

MEMORANDUM OF UNDERSTANDING

BETWEEN THE
CITY OF MANHATTAN BEACH
AND THE
MANHATTAN BEACH POLICE MANAGEMENT ASSOCIATION

JANUARY 1, 2019 – DECEMBER 31, 2021



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CHAPTER 1 – INTRODUCTION

ARTICLE 1: PREAMBLE

This Memorandum of Understanding (“MOU”) is prepared between representatives of the City of Manhattan Beach and the Manhattan Beach Police Management Association in accordance with Resolution No. 4506, of the Employer-Employee Organization Relations Resolution. The parties make this MOU effective January 1, 2019.

ARTICLE 2: TERM

This MOU shall become effective January 1, 2019, and will continue in effect through December 31, 2021. During the period covered by this MOU any items concerning wages, and fringe benefits provided by this MOU shall remain in effect unless the parties agree to revise the same by a written modification to this MOU, subject to the limitations expressed in Section 3504 of the Government Code.

ARTICLE 3: RECOGNITION

Pursuant to the provisions of the Employer-Employee Relations Resolution of the City of Manhattan Beach and applicable State laws, the Manhattan Beach Police Management Association is recognized as the exclusive representative of all employees in the classifications Police Lieutenant and Police Captain.

ARTICLE 4: TERMS AND CONDITIONS OF EMPLOYMENT

The provisions of this MOU shall constitute the wages, hours, and terms and conditions of employment for the employees during the term of this MOU. The parties recognize that past practices may be identified during the term of this MOU by either party and that such past practices (if they qualify as such under the law) are also part of the terms and conditions of employment during the term of this MOU.

CHAPTER 2 – COMPENSATION

ARTICLE 5: SALARIES

1. The salary steps for Police Lieutenants and salary range for Police Captains are set forth as Exhibit A to this MOU. Police Lieutenants in the unit as of January 1, 2016 will move to the salary step schedule. Those Lieutenants will move to the next step in the schedule on January 1 of the following year (and each year thereafter until reaching the top step) assuming they received a meets standard or above performance evaluation and upon recommendation of the Police Chief and approval of the City Manager. For Police Lieutenants promoted into the unit after January 1, 2016, they shall be placed on the salary step schedule at Step 1 at the time of hire/promotion. They shall be eligible to move to the next step on the salary schedule on their anniversary date of their hire/promotion (and each year thereafter on the same date until reaching the top step) to the rank of Police Lieutenant assuming they received a meets standard or above performance evaluation and upon recommendation of the Police Chief and approval of the City Manager.
2. Effective the first day of the pay period following January 1, 2020, employees shall receive a one and twenty one hundredths percent (1.20%) increase to base salary.
3. Effective the first day of the pay period following January 1, 2021, employees shall receive a two percent (2.0%) increase to base salary.
4. If a Lieutenant is promoted to Captain, that person, no matter what salary step he/she is on, will be paid at least 5% higher on the Police Captain’s range than the highest paid Lieutenant at the time. This will

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guarantee at least a 5% base salary increase and perhaps more if the Lieutenant promoted is not the highest paid Lieutenant at the time. At no time can the new salary exceed the top of the Captain's salary range. If the base salary of the Lieutenant who is promoted to Captain is higher than an existing Captain, the City shall have discretion to consider an increase in base salary to the existing Captain to address the new Captain's base salary being higher than the incumbent Captain.

5. Effective on the pay period following City Council approval of this MOU, Police Captains shall be eligible to move on the Police Captain salary range if they receive a performance evaluation with an overall rating of at least a meets standards. Such movement shall apply to performance evaluations received after the pay period following City Council approval of this MOU and annually thereafter. Police Captains shall receive their annual performance evaluation each year by June 30. The decision as to whether a Police Captain will move up on the range and the amount to which he/she moves up on the range will be made by the City Manager after receiving feedback from the Police Chief. The City Manager's decision is not subject to being grieved.

ARTICLE 6: DEFERRED COMPENSATION

Employees in the Unit are permitted to contribute pre-tax (and tax deferred) to a 457 plan set up through ICMA-RC. There are no City contributions into the 457 plan. The 457 is funded exclusively through employee contributions at his/her option.

ARTICLE 7: EDUCATION INCENTIVE PAY

1. Employees who have earned a Bachelor's Degree shall receive two and one half percent (2.5%) of the employee's current base salary.
2. Employees who have earned a Master's Degree or have earned a Juris Doctorate shall receive an additional (in addition to the 2.5% base salary for earning a Bachelor's Degree) two and one half percent (2.5%) of the employee's current base salary. For employees hired after January 1, 2019, to receive the additional pay for a Master's degree, it must be in a subject matter which is sufficiently related to the job and approved by the Police Chief.
3. The parties agree that to the extent permitted by law, Education Incentive Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(2) and 571.1(b)(2) as Educational Incentive.

ARTICLE 8: PEACE OFFICER STANDARDS AND TRAINING (POST) PAY

1. Any employee who receives an Intermediate P.O.S.T. certificate shall be paid an amount equal to four and one half percent (4.5%) of the employee's current base salary.
2. Any employee who receives an Advanced P.O.S.T. certificate shall receive an additional (in addition to the 4.5% of base salary for receiving an intermediate P.O.S.T) four and one half percent (4.5%) of the employee's current base salary.
3. The parties agree that to the extent permitted by law, Peace Officer Standards and Training Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(2) and 571.1(b)(2) as Peace Officer Standard Training (POST) Certificate Pay.

ARTICLE 9: LONGEVITY PAY

1. Employees with fifteen (15) years experience as a sworn police officer (or higher ranked sworn peace officer) shall receive three and one half percent (3.5%) of the employee's current base salary.
2. Employees with twenty (20) years experience as a sworn police officer (or higher ranked sworn peace officer) shall receive an additional (in addition to receiving three and one half percent (3.5%) of base salary for longevity pay for having fifteen (15) years experience as a sworn police officer or higher ranked sworn peace officer) three and one half percent (3.5%) of the employee's current base salary.
3. The parties agree that to the extent permitted by law, Longevity Pay is special compensation as defined by CalPERS regulations and shall be reported as such to CalPERS pursuant to Title 2 CCR, Section 571(a)(1) and 571.1(b)(1) as Longevity Pay.

ARTICLE 10: ACTING PAY

1. Whenever an employee in the Unit works in excess of four (4) work days in a position which is higher than his/her rank (*i.e.*, a Police Lieutenant works as an Acting Police Captain or a Police Captain works as the Acting Police Chief) he/she shall receive the higher of the bottom of the range for the classification in which he/she is acting or five percent (5%). Such pay will commence on the 5th work day after starting in the acting position. If the position for which the employee is acting is vacant and the law limits the acting assignment to 960 hours, the City will follow the law and limit the acting assignment to no more than 960 hours.
2. The parties agree that to the extent permitted by law, the compensation in this Article is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(3) Temporary Upgrade Pay.

ARTICLE 11: UNIFORM ALLOWANCE

Each employee shall receive a uniform allowance of \$700 per year, which shall be paid in bi-weekly installments. The City shall report to the California Public Employees' Retirement System (CalPERS) the uniform allowance for each sworn and civilian classification as special compensation in accordance with Title 2, California Code of Regulation, Section 571(a)(5). Notwithstanding the previous sentence, for "new members" as defined by the Public Employees' Pension Reform Act of 2013, the uniform allowance will not be reported as compensation earnable to CalPERS.

ARTICLE 12: TAKE HOME VEHICLE OR VEHICLE ALLOWANCE

Employees at the rank of Police Lieutenant shall receive either a take home vehicle or a vehicle allowance of \$200 per month. If a take home vehicle is chosen, the Police Lieutenant is subject to all of the requirements of the City Administrative Instruction on take home vehicles (currently Administrative Instruction #A-15). In addition, the option of being able to choose a take home vehicle is only available to Police Lieutenants who live 50 miles or less from Manhattan Beach City limits. The policies and procedures related to use of privately owned motor vehicles by certain City employees, including Police Lieutenants, is set forth in Administrative Instruction # A-15. Once a Police Lieutenant chooses a take home vehicle, he/she must retain the vehicle for at least six months before he/she can choose to receive the vehicle allowance instead and vice versa. Notwithstanding the previous provisions in this paragraph, if a Police Lieutenant goes out on any leave for thirty (30) days or more, if he/she had chosen a take home vehicle (subject to Administrative Instruction #A-15) he/she shall expeditiously return the vehicle to the City and will start to receive a vehicle allowance at the beginning of the next pay period.

CHAPTER 3 – BENEFITS

ARTICLE 13: RETIREMENT

1. For all employees, except those deemed “new members” within the meaning of the California Public Employees’ Pension Reform Act of 2013, the following shall apply:
 - (a) Retirement Formula: Per California Government Code 21362.2, also known as the 3% @ 50 plan.
 - (b) The City has contracted with PERS for the One-Year Final Compensation option, “single highest year” (Government Code Section 20042).
 - (c) Employees shall pay the nine percent (9%) member contribution. Employees shall also pay an additional three percent (3%) retirement contribution as cost sharing pursuant to Government Code section 20516(a). In accordance with IRS Code section 414(h)(2), the cost sharing will then be treated as a pre-tax deduction.

2. For all employees deemed “new members” within the meaning of the California Public Employees’ Pension Reform Act of 2013, the following shall apply:
 - (a) Retirement Formula: 2.7% @ 57 retirement formula per Government Code 7522.25(d).
 - (b) Final compensation based on the highest annual average pensionable compensation during the three consecutive years of employment immediately preceding the effective date of his or her retirement or some other 36 consecutive month period designated by the employee per Government Code section 7522.32(a).
 - (c) Employee Paid Retirement Contribution: Such employees shall pay the higher of twelve percent (12%) or the rate which CalPERS informs the City (each year) that new members are required to pay for their employee retirement contribution. If the rate established by CalPERS (each year) is below twelve percent (12%), the remaining contribution up to twelve percent (12%) is made per Government Code section 20516(a). In accordance with IRS Code section 414(h)(2), the cost sharing will then be treated as a pre-tax deduction.

3. The City contracts for the following additional optional benefits with CalPERS:
 - (a) 1959 Survivor's Benefit: The City’s contract with CalPERS provides the basic level of the 1959 Survivor's Benefit per Government Code section 21571.
 - (b) Military Service Credit: The City’s contract with CalPERS provides the Military Service Credit option set forth in Government Code section 21024.
 - (c) Credit for Unused Sick Leave set forth in Government Code section 20965.
 - (d) Post Retirement Survivor Allowance as set forth at Government Code sections 21624, 21626 and 21628.

ARTICLE 14: HEALTHCARE, OTHER INSURANCES & RETIREE MEDICAL

1. Medical

- (a) The City contracts with the California Public Employees' Retirement System (CalPERS) for health care. The City will contribute the minimum employer contribution as provided under Government Code section 22892 of the Public Employees' Medical and Hospital Care Act (PEMHCA).
- (b) The City agrees to provide a contribution (as addressed in subsection c below) to cover the PORAC Plan at the level the employee is enrolled, either single, employee with one dependent, or employee with two or more dependents. The City's contribution will be inclusive of (not in addition to) the CalPERS statutory minimum as provided in paragraph 1(a) above. To the extent out-of-pocket costs are incurred, the City will process the costs through premium conversion, thereby reducing the employee's taxable income.
- (c) The amount the City will contribute for each employee's medical insurance is ninety-five percent (95%) of the premium for the CalPERS PORAC plan, depending on whether the employee is enrolled as single, employee with one dependent or employee with two or more dependents. If the plan chosen is less costly than the rates of the PORAC plan, the City will pay 95% of the premium for the plan chosen with the employee paying (with a deduction from their pay) for the remainder of the plan chosen. If an employee chooses a plan which is more costly than 95% of the PORAC premium rate, the employee will pay the difference between the 95% of the PORAC premium rate and the more expensive plan.

There shall be no cash back to employees from their health care allowance. However, employees who opt out of health insurance completely will receive either

- 1) A City contribution to the employee's Section 125 Healthcare or Childcare flexible benefit plan (if qualified to participate) up to the maximum contribution allowed by law which will not be subject to tax withholdings; or
 - 2) A payment in their normal paycheck equal to the maximum contribution allowed by law to the City's Section 125 Healthcare or Childcare flexible benefit plan, subject to applicable taxes (if qualified to participate).
- (d) The City shall pay any surcharge assessed by PERS on the health care premiums up to 3.3%. Any surcharges above 3.3% shall be paid by the employee.
 - (e) Affordable Care Act Minimum Essential Coverage Requirements and Reopener
Employees who are able to demonstrate to the City's satisfaction that they have minimum essential coverage as defined by the Affordable Care Act, (through another source other than coverage in the individual market, whether or not obtained through Covered California) may opt out of participation in the City's health plan. The parties agree to a reopener at any time during the term of the MOU to address issues related to the Affordable Care Act.

2. Dental

The City will provide coverage at the level the employee is enrolled, either single, employee with one dependent, or employee with two or more dependents. To the extent out-of-pocket costs are incurred, the City will process the costs through premium conversion, thereby reducing the employee's taxable income.

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3. Vision

The City shall provide a City paid vision plan for employees and eligible dependents.

4. Accidental Death and Dismemberment Insurance (AD&D)

Employees in the Unit are eligible to receive AD&D insurance as provided through and subject to the conditions of the City's policy with The Standard. For accidental loss of life, the amount of the benefit is equal to the Basic Life Insurance coverage amount. For other covered losses, the amount of the benefit is a percentage of the AD&D insurance coverage amount.

5. Life Insurance

Employees in the Unit receive a Life Insurance benefit equal to 1.5 times annual base salary up to a maximum of \$500,000.

6. Long-Term Disability Insurance

Employees in the Unit receive a City paid Long-Term Disability benefit which is equal to 60% of base salary (of the first \$11,667) after a 60-day waiting period. Thus, this benefit begins on the employee's 61st day off work on a long-term disability. The maximum monthly benefit is \$7,000 per month. This benefit is provided through and subject to the conditions of the City's policy with The Standard.

7. Short-Term Disability Insurance

Employees in the Unit are eligible to purchase a Short-Term Disability plan which is employee paid with a benefit which is equal to 60% of base salary (of the first \$11,556) after a 30-day waiting period. This benefit is optional. Payment for this benefit will be made by way of a bi-weekly payroll deduction.

8. Retiree Medical Insurance

(a) Because the City contracts with CalPERS for the provision of medical insurance it complies with the requirements of Public Employees' Medical and Hospital Care Act (PEMHCA). Therefore, the City shall pay the CalPERS statutory minimum amount on behalf of all employees who retire from the City in accordance with the requirements of PEMHCA.

(b) In addition to the provision of the CalPERS statutory minimum as provided paragraph (a) above, any employee who retires and who has a minimum of twenty (20) years of service with the City of Manhattan Beach, shall receive a contribution of \$400 per month. This amount is not a designated PEMHCA contribution.

This additional contribution of \$400 will be used toward health insurance costs, unless and until the following occur:

- 1) The retiree reaches 65 years of age; or
- 2) The retiree becomes eligible for Medicare; or
- 3) The retiree dies.

(c) If any of the preceding conditions occur, the employee shall no longer be eligible to receive the additional (\$400.00) retiree medical contribution.

ARTICLE 15: TUITION REIMBURSEMENT PROGRAM

All members covered under this agreement shall be eligible to participate in the City's tuition reimbursement program as outlined in the applicable Personnel Instruction. The current annual reimbursement amount for tuition and books is \$3,000.

ARTICLE 16: HOURS OF WORK/OVERTIME

1. All employees in the bargaining unit are exempt from overtime per the Fair Labor Standards Act (FLSA).
2. Notwithstanding that all employees in the unit are exempt from overtime per the FLSA, Lieutenants will receive overtime at time and one half base rate (including specialty pays, education, POST certificate, and longevity but excluding any other pay) for field operations. Field operations refers to duties related to law enforcement work in the field, including, but not limited to, rescuing crime or accident victims, preventing or detecting crimes, performing surveillance, pursuing, restraining and apprehending suspects, detaining or supervising suspected and convicted criminals, interviewing witnesses, interrogating suspects, supervising field operations at events such as Six Man, Hometown Fair, Grand Prix, MB 10K, Holiday Fireworks and US Volleyball. The Lieutenants will also be compensated overtime if there is a SWAT callout requiring them to work additional hours as the commander of the SWAT or CNT Team. The overtime rate includes base wages and specialty pays including education, POST certificate, and longevity pays but excluding car and uniform allowance.
3. Lieutenants also receive straight time base wages for attendance at meetings, trainings and other administrative duties beyond their regular work hours.
4. All Employees in the Unit shall work a 4/10. However, scheduling is the right of the Chief of Police.

CHAPTER 4 – LEAVES OF ABSENCE

ARTICLE 17: LEAVES OF ABSENCE

1. General Leave
 - (a) Employees in the unit shall accrue General Leave in lieu of vacation and sick leave. General Leave can be used if an employee is ill or can be used as would vacation by requesting it of the Police Chief in advance.
 - (b) Employees in the Unit shall accrue General Leave as follows:
 - 1) 0 months to 4.99 full years - 16.67 hours/month – maximum accrual – 600 hours
 - 2) 5 full years to 9.99 full years -20.00 hours/month – maximum accrual – 720 hours
 - 3) 10 full years or more - 23.33 hours/month – maximum accrual – 840 hours
 - (c) Employees may accumulate up to three years of general leave accrual. If an employee reaches the general leave accrual maximum, that employee will not accumulate further leave until such time that the employee's accrual rate returns to below the maximum amount. Under special circumstances, and with City Manager approval, an employee may be allowed to accrue over the maximum on a temporary basis.

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- (d) When an employee uses general leave for a purpose which qualifies for leave per the Federal Family and Medical Care Leave Act (FMLA) and/or the State California Family Rights Act (CFRA) or is disabled by pregnancy, the City may run the employee's FMLA/CFRA leave and/or Pregnancy Disability Leave (PDL) concurrently with the general leave. In addition, if an employee uses FMLA/CFRA or PDL for a purpose which these laws would entitle the City to require the use of general leave the City may do so.
- (e) On or before the pay period which includes December 15 of each calendar year starting in 2019, an employee may make an irrevocable election to cash out up to one hundred and twenty (120) hours of accrued general leave which will be earned in the following calendar year at the employee's base rate of pay. On the pay day for the first pay period in December each year in the following year, the employee will receive cash for the amount of General Leave the employee irrevocably elected to cash out in the prior year. However, the employee's General Leave balance cannot be reduced below 80 hours. Thus, if by receiving cash for employee's General Leave, the employee's General Leave balance is less than 80 hours, the employee will receive cash (up to a maximum 120 hours) for the amount above 80 hours.
- (f) When an employee leaves City employment, he/she will be paid for his/her General Leave at their current base rate of pay.

2. Administrative Leave

Effective September 1, 2019, all employees in the unit shall receive administrative leave. On September 1, 2019, employees shall receive nine (9) hours of administrative leave which must be used by December 31, 2019. On January 1, 2020 and each January 1 thereafter, each member of the unit will have administrative leave added to their administrative leave bank so that they have exactly twenty-eight (28) hours of administrative leave in their bank. Administrative leave has no cash value and cannot be cashed out. It can be used exactly like General Leave by requesting it of the Police Chief in advance.

3. Sick Leave

- (a) When the City converted to General Leave, existing sick leave was frozen. No sick leave is accruing. If an employee exhausts his/her frozen sick leave bank, he/she will no longer have sick leave. Unit members with sick leave balances may use such sick leave in the following circumstances:
 - 1) For any catastrophic illness or off the job injury. Any illness or off-the job injury verified by a physician, that is ten consecutive working days or more is defined as "catastrophic". Absences for the first ten days will initially be charged to General Leave. On the 11th day, the General Leave will be reinstated and the sick leave will be used retroactive to the first day of the absence. Sick leave will then be used for the duration of the absence or until exhausted.
 - 2) If the employee has exhausted all accrued General Leave, an employee may use accrued (frozen) sick leave even if the illness or injury is not catastrophic as defined.

4. Holidays

- (a) Employees are entitled to 110 hours off in lieu of paid holidays each year. Holiday leave shall vest at the rate of 4.231 hours each bi-weekly pay period, however, each employee's holiday leave bank shall be advanced the entire year's accumulation (110 hours) the first full pay period after July 1 of each year.

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On or before the pay period which includes December 15 of each calendar year starting in 2019, an employee may make an irrevocable election to cash out up to thirty (30) hours of holiday leave which will be earned in the following calendar year (on July 1) at the employee's base rate of pay. On the pay day for the first pay period in December each year in the following year, the employee will receive cash for the amount of holiday leave the employee irrevocably elected to cash out in the prior year up to thirty (30) hours.

- (b) When an employee separates from City employment, he/she will receive the unused pro-rata portion (*i.e.*, what they have earned to that point in the year) of the holiday in lieu hours for that fiscal year.
- (c) Employees who leave City service shall be paid for their unused, vested holiday leave upon separation. Any advanced holiday leave that is used but not vested, shall be deducted from an employee's final paycheck. In the event an employee's final paycheck is insufficient to cover the advanced leave, the City reserves the right to collect any monies due from the departing employee.

5. Bereavement Leave

An employee may use up to five days of paid leave (however, only a maximum of 40 total hours) in a twelve (12) month period beginning on the date the first leave begins for bereavement leave as a result of the death of a member of the employee's immediate family (*i.e.*, the employee's husband, wife, parent, registered domestic partner, brother, sister, child, mother-in-law, father-in-law, sister-in-law, brother in law, foster child, and foster parent (as well as grandparents or grandchildren if living in the same residence as the employee)).

6. Workers' Compensation Leave

Employees in the unit are eligible to receive salary continuation in accordance with Labor Code section 4850.

7. Military Leave

Employees in the unit shall enjoy military leave rights and benefits in accordance with both state and federal law.

8. Leave of Absence Without Pay

The City Manager may grant an employee of the unit a leave of absence without pay for up to one year at his/her discretion. Such a leave will not be granted unless the employee has exhausted all other accrued leaves. An employee who fails to promptly return from a leave without pay may be subject to termination.

9. Jury Duty

It is the City's policy to provide up to 80 hours paid leave time to full-time employees summoned for jury duty in accordance with the City's Personnel Instruction on jury duty. Officers summoned to appear in court for jury duty purposes shall notify their supervisor when so summoned and will be required to provide court documentation of such appearance.

CHAPTER 5 – EMPLOYER – EMPLOYEE RELATIONS

ARTICLE 18: GRIEVANCE PROCEDURE

1. Definition of Grievance

Grievance shall be defined as a dispute between (1) an employee, group of employees, or the Association on behalf of an individual employee or group of employees, and (2) the City, regarding the application or interpretation of specific provisions of the MOU or City Personnel Rules and Regulations. This procedure is not intended to discourage resolution of disputes regarding the MOU in an informal manner. Except as provided by law, the grievance procedure is the sole and exclusive method to challenge an alleged violation of the MOU.

2. Grievance Submittal

Grievances must be submitted on the Grievance form and within the proper time frames to be considered. Time limits when filing formal grievances may be extended by mutual agreement between the parties. The Grievance Procedure (whether the grievance is filed by the Association, an individual employee or a group of employees), must be initiated (which includes the informal process) within twenty (20) working days of the incident or event giving rise to the grievance.

3. Grievance Procedure Steps

(a) Informal Process

The employee, a representative of the group of employees if a group grievance or a representative of the Association if filed by the Association shall first discuss the issue with an appropriate supervisor as soon as practical and in any event no later than 20 working days from the occurrence or knowledge of the occurrence of the issue. The supervisor should respond and, when appropriate, resolve the issue within 20 working days from the date of the discussion with the employee.

(b) Formal Process

- 1) If the grievant is not satisfied with the supervisor's response in the informal process, the grievance may be submitted for formal review by completing the Police Department Review Grievance Form, stating the specific MOU or City Personnel rule or regulation that was improperly applied and stating the specific resolution desired. This Grievance Form shall be submitted to the Chief of Police for review within 20 working days of the supervisor's response in the Informal process. The Chief will give a written reply by the end of the tenth (10th) workday following the date the grievance was submitted.
- 2) If the grievance is not resolved in Step 1 of the formal process, the employee must within five (5) working days following receipt of the Chief's written reply, present the grievance form to the Human Resources Director for further processing. The failure of the grievant to take this action will constitute a waiver of the grievance, unless time limits are extended through mutual agreement.
- 3) Within ten (10) working days of receipt of the grievance, the Human Resources Director will contact the grievant to schedule a meeting with the City Manager or his/her designee to hear the grievance. Either the City or the employee(s)' (or Association's) representative may call other employees as witnesses during the meeting.

- 4) A written decision will then be rendered within 15 working days of the hearing. The decision of the City Manager will conclude the grievance process.

ARTICLE 19: DISCIPLINE AND APPEAL PROCESS

1. General Policy

The City is committed to following the principles of progressive discipline. Disciplinary actions should be designed to fit the nature of the problem. The particular action imposed shall depend on the severity of the misconduct, the particular factual circumstances involved and take into consideration other incidents with comparable circumstances. All disciplinary action shall be based on the principles of just cause. Employees may be disciplined for any grounds deemed appropriate by their supervisor or the Chief of Police.

2. Provisions

(a) Actions defined:

1) Oral or Written Warnings

The use of oral or written warnings shall not be considered disciplinary action, and shall be used as a tool by supervisors to address performance problems or minor instances of misconduct and may be initiated at any time. The supervisor or manager should review with the employee both the specific deficiencies in question and the City's standards. The cause(s) of the deficiency should be identified along with specific improvement needed. Any written warnings will be kept in the supervisory file, not the official personnel file, and a copy given to the employee. The employee may respond in writing within 30 days. The supervisory file is intended to be a temporary file to record performance, both positive and negative, throughout the performance year. When the performance evaluation is prepared for the employee, the entire contents of the supervisory file should be considered in determining the overall performance. Once the evaluation is completed and filed in the employee's personnel file, all written performance feedback prepared during the evaluation period must be discarded.

2) Letter of Reprimand

A Letter of Reprimand shall be considered the lowest level of discipline and generally is appropriate to correct an instance of more serious circumstance or employee misconduct which does not warrant suspension or discharge, repeated instances of minor misconduct or identified performance problems. The purpose of a Letter of Reprimand is to put the employee on notice that the City will take other disciplinary action unless improvement in performance is demonstrated. The supervisor or manager issuing the Letter of Reprimand shall meet with the employee to discuss specific improvements required within a defined time period to avoid further disciplinary action. A copy of the Letter of Reprimand will be placed in the employee's official personnel file. The employee has the right to respond within 30 days. If an employee wishes to appeal a Letter of Reprimand, that appeal shall be to the Chief of Police.

3) Suspension

Suspension is the temporary removal of an employee from his duties without pay for up to thirty (30) calendar days.

4) Reduction in Pay

A Reduction in Pay is a reduction in hourly salary for a limited and defined period of time, and does not result in any classification change. The employee continues to report to work for the duration of the Reduction in Pay.

5) Demotion

Demotion is the movement of an employee from his current classification to a new classification having a lower salary range.

6) Discharge

Discharge is the involuntary termination of an employee.

(b) Pre-Disciplinary Procedure (“Skelly Meeting”)

If an employee is to receive a letter of reprimand, be suspended, receive a reduction in pay, be demoted or discharged, the employee shall:

- 1) Receive written notice of the intended action at least 7 working days before the date it is intended to become effective, which provides the specific grounds and the particular facts upon which the action is based.
- 2) Receive copies of any known materials, reports or other documents upon which the intended action is based.
- 3) The employee shall have the right to respond in writing and/or orally within a reasonable period of time to the intended charges and/or be accorded the right to meet within a reasonable period of time with the Chief of Police who has the authority to modify or eliminate the intended disciplinary action.
- 4) Be given the written decision of the Chief prior to the effective date of the disciplinary action.

(c) Appeal Process

- 1) Any action which qualifies as “punitive action” as defined by the Public Safety Officers’ Procedural Bill of Rights Act which does not result in the loss of property (which includes a Letter of Reprimand) and any suspension up to and including three (3) days, is appealable as follows:

Step 1: The employee must, within five (5) working days, present the appeal to the Human Resources Director for processing. The failure of the employee to take this action shall constitute a waiver of the appeal, unless time limits are extended through mutual agreement.

Step 2: Within ten (10) working days of receipt of the appeal, the Human Resources Director will set up a meeting between the employee and his/her representative with the City Manager or his or her designee to review the issues. A written decision will then be rendered within fifteen (15) working days of the meeting. The decision of the City Manager will be final.

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- 2) “Punitive action” as defined by the Public Safety Officers’ Procedural Bill of Rights Act which includes a disciplinary action of suspension in excess of 3 days, a punitive transfer or if the result of the discipline is over three (3) days total suspension time in a 12-month period, reduction in pay, demotion or discharge is appealable using the following process.

Appeal Procedure:

Step 1: The employee may appeal to the Board of Review (LA County Civil Service Commission) or request an outside Arbitrator to hear the appeal by filing an appeal to the Police Chief’s action within ten (10) working days. The Arbitrator will be selected from a list supplied by the State Mediation and Conciliation Services, which is now part of the Public Employment Relations Board. In the event agreement cannot be reached on the identity of the arbitrator, both parties will alternately strike names from the list until only one remains. The order of striking names will be decided by a flip of the coin.

Step 2: In cases of discharge, reduction of pay, or suspension without pay in excess of five (5) days, a hearing will be granted. For suspensions of 4 or 5 days, the Board of Review or Arbitrator may make a decision without a hearing, after a review of the written materials submitted by all parties concerned. The City Manager may affirm, revoke, or modify the action of the Board of Review or Arbitrator and that decision shall be final.

- 3) The City and PMA will each pay half of the cost of appeals to a Board of Review or an Arbitrator if the Association assists the appellant in its representative capacity or in any way financially. Shared costs shall include only those charges from the Board of Review or Arbitrator.

(d) Retention of disciplinary documents

An employee subject to a discipline of up to a four (4) hour suspension or less may request that disciplinary documents be removed from the employee’s personnel file after eighteen (18) months (from the date of issuance) have passed if the employee has not received any discipline in the 18 month period and he/she requests removal in writing from the Human Resources Director.

ARTICLE 20: PROBATIONARY PERIOD

1. If an employee is hired into the Unit from outside the City of Manhattan Beach from a lower rank than the one he/she is hired into, his/her probationary period shall be not less than eighteen (18) months.
2. If an employee promotes into the Unit from a City of Manhattan Beach position (*e.g.*, a Sergeant promoted to Lieutenant), or is hired from outside the City of Manhattan Beach at the same rank he/she is being hired into, he/she shall serve a probationary period of not less than twelve (12) months.
3. A probationary period may be extended upon the recommendation of the Police Chief and approval of the City Manager. Any such extension will occur prior to the expiration of the employee’s probationary period. Such extension shall not exceed six (6) months unless approved by the City Council.
4. At any time during the probationary period (including an extended period if extended), the employee on probation may be rejected with no right of appeal. If rejected, the employee will be notified in writing and such writing will be placed in his/her personnel file.

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5. An employee who is rejected from probation following a promotion shall be reinstated to his/her former position unless the employee is terminated for cause and served with a Notice of Intent to Terminate and he/she is terminated in accordance with the Discipline article in this MOU.

ARTICLE 21: WORK STOPPAGE PROHIBITION

Prohibited Conduct

- (a) The Association, its officers, agents, representative, and members, agree that, during the term of this Memorandum of Understanding or any agreed upon extensions of the MOU, they will not call or engage in any strike, walkout, work stoppage, sickout, blue flu, concerted withholding of services by employees represented by the Association, disruption of City services, or honor any job action by any other employee or group of employees of the City or any union or association of employees by withholding or refusing to perform services; provided, however, that by executing this agreement neither the Association nor any of its members waive their rights (1) under Section 6300 et seq. of the California Labor Code to refuse to work under unsafe conditions and (2) under the United States and California Constitutions to exercise their rights of freedom of speech, assembly and association such as by engaging in lawful informational picketing.
- (b) This article shall not constitute a waiver by the City of its position that any work stoppages are illegal, regardless of whether or not a valid MOU is or is not in effect. Nor shall this article constitute a waiver by the Association of its rights to engage in any strike walkout, work stoppage, sick-out, blue flu, or other job actions that are allowable under the law at the conclusion of the term of this MOU or any agreed upon extensions, and to assert that these actions are lawful.
- (c) In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited above, the Association shall utilize reasonable efforts to stop such conduct and immediately instruct, in writing, any persons engaging in such conduct that their actions are in violation of this Memorandum of Understanding and are unlawful, and that they must immediately cease such conduct and return to work.
- (d) In the event the Association carries out in good faith its responsibilities set forth in Paragraph (b) above, it shall not be liable for the actions of any individual who participates in conduct prohibited by Paragraph 1 above. Any employee who participates in any conduct prohibited above or violates any other City rule or regulation, shall be subject to disciplinary action including termination by the City.

This shall not abrogate the right of any employee to receive all due process guaranteed to him or her in procedures relating to disciplinary action.

ARTICLE 22: GARNISHMENTS

A \$25.00 initial set-up fee and \$7.00 service charge per garnishment per payroll check shall be charged to the employee. Child support garnishments will be subject to the \$25 set up fee and \$1.00 service charge per garnishment per payroll check.

ARTICLE 23: NO SMOKING

Employees hired after September 3, 1988, must refrain from smoking tobacco or using any other tobacco substance at any time on or off duty as a condition of continued employment. This includes vaping and the use of e-cigarettes. Violation of this condition of employment shall be deemed good cause for discipline up to and including dismissal.

ARTICLE 24: DRUG TESTING PROGRAM

The City and the Association agree to mutually work together for the prevention of alcohol and substance abuse in the workplace for the benefit of the employees, City, and the residents of Manhattan Beach. Employees in the unit are subject to the Personnel Instruction entitled Drug-Free Work Environment Program.

ARTICLE 25: DUES DEDUCTION

The City shall allow for one Police Management Association payroll deduction per member for Association dues. Said deduction shall be declared at the beginning of each fiscal year and shall be the same percentage or dollar amount for all.

ARTICLE 26: SAVINGS CLAUSE

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

ARTICLE 27: MANAGEMENT RIGHTS RESERVED

1. The scope of representation does not include consideration by the City of changes in the merits, necessity or organization of any service activities provided by law or executive order and accordingly, the following determinations shall not be subject to the meet and confer process:
 - (a) Issues of public policy;
 - (b) The merits, necessity, or organization of any department, service or activity provided by the City pursuant to law or ordinance;
 - (c) Matters which relate to the management of the City or the direction of its work force, including the right to direct employees, to hire, promote, transfer, assign, or retain employees, or suspend, demote, discharge, or take other proper disciplinary action against employees, maintain the efficiency of the operation of the City Government, and take any actions necessary to meet conditions of an emergency nature, subject to the rules and regulations of the City. The City Manager need not meet with the representatives of any recognized employee organization to consider the personal grievance of an individual employee or group of employees until the procedure for the resolution of grievances provided for in this MOU has been completed.

ARTICLE 28: FULL AND COMPLETE UNDERSTANDING

This Memorandum of Understanding represents the full and complete understanding between the parties related to the subject matter set forth herein and all preliminary negotiations of whatever kind or nature are merged herein.

The parties hereto have caused this Memorandum of Understanding to be executed this ____ day of _____, 2019.

REPRESENTATIVES OF THE MANHATTAN
BEACH POLICE MANAGEMENT ASSOCIATION

REPRESENTATIVES OF THE
CITY OF MANHATTAN BEACH

BY _____
Christian Eichenlaub,
PMA President

BY _____
Lisa Jenkins
Human Resources Director

BY _____
Ryan Small
Police Lieutenant

BY _____
Steve Charelian, Finance Director

BY _____
Kimberly D. Riley
Dawson & Riley

BY _____
Derrick Abell, Police Chief

BY _____
Bruce Moe, City Manager

BY _____
Peter J. Brown
Liebert Cassidy Whitmore

EXHIBIT A – SALARY SCHEDULE

SALARY STEPS FOR POLICE LIEUTENANTS AND SALARY RANGES FOR POLICE CAPTAINS

POLICE LIEUTENANTS

Effective January 1, 2019 – Salary Steps for Police Lieutenants

Step 1	Step 2	Step 3	Step 4	Step 5
\$12,986	\$13,311	\$13,644	\$13,984	\$14,334

Effective January 1, 2020 – Salary Steps for Police Lieutenants

Step 1	Step 2	Step 3	Step 4	Step 5
\$13,142	\$13,471	\$13,808	\$14,152	\$14,506

Effective January 1, 2021 – Salary Steps for Police Lieutenants

Step 1	Step 2	Step 3	Step 4	Step 5
\$13,405	\$13,740	\$14,084	\$14,435	\$14,796

POLICE CAPTAINS

Effective the pay period including January 1, 2019

Police Captain - \$14,344 - \$15,733

Effective the pay period including January 1, 2020

Police Captain - \$14,516 - \$15,922

Effective the pay period including January 1, 2021

Police Captain - \$14,806 - \$16,240