

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF NEWPORT BEACH
AND
THE ASSOCIATION OF NEWPORT BEACH
OCEAN LIFEGUARDS



July 1, 2017 through June 30, 2021

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF NEWPORT BEACH AND
THE ASSOCIATION OF NEWPORT BEACH OCEAN LIFEGUARDS
2017-2021**

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**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF NEWPORT BEACH AND THE
ASSOCIATION OF NEWPORT BEACH OCEAN LIFEGUARDS**

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is entered into with reference to the following:

PREAMBLE

1. The Association of Newport Beach Ocean Lifeguards ("ANBOL" or "Association"), a recognized employee organization, and the City of Newport Beach ("City"), a municipal corporation and charter city, have been meeting and conferring, in good faith, with respect to wages, hours, fringe benefits and other terms and conditions of employment.
2. This MOU represents the total and complete understanding and agreement between the parties regarding all matters within the scope of representation. Except as limited herein, the City retains all management rights as set forth in the Meyers-Milias-Brown Act and Resolution 2001-50.

SECTION 1. – General Provisions

A. Recognition

In accordance with the provisions of the Charter of the City of Newport Beach, the Meyers Milias Brown Act of the State of California and the provisions of the Employer/Employee Relations Resolution No. 2001-50, the City acknowledges that the Association is the majority representative for the purpose of meeting and conferring regarding wages, hours and other terms and conditions of employment for all employees in those classifications of Lifeguard I, II, and III, or as appropriately modified in accordance with the Employer/Employee Relations Resolution. All other classifications and positions are excluded from representation by the Association.

Recognition is limited to employees who are active employees ("Active Employee") with job titles of Lifeguard I, II, and III who have worked in such positions for the City of Newport Beach during the most recent summer season (or the summer season the year preceding the most recent season if they took an approved leave of absence and missed the most recent year) and have worked 240 cumulative hours in the classifications of Lifeguard I, II, and III by April 15 of the calendar year. An Active Employee is an individual who has completed the Fire Department's re-certification class with the expectation of working the minimum hours required under Section 3, B (Work Hours Standards). All other employees are excluded.

Employees classified as Lifeguard III on June 30, 2017 will remain “grandfathered” in the classification. However, the parties agree that since that classification has been phased out, no additional employees may be assigned as a Lifeguard III.

B. Duration of Memorandum

1. Except as specifically provided otherwise, any ordinance, resolution or action of the City Council necessary to implement this MOU shall be considered effective as of *July 1, 2017*. This MOU shall remain in full force and effect until *June 30, 2021*, and the provisions of this MOU shall continue after the expiration date of this MOU in the event the parties are meeting and conferring on a successor MOU.
2. The terms and conditions of this MOU shall prevail over conflicting provisions of the Newport Beach City Charter, the ordinances, resolutions and policies of the City of Newport Beach, and federal and state statutes, rules and regulations which either specifically provide that agreements such as this prevail, confer rights which may be waived by any collective bargaining agreement, or are, pursuant to decisional or statutory law, superseded by the provisions of an agreement similar to this MOU.

C. Employee Data and Access

Each April, the City shall provide Association a regular list of all bargaining unit members including name, contact info (including e-mail) and job title. For those members who specifically ask that their personal information not be given out, email contact information only will be provided.

D. Conclusiveness

This MOU contains all of the covenants, stipulations, and provisions agreed upon by the parties.

E. Modifications

Any agreement, alteration, understanding, variation, or waiver or modification of any of the terms or provisions of this MOU shall not be binding upon the parties, unless contained in a written document executed by authorized representatives of the parties.

F. Savings

Should any part of this MOU be rendered or declared illegal or invalid by legislation, decree of court of competent jurisdiction or other established governmental administrative tribunal, such invalidation shall not affect the remaining portions of this MOU.

G. Subcontracting

As provided in the Employer-Employee Relations Resolution No. 2001-50, the City shall determine the manner in which City services are to be provided, including whether the City should provide services directly or contract out work, including work that is currently being performed by Association members. In the event the City introduces a plan to outsource services currently being performed by Association members to achieve greater efficiency and/or cost savings, and upon request by the Association, the City shall meet and confer with Association representatives to discuss the impacts of the City's decision to contract out work, a minimum of sixty (60) days prior to contracting out such services. The City shall retain sole authority to decide whether or not to contract out work, including work that is currently being performed by Association members. This provision shall not limit the City's authority to enter into such an agreement for any City services.

SECTION 2. – Compensation

A. Pay for Time Worked

1. Salary Adjustments

Effective in the pay period following City Council approval of this MOU or the pay period which includes July 1, 2017, whichever is later, the City will do the following:

- a. Eliminate Step 1 of Lifeguard II Salary Schedule; and*
- b. Add a new five percent (5%) top step (which will be called Step 4 because Step 1 is being eliminated) to the Lifeguard II salary schedule; and*
- c. Merge the Lifeguard II and III salary schedules so that all Lifeguard II's and III's are on the same salary schedule.*

Effective the pay period including July 1, 2018, base salaries for employees in this bargaining unit shall be increased by two percent (2.0%).

Effective the pay period including July 1, 2019, base salaries for employees in this bargaining unit shall be increased by one percent (1.0%).

Effective the pay period including July 1, 2020, base salaries for employees in this bargaining unit shall be increased by one percent (1.0%).

Salary ranges for all ANBOL represented classifications are represented in Exhibit A.

2. Bi-Lingual Pay

Employees certified as bilingual (Spanish) shall receive seventy-five (\$.75) cents per hour in bilingual pay. The certification process will confirm that employees are fluent at the street conversational level in speaking Spanish. Employees certified shall receive bilingual pay the first full pay period following certification.

Additional languages may be certified for compensation pursuant to this section by the Fire Chief.

3. EMT Pay

Employees who maintain certification as Emergency Medical Technicians (“EMTs”) according to State of California regulations and Orange County EMS policy shall receive one dollar (\$1.00) per hour worked in “EMT Pay.” It is the employee’s responsibility to have his/her current EMT Certification on file. Employees certified shall receive EMT Pay the first full pay period following receipt of certification by the City from the employee.

a. EMT – Recertification Reimbursement: The City will reimburse employees up to \$200 per year for the cost of recertifying their EMT Certification. Employees will be reimbursed when they present their certification from the Orange County Emergency Medical Services.

4. Compensation for Overtime -

Overtime shall be paid at time and one-half when employees actually work more than 40 hours in their defined FLSA workweek which is a regularly recurring period of 168 hours – 7 consecutive 24 hour periods.

Definition of Hours Worked - Hours worked are defined as hours which employees are required to be performing their regular duties or other duties assigned by the City. Paid leave does not count as hours worked for purposes of calculating overtime.

5. Assignment Pay for Lifeguard II and III Classifications

Employees in the classifications of Lifeguard II and III shall be eligible for 5.0% Assignment Pay for those worked when actually performing the assigned duties (minimum of one hour worked in the assignment to be eligible) of the assignments identified below. Determination of the number and length of assignments shall be at the discretion of the City.

- Junior Guard Group Leader
- Dispatcher
- Boat Operator

SECTION 3. - Work Hours and Staffing

A. Staffing

Upon request, declared at the beginning of each season, represented employees shall be scheduled for at least thirty-five (35) hours per week during "A" level staffing, (from the first Saturday after Newport/Mesa School District ends its regular session through Labor Day).

Represented employees will, during all staffing levels, be paid two (2) hours of pay if their scheduled shift is canceled later than 4:00 p.m. the day before the work is scheduled. The shift is considered canceled when the City provides notice to the employee at the phone number designated by the employee. Once reporting to work, employees will be afforded the opportunity to either work their scheduled shift, or if work is not available (e.g., because of weather or surf conditions), employees can choose to leave work without pay for remainder of their shift.

B. Work Hours Standards

The City and Association have agreed to establish minimum hours standards for members to retain active and reserve status. ANBOL employees are required to work the following minimum hours each year:

<u>Total Hours Worked (Career Total)</u>	<u>Hours Required to Work Per Year</u>
0 - 1,999	96
2,000 - 4,499	76
4,500+	56

Until June 30, 2021, bargaining unit members hired prior to August 22, 2005 are grandfathered at the 56-hour minimum standard, regardless of whether the employee has achieved 4,500 career hours.

Effective on June 30, 2021, the minimum standard of 76 hours (in the above chart) ends. Bargaining unit members hired prior to June 30, 2011 are grandfathered at the 56-hour minimum standard, regardless of whether the employee has achieved 4,500 career hours. Employees will be required to work the following minimum hours each year.

<u>Total Hours Worked (Career Total)</u>	<u>Hours Required to Work Per Year</u>
0 – 4,499	96
4,500+	56

SECTION 4. – Fringe Benefits

A. Equipment Allotment

Employees in the bargaining unit shall be paid Two Hundred (\$200) Dollars, annually, towards the purchase of UVA/UVB compliant sunglasses, sweat pants, full brimmed or ball cap style hat, equipment carrying bag, waterproof watch and replacement and/or repair of any work-related equipment. This payment will be made by the first full pay period in July of each season they are working. Sunglasses must be full coverage, have polarized lenses, and be worn whenever conditions warrant.

Employees not meeting the work hour standards described in Section 3, B above will be ineligible to receive the Equipment Allotment the following season.

B. Sunscreen

Represented employees will be provided sunscreen and lip balm on an as-needed basis.

C. Skin Cancer Screening

Annual skin cancer examinations shall be provided for bargaining unit employees at a facility selected by the City. Employees who are screened off duty will be paid one (1) hour of compensation.

D. Binoculars

Represented employees shall be provided a pair of binoculars in accordance with the Fire Department's Standard Operating Procedures. Binoculars must be kept in good working order by the employee and must be brought to work for each Lifeguard Operations shift, which will be confirmed by inspection by the Division Supervisors. If the provided binoculars are lost or damaged, the employee shall replace them with a pair meeting the City's specifications. Upon separation from the Fire Department, employee shall return the binoculars to their supervisor unless a purchasing agreement is made at time of separation.

E. Other Equipment

One pair of uniform trunks and two uniform shirts, each season.

One jacket per career, replaced when unserviceable.

One pair swim fins, one mask and snorkel per career, replaced by City if lost or broken in the execution of work duties.

F. Parking Passes

Represented employees who have recertified as Lifeguards will be provided one parking pass that does the following:

- Allows parking in the spaces marked with letter "A" and beach lots year around.
- Allows all parking in spaces May 15 to September 30

G. Identification Card

Upon request, represented employees who desire an Identification (ID) Card shall be provided with an official wallet-sized City of Newport Beach identification card.

H. Other Benefits Not Guaranteed

Employees in the bargaining unit may, in the sole discretion of the City, be provided additional benefits/privileges.

I. PERS Contribution

The following provisions apply only to bargaining unit members enrolled in the Public Employees' Retirement System (PERS) as Safety members, consistent with the City's contract with PERS:

Tiers I & II: Tier I – 3% @50 and Tier II 2%@ 50 (effective November 2012). Employees in these tiers are considered "classic members" per the Pension Reform Act of 2013 (PEPRA). Employees shall pay the full nine percent (9%) (compensation earnable) "safety" CalPERS member contribution and the Employer Paid Member Contribution will be 0%. This employee payment will be made on a pre-tax basis through payroll deduction pursuant to IRS Code Section 414(h)(2).

In addition to the employee's payment of their nine percent (9%) member contribution, employees will contribute an additional 4.6% of pensionable

compensation toward retirement costs as permitted under Government Code §20516(f), for a total contribution of 13.6%.

Tier III: Employees in Tier III are considered “new members” per the Pension Reform Act of 2013 (PEPRA). The minimum employee contribution for employees in Tier III is subject to the provisions of the Public Employees’ Pension Reform Act (PEPRA) and equals 50% of the “total normal cost” as determined by CalPERS. Employees will, in addition to the mandatory employee contribution under PEPRA, contribute an additional percentage of pensionable compensation toward retirement costs as permitted under Government Code §20516(f), so that each employee’s total contribution is 13.6% of compensation earnable.

Should the mandatory contribution under PEPRA increase or decrease during the term of this MOU, the additional employee contribution under 20516(f) will adjust accordingly so that the total contribution is equal to the amount contributed by employees in Tiers I and II, 13.6%.

J. Paid Sick Leave

Under California’s Healthy Workplaces, Healthy Families Act ANBOL employees are eligible to receive Paid Sick Leave effective July 1, 2015. The rate of accrual shall be .034 hour for every hour worked (which equals 1 hour of Paid Sick Leave for every 30 hours worked), with a maximum accrual of 48 hours. Once the 48 hours cap is reached no additional Leave will accrue in the Paid Sick Leave bank. Employees are permitted to use up to 24 hours per calendar year. If leave is foreseeable, the employee shall provide reasonable advance notification close in time to when the employee is aware of the need for the leave. If the need for sick leave is unforeseeable, the employee shall provide notice of the need for leave as soon as practicable. If at the beginning of the shift, the employee shall provide notification at least one hour prior to the start time of the shift.

At the conclusion of each season (during the month of September) ANBOL members will be permitted to cash out Paid Sick Leave time remaining in their bank at the value of 50%. The minimum permitted to be cashed out is 1 hour and there is no maximum (all Leave time can be converted to cash at 50% value).

SECTION 5. - Miscellaneous

A. Disciplinary Actions

Represented employees are afforded the opportunity to seek internal resolution of any disciplinary actions having a financial impact on the employee, i.e., reduction in pay, demotion, suspension or dismissal, but not written reprimands, counseling memos or any other form of discipline which does not result in loss of money.

Represented employees may appeal any such actions to the Fire Chief, or his/her designee, within ten (10) calendar days of the disciplinary action. The Fire Chief

or designee will meet with the employee and a representative of his/her choosing within ten (10) calendar days of the appeal. If the matter continues to be unresolved, the employee may, within ten (10) calendar days, appeal to the City Manager or the City Manager's designee. The City Manager or designee will meet with the employee and their representative. Within ten (10) calendar days, the City Manager or designee shall issue his/her decision. The decision of the City Manager or designee shall be final.

This is the only City appeal procedure for the term of this agreement.

B. Orientation

Association representatives will be allowed ten minutes at the end of training sessions to address newly hired trainees.

C. Work Access

ANBOL representatives shall have access to employees in the workplace through an ANBOL dedicated bulletin board in lifeguard headquarters. ANBOL representatives shall be allowed 10 minutes at the beginning of class to address employees at every Lifeguard Recertification course.

D. Leave of Absence

Employees requesting a Leave of Absence for a summer season must do so by submitting the request in writing, as provided in the Fire Department Standard Operating Procedure. Leaves of absence will only be permitted once within a five year period.

E. Safety Committee

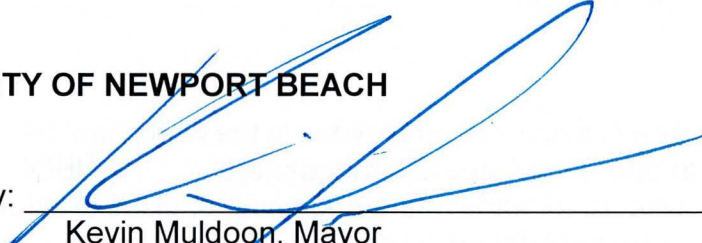
One ANBOL representative selected by the Association shall participate as a member of the Fire Department's Safety Committee, at the Association's option.

Signatures on the following page.

Executed this 25TH day of JULY, 2017.

ASSOCIATION OF NEWPORT BEACH OCEAN LIFEGUARDS

By: 
Chris Graham, President

CITY OF NEWPORT BEACH
By: 
Kevin Muldoon, Mayor

By: 
Peter J. Brown, Special Counsel


ATTEST:
By: 
Leilani Brown, City Clerk



Exhibit A

Association of Newport Beach Ocean Lifeguards Represented Classifications and Pay Rate Adjustments
July 1, 2017 through June 30, 2021

		Year 1	Year 2	Year 3	Year 4
Step					
Changes			2.0%	1.0%	1.0%
MOU Adopt			COLA	COLA	COLA
LG I	Step 1	17.79	18.14	18.32	18.51
	Step 2	18.67	19.05	19.24	19.43
	Step 3	19.61	20.01	20.21	20.41
	Step 4	20.59	21.01	21.22	21.43
LG II	Step 1	-	-	-	-
	Step 1 - new	20.59	21.01	21.22	21.43
	Step 2 - new	21.62	22.06	22.28	22.50
	Step 3 - new	22.70	23.16	23.39	23.62
	Step 4 - new	23.84	24.32	24.56	24.81
LG III	Step 1	20.59	21.01	21.22	21.43
	Step 2	21.62	22.06	22.28	22.50
	Step 3	22.70	23.16	23.39	23.62
	Step 4 - new	23.84	24.32	24.56	24.81