

**SECOND SIDE LETTER OF AGREEMENT**  
**TO THE 2014-17 MEMORANDUM OF UNDERSTANDING**  
**BETWEEN THE CITY OF NEWPORT BEACH**  
**AND THE NEWPORT BEACH POLICE ASSOCIATION**  
**REGARDING FURTHER AMENDMENTS CLARIFYING MOTOR OFFICER AND**  
**CANINE OFFICER COMPENSATION PROVISIONS**

This Second Side Letter of Agreement ("Second Side Letter") between the City of Newport Beach ("City") and the Newport Beach Police Association ("NBPA") is entered into with respect to the following:

**RECITALS**

- A. On or about August 9, 2005, then Newport Beach Police Department Police Chief Bob McDonell, at the request of the Canine Officers, reviewed the amount of compensation to be paid to Canine Officers based upon the amount of off-duty time being spent by Canine Officers in handling, training, and boarding their canines. At the time of Chief McDonell's review, the amount being paid to Canine Officers was six (6) hours a month paid at time and a half (effectively nine hours of compensation) and the Canine Officers were asking for an increase in the amount of such monthly compensation. As a result of his review, Chief McDonell determined that Canine Officers should be compensated ten (10) hours a month paid at time and a half (effectively fifteen hours of compensation) with such fifteen hours being a reasonable amount of off-duty time to compensate Canine Officers for handling, training, and boarding their canines each month while off-duty. Payments to Canine Officers for off-duty canine activities after Chief McDonell's review became ten (10) hours a month paid at time and a half.
- B. On or about July 15, 2014, the City and NBPA entered into a Memorandum of Understanding ("MOU") regarding wages, benefits, and other terms and conditions of employment for employees represented by NBPA, for the period July 1, 2014 through June 30, 2017.
- C. On or about August 1, 2016, the City and NBPA entered into that certain "Side Letter to the 2014-17 Memorandum of Understanding Between the City of Newport Beach and the Newport Beach Police Association Clarifying Canine and Motor Officer Pay Provisions" ("First Side Letter") to clarify the City's existing practice for compensating City employees in NBPA for Motor Officer Pay and Canine Pay to comply with the applicable California Public Employee Retirement System ("PERS") regulations and modify the MOU's terms regarding such premium pay in recognition of, respectively, patrolling the City on a motorcycle and maintaining and servicing the motorcycle (Motor Officer Pay) and handling, training, and boarding canines (Canine Pay).
- D. As part of the efforts in clarifying the MOU to comply with the PERS regulations via the First Side Letter, it was discovered that there was conflict between (1) the terms of the MOU and the First Side Letter regarding the amount of Canine Pay

(six hours a month at time and a half, effectively nine hours of compensation) and (2) the amount determined by Chief McDonell in 2005 at the request of the Canine Officers (ten hours a month at time and a half, effectively fifteen hours of compensation) and actually paid to Canine Officers at all times thereafter.

- E. The purpose of this Second Side Letter is to further amend and clarify the MOU regarding compensation to Motor Officers and to Canine Officers under the terms and conditions herein. Among other things, the parties hereto intend for this Second Side Letter to: (1) clarify and amend the MOU to state that Canine Officers are to receive compensation of fifteen hours a month at two-thirds of their regular hourly rate of pay at time and a half (effectively fifteen hours of compensation) for off-duty canine responsibilities; (2) ratify payments to Canine Officers since Chief McDonell's review in 2005 and determination of ten hours a month at time and a half (effectively fifteen hours of compensation) notwithstanding any inconsistencies in the terms of the MOU and the First Side Letter; (3) make the provisions of this Second Side Letter regarding payments to Canine Officers since Chief McDonell's review in 2005 and determination of ten hours a month at time and a half (effectively fifteen hours of compensation) retroactive to cover all such ratified payments; and (4) memorialize the understanding and agreement of the parties hereto that the terms and conditions herein result in capturing complete and accurate payment of all Canine Pay since Chief McDonell's review in 2005.

#### **TERMS AND CONDITIONS**

1. All of the foregoing Recitals are true and correct and are incorporated herein as part of the Second Side Letter for all purposes.
2. Subsection (J) of section 2, Compensation, of the MOU, as amended by the First Side Letter, is hereby deleted in its entirety and amended to read:

##### **J. Motor Officer**

1. FLSA Standard

Employees assigned to work as Motor Officers that routinely and consistently patrol the City on a motorcycle and maintaining and servicing their motorcycle are entitled to compensation for such off-duty activities. The parties acknowledge that the Fair Labor Standards Act (FLSA), which governs the entitlement to compensation for off-duty motorcycle duties, entitles the parties to agree to a reasonable number of hours per month for the performance of such duties. The FLSA also allows the parties hereto to agree on appropriate compensation for the performance of such off-duty motorcycle duties. It is the intent of the parties through the provisions of this Subsection (J) to fully comply with

the requirements of the FLSA and that such provisions do comply with the FLSA.

2. Motorcycle Premium Pay

Employees assigned to work as Motor Officers shall receive an additional six (6) hours of straight time compensation per month, paid at one and one-half (1.5) times their regular hourly rate of pay. This pay is in recognition of the routine and consistent responsibility for patrolling the City on a motorcycle and for maintaining and servicing the motorcycle. Pursuant to PERS regulations and limitations, the City shall report Motor Officer premium pay as special compensation, and therefore compensation earnable, pursuant to Title 2 of the California Code of Regulations, Section 571(a)(5) and Government Code Section 20636.

3. Motorcycle Reimbursement

Employees assigned to work as Motor Officers who are required to perform extraordinary off-duty motorcycle care (in rare instances) which causes a substantial increase in the normal off-duty hours worked for that month, shall submit a written request to the Police Chief or the Chief's assigned designee for additional compensation for the hours spent performing such work. Pursuant to PERS regulations and limitations, the City will not report compensation to perform extraordinary off-duty motorcycle care as special compensation, and therefore not compensation earnable, pursuant to Title 2 of the California Code of Regulations, Section 571 and Government Code Section 20636.

3. Subsection (K) of section 2, Compensation, of the MOU, as amended by the First Side Letter, is hereby deleted in its entirety and amended to read:

K. Canine Officer

1. FLSA Standard

Employees assigned to work as Canine Officers that routinely and consistently handle, train, and board the canines are entitled to compensation for such off-duty activities. The parties acknowledge that the Fair Labor Standards Act (FLSA), which governs the entitlement to compensation for off-duty canine duties, entitles the parties to agree to a reasonable number of hours per month for the performance of such duties. The FLSA also allows the parties hereto to agree on appropriate compensation for the performance of such off-duty canine duties. It is the intent of the parties through the provisions of this Subsection (K) to fully

comply with the requirements of the FLSA and that such provisions do comply with the FLSA.

2. Canine Premium Pay

Employees assigned to work as Canine Officers shall receive compensation of fifteen (15) hours a month at two-thirds (2/3) of their regular hourly rate of pay at time and a half for canine duties. This pay is in recognition of the routine and consistent responsibility for handling, training, and boarding the canines. Pursuant to PERS regulations and limitations, the City shall report Canine Officer premium pay as special compensation, and therefore compensation earnable, pursuant to Title 2 of the California Code of Regulations, Section 571(a)(5) and Government Code Section 20636.

3. Canine Reimbursement

Employees assigned to work as Canine Officers who are required to perform extraordinary off-duty canine care, such as a veterinary emergency or other rare occurrence, which causes a substantial increase in the normal off-duty hours worked for that month, shall submit a written request to the Police Chief or the Chief's assigned designee for additional compensation for the hours spent performing such work. Pursuant to PERS regulations and limitations, the City will not report compensation to perform extraordinary off-duty canine care as special compensation, and therefore not compensation earnable, pursuant to Title 2 of the California Code of Regulations, Section 571 and Government Code Section 20636.

4. The parties hereto hereby agree and acknowledge that payments to Canine Officers since Chief McDonell's review in 2005 of ten hours a month at time and a half (effectively fifteen hours of compensation) are hereby ratified notwithstanding any inconsistencies in the terms of the MOU.
5. Subsection (K)(2) of the MOU, as amended by this Second Side Letter, regarding Canine Premium Pay shall apply retroactively to all payments to Canine Officers ratified in section 4 of this Second Side Letter. The parties agree and acknowledge that this retroactivity provision, in conjunction with the ratification of all such payments in section 4 hereof, results in capturing the complete and accurate accounting of all payments of Canine Pay since Chief McDonell's review in 2005 and determination, in response to the request of the Canine Officers, that such amount should be ten hours a month at time and a half (effectively fifteen hours of compensation). The parties agree that Chief McDonell's determination constitutes a reasonable number of hours per month for

the performance of off-duty canine duties for all periods covered by this Second Side Letter.

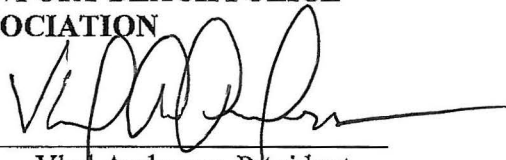
6. The understanding reached in this Second Side Letter will continue through the term of the MOU. It is further understood that this Second Side Letter is not for the purpose of increasing or decreasing a benefit or changing a practice, but to further clarify the MOU regarding compensation to Motor Officers and to Canine Officers under the terms and conditions herein. All other provisions of the current MOU, existing policy, applicable Police Department Standard Operating Procedure or related practices, shall remain unchanged.

Executed this 22ND day of DECEMBER, 2016.

**CITY OF NEWPORT BEACH**

By:   
Dave Kiff, City Manager

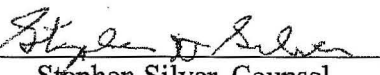
**NEWPORT BEACH POLICE  
ASSOCIATION**

By:   
Vlad Anderson, President

**APPROVED AS TO FORM:**

By:   
Aaron C. Harp, City Attorney

**APPROVED AS TO FORM:**

By:   
Stephen Silver, Counsel

**ATTEST:**

By:   
Leilani I. Brown, City Clerk

