

**AMENDED MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF SARASOTA AND THE INTERNATIONAL UNION OF
POLICE ASSOCIATIONS
INTERIM DISCIPLINARY GRIEVANCE AND ARBITRATION PROCEDURE**

June 15, 2018

The City of Sarasota (the "City") and the International Union of Police Associations ("IUPA") (individually a "Party" and collectively the "Parties") hereby agree to amend the adopted Interim Disciplinary Grievance And Arbitration Procedure executed by the Parties on April 24, 2018 ("Disciplinary Grievance Procedure") attached hereto as Exhibits A and B, as follows:

1. The redlined version of the Disciplinary Grievance Procedure, attached as Exhibit A, identifies the Parties amended collective input on the Disciplinary Grievance Procedure.
2. The clean version of the Disciplinary Grievance Procedure, attached as Exhibit B, accepts the changes identified in the redlined version, and is hereby adopted by the Parties as of the date of this Memorandum of Understanding (the "Disciplinary MOU").
3. The Parties agree that discipline received by bargaining unit members between November 3, 2017 – the date that IUPA was certified by the Florida Public Employees Relations Commission ("PERC") as collective bargaining agent – and the date of execution (or ratification, if applicable) of this Disciplinary MOU, is subject to processing through the Disciplinary Grievance Procedure. Any new grievance(s) concerning such discipline must be initiated by IUPA at Step 1 of the Disciplinary Grievance Procedure within seven days after the grievance first occurred or when the aggrieved should have had knowledge thereof.
4. Grievances that have been processed since November 3, 2017 between the Parties will not be re-litigated. Any grievance that has been resolved, rejected or exhausted will not be re-processed after the execution of the Disciplinary Grievance Procedure MOU. ("Resolved Grievance") Grievances in process at the time of the execution of this MOU ("In-Process Grievance") will continue through the process set forth from the then current step as set forth in this Disciplinary Grievance Procedure. The completed steps of the In-Process Grievances will not be re-litigated.
5. On the date of IUPA's certification by PERC, a Disciplinary Grievance (Dated: October 17, 2017; in re: Sarasota Police Department IA Case #17-015) (hereinafter the "10/17/17 Grievance") was pending at Step 3 of the then-applicable procedure available to bargaining unit members. The bargaining unit member on whose behalf the 10/17/17 Grievance was filed has requested that IUPA provide representation for the remainder of the processing of the 10/17/17 Grievance. Accordingly, the Parties agree that IUPA will assume representation of the relevant bargaining unit member in regard to the 10/17/17 Grievance. The Parties agree that the 10/17/17 Grievance will henceforth be processed through the Disciplinary Grievance Procedure, starting with Step 4. Additionally, the Parties agree that in re: Sarasota Police Department IA Case #17-020 (hereinafter the 11/28/17 Grievance) will henceforth be processed through the Disciplinary Grievance Procedure, starting with Step 4 and in conjunction and combined with the 10/17/17 Grievance.

[Signature] City of Sarasota
Daniel Mason
6/15/2018

[Signature] p. 2 of 2
Holly Van Horst, Esq.
General Counsel, IUPA
For: IUPA 06/15/18

6. The Parties agree that the processing of the 11/28/17 Grievance as set forth above, does not establish any precedent concerning future grievances or waiver of any time limits for the Union to file or process a grievance.
7. The Parties agree that this Disciplinary MOU shall not act as a waiver of the Parties respective rights to collectively bargain over a Grievance and Arbitration Procedure in the negotiation of the Parties' initial collective bargaining agreement ("CBA").
8. The undersigned represent that they are duly authorized by the City of the IUPA to execute this Agreement and bind the Parties hereto.

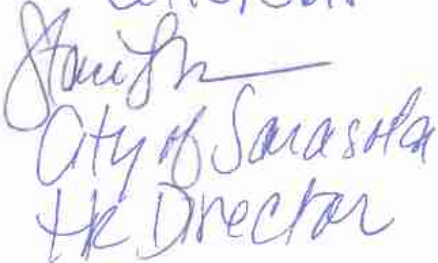
For the City of Sarasota

For the IUPA



Name:

Date: 6/15/2018


City of Sarasota
HR Director



Name:

Holly Van Horsten, Esq.
General Counsel, IUPA

Date: 06.15.18

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Exhibit "A"
**AMENDED INTERIM DISCIPLINARY GRIEVANCE AND ARBITRATION
PROCEDURE**

Section 1. Definitions.

- A. The "aggrieved" is an employee, or a group of employees, or the IUPA who alleges that they have been adversely affected by a disciplinary action.
- B. "Grievance" is an allegation by the aggrieved that he has been adversely affected by a Disciplinary Action. A grievance may be processed through Step 5 of this Agreement.
- C. The Employee's and IUPA's election to proceed under this **Disciplinary Grievance Procedure** shall preclude it from proceeding in another forum on the same issue.

Section 2. Procedure.

A. Informal Step

The aggrieved and/or his IUPA representative shall request a meeting to discuss a grievance with his immediate supervisor (or his designee) with the objective of adjusting the grievance informally. Said request shall be made to the immediate supervisor no later than seven (7) calendar days after the grievance first occurred, or when the aggrieved should have had knowledge thereof. Any meeting under this step may take place within five (5) calendar days after such a request. If the aggrieved is not satisfied with the disposition of the grievance or a meeting is not held, the grievance may be taken to Step One of the formal procedure.

B. Formal Steps

1) Step One

The aggrieved and/or his representative shall present the grievance on the adopted form to his Captain or the Captain's designee no later than seven (7) calendar days after the informal meeting or, in the absence of such meeting, no later than eight (8) calendar days after the request for a meeting was made. The Captain or his designee shall submit a written response on the adopted forms within five (5) calendar days after submission of the grievance, or the grievance may be taken to the next step.

2) Step Two

If the aggrieved is not satisfied with the disposition of the grievance in Step One, he and/or his representative may submit it on the adopted form to the Chief of Police or his designee within seven (7) calendar days of the written response in Step One or from the final date a response was due, in the absence of a written response. The Chief or his designee shall submit a written response on the adopted form within ten (10) calendar days after submission of the grievance in this Step.

3) Step Three

If the aggrieved is not satisfied with the disposition of the grievance in Step Two, he and/or his representative may submit it on the adopted form to the City Manager or designee within seven (7) calendar days of the written response in Step Two or from the final date a response was due, in the absence of a written response. After submission of the grievance in this step, a meeting before the City Manager or designee shall be held if the City Manager or designee deems it necessary.

The City Manager or designee shall submit a written response on the adopted form within ten (10) calendar days of the submission of the grievance to him.

4) Step Four

If the aggrieved or the IUPA is not satisfied with the disposition of the grievance in Step Three, or in the absence of a written response, he and/or his IUPA representative, shall submit the matter to Mediation with the FMCS after written notification to the City. The Parties will request a Mediator from the FMCS (or a private mediator selected by the Parties) within fifteen (15) calendar days of the written notification for Mediation. The Parties will mediate in good faith to resolve the issues and enter into a written settlement agreement committing the resolution to writing.

5) Step Five

If the grievance is not otherwise resolved by Step Four he and/or his IUPA representative[or the IUPA] may submit the matter to arbitration in accordance with the available procedures outlined in this Article. While the IUPA retains exclusive authority to decide whether grievances filed by dues-paying IUPA IUPA members may be submitted to arbitration, nothing in this article abrogates the due process rights of any employee. A grievant may select only one avenue of appeal, and once that appeal process has been initiated the grievant may not select the other process.

Any submission hereunder shall be received by the City Manager's office within fourteen (14) calendar days after the decision in Step Four , or from the final date a response was due in the absence of a written response.

The party requesting arbitration, other than the "Fast Track" Arbitration Process as set forth herein, shall submit a request for a panel of not less than seven (7) names to the Federal Mediation and Conciliation Service, FMCS. The selection shall be made by alternately striking names and the remaining name shall be the arbitrator. The party requesting arbitration shall strike the first name. Each party shall have the right to reject one panel as a matter of right.

Section 3. Rules

- A. Any written grievance presented by an employee must contain the following Information on the form attached hereto.

- 1) A statement of the grievance, including date of occurrence, and details, and facts upon which the grievance is based.
- 2) The article and section of the Agreement alleged to have been violated.
- 3) How the aggrieved feels the above article and section is being violated, so as to adversely affect him.
- 4) The action, remedy or solution requested by the employee.
- 5) Signature of aggrieved employee.
- 6) Reason for rejection of management's answer, if appealed.
- 7) Date submitted.

Grievances submitted which do not contain the above information shall be considered inappropriate and shall be declared null and void.

- B. A member of the Bargaining Unit may avail himself of the grievance procedure in person or by counsel and have such grievance adjusted without intervention of the IUPA provided that:
 - 1) The adjustment is not inconsistent with the terms of this Agreement; and
 - 2) The IUPA has been given reasonable opportunity to be present at any meeting called for in the resolution of such grievance.
- C. The time limits contained herein are absolute. The failure of the aggrieved to file a grievance timely or to appeal it timely to subsequent Steps is a waiver of the grievance. At any step in the grievance procedure, the time limits may be extended by mutual Agreement of the parties to the grievance. Should there be at any step herein prescribed, no response by the City, it shall be deemed that the grievance has been denied.
- D. Employees will follow all written and verbal directives of supervisors even if such directives are allegedly in conflict with the provisions of the Status Quo. Compliance with such directives will not in any way prejudice the employee's right to file a grievance within the time limits contained herein, nor shall compliance affect the ultimate resolution of the grievance. No employee or group of employees may refuse to follow directions pending the outcome of a grievance.
- E. If either party asserts that the grievance is not arbitrable, the arbitrator shall determine the issue of arbitrability.
- F. The arbitrator shall have no power to add to, subtract from, modify or alter the terms of the Status Quo, and shall confine his decision solely to the interpretation or application of the Status Quo. The arbitrator shall not have the power to arbitrate any matter expressly or impliedly excluded from arbitration, nor to proceed in contravention of the limitations upon his powers as expressed in herein.
- G. Any relief granted prior to Step Three requiring the expenditure of City funds which is not in accordance with Florida Statutes, shall be void. Any relief granted prior to Step Two shall not be deemed to establish a past practice, custom, precedent, or usage as to any other circumstances of occurrences without the express approval of the City Manager. The arbitrator is not empowered to render any award which imposes fines or penalties upon the City.

H. In the event of the arbitration of a grievance arising out of the discharge of an employee, the arbitrator is empowered to either sustain the discharge or, if he does not, he is empowered to reinstate the employee with or without back pay in whole or in part as the circumstances warrant. As a condition of re-employment, an employee is required to complete the following before they can return to a position as a sworn officer with SPD:

- i. A comprehensive SPD job application
- ii. Civil and criminal background checks
- iii. Employment check (for employment during the period of separation)
- iv. Military records, if any
- v. Drug test
- vi. Physical examination
- vii. Psychological examination
- viii. Polygraph
- ix. Physical Abilities Test

Any award of back pay shall be reduced by any unemployment compensation he may have received, and may be reduced by interim earnings of the discharged employee earned from a replacement job or jobs.

- I. Should either party request a transcript of the arbitration proceedings, then that party will bear the full costs for that transcript. The cost associated with the appearance of the court reporter and a copy of the transcript for the arbitrator (should he/she request one) will be divided equally between the parties.
- J. Step One and/or Step Two of the grievance procedure may be bypassed provided the aggrieved and the City Manager agree. The grievance shall then be brought directly to the next succeeding step.
- K. Each party shall bear the full cost for its representation in the arbitration and the compensation of its participants. Each party shall be responsible for the compensation of its witnesses, including employees. The cost of the arbitrator and the FMCS will be divided equally between the parties.
- L. Election of Forum (Non-duplication of Remedies):
The commencing of legal proceedings against the City in a court of law or equity, or before the Public Employees Relations Commission, or any other administrative agency, by an employee or employees for an alleged violation or violations of the express terms of this Agreement shall be deemed a waiver by said employee or

employees of his/their right to resort to the grievance and arbitration procedure contained in this Agreement for resolution of the alleged violation or violations of the express terms of this Agreement.

- M. The aggrieved may present his grievance at Steps One and Two on City time. The presentation of a grievance by the aggrieved at Steps Three, Four and Five may be on City time only as determined in the sole discretion of the City Manager. Except as herein provided, the investigation, administration or presentation of grievances by the employee and/or his representative may not be conducted during working hours.
- N. Nonsworn employees have the option of utilizing the appeals process established by the City of Sarasota Personnel Rules and Regulations or the grievance procedure established under this Article, but such employee cannot use both.

Section 4. Fast-Track Grievance Procedure

For the resolutions of grievances forwarded to arbitration that involve discipline involving unpaid suspensions of less than 48 hours or written disciplinary actions, the arbitration will be heard and resolved through the use of the "Fast-Track" arbitration procedure. Any other grievances will not be permitted under the "Fast-Track" option.

- A. In October of odd-numbered years, the City and IUPA shall request a panel of seven arbitrators from the FMCS who have a residential or business address located in Manatee, Sarasota or Charlotte counties. The parties shall use the flip of a coin to decide which party has the option of striking first. The IUPA and City will alternately strike names until a single arbitrator's name remains. Once the arbitrator is selected, the arbitrator will be contacted to see if they are willing to serve as the "Fast-Track" for the Agreement for the twenty-four month period beginning with the next January 1st under the following terms:

- Arbitrations must be scheduled within 30 days of the date the grievance is forwarded to arbitration at Step -5 and will only be scheduled after the Parties have mediated the matter in good faith.
- Hearings will be heard in the City of Sarasota and shall be limited to no more than 4 hours in length with the parties provided two hours each for the presentation of their cases.
- The Parties will participate in a pre-hearing Telephone Conference no less than five business days in advance of the hearing date to discuss documents, witness lists and presentation of cases and if there are any objections to resolved prior to the hearing.
- Time spent by a Party on cross examination will be deducted from their allotment of two hours and shall be identified at the outset of the hearing as to how they intend to use the time.
- No court reporter shall be used.
- The parties will close the hearing with oral closing statements and post hearing briefs and/or written summations will not be permitted.

- The arbitrator shall issue his/her decision on Fast-Track arbitrations within 14 days of the close of the hearing, unless the parties mutually agree to extend the time.
- B. For “Fast Track” arbitrations the provisions of Section 3, paragraphs, E, F and J shall also apply.
- C. Should a first selected arbitrator refuse to accept appointment as the “Fast Track” Arbitrator for the Agreement under the terms outlined herein, the parties will have the option of moving to the last available arbitrator from the original FMCS panel (should both parties agree to do so) or either party may then request a full new panel to use to repeat the selection process.