

CLAREMONT POLICE MANAGEMENT ASSOCIATION

MEMORANDUM OF UNDERSTANDING

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CLAREMONT POLICE MANAGEMENT ASSOCIATION

MEMORANDUM OF UNDERSTANDING

ARTICLE I. PREAMBLE

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

ARTICLE II. RECOGNITION

The following positions shall be represented by the Association: Police Captain, Police Lieutenant and Police Sergeant.

ARTICLE III. ASSOCIATION RIGHTS

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations and shall have the right to represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City, another employee, or any employee organization because of his/her exercise of these rights.

ARTICLE IV. DUES DEDUCTION

During the life of this Memorandum the City shall deduct, two pay periods per month from the net amount, the monthly dues plus any voluntary insurance premium deduction of each employee in the recognized unit who has furnished the City with an individual written authorization, revocable pursuant to the City of Claremont's resolution #71-106. The Association shall indemnify the City and defend at its expense against any liability, claim, demand, judgment or loss from any lawsuit filed by any employee or group of employees in connection with this check off provision. The City shall remit such deductions to the Association monthly and the Association shall repay any amount paid in error.

ARTICLE V. MANAGEMENT RIGHTS

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; 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 when work shall be contracted or transferred out of the unit; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. The inclusion of such rights in a list of City rights, and the right of the City to act on such rights shall not be subject to grievance. Such rights shall not abridge the right of an employee to file grievance on the implementation of said rights.

SALARIES, RETIREMENT, OTHER PAY

ARTICLE VI. SALARIES

- A. The market place average will be based on a survey conducted in January of each year. The following cities will be surveyed: Chino, Covina, Fontana, Glendora, La Verne, Montclair, Ontario, Pomona, Upland and West Covina. Range adjustments, if any, will occur February 1 of each year.

Ranges for Police Sergeant, Police Lieutenant and Police Captain are set 4% above the market place average to maintain competitive wages.

When ranges are adjusted, members' salaries will be increased by ½ the amount of the range adjustment, rounded to the nearest whole.

The differential between salary range of Police Chief and Police Captain shall not exceed 15%.

- B. Any merit increase maybe granted in 1% increments in accordance with the guidelines mutually agreed upon by the Association and the City, provided that the minimum merit increase for an average performance evaluation shall be 2%, for an above average performance evaluation 5% and for an outstanding performance evaluation 6% and provided that an employee's salary shall not exceed the maximum of the specified salary range.
- C. Employees shall continue to have the option of requesting that their performance evaluation be reviewed. Such reviews shall be in accordance with guidelines mutually agreed upon by the Association and the City.
- D. Unit members may be eligible for a Pay for Performance bonus of up to 7.5% annually. In determining eligibility for a performance bonus, if any, the following factors shall be considered:
1. Accomplishment of defined goals/objectives, taking into consideration unexpected assignments or projects, and factors beyond the control of the employee which may have impacted the employee's ability to accomplish said goals/objectives, and;
 2. The effort expended on goals/objectives, and;
 3. Quality and quantity of work, and;
 4. Significant accomplishments not related to defined goals/objectives, and;
 5. Recognition that goals/objectives have differing degrees of difficulty/complexity.
- E. When on probation, an employee shall be evaluated at least every six months from the date of promotion. After 12 months from the date of promotion, the employee shall be eligible for a merit increase if he/she has successfully completed the probationary period. This provision does not preclude more frequent evaluations and does not exclude employees form participation in the Pay for Performance Program as outlined in Administrative Policy #30-19.

ARTICLE VII. EDUCATIONAL/POST INCENTIVE PAY

Employees who hold a POST Supervisory Certificate or Associate of Arts degree shall be compensated \$150 per month effective January 1, 2006 and \$180/month effective January 1, 2007 and those with a POST Management Certificate or Bachelors Degree shall be compensated \$235 per month effective January 1, 2005 and \$250 effective January 1, 2006 and \$275 effective January 1, 2007.

ARTICLE VIII. ON CALL PAY

- A. All unit employees who are required to keep themselves available for immediate court appearances at times they are not scheduled to be, or are not, on duty, or any other type of on call or stand by, shall be paid an amount equal to two (2) hours of their regular rate of pay at straight time for each morning and each afternoon (a total of up to 4 hours per day) they are required to be on such on call or stand by and that they keep themselves so available for such call out.
- B. Any unit employee assigned as the Detective Bureau Supervisor, who with the approval of his/her supervisor shall have the use of a city car for travel to and from work while on an on call status. The Police Captain, because of his 24 hour a day, seven day a week on call status will continue to have a city vehicle available for his use and reasonable personal use.

ARTICLE IX. OVERTIME/COMPENSATORY TIME

It is the policy of the City of Claremont to avoid overtime work whenever possible. In cases of emergency, however, or whenever public interest or necessity requires, any employee may be directed by proper authority, and is expected to perform, overtime work. Overtime work is that work performed by an employee at times other than normally required for his/her specific employment. No overtime shall be recorded or reported for less than fifteen minutes of work. All overtime work, excepting for emergency conditions, must have the approval of the immediate supervisor prior to actual performance of the work. Failure to obtain such approval in advance will be justification for disapproval of any overtime compensation.

- A. Unit employees shall receive overtime at the rate of one and one-half (1-1/2) times their regular rate of pay for time worked over 80 hours in a fourteen (14) day work period. In the event that alternative work schedules are abandoned in favor of a return to a five day eight hour work schedule then time and one half compensation shall be calculated for time worked over forty hours in a seven day work period.
- B. Hours worked shall include holiday leave, floating holiday leave, compensatory time, workers' compensation time, and vacation leave. All other leaves of absence, paid or unpaid, shall not be considered as hours worked.
- C. When employees are called in to work from off duty status, including, but not limited to, emergency call out, training, required meetings, or any other activity in which attendance is mandatory, employees shall receive a minimum of three (3) hours of overtime.
- D. The accrual and/or use of compensatory time shall be subject to the following conditions:
 - 1. Employees may request to accrue compensatory time in lieu of overtime pay. The request to earn compensatory time must be submitted on the overtime authorization form to the supervisor prior to working the overtime.

2. Employees may accrue compensatory time at one and one-half (1 1/2) times the actual hours worked over 80 hours in the fourteen (14) day work period.
3. All paid or unpaid leaves, with the exception of holiday, floating holiday, compensatory time, workers' compensation, and vacation, shall not be considered as hours worked for the purpose of computing accrual of compensatory time, but shall be considered as time worked for purposes of accruing compensatory time at straight time.
4. The Department Head or designee shall determine whether to approve compensatory time in lieu of payment for overtime based on the needs of the Department and the City.
5. Total accumulated compensatory time shall not exceed *one hundred and twenty (120)* hours. Employees who have accumulated *one hundred and twenty (120)* hours of compensatory time shall have overtime paid in cash until their accumulated compensatory hours fall the *one hundred and twenty (120)* hour limit. Employees may elect to buy down up to 80 hours of compensatory time per year. Said buy-down shall occur the first pay period in December of each year.
6. Use of accrued compensatory time shall be granted at the discretion of the department head or designee based on the needs of the Department and the City.
7. Unused compensatory time shall be paid off at termination.

ARTICLE X. RETIREMENT

- A. The City shall provide for employee retirement with PERS 3% @ age 50 (CHP) plan, with the following optional benefits:
 1. One year highest compensation (Government Code Section 20024.2).
 2. Credit for unused sick leave (Government Code Section 20862.8).
 3. 1959 Survivor Benefit
 4. Employer paid member contribution to salary conversion (Government Code Section 20023(c)(4) and 20615.)
- B. The City shall continue to pay the employee's 9% contribution to the Public Employees' Retirement System on behalf of each sworn employee covered by this Agreement an amount equal to the required employee contribution to that system provided the contribution will not exceed a total of 9% of regular compensation and shall be considered additional compensation. These contributions shall, at the time of termination, belong to the employee.

ARTICLE XI. SHOOTING PAY

All unit employees shall be credited with two (2) hours overtime or actual hours worked, whichever is higher, for each occasion they are required to shoot during off duty hours, at a rate specified in Overtime, Article IX.

ARTICLE XII. SPECIAL DUTY PAY

Unit employees assigned to perform police functions at special duty events shall be paid at the rate of pay commensurate with the Claremont Police Officers Association unit employees current pay for Special Duty, or one and one-half (1 1/2) the unit employee's regular rate of pay, whichever is higher.

ARTICLE XIII. TUITION REIMBURSEMENT

A. Effective July 1, 2004, employees in this unit shall not receive tuition reimbursement.

ARTICLE XIV. UNIFORM ALLOWANCE

- A. The City shall supply employees with needed and required uniforms, safety equipment and any other equipment which is mandatory for a particular job assignment.
- B. All unit employees assigned to a regular position requiring a police uniform shall receive fifteen dollars (\$15) per month, and all unit employees assigned to a regular position requiring business attire other than a police uniform shall receive twenty dollars (\$20) per month, for each month of service in said assignment.

ARTICLE XV. DEFERRED COMPENSATION PLAN

The City shall offer participation in a deferred compensation plan. Employees shall be eligible for a retention incentive match: Beginning with the employee's third year of service, the City will match up to 1% into the employee's deferred compensation account. That amount increases to 2% beginning with the employee's fifth year of service, 3% beginning with the employee's sixth year of service, 4% beginning with the employee's eighth year of service and 5% beginning with the employee's tenth year of service.

ARTICLE XVI. LONGEVITY PAY

Members shall receive 5% Longevity Pay beginning with their twentieth year of service.

INSURANCE, TIME OFF PROVISIONS

ARTICLE XVII. CAFETERIA PLAN

- A. All unit employees will receive \$898 a month which may be used to enroll in any of the offered health/medical, dental and vision plans. The unused remainder may be put in the employee's deferred compensation account or be used towards any City sponsored long term savings, long term care or additional insurance programs. In January of each year, the City's contribution shall increase or decrease by maximum of 10% based on the average health insurance premium cost increase/decrease.

ARTICLE XVIII. MEDICAL INSURANCE

- A. Should the providers reduce any benefits, the City agrees to notify the Association and the affected employees of the changes.

ARTICLE XIX. DENTAL INSURANCE

The City shall offer participation in a dental insurance plan.

ARTICLE XX. VISION INSURANCE

The City shall offer participation in a vision insurance plan.

ARTICLE XXI. LIFE INSURANCE

The City shall provide a life insurance policy of \$75,000 for each unit member, and \$10,000 for each unit member's dependents, or as may be required by a specific health insurance plan.

ARTICLE XXII. LONG TERM DISABILITY

The City shall provide a long term disability program which includes the following minimum benefits: 66.66% of base pay; maximum benefit up to \$8,000 per month; to age 65; following a 60 day waiting period. The long term disability policy offers a 90 day waiting period; the City will self-insure 30 days, thus reducing the waiting period to 60 days.

ARTICLE XXIII. WORKER'S COMPENSATION

- A. Whenever an employee sustains an injury while actively engaged in law enforcement, he/she shall receive compensation as provided under the State Worker's Compensation Act. Such employee shall be placed upon leave of absence at full pay and shall be paid by the City for so long as is required by Section 4850 and related Sections of the Labor Code. During the time the City is required to pay and actually pays, the employee shall not be entitled to receive any temporary disability payments under the Worker's Compensation System, and the City shall be entitled to receive all payments which would otherwise be payable to such employee for such temporary disability or upon retirement.
- B. Any permanent employee shall continue to accrue vacation, holidays and sick leave and to earn eligibility for consideration for merit salary increases during an absence resulting from an on the job injury providing he/she receives compensation payments under the provisions of the California Worker's Compensation Law.
- C. Medical care and payments for permanent disabilities incurred in the course of employment shall be prescribed by the Worker's Compensation Act.

ARTICLE XXIV. HOLIDAYS

- A. All unit employees are entitled to the following holidays with pay, and such other days as may be designated by action of the City Manager or the City Council:

1. January 1 (New Year's Day)
2. The third Monday in January (Martin Luther King's Birthday)
3. The third Monday in February (President's Day)
4. The last Monday in May (Memorial Day)
5. July 4 (Independence Day)
6. The first Monday in September (Labor Day)
7. November 11 (Veteran's Day)
8. Thanksgiving Day
9. The Friday after Thanksgiving Day
10. December 25 (Christmas Day)

- B. All unit employees are entitled to eight (8) hours of holiday pay at straight time.
- C. In lieu of receiving holiday pay, unit employees may accrue a floating holiday at straight time.
- D. The City agrees to allow employees to accrue a floating holiday(s) in lieu of holiday pay. In the event that the employee is unable to use in lieu floating holiday hours described in Section C above and/or Section F below, during the calendar year in which they are accrued, the employee shall be compensated up to thirty two (32) hours of holiday pay the first pay period in December. Effective December, 2000, that compensation level shall be increased to forty (40) hours.
- E. The specific days that City employees will observe the holiday may be determined by the City Council. The City Manager is empowered to determine whether the City shall observed special days of declaration by the President or Governor as a day of public fast, thanksgiving, mourning or holiday, as well as determine if Christmas Eve, and/or any other day shall be a holiday.
- F. Employees shall receive three (3) floating holidays (24 hours) each calendar year. Floating holiday hours shall be credited to the employee: sixteen (16) hours the first pay period in January and eight (8) hours the first pay period in July. Floating holiday hours may not be carried over from one calendar year to the next. The floating holiday may be used at any time subject to: 1) use in at least one hour increments during the fiscal year, and; 2) one week advance approval unless waived by the Department Head. Terminating employees shall be compensated for accrued floating holiday hours.

ARTICLE XXV. MILITARY LEAVE

- A. Military leave with pay shall be granted in accordance with provisions of the Military and Veterans Code of the State and applicable Federal law.
- B. An employee entitled to military leave shall give his/her Department Head an opportunity within the limits of military regulations to determine when such leave shall be taken. Prior to taking such leave, an employee shall present a copy of his/her military orders to the Department Head. Sick leave and annual vacation leave will accrue to the employee during the period he/she is on military leave.
- C. The City shall compensate any employee called to active duty the difference between his/her City salary and military salary for up to six (6) months.
- D. This provision shall be not be construed to grant any benefits, other than those provided in the Military and Veteran's code, to employees who voluntarily join the armed services or who are called to full time active duty in the armed services.

ARTICLE XXVI. JURY LEAVE

If required to serve on a jury, employees shall be compensated at their regular rate of pay and benefits during the first 10 days of jury service. Payment after that will be on a case by case basis as approved by the City Manager. When serving on Jury Duty, employees may be placed on a five day, eight hour per day schedule.

ARTICLE XXVII. SICK LEAVE

- A. Employees shall accrue 3.69 hours sick leave for each pay period.
- B. Up to five (5) days (40 hours) more sick leave than has been accumulated may be advanced to an employee on the recommendation of his/her Department Head and the approval of the City Manager. If the employee does not return to work or terminates before repaying the advance, his/her pay for those days shall be deducted from his/her paycheck.
- C. Sick Leave is not a leave which an employee may use at his/her discretion, but shall be allowed only in cases of actual sickness or disability that is non-industrial and which make it impossible for the employee to perform his/her normal work assignments.
 - 1. In order to be paid for time while absent from duty on sick leave, the employee must notify his/her immediate supervisor at least one (1) hour prior to the time set for the beginning of his/her regular duties.
 - 2. The Department Head may request a certificate issued by a licensed physician or other satisfactory proof of illness before sick leave is granted.
 - 3. The Department Head may also choose the licensed physician to conduct a physical examination and such examination shall be conducted at City expense.
- D. Family sick leave and bereavement leave.
 - 1. Ninety-six (96) hours of accrued sick leave may be permitted by the Department Head to be used for family sick leave or bereavement leave in lieu of personal sick leave. The amount of time used for this purpose may be increased upon approval of the Department Head for any employee who has sufficient hours accrued.

The Department Head may grant this approval in the event of death, major surgery, hospitalization, life threatening injury/illness or terminal illness.
 - 2. Family sick leave may only be used when members of the employee's immediate family (spouse, parent, child, brother, sister or member of the household) are sick and require the immediate attention of the employee.
 - 3. Bereavement leave shall only be used in the event of the death of a member of the employee's immediate family (spouse, parent, child, brother or sister) regardless of whether or not they live in the same household with the employee.
- E. Child Rearing Leave

Forty (40) hours of accrued sick leave may be used for the birth or adoption of a child.

F. Sick While on Approved Time-Off

In the event an employee becomes ill during approved time off, such time shall be charged as sick leave if notice is given immediately to the employee's immediate supervisor.

ARTICLE XXVIII. VACATION

A. Vacation leave accrual shall begin with the first pay period.

1. Every employee shall accrue 3.69 hours of vacation leave per pay period for the first year of full time continuous service with the City.
2. Following the completion of the first year of full time continuous service, employees shall accrue vacation leave at the rate of 4.62 hours per pay period.
3. Following the completion of the thirteenth year of full time continuous service, employees shall accrue vacation leave at the rate of 6.15 hours per pay period.

B. Employees shall receive 80 hours vacation at the beginning of the fifteenth year of service, and every five years thereafter (i.e. twentieth, twenty fifth, thirtieth, etc.) This longevity incentive shall be used in the year in which it is earned and employees are encouraged to take it in conjunction with regular vacation such that the employee takes a "mini-sabbatical" of four (4) consecutive weeks in his/her anniversary year.

C. In the event one or more authorized holidays falls within a vacation leave, such holiday shall not be charged as vacation.

D. In the event an employee becomes ill during his/her vacation period, such time shall not be charged as vacation leave if notice is given immediately to the employee's immediate supervisor. Sick leave will only be granted for those days on which notice is given.

E. No person shall be permitted to work for compensation for the City in any capacity, except compensation for mandated court appearances, court on call, other authorized on call, or special duty assignments, during the time of his/her paid vacation leave from City service.

F. Employees may take vacation leave at any time during the year, contingent upon determination by his/her immediate supervisor or Department Head that such absence will not adversely affect the Department.

G. Any employee separating from the City service who has accrued vacation leave shall be entitled to pay in lieu of such vacation. When separation is caused by death of any employee, payment shall be made to the spouse or the estate of such employee or, in applicable cases, as provided by the Probate Code of the State.

DISCIPLINE, GRIEVANCE, LAY OFF PROCEDURES

ARTICLE XXIX. DISCIPLINARY PROCEDURE

- A. No permanent employee shall be disciplined without just cause. For purposes of this Article, discipline shall be defined to include: oral warnings, written warnings, written reprimands, suspensions, work assignment transfers, demotions, reductions in pay and discharge. Probationary employees, except employees on probation due to promotion, may be dismissed for any lawful reason without just cause.
- B.
1. Except in emergencies, or as authorized by law, suspensions of three (3) days or more, work assignment transfers, demotions, reductions in pay or discharge, shall not be put in effect until the employee has received written notice advising the employee of the proposed action, the reason(s) therefore, the facts giving rise thereto, the proposed effective date, access to written material that forms a basis for the proposed action, and the opportunity to respond to the Police Chief orally or in writing within five working days of receipt of such notice. If the proposed action or some modified action is then implemented, the employee may then appeal such action in accordance with the Grievance Procedure contained in this Agreement (commencing with Article XXIX, C3).
 2. A permanent employee who receives an oral warning, written warning, written reprimand or suspension of less than 3 days, and the discipline was administered by the employee's immediate supervisor, or a person of equal rank to the employee's immediate supervisor, the employee may appeal such action in accordance with the Grievance Procedure contained in this Agreement (commencing with Article XXIX, C1).
 3. A permanent employee who receives an oral warning, written warning, written reprimand or suspension of less than 3 days, and the discipline was administered by a person other than the employee's supervisor or a person of equal rank to the employee's immediate supervisor, the employee may appeal such action in accordance with the Grievance Procedure contained in this Agreement (commencing with Article XXIX, C1).
 4. Disciplinary actions shall be removed from the employee's file seven (7) years after the occurrence of the incident that resulted in the disciplinary action.
- C. Grounds for disciplinary action shall include, but not limited to:
1. Dishonesty
 2. Incompetence
 3. Inefficiency
 4. Neglect of duty
 5. Negligence which affects the safety of the employee or of others
 6. Bringing to the work place, or use of, or being under the influence of, alcohol or intoxicating drugs while on duty or on City property
 7. Unexcused or excessive absences, including tardiness
 8. Violation of the rules, regulations or orders established by a supervisor, Department or City Council
 9. Conviction of a felony or of a misdemeanor involving moral turpitude
 10. Discourtesy to the public or fellow employees
 11. Misuse or abuse of City property or equipment
 12. Substandard job performance

13. Insubordination
14. Outside employment which is not authorized by the Police Chief
15. Falsification of any City report or record, including application form.
16. Other acts which are incompatible with service to the public including any conduct or behavior, either on or off duty, which causes discredit, or would reasonable tend to cause discredit, to fall upon the City, its officers, agents or Departments.

D. This Article is intended to supersede the Disciplinary and Appeals Procedures contained in the City's Personnel Rules and Regulations.

ARTICLE XXX. GRIEVANCE PROCEDURE

A. A grievance is an allegation by an employee or an officer of the Claremont Police Managers Association that the employee has been adversely affected by a violation of the specific provisions of this Agreement, or of the specific provisions of the Claremont Police Policy Manual or of the Personnel Rules and Regulations. Actions to challenge or change the policies of the City as set forth in the rules and regulations or administrative regulations and procedures, so long as these are consistent with the terms of the Agreement, must be undertaken under separate legal processes. Other matters for which a specified method of review is provided by law are not within the scope of this procedure.

B. Informal Grievance Procedure.

The grievant and the City's representative shall make every effort to resolve the grievance at the lowest level of supervision. The grievant shall discuss the resolution with his/her immediate supervisor within ten (10) calendar days of the occurrence. The immediate supervisor shall render an informal decision within five (5) calendar days of the discussion regarding the grievance. If the grievant does not agree with the supervisor's decision, or if no answer has been received within the specified time period, the grievant may continue the informal process through discussion of the grievance within the next ten (10) calendar days with his/her second level supervisor.

The second level supervisor shall render an informal decision within five (5) calendar days of such discussion. If the grievant does not agree with the second level supervisor's decision, or if no answer has been received within the five (5) day period, the grievant may proceed to the Formal Grievance Procedure, First Level.

C. Formal Grievance Procedure.

1. First Level - Supervisor Review

The grievant shall present the formal grievance in writing to his/her supervisor within ten (10) calendar days of completion of the informal process. The written grievance shall contain the following information:

- a. Name of grievant and job title
- b. Department, Division and assignment
- c. Clear and concise statement of the nature of the grievance including the circumstances and dates involved
- d. The specific provision(s) of the MOU, Police Policy Manual or Personnel Rules alleged to have been violated
- e. Requested remedy
- f. Name of the grievant's representative, if any
- g. Date and signature of the grievant. The supervisor shall render a decision and comments in writing and return them to the grievant within ten (10) calendar days

after receiving the written grievance. If the grievant does not agree with his supervisor's decision, or if no answer has been received within the specified time period, the grievant may proceed to the Second Level.

2. Second Level - Department Review

The grievant shall present the formal grievance in writing to the Police Chief or his designee, who shall discuss, upon request, the grievance with the grievant, and his/her representative, if any, and with other appropriate persons. The Police Chief or designee shall render a decision and comments in writing and return them to the grievant within ten (10) calendar days after receiving the formal written grievance, or within ten (10) calendar days after meeting with the grievant, whichever is later. If the grievant does not agree with the decision reached, or if no answer has been received within the specified time period, the grievant may appeal the formal grievance to the next level of the Grievance Procedure within ten (10) calendar days.

3. Third Level - Advisory Arbitration

- a. To activate Advisory Arbitration, the grievant must, within the time period specified above, present the grievance in writing to the Personnel Manager for further processing.
- b. The scope of Advisory Arbitration of grievances shall be limited to the discharges, demotions, transfer of assignment, reduction in pay or suspensions of three (3) days or more without pay. The grievant may waive the right to go to Advisory Arbitration and instead go directly to the Fourth Level (City Manager). All other grievances shall bypass the Third Level of the grievance procedures and advance to the Fourth Level.
- c. The Personnel Manager and the grievant shall request a list of five (5) arbitrators from the California State Mediation and Conciliation Service.
- d. An arbitrator shall be selected by the following procedure: A representative of the Association or the grievant, if not represented by the Association, and the City's representative shall select the arbitrator from the above list by eliminated names until one name remains. The one remaining name shall be the arbitrator. All grievances reaching the arbitration level shall be numbered consecutively during the current fiscal year. The odd numbered grievances will give the grievant the first elimination; the even numbered grievances will the City the first elimination.
- e. Once the arbitrator has been selected, hearings shall commence at the convenience of the arbitrator. The technical rules of evidence shall not apply during the arbitration hearing.
- f. The arbitrator shall be strictly bound by the time limits set forth in the grievance procedure and shall not question or entertain any grievance in which the grievant has not adhered to such time limits.

- g. Employees called as witnesses shall be scheduled to be released from duty to testify at the hearings. The parties recognize that due to the essential nature of the services performed by the Department, scheduling of time for each employee to testify at arbitration shall be in such a manner so that normal operations are not disrupted. The grievant must submit at least five (5) working days prior to the scheduled arbitration hearing date a list of employees and estimated time that their testimonies will take, as well as the date of the hearing, to the Personnel Manager, with a copy to the Police Chief.
- h. The jurisdiction of the arbitrator shall be confined to a determination of the facts and the interpretation of the provisions of the Memorandum of Understanding, Police Policy Manual and/or Personnel Rules and Regulations. The arbitrator will have no power to add to, subtract from, or modify the terms of the Agreement, or the written policies, rules, regulations, and procedures of the employer. Witnesses will be assured that their testimony will be kept confidential.
- i. Within thirty (30) days after the conclusion of the hearing, the arbitrator shall render an advisory decision in writing to the parties, including the City Manager.
- j. The arbitrator's fees and expenses shall be shared equally by the parties. All other costs shall be borne by the party in incurring such expense(s).

4. Fourth Level - City Manager

- a. If the grievance is submitted to the City Manager for review and settlement, the City Manager in non-arbitrable cases, may elect the methods he/she considers appropriate for the study of the issues and shall render a written decision to the parties within fifteen (15) days. Notwithstanding the above, upon the grievant's request, the matter shall be submitted to mediation prior to the City Manager's determination.
- b. For all cases involving Advisory Arbitration recommendations, the City Manager shall review the entire matter within ten (10) days after receipt of the arbitrator's recommendations and render his/her decision.
- c. In all cases, the decision of the City Manager shall be final.

D. General Provisions

- 1. The grievant is entitled to representation of his/her choice at any point in the grievance procedure.
- 2. Failure by the grievant to meet any of the specified time lines shall constitute a withdrawal of the grievance. Failure by the City to meet any of the specified time lines shall entitle the grievant to appeal to the next level of review.
- 3. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level shall be considered as a maximum, and every effort should be made to expedite the process. If the last day of the specified time period falls on the weekend or a City Hall observed holiday, it shall be moved to the next working day. The times specified, however, may be extended by mutual consent.
- 4. Probationary employees not previously holding permanent status in a lower classification may file grievances under all grievable grounds defined in section 'A' above.

5. Employees shall be assured freedom from reprisal for using the grievance procedures.

ARTICLE XXXI. LAYOFF PROCEDURE

- A. The Personnel Officer may separate any employee or class of positions without prejudice, because of financial or economic condition of the City, reduction of work, or abandonment of activities. The City shall give such employees no less than thirty (30) calendar days written notice of separation and the reason thereof. The notice will be hand delivered or sent by registered mail. However, no permanent full time employee shall be separated from a Department while emergency, seasonal or probationary personnel are employed and serving in the same positions in the Department.
- B. In establishing the order of layoff of employees, the retention of those employees determined to be the most qualified is of concern and therefore, job performance will be considered. However, the principal criteria used in determining the order of layoff and bumping rights shall be seniority, time worked within a class within the City, provided the employee presently possesses the skills, abilities and qualifications to perform the job. Furthermore, seniority shall govern unless the following criteria show that ability, merit and record of the employees considered for layoff are not equal. Effective with the ratification of this Agreement, seniority shall be determined first by date of promotion. If two employees were promoted on the same day, seniority shall be determined by date of hire.
 1. An employee's last four performance evaluations, if in existence
 2. Any history of employee documented disciplinary actions
 3. Attendance record - tardiness and unexcused absences
 4. Safety record - vehicular and injury
- C. In the event that a less senior employee in the position in the classification to be laid off has superior skills, abilities, qualifications, merit and record, as determined by the personnel officer in the above manner, the more senior employee shall be laid off.
- D. Length of classification seniority shall be counted as all periods of time served as a probationary and permanent employee within a classification. Leave of absences will not be considered when determining seniority.
- E. A laid off employee shall be entitled to bump to a position in the next lower rank. The laid off employee must be physically and mentally able to perform the duties of the lower rank. No employee shall be transferred or demoted to a position for which they do not possess the minimum qualifications.
- F. After the City has notified the affected employee of the position available, if any, the employee must notify the Personnel Officer in writing of his/her intent to exercise the bumping rights within ten (10) calendar days, and the position and classification in the City to which he/she intends to bump, or the bumping rights shall be barred and waived to the employee. The employee with the least seniority in the class shall be bumped by the person who is laid off. The employee bumped shall be considered as laid off for the same reason as the person who bumped them and shall in the same manner be eligible to bump to a position in the next lower rank.

- G. An employee's appointment shall not be terminated as a result of a layoff before they have been made reasonable offer of reassignment, if such an offer is immediately possible or available. Determination of a reasonable offer of reassignment and its availability will be made by the Personnel Officer.
- H. The names of permanent employees who have been laid off due to a reduction in the force shall be placed on an appropriate reemployment list according to date separated and shall be eligible for reemployment. The last employee laid off shall be the first employee on the list, with other employees listed in sequential order thereafter. Each employee on a re-employment list shall remain on that list for one (1) year, at which time the list expires unless extended by the Personnel Officer for a maximum of one (1) additional year.

The employee first listed shall also be first considered should a vacancy occur within that classification.

- I. Names of laid off employees on a re-employment list shall be removed under the following provisions:
 - 1. If the employee is re-hired by the City in the same classification.
 - 2. If the employee request such removal in writing.
 - 3. If the employee fails to respond within ten (10) calendar days upon receipt of notice by the Personnel Officer to the last known address available.
 - 4. If the employee refuses an appointment to a position of the same classification.
- J. An employee who fails to respond in writing within ten (10) calendar days, refuses recall, or fails to report on the prescribed date, waives all further rights to recall and reinstatement as an employee.
- K. In determining the order of re-employment, the Personnel Officer shall consider the previous performance of those on the re-employment list in accordance with the criteria specified in B 1-4 above. In the event that a less senior employee in the position is the classification to be re-employed has superior skills, abilities, qualifications, merit and record, as determined by the Personnel Officer, the less senior employee shall be re-employed. A person appointed from a re-employment list must serve a new probationary period if a recall from such list occurs more that one (1) year after the effective date of the layoff. A new probationary period in such circumstances shall not be less than one (1) year.
- L. Any person re-employed shall successfully pass any required examinations including but not limited to a medical exam and drug and alcohol screen. Any person re-employed after a one (1) year period of lay-off shall also successfully pass a psychological evaluation.

GENERAL PROVISIONS

ARTICLE XXXII. WORK STOPPAGE

- A. It is agreed and understood that there will be no strike, sympathy strike, work stoppage, slow down, or refusal or failure to fully and faithfully perform job functions and responsibilities, or other interference with the operations of the City by the Association or by its officers, agents, or members during the term of this Agreement.

Compliance with the request of other labor organizations to engage in such activity is included in this prohibition.

- B. The Association recognizes the duty and obligation of its representatives to comply with the provisions of this Agreement and to make every effort toward inducing its members to do so. In the event of a strike, sympathy strike, work stoppage, slow down, or other interference with operations of the City by Association members, the Association agrees in good faith to actively take affirmative action to cause those employees to cease such action.
- C. It is agreed and understood that any employee violating this article may be subject to disciplinary action up to and including discharge, and/or may be considered to have automatically resigned from the City service.
- D. It is understood that in the event this article is violated, the City shall be entitled to withdraw any rights, privileges or services provided for in this Agreement or in any other City rules, regulations and/or ordinances, from any employee and/or Association.

ARTICLE XXXIII. FULL UNDERSTANDING/EFFECT OF AGREEMENT

- A. It is understood and agreed that the specific provisions contained in this agreement shall prevail over employer practices and procedures, prior written agreements, and over state laws to the extent permitted by State law, and that, in the absence of specific provision in this agreement such practices and procedures are discretionary.
- B. During the term of this Agreement, the parties expressly waive and relinquish the right to meet and confer and agree the parties shall not be obligated to meet and negotiate with respect to any subject matter, whether referred to or covered in this agreement or not, even though each subject or matter may not have been within the knowledge or contemplation of either or both the City or the Association at the time they met and negotiated and executed this Agreement, and even though such subjects or matters were proposed and later withdrawn.
- C. This Agreement constitutes the total and entire agreement between the parties and no verbal statements shall supersede any of its provisions.

ARTICLE XXXIV. BI-ANNUAL PHYSICAL

- A. All employees shall submit to a bi-annual physical at the City's expense. The employee may elect to go to his/her private physician or the City's medical clinic for said physical.
- B. The City shall reimburse employees up to \$1200 per year for health/fitness related costs, including membership dues and physical fitness equipment.

ARTICLE XXXV. ALTERNATIVE WORK SCHEDULES

- A. Unit employees whose assignments have included an alternative work schedule shall continue on such schedule during the term of this Agreement.
- B. So long as alternative schedules are in effect, the work period for the purposes of computing premium overtime shall be eighty (80) hours in a fourteen (14) day work period.
- C. If an employee is sent to a school which lasts more than three days, that employee's schedule may revert to a traditional five (5) day eight (8) hour schedule for that week.
- D. Any employee placed on light duty may be required to revert to a traditional five (5) day eight (8) hour schedule for that week.

