

CITY OF BELL GARDENS

AND

**BELL GARDENS POLICE
MANAGEMENT ASSOCIATION**



MEMORANDUM OF UNDERSTANDING

July 1, 2016 THROUGH June 30, 2018

Adopted January 9, 2017

PREAMBLE

Representatives of the City and the Bell Gardens Police Management Association have agreed upon this Memorandum Understanding following unprecedented and positive efforts by each other to incorporate into this meet and confer process an increased level of forthrightness, mutual respect and more dignified exchange of opinions and proposals. This MOU is the result of said process. This MOU is of no force and effect unless or until approved and adopted by the City Council of the City. Unless otherwise indicated, changes in terms and conditions of employment shall be effective concurrent with City Council adoption of this 2016-2018 MOU.

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ARTICLE I. SCOPE OF REPRESENTATION

The Bell Gardens Police Management Association represents the following employee classifications: Sergeant, Detective Sergeant, Lieutenant and Captain.

ARTICLE II. TERM OF AGREEMENT

Section 1. The term of this memorandum shall be July 1, 2016 through June 30, 2018. Whenever this MOU provides for compensation changes to be effective as of a specific date (e.g. July 1 or January 1), the change in compensation shall be effective the first payroll period which either falls on the specific date or right after the specific date.

Section 2. The Agreement may be extended beyond June 30, 2018 if both parties concur in writing.

ARTICLE III. SALARIES

All classifications within this bargaining unit shall receive base salary adjustments as follows:

- a) Effective the first pay period of July 2016: 5% base salary increase. Upon City Council adoption of this agreement, base salary increase will be made retroactive to the first pay period of July 2016.
- b) Effective the first pay period of July 2017: 5% base salary increase.
- c) Effective the first pay period of January 2018: 1.5% base salary increase.

ARTICLE IV. WORK SCHEDULE

Section 1. Work schedules for unit members shall be defined as follows:

- a) 4/10 Work Schedule: The 4/10 work schedule shall consist of four (4) ten (10) hour work days exclusive of any assigned meal periods.
- b) 3/12 Work Schedule: The 3/12 work schedule shall consist of three (3) twelve (12) hour work days and one (1) eight (8) hour make up day on alternating weeks, exclusive of any assigned meal periods.

Section 2. The work schedules in effect for the various positions on the effective date of this MOU shall remain in effect for the term of this MOU. It is hereby understood and agreed that the personnel assignments will be changed periodically during the term of this MOU to meet the needs of the department.

Section 3. The work period shall consist of fourteen (14) days and employees are subject to a 14-day FLSA work period. For calculating contractual overtime provided pursuant to this MOU, the total work hours during these 14 days shall be eighty (80).

Section 4. Eligible bargaining unit members shall receive overtime compensation at the rate of one and one-half times the regular hourly rate of pay for all time worked in excess of the total hours in his or her designated work period (i.e. forty hours for a seven day work period and eighty hours for a fourteen day work period), as described in Section 3 of this agreement.

ARTICLE V. RETIREMENT AND CONTRIBUTIONS

Section 1. Effective January 1, 2012, each unit member began funding 100% of the CalPERS statutorily mandated employee member contribution. The individual safety employee funded contribution shall then be 9% of compensation.

Section 2. The City shall make this contribution directly to PERS, designating said contribution to be credited to the employee's account, and shall make no assertion with PERS that said contributions are to be credited to the City's account.

Section 3. The City shall maintain the "highest one year" plan option with the Public Employees Retirement System.

Section 4. Effective on May 23, 2004, the PERS contract was amended to provide the 3% at 50 retirement benefit for sworn personnel who are not deemed to be "new members" as defined in Government Code Section 7522.04.

Section 5. CalPERS Retirement Formula

- a. Effective June 24, 2012, the City modified its CalPERS contract(s) so as to provide the 2% at 50 retirement formula for all safety employees hired after June 24, 2012.
- b. Said contract amendment shall also provide for calculation of the above newly hired effected employee's annuity, being based on the "three highest years" calculation method.

Section 6. **AB 340 (as modified by AB 197) the California Public Employees' Pension Reform Act of 2013 (PEPRA)** - AB 340, as it may from time to time exist, shall in its entirety be given full force and effect during and after the term of this agreement. Any provision in this agreement 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 any MOU, Agreement, Rule or Regulation predating this agreement.

Unit members hired on and after January 1, 2013, deemed to be a “new member” as defined in Government Code § 7522.04, shall individually pay an initial Member CALPERS contribution rate of 50% of the normal cost rate for the Defined Benefit Plan in which said “new member” 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” on and after January 1, 2013, shall be enrolled in the AB 340 provided for 2.7% @ 57 retirement formula (Section 7522.25.)

ARTICLE VI. RETIREE HEALTH

Section 1. The City agrees to maintain a continuing lifetime health premium payment for retirees in accordance with the provisions set forth below.

- a) Tier 1: Bargaining unit members hired prior to August 11, 2014:
 1. Effective July 1, 2007: Upon service or disability retirement, bargaining unit members hired prior to August 11, 2014 are eligible for retiree health benefits in an amount equal to 100% of the cost of retiree only coverage in the plan the retiree was enrolled in immediately prior to retirement.
 2. Effective July 1, 2004: The City shall pay 100% of the health premium payment for the spouse of a sworn retiree (either disability or service) having completed twenty (20) or more years of sworn service in the employ of Bell Gardens. The only spouse eligible to receive benefits, shall be the individual, if any, who was the employee’s spouse on the initial effective date of the employee’s retirement.
 3. References in this Section to “health” benefits shall be inclusive of medical, dental and vision benefits.
 4. Bargaining unit members who retired from the City prior to July 1, 2007 are eligible for retiree health benefits in accordance with the provisions the Memorandum of Understanding in effect at the time of their retirement.
- b) Tier 2: Bargaining unit members hired on or after August 11, 2014.
 1. Current sworn safety employees who promote into this bargaining unit on or after August 11, 2014 shall be subject to retiree health eligibility based on their original date of hire only. Date of hire into this bargaining unit will not be utilized to determine eligibility for retiree health benefits.

2. Bargaining unit members hired by the City on or after August 11, 2014 shall be subject to the following requirements:
 - a) Retiree continuing medical will be available to service retirees who have reached normal retirement age as specified by PERS retirement plan in effect for bargaining unit. Employees have no vested right in any particular plan or coverage level prior to reaching normal PERS retirement age
 - b) Employees who have reached normal retirement age and completed a minimum of 10 years of full-time benefitted service or more shall receive City funding of medical insurance premiums according to the following schedule (all "years" are "completed years"):
 - i. 10 years of service = 50% premium paid by City
 - ii. 11 years of service = 55% of premium paid by City
 - iii. 12 years of service = 60% of premium paid by City
 - iv. 13 years of service = 65% of premium paid by City
 - v. 14 years of service = 70% of premium paid by City
 - vi. 15 years of service = 75% of premium paid by City
 - vii. 16 years of service = 80% of premium paid by City
 - viii. 17 years of service = 85% of premium paid by City
 - ix. 18 years of service = 90% of premium paid by City
 - x. 19 years of service = 95% of premium paid by City
 - xi. 20 years of service = 100% of premium paid by City
 - c) Retiree medical coverage for PERS disability retirees will be made available in accordance with the aforementioned vesting schedule.
 - d) City funding of retiree premiums shall be limited to the least expensive HMO plan available. Retirees will be responsible for payment of premiums in excess of the monthly premium for the least expensive HMO plan available.
 - e) Dental and vision coverage will only be available at the retiree's expense.
 - f) Spouse and dependent coverage will only be available at the retiree's cost.
 - g) At age 65, premium payment will be reduced to provide a supplemental policy integrated with Medicare. Retirees that elect an additional policy to integrate with Medicare will be responsible for the premiums associated with this additional policy.

Section 2. The October 19, 2006 Employee Separation Health Benefits Policy shall be null, void and withdrawn as to all present and future employees, effective January 21, 2010.

ARTICLE VII. LIFE INSURANCE

The City shall maintain life insurance coverage for each member of this unit in an amount equal to one year base salary rounded to the nearest one thousand. City shall pay the full premium for this coverage.

ARTICLE VIII. SAFETY EQUIPMENT

Section 1. The City shall provide each officer with a service weapon, Sam Browne belt with all necessary accessories, ammunition, a baton, handcuffs, and raincoat. These items are to remain the property of the City.

Section 2. All sworn members of the unit shall be issued body armor for his/her use while on duty. Armor pads shall be replaced by the City prior to the time the manufacturer says the effectiveness of the armor would be substantially reduced by ordinary wear. Liners or holders shall be maintained by the officers. All body armor issued shall remain the property of the City and shall be returned upon the termination of the officer's affiliation with the Police Department.

ARTICLE IX. UNIFORM ALLOWANCE

Police Captains, Lieutenants, and Sergeants shall be provided \$1,350 per year for uniform maintenance. This allowance shall be paid semi-annually, with one half paid in January and one half paid in July of each year.

ARTICLE X. HOLIDAYS

Section 1. The City shall observe the following holidays:

1. New Years' Day - January 1st.
2. President's Day - The third Monday in February.
3. Memorial Day - The last Monday in May.
4. July 4th.
5. Labor Day - The first Monday in September.
6. Thanksgiving Day - The fourth Thursday in November
7. Christmas Day - December 25th.
8. In lieu of the September 9 (Admission Day) holiday, the Friday after Thanksgiving Day shall be a City holiday.
9. Four (4) "floating" holidays, in lieu of Martin Luther King Day, February 12 (Lincoln's Birthday), the second Monday in October (Columbus Day), and November 11 (Veterans Day), which must be taken by individual employees at a time subject to approval by the employee's department

head. These holidays must be taken prior to June 30th of each year in which it accrued. If the employee does not take the time off, it will not be accrued.

Section 2.

Effective October 3, 2011, two (2) additional floating holidays shall be provided. Use and disposition of these additional two (2) floating holidays shall be subject to the rules governing the pre-existing four (4) floating holidays. Furthermore, the usage of these additional holidays will not incur overtime to staff the vacancies.

- a) Floating holidays must be taken prior to June 30th of each year in which they are accrued. If the employee does not take the time off, it will not roll over into the next fiscal year. Floating holiday time has no cash value and shall not be cashed out upon separation.

Section 3.

When a holiday falls on a Sunday, the following Monday shall be observed as the holiday. When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday.

Section 4.

For purposes of accrual of holiday pay, each holiday shall be earned in the number of hours constituting the affected employee's regularly assigned workday. The total holiday pay for any regular employee shall not exceed the hourly equivalent of twelve (12) working days, measured by the number of hours in an employee's regularly scheduled workday.

ARTICLE XI. VACATION ACCRUAL

Concurrent with approval and adoption of the 2011-2013 MOU on October 3, 2011 by the City Council, the following vacation accrual schedules shall be implemented:

- a. *Current Employees* (hired before October 3, 2011)
 1. Through and including fifteen (15) completed years of City service – **13.33 hours** per month.
 2. Commencement of year sixteen (16) and through and including nineteen (19) completed years of City service = **15.33 hours** per month.
 3. Commencement of year twenty (20) and through and including twenty-four (24) completed years of City service = **16.33 hours** per month.

4. At the commencement of year twenty-five (25) years of City service, until separation = **18.33 hours** per month.
- b. *New Employees* (hired on or after October 3, 2011) shall be subject to the Vacation Accrual schedule in the Personnel Rules.
1. Month 13th through 48th = Employees accrue vacation leave at the rate of **6.67 hours** per month (not to exceed 80 hours per year.)
 2. Month 49th through 108th = Employees accrue vacation leave at the rate of **10.00 hours** per month (not to exceed 160 hours per year.)
 3. Month 109th and beyond = Employees accrue vacation leave at the rate of **13.34 hours** per month (not to exceed 160 hours per year.)

ARTICLE XII. BEREAVEMENT LEAVE

Regular and probationary full-time employees of the City shall be granted a bereavement leave of absence by reason of the death, or critical illness where death appears imminent, of the employee's father, mother, brother, sister, spouse or child. Employee shall be allowed three (3) working days with pay for each occurrence and shall not be charged against the employee's sick bank.

The Personnel Officer and/or the department head may require evidence in the form of a physician's certificate, or otherwise, of the adequacy of the reason for any employee's absence during the time for which sick leave was requested for an illness or death in the family where the employee's presence was necessary.

ARTICLE XIII. HEALTH INSURANCE

Section 1. Health Insurance Premium Contribution Caps

- a) On July 1, 2011 the City implemented health benefits premium contribution caps in the following amounts:
 1. Single employee - \$825.37 monthly.
 2. Employee plus one (1) dependent - \$1,708.04 monthly.
 1. Family coverage - \$2,484.11 monthly.
- b) Effective July 1, 2014, the maximum City-funded health insurance (medical, dental and vision) premiums shall cumulatively not exceed the following:
 1. Single employee - \$844.46 monthly.
 2. Employee plus one (1) dependent - \$1,747.54 monthly.
 3. Family coverage - \$2,541.56 monthly.

Section 2. Adjustments to the aforementioned caps on City funded premiums shall be linked to the Consumer Price Index (CPI) as specified below.

- a) The existing insurance premium caps will be adjusted by the percentage change in the CPI (not seasonally adjusted) for the Los Angeles, Long Beach, Glendale region from March of the prior year to March of the current year.
- b) The increase will incur on July 1 of each year except for the increase to take place in fiscal year 2015, which will occur after the adoption of this MOU.
- c) Any increase to the insurance premium caps will be limited to three percent (3%).
- d) Each affected employee shall be individually responsible for funding any health insurance premium amounts in excess of the above City funded payments.

Section 3. **Continuation of Benefits While Out on Leave**

Employees must use a minimum of 56 hours of accrued leave per month to ensure the continuation of their health benefits – a failure to do so shall result in the suspension of health benefits, unless employee is on a protected leave. Employees that do not meet the aforementioned criteria while on a leave of absence shall be given the opportunity to remain on the City's health benefit plans, but at the employee's cost, through COBRA.

Section 4. **Modifications to Health Benefits Plans**

1. Effective October 1, 2014, the City and Association agree to implement modifications to the City's existing health benefits plans as follows.
 - a) Medical - Replace Anthem Blue Cross POS plan with Anthem Blue Cross Premier PPO 250/10/10.
 - b) Dental - Reduce annual out of network coverage under Delta Dental PPO plan from \$2,000 to \$1,500.
 - c) Vision - Increase VSP office visit copay from \$10 to \$20
 - d) Employee Assistance Program (EAP) Eliminate mental health component from City's EAP plan.
 - e) Short Term Disability Insurance - Increase maximum weekly benefit from \$959 to \$1,075. Increase benefit waiting period from seven (7) calendar

days to fourteen (14) calendar days. Increase benefit duration from 90 days to 180 days.

Section 5. **Health Insurance Opt Out**

Effective August 11, 2014 the City will offer a health insurance opt out benefit to each full-time employee in a classification represented by this agreement. An employee can take 50% of the cost of monthly premiums forfeited by that employee for themselves and their dependents (if applicable) if they choose to take medical, dental, and/or vision elsewhere. This will be on a monthly basis, and the amount of City-funded premiums upon which the 50% payment shall be based and calculated shall be the lowest medical, dental, and/or vision plan premiums incurred by the employee in the twelve (12) consecutive months immediately preceding the date of the employee's election to withdraw from any of the health benefits (medical, dental, and/or vision). Absent an insurance premium payment in the prior twelve (12) months, the employee shall receive 50% of the least expensive health insurance plans. These provisions will continue to adhere to the policy whereby proof of insurance is required.

Employees under this agreement will have the option of choosing only one of the two types of benefit options listed above. In no way can an employee combine or otherwise enhance their own or their dependents' health benefits to receive more than what have been stated in each individual benefits option.

Section 6. **Joint Health Insurance Committee**

During the term of this MOU, the parties may reconvene the joint labor/management health insurance committee. The purpose of the committee shall be to explore cost saving alternatives to the present health insurance programs. Implementation of health insurance modifications shall be subject to the meet and confer process, and absent agreement of the parties to the contrary, shall not be implemented until completion of the meet and confer process for a successor MOU.

ARTICLE XIV. EDUCATION INCENTIVE

Unit members shall be entitled to a 2.5% salary differential upon being awarded an Associate of Arts degree or an Intermediate POST Certificate, and a 7.5% salary differential upon being awarded a Baccalaureate degree. Effective on and after July 1, 2007, a unit member having been awarded an Advanced POST Certificate shall receive a 7.5% salary differential. Effective on and after July 1, 2007, a unit member having been awarded a Master's Degree, shall receive a 10% salary differential. Any employee holding both an Advanced Certificate and a Master's Degree shall only receive a 10% salary differential. The differentials described herein are not cumulative.

ARTICLE XV. TUITION REIMBURSEMENT

Unit members shall be entitled to participate in the reimbursement portion of the "Education Reimbursement and Incentive Plan." POST certified courses are not eligible for reimbursement under this plan. The tuition reimbursement program shall be administered in accordance with the City's tuition reimbursement policy. Effective July 1, 2016 the maximum amount of tuition reimbursement shall be \$2,000 per fiscal year.

ARTICLE XVI. BILINGUAL PAY

Section 1. Unit members who are certified as bilingual in the Spanish language shall receive \$100.00 per month bilingual pay. Certification shall be conducted by procedures selected by the City Manager.

First level certification shall be based on the following criteria: Able to give verbal commands, obtain descriptive information and complete booking procedures with non-English speaking suspect.

Section 2. Effective July 1, 1999, unit members who are certified as being bilingual in Spanish (as provided for in Section 1, above) and are also certified as being proficient in reading and writing of Spanish shall receive an additional \$100.00 per month bonus. Therefore, the maximum bonus that can be received per month is \$200.00 (if certified pursuant to both Sections 1 and 2.) Certification for this higher level of bilingual compensation shall be done pursuant to procedures selected by the City Manager.

Section 3. The City may require a re-certification of either or both Section 1 and 2 capabilities, every two (2) years if the program is continued.

Section 4. Any costs advanced by the City on behalf of an employee for training in Spanish must be reimbursed from monthly payments after certification.

ARTICLE XVII. SPECIAL EVENTS/CALLOUT PAY

In those instances where affected employees have concluded a work shift, have left the work site, and are then called back to the work site prior to what would have been the commencement of a scheduled shift, the affected employee shall receive a minimum of four (4) hours of compensation at the rate of 1.5 times the employee's base salary rate (either cash or compensatory time off at the election of the employee.)

This Article shall be equally applicable to a "call back" as defined above that occurs because of the employee being assigned to work a "special event," such as a parade or other matter not within the employee's regularly assigned schedule.

Scheduled staff meetings shall not be considered "special event" or a "call out" for the purposes of computing premium compensation if the employee is eligible for overtime. Unit employees who are required to attend a scheduled staff meeting outside of the scheduled work hours shall have said attendance considered hours worked for purposes of computing overtime eligibility.

ARTICLE XVIII. COURT TIME PAY

City agrees to pay members of Unit called to testify in court proceedings four (4) hours pay minimum per appearance and two (2) hours pay when held on standby status in the a.m. and an additional two (2) hours of pay if on standby in the p.m. Court time computations will be based upon time of arrival, to time of departure from court. Appearance and standby hours shall be compensated at 1.5 times the employee's base salary rate (either cash or compensatory time off at the election of the employee,) but in no case shall the maximum number of daily compensable court time/court standby hours exceed eight (8). Eligibility for standby pay requires the employee to verify a mandated standby status prior to the above a.m. or p.m. period of time.

ARTICLE XIX. LONGEVITY PAY

Employees who have completed full-time service with the City of fifteen (15) years, twenty (20) years, or twenty-five (25) years shall be eligible for the following additional compensation:

- a) 15 years = \$100 per month
- b) 20 years = \$200 per month
- c) 25 years = \$250 per month

ARTICLE XX. SHOOTING RANGE TIME PAY

Mandatory range time as set forth by the Chief of Police shall be considered hours worked for overtime computation.

ARTICLE XXI. VACATION LEAVE BUY-OUT

Effective July 1, 2012, unit employees may cash out up to up to 80 hours of earned and accumulated vacation leave per year. Commencing with this 2016-2018 MOU, annual vacation cash-outs shall be allowed at the following times:

February 2017
December 2017
December 2018

For all years subsequent to December 2017, vacation leave cash-outs shall coincide with the City's sick leave cash-out program in December of each year.

ARTICLE XXII. SICK LEAVE BUY-OUT

At the discretion of the employee, all sick leave accrued beyond 720 hours can be bought out pre-separation, in cash or deposited into a deferred compensation plan at the employee's current rate of pay (calculated on an hourly basis) in December of each year, not to exceed 96 earned hours per year.

ARTICLE XXIII. FAIR LABOR STANDARDS ACT

To the extent that the City recognizes any unit member as being a non-exempt employee as regards application of the Fair Labor Standards Act and/or to the extent that the City policies and practices provide for overtime being paid to any unit member regardless of whether the unit member is exempt from the FLSA, use of paid leave time limited to holidays and vacation leave shall be considered hours worked for the computation of any overtime allowed pursuant to City rules and/or the FLSA. However, individuals holding the classified position of Captain shall be ineligible for overtime, whether pursuant to the FLSA or otherwise.

ARTICLE XXIV. PERSONNEL RULES AND REGULATIONS

Section 1. The Union and the City agree that, except as specifically provided herein, the Personnel Rules and Regulations adopted by the City of Bell Gardens on June 24, 1991 are incorporated herein by reference, and shall continue to govern; provided that any changes to such policies which may be proposed by the City are subject to meeting and conferring to the extent required by law.

Section 2. The City and the Union agree that the Drug Policy adopted by the City of Bell Gardens on June 24, 1991 is incorporated herein by reference, and shall continue to govern.

ARTICLE XXV. MAINTENANCE OF BENEFITS

Except as specifically provided for herein, the City and the Union agree that all benefits other than direct wages, as provided by ordinance or resolution, which are in existence at the commencement of this Agreement, shall not be diminished, lessened, or reduced for the duration of this Agreement.

ARTICLE XXVI. CITY RIGHTS

Section 1. The City reserves, retains, and is vested with, solely and exclusively, all rights of Management which have not been expressly abridged by specific provisions of this MOU or by law to manage the City, as such rights existed prior to the execution of this MOU. The City may exercise its management rights unilaterally without the obligation of meet and confer on the decision to exercise such rights. However, the City shall meet and confer on the impact thereof pursuant to Section 2 of this Article. The sole and exclusive rights of Management, as they are not

abridged by this MOU or by law shall include, but not be limited to, the following rights:

- (a) To manage the City generally and to determine the issue of policy;
- (b) To determine the existence or nonexistence of facts which are the basis of the Management decision;
- (c) To determine the necessity of organization of any service or activity conducted by the City and expand or diminish services;
- (d) To determine the nature, manner, means and technology and extent of services to be provided to the public;
- (e) Methods of financing;
- (f) Types of equipment or technology to be used;
- (g) To determine and/or change the facilities, methods, technological means, and size of the work force by which the city operations are to be conducted;
- (h) To determine and change the number of locations, relocations and type of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract or subcontract any work or operation of the City;
- (i) To assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments upon reasonable notice;
- (j) To establish and modify productivity and performance programs and standards;
- (k) To relieve employees from duties for lack of work, or funds, or similar non-disciplinary reasons;
- (l) To discharge, suspend, demote, or otherwise discipline employees for proper cause;
- (m) To determine job classification and to reclassify employees;
- (n) To hire, transfer, promote and demote employees for nondisciplinary reasons;
- (o) To determine and administer policies, procedures and standards for selection, training, and promotion of employees;
- (p) To establish employee performance standards including but not limited to, qualifications and quantity standards and to require compliance therewith;
- (q) To maintain order and efficiency in its facilities and operations;
- (r) To establish and promulgate and/or modify Rules and Regulations to maintain order and safety in the City which are not in contravention of this MOU;
- (s) To take any and all necessary actions to carry out the mission of the City in emergencies.

Section 2. 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 Association, the City agrees to meet and confer with representatives of 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 MOU or in the Personnel Rules and Regulations, Safety Resolutions and Municipal Code which are incorporated herein by reference in this MOU. By agreeing to meet and confer with the Association as to the impact and exercise of any of the foregoing City rights, Management's discretion in the exercise of these rights shall not be diminished.

ARTICLE XXVII. NO STRIKE - NO LOCKOUT

Section 1. The Association, its officers, agents, representatives and/or members agree that during the term of this MOU they will not cause or condone any strike, walkout, slowdown, sickout, or any other job action by withholding or refusing to perform services.

Section 2. The City agrees that it shall not lockout its employees during the term of this MOU. The term "lockout" is hereby defined so as not to include the discharge, suspension termination, layoff, failure to recall or failure to return to work of employees of the City in the exercise of its rights as set forth in any of the provisions of this MOU or applicable ordinance or law.

Section 3. Any employee who participates in any conduct prohibited in Section 1 above may be subject to disciplinary action up to and including discharge.

Section 4. In the event that any one or more officers, agents, representatives or members of the Association engage in any of the conduct prohibited in Section 1 above, the Association shall immediately instruct any persons engaging in such conduct that they must immediately cease engaging in conduct prohibited in Section 1 above and return to work.

ARTICLE XXVIII. EMERGENCY WAIVER PROVISION

In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency or similar circumstances if the City Manager or his designee so declares, any provisions of this MOU or the Personnel Rules or Resolutions of the City, which restrict the City's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is declared over, the Association shall have the right to meet and confer with the City regarding the impact on employees of the suspension of these provisions in the MOU and any personnel rules and policies.

ARTICLE XXIX. SEPARABILITY PROVISION

Should any provision of this MOU be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of this MOU shall remain in full force and effect.

ARTICLE XXX. SAVINGS CLAUSE

Both parties declare that the sections, paragraphs, sentences, clauses and phrases of this Memorandum of Understanding are severable, and if any phrase, clause, sentence, paragraph or section of the Memorandum of Understanding hereby adopted shall be declared unconstitutional or otherwise invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Memorandum of Understanding.

ARTICLE XXXI. ELIGIBILITY FOR RETROACTIVE COMPENSATION

If applicable, eligibility to receive any retroactive salary payment(s) or other retroactive compensation or benefits provided for in any section of this MOU, shall be conditioned upon the affected unit member being employed by the City on the date that the retroactive payment is distributed. Said requirement is consistent with the agreement and understanding of the parties that any and all retroactive payments provided for herein are not intended as compensation for past services rendered.

ARTICLE XXXII. WAIVER OF BARGAINING DURING TERM OF THIS MOU

Section 1. Subject to the additional reopener provisions described in this MOU, including but not limited to the Bicycle Club reopener described below, the parties mutually agree that during the first year of this contract neither party shall seek to negotiate or bargain with reference to wages, hours, or terms and conditions of employment, whether or not covered by this MOU or in the negotiations leading thereto and irrespective of whether or not such matters were discussed or were even within the contemplation of the parties hereto during the negotiations leading to this MOU. Regardless of the waiver contained in this Article, the parties may, by mutual agreement, in writing, agree to meet and confer about any matter during the term of this MOU. At the end of the first year, either party may seek to reopen negotiations relating to the sick leave cash out, vacation cash out and an additional tier for newly hired employees regarding retiree health care benefits caps.

Section 2. The parties shall reopen any provision of this MOU for the purpose of complying with any final order of a federal or state agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this MOU, in order to comply with state or federal laws

Section 3. This AGREEMENT, may be reopened only on issues of pay and benefits should the Bicycle Club be closed down or if the revenues to the City from the Club operations fall more than ten percent (10%) from the corresponding month in the previous year, and that such a drop (in excess of 10%) shall exist for three consecutive months.

ARTICLE XXXIII. ADMINISTRATIVE LEAVE – POLICE CAPTAIN

Effective July 1, 2004, each individual occupying the classification of Captain shall have forty (40) hours of paid administrative leave credited to what shall be designated as an “administrative leave account.” Subject to approval by the Chief of Police, each affected Captain shall be authorized to utilize said paid hours as compensation for time taken off. Any such administrative leave hours not utilized on or before June 30, 2005 and June 30 of subsequent years, shall be lost without payment to the affected Captain of a cash equivalency. In no case shall said “administrative leave” hours be convertible to cash.

Crediting of the administrative leave hours is in recognition of the extensive hours worked in excess of scheduled hours by Captains during any given fiscal year.

ARTICLE XXXIV. TOTAL COMPENSATION STUDY


For future considerations, the City shall complete a total compensation study no later than June 30, 2018. Said total compensation study shall take into consideration union input and collaboration.

ARTICLE XXXV. RATIFICATION

The parties acknowledge that this MOU shall not be in full force and effect until ratified by the Association and adopted by the City Council of the City of Bell Gardens.

For the Association

For the City


Christopher Hubner
BGPMA
1/25/17
Date


Philip Wagner
City Manager
1/31/17
Date


Brendan Kirkpatrick
BGPMA
1/25/17
Date