

RESOLUTION NO. 2017 - 317

A RESOLUTION APPROVING AN EMPLOYEE AGREEMENT WITH RUDOLPH BEU, CHIEF OF POLICE, FROM JANUARY 3, 2017 THROUGH DECEMBER 31, 2017.

WHEREAS, on November 12, 1952, Ordinance No. 39 was adopted and established the position of the Chief of Police of the Vineland Police Department for the City of Vineland;

WHEREAS, the City of Vineland currently recognizes and employs Rudolph Beu as the full-time Chief of Police of the Vineland Police Department; and

WHEREAS, the position of Chief of Police is classified as a “managerial executive” position, and therefore not permitted in any collective bargaining unit; and

WHEREAS, the City desires to have clearly defined salary adjustments, benefits and other terms and conditions of employment for such employees; and

WHEREAS, negotiations have been undertaken, and a tentative employee agreement has been reached between the City of Vineland and Rudolph Beu.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Vineland that the attached employee agreement concerning salary, benefits and other terms and conditions of employment with Rudolph Beu is approved from January 3, 2017 through December 31, 2017, and the execution thereof for and on behalf of the City of Vineland is hereby authorized and directed; and

BE IT FURTHER RESOLVED, that the City of Vineland may enact any ordinance, rule or regulation required to fully carry out the terms and conditions of the agreement herein approved.

Adopted:

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President of Council

ATTEST:

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City Clerk

AGREEMENT

Between

THE CITY OF VINELAND

A Municipal Corporation of the State of New Jersey

&

CHIEF OF POLICE

January 3, 2017 through December 31, 2017

This Agreement dated \_\_\_\_\_ by and between the City of Vineland, a municipal corporation of the State of New Jersey, hereinafter referred to as the “City” and Rudolph Beu, the City of Vineland Chief of Police, hereinafter referred to as the “COP”.

### **Article 1 - Recognition**

It is the intention of the parties that this Agreement be construed in harmony with New Jersey statutes, Civil Service Commission rules and regulations, City ordinances, and Police Department rules and regulations and the Vineland Police Captains Association agreement, but no City ordinance or Police Department rule and regulations shall amend or alter any provision of this Agreement.

For the purposes of this Agreement, the COP is pursuant to the Civil Service Commission described as the “Chief of Police” of the Vineland Police Department.

### **Article 2 - Management Rights**

It is recognized that the management of the City, the control of its properties, and the maintenance of order and efficiency, is a right and responsibility of the City, including the right to enforce rules and regulations, policies or other statements of procedure not inconsistent with this Agreement or the laws and constitutions of the State of New Jersey and the United States, whether or not such enforcement has occurred in the past.

### **Article 3 - Maintenance of Standards**

The City will not seek to diminish or impair any benefit or privilege not covered by this Agreement but provided by law, rule or regulation for the COP without prior notice to the COP and when appropriate without negotiation with the COP unless required by law. This Agreement shall be construed consistent with the free exercise of rights reserved to the City by the Management Rights Clause of this Agreement.

### **Article 4 - No-Strike Pledge**

Neither the COP nor any person acting on his behalf will cause, authorize, or support any strike. (e.g., the concerted failure of an employee to report for duty, willful absence from their position, work stoppage or abstinence in whole or in part from the full faithful and proper performance of the employee’s employment duties). Such participation in any strike related activity as specified will constitute a material breach of this Agreement, and be grounds for termination, subject to the grievance procedure set forth in the City Policy Manual.

### **Article 5 - Responsibilities of COP**

Pursuant to state law, the ordinances of the City and the rules and regulations as established by the appropriate authority, the responsibilities of the COP shall include:

1. Conduct and manage the day to day operations of the Police Department.
2. Administer and enforce rules, regulations and special emergency directives regarding the disposition and discipline of the Police Department, its officers and personnel.
3. Have exercise, and discharge the functions, powers and duties of the Police Department.
4. Delegate such authority as he may deem necessary for the efficient operation of the Police Department to exercise under his direction and supervision.
5. Prescribe the duties and assignments of all subordinates and other personnel.
6. Report at least monthly in the manner prescribed by the appropriate authority to the appropriate authority as to the operation of the Police Department during the preceding month.
7. Perform any and all duties required of the position of the Chief of Police.

### **Article 6 - Workweek**

The COP is hereby designated as an exempt employee for the purpose of receiving overtime and compensatory time under the Fair Labor Standards Act. The COP shall normally work 40 hours per week and his employment shall be based on a seven day work period. The COP's normal work week shall consist of eight hours per day, Monday through Friday and any additional hours needed to fulfill the Chief's responsibilities which may take place during traditional non-working hours. As an exempt employee, the COP shall not receive overtime compensation or compensatory time for any hours worked in excess of 40 hours per week. This shall include, but not be limited to, responding to police emergencies, police incident calls or any other duties in connection with his position of the Chief of Police.

### **Article 7 - Vacations**

- §1. The COP shall receive 240 vacation leave hours annually, for his continuous service with the City, except as otherwise provided herein.
- §2. Where in any calendar year, vacation leave or any part thereof is not granted nor taken due to pressure of Police Department business, as determined and approved by the appropriate authority, such vacation leave shall accumulate and may be taken during the next succeeding calendar year only.
- §3. Vacation pay will be granted to the COP upon termination of his employment. The number of hours to be paid will be the proportional number as accrued during the year of termination. The rate of vacation pay shall be based on the COP's regular rate of base pay.

### **Article 8 - Travel Allowances**

- §1. The City shall reimburse the COP for the necessary travel expenses incurred while on City business consistent with the Travel Policy of the Policy Manual.

§2. The COP will be reimbursed mile for mile for the use of his personal vehicle while on City business at the prevailing IRS rate. In order to receive reimbursement, the COP shall complete and submit the appropriate travel form pursuant to City Policy.

### **Article 9 - Holiday Pay**

§1. Effective upon execution of this Agreement, the COP shall receive the following paid holidays off at straight time:

New Years Day	
Martin Luther King Day	Columbus Day
President's Day	General Election Day
Good Friday	Veteran's Day
Memorial Day	Thanksgiving
Independence Day	Day After Thanksgiving
Labor Day	Christmas

§2. A paid holiday shall begin at 0000 (midnight) of the official observed day, which may be the actual holiday or the weekday closest to any holiday falling on a weekend.

§3. If the COP works for any reason on a paid holiday he will not receive any additional compensation.

§4. Paid holidays that are observed while the COP is on vacation leave shall not be counted as a vacation leave.

### **Article 10 - Funeral Leave**

§1. The COP shall receive leave with pay for up to a maximum of five days in the event of the death of the COP's spouse, domestic partner, son, daughter, mother, father, step-mother, step-father, or step-child.

§2. The COP shall receive leave with pay for up to a maximum of three days in the event of the death of the COP's grandfather, grandmother, sister, brother, father in law, mother in law, son in law, daughter in law, brother in law, sister in law, grandchildren, or step family members. Should funeral services for the deceased hereunder be held more than 500 miles away from the City of Vineland, then such funeral leave shall be for a maximum of five days.

§3. To be eligible for funeral leave, the COP must attend the funeral service.

### **Article 11 - Sick Leave**

§1. Service Credit for Sick Leave. The COP shall be entitled to sick leave with pay as specified hereunder.

- A. Sick leave for purposes herein is defined to mean absence from work of the COP because of personal illness by reason of which he is unable to perform the usual duties of the position. Sick leave may be used by the COP when unable to work because of:
1. Personal illness or injury.
  2. Exposure to contagious disease.
  3. Care, for a reasonable period of time of a seriously ill member of the COP's immediate family. "Immediate family" is defined by N.J.A.C. 4A: 1-1.3 as employee's spouse, child legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father in law, mother in law, and other relatives residing in the employee's household. The City also recognizes step-father and step-mother to be part of the immediate family or other near relative.
  4. Death in the COP's immediate family for a maximum of three days.
- B. If the COP is incapacitated and unable to work because of an injury sustained in the performance of his duties, as evidenced by a certificate of a City-designated physician or other physician acceptable to the City, he shall be granted in addition to annual sick leave with pay or any accumulations thereof, leave of absence with pay for a period of eight months or so much thereof as may be required, as evidenced by certificate of a City-designated/acceptable physician but not longer than a period of which worker's compensation temporary disability payments are allowed.

If at the end of such eight month period, the COP is unable to return to duty, a certificate from the City-designated/accepted shall be presented, certifying to this fact, and the COP may elect if he so desires, to use all or any part of the sick leave accumulated to supplement compensation payments so that the combined compensation payments and sick leave and allowance will approximate the COP's regular basic wage.

During the period in which the full salary or wages of the COP on disability leave is paid by the City, any compensation payments made to or received by or on behalf of the COP shall be deducted from the amount carried on the payroll for the COP or shall be assigned to the City by the insurance carrier or the COP.

Whenever the City-designated physician acceptable to the City shall report in writing that the COP is fit for duty, such disability leave shall terminate and the COP shall forthwith report for duty.

Furthermore, if the COP, during the period of his disability is fit to perform "other" light duties, the City may, at its discretion, allow or require the COP to perform these light duties. The COP's ability to perform such light duties shall be determined by a City-designated physician acceptable to the City. The COP if authorized to report on "light duty" shall do so.

The COP while on injury leave resulting from injury while on duty shall continue to accrue sick leave credits while he remains on the payroll.

§2. Amount of Sick Leave. The COP shall receive 120 sick leave hours annually, pursuant to N.J.A.C. 4A:6-1.3, as long as he remains actively employed. If the COP is separated from employment, the 120 hours shall be prorated at 10 hours for each full month of employment.

Any sick leave not used in any calendar year shall accumulate to the COP's credit from year to year to be used if and when needed for such purpose.

§3. Reporting of Absence on Sick Leave. Notification will be done in accordance with Police Department rules and regulations.

§4. Verification of Sick Leave. The COP may be required to submit medical evidence substantiating the illness from a physician acceptable to the City when he is absent on sick leave for five or more consecutive days, 10 or more days in one calendar year or whenever there is reason to believe that he is abusing sick leave. The City may also require the COP to be examined by a physician designated and paid for by the City.

- a. In case of a leave of absence due to exposure to contagious disease, a certificate from the City-designated physician shall be required prior to the COP's return to work.
- b. The City may require the COP if absent because of personal illness, as a condition of return to work, to be examined at the expense of the City, by a physician designated by the City. Such examination shall establish whether the COP is capable of performing his duties and that his return will not jeopardize the health of other employees.

§5. Payment of Accrued Sick Leave at Death. The City will pay upon the death of the COP, if active on the payroll, 50% of all accrued and unused sick leave pay up to a maximum of \$15,000.

#### **Article 12 - Personal Leave**

The COP shall receive 32 personal leave hours annually. Personal leave shall not accumulate from year to year.

#### **Article 13 - Uniform Maintenance Allowance**

The COP shall receive an annual uniform maintenance allowance in the amount of \$1,450. The City shall pay said allowance in the first full payroll period of December. If the COP works for less than one full year, then such amount shall be prorated for the period worked.

#### **Article 14 - Overtime and Compensatory Time**

As provided for under Article 6 of this Agreement, the COP is designated an exempt employee under the Fair Labor Standards Act and shall not be entitled to overtime or compensatory time for any hours worked in excess of 40 in a workweek.

#### **Article 15 - Retirement**

For purposes of this article, retirement shall mean an approved pension documented by the New Jersey Division of Pensions and Benefits, Department of Treasury. Pensions can be in the form of service retirement, early retirement options, special retirement, veterans retirement, ordinary disability and accidental disability retirement.

1. The COP retiring either on the regular pension or disability shall be paid for all accumulated vacation.
2. In case of death of the COP, there shall be paid to the widow, beneficiary or estate, the amount due for any and all unused vacation, compensatory time coming and pay period due.
3. At retirement, the City shall pay the COP 50% of all accrued and unused sick leave up to a maximum of \$15,000.
4. This supplemental compensation payment shall be computed at the rate of one-half (1/2) accumulated unused sick days multiplied by the COP daily rate of pay which is based upon the average annual base compensation received during the last year of his employment, prior to the effective date of retirement, provided however, that no such lump sum supplemental compensation payment shall exceed the amounts as specified above.
5. Payment shall be made promptly if funds are available, but not later than one month after the final adoption of the City budget for the year succeeding the effective date of retirement of the COP. The COP shall receive supplemental compensation payment for sick leave as indicated above in the year of retirement if the City is notified in July preceding the fiscal budget year which begins the following January. Payment will be computed in accordance with City Ordinance No. 90-74 and paid in accordance with said original Ordinance No. 1005 and the amendments thereto, including No. 90-74, if advance notice is not provided as above stated.

**Article 16 - Health Benefits**

§1. The City shall provide health insurance to the COP and his eligible dependents subject to any employee contribution or co-pay as required by New Jersey law. The COP may transfer from plan to plan during open enrollment. The benefits are more specifically provided for and explained in a brochure available to employees. The COP will be subject to any co-payment established by the medical coverage selected by the employee. The City retains the unilateral right to select the insurance carrier or to be self-insured for the provision of any health benefits, so long as the overall level of benefits or administrative procedures is substantially similar to the plans and coverages provided from time to time under the current plan.

§2. The City shall provide a generic prescription plan to the COP and his eligible dependents subject to any employee contribution or co-pay as required by New Jersey law. A federally approved generic equivalent, if available, will be dispensed for name brand unless the COP's physician specifically requires name brand. If the COP receives name brand when generic is available, the COP shall pay the cost difference between the name brand and generic, except if the attending physician specifies no substitute for name brand. This cost will not be applied to the COP's deductible. The co-pays are as follows:

<u>Name brand, including mail-order</u>	<u>Generic, including mail-order</u>
\$25.00	\$15.00

§3. Upon retirement, the COP shall receive the same prescription coverage as active employees, which may change from time to time, until the COP:

- a. Obtains employment having prescription coverage comparable to active employees. However, the retired COP may re-enroll in the City prescription program given to active employees should said employment cease; or
- b. Becomes eligible for a federal or state prescription program, such as Medicare.

- §4. The COP and his eligible dependents shall receive a basic dental care plan and choose from among a customary Delta 50/50 Dental Plan, Delta-Flagship Health Systems, Inc. or Delta Preferred Provider Option, or their successors.
- §5. If the COP should go on an approved Leave of Absence, the COP shall be responsible for his share of the payment of said health benefits in accordance with City Policy.
- §6. The COP shall pay a cost contribution for Health Insurance Plan coverage's in accordance with P.L. 2011, Chapter 78, Pension and Health Benefit Reform Law adopted June 28, 2011. Payments shall be made by the way of withholdings from the COP's payroll checks. The City shall establish and adopt a Section 125 Plan so that said contribution would be 'pre-tax'.
- §7. The COP, if he so chooses, may waive all, or a portion, of the health benefits provided by this Agreement. In the event of a waiver, a waiver fee will be paid to the employee as follows:

	<u>Medical</u>	<u>Prescription</u>
Family Coverage Incentive:	\$1,500	\$1,000
Husband/Wife Coverage Incentive:	\$1,300	\$650
Parent/Child Coverage Incentive:	\$1,400	\$650
Single Coverage Incentive:	\$750	\$400

The waiver incentive shall be considered a supplemental pay and subject to a flat tax in accordance with IRS rules. The City's policy to allow employees to waive coverage and the amount of the incentive is not negotiable and is subject to change from time to time. The City also reserves the right to discontinue the waiver payment at any time. In addition, in the event spouses or civil union partners are both employed by the City, health insurance coverages provided herein, including but not limited to the Prescription Plan, shall be afforded to only one designated spouse with the other spouse covered as a family member. Further, eligible children can only be covered by one participating subscriber. No waiver payment shall be paid to any employee whose spouse or civil union partner is also employed by the City and receives his/her health insurance from the City.

**Article 17 - Fully Bargained Provision**

This Agreement represents and incorporates the complete and final understanding and settlement by the parties on all negotiable issues. During the term of this Agreement, neither party will be required to negotiate with respect to any such matter, whether or not covered by this Agreement, and whether or not within the knowledge or contemplation of either or both parties at the time they negotiated or signed this Agreement.

**Article 18 - Extra-Contractual Agreements**

The City shall not enter into any other agreement with the COP, which in any way would conflict with the terms and conditions set forth in this Agreement.

### **Article 19 - Severability**

In the event that any provision of this Agreement between the parties shall be held by operation of law or by a court or administrative agency of competent and final jurisdiction to be invalid or unenforceable, the remainder of the provisions of such Agreement shall not be affected thereby, but shall be continued in full force and effect.

### **Article 20 - Random Drug Testing**

Any random drug testing administered by the Police Department shall maintain the privacy of the COP's personal information via a sealed envelope and comply with all applicable laws, notably the Americans with Disabilities Act and the Federal Confidentiality Act, as well as NJ Attorney General Guidelines and City Policy.

### **Article 21 - Salary**

The COP's annual base salary shall be \$148,000 effective January 3, 2017.

### **Article 22 – Essential Personnel**

The COP is an essential personnel and, therefore, is expected to report to work and work his regularly scheduled work hours even in the event that non-essential personnel are not required to report to work or are not required to work their regularly scheduled work hours for any reason including but not limited to a weather-related event or an unscheduled holiday declared by the Mayor. Therefore, the COP shall receive no additional compensation or time off for reporting to work and working his regularly scheduled work hours on a day where non-essential personnel are not required to report to work or do not work their regularly scheduled work hours for any reason including, but not limited to, a weather-related event or an unscheduled holiday declared by the Mayor.

**Article 23 - Term of Agreement**

This Agreement shall be in full force and effect as of January 3, 2017 and shall remain in effect to, and including, December 31, 2017. This Agreement will remain in force until such time as it is re-negotiated by the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective officers the day and year first above written.

By:

City of Vineland

Chief of Police

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Rudolph Beu

ATTEST:

\_\_\_\_\_  
Municipal Clerk

July 27, 2017

Dear Chief Beu:

The Federal Fair Labor Standards Act (FLSA) requires that employees be compensated at an overtime rate of one and one half times the employee's base rate of pay for any time actually worked in excess of 40 hours in a workweek. However, the FLSA also provides that certain employees in managerial, administrative, executive and professional positions are exempt from receiving that overtime payment even if they work in excess of 40 hours in a workweek.

The City has reviewed your current job title and the duties you perform on a daily basis and has concluded that you are an exempt employee under the FLSA and, therefore, are not entitled to any overtime compensation, or compensatory time in lieu thereof, for any hours worked in excess of 40 hours in any workweek. You are expected to work your normal workweek and any additional hours needed to fulfill your responsibilities.

Thank you for your continued service to the City of Vineland.

Sincerely,

Anthony R. Fanucci  
Mayor

AF/gg

**FLSA: Exemption Questionnaire**

*This questionnaire serves as a basic outline for the City’s initial analysis of positions being considered for exemption under the FLSA and is meant to serve as one of several tools in an employer’s analysis. Job titles are insufficient to determine exempt status. It is strongly recommended to have legal counsel review the City’s analysis efforts and exemption decisions.*

Position: \_\_\_\_\_

Employee: \_\_\_\_\_

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

Completed by: Administration/Legal

**EXECUTIVE**

- Regularly receives a predetermined amount constituting all or part of the employee’s salary, which is not subject to reduction because of variations in the quality or quantity of work performed.
- Is paid at least \$455 weekly.
- Primary duty consists of managing the enterprise or a customarily recognized department or subdivision of the enterprise.
- Customarily and regularly directs the work of two or more full-time employees or their equivalents (for example, one full-time employee and two half-time employees).
- Has the authority to hire or fire other employees **OR** makes recommendations that carry particular weight as to the hiring, firing, advancement, promotion or any other change in status of other employees.