



**Memorandum of Understanding
Between
The City of San Clemente
And
The San Clemente City Employees Association**

July 1, 2011 – June 30, 2012

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF SAN CLEMENTE
AND
THE SAN CLEMENTE CITY EMPLOYEES' ASSOCIATION

This Memorandum of Understanding constitutes the results of meeting and conferring in good faith pursuant to the provision of Chapter 10, Division 4, Title 1 of the Government Code of the State of California.

Modifications to existing wages, hours and other terms and conditions of employment set forth below have been agreed to by the signatories to this Memorandum for all employees represented by the San Clemente City Employees' Association hereinafter called "Association." This Memorandum of Understanding shall remain in full force and effect for the period commencing July 1, 2011 through June 30, 2012. Upon approval by the City Council of the City of San Clemente and ratification by the members of the Association, the parties agree as follows:

Article I - Wages:

Effective July 1, 2011, the City shall increase the base salary of all positions represented by the Association by one percent (1.0%).

Effective January 2, 2012, the City shall increase the base salary of all positions represented by the Association by eight-tenths of one percent (0.8%).

Article II - Overtime Compensation: For purposes of computing overtime, paid time off due to sick leave, vacation, compensatory time, or holiday pay shall be considered as hours worked, except when an employee is out on sick leave for more than two full days during any work week. An employee out on sick leave for more than the two full days shall not have his/her sick leave hours count towards the hours worked for purposes of calculating overtime.

Article III - Compensatory Time: At any one-time employees may accumulate up to 100 hours of compensatory time (66.7 regular hours X 1.5). Any overtime after the 100 hours will be paid at the regular overtime rate.

All Compensatory Time accrued and not used shall be paid out to the employee on the second payroll check in January of each year. For example, an employee who had 50 hours of Comp Time prior to the 2009 furlough and used 25 hours during the furlough would be paid out for the remaining 25 hours in January 2010. This provision shall not apply to Compensatory Time earned prior to July 1, 2006.

Each year, rather than having all Compensatory Time paid out, an employee may elect to keep up to eighteen (18) hours of Compensatory Time "on the books" for use during the next calendar year. An employee must request this option no later than the date identified on a form provided by the Human Resources Office. No more than eighteen (18) hours of unpaid Compensatory

Time will be available to employees each January 1st. Hours may not accumulate from year to year and hours not used by December 31st of each year shall be paid out on the second payroll check in January of that next month.

Article IV - Standby Compensation: Employees who are assigned to standby during off-duty hours to respond to calls to perform emergency street, sewer, water, building inspection, parks/beaches and other repairs as necessary shall be paid at \$25 per day per weekday and \$50 per day on Saturdays, Sundays and City-recognized holidays. While on standby, employees agree to maintain a telephone or other electronic means for notification, actively monitor such device, and respond to calls as directed within a reasonable time after notification. To be eligible to receive standby pay, the employee must be assigned to render such service by an authorized City representative.

Standby pay shall not be given when an employee is on vacation, any type of sick leave, compensatory time, or floating holiday that makes him/her unable to respond to a call within a reasonable time, as determined by management.

An employee who is assigned standby duty during a week that includes his/her flex day off shall be paid Standby pay at the weekend/holiday rate if he/she is required to perform standby work prior to the end of the regular workday on his/her flex day off.

Article V - Court Standby: During off-duty status, employees on standby for court appearance resulting from a subpoena relating to work shall be paid \$10/day. If called to court while on off-duty standby, employee will be paid time and one-half rate. Employee will request standby status.

Article VI - Shift Differential: When an employee is required to work a different work schedule than that which is normal to other employees of a particular department, he/she shall receive a premium of 5% of his/her regular hourly rate of pay upon approval of the supervising Department Head and City Manager.

Article VII - Emergency Call Back: The City will provide a minimum of two hours pay for an emergency call back if authorized by the department head or other supervisor, provided that no more than one minimum shall be paid for call backs during any two hour period. Employees not on stand-by that are contacted by telephone for less than one-half (½) hour will receive one-half (½) hour of pay.

Article VIII - Job Related Injury Leave: Any employee represented by the Association who is absent from duty because of an injury sustained in the course of employment with the City, shall receive full compensation for a period of sixty (60) calendar days or three-hundred-forty-seven (347) hours from the date of injury or the term of the employee's absence due to industrial disability, whichever is less. This time must be consecutive and no portion carries over after sixty (60) calendar days from the original date of injury. Notwithstanding the above, employees represented by the Association shall not be entitled to salary continuance for the first three days, or twenty-four (24) work hours, of such industrial disability in accordance with the State of California Labor Code, Section 4650 unless the period of disability is in excess of 14 calendar days. However, employees

represented by the Association may use accumulated vacation, compensatory or sick leave to provide full salary continuance for the first three day period at their option. Temporary disability payments will be supplemented by City salary payments, minus income from other employment of the employee.

Article IX - Group Medical, Dental Vision and Life Insurance: The City shall offer a health insurance plan, including medical, dental, optical, and life insurance coverage for employees represented by the Association. The City shall offer all employees represented by the Association the group health insurance plan provided for by the PERS Health Plan and a vision plan. These plans will cover the medical and vision components whereas Delta Dental will continue to be the provider for the dental coverage with maximum benefits per calendar year of \$2,000 per person for the dental plan.

The City offers a cafeteria plan to employees, based on the following City contribution amount:

Employee Only	\$581.70
Employee + One Dependent	\$1,137.49
Employee + Family	\$1,516.73

The cafeteria amount shall include the cost of the vision plan for employees and their dependents.

Employees are required to enroll in the vision and dental plans. The above cafeteria amount is based on the CalPERS Blue Shield HMO plan, the PPO dental plan, and the vision plan.

Based on the contribution amount as of December 31, 2010, beginning January 1, 2011, the City shall cover up to the first eight percent (8%) increase to the medical and dental premiums, employees shall cover up to the next two percent (2%) increase, and the City and employees shall split, fifty-fifty (50/50), any amount of an increase from ten-point-zero-one percent (10.01%) up to and including a fifteen percent (15%). If the increase is over fifteen percent (15%), the City and Association agree to reopen the contract only on this one item.

The balance of any monthly contributions necessary to maintain the selected plan shall be paid by the employee through payroll deductions from his/her paycheck. Employees enrolled in the employee-only plans can opt out of the health insurance plan as long as the employee can show proof of insurance. The employee must continue in the employee-only dental and vision plans and will receive \$200 per month in ordinary income in lieu of medical insurance coverage. The City's cafeteria contribution towards health insurance is capped as shown above and will not be modified.

In-lieu of the above paragraph, for those employees hired prior to July 1, 2009, who are married and where each employee is employed by the City, and both would normally receive health benefits, they shall receive health insurance coverage as follows:

They must be enrolled in either Employee + 1 or Employee + Family (1 must opt out, and the employee doing so shall receive \$50 per month as opt-out ordinary income)

As part of its insurance program, the City agrees to provide the ten thousand-dollar (\$10,000) group life insurance policy for each full time employee in the Safety Retirement Program, and to provide term life insurance coverage equal to two times the employee's annual base salary up to a maximum of one-hundred thousand dollars (\$100,000) for each full-time employee in the non-safety pension program.

It is expressly understood that every employee must subscribe to one of the plans provided by the City and that benefits will be governed by the policies between the City and the contracting insurance companies. The failure of any insurance carrier to provide any benefit for which it has contracted shall result in no liability to the City or the Association, nor shall such failure be considered a breach by the City or Association of any obligation undertaken under this or any other agreement. However, nothing in this agreement shall be construed to relieve any insurance carrier of any liability to the City, Association, employee, or beneficiary of any employee. The terms of any contract or policy issued by an insurance carrier shall be controlling in all matters pertaining to benefits thereunder. The City will designate representatives who will be available for consultation with employees so that an explanation may be given with respect to the basis for disposition of claims so that claimants may be assisted by the City in receiving all benefits to which they are entitled under the terms and conditions of any contract or policy issued by the carrier.

Article X - Medical Plan for Layoffs: If an employee is laid off from his/her position, the City will pay in full the monthly contribution toward the medical plan for the employee and his/her dependents under the following conditions:

The City shall pay the monthly contribution for a period not greater than 12 months from the date of layoff. The laid-off employee must be receiving unemployment insurance benefits, or submit to the City a monthly statement attesting to his/her continuing unemployment.

If the laid-off employee becomes employed, the City's contribution shall cease immediately and there will be no further contributions made by the City.

Article XI - Medical Plan For Retirees: The City agrees to allow employees who retire from positions represented by the Association to participate in the existing City health plans available to employees represented by the Association. The retiree shall be eligible to enroll dependents as provided for by the plans. Except for the medical coverage, to qualify for this provision, the retiree must have a minimum of ten years of continuous service as a full-time City employee and be eligible for retirement as defined by the City of San Clemente Employees' Retirement Plan or the California Public Employers' Retirement System (CALPERS), whichever is applicable, and be receiving a pension from same. The retired employee shall pay 100% of the premium costs in a timely manner except for the CALPERS mandated employer costs. Failure to pay such costs within thirty (30) calendar days of being billed shall terminate the benefit and all rights under this Article. For purposes of this article, the 30 days begins the day following the date the bill was placed in the US Postal Service by First Class mail. This benefit shall only continue until the employee is eligible for Medicare coverage. Where a conflict exists between this Article and the provisions of the Consolidated Omnibus Reconciliation Act (COBRA), the provisions of COBRA shall apply.

Retirees will be eligible to enroll in the CALPERS Health Plan. The City will follow the eligibility requirements established by the City's pension plan for retired employees that are enrolled in the CALPERS Health Plan. In the event the City is no longer enrolled in the CALPERS Health Plan; the provisions prior to April 1, 1997 shall apply. The City also agrees, as per City policy, that retirees can use their sick leave payoff to pay for health insurance premiums. However, this provision will no longer be in effect if the City were to transfer to the CALPERS retirement plan for general employees.

Article XII - Retirement: The City shall contribute 7% of the required monthly contribution toward employee pension-related contributions on behalf of employees participating in either the Public Employees Retirement System (PERS) or the City of San Clemente Employees' Retirement Plan, whichever is applicable. Employees represented by the Association who participate in the City's non-safety retirement program shall receive annual statements of accrued benefits within ninety (90) calendar days of the close of the plan year.

The City retirement plan for represented employees shall provide a retirement benefit using the "2% at 55" formula for employees participating in the City's retirement program.

Effective as soon as the City can amend its plan, all employees covered by the 2% @ 55 plan and hired on or after that effective date of the amendment shall have their retirement benefit calculated using the average of the highest thirty-six (36) consecutive months (i.e., three-year average).

The City retirement plan for represented employees in the Safety Lifeguard retirement program shall be the PERS plan for the "3% at age 55" Modified Retirement Benefit Program (Government Code Section 21363.1). The City will pay all "employer" related payroll costs associated with that benefit. The City will continue to pay 7% of the employee contribution to the system on the employee's behalf.

General Employees

Effective January 2, 2012, all represented employees in the City's general pension plan shall contribute 0.8% of base pay towards the required employee contribution for retirement costs.

The City will continue to pay 6.2% of the required employee contribution to the system on the employees' behalf.

Safety Employees

Effective January 2, 2012, all represented employees in the PERS Safety plan shall contribute an additional 0.8%, for a total of 2.8%, of base pay towards the required employee contribution for retirement costs.

The City will continue to pay 6.2% of the required employee contribution to the system on the employees' behalf.

Article XIII - Section 125 Flexible Spending Account: The City agrees to offer employees represented by the Association the opportunity to participate in a Section 125 Flexible Spending Account Program.

This agreement is contingent upon the continued availability of such programs under Internal Revenue Service regulations, the maintenance of a minimum number or required ratio of participants required by the plan administrator and/or law, and continued employee interest in such programs. The City shall contract with an administrator or administrators, as deemed necessary by the City, to establish, monitor, and administer the programs according to regulatory requirements. The choice of administrators remains solely with the City. Participant requirements and responsibilities under this program will be as dictated by law or by the specific agreement(s) with any and all providers of services in relation to the program.

Article XIV - Bereavement Leave:

Employees represented by the Association shall be entitled to up to five (5) work days with pay, to a maximum of forty (40) hours per incident to attend the funeral of a member of the employee's immediate family or step family.

For purposes of this article only, immediate family or step family shall include grandmother, grandfather, mother, father, brother, sister, spouse, child, registered domestic partner, grandchild, father-in-law, and mother-in-law.

Up to nine (9) hours of leave with pay may be granted on the basis of blood relationship or marriage. For purposes of this article only, "blood relationship or marriage" means aunt, uncle, cousin, brother-in-law, sister-in-law, niece, and nephew.

Bereavement for other types of relationships may be approved by the City Manager on a case-by-case basis.

Article XV - Short Term Disability Insurance: Employees represented by the Association will be enrolled in a Short Term Disability Insurance Program. The premium for the insurance shall be paid by the City up to a maximum of \$853.00 per employee per year. (As of July 1, 2006 employees are currently covered under State Disability Insurance.)

Employees represented by the Association shall be entitled to combine accumulated sick leave, vacation leave and compensatory time with short term disability payments for the purpose of achieving the equivalent of their pre-disability salary to the extent allowed by law during any period of non-industrial disability. Under no circumstances shall the combination of sick leave, vacation leave, compensatory time and short term payments exceed the employee's pre-disability salary.

Article XVI - Long Term Disability Insurance: The City agrees to contribute the full premium toward each dues-paying Association member's premium for long term disability coverage. In order to receive this benefit, the member must be a current full-time City employee. The maximum rate or "cap" that the City will contribute for this benefit for the term of this Agreement shall be

.690% of insured earnings and no further increases in City contribution will take effect unless otherwise agreed to between the City and the Association. It is agreed that the extent of the City's obligation under this article is limited solely to the payment of the cost of the insurance program provided thereunder and employees, dependents, and beneficiaries shall be entitled to benefits, if any, only in accordance with and governed by the terms and conditions of the insurance policies contracted for by the Association and issued to provide such benefits. Neither the City nor the Association shall be obligated to pay any insurance benefits provide for under such policy directly to employees of their dependents or beneficiaries.

Article XVII - Tool Maintenance: The City will provide a tool repair and maintenance allowance for the position of Golf Course Equipment Mechanic of five hundred dollars (\$500) annually. The payments shall be made through the last payroll of each quarter (in September, December, March, and June) in the amount of one hundred twenty-five dollars (\$125) each quarter.

Article XVIII - Provision of Uniforms/Uniform Allowance/Footwear: The City shall provide initial and replacement uniforms for employees in the classifications of Marine Safety Lieutenant, Marine Safety Senior Lifeguard Supervisor, and Animal Services Officer. The provision of uniforms is to be made using the most appropriate method as determined by management. Employees shall be responsible for proper care and maintenance of uniforms. No replacement of a uniform or any part thereof will be made unless the employee returns a similar uniform article to his/her supervisor. The maximum value of uniforms provided each employee during a fiscal year shall be two hundred forty dollars (\$240).

Work Boots: Each fiscal year the City shall provide a yearly work boot allowance of \$150 to employees assigned on a full time basis to sewer, water, facility maintenance, street maintenance, street painting, golf maintenance, park maintenance and recreation maintenance, building and construction inspectors, electrical maintenance, park planning, plans examiners, code compliance officers, water quality inspectors, the Environmental Services Coordinator, and animal services officers upon proof of purchase. In lieu of the \$150 boot allowance, the City will provide \$200 per year for steel toed safety boots when the division head in cooperation with the department head have determined that employee(s) in that division must wear steel toed boots for safety reasons.

Footwear: In lieu of work boots, employees in the following work areas may elect to purchase low-cut footwear that meets the necessary federal, state, and/or local safety requirements: water lab, park planning, plans examiners, code compliance officers, water quality inspectors, and environmental services.

Employees who feel that their work assignment requires them to have a second pair of work boots, where the cost of the second pair would exceed the maximum boot allowance, can request a second pair from their respective managers, who may authorize the additional pair of work boots to be fully paid at City expense. In approving the cost of the second pair of boots, consideration will be given to health and hygiene issues including, but not limited to the permeation of waste bi-products or elements into the boot material.

Article XIX - Medical Examinations: The City shall provide a biennial medical examination for full-time safety members of the Marine Safety Division.

Article XX - Distribution of Paychecks: The City agrees that paycheck notification shall be by email, with a copy of the payroll “stub” being attached to the bi-weekly notification.

Article XXI - Vacation and Sick Leave Accrual: All general employees represented by the SCCEA receive vacation according to the following schedule:

<u>Years of Service</u>	<u>Annual Leave</u>	<u>Monthly Accrual</u>
0-4 Years	13 working days (104 hours)	8.66 hours (full month)
5-9 Years	15 working days (120 hours)	10.0 hours (full month)
10-15 Years	20 working days (160 hours)	13.33 hours (full month)
16-20 Years*	20.5 working days (164 hours)	13.66 hours (full month)
20-25 Years*	21 working days (168 hours)	14.0 hours (full month)
25 Years and up*	22 working days (176 hours)	14.66 hours (full month)

*Must be continuous service (i.e., no break in service) to be eligible for the benefit.

During the term of this agreement, the City agrees that once each year in December, each employee will have the option of cashing in up to four (4) days of vacation leave (not to exceed 32 hours). To qualify, the employee must have a minimum of 100 hours of accrued vacation leave available after the vacation leave is paid.

Sick Leave

Employees shall receive sick leave at the rate of eight (8) hours per month, prorated for partial months of service.

Employees hired after January 1, 2001 will no longer be eligible for the sick leave pay-off.

Article XXII - Holidays: The employee can use floating holidays provided by City rules, in one hour increments, except for the golf employees who can use floating holidays in one-half (½) hour increments.

Employees that are required to work on a holiday will receive time and one-half (1½) in addition to receiving an additional day off which will be taken during the pay-period immediately preceding, the same pay-period, or the pay-period immediately following the holiday. The City agrees that the holiday observed the day after Thanksgiving will instead be observed on Veteran’s Day, if this holiday (the Friday after Thanksgiving) falls on a dark Friday. The only exception will be for

employees that work in the Golf Division and the Coastal Animal Services Authority (CASA). The eleven (11) eight (8) hour recognized paid City Holidays (not including the floating holiday) are:

New Year's Day – January 1
Martin Luther King's Birthday (observed) – 3rd Monday in January
Washington's Birthday (observed) – 3rd Monday in February
Memorial Day
Independence Day – July 4
Labor Day
Thanksgiving
Day after Thanksgiving
Christmas Day
Day before or after Christmas Day
New Year's Eve Day

Article XXIII - Work Schedules: The City has a 9/80 work program which results in City Hall being closed for one day every other week. All employees are assigned to that program with the exception of those who are in a job classification which require that services be rendered even when City Hall is closed. In that event, those employees remain on a 40-hour/5-day work cycle unless an alternative work schedule is submitted to and approved by the Department Head and City Manager. The City and Association agree that the decision regarding configuration of employee work schedules is solely vested with and totally discretionary by the Department Heads in accordance with the City personnel rules and regulations.

Article XXIV - Lunch Break: The standard lunch period will be thirty (30) minutes. A sixty (60) minute lunch period will be the exception and must be approved by the Department Head. Paid rest breaks may not be used to augment or replace lunch periods.

Article XXV - Jury Duty: Employees shall be entitled to leave without loss of pay for any time he/she is required to perform jury duty. Such pay shall not be offset by jury duty fees or allowances paid to the employee, provided that the employee submits to the City a daily verification of his/her jury duty participation.

Article XXVI – Bilingual Pay Employees selected and approved by management to provide bilingual services shall receive twenty dollars (\$20) per pay-period, full pay-periods only.

A minimum of three (3) employees are eligible for this pay, as long as they are approved by management.

Article XXVII - ICMA Loan Program: The City agrees that employees enrolled in the ICMA 457 Deferred Compensation Program can participate in ICMA's loan program.

Article XXVIII – Fair Labor Standards Act: If any of the provisions of this Memorandum of Understanding, the Personnel Rules, or any other terms or conditions of employment are inconsistent with the Fair Labor Standards Act, as it may apply to the City and its employees, the

City and the Association agree to meet and confer in good faith pursuant to all rights and procedures established in City Resolution No. 56-70 and/or any amendment thereto, and Government Code Section 3500, et.seq., as to all impacted terms of this agreement. Nothing herein shall preclude the City from necessary actions to comply with the Fair Labor Standards Act.

Article XXIX - Work Furlough: The City and Association agree to the use of unpaid furlough days between Christmas and New Year's Day aside from approved holidays. The City will adjust the holiday schedule in order to have the least impact on the number of employee furlough days. At the employee's option, the employee may use vacation leave, the floating holiday, or compensatory time to be paid on the furlough days. Employees that are required to work the furlough will take the furlough days off during the pay-period immediately preceding, the same pay-period, or the pay-period immediately following the holiday.

Article XXX - Certificates: The City will pay the costs of testing and costs for the certificate, provided the employee successfully passes the appropriate tests, for an employee to obtain a certificate, including the class "A" or class "B" drivers license, that is required as part of his/her job.

The City and Association agree to meet during the term of this one-year agreement to discuss those classifications and/or positions that require a Class A driver's license and to discuss potential compensation based on that requirement.

Article XXXI - Association Membership:

- A. Requests from employees represented by the Association to withdraw from Association membership and discontinue dues deductions to the Association shall be required to be submitted, in writing, to the President of the Association for processing through the Accounting Division. The Association agrees to process such withdrawal notices within a five (5) working day period. The Association shall indemnify the City and any department of the City and hold it harmless against any and all claims, demands and suits or other forms of liability that may arise out of, or by reason of, the action taken by the City or any department of the City for the purpose of complying with the provisions of this Article.

- B. The City agrees to include a one-page Association "Information Sheet" in the orientation packet for newly hired employees in positions represented by the Association. The City and the Association agree that the purpose of the "Information Sheet" is to familiarize new employees with the operations and benefits of the Association. All information contained on the "Information Sheet" shall be approved by the City Manager prior to implementation of this Article. Any subsequent changes in content or design of the "Information Sheet" shall be required to receive subsequent City Manager approval. All costs associated with preparing the "Information Sheet" shall be borne by the Association. The Association agrees to indemnify and hold the City harmless for any disputes between employees represented by the Association and the Association arising out of information contained in the "Information Sheet".

- C. Once annually, within thirty (30) days of written request from the Association, the City agrees to provide the Association with a listing of the names and addresses of employees in classifications represented by the Association. Names and addresses provided will reflect the most current data on file with the Human Resources Office as of the date the list is prepared. Prior to the preparation of the list each year, the Human Resources Office shall distribute a memo to each employee in a classification represented by the Association stating that the employee may request, in writing, that the Human Resources Office not provide their address to the Association. Receipt of such written request shall preclude the Human Resources Office from providing the employee's address to the Association until such time as the employee rescinds the request in writing.
- D. As requested, the City shall provide the Association President with a notification of scheduled employee performance evaluations and merit increase due dates for employees in positions who are represented by the Association. If requested by the Association, the Human Resources Manager will meet with the President of the Association to address concerns regarding performance evaluations/merit increases which have not been completed on or before the anniversary date. If Human Resources Manager and the Association President are unable to resolve the matter, the Association may meet with the City Manager to discuss the matter.
- E. The City will provide one copy of the approved City Budget and Comprehensive Financial Report to the Association without cost.

Article XXXII - Management Rights/Conclusion: It is hereby understood that the meet and confer process for all purposes has been completed for the term of this Memorandum of Understanding as signed by the parties and ratified by the City Council, and that any terms not specifically included within this Memorandum of Understanding are management prerogatives of the City; provided, however, that is expressly understood that nothing in this article shall apply to contracting out. The Association and City agree to meet and confer as to any aspects of contracting out during the term of this agreement, upon the request of either party, to the extent such are within the scope of representation.

Except as expressly provided herein, each of the parties hereto agrees that it has had a full, unrestricted right to make, advance, and discuss all matters properly within the scope of meet and confer in accordance with state law and local ordinances and regulations. During the term of this Memorandum of Understanding, the parties expressly waive and relinquish the right to meet and confer as provided by state law and local ordinances and regulations and agreed that they shall not be obligated to meet and confer except by their mutual consent with respect to any subject or matter, whether referred to or covered by this Memorandum of Understanding or not, even though such 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 conferred or executed this Memorandum of Understanding, and even though subjects or matters were proposed and later withdrawn. The parties further understand and agree that this Memorandum of Understanding constitutes the sole

agreement between the City and the Association in regard to matters of wages, hours, and other terms and conditions of employment.

Article XXXIII - Severability: In the event that any provision of this Memorandum of Understanding is declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of the Memorandum of Understanding shall be null and void, but such nullification shall not affect any other provision of the Memorandum of Understanding, all of which other provisions shall remain in full force and effect.

Article XXXIV - Disciplinary Hearings: In the event that disciplinary action imposed by the City upon an employee represented by the Association involves a suspension, demotion, or discharge, the Association may request that the matter be submitted to an advisory hearing officer by notifying the City of this request in writing within five (5) calendar days after receiving notice of the disciplinary action. Upon receipt of such notification, the City shall request from an independent third party a list of seven (7) hearing officers experienced in deciding public employee disciplinary matters. A hearing officer shall be selected by the City and the Association on behalf of the employee by alternate striking until one name remains, with the first strike to be determined by lot. All costs and expenses of the advisory hearing officer shall be borne equally by the parties (i.e., the City and the Association). After receiving and considering evidence in accordance with the rules and regulations of the City related to discipline, the hearing officer shall render a recommended decision, including findings of fact, to the City Manager who may then adopt the decision in its entirety, reduce the proposed penalty or decide the case upon the record.

Nothing in this article shall prevent the two parties from mutually agreeing to the advisory hearing officer, without going through any type of strike list.

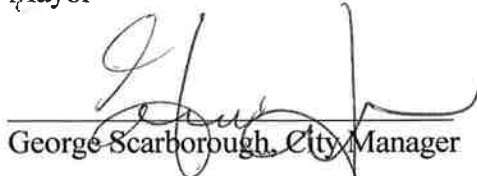
Article XXXV – Adoption: This Memorandum of Understanding shall commence upon adoption by the City Council and shall remain in effect through June 30, 2011. This Memorandum of Understanding shall be implemented by appropriate action of the City Council.

Executed this 7th day of December, 2011.

City of San Clemente



Mayor



George Scarborough, City Manager



Pall Gudgeirsson, Assistant City Manager/City Treasurer

San Clemente City Employees' Association



Mark Chavez, President



Matt Squires, Vice President



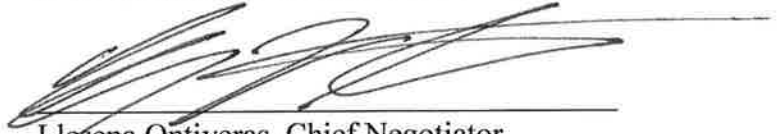
Dan Lowrie, Negotiations Team Member



Sam Penrod, HR Manager



Dan Dyer, Negotiations Team Member



Lesena Ontiveras, Chief Negotiator



Frank Flavin, Negotiator