



**Side Letter of Agreement**  
**September 1, 2007 – August 31, 2010**  
**Memorandum of Understanding**  
**between the**  
**Costa Mesa Police Management Association (CMPMA)**  
**and the City of Costa Mesa**

This side letter agreement (“Letter”) is entered into by and between the City of Costa Mesa (“City”) and the Costa Mesa Police Management Association (“CMPMA”). As part of the City’s Budget Development Strategies to balance the City’s current 2009-2010 Operating Budget, it was necessary to obtain the concurrence of CMPMA to agree to concessions. The City and CMPMA have met and conferred in good faith and agree that the current September 1, 2007 – August 31, 2010 CMPMA Memorandum of Understanding (“MOU”) shall be supplemented with the following amendments:

**I. 5% Salary Reduction:**

CMPMA agrees to the equivalent of a 5% reduction in salary through a Mandatory Furlough Program effective August 2, 2009 and ending August 28, 2010. The Mandatory Furlough Program will provide for a 5% reduction in work hours (104 hours for the year) with a commensurate reduction in payment for the hours not worked. The Mandatory Furlough Program Guidelines are attached as Exhibit A.

**II. Article 5 - Retirement:**

The City agrees to amend the CalPERS contract to offer the “2-Years Additional Service Credit” optional benefit.

**III. Article 7 – Retiree Medical:**

The City and CMPMA agree to the suspension of the VantageCare RHS (Post Retirement Health) Plan and suspension of both the one percent (1%) contribution from employees and the one percent (1%) match deposited by the City on behalf of each full-time employee. Plan contributions will be suspended for 26 pay periods.

**V. Article 14.1 – Vacation Leave:**

Effective August 30, 2009 through August 28, 2010, in conjunction with the implementation of the Mandatory Furlough Plan, the City agrees to temporarily amend the existing vacation policy as follows:

The maximum levels as established in the current 2007 – 2010 MOU are as follows:

<u>Years of Service</u>	<u>Maximum Accrual</u>
1-2	184.0
3-4	232.0
5-9	280.0
10-14	328.0
15-19	376.0
20+	424.0

Upon reaching the maximum level, the biweekly accrual of vacation leave hours will be placed in the employee's Secondary Vacation Leave Bank. The maximum level for the Secondary Vacation Leave Bank will be established at 104 hours. Once the maximum accrual in the Secondary Vacation Leave Bank is reached, the additional accruals will be paid as compensation to the employee at the employee's then current hourly base rate of pay.

In scheduling vacation hours, an employee can choose to use either vacation hours from their Primary Vacation Leave Bank or Secondary Vacation Leave Bank. The Secondary Vacation Leave Bank hours may be counted as vacation hours used in determining eligibility for the annual vacation cash out. However, hours in the Secondary Vacation Leave Bank may not be cashed out unless an employee separates from service.

Effective August 29, 2010, employees will no longer accrue vacation leave and will no longer receive vacation cash out beyond the maximum level as established in the 2007-2010 MOU. It is the responsibility of the employee to manage accrued vacation time off to not exceed the cap or maximum amount allowed. The remaining balance in the Secondary Vacation Leave Bank must be used by January 2, 2011.

**V. Article 30 – Physical Fitness Committee:**

CMPMA agrees to postpone the discussion regarding establishing a joint committee to explore physical fitness testing until September 1, 2009.

**VI. MOU Provisions:**

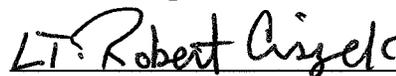
All remaining MOU provisions remain in effect as this is a temporary side letter agreement with the City and CMPMA.

REPRESENTATIVES OF THE  
COSTA MESA POLICE ASSOCIATION

  
LT. ALLEN HUGGINS  
CMPMA Representative

FOR HUGGINS

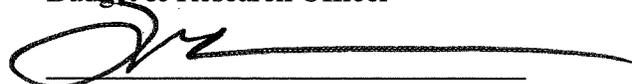
  
LT. TIM SCHENNUM  
CMPMA Representative

  
LT. BOB CISZEK  
CMPMA Representative

REPRESENTATIVES OF THE  
CITY OF COSTA MESA

  
STEPHEN N. MANDOKI  
Administrative Services Director

  
BOBBY YOUNG  
Budget & Research Officer

  
LANCE M. NAKAMOTO  
Human Resources Administrator

  
KASAMA LEE  
Principal Human Resources Analyst

## EXHIBIT A

### **Mandatory Furlough Program Guidelines Costa Mesa Police Management Association**

The Costa Mesa Police Management Association agrees to the equivalent of a five percent (5%) reduction in salaries through a Mandatory Furlough Program. The Mandatory Furlough Program will provide for a five percent (5%) reduction in work hours (104 hours for the year) with a commensurate reduction in payment for the hours not worked.

- I. **Effective Dates of Program** – The Mandatory Furlough Program will be effective August 2, 2009 – August 28, 2010 unless otherwise specified in these guidelines.
- II. **Usage of Furlough Leave** – Employees must utilize a total of 104 hours of furlough leave by August 28, 2010. Employees may not use more than 40 hours of furlough leave within any three week period. It is the employee's responsibility to monitor their furlough leave bank to ensure they use all of their leave time during the assigned time period. When an employee submits a timely furlough leave request and the Supervisor and/or the Chief of Police must deny it due to the operational needs of the City and/or Department and the employee is unable to schedule alternative hours off prior to August 28, 2010, an exception may be granted by the Chief of Police with a written explanation from the employee's supervisor and advance approval from the City Manager. If such an exception is granted, employee will be allowed additional time to utilize the remainder of their 104 furlough leave hours, but no later than December 19, 2010.
- III. **Scheduling of Furlough Leave** – CMPMA and Chief of Police agree to discuss procedures for requesting and scheduling furlough leave. Every effort will be made to accommodate the employee's request. However, it is recognized that business operations of the City have priority. Should a request for furlough leave be denied and the employee disagrees with the reasons for denial, the employee may submit a written petition to the Chief of Police or designee for a final decision on the matter. The Chief of Police or designee shall respond to any such petition within five (5) business days of receiving the petition, and the Chief of Police or designee's decision shall be final. If the Chief of Police or designee fails to respond within the prescribed time limit, the request for furlough leave will be deemed to have been approved. It is agreed by CMPMA and the City that the grievance procedure shall not apply to disputes concerning furlough leave. At no time, will a furlough leave request be approved, if such approval would result in staffing levels dropping below the minimum. Once a furlough leave request has been approved, it may not be cancelled unless there is an emergency situation or upon mutual agreement by management and the employee. The Chief of Police reserves the right to assign employees to take their leave time if it is necessary to prevent a potential negative impact on Departmental operations.
- IV. **Retirement** – In most cases, unpaid furlough leave will not affect an employee's CalPERS service credit. Employees must be paid 1,720 hours within a year to earn one full year of service credit. Furlough leave would not change the payrate that is reported to CalPERS. However, it can reduce special compensation that is paid as a factor of earnings. Therefore, in some cases, final compensation could be reduced, but only for members with earnings based special compensation whose highest 12 month period at retirement includes furlough leave.

- V. **Cafeteria Plan Benefits** – Employees shall receive continued medical, dental, vision, life insurance and other cafeteria plan benefits including the City’s flex contribution. Employees will be responsible for the same employee contributions. If an employee’s check for a pay period which includes furlough leave is not sufficient to cover a particular deduction in its entirety, the deduction will not be taken from that check, but will be deducted from the following paycheck.
- VI. **Furlough Leave as Hours Worked** – Furlough leave will be counted as hours worked for the purposes of calculating overtime, earning and computing paid leave accrual, completion of probationary period, promotion eligibility, computing seniority and merit increase eligibility. Employees will not be eligible for overtime compensation during the same 24-hour day in which they have taken furlough leave unless the employee has been assigned to mandatory overtime or receives prior approval from the Chief of Police or designee. Furlough leave will not be considered hours worked for other forms of compensation.
- VII. **Exempt Employees** – Exempt employees will be considered non-exempt employees under the Fair Labor Standards Act (FLSA) guidelines in any FLSA workweek in which one or more hours of unpaid furlough time off occurs. Such employees will be eligible for hourly pay for any work performed during that FLSA workweek, just as non-exempt employees would be. Such employees may also be eligible for overtime compensation during any such FLSA workweek according to applicable FLSA guidelines. During a week in which a furlough occurs, employees must use leave accruals for partial day absences, may not telecommute or perform services for the City outside regular working hours unless specifically authorized to do so. On actual furlough days, FLSA exempt employees may not come to work unless approved by the Chief of Police or designee.
- VIII. **Separating Employees** – Employees who separate employment from the City prior to August 28, 2010 will have the number of required furlough leave hours prorated. The amount of furlough leave hours required will be prorated based on four (4) hours for each pay period worked since August 2, 2009 to a maximum of 104 hours. Employees who have not met the prorated required hours must schedule the remaining furlough leave hours prior to their separation from employment.
- IX. **Employees on Unpaid Leaves of Absences** – Employees on approved unpaid leaves of absences (excluding suspensions for disciplinary purposes) may run their furlough leave concurrently with their leave of absence.
- X. **Employees on Medical, Military, or Administrative Leaves of Absences** – Employees on medical leaves (FMLA, PDL, CFRA or leaves due to work related injuries), military leave, or administrative leave will be required to participate in the Mandatory Furlough Program upon returning to work. The deadline to utilize furlough leave hours will be extended by the equivalent amount of time the employee was on leave since August 2, 2009, but no longer than one year. For example, if an employee is out on leave for five months, he/she will be required to utilize 104 hours of furlough leave by January 31, 2011.