

RESOLUTION NO. 09-583

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

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

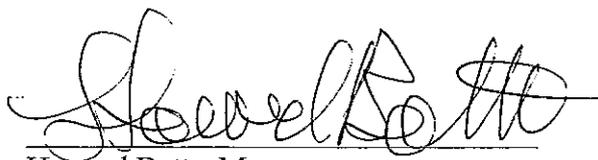
WHEREAS, the City negotiating team has reached tentative Agreement with the Union for a new six (6) year Collective Bargaining Agreement ("CBA") effective August 31, 2008 through August 30, 2014 (Attached hereto as Exhibit A) and the City negotiating team has recommended that the Council ratify the CBA; and

WHEREAS, the Association has executed the CBA; and

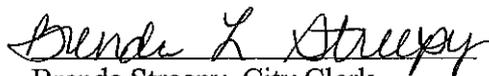
WHEREAS, the Council has reviewed the CBA and finds it is in the best interests of the City and its employees to authorize the Mayor to execute the CBA; now, therefore

BE IT RESOLVED that the City Council hereby ratifies the CBA and authorizes the Mayor to execute the CBA, as attached hereto.

ADOPTED by the City Council at an open meeting on the 19<sup>th</sup> day of March, 2009.

  
Howard Botts, Mayor

Attest:

  
Brenda Streepy, City Clerk

**AGREEMENT**

**by and between**

**CITY OF BLACK DIAMOND**

**and**

**BLACK DIAMOND POLICE OFFICERS  
ASSOCIATION**

**August 31, 2008 – August 30, 2014**

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**AGREEMENT BETWEEN  
CITY OF BLACK DIAMOND  
And  
BLACK DIAMOND POLICE OFFICERS ASSOCIATION**

THIS AGREEMENT is made and entered into this 19th day of MARCH, 2009, by and between the City of Black Diamond, hereinafter referred to as the "Employer," and the Black Diamond Police Officers Association, 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.

**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. The holiday time shall be used before 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 therefor 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. Vacation bidding shall be done at the time of the annual shift bid. Thereafter, vacation shall be scheduled on a "first come – first served" basis. 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.

7.2.1 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 Federal Family Medical Leave

Employees who work for the Employer for at least twelve (12) months, and have worked 1250 hours over the previous twelve (12) months are eligible for up to twelve (12) weeks total of paid or unpaid leave per twelve (12) months period for: birth, adoption, or foster care of a child, or a serious health condition of the employee or immediate family member requiring in-patient care or continuing treatment by a health care provider.

8.7.1 An "immediate family member" for purposes of Family Medical Leave is defined as an employee's spouse, child, parents, or any member of the immediate household. A "serious health condition" is an injury, illness, impairment or physical or mental condition that involves in-patient care or continuing treatment by a health care provider. The Employer may require certification from a health care provider for leave based on a serious health condition. The disability portion of pregnancy leave is considered a serious health condition for purposes of the Family and Medical Leave Act. The leave would normally end six (6) weeks after a normal birth or eight (8) weeks after a cesarean section.

8.7.2 Employees must provide the Employer with at least thirty (30) days' notice if possible before taking such leave, or notify the Employer as soon as practicable. Before going on unpaid leave status for the birth, adoption, or foster care of a child or the serious health condition of the employee's spouse, parents or children requiring in-patient care or continuing treatment, an employee is required to use all accrued unused compensatory or personal days and all accrued unused vacation leave. Before going on unpaid leave status for the serious health condition of the employee or the employee's minor child requiring in-patient or continuing treatment, an employee is required to use all unused sick leave, personal leave, compensatory leave, compensatory time off and vacation leave.

8.7.3 As required by law, the Employer shall maintain the employee's health benefits during the FMLA leave to a maximum of twelve (12) weeks. In the event an employee does not return to Employer employment after taking leave under this section, the Employer may recapture the cost of any health insurance premiums paid by the Employer during the unpaid portion of the leave. If the Employee is owed money for any reason at the time the Employee will not be returning to work, then the Employer may withhold the cost of any health insurance premium paid by the Employer during the unpaid portion of the leave. Upon return from such leave, the employee will be reinstated to the employee's former or equivalent position.

8.7.4 The Employer shall notify the Employee when the Employee has commenced the FMLA leave, and the Employee shall first be required to use all accrued sick leave, vacation and holiday benefits before commencing unpaid status leave. This shall also apply to any leave granted by state law in sections 8.8 and 8.9.

- 8.8 Washington State Family Leave. An employee is entitled to twelve (12) work weeks of family leave during any twenty-four (24) month period to: (a) care for a newborn child or adopted child of the employee who is under the age of six (6) at the time of placement for adoption, or, (b) care for a child under eighteen (18) years old of the employee who has a terminal health condition. This twelve (12) weeks allowed by Washington State Law (RCW 49.78) for leave is in addition to leave provided for pregnancy or childbirth. This provision shall automatically be modified by any addition or deletion of benefits contained in said state law, without negotiation of the impacts.
- 8.9 Washington State Family Care Rules. Under this law, employees may use any accrued sick or other paid leave to care for a child with a health condition that requires treatment or supervision, or to care for a spouse, parent, parent-in-law, or grandparent who has a serious health condition or an emergency health condition, and to care for children eighteen (18) years and older with disabilities. (RCW 49.12.265). This provision shall automatically be modified by any addition or deletion of benefits contained in said state law, without negotiation of the impacts.
- 8.10 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.
- 8.11 Employees shall be permitted to donate accrued, but unused, sick leave to another employee of the City of Black Diamond in accordance with any program for donating accrued but unused sick leave that is adopted by the City of Black Diamond as a city wide policy.

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

- 9.1 Bereavement leave shall be granted in accordance with the terms of City Policy 6-004.
- 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 In the event of a military leave, the Employer abides by the provisions of the State of Washington RCW 38.40.060 which stipulates that employees who are members of the National Guard or Federal Reserve military units are entitled to be absent from their duties up to fifteen (15) calendar days with pay during each calendar year while engaged in the performance of ordered military duty and while going to or from such duty. This benefit shall be expanded or diminished based upon changes in applicable federal or state law, and the impacts shall not be negotiated.
- 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.

### **ARTICLE 12 - SENIORITY**

- 12.1 Seniority is the length of continuous employment 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 lay-

off shall be done in order of seniority with the most senior employee within rank being recalled first. Seniority shall be defined as the total length of service with the Department. Failure of such employee to report for reinstatement within 10 days of notification of job availability shall result in loss of seniority.

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

- 15.1 The City shall provide all full time employees and their dependants the option of enrolling in one of two health plans offered by AWC. The first plan is the AWC Plan "B" medical and AWC Plan "A" dental insurance. If the health plans offered by the City allow, the Employee may, at its expense, add vision, orthodontia, or any other benefits offered by the plan that are not covered by the basic medical and dental coverage. The second plan is the AWC sponsored Group Health \$10 co pay plan.
- 15.2 If the employee opts for the Plan B health insurance option then the City shall pay the premium for the employee and the employee's spouse and dependants. For the Agreement term, each employee, as a monthly payroll deduction, shall reimburse the City for a portion of the premium. For the Agreement term the employee shall contribute \$50.00 per month, plus a percentage of any increase in the premiums over the 2009 premium rate in the years 2010, 2011, 2012, 2013 and 2014. The City shall pay ninety percent (90%) of the increase in premium in each of those years over the base rate for the previous year, and the employee shall pay the remaining ten percent (10%) as a monthly payroll deduction.
- 15.3 If the employee opts for the Group Health \$10 co pay option, then the City shall pay the premium for the employee and the employee's spouse and dependants. For the Agreement term, the employee shall contribute, as a monthly payroll deduction, a percentage of any increase in the premiums over the 2009 premium rate commencing with the premium for coverage in January 2010, each in the years 2010, 2011, 2012, 2013 and 2014. The City shall pay ninety percent (90%) of the increase in premium in each of those years over the base rate for the previous year, and the employee shall pay the remaining ten percent (10%) as a monthly payroll deduction.
- 15.4 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. The parties acknowledge that the AWC Plan "B" is being terminated in 2011 and thus the parties will negotiate in good faith to find another health plan with similar benefits at the same premium.
- 15.2 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.

15.3 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 written reprimand or greater disciplinary document

may be placed in the personnel file without the employee having been first notified of said complaint and given a copy. An employee who disagrees with the validity of any complaint 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, the employee may provide a written response, which shall be placed in the personnel file, and only removed at such time that the written response is 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 files and permanently destroyed in accordance with 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.

#### **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, \$650 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.
- 18.5 If any party fails to file a grievance within ten (10) working days from the date of the occurrence or knowledge of the occurrence, then said party forever waives and forfeits the grievance as well as any and all rights and remedies relating to said 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) calendar 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) calendar 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 A grievance may be verbally presented by the Association and/or the grieved employee to the Chief or her designee within ten (10) working days from the occurrence or knowledge of the occurrence. The employee shall have the option of being accompanied by his Association representative. The Chief shall respond within ten (10) working days. If the matter is not satisfactorily resolved, then the grievant may initiate a formal written grievance in accordance with the provisions herein below.
- 18.7 The formal grievance procedure shall be as follows:

Step 1:

The grievance shall be presented in written form, stating the specific provision of this Agreement allegedly violated, to the Chief within ten (10) working days from its occurrence or knowledge thereof. 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) working 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, as adjusted from time to time by the operation of sections 24.2.
- 24.2 Effective January 1, 2009, employees in the bargaining unit will receive wage increases of 5% of their base wage rate set forth in Appendix A. Effective January 1, 2010, employees in the bargaining unit will receive a wage increase equal to 80% of the increase of the Seattle CPI-U for July (first half) of 2008 to July of 2009, with not less than 3% nor more than 6% increase in the base

wage. Thereafter the base wage shall be adjusted each January of the Agreement term in the same manner with the same terms and using the same index, except the base year for determining the increase shall adjust to July to July of the previous year. The parties agree that the wages set forth in Appendix A, as modified by the cost of living adjustments set forth in this paragraph, shall be reevaluated in August 2010, and August 2012 to assure that the wages remain competitive with departments in comparable Cities.

- 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**

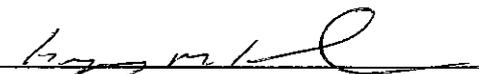
- 32.1 This agreement shall be in full force and effect from August 31, 2008 until August 30, 2014.

**CITY OF BLACK DIAMOND,  
WASHINGTON**

By:   
Howard Botts, Mayor

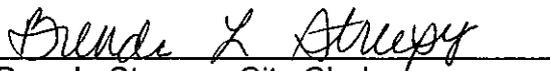
Date: 3-19-09

**BLACK DIAMOND POLICE  
OFFICERS ASSOCIATION**

By:   
Greg Goral, President

Date: 3/19/2009

Attest:

  
Brenda Streepy, City Clerk

## APPENDIX A

**Effective August 31, 2008**

	Step 1	Step 2	Step 3	Step 4	Step 5
<b>Police Officer</b>	4,138.00	4,638.00	5,138.00	5,638.00	6,112.00
<b>Police Sergeant</b>	6,811.00	7,194.00	N/A	N/A	N/A

An officer's wage shall be increased to the next step on his employment anniversary date and upon a satisfactory performance evaluation. Provided, as to the employees employed by the City on the Agreement's effective date, all of whom are listed below, their salary shall remain at the rate set forth below (plus the 5% wage increase commencing January 1, 2009), until their anniversary date, at which time their salary shall be increased to the above listed step that is above their current salary.

	August 2008 Wage
<b>Greg Goral</b>	6,112.00
<b>Kris Chatterson</b>	6,112.00
<b>Tim Macdonald</b>	5,425.00
<b>Ed Volpone</b>	4,924.00
<b>Eric Weinreich</b>	5,644.00
<b>Justin Cripe</b>	4,924.00
<b>Brian Lynch</b>	N/A

NAME	CURRENT STEP	CURRENT PAY EFFECTIVE AS OF 1/1/2009	ANNIVERSARY DATE	NEW PAY SCALE STEP	NEW PAY EFFECTIVE AS OF 4/1/2009
Greg Goral	Police Sergeant Step 1	\$ 6,749.00	10/1/2009	Police Sergeant Step 1	\$ 7,152.00
Kris Chatterson	Senior Officer Step 5	\$ 6,418.00	4/8/2009	Police Officer Step 5	\$ 6,418.00
Tim Macdonald	Senior Officer Step 3	\$ 5,926.00	2/18/2009	Police Officer Step 4	\$ 5,926.00
Ed Volpone	Senior Officer Step 1	\$ 5,466.00	11/1/2009	Police Officer Step 3	\$ 5,466.00
Eric Weinrich	Senior Officer Step 4	\$ 6,157.00	5/20/2009	Police Officer Step 4	\$ 6,157.00

Justin Cripe	Police Officer Step 5	\$ 5,345.00	12/17/2009	Police Officer Step 3	\$ 5,395.00
Brian Lynch	Senior Officer Step 4	\$ 6,157.00	9/17/2009	Police Officer Step 4	\$ 6,157.00

The following should be effective 4/1/09;

Chatterson will stay at his current pay (Top Step)

Goral will go to new Step 1 of Sergeant Pay

Macdoanld will stay at his current pay (\$5926), but be considered in new Step 4 for future anniversary increase.

Volpone will stay at his current pay (\$5466), but be considered in new Step 3 for future anniversary increase.

Weinreich will stay at his current pay (\$6157), but be considered in new Step 4 for future anniversary increase.

Cripe will be put into new Step 3 (\$5395)

Lynch will stay at his current pay (\$6157), but be considered in new Step 4 for future anniversary increase.

The 3 new hires will be in new Step 1 (current pay)