable cases, review the matter and render a decision in writing to the parties within fifteen (15) calendar days from the date of receipt.