

MEMORANDUM OF UNDERSTANDING

JULY 1, 2009- JUNE 30, 2010

BETWEEN

CITY OF SAN JUAN CAPISTRANO

AND

**SAN JUAN CAPISTRANO MANAGEMENT AND PROFESSIONAL
EMPLOYEES ASSOCIATION**

TABLE OF CONTENTS

PAGE NO.

Agreement	1
Recognition	1
I. Salary	1
Furlough	1
II. Pay Plan Structure	1
III. Management Flextime	2
IV. Emergency Work Pay	3
V. Bilingual Pay	3
VI. Work Boot Reimbursement	3
VII. Deferred Compensation Program	3
VIII. Mileage Reimbursement	4
IX. Auto Allowance	4
X. Ride Share Program	4
XI. Tuition Reimbursement Program	4
XII. Vacation	4
XIII. Sick Leave	6
XIV. Bereavement Leave	8
XV. School Activity Leave	9
XVI. Jury Duty Leave	9
XVII. Donation of Blood	9
XVIII. Family Care Leave	10
XIX. On-the-Job Injury Leave	11
XX. Compensation for Job Connected Illness or Injury	12
XXI. Non-Work Related Disability Leave	12
XXII. Military Leave	12
XXIII. Leave of Absence Without Pay	12
XXIV. Administrative Leave	12
XXV. Unauthorized Absence	13
XXVI. Holidays	13
XXVII. Floating Holiday	14
XXVIII. Medical, Vision, Dental Insurance and Cobra	14
XXIX. IRS Code Section 125 Plan	15
XXX. Retired Employee Health Care	15
XXXI. Life Insurance	15
XXXII. CalPERS Long Term Care	15
XXXIII. Pre-Paid Legal Services	15
XXXIV. College Savings Program (529 Plan)	15
XXXV. Retiring Employee Recognition Program	16
XXXVI. Retirement Plan	16
XXXVII. 401(a) Program	16
XXXVIII. Short/Long Term Disability Insurance	16
XXXIX. Acting Status	16
XL. Reclassification of Position	16
XLI. Promotions, Transfers and Voluntary Demotions	17
XLII. Layoffs and Re-Employment	19
XLIII. Grievance Procedure	21

XLIV. Fair Employment Practice	24
XLV. Non-Discrimination Policy	24
XLVI. Continuation of Benefits	25
XLVII. Separability	25

AGREEMENT

This agreement is entered into by the parties on behalf of the City of San Juan Capistrano, hereinafter known as "the City," and the San Juan Capistrano Management and Professional Employees Association, hereinafter known as "the Management Association," in accordance with the provisions of Section 3500-3510 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act, and the Employer-Employee Relations Resolution of the City of San Juan Capistrano for the period of time commencing July 1, 2009, through June 30, 2010. This Agreement has a provision for mutual agreement with the City to extend for one additional year with the opportunity to roll over to 2nd year term. All provisions of this agreement are effective upon adoption of this agreement by the City Council unless otherwise specified.

RECOGNITION

The City recognizes the Management Association as the "recognized employee organization" for all employees within the unit of representation, consisting of regular full-time employees in the following classifications:

Accounting Manager	Principal Planner
Assistant Administrative Services Director	Public Works Manager
Assistant Community Development Director	Senior Civil Engineer
Assistant Public Works Director	Senior Civil Engineer – Environmental Services
Assistant Utilities Director	Senior Engineer
Building and Code Enforcement Manager	Senior Financial Analyst
Community Services Manager	Senior Management Analyst
Economic Development/Redevelopment Manager	Senior Planner
Historic Preservation Manager	Systems Business Analyst
Human Resources Manager	Utilities Engineer
Management Analyst	

I. SALARY

The City does not propose any increase in salary during the term of this Agreement.

FURLOUGH: Due to financial reasons, a work furlough for up to 46 hours may be implemented in December. Notice regarding such furlough shall be provided to the Management Association at least 60 days in advance of the effective date.

II. PAY PLAN STRUCTURE

The basic pay range of all classifications shall consist of a Basic Compensation Schedule of hourly, bi-weekly and monthly rates. There shall be a five-percentage difference between each step in a five-step range.

A. Pay Increases

On each anniversary date an employee shall be eligible for a one step (5%) adjustment until the maximum pay rate of the assigned class is reached. The adjustment shall be implemented upon recommendation by the department head and approval by the Personnel Officer. Pay adjustments delayed because of unsatisfactory performance, but granted after the anniversary date, shall affect the anniversary date and date the next pay increase will be considered.

B. Pay Adjustment Upon Promotion

Upon promotion, an employee is entitled to advance to the step of the new range that is at least 5% higher than the previously assigned rate.

C. Pay Adjustment Upon Demotion

When an employee is voluntarily demoted, a mutually agreed-upon pay step in the new range shall be assigned. When an employee is demoted as a result of disciplinary action, the appointing authority imposing the discipline shall set the step.

D. Pay Adjustment Upon Re-employment

Upon re-employment, an employee shall be assigned the same step in the salary range that had been attained prior to layoff. Benefit accruals shall be equal to the benefit level the employee attained prior to layoff, except as precluded by applicable law.

E. Special Merit Pay

A pay adjustment of up to 5% may be granted in advance of an employee's anniversary date in recognition of exceptional performance. The adjustment shall be made in rare cases and shall be recommended by the responsible department head and approved by the Personnel Officer, and must be accompanied by a current employee evaluation and memorandum supporting the request. Merit increases shall have no effect upon the anniversary date at which a regular step increase may be considered.

III. MANAGEMENT FLEXTIME

Management personnel may flex their schedule as needed during the pay period to allow for required attendance at extraordinary events or meetings or unscheduled or emergency situations. This option allows the management employee to operate with professional flexibility. Use of flextime will require prior approval by the Department

Head. Although management employees have the ability to flex their schedules, this does not include telecommuting in lieu of coming into the workplace.

IV. EMERGENCY WORKER PAY

The City agrees to meet and confer to create specific and legal language to be used, which would allow "exempt" employees to be eligible to be compensated for actual overtime hours worked as official emergency workers, in the event that a disaster or a state of emergency is declared by the City, county, state, or federal government.

V. BILINGUAL PAY

Qualified management employees who meet the following criteria shall receive a monthly stipend in recognition of their ability:

1. Employee must be assigned by the City Manager or his/her designee to speak and/or translate written material in a language in addition to English. This includes such specialized communication skills as sign language.
2. Employees must, as needed, speak and/or translate a second language.
3. Employees able to communicate and/or translate verbal information shall receive an additional \$85 per month.
4. Employees able to translate verbal and written information shall receive an additional \$125 per month. Employees assigned to translate written information will be required to be certified as qualified by the City.

The City, at its discretion, may reassign an employee from a bilingual assignment to a position that does not require bilingual certification. An employee in a bilingual assignment may request assignment to a position that does not require bilingual certification. The request shall be made in writing to the City Manager, who will consider it according to City needs and availability of a qualified replacement.

VI. WORK BOOT REIMBURSEMENT

The City will provide a work boot reimbursement up to \$160 per pair of work boots for all field positions in the unit of representation. Reimbursement shall be provided for up to two pairs of work boots per year.

VII. DEFERRED COMPENSATION PROGRAM

City employees may elect to have a portion of their salary withheld. The deferred amount is tax free until actually received and is invested in the meantime. As

prescribed by applicable laws or plan provisions, funds may be withdrawn upon resignation, retirement or to a beneficiary upon death. Additionally, any employee participating in a deferred compensation program will receive a match by the City of up to 1.0% of salary, not to exceed the employee's contribution.

VIII. MILEAGE REIMBURSEMENT

Management employees shall receive mileage reimbursement in accordance with IRS standards.

IX. AUTO ALLOWANCE

Management employees shall receive a monthly automobile allowance of \$60.00.

X. RIDE SHARE PROGRAM

Employees who carpool, walk, bike, take the bus or the train at least twice per week shall, at the end of the fiscal year, be eligible for nine (9) hours of additional floating holiday time in the next fiscal year.

XI. TUITION REIMBURSEMENT PROGRAM

The Management and Professional Employees are hereby made eligible for the City's Tuition Reimbursement program. The annual benefit shall be equal to full time tuition at a California State University for a degree from an accredited college or university or certificate program; there is no maximum benefit during employment. There is no limit on the cost of each degree.

The City will provide up to \$20,000 annually for all City employees to participate and carryover any remainder to the next fiscal year up to a total pool amount of \$35,000. If annual requests exceed amount available, amounts would be pro-rated based on requests.

Program details are identified in Administrative Policy No. 214, Employee Tuition Reimbursement Program.

XII. VACATION

A. Vacation Accrual

Management employees shall accrue vacation hours based on the following schedule:

<u>Length of Service</u>	<u>Annual Hours Accrued</u>
0 - 3 years	80
4 - 7 years	132
8 - 10 years	148

11 – 19 years
20 or more years

164
172

Accrual at the next highest incremental rate shall commence on the first day of the fourth, eighth, eleventh and twentieth year of employment, respectively.

The maximum amount of vacation time, which may be accrued by management employees and used, for time-off shall be 300 hours; the employee shall forfeit any accumulation of hours above 300. The maximum amount of vacation time, which will be compensated for in cash upon separation from City, shall be 300 hours. It shall be the responsibility of the employee and the Department Head to assure that employees utilize credited vacation leave within the limitations set forth herein.

Bargaining unit employees who have reached the maximum accrual of 300 hours shall have the right to "cash out" up to 40 hours of vacation per year if they have used at least two weeks of vacation within the previous 12 months, and obtain approval from their Department Head. Requests to "cash out" vacation based on the criteria stated above may be submitted when a bargaining unit employee reaches 280 hours. The hours will be paid out to the employee during the pay period when the employee reaches the 300 hour limit to avoid the loss of any accrual due to the limit being reached.

B. Vacation Usage

Total vacation allowance shall be based upon the number of months of City service computed to the nearest half month. It shall be the responsibility of the employee and Department Head to assure utilization of credited vacation leave within the limitations set forth herein.

The time during the calendar year at which an employee may take vacation leave shall be determined by the Department Head but with due wish of the employee and particular regard for the needs of the City. Eligible employees shall accrue vacation beginning with the date of hire but may not utilize such during the first six months of employment. Any employee wishing to schedule vacation in excess of 10 working days must receive the approval of the Personnel Officer at least 30 days prior to the vacation time. The employee will receive a response within 14 days of submittal. Vacation time or any leave time requiring any combination of vacation, administrative leave, comp time, or holiday pay in excess of 10 consecutive working days shall be granted only in cases where special non-recurring conditions are present and will be based on the City's ability to provide adequate service coverage during the employee's absence.

C. Vacation Benefits for Terminating Employees

In the event of termination of employment, the employee shall be paid for any accrued vacation leave and compensation time, which has accrued within the limits

specified above.

D. Holidays Occurring During Vacation

When one or more legal municipal holidays fall within a vacation leave, such day or days shall not be charged as the vacation leave. Under these circumstances, an employee's vacation leave shall be extended accordingly for those employees eligible for such holidays.

XIII. SICK LEAVE

Sick leave shall mean the time during which an employee is permitted to be absent from the duties of City service by reason of sickness or injury which incapacitates or prevents the employee from performing assigned duties, without any deduction being made from salary or compensation, and shall include, in certain cases, serious illness or death of a member of the employee's immediate family.

It will be the responsibility of the Department Head to periodically review the use of sick leave in the department. Use of sick leave may be used as a factor in determining employee performance for employee evaluations. The legitimate use of sick leave, which qualifies under the FMLA, shall not be used as a factor in determining employee performance for evaluations.

A. Sick Leave Allowance

All permanent full-time employees shall be entitled to eight (8) hours sick leave for each calendar month of service. There shall be no limit on the amount of sick leave, which may be accumulated.

B. When Sick Leave May Be Taken

Sick leave may not be used until it is earned and shall be taken only in case of actual and necessary sickness or disability of the employee. Eligible employees may utilize a maximum of ninety-six (96) hours of accumulated sick leave with pay in the event of 1) the employee's presence is required elsewhere because of family medical and dental appointments, serious illness, injury, disability or death of a member of the employee's immediate family; 2) official order to appear in court as a litigant or as a witness; and 3) personal necessity as defined and limited below.

Personal necessity leave can be used by an employee at a rate of 24 hours per year for absences other than illness or disability and the absences shall be deducted from accumulated sick leave. Sick leave or personal necessity leave is not intended for taking care of personal business, which could be taken care of at another time.

Personal necessity is considered to be:

- i. A personal matter that requires your attention which cannot be taken care of except during the normal working hours; or
- ii. A matter that requires your attention, such as a hot water heater flooding your home, fire or robbery.

The nature of the personal necessity need not be disclosed in writing on the Absence Request Form, but it shall be discussed with the employee's Supervisor, Department Head, and the Personnel Officer or his designee. All parties involved shall treat this information confidentially.

Sick leave shall not be used in lieu of or in addition to vacation for the intent of extending vacation. When an employee is compelled to be absent from employment by reason of injury arising from and in the course of City employment as determined by the workers' compensation law, the employee may elect to apply accrued sick leave, if any, in such amount that when added to workers compensation benefits equals the employee's gross salary. Earned vacation time and compensatory time off may be utilized in a similar manner.

C. Notification of Illness by Employee

An employee on sick leave shall notify their supervisor no later than one (1) hour after the time set for beginning daily duties. When on FMLA leave, the employee will be required to notify the City in compliance with the Family Medical Leave Act.

D. Return From Sick Leave

Upon returning from sick leave, a physician's certificate may be required if, in the opinion of the Department Head, it appears that an employee is abusing sick leave privileges or to determine the validity of the employee's absence during the time for which sick leave was requested.

Any employee absent from duty on sick leave for three (3) consecutive work days due to illness or accident may, at the discretion of the Department Head, be required to submit to a physical examination by a physician designated by the City to determine fitness to return.

E. Sick Leave Payout Prior to Separation of Employment

i. Cash-out of Sick Leave

Employees with more than 288 hours of accrued sick leave may cash-out that portion of such leave above 288 hours at the payout levels established in Section 7.13 of the Personnel Rules and Regulations.

In July of each year, employees with more than 288 hours of accrued sick leave who

have used two (2) workdays or less of sick leave during the past fiscal year (July 1 – June 30), may cash-out up to two (2) workdays of sick leave at a conversion rate of 100%.

ii. Conversion of Sick Leave to Vacation Leave

Employees with more than 288 hours of accrued sick leave may convert to vacation leave that portion of such leave above 288 hours at the payout levels established in Section 7.13 of the Personnel Rules and Regulations.

In July of each year, employees who use two (2) days or less of sick leave during the prior fiscal year (July 1- June 30) shall be allowed to convert, up to three (3) days to vacation leave, at a conversion rate of 100% provided that they retain at least eighty (80) hours of accrued sick leave.

iii. Conversion of Sick Leave to Deferred Compensation

In July of each fiscal year, employees may cash-out up to five (5) days of sick leave, at the payout levels established in Section 7.13 of the Personnel Rules and Regulations, provided they have contributed an equivalent amount to a Deferred Compensation account over the past fiscal year (July 1 – June 30) and will have at least eighty (80) hours of sick leave remaining.

F. Sick Leave Compensation Upon Termination of Employment

City employees who terminate employment within the City shall be compensated in cash for unused sick leave at final rate of pay based on the following:

<u>Employees Hired Before July 1, 1999</u>		<u>Employees Hired On or After July 1, 1999</u>	
Less than 2 years:	None	Less than 2 years:	None
2 to less than 15 years:	50%	More than 2 years:	50%
15 to less than 20 years:	75%		
20 or more years:	100%		

There shall be no maximum amount of unused sick leave eligible for cash compensation subject to the foregoing schedule.

XIV. BEREAVEMENT LEAVE

An employee shall be granted a leave without loss of pay in case of death of a member of the employee's immediate family. Such leave is designated as bereavement leave. Up to five (5) days leave without loss of pay shall be granted for the death of a member of the employee's immediate family. Immediate family as used in this section is defined as the employee's spouse, child, foster child, grandchild, stepparent, legal guardian, stepchild, parent, brother, sister, grandparent, grandparent-in-law, mother-in-law, father-in-law or:

- A. Any other relative by blood or marriage who is a member of the employee's household. (Employees may be required to submit proof that the deceased relative was a member of the employee's household prior to the time of death.)
- B. Any other relative of the employee by blood or by marriage where it can be established by the employee that as a result of such relative's death, the employee's presence is required to handle funeral arrangements and/or matters of estate.

In addition, bereavement leave may be granted on a case-by-case basis under other circumstances at the discretion of the City Manager when it is in the best interest of the City to do so.

Time off beyond these parameters shall be charged to any type of available leave.

Temporary and other part-time employees shall not be eligible for bereavement leave.

XV. SCHOOL ACTIVITY LEAVE

Pursuant to California Labor Code Sections 230.7 and 230.8, parents, guardians and grandparents having custody, of school-age children shall be allowed leave from their jobs, with or without pay, as may be necessary to participate in school activities such as parent-teacher conferences, disciplinary matters, school programs and related events with their children. Such leave is limited to 40 hours per school year, at a maximum of 8 hours per month. Employees must give reasonable advance notice to the employer to permit work coverage, and may be required to provide documentation from the school that the employee participated in the activity on the specific date and time. Leave properly requested in advance shall not be denied.

XVI. JURY DUTY LEAVE

Regular and probationary employees who are summoned to serve on jury duty or subpoenaed as a witness in any court in this State of the United States, or any administrative board of tribunals, shall be entitled to a leave of absence with pay while serving. Employees may keep fees and fees for mileage received while serving. Employees must return to work if not required to attend jury duty on a particular day.

XVII. DONATION OF BLOOD

The City shall grant each employee in the unit of representation reasonable time off for the purpose of making a donation of blood. No charge will be made against vacation, sick or any other type of leave when such absence is approved in advanced by the employee's supervisor/department head.

XVIII. FAMILY CARE LEAVE

A. General Provisions

- i. Family Leave shall be granted to the extent required by law, including the following situations:
 - a. An employee's serious health condition.
 - b. The birth of a child or placement of a child for adoption or foster care.
 - c. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
- ii. Employees must request and identify their need for Family Leave. The City agrees that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The City may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
- iii. Eligibility for Family Leave will be determined according to the requirements of applicable law.
- iv. When a request for Family Leave is approved, the department shall determine whether sick leave, compensatory, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of sick leave shall be restricted to those circumstances, which qualify under the provisions of the Personnel Rules and Regulations.
- v. The City will continue to pay agreed-upon medical contributions for the duration of an employee's approved leave, in accordance with the Federal Family and Medical Leave Act.

B. Notification Requirements

- i. If the Family leave is foreseeable, the employee must provide the department with thirty (30) calendar days notice of his or her intent to take Family Leave.

ii.If the employee knows the event necessitating the Family Leave less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.

iii.When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent or spouse, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to City operations.

iv.The City shall notify the employee that the employee is considered using leave per the FMLA as required by the Act.

C. Verification

As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.

XIX. ON-THE-JOB INJURY LEAVE

Whenever an employee is compelled to be absent from active duty due to an injury disability arising out of and in the course of employment, such employee shall be entitled to receive an On-the-Job Injury Leave With Pay for up to the first three consecutive working days of such absence. The granting of such leave shall be conditioned upon the following:

- A. The absence is at the discretion of a licensed medical physician or other designated health care professional.
- B. Supervisory personnel have been properly notified of such injury or disability and an on-the-job injury report has been properly completed and submitted.
- C. The injury occurred while the employee was performing work duties on the job.

Whenever the On-the-Job Injury Leave extends beyond the first three working days, the employee will be allowed to use accrued leave to supplement the Workers' Compensation allowance to achieve the equivalent of 100% of his/her salary.

XX. COMPENSATION FOR JOB CONNECTED ILLNESS OR INJURY

In accordance with Workers' Compensation laws, the City provides protection for employees in the event of on-the-job injuries. If an employee is injured on the job, the injury must be reported immediately to the supervisor - no matter how minor it seems. If necessary, the employee should receive first aid or medical treatment. Detailed instructions shall be given to the employee to initiate a workers' compensation claim as necessary. The Personnel Officer shall assure that required forms are completed in a timely manner.

XXI. NON-WORK RELATED DISABILITY LEAVE

If an employee is compelled to be absent from active duty due to a non-work related disability or accident, the City shall grant a leave of absence in accordance with state disability laws. The City provides long-term disability insurance coverage to assist an individual when this situation arises.

XXII. MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of State and Federal law. All employees applying for military leave shall give the Department Head, within the limits of military regulations, an opportunity to determine when such leave shall be taken. Employees may use compensatory time and vacation time for weekend drills.

XXIII. LEAVE OF ABSENCE WITHOUT PAY

The Personnel Officer upon recommendation of the Department Head may grant leave of absence without pay in advance. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request. All requests shall be evaluated on basis of personal need, duration and work requirements. Any leave of absence without pay lasting more than fourteen (14) calendar days shall preclude employee from accruing leave time and other benefits after the 14th day.

XXIV. ADMINISTRATIVE LEAVE

All employees designated as Management shall accrue sixty-four (64) hours additional leave per year as compensation for hours worked over and above the normal work schedule. No more than 64 hours may be carried at any time.

City will pay full accrued amount of Administrative Leave at separation. Administrative leave may be taken at any time on approval of the appointing authority. Management employees may buy back up to 64 hours each year, at the request of the employee. Management employees shall have the option of cashing out Administrative Leave in December and in June of each year, not to exceed sixty-four in any fiscal year; and/or

carry over up to 64 hours of administrative leave at the end of the fiscal year, provided no more than 64 hours are carried at any time.

XXV. UNAUTHORIZED ABSENCE

A city employee who without prior authorization is absent or fails to discharge regularly assigned duties for a period of twenty-four (24) consecutive work hours shall be considered to have abandoned the job and may be subject to disciplinary action, including discharge.

XXVI. HOLIDAYS

All City employees shall have the following holidays with pay and shall not be required to work on such holidays except as hereinafter provided:

- A. January 1st (New Year's Day)
- B. Third Monday in February (Washington's Birthday)
- C. Last Monday in May (Memorial Day)
- D. July 4th (Independence Day)
- E. First Monday in September (Labor Day)
- F. November 11th (Veteran's Day)
- G. Fourth Thursday in November (Thanksgiving Day)
- H. The day following Thanksgiving Day
- I. December 24th (Christmas Eve)
- J. December 25th (Christmas Day)
- K. December 31 (New Year's Eve Day)
- L. Floating Holiday (10 hours)

Whenever a holiday falls on a Sunday not scheduled as a regular work day, the following Monday shall be observed as the holiday. Whenever a holiday falls on a Saturday not scheduled as a regular work day, the City will recognize the holiday on a case by case basis and observe it either on the Friday before the holiday or the Monday after the holiday, based on the needs of the community. The determination of the holiday observance will be made when the City issues the master holiday schedule each year.

Employees on a 9/80 schedule will be able to bank holiday hours for those holidays that occur on their flex day off. The following shall apply to the use of Holiday banked hours:

- banked hours will be capped at 24
- hours banked are not compensable – they cannot be cashed out
- banked hours must be used before any other kind of leave, except for sick leave
- employees will be strongly encouraged to use banked hours within a reasonable period of time, preferably by the end of each fiscal year.

An employee must have been paid for the entire amount of regularly scheduled hours of the days immediately prior to and following a City holiday in order to be paid holiday pay.

XXVII. FLOATING HOLIDAY

Probationary and regular full-time employee shall be credited with a total of ten hours of compensated time off on July 1st of each year. The time(s), which the employee may elect to use, shall be arranged with and approved by the employee's supervisor and Department Head and approved by the City Manager. The floating holiday must be used prior to June 30 or shall be forfeited.

XXVIII. MEDICAL, VISION, DENTAL INSURANCE AND COBRA

The City provides medical, vision and dental insurance for City employees. The insurance becomes effective the first day of the month following the date of hire.

A. Medical Insurance - CalPERS

The City shall provide to employees in the bargaining unit up to the highest CalPERS HMO premium in each coverage category (E, E+1 or E+Family). Employees enrolling with medical carriers with premiums lower than the highest HMO in their coverage category shall receive the difference between their premium and the highest HMO premium in their coverage category. Single coverage employees shall continue to receive the existing reimbursement of \$137.50 per month.

i. Opting out of Medical Insurance

The City shall allow employees who show proof of group insurance coverage provided by a spouse, to opt out of the City's medical insurance coverage. The City shall provide to employees who wish to opt out of medical insurance coverage and meet the above criteria, an "opting out" amount of \$325 per month. Employees must remain enrolled in the City's dental and vision plans.

B. Vision Insurance - Vision Service Plan

C. Dental Insurance – Aetna

D. COBRA

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)

requires that the group health plans provide employees and their dependents the opportunity to continue health care coverage under the plan in certain circumstances where coverage under the group health plan would otherwise terminate. While the City must make continued health coverage available, it can charge qualified beneficiaries up to 102% of the cost of coverage if continuation of benefits under the group plan is desired. Administered by CONEXIS.

XXIX. IRS CODE SECTION 125 PLAN

The City shall set up a Cafeteria Plan, under IRS Code Section 125, to pay for medical, dental and vision premiums. The City shall provide to employees in the bargaining unit up to the highest CalPERS HMO premium in each coverage category (E, E+1 or E+Family). Employees shall have the ability to elect which medical carrier to enroll with. Employees enrolling with medical carriers with premiums lower than the highest HMO in their coverage category shall receive the difference between their premium and the highest HMO premium in their coverage category. Dental and vision insurance coverage shall also be a part of the cafeteria plan.

The City will provide employees the opportunity to participate on a voluntary basis in a Dependent Care Assistance Program (Section 129) under Internal Revenue Code Section 125, which allows employees to redirect part of their salary, before it is taxed, to be used for child, elderly and dependent care and eligible medical expenses.

XXX. RETIRED EMPLOYEE HEALTH CARE

The City shall contribute \$30 per month towards each employee's retiree health savings plan established through ICMA-RC.

XXXI. LIFE INSURANCE

The value of life insurance coverage for each management employee is equal to one and one-half times the annual salary plus \$20,000.

XXXII. CALPERS LONG TERM CARE

The City will offer this benefit at the sole expense of the employee.

XXXIII. PRE-PAID LEGAL SERVICES

The City will offer this benefit at the sole expense of the employee.

XXXIV. COLLEGE SAVINGS PROGRAM (529 PLAN)

The City will offer this benefit at the sole expense of the employee.

XXXV. RETIRING EMPLOYEE RECOGNITION PROGRAM

The Retiring Employee Recognition Program provides for a salary incentive for long term City service. The guidelines and definitions for this program are detailed in Administrative Policy No. 223, Retiring Employees Recognition Program (Incentive for Long-Term City Service). Employees hired on or after July 1, 2009, are not eligible to participate in this program.

XXXVI. RETIREMENT PLAN

All full-time employees automatically become a member of the Orange County Employees Retirement System (OCERS). The City shall pay 100% of the management employee's share of the retirement contribution.

Effective September 25, 2003, the employees of the bargaining unit will receive an enhanced benefit formula of 2.7% @ age 55 based on three highest years service. This enhanced benefit formula will be applicable to all years of services. The employees of the bargaining unit will contribute 5.01% of base salary as a payroll deduction towards the cost of the enhanced retirement benefit.

XXXVII. 401(a) PROGRAM

The City will establish a 401(a) program through ICMA subject to the provisions allowable under current regulations for this type of program.

XXXVIII. SHORT/LONG-TERM DISABILITY INSURANCE

Eligible employees shall receive short and long-term disability coverage or income protection of up to two-thirds of salary during disability periods due to non-job related injury or illness up to a maximum percentage of salary.

XXXIX. ACTING STATUS

Employees performing the duties of their supervisor or higher-paid position due to vacation, illness or leave, for 14 calendar days or more shall receive acting status pay equivalent to the minimum salary rate for that position such that the minimum adjustment would be at least 5% above the employee's current salary with the approval of the Department Head and the Human Resources Manager. Acting status shall be retroactive to the first day and subject to no additional benefits.

XL. RECLASSIFICATION OF POSITION

Whenever a position is reclassified which is currently occupied by an incumbent who is satisfactorily performing the duties of the proposed position, the City shall place that

incumbent in the reclassified position, without the need to undertake a recruitment. Such reclassifications shall not result in demotion.

A reclassification may occur when the essential duties of a position change due to new technology, new regulations or laws, reorganization within the city, or other compelling reasons that increase to a higher level the duties performed by the position.

The City shall notify the Association whenever a reclassification is to occur to allow the Association to request to meet and confer over the impact and salary of the position.

Reclassification of an employee in a reclassified position may occur, at the City's discretion, if s/he has been satisfactorily performing the duties of the position for at least six months, as evaluated by the Department Head.

Out-of-Class grievances that result in position reclassifications shall also result in the reclassification of the employee, provided s/he has been satisfactorily performing the duties of the position for at least 6 months, as evaluated by the Department Head.

XLI. PROMOTIONS, TRANSFERS AND VOLUNTARY DEMOTIONS

A. Promotions

Promotion refers to the movement of an employee from a position in one class to another class imposing higher duties and responsibilities, requiring higher qualifications and providing a higher maximum rate of pay will be regarded as a promotion.

Insofar as practical and consistent with the best interest of the City, as determined by the Personnel Officer, vacancies shall be filled by promotion from within whenever qualified employees exist. Promotion-only classes will be established by the Personnel Officer in consideration of input from the Department Heads.

i. Requirements for Promotional Candidates

Only regular employees who meet the requirements set forth in the Classification Plan and who received a satisfactory overall rating at the time of their last performance evaluation may compete in promotional opportunities. Any employee who wishes to apply for promotional opportunity must also have completed at least six (6) months in their present position.

ii. Rejection Following Promotion

An employee rejected during or at the conclusion of the

probationary period following promotional appointment shall be reinstated to the position from which promoted and shall be reinstated to the position or class, or comparable position or class from which promoted and shall receive credit for time served in the promotional position unless charges are filed and the employee is discharged in the manner provided for in these rules and regulations.

B. Transfers

A transfer occurs when an employee changes positions, which are in the same classification having essentially the same maximum salary and requiring substantially the same qualifications. This may or may not involve a change of an employee's place of employment from one department to another.

i. Conditions for Transfer

An employee, who does not possess the minimum qualifications for an open position, shall not be transferred to that position. A qualified employee may be transferred, provided the employee's supervisor; the new supervisor and the Personnel Officer have approved the transfer.

ii. Employee Requested Transfers

New employees, who have completed their probationary period in their current positions, may apply for a transfer. All other employees, who have worked a minimum of six (6) months in their current position, may apply for a transfer. A request may be submitted only when a vacancy exists. The employee's request for transfer will be considered on the basis of the employee's qualifications for the vacant position, the employee's best interests, and the best interests of the City. Requests for transfers must be received according to deadlines established by the Personnel Officer.

iii. Employer Initiated Transfers

The City of San Juan Capistrano reserves the right to transfer its employees from one position to another, or one department to another, if the transfer is necessary for the purpose of economy or efficiency.

iv. Job Transfer Opportunities

The City shall consider lateral transfers and promotional opportunities to vacant positions within the same or similar job class for at least two weeks before they are opened competitively to non-employees. The employee requesting the transfer must have had a "satisfactory" rating on their last evaluation and meet the minimum qualifications for the position. The City would have no obligation to hire any of the applicants for transfer.

C. Voluntary Demotion

A regular employee may request a voluntary demotion to a vacant position in a class with a lower maximum salary rate provided the employee possesses the qualifications of that class.

Such requests must be filed with the Personnel Officer and require approval of the current Department Head and that of the Department Head of the vacant position.

XLII. LAYOFFS AND RE-EMPLOYMENT

A. Conditions for Layoff

The City Manager, with the concurrence of the City Council, may abolish any position, because of material change in duties and organization, or shortage of work or funds. The employee holding such position or employment may be laid off without disciplinary action and without the right of appeal. No regular employee shall be laid off until all temporary and probationary employees holding positions in the same class in the department are first laid off. Only those employees in the department assigned to the class in which the position is to be abolished shall be involved in this layoff procedure.

B. Notice of Layoff

Employees to be laid off shall be given at least fourteen (14) calendar days notice.

C. Order of Layoff

1. Within the classification, employees will be ranked by seniority with the most senior employee given the highest ranking and the next most senior employee given the next highest ranking and so forth. For the purpose of this section, seniority shall be determined as total number of years of full-time employment with the City of San Juan Capistrano. This category is given a weight

of 30%.

2. Within the classification, employees will also be ranked by performance, based upon performance evaluations, official records, and/or qualified testing procedures where applicable. The employee within the classification with the highest performance rating shall be given the highest ranking and the next most competent employee shall be given the next highest ranking, and so forth. This category is given a weight of 40%.

- a. To establish the performance ranking, each employee performance evaluation must be rated. A rating of 1 to 5 on the overall evaluation rating is assigned accordingly:

Excellent	=	5
Above Standard	=	4
Meets Standards	=	3
Needs Improvement	=	2
Unsatisfactory	=	1

3. Within the classification, employees will also be ranked by skill set, based upon education, licenses, and certificates obtained, which increase an employee's overall value to the organization. The employee with the greatest skill set within the classification shall be given the highest ranking and the employee with the next highest skill set level shall be given the next highest ranking, and so forth. This category will be given a weight of 30%.

- a. To establish the ranking for skill set, the following point system shall be applied:

- i. Education

1. PhD.	=	4 points
2. Master's Degree	=	3 points
3. Bachelor's Degree	=	2 points
4. Associate of Arts Degree	=	1 point

A degree must be directly related to the position in order for it to be awarded a point value.

- ii. Licenses

Each professional license	=	1 point
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- iii. Certificates

Each certificate	=	.5 point
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Certificates issued upon completion of a test conducted by a sanctioning body such as a governmental, professional, or academic organization, are considered valid certificates. Training certificates that indicate that an employee participated in a training course or seminar are not awarded any point value; however, they would be incorporated into the performance evaluation.

D. Layoff Procedure

The Department Head will total the point values of the three categories (seniority, performance, and skill set) for each employee within the classification to determine the order of layoff. Employees will be laid off in order of the numerical ranking, that is, an employee with a lower ranking would be laid off before an employee with higher ranking.

E. Re-employment List

The names of persons laid off in accordance with these rules shall be entered on a re-employment list for one year, except that persons appointed to permanent positions shall, upon such appointment, be dropped from the list.

When a vacancy occurs in the subject class, the appointing authority shall consider the former employees from the re-employment list. It is the responsibility of the employee on a re-employment list to keep the City informed of his/her current address and telephone number, and availability for work.

XLIII. GRIEVANCE PROCEDURE

a. Matters Subject to Grievance Procedures

A grievance shall be initiated through an informal first step when the employee notifies the supervisor verbally of his/her contention that the City has violated or misapplied a specific obligation expressed and/or written in the Personnel Rules and Regulations of the City. Personnel Division staff is available to assist Department Heads in such matters as the interpretation of Rules, documentation procedures and preparation of notices as requested.

b. Notification of Grievance

The second step in the grievance process shall be a written notice filed in a timely manner, on a form provided by the City which shall include at a minimum:

1. Nature of the grievance;
2. Date when the incident occurred;

3. Description of the incident;
4. Rule violated; and,
5. Specific remedy sought by the employee.

c. Steps in the Grievance Process

First Step

Within ten (10) working days after the occurrence of the incident involved in the grievance, the employee may initiate the grievance process by discussing the matter informally with his/her immediate supervisor. An attempt shall be made to resolve the grievance between the employee and the immediate supervisor. The supervisor shall deliver an oral or written response within ten (10) working days after submission of the grievance.

Second Step

If the grievance is not satisfactorily resolved in the first step, the grievance may be submitted in writing to the supervisor's supervisor, if any, within the department organization within ten (10) working days after the immediate supervisor's answer is received by the employee. After an attempt to resolve the grievance between the employee and his/her designated representative, if any, the intermediate supervisor shall deliver a written answer within ten (10) working days after submission of the grievance. If there is no intermediate supervisor, the grievance shall go directly to the Department Head.

Third Step

If the grievance is not satisfactorily resolved in the first and second steps, it shall be submitted in writing to the employee's Department Head within ten (10) working days after the intermediate supervisor's answer is received by the employee. The Department Head shall meet with the employee and his/her designated representative, if any, within ten (10) working days after submission of the grievance to the Department Head. The Department Head shall review the grievance and may affirm, reverse or modify the disposition made at the first and second steps and shall deliver a written answer to the employee within ten (10) working days after said meeting.

d. Appeal of Decision

If the grievance is not satisfactorily resolved, the employee may appeal the decision of the Department Head to the City Manager. At the option of the employee, the grievance may be submitted:

- i. Directly to the City Manager, or
- ii. To an impartial arbitrator who will provide an advisory opinion to the City Manager prior to the consideration of the grievance by the City Manager, or
- iii. To a mediator from the State Mediation and Conciliation Service

who will provide findings and recommendations to the City Manager prior to consideration of the grievance by the City Manager.

When the appeal is submitted to the City Manager, it shall specify whether the employee desires to have the appeal considered directly by the City Manager or reviewed first by an impartial arbitrator or state mediator. Such submission must occur within ten (10) working days after the Department Head's written answer is received.

e. Advisory Arbitration

An employee may elect to use an impartial arbitrator to provide an advisory opinion to the City Manager prior to the consideration of the grievance by the City Manager. After a hearing on the merits of the grievance and considering evidence from all parties concerned, the impartial arbitrator shall submit a written advisory opinion to the City Manager.

Within ten (10) working days after receipt of the written advisory opinion of the impartial arbitrator, the City Manager shall meet with the employee and his/her designated representative, if any, and other appropriate persons to assess the grievance. The City Manager may affirm, reverse or modify the disposition of the grievance. The City Manager shall deliver a written decision to the employee within five (5) working days after said meeting. The City Manager's decision shall conclude the administrative appeals procedure.

If an employee elects to use an impartial arbitrator, the arbitrator shall be selected jointly by the employee and his/her designated representative, if any, and the City. The cost of the arbitrator, if any, shall be born equally by the employee and the City.

f. State Mediation

An employee may elect to use a certified mediator from the State Mediation and Conciliation Service to provide findings and recommendations to the City Manager prior to the consideration of the grievance by the City Manager. After a hearing on the merits of the grievance and considering evidence from all parties concerned, the certified mediator shall submit a written summary of his/her findings and recommendations to the City Manager.

Within ten (10) working days after receipt of the written summary of findings and recommendations from the certified mediator, the City Manager shall meet with the employee and his/her designated representative, if any, and other appropriate persons to assess the grievance. The City Manager may affirm, reverse or modify the disposition of the grievance. The City Manager shall deliver a written decision to the employee within five (5) working days after said meeting. The City Manager's decision shall conclude the administrative appeals

procedure.

If an employee elects to certified mediator from the State Mediation and Conciliation Service, the certified mediator shall be selected jointly by the employee and his/her designated representative, if any, and the City. The cost of the certified mediator, if any, shall be born equally by the employee and the City.

g. City Manager

An employee may elect to submit the grievance directly to the City Manager for a final and binding decision. Within ten (10) working days after submission of the grievance to the City Manager, the City Manager shall meet with the employee and his/her designated representative, if any, and other appropriate persons to assess the grievance.

The City Manager may affirm, reverse or modify the disposition of the grievance. The City Manager shall deliver written decision to the employee within five (5) working days after said meeting, and such decision shall conclude the administrative appeals procedure.

h. Extension of Time

Any or all of the time limitations mentioned above with reference to filing and response times may be extended by mutual agreement between the employee and the City.

XLIV. FAIR EMPLOYMENT PRACTICE

The City of San Juan Capistrano assures any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the Personnel Officer, is not justifiably linked to successful job performance. It is the policy of the City that no technique, procedure or policy in recruitment and selection shall be discriminatory to any group protected by state or federal legislation.

XLV. NON-DISCRIMINATION POLICY

The City shall offer equal employment to all persons without regard to race, creed, color, sex, age, national origin, religion, physical or mental handicap or veterans' status. No applicant is to be discriminated against or given preference because of these factors. This policy is intended to apply to recruiting, hiring, promotions, upgrading, layoffs, compensation, benefits, termination and all other privileges, terms and conditions of employment.

XLVI. CONTINUATION OF BENEFITS

All fringe benefits previously granted and currently in effect to represented employees shall remain in full force and effect for the time period July 1, 2007 to June 30, 2009, unless modified by the provisions of this agreement.

XLVII. SEPARABILITY

The provisions contained in this agreement have been bargained for and agreed to independently, and no particular clause, condition, or agreement is contingent or dependent upon any other; therefore, should any such clause, condition, or agreement be held to be void or unenforceable, the remainder of the terms and conditions of this agreement shall remain in full force and effect.

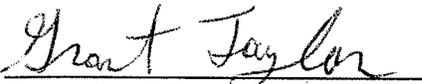
This agreement was entered into on the ____ day of _____, 2009.

SAN JUAN CAPISTRANO MUNICIPAL
EMPLOYEES RELATIONS OFFICER



Joe Tait, Interim City Manager

SAN JUAN CAPISTRANO MANAGEMENT AND PROFESSIONAL
EMPLOYEES ASSOCIATION



Authorized Representative



Authorized Representative

ATTEST: CITY OF SAN JUAN CAPISTRANO

Margaret R. Monahan, City Clerk

Approved by the City Council of the City of San Juan Capistrano on this ____ day of _____, 2009.