

RESOLUTION NO. 16-1128

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF BLACK DIAMOND AND BLACK DIAMOND POLICE OFFICERS ASSOCIATION ALONG WITH THE MEMORANDUM OF UNDERSTANDING

WHEREAS, the Black Diamond Police Officers Association (the "Association") is the authorized bargaining representative for the Black Diamond Police Officers; and

WHEREAS, the Association was formed in 2008; and

WHEREAS, the current agreement will end December 31, 2016; and

WHEREAS, the City negotiating team has reached tentative agreement with the Association for a new three year Collective Bargaining Agreement ("CBA") effective January 1, 2017 through December 31, 2019 (attached hereto as Exhibit A) and the City negotiating team has recommended that the Council ratify the CBA; and

WHEREAS, the Association has executed the CBA along with the Memorandum of Understanding (MOU); and

WHEREAS, The Council has reviewed the CBA and Memorandum of Understanding and finds it is in the best interests of the City and its employees to authorize the Mayor to execute the CBA and MOU;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Council hereby authorizes the Mayor to execute the CBA as attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the Mayor to execute the MOU, as attached hereto as Exhibit B.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS \_\_\_\_ DAY OF OCTOBER, 2016.

\_\_\_\_\_  
Carol Benson, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Martinez, City Clerk

**AGREEMENT**

**by and between**

**CITY OF BLACK DIAMOND**

**and**

**BLACK DIAMOND POLICE OFFICERS  
ASSOCIATION (F.O.P.)**

**January 1, 2017 – December 31, 2019**

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**AGREEMENT BETWEEN  
CITY OF BLACK DIAMOND  
and  
BLACK DIAMOND POLICE OFFICERS ASSOCIATION (F.O.P.)**

THIS AGREEMENT is made and entered into by and between the City of Black Diamond, hereinafter referred to as the "Employer" or the "City," and the Black Diamond Police Officers' Association (F.O.P.), hereinafter referred to as the "Association."

**PREAMBLE**

WHEREAS, it is the purpose of this agreement to maintain a high level of performance in the operation of the Black Diamond City government, together with promoting efficiency, initiative, and harmonious relations between the Employer and the Association, and to provide for the rights, well-being, and security of the parties involved; and

WHEREAS, the parties have agreed to certain terms and conditions of wages, hours, and conditions of employment for employees of the Employer as listed herein and wish to reduce the agreement to writing.

NOW, THEREFORE, BE IT MUTUALLY AGREED TO AS FOLLOWS:

**ARTICLE 1 - RECOGNITION**

1.1 The Employer recognizes the Association as the sole collective bargaining agent for all regular full time and regular part time commissioned law enforcement officers of the Police Department, including sergeants, and excluding supervisors, confidential employees, and all other employees.

**ARTICLE 2 - ASSOCIATION SECURITY**

2.1 The Employer agrees that all employees covered under this agreement who have been in the employment of the Employer for thirty (30) days or more, shall become and remain members of the Association in good standing.

2.2 The Employer further agrees that all new employees hired subsequent to the date of signing of this agreement shall, as a condition of employment, after thirty (30) days of employment, become and remain members of the Association in good standing.

2.3 In the event an employee member of the Association as defined in Article I of this agreement who joins the Association fails to maintain his membership in the Association in good standing therein, by regular payment of dues, the Association will notify the Employer, in writing, of such employee's delinquency.

The Employer agrees to advise the employee that his employment status with the Employer is in jeopardy, and that failure to meet his membership obligation of payment of dues will result in termination of employment within five (5) days following the next regular payroll payment date.

- 2.4 The Employer will furnish the Association on a current basis notice of all permanent and permanent part time employees as defined in Article I who have been hired, rehired, transferred, laid off or terminated.
- 2.5 Nothing in the above sections will interfere with the employee's rights under RCW 41.56.122 of the Public Employee's Collective Bargaining Act. Nothing in this Agreement shall deprive employees covered by this Agreement the right of non-association based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular Association dues to a non-religious charity or to another charitable organization mutually agreed upon by the employee affected and the Association. The employee shall furnish written proof that such payment has been made. If the employee and the Association do not reach agreement on such matter, the Public Employment Relations Commission shall designate the charitable organization.
- 2.6 The Association agrees to defend, indemnify, save and hold the City harmless from, for and against any and all claims arising from the application of this article.
- 2.7 If the Employer schedules a Collective Bargaining Agreement negotiation meeting during the scheduled shift of the Association member that represents the Association, then that member may attend the meeting, in paid status, provided the member remains ready to respond to emergency call out at all times. Any other Association members that attend the meeting, other than the one designated representative, shall do so in an unpaid status.

### **ARTICLE 3 - CHECK-OFF OF DUES**

- 3.1 The Employer agrees to deduct Association dues from the wages of each employee as qualified in Section 3.2 below. The Employer agrees to forward such dues to the account of the Association monthly.
- 3.2 The Employer shall only deduct Association dues from the wages if all of the employees in the bargaining unit each sign an authorization card to that effect, copies of which shall be given to the Employer and the Association for certification purposes.
- 3.3 The Association agrees to defend, indemnify, save and hold the City harmless from, for and against any and all claims arising from the application of this article.

## **ARTICLE 4 - WORK SCHEDULE**

- 4.1 Establishing and changing the work schedule is a management right. Generally, the regular work schedule shall consist of the "4/10" work schedule: A work day shall consist of ten (10) consecutive hours including time for lunch when the employee is on call during the lunch period. The Chief of Police has the right to assign an alternate work schedule for employees when assignments, special duties, training, vacations, sick time, and other circumstances preclude the use of the regular work schedule. Absent an emergency, or the circumstances described above, the Employer shall notify the Association in writing, no less than 14 calendar days before a change in the regular work schedule (i.e. 4-10's vs. 5-8s). If the Association provides written notice within the 14 day period that it wishes to discuss the change before it is implemented, then the Employer agrees not to implement the change for 30 more days in order to give sufficient time to confer with the Association.
- 4.2 The parties may, upon mutual consent, meet and discuss alternative work shifts.

## **ARTICLE 5 - OVERTIME**

- 5.1 Overtime shall be defined as all hours worked beyond forty (40) hours from between 2400 hours on Saturday to 2359 the following Saturday. Hours of work shall include sick leave, vacation, compensatory time, holiday and any other City provided leave. Voluntary shift swapping shall not result in the payment of overtime. Training time shall be considered compensable hours of work. Training time consisting of more than seven (7) hours in a day shall constitute a regular work day for compensation purposes, regardless of whether the time spent is more or less than the regular work day. For example, if the training lasts 7 1/2 hours, the Employee will be compensated for 10 hours if they normally work a 10 hour shift. If the training lasts 11 hours the Employee would be compensated for 10 hours if they normally work a 10 hour shift.
- 5.2 Except as specifically modified herein, the Employees shall be entitled to all of the benefits in the Fair Labor Standards Act.
- 5.3 Employees on their day of rest that are subpoenaed to appear in court on a criminal case, or called back to work, shall be compensated at a minimum of three (3) hours at the overtime rate of pay.
- 5.4 Officers not notified of a cancellation of a scheduled criminal court appearance within twelve (12) hours of the scheduled appearance shall be compensated at a minimum of three (3) hours at the overtime rate of pay, only if they called the Court the day before and were advised that their Court appearance was still required.

- 5.5 Department wide meetings are not subject to the call back minimum set forth above, and Employees required to attend department wide meetings will be paid the appropriate rate of pay for actual time spent in the meeting, with a two hour minimum. Training for all employees may be conducted during the department meetings.
- 5.6 Any employee, if agreed to by the Employer, may elect to accrue compensatory time off at the rate of time and one-half (1.5) in lieu of overtime payments up to a maximum accumulation of forty (40) hours. Requests to utilize accrued compensatory shall be made to the Chief or their designee. Requests to utilize compensatory time off shall be granted in accordance with the Fair Labor Standards Act.
- 5.7 Effective the signed date of this Agreement, at the start of each calendar month, sergeants of the Department shall receive two (2) hours of compensatory time off. Compensatory time off under this Section is provided as the exclusive compensation for time spent by sergeants responding to work-related telephone calls during off-duty hours, provided, however, that sergeants who are called back to work after receiving an off-duty telephone call shall be paid as provided elsewhere in this Agreement. Sergeants shall normally use the two (2) hours of compensatory time off provided under this Section in the month that they are earned, but may elect to accrue a maximum of four (4) hours. Compensatory time off provided under this section shall be treated and recorded separately from the compensatory time off provided under Section 5.6 of this Article.

## **ARTICLE 6 - HOLIDAYS**

- 6.1 Each full time Employee shall receive 110 hours of holiday time in lieu of holidays. If the City recognizes more than 11 holidays in a year as official holidays, then this allotment shall increase by 10 hours for each additional recognized holiday. Holiday time may be used before or after vacation time, and must be used in the calendar year in which it is received. There will be no carry forward of holiday time. This allotment amount shall be prorated for regular part time employees based on the percentage of a fulltime shift that they normally work. An Employee who works on a holiday or any portion thereof shall be compensated at the overtime rate. Provided, if, during the holiday, an Employee is called to duty, he shall be compensated at the double time rate.
- 6.2 For Employees who do not work a full year, their prorated share of holiday time will be based on a percentage of time worked which will be established through the date of employment and determined by the Employer.
- 6.3 An Employee may carry over to the following calendar year up to 40 hours of holiday time.

## ARTICLE 7 - VACATIONS

- 7.1 Vacation shall be given as an additional employment benefit. Vacation may be taken as earned according to the following schedule:

Date of hire through 5 years	8 hours per month
Beginning of 6 <sup>th</sup> through 9 <sup>th</sup> year	10 hours per month
Beginning of 10 <sup>th</sup> through 15 <sup>th</sup> year	12 hours per month
Beginning of 16 <sup>th</sup> through 19 <sup>th</sup> year	14 hours per month
Beginning of 20 <sup>th</sup> year and thereafter	16 hours per month

Vacation time is accrued from the date of hire, but cannot be used, until successfully completing six (6) months of employment. Accrued vacation shall not exceed 240 hours at any time.

- 7.2 Vacation Bid Process: Employees shall choose vacation by rank and then seniority within the rank. The annual shift bid shall take place first, followed by the annual vacation bid, which spans two weeks and typically takes place during the last two weeks of November. During the annual vacation bid, employees may bid for up to eighty (80) hours of vacation each. Following the annual vacation bid, the paid leave calendar shall remain open for bidding, by rank and then seniority within the rank, for seven (7) calendar days, typically beginning on December 1 and ending on December 7. Thereafter, vacation shall be scheduled on a "first come – first served" basis. The calendar dates for bidding may be adjusted by the Employer based on a delay with issuance of the final budget, although the total days for bidding shall not be reduced. Once scheduled, vacations shall not be cancelled absent an actual emergency. Only one Employee can be on vacation at any time, unless the Chief of Police determines staffing needs can be adequately met.

Employees shall not be able to bid a vacation on January 1, July 4<sup>th</sup>, Labor Day, Thanksgiving, the day after Thanksgiving or Christmas Day. Provided, nothing prohibits the Department from granting leave on one of those dates by seniority if staffing levels otherwise permit.

- 7.3 Employees shall receive all accrued vacation at the time of termination, provided vacation earned during the year of termination shall be prorated.

## ARTICLE 8 - SICK LEAVE

- 8.1 Employees of the police department shall accrue sick leave at the rate of eight (8) hours per month with a maximum accrual of one thousand forty (1,040) hours.



- 8.2 Sickness or disability shall be reported to the department head or the immediate supervisor at least four (4) hours prior to commencement of the employee's workday, or as soon thereafter as practicable. The employee may be required to provide proof of illness. Any employee who utilizes more than three (3) separate work days of sick leave either immediately prior to, or immediately following, their normal weekend (weekly days off) or holiday, may be required to provide a doctor's certificate for every subsequent sick hours taken during the remainder of that year.
- 8.3 Employees noted in 8.1 above are entitled to use sick leave for only a bona fide illness or injury, quarantine due to exposure to contagious diseases, any physical treatment or examination including medical, dental or ocular. Employees may also use sick leave for illness or injury to the employee's spouse or minor child, requiring the employee's attendance and/or care. Employees shall make reasonable attempts to schedule routine medical, dental and vision care appointments during their off-duty time so as to not impact department staffing levels. Emergency and last minute appointments shall be approved by the immediate supervisor not an Association member, or Police Chief.

Sick leave may also be used for parents, including "step", who do not live in the employee's household, under circumstances defined as serious or extreme and/or life threatening.

- 8.4 Employees entitled to sick leave who have exhausted their sick leave accrual may use accrued vacation.
- 8.5 Time off for medical purposes shall be charged against sick leave for actual time used only.
- 8.6 If an employee retires from the City, meeting LEOFF plan requirements, that employee is eligible to cash out 25% of their sick leave balance at their current straight time rate.
- 8.7 Leave Provided by Applicable Statutes.  
The Employer will provide eligible employees with all family and medical leave, pregnancy disability leave, military leave, and other paid and unpaid leave required by state and federal law, including:
- a) Family and Medical Leave (29 U.S.C. § 2601 et seq. and RCW 49.78).
  - b) Family Care Act Leave (RCW 49.12.265).
  - c) Pregnancy Disability Leave (RCW 49.60).
  - d) Leave for Victims of Domestic Violence, Sexual Assault, and Stalking (RCW 49.76).
  - e) Leave for Spouses of Deployed Military Personnel (RCW 49.77).
  - f) Military Leave for Public Employees (RCW 38.40.060).

g) Leave for Certain Emergency Services Personnel (RCW 49.12.460).

Leave eligibility, benefits, and requirements will be determined by applicable state or federal law and will be administered according to the City of Black Diamond Personnel Manual. In the event any provisions of the City of Black Diamond Personnel Manual conflict with state or federal law, then the terms of the state or federal law shall apply.

- 8.8 Employees injured on duty who receive Labor and Industries compensation shall be permitted to sign over the L&I check to the City and receive their regular compensation provided for under the Agreement. Employees shall not exhaust sick leave while on L&I status.
- 8.9 Association members shall be permitted to donate accrued, but unused, vacation or sick leave to other employees in accordance with City policy, as stated in the City of Black Diamond Personnel Manual. The parties recognize that the City will amend its current donation policy to reflect that donated hours will be converted into cash, and then converted into a proportionate share of hours for the employee receiving the donation, to account for pay disparities between the donating and receiving employees. Beyond this change, the City agrees to bargain the impacts of any subsequent policy revision that materially impacts Association members.

#### **ARTICLE 9 - BEREAVEMENT LEAVE**

- 9.1 Employees are eligible to receive up to five (5) days of paid bereavement leave for the death of an immediate family member. The specific length shall be determined by the Chief. In addition, employees are guaranteed an additional three (3) days of paid bereavement leave for attendance at the funeral of an immediate family member located more than 500 miles away. In the event an employee's spouse or child dies, the Chief has the discretion to allow the employee to use accrued sick, vacation, or holiday leave for purposes of extended bereavement. All leave taken under this Article shall be used within thirty (30) days of the date of death.

For purposes of this section, "immediate family member" includes spouses, children, stepchildren, foster children, siblings, grandparents, parents of employees or parents of employees' spouses, grandchildren, and any other familial inhabitants of employees' households.

- 9.2 Employees may be excused by the Employer to attend the funeral of deceased fellow employees as leave with pay.

#### **ARTICLE 10 - JURY DUTY**

- 10.1 An employee serving on a jury of a federal, state, or municipal court shall be granted leave from City employment to the extent required by such service, and shall be paid during such leave the difference between his/her regular salary and the amount paid by the Court for such duty. In order to be eligible for such payments, the employee must furnish a written statement from the appropriate public official showing date and time served and the amount of jury pay received. The employee shall submit to the City the money received for such services performed during City time. This benefit shall be expanded or diminished based upon changes in applicable federal or state law, and the impacts shall not be negotiated.

### **ARTICLE 11 - OTHER LEAVES**

- 11.1 The Employer provides military leave in accordance with RCW 38.40.060. Leave eligibility, benefits, and requirements will be determined by applicable state law and will be administered according to the City of Black Diamond Personnel Manual. In the event any provisions of the City of Black Diamond Personnel Manual conflict with state law, then the terms of the state law shall apply.
- 11.2 The Employer may grant a regular employee a leave of absence without pay for a period not to exceed ninety (90) days, in the sole discretion of the Employer. No leave of absence without pay shall be granted except upon written request of the employee. Whenever granted, the leave shall be in writing and signed by the Employer, and a copy filed with the department head. Upon expiration of a regularly approved leave without pay, the employee shall be reinstated in the position held at the time leave was granted without loss of seniority status, excepting that the time on leave will be deducted from his total service to determine seniority. Failure on the part of the employee on leave without pay to report promptly at the expiration of the leave shall result in automatic termination of employment. The Employer may, in exceptional circumstances and in its sole discretion extend leave beyond ninety (90) days but reinstatement cannot be guaranteed. The Employee shall be responsible for paying in advance all health insurance premiums during the absence without pay. Failure to do so is grounds for denying the leave of absence.
- 11.3 Pursuant to RCW 1.16.050(3), each employee is entitled to two (2) unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. Leave will be provided in accordance with Washington law and the City of Black Diamond Personnel Manual. In the event City policy conflicts with Washington law, then the minimum requirements of Washington law shall apply.

### **ARTICLE 12 - SENIORITY**

- 12.1 Seniority is the length of continuous employment in each rank of an employee with the Employer in the police department.
- 12.2 Seniority shall be broken only by resignation, discharge, retirement, layoff of more than six (6) months, or failure to return in accordance with the terms of a leave of absence or when recalled from layoff.

### **ARTICLE 13 - PROMOTIONS, DEMOTIONS AND TRANSFERS**

- 13.1 Promotions, non-disciplinary demotions and transfers will be carried out in accordance with Civil Service Commission rules, regulations and statutes.

### **ARTICLE 14 - LAYOFFS AND RECALL**

- 14.1 Layoffs will be conducted in reverse order of seniority by rank. Recall from layoff shall be done in order of seniority, with the most senior employee within a rank being recalled first. Seniority shall be defined as the total length of service with the Department. As a mandatory condition of reinstatement, an employee subject to recall must be qualified to hold his/her position at the time of recall.
- 14.2 The period for recalling a laid-off employee shall be limited to twelve (12) months beginning on the date of the layoff. The Employer reserves the right to extend the twelve (12) month period at its discretion. It is the responsibility of a laid-off employee to provide current contact information to the Employer. If the Employer has difficulty contacting a laid-off employee, it may request assistance from the Association. Failure of an employee to report for reinstatement within ten (10) days of notification of job availability shall result in loss of seniority and, at the Employer's discretion, may result in the forfeiture of the right to reinstatement.

### **ARTICLE 15 - HEALTH & WELFARE - DENTAL - VISION - PRESCRIPTION DRUG - PENSION - LIFE INSURANCE**

- 15.1 The City shall provide all full-time employees and their dependents the option of enrolling in one of two health plans offered by AWC. The first plan is AWC HealthFirst 250 plan with AWC Plan "A" dental insurance. The second plan is AWC Group Health \$20 Co-Pay Plan 3. The vision and orthodontia plans currently offered by AWC (subject to change by AWC) are the following: (1) Vision Service Plan – Full Family, \$25 Deductible; and (2) Orthodontia – Plan V. All employees agree to add both vision and orthodontia plans at their sole expense. Employees also have the option of adding any other benefits offered by AWC through the plans at their sole expense.
- 15.2 Prior to this Agreement, using 2016 rates, employees paid the following cost-share towards premiums under the previous health plans:

2016 AWC HealthFirst Cost-Sharing Premiums

(based on \$50 per month, plus percentage of premium)

Employee only	\$91.97
Employee + Spouse	\$134.46
Employee + Spouse + 1 Child	\$155.37
Employee + Spouse + 2 or more Children	\$173.62
Employee + 1 Child	\$112.88
Employee + 2 of more Children	\$130.33

2016 Group Health \$10 Co-Pay Plan 2 Cost-Sharing Premiums  
(based only on percentage of premium)

Employee only	\$43.81
Employee + Spouse	\$87.11
Employee + Spouse + 1 Child	\$109.40
Employee + Spouse + 2 or more Children	\$131.73
Employee + 1 Child	\$66.13
Employee + 2 of more Children	\$88.46

Effective January 1, 2017, employees shall move to AWC HealthFirst 250 and AWC Group Health \$20 Co-Pay Plan 3. Employees shall continue paying the rates listed above, plus 50% of the annual premium increase for the plan they are enrolled in. For example, if 2017 premiums for AWC HealthFirst 250 increase 4.5% then employees shall pay 50% of the increase and the City shall pay the remaining 50%. This 50/50 split of annual premium increases shall apply each year.

- 15.3 The City has the right to change health and welfare plans and carriers, but agrees that it shall negotiate the impacts of the changes. If the City anticipates changing a benefit from the plan specified above, it shall give the Association no less than thirty (30) days notice so that the parties may meet and discuss other possible alternatives.
- 15.4 For each Employee that is a member of WACOPS the Employer shall pay the annual premium for the life and disability policy offered by WACOPS.
- 15.5 The Employer shall make pension contributions required by statute to the State of Washington, Department of Retirement Systems under the Law Enforcement and Firefighters (LEOFF) Plan.

#### **ARTICLE 16 - DISCIPLINARY PROCEDURES**

- 16.1 The Employer may discipline or discharge an employee for just cause inclusive, but not limited to, those causes set forth in the Civil Service Rules and Regulations.

16.2 Disciplinary action or measures may include the following:

- A. Verbal Warning
- B. Written reprimand
- C. Reassignment that results in an adverse economic impact
- D. Suspension without pay
- E. Demotion
- F. Discharge

16.3 Progressive discipline is generally preferred, but not required, as it is intended to give notice of inappropriate conduct and to afford the Employee an opportunity to improve performance. The level or degree of discipline imposed shall be appropriately based on an employee's prior record of service, length of service, severity of offenses and prior record of discipline. Certain types of conduct do not require progressive discipline, and may justify an initial higher level of discipline, or even immediate discharge.

16.4 When the Employer determines the circumstances are such that retention of the employee will likely result in the disruption of Employer services, damage to or loss of Employer property or be injurious to the employee, fellow employees or the services provided by the Employer, the Employer may immediately suspend with pay, depending on the circumstances. In such cases the facts supporting the circumstances will be made available to the employee by the Employer not later than three (3) working days after the action became effective.

16.5 The provisions of this article shall not apply to newly hired employees serving a probationary period. Consistent with Civil Service rules, the probationary period shall be twelve (12) months from police academy graduation date, not in any case to exceed eighteen (18) months from date of hire. Probationary employees shall work under the provisions of this agreement but shall be only on a trial basis during which period they may be discharged without cause and without any recourse. Employees on probationary status shall be eligible for the twelve (12) month step increase under conditions cited in Article XXIV, Section 24.2 of this agreement.

16.6 The employee and the employee's Association representative with the employee's written authorization shall have the right to inspect the full contents of his/her personnel file. No disciplinary document may be placed in an employee's personnel file without the employee having been first notified of said disciplinary document and given a copy. An employee who disagrees with the validity of any disciplinary document added to the file shall have the opportunity to challenge said complaint under the grievance procedure herein, other than verbal or written reprimands, which shall not be subject to the grievance process. In the case of a written reprimand or higher form of discipline, the employee may provide a

written response within thirty (30) days of being provided notice, which shall be placed in the personnel file, and only removed if the written response is also removed. The employee shall be required to sign the written reprimand or other disciplinary action acknowledging that they have read the contents of the document.

16.7 Records of disciplinary action shall be removed from all City or Department maintained personnel files and not considered for purposes of progressive discipline based upon the following retention schedule and upon request of the employee:

1. Verbal Warning - Written records of a verbal warning or counseling shall be removed and destroyed after twelve (12) month without a reoccurrence of similar conduct which gave rise to the warning or counseling.
2. Written Reprimand - Written reprimands shall be removed and destroyed after eighteen (18) months without reoccurrence of the same conduct which gave rise to the reprimand.
3. Suspension – Suspensions shall be removed and destroyed after sixty (60) months without a reoccurrence of similar conduct which gave rise to the suspension.

Records of disciplinary action shall be kept by the City as required by Washington State records retention laws and schedules, as promulgated by the Office of the Secretary of State.

#### **ARTICLE 17 - UNIFORMS WEAPONS AND EQUIPMENT**

- 17.1 The Employer will provide each new hire with all department issued and required equipment, including uniforms. The Employee shall be responsible for maintaining all issued equipment and uniforms. All issued equipment shall be returned to the City upon termination of employment.
- 17.2 Each employee shall be provided a new ballistic vest at least once every five (5) years or whenever the vest has expired.
- 17.3 For each year of this Agreement, \$700 uniform allowance will be provided to each employee and the allowance can only be used at an approved vendor. The City will pay the vendor directly, up to the amount of unused allowance. The allowance shall be credited to the employee in January of each year. If a piece of equipment or uniform is damaged in the line of duty, it will be repaired or replaced by the City separately, without deduction from the Employee or the uniform allowance.

## **ARTICLES 18 - GRIEVANCE PROCEDURE**

- 18.1 The parties hereto recognize the need for fairness and justice in the adjudication of employee grievances and enter into this Agreement in a cooperative spirit to adjust such actions promptly and fairly. If a grievance cannot be resolved through informal means, the grievance will be settled as hereinafter provided.
- 18.2 A grievance is defined as a dispute involving the interpretation, application or alleged violation of any specific provision of this Agreement.
- 18.3 Any party who believes they have a grievance arising out of the terms of this Agreement may, except for arbitration, personally or through a representative, apply for relief under the provisions of this Article. Provided an employee cannot grieve an item unless it is approved first by the Association executive board, and proof of said approval is provided to the City at the time the grievance process is commenced.
- 18.4 The parties agree that the time limitations provided are essential to the prompt and orderly resolution of any grievance, and that each will abide by the time limitations, unless waived or extended by mutual written agreement of the parties to the grievance. For purposes of this Article, "working day" shall be defined as Monday through Friday, excluding holidays recognized by the City (and specified in the City of Black Diamond Personnel Manual).
- 18.5 To timely initiate the grievance process, a party must file a formal written grievance within ten (10) working days beginning on the date the party knew, or reasonably should have known, of the events giving rise to the grievance. If a party fails to comply with this ten (10) working day period, then that party forever waives and forfeits the grievance as well as any and all rights and remedies relating to the grievance. Failure to timely pursue a grievance to the next step renders final and conclusive the last determination and response. If an employee wishes to have those matters currently addressed under Civil Service Rules and Regulations, inclusive of promotions, demotions, transfers, layoffs, recall and discipline, but not limited thereto, the employee must file a request for an investigative hearing within ten (10) working days of the occurrence. Regarding disciplinary actions, the employee may elect to have disciplinary action reviewed by the Civil Service Commission. If the employee elects to have disciplinary action reviewed by the Civil Service Commission then a request for an investigative hearing must be filed with the Commission within ten (10) working days from the date of the disciplinary action. The employee must elect to have disciplinary action reviewed either through the grievance procedure or by the Civil Service Commission. An employee is not entitled to review of disciplinary action under both procedures. If the employee elects to pursue matters before the Civil Service Commission then the Civil Service Commission procedures will be applicable and not those of the collective bargaining agreement.



- 18.6 Prior to initiating the formal grievance procedure, the Association and/or grievant may verbally present a grievance to the Chief or the Chief's designee. A grievant presenting a verbal grievance shall have the option of being accompanied by an Association representative. The presentation of a verbal grievance under this paragraph is intended as a voluntary, optional, and informal method of attempting to settle potential grievances at an early stage. If a verbal grievance is not satisfactorily resolved, then the grievant may initiate the formal grievance procedure. Presenting a verbal grievance under this paragraph does not suspend the ten (10) working day period for filing a formal written grievance, as dictated by paragraph 18.5 and Step 1 of the formal grievance procedure.
- 18.7 The formal grievance procedure shall be as follows:

Step 1:

The grievance shall be presented in written form, stating the specific provision(s) of this Agreement allegedly violated, to the Chief within ten (10) working days beginning on the date the party knew, or reasonably should have known, of the events giving rise to the grievance. Thereafter, the Chief shall respond in writing to the aggrieved employee within ten (10) working days after receipt of the grievance. If the employee elects to have applicable matters reviewed by Civil Service then the employee will need to comply with the provisions set forth in Section 18.5 above.

Step 2:

If the grievance is not resolved to the satisfaction of the concerned parties at Step 1, then within ten (10) working days of the response in Step 1 above, the grievance in written form shall be presented to the Mayor or designee. The Mayor or designee shall schedule a meeting with the employee within fifteen (15) working days from the date of submission and respond within seven (7) working days of the meeting to the employee and Association. The employee has the right to be represented by his Association representative and the department head has the right to be represented by an Employer representative.

Step 3:

A. Final and Binding Arbitration and/or Mediation:

If the grievance has not been resolved at Step 2, the Association or City may refer the unsettled grievances to mediation and/or final and binding arbitration. If the parties refer the matter to mediation then the timelines for final and binding arbitration shall be extended to accommodate the mediation process.

B. Notice - Time Limitations: The Association shall notify the other party in writing by certified mail of submission to mediation or arbitration within twenty (20) days.

C. Arbitrator - Selection: After timely notice, the parties shall establish who the arbitrator will be in the following manner:

1. After timely notice, the parties shall select an impartial arbitrator within thirty (30) days, if possible, after the request is made to arbitrate.

2. If the parties cannot mutually agree on an impartial arbitrator who is able and willing to serve on a timely basis, they will request a list of nine (9) arbitrators who are willing to abide by time limitations. A list of impartial arbitrators shall be furnished by the Public Employment Relations Commission (PERC). The parties shall flip a coin to determine who will strike the first name, following which each will alternately strike one of the names submitted until one (1) name remains. This person will serve as the sole arbitrator subject to the following provisions.

D. Decision - Time Limit: The arbitrator will meet and hear the matter at the earliest possible date after the selection of said arbitrator. After completion of the hearing, a decision shall be entered within thirty (30) days or as soon as possible thereafter, unless an extension of time is agreed upon as provided for herein.

E. Limitations - Scope - Power of Arbitrator:

1. The arbitrator shall not have the authority to add to, subtract from, alter, change or modify the provisions of this Agreement.

2. The arbitrator shall only have the power to interpret and apply the specific terms of the Agreement and/or determine whether there has been a violation of the terms of this Agreement.

3. The arbitrator shall also have the authority to receive evidence and question witnesses.

4. The arbitrator shall not have the authority to review or consider appeals carried out pursuant to Civil Service Commission Rules and Regulations.

F. Arbitration Award - Damages - Expenses:

1. Each party hereto shall pay the expenses of their own attorneys, representatives, witnesses, and other costs associated with the

presentation of their case. The party that did not substantially prevail shall pay the expenses of the arbitrator.

2. The arbitrator's written award shall be final and binding on all parties.

### **ARTICLE 19 - NON-REDUCTION OF WAGES AND WORKING CONDITIONS**

19.1 The parties hereto agree that the wages and working conditions specified in this Collective Bargaining Agreement shall not be modified during the agreement term, except as provided herein or as authorized by law. The Employer may provide additional benefits to the Employees, from time to time, as may be adopted by City ordinance or resolution.

### **ARTICLE 20 - STRIKES AND LOCKOUTS**

20.1 The employer and the Association recognize that the public interest requires the efficient and uninterrupted performance of all City services and to this end pledge their best efforts to avoid or eliminate any conduct contrary to this objective. During the term of this agreement, neither the Association nor the Employer shall cause, engage in, or sanction any work stoppage, slowdown, or other interference with City functions. Employees who engage in any of the foregoing actions may be subject to disciplinary action including immediate discharge. No individual shall receive any portion of his/her salary or benefits as provided by the employer, and in accordance with applicable law, while engaging in activities in violation of this Article.

### **ARTICLE 21 - ASSOCIATION REPRESENTATION**

21.1 An authorized representative of the Association shall have the right, in unpaid status and after obtaining appropriate signed releases from the affected employees, to investigate grievances or conditions at reasonable hours upon first securing permission from the Employer to do so and without interfering with the progress of work. The Association shall advise the Employer, in writing, of the names of their authorized representatives and stewards.

### **ARTICLE 22 - BULLETIN BOARD**

22.1 The Employer shall provide space for a bulletin board of no more than 8 square feet in size, for the Association's use in an area conveniently accessible to bargaining unit employees, solely to be used for the purpose of notifying

employees of matters pertaining to Association business. All notices shall be signed by a representative of the Association who is authorized by the Association to approve Association notices. The Board shall be properly maintained, in a neat and safe manner, by the Association.

### **ARTICLE 23 - NON-DISCRIMINATION**

- 23.1 The Employer agrees that they will not discriminate against any employee because of lawful Association activity.
- 23.2 Neither the Association nor the Employer, in carrying out their obligation under this agreement, shall not unlawfully discriminate in matters of hiring, training, promotion, transfer, layoff, discharge, or otherwise because of race, color, creed, national origin, gender, age, marital status, disability or religion.
- 23.3 All references to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

### **ARTICLE 24 – WAGES**

- 24.1 The Employees shall be paid the base wage set forth in Appendix A.
- 24.2 For the duration of this Agreement, wages for Association members shall remain fixed at the rates listed in Appendix A to this Agreement. Wage rates are still subject to adjustments for education incentive pay (as described in this Article), specialty pay (as described in this Article), progression through steps (as described in Appendix A of this Agreement), and promotions.
- 24.3 All bargaining unit employees shall receive an education incentive added to the base pay equal to 2% for an Associate Arts Degree or 4% for a Bachelor Degree and 6% for a Masters degree.
- 24.4 Employees assigned by the chief to act as a Field Training Officer or full time Detective shall be paid an additional premium of three percent (3%) of the base rate of pay each month. There shall be no pyramiding of premium pays, and the FTO premium pay shall only apply during actual training time.
- 24.5 The K-9 Officer shall receive one-half hour release time from each shift and one-half hour of pay or compensatory time off on each day off for compensation for the at home care and feeding of the dog.

### **ARTICLE 25 - SEPARABILITY**

- 25.1 In the event that any provision of this agreement shall at any time be declared invalid by a final judgment of any court of competent jurisdiction, or through a

final decree of a government, state or local body, such decision shall not invalidate the entire agreement, it being the express intention of the parties hereto that all other provisions not declared invalid shall remain in full force and effect. The parties agree that any invalid provision of this agreement shall be modified through negotiations to comply with the existing regulations or laws.

#### **ARTICLE 26 - MILEAGE ALLOWANCE**

- 26.1 All employees required by the cognizant department head to use their private cars for official departmental business, shall be compensated at the rate provided by ordinance or resolution, or as the same may be amended or substituted.

#### **ARTICLE 27 – TAKE HOME CARS**

- 27.1 Employees shall be provided their assigned regular patrol vehicle as a take home vehicle, subject to the rules and regulations, including amendments there to, that are adopted by the Chief of Police. Each employee will be required to sign, prior to receiving a take home vehicle, an agreement with the City that they will comply with the adopted rules and regulations and failure to do so may result in losing the take home car privilege. If the take home car privilege is taken away from an officer, only whether or not a violation of the adopted rules and regulations has occurred will be subject to the grievance process.

#### **ARTICLE 28 - CONFLICT OF CONTRACT AND ORDINANCE**

- 28.1 The rules and regulation of the Black Diamond Civil Service Commission shall govern unless specifically superseded by the terms and conditions of the Agreement.

#### **ARTICLE 29 - MANAGEMENT RIGHTS**

- 29.1 Except as expressly modified or restricted by a specific provision of this Agreement or applicable Civil Service Regulations, all statutory and inherent managerial rights, prerogatives, and functions are retained and vested exclusively in management. This shall include, but is not limited to the right in its sole and exclusive judgment and discretion to; 1) take whatever action is either necessary or advisable to determine, manage and fulfill the mission of the department or the City; 2) to discipline employees for cause; 3) to determine the number of employees to be employed and the appropriate staffing levels; 4) to conduct job analysis and performance; 5) to determine the duties, task, responsibilities and essential functions of each job; 6) to hire employees; 7) to determine employee qualifications and to assign and direct their work; 8) to evaluate employee's performance; 9) to promote, demote, transfer, lay off, recall to work, and retire employees; 10) to set productivity standards; 11) to set reasonable fitness standards; 12) to maintain the efficiency of operations; 13) to

set working schedules, add or delete shifts, and determine the shift to be worked; 14) to determine the personnel, methods, means and facilities by which operations are conducted; 15) to contract for goods and or services; 16) to expand, reduce, alter, combine, transfer, assign, or cease any job, department, operation or service; 17) to control and regulate the use of facilities, equipment, and other property of the department; 18) to introduce new or improved equipment, materials, or methods; and 19) to issue, amend, revise and delete policies, rules, regulations, general orders, administrative directives and practices.

- 29.2 The Employer's failure to exercise any right reserved to it in section 29.1, or its exercise of the right in a particular way, shall not be considered a waiver of the right, or a limitation of its exercise of the right in some other way not in conflict with the express provisions of this Agreement. There shall be no prevailing right of the Association or the Employee to any particular way a management right has been exercised in the past, or a benefit has been administered, except as expressly set forth in this Agreement.

### **ARTICLE 30 – BILL OF RIGHTS**

- 30.1 Subject to the provisions of this Agreement and except as otherwise provided, employees have the right to use the grievance procedure contained herein to protect their rights as set forth in this Agreement.
- 30.2 All employees within the bargaining unit shall be covered by the following rules and regulations. The powers and duties of law enforcement officers involve them in many contacts with members of the public and questions are bound to arise as to the nature of such contacts, which questions require immediate investigation by superior officers who have been authorized to make such investigations by the Chief of Police.

Such investigations shall be conducted under the following general guidelines:

30.2.1 When a permanent, non-probationary employee is the subject of a formal internal investigation by the Black Diamond Police Department, prior to any interview of the employee, the employee shall be advised of the general nature of the inquiry of and whether he or she is suspected of (1) committing a criminal offense; (2) misconduct that would be grounds for termination, demotion, suspension, or other disciplinary actions; (3) that the employee may not be qualified for continued employment with the Department. All interviews shall be conducted in a manner consistent with due process rights granted by law. The officer shall not thereafter contact the citizen or witnesses without prior written permission of the Chief of Police.

30.2.2 If the Chief of Police determines that the officer should be questioned about the allegation, such questioning shall be done as soon as practicable. Unless an emergency is thought by the Chief of Police to exist, such questioning shall be while the member is on duty and during the daytime, if possible.

30.2.3 Questioning of the officer shall be with full regard to his constitutional rights. If the allegations amount to a charge that the officer is guilty of a crime, he shall be fully advised of his rights under the Miranda decision. The employee shall have the right to retain an attorney of his own choosing, (at no expense to the City of Black Diamond). Such attorney (and/or a representative of the Association) shall have the right to be present during any questioning.

30.2.4 An employee who is the subject for a formal investigation shall have a right to make copies of any statement he or she has signed pertaining to the investigation and shall be entitled to a copy, at its expense, of any recording of an interview of the employee.

30.2.5 It is understood that under state law, no officer may be required to take any lie detector test as a condition of continued employment, though he may request a polygraph test. If one is requested by the employee, and the Employer consents to the polygraph of the employee, it shall be taken by an independent agency chosen by the Chief of Police, after consultation with the Association, at the Employee's expense.

### **ARTICLE 31- LIABILITY INSURANCE**

- 31.1 The Employer agrees to either provide insurance coverage on behalf of the employees or provide liability defense for employees or a combination thereof in order to reasonably protect and indemnify employees from liability to third parties resulting from employees negligently performing duties within the scope of employment provided, however, such coverage will not protect the employee from their intentional and/or malicious tortious acts or assaults. Subject to the provisions of this Article, the coverage will include reasonable attorney's fees incurred by attorneys chosen by the City and reasonable costs connected with lawsuits.
- 31.2 The Drug and Alcohol Policy and procedures mutually agreed on by the parties is hereby incorporated by reference as though it were set out specifically and completely in this Agreement. Said policies and procedures are a part of this Agreement.

### **ARTICLE 32 - TERMINATION AND RENEWAL**

- 32.1 This agreement shall be in full force and effect from January 1, 2017 until December 31, 2019.

**CITY OF BLACK DIAMOND,  
WASHINGTON**

**BLACK DIAMOND POLICE  
OFFICERS' ASSOCIATION**

By: \_\_\_\_\_  
Mayor Carol Benson

By: \_\_\_\_\_  
Sgt. Brian Lynch, President

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## APPENDIX A

	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
<b>Police Officer</b>	5,037	5,645	6,255	6,863.00	7,440
<b>Police Sergeant</b>	8,292	8,757	N/A	N/A	N/A

Wage rates shall remain unchanged for the duration of this Agreement. However, employees shall receive the following signing bonus payments:

January 2017 = \$1,250

January 2018 = \$1,250

January 2019 = \$1,250

The signing bonus payments will be paid only to those employees on the roster at the beginning of each calendar year. Annual payments will be made during the second payroll period of January.

An officer's wage shall be increased to the next step on his/her step-increase eligibility date and upon a satisfactory performance evaluation. For employees hired on or before May 6, 2010, the step-increase eligibility date is the first day of the month of hire. For employees hired after May 6, 2010, including all future employees, the step-increase eligibility date is the first day of the month of hire if hired from the 1<sup>st</sup> through the 15<sup>th</sup> of the month, or the first day of the month following the month of hire if hired from the 16<sup>th</sup> through the 31<sup>st</sup> of the month.

Employees will submit timesheets to the Employer's payroll department one week before the end of each month to allow sufficient time for payroll processing. A lag report for overtime earned, or leave taken, during the last week of each month will be submitted by employees with the following month's timesheets.

	<b>Wage</b>
<b>Josh Tapeç</b>	7,440.00
<b>Kris Chatterson</b>	7,440.00
<b>Tim Macdonald</b>	7,440.00
<b>Mike Girias</b>	8,757.00
<b>William Riepl</b>	5,037.00
<b>Brian Lynch</b>	8,757.00

MEMORANDUM OF UNDERSTANDING  
CITY OF BLACK DIAMOND  
AND  
BLACK DIAMOND POLICE OFFICERS' ASSOCIATION (F.O.P.)

1. Dates and Parties. This Memorandum of Understanding (MOU) is effective January 1, 2017 through December 31, 2019, by and between the City of Black Diamond (the "City") and the Black Diamond Police Officers' Association (the "Association").
2. Background and Purpose.
  - a. The parties have executed a collective bargaining agreement ("CBA") for the period of January 1, 2017 through December 31, 2019.
  - b. During bargaining over the CBA, the parties could not reach an agreement concerning a notice period for shift adjustments. The parties agreed to this MOU as a compromise to evaluate the need for and costs associated with providing such notice.
3. Terms of this MOU – Shift Adjustments
  - a. The City will provide 48 hours' notice of adjustments to an officer's regularly-scheduled shift. Overtime will be paid for adjustments made with less than 48 hours' notice, paid for those hours falling outside of an officer's regularly-scheduled shift. A deviation of four (4) hours or less from a regularly-scheduled shift does not qualify as a shift adjustment and does not qualify for overtime payment.
  - b. The payment of overtime for shift adjustments is intended to avoid causing inconvenience to officers' personal lives during time off and is not intended to incur overtime liability on a regular basis. The payment of overtime provided by this MOU shall apply only when the Department is fully staffed and not during staffing emergencies or public emergencies (as determined by the Chief or Commander). For example, having an officer on extended L&I leave for one (1) week or more in duration counts as a staffing emergency. Shift adjustments made by mutual agreement between the Department and the affected officer(s) shall not qualify for overtime payments.
  - c. All paid time off (vacation, holiday, compensatory time off) requests must be submitted with 72 hours' notice or they are subject to denial.

4. This MOU will remain in effect for the duration of the parties' 2017-2019 CBA and then expire. While the MOU remains in effect, the parties will evaluate its pros/cons. This MOU will not become part of the status quo or evidence at interest arbitration. The terms of this MOU will be subject for negotiation during bargaining over a successor CBA. All other terms and conditions of the 2017-2019 CBA shall remain unchanged and in full force and effect.

CITY OF BLACK DIAMOND

BLACK DIAMOND POLICE OFFICERS'  
ASSOCIATION

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Carol Benson, Mayor

\_\_\_\_\_  
Sgt. Brian Lynch, Association President