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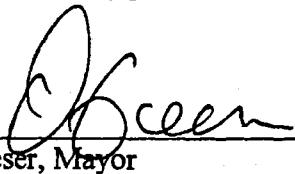
## RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the Articles of Agreement between the City of El Paso and the El Paso Municipal Officers' Association for the contract period covering November 11, 2014 through August 31, 2018.

Dated this 11<sup>th</sup> day of November 2014.

CITY OF EL PASO



Oscar Leeser, Mayor

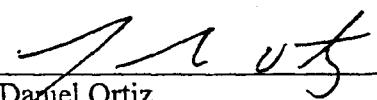
ATTEST:



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Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:



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Daniel Ortiz  
Assistant City Attorney

CITY CLERK DEPT.  
2014 NOV - 6 AM 9: 36

PUBLIC RECORD INFORMATION  
ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (0252-17-V.A.E.S.)

DATE: 7/6/15 BY: C1003 TO: D. MCKESSION

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**ARTICLES OF AGREEMENT**

**Between**

**CITY OF EL PASO, TEXAS**

**and**

**EL PASO MUNICIPAL  
POLICE OFFICERS' ASSOCIATION**

**November 11, 2014 –August 31, 2018**

PUBLIC RECORDS INFORMATION  
ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
HAVE BEEN REDACTED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (6252-176 C.A.V.S.)

DATE: 11/11/2014 BY: C1003

*Wray* *nkelson*

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TEXAS OPEN RECORDS ACT (2022-175 V.A.C.S.)

DATE: BY: C1003 PG:

**ARTICLE OF AGREEMENT**  
**Between**  
**CITY OF EL PASO, TEXAS**  
**and**  
**EL PASO MUNICIPAL POLICE OFFICERS' ASSOCIATION**

**PREAMBLE**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ is between the CITY OF EL PASO, TEXAS, hereinafter called the "City", and the EL PASO MUNICIPAL POLICE OFFICERS ASSOCIATION, hereinafter called the "Association."

The purpose of this Agreement is to promote harmonious relations between the City and the employees covered hereby and to fix the rates of pay, hours of work, and the terms and conditions of employment for these employees.

**ARTICLE 1**  
**RECOGNITION**

Section 1. The City has recognized the Association as the exclusive bargaining agent for a unit consisting of all sworn certified full-time paid employees who regularly serve in a professional law enforcement capacity within the City's Police Department, except the Police Chief. Bargaining Unit employees will be referred to in this Agreement as "Officers" or "employee."

Section 2. The parties hereto recognize that there are pending or potential state or federal legislative proposals which would exclude some or all supervisors from an appropriate collective bargaining unit. The parties agree that, as of the effective date of any such applicable provisions, any employees within the bargaining unit whose duties bring them within the definition of supervisor contained therein shall be excluded from the bargaining unit. If the parties are unable to agree as to whether certain employees are supervisors within the meaning of that legislation, they will cooperate to submit the question to the appropriate court or agency for prompt resolution of the matter.

**ARTICLE 2**  
**CITY'S RETAINED PREROGATIVES**

Section 1. Except to the extent expressly abridged by Chapter 174, Local Government Code, or by a specific provision of this Agreement, the City

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DATE: BY: C1003 T.O.

reserves and retains, solely and exclusively, all of its inherent and/or statutory rights to operate the City government, as such rights existed prior to the enactment of Chapter 174, Local Government Code.

Section 2. Except to the extent expressly abridged by a specific provision of this Agreement, the direction of the City's working forces, both within and without the bargaining unit, including, by way of illustration only and not of enumeration, the right to plan, direct, expand, control, initiate, reduce, transfer or terminate specific operations, duties or functions, to hire, assign, transfer and promote employees or refrain from any of the foregoing, to discharge, suspend, demote, reprimand or otherwise discipline employees pursuant to the City Charter of 1984 as amended February 7, 2004 and the Civil Service Rules in effect upon execution of this agreement, to introduce any new or improved methods or facilities, to subcontract, and to make such rules and regulations as may be necessary or desirable for the operation of the City, continue to be vested exclusively in the City.

Section 3. All promotions to positions in P 7 and above shall be exempt from competitive examinations and shall be made instead by appointment by the Police Chief. Only persons then employed by the City's Police Department shall be eligible for such appointment. Employees working in P 7 and above shall serve at the pleasure of the Police Chief and may be demoted from said position at the Chief's discretion. If any such employee is demoted by the Chief, the Officer shall normally be returned to the class grade from which the Officer was appointed and the Officer's salary shall be in accordance with said competitive classification with service time credited as continuous time in that competitive classification and with all salary increases to which the Officer would have been automatically entitled had he continuously remained in said competitive classification. If the Police Chief demotes an Officer to a class grade lower than that from which the Officer was appointed, the Officer retains all rights to appeal said demotion to the Civil Service Commission and the Commission may, pursuant to the Charter and its Rules and Regulations, restore the employee to the class grade from which the employee was appointed, but no higher; except as provided in this sentence, the Commission shall have no jurisdiction, power or authority to investigate or review or to alter the terms of any demotion made pursuant to this Section. For the duration of this Agreement, no more than six positions (exclusive of the Police Chief) shall be subject to the terms of this Section.

Section 4. An Officer shall be deemed to be a probationary employee for the first twelve months after the Officer has successfully completed the Basic Training Academy work. The Chief may extend the ending date of the

probationary employee's probationary period: (1) to ensure that the probationary employee serves a full twelve months as a police officer in full duty status; or (2) if necessary to determine if retention of the probationary employee is in the best interest of the Department; or (3) if an investigation is pending into the probationary employee's conduct at the time the probation would otherwise end. In the case of (2) and (3) herein, the probationary period can be extended for no longer than 180 days. The Chief shall notify the Association in writing of the reason for extending the probationary period of an Officer. A probationary Officer may be discharged at any time at the discretion of the Chief, without appeal to the Commission. However, before so doing, the Chief will meet with the probationary Officer, provide reasons for proposed discharge, and give the Officer an opportunity to provide reasons why the discharge is not warranted. Upon request, the probationary Officer is entitled to Association representation at the pre-discharge meeting.

Section 5. In the event that an Officer is serving a probationary period in a position and is promoted to a higher position, the probationary period at the lower position shall be deemed to have been completed.

Section 6. The Association recognizes the City's right to assign or reassign Officers for any reason which will promote the good of the service and efficiency of the department. The City in turn recognizes that the administrative assignment or reassignment shall not be utilized for the sole reason of disciplining an Officers.

### **ARTICLE 3 NO STRIKE, NO LOCK-OUT**

Section 1 The City agrees that it will not lock out the Officers covered by this Agreement.

Section 2. The Association agrees that neither it nor any of the Officers covered by this Agreement will permit, sanction, call, acquiesce or engage in any strike; sit-down; slow-down; speed-up; sick-out; sympathy strike; picketing for the purpose of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges or obligations of employment; or any other work stoppage or interference with the operation of the City for any reason.

Section 3. It is expressly understood and agreed that the refusal or concerted failure by any Officer and Officers covered by this Agreement to cross or work behind the picket line of any association, union or other organization

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DATE: 10/10/2013 BY: C1003 BY:

shall constitute a violation of this Agreement. It is likewise understood and agreed that the refusal or failure of any Officers covered by this Agreement faithfully and impartially to enforce the laws of the State of Texas and the ordinances of the City of El Paso at the site of or in connection with any labor dispute shall constitute a violation of this Agreement.

Section 4. Any Officer covered by this Agreement who participates in any action prohibited by this Article may be discharged, suspended, demoted and/or otherwise disciplined, at the option of the City. This Section shall be cumulative of any other rights the City may have by statute, at common-law or in equity against the Association and/or the employees covered by this Agreement.

Section 5. Should the City find it necessary to furlough Officers during the term of this Agreement, it shall provide the Association 30-days advance notice and an opportunity to negotiate concerning procedures and effects of such furlough.

## **ARTICLE 4** **WAGES**

Section 1. Class titles and grades for Officers are set forth in Appendix "B" to this Agreement. The base salaries for Officers covered by this Agreement shall be set as follows:

(a) Effective September 1, 2014, all Officers will receive wages as reflected in Appendix A-1 [June 1, 2014 Wage Scale]. Effective November 16, 2014, all Officers will receive a 1.25% wage increase, and will be paid in accordance with the wage table set forth in Appendix "A-2". After November 16, 2014, Officers will receive annual cost-of-living raises each September 1. The amount of the cost-of-living raises will be determined in accordance with the formula attached to this Agreement as Appendix "A". Commencing September 1, 2015, Officers will be paid in accordance with the wage table set forth in Appendix A-3, which includes additional steps in the various ranks. [City's proposed wage table, which will be changed to reflect 9/1/15 COLA].

(b) Thereafter and upon their anniversary dates and upon successful completion of probation, all officers below the rank of deputy chief shall advance to the next higher level in their Class Grade. The Officer will become eligible for the step increase at their next anniversary date.

- (c) Any Officer of the rank of deputy chief or above who shall be a part of the bargaining unit as defined in Article 1 of this Agreement and who has not advanced in level pursuant to the procedures in City Ordinance 8064, shall nevertheless always receive the same percentage increase, if any, negotiated as a cost of living increase in the levels for his Class Grade;
- (d) Officers who are promoted to sergeant and above will be given the entry pay for the rank to which they are promoted or the next higher level which will assure an increase of at least 5% in pay; provided that, if rounding an Officer's hourly rate to the nearest full cent per hour results in an increase that is slightly less than 5%, such rounding shall constitute compliance with this paragraph;
- (e) Effective September 1, 2015, placement to a detective position shall result in one advancement in level and reset the employee's anniversary date;
- (f) Any placement of Officers, excluding probationary officers transferred, from detective to police officer will be with cause, and that Officer has the right of appeal as under any other disciplinary action;
- (g) Placement to a detective position will be based on Examination pursuant to Civil Service Rules;
- (h) Promotion to sergeant will be pursuant to Examination under Civil Service Rules; and
- (i) Promotions within the lieutenant and commander Class Grades will be pursuant to the Civil Service Rules.

Section 2. Officers who are assigned to duty and actually work between the hours of 6:00 p.m. and 6:00 a.m. shall receive premium pay of 4%. If the shifts are overlapping Officers will only receive premium pay for the hours actually worked between 6:00 p.m. and 6:00 a.m. Effective January 2018, Officers who are assigned to duty and actually work between the hours of 6:00 p.m. and 6:00 a.m. shall receive premium pay of 5%. If the shifts are overlapping Officers will only receive premium pay for the hours actually worked between 6:00 p.m. and 6:00 a.m.

Section 3. Field Training Officers, who shall be appointed by or approved by the Chief, shall receive an additional 4% of their salary added to their regular class grade and level pay during the period they serve. Upon completion of their

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DATE: 10/10/2017 BY: C1003 PG:

duties, they shall revert to their regular grade and level pay. Effective January 2017, Field Training Officers who shall be appointed by or approved by the Chief shall receive an additional 5% of their salary added to their regular class grade and level pay during the period they serve.

Section 4. An Officer who is required to perform the duties of a higher class title is entitled to be paid the salary prescribed for lowest level of that class title that results in a pay raise during the time the Officer performs those duties.

Any Officer whose employment is terminated by death, resignation, or retirement while acting in a temporary appointment shall nevertheless be paid the Officer's accumulated sick leave and vacation at the permanent rate.

Section 5. The City shall itemize Officers' paychecks to reflect payment of wages, overtime, incentive pay, compensatory time, clothing allowance and longevity.

Section 6. Motorcycle hazard pay shall be \$100.00 bi-weekly. If an officer is placed in a work status that does not require the officer to operate a motorcycle due to either: (1) the officer sustaining an off duty injury or illness that does not permit the officer to operate a motorcycle for a period greater than 30 days; or (2) the officer seeks and obtains a temporary reassignment to a position not involving the performance of the operation of a motorcycle; then motorcycle hazard pay will cease until and unless the officer is returned to a status which requires the operation of a motorcycle.

## **ARTICLE 5** **HOURS OF WORK**

Section 1. Officers are normally scheduled to work 40 hours per week in five eight-hour days, but nothing in this Agreement shall constitute a guaranteed minimum or maximum number of hours of work in any day or week. A meal break and rest breaks may be taken during the eight-hour shift schedule in compliance with the Rules and Regulations of the Department.

Departmental units which are currently on a four-10 hour day shift are expected to remain on a four-10 hour day shift. The Chief may implement the four-10 hour day shift at other departmental units at his discretion. The Chief will provide 30-days notice to the departmental unit prior to changing a departmental unit to or from a four-10 hour day shift. Officers assigned to the five-8 hour or four-10 hour day shift shall have consecutive days off. For purposes of this provision, days off on Saturday-Sunday are considered consecutive days off.

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However, at the request of the Officer, subject to the discretion and approval of the Department, the Officer may be granted split days off. A meal break and rest breaks may be taken during the ten-hour shift in compliance with the Rules and Regulations of the department.

Section 2. All hours paid for in excess of 40 hours in a work week shall be paid at the rate of time and one-half of the Officer's "rate" of pay as that term is defined in the FLSA, except as provided herein and in Article 11. A telephone contact or discussion or an email communication shall be compensable in fifteen-minute increments; however, the first fifteen minutes of such contacts shall be non-compensable unless such contacts in the aggregate exceed fifteen minutes.

In no event shall an officer be paid in excess of two-and-one-half times the employee's regular straight-time. "Sick leave (SLP &SLD)" shall be counted as non-productive time for the purposes of accruing overtime.

Section 3. Officers shall have the option of requesting compensatory time in lieu of overtime. Officers may accrue a maximum of 180-hours of compensatory time. The Officers shall be allowed to use the accrued compensatory time under the same policies that exist for the use of vacation days. Officers may request compensatory time off in increments of one (1) hour or more. Every reasonable effort shall be made to allow officers to take their compensatory time.

Section 4. The City shall not alter an Officer's regular schedule for the purpose of avoiding or reducing the payment of overtime except in the case City approved travel or training. If an Officer is scheduled to work on a holiday but the department determines that the Officer is non-essential, then providing the Officer with the holiday off is not a violation of this provision. The City shall not make a determination regarding the status of an Officer as being essential or non-essential for the purpose of avoiding or reducing the payment of overtime or compensatory time in accordance with this Section and Article 11.

For purposes of this Article, "essential" personnel normally include Officers in Patrol, CSU, Fusion-Real Time Crime Watch Center, Records, and Communications. However, the Police Chief retains discretion to release or call additional personnel to work due to operational needs or situations involving critical incidents. In so doing, the Chief will provide Officers with the maximum advance notice consistent with meeting operational needs.

Section 5. If an Officer is called back to duty or subpoenaed to give testimony in court about events arising out of City employment, while the

employee is on vacation or on a holiday, the Officer shall be paid for the vacation or holiday hours and shall also be paid for the hours actually worked or which the employee spends in court until the employee is released. In any such case, the Officer shall be deemed to have worked a minimum of three hours if the Department calls back the Officer to duty. If an Officer on sick leave or funeral leave is called back to work or subpoenaed under similar circumstances, the Officer shall be deemed to be at work (with a minimum of three hours work) and the time so spent shall not be charged to the Officer's accumulated sick leave.

Section 6. If an Officer is called back to duty or subpoenaed to give testimony in court, whether in criminal or civil actions, about events arising out of City employment, when the Officer would otherwise be off duty, the Officer shall be deemed to have worked a minimum of three hours; even if call back is canceled. The call-back time provided for in this and the preceding Section shall be inapplicable where the additional working time is immediately prior to or following any other time worked by that employee.

Section 7. The provisions of Sections 5 and 6 of this Article regarding payment for time which an employee spends in court shall be inapplicable where the employee is a party to the proceeding, except proceedings arising out of City employment, or where the employee is to be compensated for such time by any other person, as where the employee is being subpoenaed to testify as an expert witness.

Section 8. Officers subpoenaed by a charged officer to testify before an arbitrator or a hearing examiner about operative facts and job ability shall be paid at the Court time rate set forth in Section 4. Two Officers only subpoenaed by a charged officer to testify before an arbitrator or a hearing examiner about the officer's character shall be paid at the court time rate. If the hearing is when the charged officer is not regularly scheduled to work, the time shall be unpaid. If the hearing is scheduled to be held when the officer is on-duty, the City has the option of paying the officer or re-scheduling the hearing to a date the officer is on their regularly scheduled days off.

Section 9. The City shall provide each Officer with a minimum of 32 hours paid in-service training and 8 hours of firearms training during the contract year. The Chief retains the right to assign any Officer to any in-service training program. If an Officer is scheduled to attend in-service or firearms training during the contract, attendance is mandatory.

(a) Notwithstanding any other provisions of this Agreement, the following may apply when the department contracts with a person or firm outside of the El Paso Police Department to provide in-service training: When an

employee (including an employee who is normally scheduled to work eight hours, with a one-half hour paid lunch period) is assigned to spend eight hours of in-service training, he shall be given and shall take a one-hour unpaid lunch break.

Section 10. The City reserves the right to place Officers on standby status at their residence at the overtime rate. In such a case, the Officer shall be deemed to be working for only the actual hours that he is on stand-by. At the discretion of the authorized individual who places the Officer on stand-by status, the employee may be instructed to remain at his residence during the time he is being paid to stand by. If the authorized individual who places the Officer on stand-by status gives the employee permission to leave his residence while on stand-by, the authorized individual may condition such permission on the Officer's taking with him any appropriate uniform and/or dress clothes while he leaves home.

Section 11. Where scheduling and manpower contingencies permit, the City will arrange an Officer's work schedule so as to permit the employee to attend college.

Section 12. For the purposes of this Article, assistant chiefs, deputy chiefs for overtime under this Agreement.

## **ARTICLE 6 INCENTIVE PAY**

Section 1. The City shall pay each Officer holding an Advanced Certificate granted by the Texas Commission on Law Enforcement Officers Standards and Education the sum of \$105.00 per month. The City shall pay each employee holding an Intermediate Certificate granted by the Texas Commission on Law Enforcement Officers Standards and Education the sum of \$55.00 per month.

Section 2. This section shall apply to the highest degree held by the Officer. As used in this Section, the phrase "accredited college or university" shall have the same meaning as defined in Section 211.1 of the regulations of the Texas Commission on Law Enforcement Officers Standards and Education.

The City shall pay each Officer holding an Associate's degree granted by an accredited college or university the sum of \$20.00 per month. The City shall pay each Officer holding a Bachelor's degree granted by an accredited college or university the sum of \$100.00 per month. The City shall pay each Officer holding

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TEXAS OPEN RECORDS ACT (6252-176 V.A.C.S.)

DATE: BY C1003 PG.

a Master's degree granted by an accredited college or university the sum of \$125.00 per month.

Commencing January 3, 2010, the City shall pay each employee holding an Associate's degree granted by an accredited college or university the sum of \$20.00 per month. The City shall pay each employee holding a Bachelor's degree granted by an accredited college or university the sum of \$125.00 per month. The City shall pay each employee holding a Master's degree granted by an accredited college or university the sum of \$150.00 per month.

This section shall apply to the highest degree held by the employee. As used in this Section, the phrase "accredited college or university" shall have the same meaning as defined in section 211.1 of the regulations of the Texas Commission on Law Enforcement Officer Standards and Education.

Commencing January 11, 2015, the City shall pay each Officer holding an Associate's degree granted by an accredited college or university the sum of \$45.00 per month. The City shall pay each Officer holding a Bachelor's degree granted by an accredited college or university the sum of \$150.00 per month. The City shall pay each Officer holding a Master's degree granted by an accredited college or university the sum of \$175.00 per month.

In order to receive pay under this section, the degree must be in law enforcement related studies. The Chief retains the discretion to determine if the degree is related to law enforcement. Law enforcement degrees include but are not limited to Criminal Justice, Public Administration, Homeland Security, Political Science, Psychology, Sociology, Intelligence, Criminalistics and Business Administration. Upon request made prior to commencement of a course of study, the Chief will provide advance notice to an Officer concerning whether a chosen degree qualifies for payment under this section.

Officers who have already earned or commenced an Associates', Bachelors' or Masters' degree at the signing of the Agreement shall be grandfathered and will receive the corresponding incentive pay related to their level of education.

Section 3. To ensure records are accurate and incentive pay is timely issued, officers are responsible for reporting and providing proper documentation to the El Paso Police Department Training Director or his designee to show that the officer has completed training and education received outside the Department. Officers are not entitled to retroactive incentive pay. Incentive pay shall begin on the date that the officer has reported and provided the proper

documentation to the El Paso Police Department Training Director or his designee.

Section 4. Pension contributions will be made on any cash payments under this Article.

## **ARTICLE 7 PENSIONS**

For the duration of this Agreement, the City shall contribute to the Firemen and Policemen Pension Fund a sum equal to triple the employee's own contribution to such Fund; provided that, in no case shall the City's contribution exceed 18.5% of an employee's salary, longevity, premium pay, incentive pay, and overtime pay, unless a higher amount is set in accordance with Article 6243b of the Texas Revised Civil Statutes.

## **ARTICLE 8 INSURANCE AND BENEFITS**

**Section 1.** For the duration of this Agreement, the City shall provide term life and accidental death and dismemberment insurance policies of \$50,000.00 for Officers, and term life insurance policies of \$2,000.00 for the Officers' spouses and \$1,000.00 for the Officers' dependent children as defined by the Group Life Insurance Policy Booklet.

**Section 2.** All Officers who wish to participate in the City of El Paso Health Insurance Benefit Program may elect to be covered by the High Deductible Plan (Consumer Driven Health Plan), the Basic/Core Plan, or the Buy Up Plan, as specified in this Section. An Officer's participation in a Plan is subject to the following conditions:

(a) **Plans & Contribution Rates.**

(i) **Contributions for September 1, 2014 to November 30, 2014.**

An Officer may choose to be covered by either the Basic/Core Plan or the Buy Up Plan. The Officer must contribute to the selected Plan at the rate of contribution specified in this Subsection. Those rates are:

**Basic/Core Plan**

Employee Only	\$ 23.74 two pay periods per month
Employee + 1	\$ 55.57 two pay periods per month
Employee + 2 or more	\$ 87.98 two pay periods per month

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Buy Up Plan

Employee Only	\$ 46.31 two pay periods per month
Employee + 1	\$ 98.40 two pay periods per month
Employee + 2 or more	\$121.55 two pay periods per month

**(ii) Contributions for December 1, 2014 to November 30, 2015.**

An Officer may choose to be covered by the High Deductible Plan (Consumer Driven Health Plan), the Basic/Core Plan, or the Buy Up Plan. The Officer must contribute to the selected Plan at the rate of contribution specified in this Subsection. Those rates are:

Consumer Driven Health Plan

Employee Only	\$ 28.25 two pay periods per month
Employee + 1	\$ 66.00 two pay periods per month
Employee + 2 or more	\$103.75 two pay periods per month

Basic/Core Plan

Employee Only	\$ 44.40 two pay periods per month
Employee + 1	\$ 98.32 two pay periods per month
Employee + 2 or more	\$152.26 two pay periods per month

Buy Up Plan

Employee Only	\$ 90.30 two pay periods per month
Employee + 1	\$190.24 two pay periods per month
Employee + 2 or more	\$290.15 two pay periods per month

**(iii) Contributions for December 1, 2015 to November 30, 2016.**

An Officer may choose to be covered by the High Deductible Plan (Consumer Driven Health Plan), the Basic/Core Plan, or the Buy Up Plan. The Officer must contribute to the selected Plan at the rate of contribution specified in this Subsection. Those rates are:

Consumer Driven Health Plan

Employee Only	\$ 34.88 two pay periods per month
Employee + 1	\$ 81.49 two pay periods per month
Employee + 2 or more	\$128.09 two pay periods per month

Basic/Core Plan

Employee Only	\$ 54.81 two pay periods per month
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Employee + 1	\$121.39 two pay periods per month
Employee + 2 or more	\$187.98 two pay periods per month

**Buy Up Plan**

Employee Only	\$111.50 two pay periods per month
Employee + 1	\$234.87 two pay periods per month
Employee + 2 or more	\$358.22 two pay periods per month

**(iv) Contributions for December 1, 2016 to November 30, 2017.**

An Officer may choose to be covered by the High Deductible Plan (Consumer Driven Health Plan), the Basic/Core Plan, or the Buy Up Plan. The Officer must contribute to the selected Plan at the rate of contribution specified in this Subsection. Those rates are:

**Consumer Driven Health Plan**

Employee Only	\$ 37.32 two pay periods per month
Employee + 1	\$ 87.20 two pay periods per month
Employee + 2 or more	\$137.05 two pay periods per month

**Basic/Core Plan**

Employee Only	\$ 58.65 two pay periods per month
Employee + 1	\$129.89 two pay periods per month
Employee + 2 or more	\$201.14 two pay periods per month

**Buy Up Plan**

Employee Only	\$139.19 two pay periods per month
Employee + 1	\$293.20 two pay periods per month
Employee + 2 or more	\$447.18 two pay periods per month

**(v) December 1, 2017 to November 30, 2018.**

An Officer may choose to be covered by the High Deductible Plan (Consumer Driven Health Plan), the Basic/Core Plan, or the Buy Up Plan. The Officer must contribute to the selected Plan at the rate of contribution specified in this Subsection. Those rates are:

**Consumer Driven Health Plan**

Employee Only	\$ 39.93 two pay periods per month
Employee + 1	\$ 93.30 two pay periods per month
Employee + 2 or more	\$146.64 two pay periods per month

**Basic/Core Plan**

Employee Only	\$ 62.75 two pay periods per month
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Employee + 1	\$138.98 two pay periods per month
Employee + 2 or more	\$215.21 two pay periods per month

Buy Up Plan

Employee Only	\$170.20 two pay periods per month
Employee + 1	\$358.54 two pay periods per month
Employee + 2 or more	\$546.83 two pay periods per month

(vi) In no event will Officers contribute a higher premium than that specified for the City's non-Uniform employees. If the rates specified in Subsections (a)(i) – (v) are higher than those paid by non-Uniform employees in the same plan year, the rates specified will be lowered to the rates paid by non-Uniform employees.

(b) **Program & Coverage Requirements.** An Officer's participation in a Plan is subject to all program and coverage requirements, policies and conditions established by the City for such Plan. The requirements, policies and conditions shall not be amended during the term of this Agreement without the parties' mutual consent except for any changes mandated by federal and/or state law.

(c) **Health Benefits.** The benefits provided to Officers and their family members under the three Plans effective January 1, 2015 are those provided to non-Uniform employees as of on September 1, 2014. Those benefits are reflected in the Schedule of Benefits attached to this Agreement as Appendix K. The benefits provided will not be changed during the term of this Agreement absent the parties' mutual consent.

(d) **Dental & Optical Benefits.** During the term of this Agreement, the City will provide Officers and their family members a dental and optical benefit program equivalent to that in effect on September 1, 2014. Any contributions currently in effect for those programs shall remain the same.

(e) **Cafeteria and Health Savings Account Plans.** In addition, Officers covered by this Agreement will be considered eligible to participate in the City's Section 125 Cafeteria Plan and the City's Health Savings Account Plan. The City agrees to allow the CLEAT Benefit Plan and Trust (dental and vision plan) to be offered in the City's Section 125 Cafeteria Plan.

(f) **No Pension Contributions.** No pension contributions will be made on any cash payments under this Section.

**Section 3.** The City agrees to meet with the Association periodically during the term of this Agreement regarding Health Benefits.

**Section 4.** The City shall employ a person with insurance expertise who will, among the person's other duties, assist employees who, having filed their claim, have complaints or conflicts with the insurance carriers or benefit administrator.

**Section 5.** The City, at no premium cost to it, will cooperate with the Association in providing optional Term Life Insurance upon the life of Officers under terms specified in the City's Group Life Insurance Policy booklet.

**Section 6.** In advance of the first enrollment period occurring after the effective date of this Agreement, the City will provide trained personnel to conduct training seminars to Officers on all health plans available to Officers.

**Section 7.** The City will allow payroll deductions to Officers for Supplemental Insurance premiums for up to two providers designated by the Association, provided that the designated providers comply with City vendor policies and procedures and do not require additional information added to the City's HRIS system. The City will not charge an administrative fee to the Officers or Association for making the deductions for the designated providers.

## **ARTICLE 9** **UNIFORMS AND EQUIPMENT**

Section 1. Each employee shall be responsible for providing their own hand gun and footwear.

Section 2. The City shall furnish a winter jacket, required accessories and uniforms, consisting of six summer shirts, four winter shirts and four pairs of pants.

The City shall also furnish an appropriate impact weapon that is approved by the Department and that the employee is certified to use.

The City shall furnish vests to each Officer who requests one.

The City shall also properly equip the appropriate Departmental units, as selected by the Chief, with shotguns and required related accessories.

Section 3. The City shall replace each uniformed Officer's winter jacket, required accessories and uniforms as they wear out due to normal wear

and tear or where they are irreparably damaged in the line of duty through no negligence of the employee. Each Officer shall be responsible for replacing at the employee's cost any of the foregoing which the loses or irreparably damages through carelessness. The City shall initially determine whether any piece of clothing or equipment referred to in this Section is worn out and should be replaced, subject to the grievance procedure contained in Article 21.

Section 4. The City shall pay a \$475.00 year clothing allowance to all employees in the Detective rank and officers regardless of rank who are routinely required to wear business attire as a part of their assignment, to be paid biannually. No pension contributions will be made on any cash payment s under this Section.

Section 5. The City shall furnish to each employee a copy of the following:

- (a) The Police Department Rules and Regulations and General Orders;
- (b) A booklet describing benefits of employment available to City employees;
- (c) This collective bargaining Agreement and any contract amendments or modifications during the term of this Contract;
- (d) The Texas Code of Criminal Procedure
- (e) The Texas Penal Code;
- (f) The Texas Motor Vehicle Laws;
- (g) The Texas Family Code;
- (h) The Texas Controlled Substances Act; and
- (i) A current copy of the Civil Service Rules and Regulations.

The documents listed above will be made available on an intra-department website and provided in paper form upon written request to the Office of the Chief of Police.

Section 6. The City shall supply 18 rounds of ammunition to those officers carrying revolvers and sufficient rounds of ammunition to fill 3 magazines for those officers carrying semi-automatic weapons.

## **ARTICLE 10** **VACATIONS**

**Section 1.** An employee shall accrue vacations in accordance with the following schedule:

<u>Years of Service</u>	<u>Vacation Hours/ Monthly Accrual</u>	<u>Vacation Hours/ Annual Accrual</u>
1 – 10	10	120
10 – 15	12	144
15 – 20	14	168
Over 20	16	192

**Section 2.** Officers shall be permitted to accumulate up to 440 hours of vacation time. Officers who exceed the maximum accumulation of vacation time will be given up to twelve (12) months to utilize the hours in excess of 440 hours. Officers shall not lose any accrued vacation if they are in the process of taking their vacation time during their anniversary date. Vacation Leave may be granted to Officers for personal matters in increments of one hour, subject to the approval of the Department Head. Such requests must be made at least 24 hours in advance.

**Section 3.** An Officer who has accrued vacation time to the Officer's credit at the time of the termination of the Officer's employment shall either:

- (a) Be permitted to take the Officer's accrued vacation; or
- (b) Be paid in a lump sum payment or in quarterly installments up to one year the salary equivalent of the accrued vacation. Effective upon execution of this Agreement, the term salary equivalent as used in this paragraph shall be defined as including longevity and incentive pay.

**Section 4.** The El Paso Municipal Police Officers' Association, in consideration of the City of El Paso granting additional days vacation agrees to defend, to indemnify and to hold the City of El Paso harmless from any and all claims brought or actions filed against the City of El Paso under those portions of Texas Local Government Code Sections 142.0014 & 142.0015 that deal with vacations, whether such claims or actions be rightfully or wrongfully brought or filed, and against all cost incurred by the City of El Paso.

Section 5. Effective on or before July 1, 2015, and each July 1<sup>st</sup> thereafter, the City may post a notice as to whether the City intends to purchase accrued vacation leave from Officers, and if so, the maximum number of accrued vacation hours the City intends to purchase from individual officers or the police department as a whole. If the total hours tendered to the City from all Officers exceed the amount the City desires to buy back, it may allocate each Officer's sell back amount on a pro rata basis. Subject to the foregoing sentence, each Officer may elect to sell back to the City accrued vacation leave not to exceed 80 hours per fiscal year; provided that, an Officer who elected to sell back any such hours must retain, after such sell back, not less than 80 additional hours of accrued vacation leave. Selling vacation leave hours to the City under this provision shall be in lieu of any other option to use vacation days under this Agreement or any other City policy or practice. The City shall distribute funds under this provision in cash directly to the officer.

Section 6. The current practice concerning selection of vacation days will be continued during the life of the Agreement. Officer's request for vacation days will not be denied unless necessitated by the legitimate operational needs of the Department.

## **ARTICLE 11 HOLIDAYS**

Section 1. The following days shall be paid vacation holidays:

New Year's Day	Thanksgiving
Martin Luther King Day	Friday after Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	Employee's Birthday
Labor Day	

**Section 2. Non-Shift Officers.** Officers who are regularly scheduled to work Monday through Friday will receive paid time off for holidays.

Paid holidays may be changed at the City Manager's discretion and based on the needs of the City. Written notice will be provided to the Association thirty (30) days prior to any revisions to the paid holiday schedule. However, the City will not reduce the total number of holidays during the term of this Agreement.

When any holiday listed above falls on a Saturday, the preceding Friday may be considered the holiday. When any holiday listed above falls on a Sunday, the following Monday may be considered the holiday.

**Section 3. Four-10 Hour Shift Officers.** In conjunction with the four-10 hour day program as set forth in Article 5 (Section 1) of this Agreement, the ten (10) hour shift Officers will be compensated for holidays as follows:

Officers not working the holiday, when the holiday is normally a scheduled work day, will receive ten (10) hours pay so as not to go below a forty (40) hour work schedule for the week.

Officers who actually work the holiday will receive it at the overtime rate in addition to their forty-hour schedule for the week.

Officers not working the holiday, when the holiday is a scheduled day off, will be paid for the holiday at the straight-time rate.

**Section 4. Five-8 Hour Shift Officers.** Officers assigned to Five-8 Hour shifts will be compensated for holidays as follows:

Officers not working the holiday, when the holiday is normally a scheduled work day, will receive eight (8) hours pay so as not to go below a forty (40) hour work schedule for the week.

Officers who actually work the holiday will receive the additional pay at the overtime rate in addition to their forty-hour schedule for the week.

Officers not working the holiday, when the holiday is a scheduled day off, will be paid for the holiday at the straight-time rate.

**Section 5.** Officers working ten (10) hours four days a week shall receive ten (10) hours for their employee birthday holiday. Officers working eight (8) hour days will receive eight (8) hours for their employee birthday holiday.

**Section 6.** If the city provides non-bargaining unit employees with an additional holiday, members of the bargaining unit shall receive the additional holiday. However, the City will not reduce the total number of holidays during the term of this Agreement.

## **ARTICLE 12** **FUNERAL AND PARENTAL LEAVE**

Funeral leave shall be as set out in the Civil Service Rules at the time of the execution of this Agreement.

Family and medical leave shall be as set out in Administrative Policies and Procedures FMLA Leave of Absence and City Ordinance No. 8064 at the time of the execution of this Agreement.

## **ARTICLE 13 CIVIL LEAVE**

All civil leave shall be granted in accordance with Section 4. of City Ordinance No. 8064 except that an Officer will receive leave with pay for a total of eight (8) hours. The leave for graveyard Officers will be granted in four (4) hour increments with the last four (4) hour increments with the last four (4) hours of the shift prior to jury duty and the remaining four (4) hour in the first four (4) hours of the shift immediately following jury duty. For graveyard Officers on a four 10-hour shift, the leave granted will be ten (10) hours, divided five (5) and five (5). In the event an Officer is not selected for jury duty by 11:30 a.m., the Officer shall have to report to work at the regularly scheduled shift time. Shifts will not be flexed to avoid the operation of this Article.

## **ARTICLE 14 LEGAL DEFENSE FOR POLICE OFFICERS**

Section 1. In the event that a civil action is filed against an Officer for conduct arising out of the official performance of police duties, the City shall provide legal representation to said Officer under the terms and conditions of this Article. The City shall be liable to said attorney for reimbursement of the attorney's reasonable "out-of-pocket expenses" incurred in connection with said representation, which shall include reasonable travel expenses, depositions and court costs, but shall not include overhead, including but not limited to telephone calls, secretarial services, or copying expenses and the like. Furthermore, reasonable out-of-pocket expenses shall not exceed \$500.00 per case; however, any excess over \$500.00 may be approved on an item by item basis by the City at its sole discretion. The City shall have the option, within its sole discretion, of hiring an outside attorney or providing legal representation through its City Attorney's Office. Such option may be exercised by the City at any time. If the option is exercised by the City the Officer shall be furnished a list of ten (10) attorneys from which the Officer may choose an attorney to represent the Officer. The list of attorneys will be compiled by the City and Association, each furnishing five (5) attorneys for the list who have civil trial experience. The City and Association each reserve the right to remove an attorney on the list if that attorney is otherwise disqualified pursuant to the Texas Disciplinary Rules of Professional Conduct. The City may remove an attorney on the list if that attorney is currently engaged in representing an officer in civil litigation against

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the City or any of its agents who are named parties. If either party intends to remove an attorney for the above stated reasons it shall notify the other party in writing at least 14 calendar days in advance of such a removal. The parties may mutually agree at any time to remove an attorney on the list, temporarily or permanently or fill a vacancy. In reaching an agreement to remove an attorney from the list, neither party shall unreasonably withhold its consent or acquiescence to the removal.

Section 2. The City shall have no obligation to provide legal representation where:

- (a) The employee's conduct giving rise to the civil action constitutes gross or wanton negligence, recklessness, or intentional wrongdoing;
- (b) The employee's conduct giving rise to the civil action is outside the scope of the employee's employment; or
- (c) Legal representation other than that provided by the Association or C.L.E.A.T., Inc. is provided by a third party, such as automobile liability insurance, errors and omissions insurance, or the like.

Section 3. A determination of the City's obligation to provide legal representation for Officers shall initially be made by the City's attorney. If the City's attorney makes the determination that the City should not be responsible for representation, the City and its attorney shall have no responsibility toward the employee unless such determination is reversed. After the initial determination denying representation is made, the Association's attorney shall confer with the City's attorney to decide whether the City shall provide representation or not. If the City's attorney and the Association's attorney cannot reach an agreement, a third attorney, mutually agreeable to the parties, or, in the event that the parties cannot agree on a third attorney, one selected in accordance with the procedure set forth in Section 4, Article 21, shall review the facts and make a final and binding determination.

Section 4. All Officers accorded a legal defense by the City under this Article shall cooperate fully with the City's attorneys and shall provide information to the City's attorneys as requested, for the entire duration of the case, including appeals. Where insurance coverage is available, Officers shall, in a timely manner, notify the insurance carrier of any incident, with a copy of such notification to the Chief of Police. Where an insurance carrier would have provided representation but for the Officer's failure to timely notify or cooperate

with the carrier or other conduct that justifies an insurance carrier's refusal to represent an employee, the City shall have no obligation to provide representation. Furthermore, any failure of the employee to cooperate with the City's attorney or otherwise violate provisions of this Section shall be grounds for denial of legal representation or termination of such obligation.

**Section 5.** No provision of this Article shall in any way affect other rights or remedies that the City may have.

## **ARTICLE 15** **SICK LEAVE**

**Section 1.** An employee shall accumulate sick leave at the rate of 10 hours per month from the first day of employment.

**Section 2.** An employee has unlimited accumulation of sick leave.

**Section 3.** As an incentive to minimize abuse of sick leave, an employee shall be allowed to use, subject to the needs of the department, 40 hours of the allotted 120 hours sick leave per year for personal business, either on an hourly or full-day basis.

**Section 4.** An officer shall be allowed to take sick leave with pay for immediate family related illnesses. Such request must be made at least one hour prior to the officer's shift and shall be limited to two days per occasion.

**Section 5.** Workers' compensation appeals shall be filed with the Texas Division of Workers' Compensation of the Texas Department of Insurance. Accident with pay (AWP) appeals shall be processed in accordance with Section 4.4 of City Ordinance No. 8064. The AWP provisions will comply with Ordinance 8064, Section 4.4 or any revisions to this Ordinance, with the following modifications:

(a) The requirement to report an occupational injury within 48 hours will be measured from the point that the Officer knew s/he had received a work-related injury if the Officer had no reasonable basis to suspect s/he was injured. For the purpose of this Agreement, the date of the occurrence of an injury is the date the employee knew or should have known the injury was job related.

(b) AWP is an employer's salary supplement that is payable when an Officer sustains an injury or illness covered by workers compensation. Officers who receive an injury or illness while engaged in a law enforcement related

activity which activity would require peace officer status may be granted AWP status extensions in sixty (60) calendar day increments, after the initial injury leave, if they provide current medical evidence which indicates such Officer has a recoverable injury or illness. Current medical evidence will be provided to the Chief and will reflect any change in the Officer's status. A report of current medical status from the Officer's treating physician shall suffice as current medical evidence. A "recoverable injury or illness" means such injury or illness, that when the Officer is released to return to work, the Officer will in the opinion of his or her physician, be able to perform the essential functions of the position which were required at the time of the injury or illness. While on AWP employees shall not be required to use sick leave or vacation leave. Employees shall continue to accrue all sick and vacation leave while on AWP status.

(c) If AWP leave is approved, AWP leave will be available for the first seven (7) calendar days of disability not initially paid by workers' compensation benefits. The officer will not be required to use annual or sick leave for this first seven days of disability.

**Section 6.** The Police Chief retains the right to require a medical certificate in a form satisfactory to the Chief before an employee shall be paid sick leave under the provisions of this Article.

**Section 7.** The employee, the employee's heirs or the employee's legal representative shall be compensated in cash for any unused accumulation of sick leave up to the maximum of 700 hours at the employee's basic hourly rate of pay, at the time of the employee's death, resignation, termination or retirement. In the case of any unused accumulation of sick leave in excess of 700 hours, an employee who has completed ten years service, the employee's heirs or the employee's legal representative shall be compensated in cash for such hours of unused sick leave in excess of 700 hours up to a maximum of 1200 hours in an amount equal to one hour's pay for every four hours of unused, accumulated sick leave at the employee's hourly rate of pay, at the time of the employee's death, resignation, retirement or termination.

**Section 8.** Any employee who is entitled to receive accumulated sick leave cash compensation under this Article shall have the option to be paid the same in a lump sum payment. If, during the term of this Agreement, the City allows substantially all non-bargaining unit employees to apply such compensation to payment of the employee's share of costs associated with his retirement health insurance, it shall also allow bargaining unit employees to do so under the same terms.

## **Section 9. Shared Leave Program.**

### **A. POLICY:**

This program allows covered employees to voluntarily donate accrued sick and/or vacation leave to a bank for the use of, and to help alleviate the financial hardship caused by "catastrophic injuries or illnesses" or "life-threatening illnesses or injuries" as defined herein, which force an employee to exhaust all paid leave time earned and subsequently lose compensation from the City.

This policy does not circumvent the application of the Family and Medical Leave Act (FMLA) nor does it alter or revise any City policy or procedure regarding the application of the FMLA. Nothing in this policy shall be construed so as to be a legal entitlement to receive a leave of absence nor to obligate the City to grant a leave of absence except as may be granted to an employee pursuant to the City Charter and the Administrative Policies and Procedures FMLA Leave of Absence. Employees who are not taking FMLA leave nor been granted a leave of absence are not permitted to receive shared leave under this policy.

Shared Sick Leave is a benefit available to covered employees within the parameters of this program and any Shared Leave granted is not considered earned sick leave for which a covered employee may be compensated for cash upon the employee's death, resignation, termination or retirement pursuant to Article 15, Section 8. Any unused Shared Leave reverts back to the program in accordance with Section 9, I of this Article.

### **B. DEFINITIONS:**

1. "Administrator" means the person or persons designated as Administrator by the Board of the El Paso Municipal Police Officers Association.
2. "Bank" means the combined sick and vacation leave donated by covered employees for allocation to eligible recipients.
3. "Board" means the Shared Leave Bank Board which consists of the authorized designees of the EPMPOA.
4. "CBA" means the Articles of Agreement by and between the City of El Paso and the El Paso Municipal Police Officers Association (EPMPOA).
5. "Life-threatening illness or injury" is defined as a severe medical condition, identified as life-threatening by a medical doctor, which is non-job-related

and which has a prolonged negative effect on the covered employee's or family member's health and incapacitates the employee or family member for an extended period of time. Such conditions require in-patient hospital care, or prolonged out-patient care as determined to be medically necessary by a licensed physician.

6. Such conditions include but are not limited to Cancer, AIDS, Heart Attack and Stroke.
7. "Catastrophic Injury or Illness" is defined as an unanticipated, non-job related, not self inflicted injury or illness, and requires a covered employee's absence without pay for a period of at least two weeks after all leave balances have been exhausted. This is further defined as those illnesses or accidents including vehicle accidents requiring confinement in a hospital or accidents requiring extensive medical care of an unforeseeable nature. Examples include life threatening injury or illness, cancer, AIDS, heart surgery, stroke, etc. Catastrophic illness or injury shall not include elective surgery or unforeseeable medical care rendered as a result of something other than injury or disease.
8. "Contributor" means a covered employee who voluntarily provides a written request for transfer or his/her sick or vacation leave to the bank.
9. "Covered Employee" means those employees (police officers) who are covered by the terms of the CBA and who meet the requirements set forth under this section for eligibility as a recipient.
10. "Recipient" means an eligible covered employee whom the Administrator has approved to receive leave from the bank.
11. "Work day" means any day normally or regularly scheduled for the transaction of business.
12. "Family member" means spouse, child or parent.

C. PROGRAM RESPONSIBILITIES:

The Administrator is responsible for:

1. Reviewing requests from applicants to decide if the covered employee's situation qualifies for the program and determining the amount of leave to be

assigned from the bank up to the eligible amounts of both designated and undesignated contributions.

2. Publicizing the program and the need for contributions. Such publicizing will be done upon establishment of the bank and periodically thereafter when the Administrator determines that there is an insufficient leave balance to meet requests. Publicizing will be done in a manner that is cost effective, as determined by the Administrator.
3. Keeping records of all requests to either donate leave to the bank or receive leave from the bank, and the appropriate action taken on each request.
4. Forwarding all approved requests of donors and recipients to the designated EPMPOA member acting on behalf of the administrator.
5. Crediting the Shared Leave Bank with the amount of time contributed by the donor and shall deduct a corresponding amount of time from the donor's accrued sick or vacation leave balance. Based on the information provided by the Administrator, an appropriate notation will be made on the donor's sick or vacation leave record that the leave was donated to the Shared Leave Bank.
6. Advising the City to credit the approved amount of leave taken from the bank to the sick leave account of the recipient. An appropriate notation will be made on the recipient's sick leave record that the leave was received from the Shared Leave Bank.
7. Advising each prospective donor and recipient of the action taken on their request.
8. Notifying the Payroll and Records Supervisor when an approved leave recipient loses their right to continue participation in the Shared Leave Program.
9. Providing a quarterly report to the Chief of Police regarding the numbers of hours collected and used by covered employees under this program, and the balance of hours contained in the undesignated pool of contributions.

#### D. MEDICAL CONSULTATION:

A Medical Consultant selected by the Administrator may advise the Administrator on whether a request qualifies as either a life threatening injury or illness or qualifies as a catastrophic injury or illness or both categories, and

whether or not the injury is known to be recoverable in consideration of the job duties of the covered employee.

**E. APPLYING TO BECOME A RECIPIENT.**

1. A covered employee must have exhausted all of his/her available accrued leaves (including Special Sick Leave as authorized) before being eligible to apply for Shared Leave.

2. The covered employee or authorized representative must complete the Shared Leave Application Form and send it, with the Medical Certification Form attached, to the Administrator via Office of the Chief. THE NAME OF THE RECIPIENT WILL BE KEPT CONFIDENTIAL TO THE EXTENT ALLOWED BY LAW, unless the employee authorizes the release of information contained in the application form or within the supporting documentation by the City to publicize the reason for the need for leave to potential donors.

3. The Medical Certification should indicate the:

- a. Nature of the illness or injury for which the physician is treating the covered employee or covered employee's family member;
- b. The diagnosis; and
- c. Whether or not the condition qualifies as either a life-threatening injury or illness or qualifies as a catastrophic injury or illness or both categories, and whether or not the injury is known to be recoverable in consideration of the job duties of the covered employee.

The Medical Certification form must be submitted with the request. If the Medical Certification form is incomplete, the request will be denied

**F. CONTRIBUTING LEAVE**

1. Contributions. Covered employees wishing to donate leave should complete the Shared Leave Contribution Form and submit it directly to the Administrator or the Administrator's designee.

2. Covered employees may be informed of the need for contributions by work section, division or department as deemed appropriate by the Administrator. The Chief of Police will take appropriate steps to ensure that no undue pressure or

coercion, either implicit or explicit, is placed on any individual employee by any other employee to make a donation.

3. Covered employees may contribute not less than 8 hours nor more than 80 hours of accrued leave per fiscal year. Separating covered employees must submit their contribution request at least 30 days before their effective separation date.

4. A covered employee contributing sick leave must have at least 120 hours of sick leave left in their account after making their contribution. Covered employees having less than 120 hours of sick leave in their account will be denied the opportunity to contribute sick leave at that time, but may resubmit a request to contribute after their accrued sick leave balance is increased to the level where the covered employee would have at least 120 hours of sick leave left after making their contribution.

5. A covered employee contributing vacation leave must be eligible to use vacation leave and have at least 40 hours of vacation leave in their account after making their contribution, or they will be denied the opportunity to contribute vacation leave at that time.

6. All donation of leave to the shared leave balance are strictly voluntary, but in order for covered employees to become eligible to receive leave from the shared leave balance, they must donate at least 8 hours of leave to the shared leave balance at the beginning of each calendar year, or they shall relinquish their eligibility to withdraw leave from the shared leave balance for that calendar year. Covered employees with less than 1 year on the job, beginning on the date of graduation from the academy or other initially-required training, are eligible to use the shared leave program and are exempt from the obligation to donate leave as a requirement for eligibility.

## G. ELIGIBLE RECIPIENT

1. Shared leave may be utilized from the undesignated pool of contributions only because of a life-threatening injury or illness of the covered employee. Shared leave may be designated to specific individuals using the catastrophic injury and illness as well as the life-threatening injury and illness definitions. Shared leave may also be requested on behalf of covered employees whose absence is required to care for family members who meet the definition of catastrophic injury or illness, in each case to be fully documented as required by the Administrator.

2. An eligible recipient will be granted up to 80 days (calculated based on eight hour days) per fiscal year of leave designated for him/her by name. Recipients

lacking sufficient designated contributions may draw leave from the undesignated contribution area of the bank in an amount that is the lesser of one-sixth (1/6) of the total leave in the undesignated area of the bank or up to 80 days. The Administrator shall determine the exact amount that an eligible recipient may draw from the undesignated area of the bank based upon the leave balance in the bank at the time the request is approved. Under no circumstances may a recipient draw over 80 days per fiscal year.

3. A recipient absent on Shared Leave (that is, leave received from the bank) is treated for all purposes as if the recipient were absent on earned sick leave, i.e., he/she would be eligible for paid holidays, normal payroll deductions would be made, and paid leave would be accrued.

4. A covered employee is ineligible to receive Shared Leave if the employee:

a. Has a pattern indicative of sick leave misuse within the past 12 months (from the date of the Shared Leave request)

b. Is seeking to receive leave for an occupational (i.e., on-the-job) illness or injury. Provided, however, any qualified employee whose report of injury has been disputed by the City's Workers Compensation Third Party Administrator and where no final determination of comparability has been made shall be eligible to make conditional request for leave in accordance with the terms of this policy. Such request is upon the condition that in the event the injury is determined to be a compensable injury under the Workers Compensation Act, the employee is deemed to agree to and will cooperate with the City to make the shared leave program and/or the City of El Paso whole for any leave that the employee had received from the program, including but not limited to an agreement that the City may deduct any overpayment from future paychecks or reduce any accrued leave balances.

c. Is on active duty in the U.S. Armed Forces or has been recalled to duty to receive treatment.

#### H. APPEALS.

1. Decisions made by the Administrator, in regard to a covered employee's eligibility to receive shared leave, shall be subject to appeal to the Shared Leave Bank Board. The Board shall meet as required by the Administrator and decide appeals by majority vote. A tie vote will leave the Administrator's decision in place. The Administrator and/or Shared Leave Bank Board may request additional

information to determine if a condition qualifies as either a catastrophic injury or illness or a life-threatening injury or illness.

## I. TERMINATION OF BENEFITS.

1. The participating covered employee will immediately lose their right to Shared Leave benefits and all unused Shared Leave in their sick leave account will revert to the Shared Leave Bank if the employee:

- a. Dies;
- b. Separates from employment;
- c. Voluntarily cancels his/her participation in the Shared Leave Program;
- d. Exhausts the maximum approved Shared Leave given to the employee;
- e. Commits fraud or misrepresentation in the request or use of Shared Leave benefits.

2. The estate of a deceased covered employee (recipient) is not entitled to any benefit for unused leave acquired by that employee from the Shared Leave Bank. Any such unused leave will revert to the Shared Leave Bank.

Section 10. The members of the collective bargaining unit shall be subject to City's Return to Duty with Medical or Physical Restrictions Policy in effect upon execution of this Agreement.

## ARTICLE 16 JOB RELATED DISABILITIES

Section 1. In the event an employee is injured while in the performance of work for an off duty employer, the following shall happen:

- (a) If injury or sickness is related to a non-related police officer's activity then there is no liability of any nature on the part of the City of El Paso.
- (b) If injury or sickness is related to a police officer's performance of a law enforcement function then employee is to first look to the off duty employer for worker's compensation; if the off duty employer does not carry worker's compensation insurance then a claim may be filed under the City's worker's compensation and the employee agrees to cooperate with the City in any subrogation actions. The employee shall provide proof that the off duty employer does not carry worker's compensation as of the date of the injury. The

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employee shall be relieved of this responsibility if the employee presents a certified letter showing delivery to the off duty employer and has received no response. The City shall prepare the letter for the employee's signature.

- (c) The City will pay the difference between worker's compensation weekly benefits and the employee's base salary. This amount will be deducted against the employee's sick leave; if sick leave is exhausted prior to termination of worker's compensation weekly benefits, the City will continue to pay the difference.

Section 2. The City shall give any officers authorized accident with pay status under Section 4 of City Ordinance No. 8064, at least fifteen (15) working days prior written notice of intent to terminate the officer's accident pay with status. A copy of said notice shall be forwarded by certified mail to the President of the Association on the same date it is delivered or mailed to the officer.

## **ARTICLE 17** **LEAVE FOR ASSOCIATION BUSINESS**

Section 1. Prior to the beginning of collective bargaining negotiations, the Association shall designate who shall constitute its bargaining team. For each of the officers so designated, the City shall treat as time worked time spent in actual collective bargaining negotiating sessions with the City's bargaining team during which said employee was otherwise scheduled to work. Promptly upon the conclusion of each such session, any such employee shall report to work at the employee's regularly scheduled assignment or where directed by the Police Chief.

Section 2. Up to three members of the Association's Board shall be permitted time off without loss of pay at any one time to conduct elections relating to Association business. The President of the Association shall give 72 hours prior notice to the Chief as to the time and place for such election, and the names of the members of the Executive Board who will be conducting the election.

Section 3. Within ten days after the execution of this Agreement, the Association shall notify the Chief in writing as to the names of the Association's Executive Board. The Association shall thereafter promptly notify the Chief of any change in the composition of its Executive Board. To the extent that any designated member(s) of the Association's Executive Board is otherwise scheduled to work, the member shall be permitted to attend the monthly

Association membership meeting and the monthly Association Executive Board meeting and upon 24 hour notice, any specially called Executive Board meetings, and said meeting time shall be treated as time worked.

Section 4. Each year on or before January 1, the City shall assess from each Association member three (3) hours of accrued vacation leave time to be placed in an Association business leave pool. The Association shall be allowed to debit the pool during the calendar year when Association officers are required to administer the contract; represent the Association at meetings or events; represent members at disciplinary hearings, grievances or on other job-related matters; attend seminars or training programs; any business associated with collective bargaining or conduct other Association business. The Association shall notify the Chief of Police at least 48 hours in advance of such time off. The pool shall be cumulative during the term of this Agreement. The City is only required to make an individual assessment from Association members who have at least three (3) hours of accrued vacation time at the time the City makes the assessment. The Chief of Police must give his express written approval to any Association request to use the pool for more than ten (10) members at any one time. If the Chief of Police declares an emergency, he may order the Association President or any Association officers on Association business leave time to report to work for the pendency of the emergency. An emergency is an unexpected happening or event or unforeseen situation or crisis that calls for immediate action and requires the Chief of Police to order the Association President or officers to report to work.

Section 5. The Chief will consider requests for additional time off without pay to attend to other Association business.

Section 6. Legislative leave under Sections 614.001-614.010, Texas Government Code, is amended to allow one officer who is eligible under this law to be granted legislative leave to appear before or petition the Texas Legislature and U.S. Congress to request annual legislative leave in one year increments from the date the leave is granted by the Chief of Police. All requirements in Chapter 614 for reimbursement by the officer to the City shall apply. Reimbursement shall be 100% of all city costs, including but not limited to, wages, health insurance benefits, and pension for the one officer.

## ARTICLE 18

### SAFETY AND HEALTH

#### **Section 1.**

- (a) The City shall ensure that all police vehicles and equipment assigned to police officers are in safe condition and shall maintain a preventive maintenance program for police vehicles. Any insurance funds received for Department vehicles wrecked beyond repair will be reserved for the Department's Fleet replacement fund. By September 30, 2016, the City will develop and thereafter follow a vehicle replacement program.
- (b) If an Officer believes that a police vehicle or equipment assigned to the Officer is not in safe condition, the Officer may inform the supervisor of the unsafe condition of the vehicle or equipment. The supervisor shall make a decision as to the safety of the vehicle or equipment. In the event the Officer disagrees with the supervisor's decision, the Officer may note an objection in writing to PD Risk Management with a copy being forwarded to the Association. The supervisor shall acknowledge, in writing, the Officer's objection.
- (c) It is the desire of the City and the Association to maintain the high standards of safety in the police department in order to eliminate, as much as possible, accidents, deaths and injuries in the police service. To this end, a Safety Committee will be established to make reports and recommendations to the Chief of Police and the City's Deputy Director of Human Resources in charge of Risk Management. The Association President will select four (4) members, including one from Patrol and one from Detective Division. This committee will meet upon request by any of its members within five (5) business days subject to approval of the Chief. Members of this committee will be granted time off with pay when meeting jointly or for any inspections or investigations of safety problems in the police department. The City will cooperate in providing information which is reasonably necessary for the committee to fulfill its purpose.

**Section 2.** The City will conduct police academies as it determines is necessary to provide sufficient Officers to do the work of the Department. Commencing FY2016, if the City's actual total tax revenues exceed the prior fiscal year's actual tax revenues (excluding debt services) by 1.5% and all revenues for the year are greater than zero with respect to the current fiscal year's budgeted revenue, the City agrees to schedule a police academy for the following fiscal year. The City will continue to schedule police academies for the duration of the Agreement as long as the above standard is met.

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**Section 3.** The Chief and the Association shall meet to discuss the development of a physical fitness assessment model, adjusted for age and gender. Any agreement reached shall be adopted as a Pilot Program through a memorandum of understanding and ratified by the parties, and attached as an appendix to this Agreement. The parties will make every effort to implement such a program no later than one year from the signing of the Agreement.

**Section 4.** The City commits not less than \$100,000.00 in each year of this contract for vehicle replacement.

## **ARTICLE 19** **PROMOTIONAL EXAMINATIONS**

Section 1. Promotional eligibility lists shall expire eighteen months after the initial date of approval. For all ranks of Lieutenant or below, a new promotional eligibility exam shall be given no later than thirty days following the expiration of the previous promotional eligibility list. The City shall not be required to schedule a new promotional examination for the rank of Commander unless and until a new eligibility list is needed. The Chief retains the right to fill vacant positions within the department as needed and with the City's budgetary constraints.

Section 2. On November 1st of each year, the Chief of Police shall establish a committee for the selection of study materials for the written promotional examination for each rank. Such materials which are selected shall be reviewed by the Chief of Police who shall make the final selection. A listing of all potential materials from which promotional examination questions may be taken from will be posted annually each January for examinations to be administered within the one-year period beginning the following April. Such material may not be used unless available from publishing companies more than ninety (90) days prior to examination. Each material selected will be used to formulate one or more questions of the examination.

The annual posting and promotional requirements shall not apply to testing procedures commenced before the date this Agreement is signed.

Section 3. For promotional examinations for each class title given after the effective date of this Agreement, the City shall post a notice of said examination at least 60 days prior to the date of examination.

Section 4. The written examination protest procedure shall be as follows:

(a) The protest period for written police promotional examinations will be limited to one two-hour period to be scheduled at the mutual convenience of the Human Resources Department and the police officer during the two consecutive working days following the administration of the written examination. The protest schedule will depend on the size of applicant group and the availability of space and Human Resources staff. Several sessions may be scheduled if necessary to handle large groups. However, each individual will be allowed to attend only one session. The time(s) will be announced prior to or at the time of the written examination.

(b) An individual may seek and make notes about the individual's marked answer sheet with the number of correct and incorrect responses for the initial 15 minutes of the two-hour period.

(a) During the subsequent 1 hour and 45 minutes after handing in the marked answer sheet, the following materials will be available to examinees:

- unmarked test booklet;
- correct answers to questions;
- reference materials (examinee must provide);
- protest forms.

(b) At the end of two hours, all protests must be turned in to Human Resources Department staff. Protests on additional items will not be accepted after this time. Any individual attending such session may write down the number(s) of the test questions protested or missed and remove such written notations from the test room. No other notes or papers shall be carried out by any individual attending such a session.

(c) Protested questions will be reviewed by a committee consisting of Police Association and Department representatives and Human Resources staff. Decisions made by this committee will be final.

(f) The disposition of protested items will be posted as soon as possible after the close of the protest period. This list will contain only the number of the protested question and action taken. For example:

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#85 protest allowed; question deleted  
#95 protest disallowed.

Section 5. During the term of this Agreement, a committee consisting of representatives of the City and the Association shall meet diligently to explore mutually satisfactory improvements in the procedure for the examination of applicants for promotions to class grade P-2 through P-6.

Section 6. The results of any Assessment Center shall not be subject to grievances or the arbitration process but may be subject to the protest procedure of City's Examinations Rating Policy, Section ii. The City shall have the right to weigh Assessment Center up to 50% of the total score for Sergeants and Lieutenants and 65% for all ranks above Lieutenants. Only the top 25 scorers on the Sergeant's written examination, the top 18 scorers on the Lieutenant's examination and the top 18 scorers on the Commander's written examination shall be orally examined at an Assessment Center.

Each assessor with regard to each exercise in the Assessment Center shall rate each participant on each dimension being evaluated on a written form. For Assessment Centers at all ranks, the employees shall have the right to review the evaluation from such examinations. At the employee's request, such written evaluation shall be explained during a feedback session by a Police Department advisor to the Center.

The City shall establish and announce a minimum passing score on all written examinations prior to such examinations.

Assessment Center Administrators shall receive professional training in the administration of centers by external experts in the field within six months after the date of signing of this Agreement. Such training must be updated within each succeeding three-year period.

Section 7. The Civil Service Provisions and the Civil Service Rules pursuant thereto, shall in all respects govern in promotions except that:

(a) To the score of the applicant for promotion to Detective, Sergeant, Lieutenant and Commander shall be added one point for each of the first four complete years and one-half point for each additional complete year of actual service to a maximum of seven points in the position from which promotion is sought; efficiency points shall not be added to or subtracted from the examination score of applicants for promotion to Detective, Sergeant, Lieutenant

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or Commander notwithstanding any writing to the contrary. Seniority will be computed to and including the day the final scores are submitted by the Assessors of the Assessment Center.

(b) An employee who is on a certified list will not be removed from such list until he has been non-selected for promotion five times.

(c) Promotion to Deputy Chief and Assistant Chief positions shall be made pursuant to Article 2, Section 3 of this Agreement.

Section 8. The educational and experience requirements for promotional examinations shall be determined and applied by the City in accordance with applicable City Charter provisions and/or Civil Service Rules. The interpretation of education requirements shall parallel Article 6, Section 2 of this Agreement.

An employee may substitute experience for no more than one-half of the college education requirement based on the following equivalencies:

3.0 semester credit hours = 1.8 months experience

15.0 semester credit hours = 9 months experience

30.0 semester credit hours = 18 months experience

Section 9. The "Rule of Five" will continue to govern the selection of Officers from promotional eligibility lists.

Section 10. An Officer who leave the Department due to FMLA-related reasons and is rehired will not be subjected to the civil service requirement of having to be re-employed for two years before being eligible for a promotional exam.

## **ARTICLE 20** **REINSTATEMENT AFTER RESIGNATION**

When an employee is reinstated to duty pursuant to Section 6.10-7 of the City Charter in the same classification after separation from the City due to resignation and subsequent reinstatement, such employee may, upon recommendation of the Chief, be reinstated to the same step or level received at the time of resignation. Before proceeding to the next grade and step, the Officer must complete the amount of time required to complete the grade and step the Officer occupied prior to the separation from the City.

Where a break in service occurs, by reason of resignation;

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1. longevity credits accrued prior to the break in service shall be counted for the purpose of Section 3.6B of City Ordinance No. 8064.
2. credit for Leave Benefits (Vacation, Sick Leave) accrued prior to the break in service shall be included to calculate the accrual date and corresponding rate. The accrual date will be adjusted to reflect the time the Officer was separated from the City to ensure the Officer will not get service credit for the time the Officer was not employed by the City.
3. Where a break of service occurs by reason of resignation, the employee's seniority time will be deducted by the length of time the employee was separated from the El Paso Police Department. The use of seniority time examples include calculating seniority points on promotional exams, seniority for shift bids.

In cases where an employee is reinstated as result of arbitration or settlement, the methodology used in Article 20 shall be utilized if not specifically addressed in the arbitration or settlement.

Example: John Doe becomes a commissioned peace officer.

Original Start Date as Police Officer: 12/04/08

Resignation date: 2/23/10

Longevity date: 12/04/08

Longevity rate: 1.85

Vacation Accrual date: 12/04/08

Vacation Accrual rate: 4.62

Reinstatement date: 06/05/12

Longevity date: 03/18/11

Longevity rate: 1.85

Vacation Accrual date: 03/18/11

Vacation Accrual rate: 4.62

## **ARTICLE 21 GRIEVANCE PROCEDURE**

### **Section 1. Disciplinary Appeals**

A. Appeals of suspensions, demotions and/or terminations shall be heard by a hearing examiner selected on a rotating basis from the hearing examiner panel. In the case of a demotion, a termination, or a suspension of more than 40-hours, the employee may elect to have the disciplinary appeal heard by an arbitrator selected in accordance with the procedures set forth in Section 3. An employee's election of arbitration automatically waives that Employee's right to proceed before a hearing examiner; and an employee's election to proceed before a hearing examiner automatically waives that employee's right to arbitration. The decision of the Hearing Examiner or the

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Arbitrator shall be final and binding upon the employee(s) involved, the City and the Association, subject to any rights of appeal to a court of law. During the hearing of an appeal or an arbitration, the parties shall have the right to have a representative and an advocate of their choosing present.

B. The hearing examiner panel shall have not less than five (5) qualified members appointed by the City and Association by mutual agreement. The members on the panel shall serve a one-year term, which will automatically renew on the anniversary of their appointment, subject to the procedures set forth herein. Either party may remove a member of the panel by providing written notice to the other party within thirty (30) days before the panel member's anniversary date, along with the name of at least one (1) proposed replacement panel member. The City and the Association may, at any time, remove and/or add members by mutual agreement. If there is a vacancy, such as by resignation, death, unilateral removal or agreed-upon removal, the City and the Association shall act promptly to select enough new members to ensure that the panel contains not less than five (5) active members. The Civil Service Commission shall create a list of the hearing examiners, placed in random order, and shall designate a hearing examiner for each appeal on a rotating basis, subject to the hearing examiner's availability.

## **Section 2. Contract Grievances**

Disputes involving the application, interpretation or enforcement of this Agreement, but not involving the suspension, demotion or termination of an employee, shall be resolved in the following manner:

### **A. Individual Grievances.**

1. If the grievance is initiated by an individual employee, rather than the Association, the aggrieved employee shall, within 14-calendar days after the actual or constructive knowledge of the acts or omissions giving rise to the grievance, discuss the grievance with his or her immediate supervisor and attempt to resolve the matter. The supervisor involved shall give an oral answer with respect to the dispute immediately, if possible, but not later than 14-calendar days following the end of the discussion.

2. If the immediate supervisor's oral answer does not settle the issue to the employee's satisfaction, the employee shall, within 7-calendar days following the earlier of: (a) the receipt of the oral answer; or (b) the supervisor's deadline for providing the oral answer, present the grievance in writing and signed by the employee to the Association's Grievance Committee. The

Grievance Committee shall have full authority to determine whether to proceed further with any employee's grievance. If the Committee decides to proceed with the grievance, it shall reduce the grievance to final written form and present the written grievance to the Chief of Police, the City Attorney and the City Manager within 14-calendar days following the Grievance Committee's receipt of the grievance from the employee. The grievance presented by the Grievance Committee must generally describe the alleged acts or omissions, and indicate the specific Articles allegedly violated.

B. Association Grievances.

If two or more employees are alleged to be affected, the Association may file a grievance on its own behalf. An Association Grievance must be in writing and served upon the Chief of Police, the City Attorney and the City Manager within 14 days of the Association's actual or constructive knowledge of the acts or omissions giving rise to the grievance. The written grievance must generally describe the alleged acts or omissions, and indicate the specific Articles allegedly violated. To the greatest extent possible, the grievance should identify the affected employees, either by name or category.

C. Procedures Applicable to Both Individual & Association Grievances

1. The Chief of Police or the City Manager (or an authorized representative of either), and the City Attorney's Office shall, within 14-calendar days following receipt of a grievance, meet with the Association's representative(s) (and the aggrieved employee, if an individual grievance) and with their attorney, to discuss the grievance. Within 14-calendar days following said meeting, the Chief of Police, the City Manager (or an authorized representative of either) or the City Attorney's Office shall submit a written response to the Association.

2. If the grievance remains unresolved, the Association may, within 14-calendar days following the conclusion of Section C.1. above, either: (a) notify the City Attorney in writing that it desires to submit the matter to mediation; and/or (b) notify the City Attorney in writing that it desires to submit the matter to final and binding arbitration. Upon receipt of the notice of intent to arbitrate, the City Attorney's Office shall immediately request a list of seven arbitrators from the American Arbitration Association. However, if the City agrees to a mediation request, the City Attorney need not request an arbitrator list from AAA until after mediation is completed.

### **Section 3. General Rules for Hearings**

A. The provisions in this Section apply equally to Discipline Appeals and Contract Grievances, unless otherwise indicated.

B. The parties may, by mutual agreement, submit a matter to non-binding mediation at any time.

C. Upon the receipt of the list of arbitrators, each party shall alternate in striking a name from the list until only one name remains, and each party shall act diligently to coordinate a date for the hearing. The parties may, by agreement and either before or after requesting a list of arbitrators, select any arbitrator without regard to that arbitrator's affiliation with the American Arbitration Association.

#### **D. Witness Lists & Documents**

1. Either party may, no later than 14-calendar days before the date of the hearing, request from the other party: (a) the names of witnesses expected to be called at the hearing; (b) any statements of witnesses expected to be called not coming within the attorney's work product privilege; and (c) the other party's exhibits. The foregoing must be provided to the requesting party no later than 7 days before the hearing. Failure of a party to timely provide the name of a witness, a copy of the witness' non-privileged statement, or an exhibit shall preclude the party from calling the individual as a witness or offering the exhibit into evidence, unless the hearing examiner or arbitrator finds good cause for such failure.

2. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3(b) of Rule 8, El Paso Civil Service Rules and Regulations, as constituted on the effective date of this Agreement. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. The foregoing shall include, but not necessarily be limited to, the entire Internal Affairs investigative file.

3. In all Disciplinary Appeals, the City shall provide the employee with the materials required by Paragraph D.2., no later than thirty (30) days after a hearing examiner or arbitrator is selected, unless the City has already provided such materials.

E. The hearing examiner or arbitrator may grant continuances upon a showing of good cause or upon mutual agreement by both the legal counsel for the City and the aggrieved employee or Association. All issues of jurisdiction or procedural arbitrability shall be decided by the hearing examiner or arbitrator before the final hearing. The parties will make every effort to have all preliminary issues heard by submission. Disputes involving the enforcement or interpretation of a prior decision by a hearing examiner or arbitrator shall be resolved by the hearing examiner or arbitrator who decided the underlying dispute. If the same hearing examiner or arbitrator is not available, then the parties will use the same procedures for selecting a hearing examiner or arbitrator that were used in the underlying dispute.

F. The hearing examiner or neutral arbitrator shall have the authority to interpret the Agreement, to make conclusions of fact based upon the evidence submitted at the proceeding and to apply the contractual provisions to said facts. The jurisdiction of the hearing examiner or arbitrator is limited in that he or she has no authority to add to, subtract from, amend or otherwise change or in any way modify the provisions of this Agreement. In Disciplinary Appeals, the hearing examiner or arbitrator shall have the authority to: (a) sustain discipline; (b) reverse discipline (except that discipline shall not be increased); (c) modify discipline; and, (d) as applicable, award back pay, in whole or in part. In cases of termination or indefinite suspension, the hearing examiner or arbitrator has discretion to reinstate an employee and impose an unpaid suspension, notwithstanding the ruling in City of Waco v. Kelley, 309 S.W.3d 536 (Tex. 2010).

G. The decision of the hearing examiner or arbitrator, if rendered in accordance with the provisions of Section F. of this Article, shall be final and binding upon the Association, all bargaining unit employees, and the City.

H. All time limits in this Agreement are based on calendar days. If a time limit expires on a weekend or City-observed holiday, the time limit shall be extended to the next City business day. The day of the act, event, or default shall not be included.

I. The fee and expenses of a hearing examiner or arbitrator shall be borne equally by the City and the Association.

## **ARTICLE 22 BULLETIN BOARD**

Section 1. The City shall permit the Association sufficient access to its bulletin boards to permit the Association reasonably to communicate with its members covered by this Agreement. The Association shall use this board for posting of notices pertaining to recreational and social activities, Association elections, reports of the Association or its committees, Association meeting notices and legislative enactments and judicial decisions affecting public employee labor relations. The Association shall not post any materials which are obscene, defamatory, impair the operation of the City or the Police Department or which constitute partisan political campaign material. Prior to the posting of any item, the Association shall send a copy of the item to the Chief.

Section 2. Any material on the bulletin board which the Chief believes to be in violation of this Agreement shall be promptly removed by the Association. Any dispute about whether material removed at the direction of the Chief is in violation of this Article may be submitted directly to Step 2 of the grievance procedure contained in Article 21.

## **ARTICLE 23 NONDISCRIMINATION**

Section 1. Membership in the Association is voluntary. Each Officer has the right to refrain from joining or to withdraw from membership in the Association, as the Officer sees fit. Neither the Association nor the City shall exert any pressure against any Officer covered by this Agreement in regard to such matters.

Section 2. The City and the Association agree that the provisions of this Agreement shall be applied to all Officers within the bargaining unit without regard to membership or non-membership in the Association or activity or lack of activity on its behalf.

Section 3. Upon receipt of a voluntarily signed authorization of an employee covered by this Agreement, the City agrees to deduct from each employee's earnings and pay to the Association bi-weekly during the life of this Agreement a single lump sum payment in the amount to be determined by the employee, plus a single special assessment of up to \$5.00. The latter special assessment shall be withheld only upon notification by the Association to the City that such amount is being uniformly assessed to all members of the Association. The Association shall certify to the Comptroller that all members of the

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Association have been notified of the assessment at least 30 days prior to the date on which the assessment will be withheld. The employee shall have the right to revoke any such authorization at any time by written notification to the City Comptroller's Office.

Section 4. The form of such individual authorization shall contain the following language:

I hereby authorize the City of El Paso to deduct each pay day the sum of \$\_\_\_\_\_ as certified by the El Paso Municipal Police Officers' Association as the current rate of dues, or an amount as may hereafter be established by the El Paso Municipal Police Officers' Association as dues; and remit the same to the El Paso Municipal Police Officers' Association. This authorization shall also constitute my approval for the City to deduct and remit to the Association a single special assessment of up to \$5.00 during any contract year, upon notification by the Association to the City that such amount is being uniformly assessed to all members of the Association. This authorization shall be effective until revoked by written notification to the City Comptroller's Office.

The amount to be deducted shall be filled in by the employee authorizing the deduction.

Section 5. The Association will defend, save, hold harmless and indemnify the City from any and all claims, demands, suits or any other form of liability which may arise out of the execution, placing into effect or carrying out the terms of Sections 3 and 4 of this Article.

Section 6. The City shall provide to the Association monthly a list and amount of dues deductions from members of the Association.

Section 7. The City shall not engage in the following practices:

- (a) Interfere with, restrain or coerce employees in the exercise of rights granted in this Agreement;
- (b) Dominate, interfere with, assist in the formation, existence or administration of, or contribute financial support to, any other employee organization which claims or seeks to represent employees within the bargaining unit referred to in Article 1, Section 1 hereof;

- (c) Encourage or discourage membership in any labor organization which claims or seeks to represent employees covered by this Agreement by discrimination in hiring, tenure, training or other terms or conditions of employment; or Discharge or discriminate against any employee because the employee has filed any affidavit, petition, grievance or complaint of this Agreement or because the employee has or has not formed, joined, or chosen to be represented by, any labor organization.

Section 8. The Association shall not engage in the following practices:

- (a) Interfere with, restrain or coerce employees in the exercise of the rights granted in this Agreement;
- (b) Restrain or coerce the City in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances;
- (c) Cause or attempt to cause the City to discriminate against any employee in hiring, tenure, training or other terms or conditions of employment because of the employees membership or lack of membership in any labor organization;
- (d) Cause or attempt to cause the City to discharge or discriminate against any employee because the employee has given information or testimony alleging a violation of this Agreement, any law of the United States or the State of Texas, the City Charter, the Rules and Regulations of the Civil Service Commission or the Rules and Regulations of the Police Department; or
- (e) To cause or attempt to cause the City to pay or deliver or agree to pay or deliver any money or other things of value, in the nature of an exaction, for services which are not performed or not to be performed.

Section 9. Neither the City nor the Association shall discriminate against any employee because of sex, creed, race or national origin, except where any of the foregoing is a bona fide occupational qualification. Neither the City nor the Association shall discriminate against any employee in the

application or interpretation of the provisions of this Agreement on the basis of the employee's Association membership or non-membership. The City and the Association shall each comply with applicable provisions of the Age Discrimination in Employment Act.

## **ARTICLE 24** **EXISTING CONDITIONS**

Section 1. Except to the extent modified by this Agreement, any direct or indirect economic benefits set forth in applicable provisions of state law, the City Charter, City Ordinance No. 8064, the Rules and Regulations of the Civil Service Commission and the Rules and Regulations of the El Paso Police Department as of the date of signing of this Agreement, shall not be changed for the duration of this Agreement, except pursuant to the procedure established in Article 33, Section 2.

Section 2. Except to the extent modified by this Agreement, physical items used by employees shall continue to be furnished as they have been in the past; that is, those types of items which have been furnished by the City shall continue to be furnished by the City and those types of items which have been furnished by employees shall continue to be furnished by employees. The question of what types of items have been furnished by the City shall be resolved by reference to City purchase orders for the past three years. The parties agree that this provision shall not be interpreted so as to preclude resort to improved technology.

Section 3. Prior to changing any working condition other than direct or indirect economic benefits set forth in the sources listed in Section 1 of this Article, the City shall notify the Association of any such contemplated change. The Association shall be invited to present its views with regard to the proposed change to the Chief or other responsible City official to be designated in the notification. The final decision with regard to the scope of any such change shall remain with the City.

Section 4. Any changes in wages, hours, terms and conditions of employment and other benefits granted by the Texas State Legislature requiring the City to compensate, remunerate or otherwise assist employees after the effective date of this Agreement shall not alter the terms of this Agreement during the life of said Agreement. This provision shall not unfavorably affect employees as to any changes in wages, hours, terms and conditions of employment and other benefits granted by the Texas State Legislature requiring the State of Texas to compensate, remunerate or otherwise assist employees

after the effective date of this Agreement. Any changes in wages, hours, terms and conditions of employment and other benefits granted by the Texas State Legislature requiring the State of Texas to compensate, remunerate or otherwise assist employees shall not be incorporated into this Agreement; nor shall the City be required at any time to pay any share of said wages, hours, terms and conditions of employment and other benefits. Any reduction or elimination of wages, hours, terms and conditions of employment, and other benefits by the Texas Legislature that previously required the City to compensate, remunerate or otherwise assist employees after the effective date of this Agreement shall not alter the terms of this Agreement during the life of said Agreement.

It continues to be the intent of the provisions of this Section, as well as other Sections and Articles herein contained, that this collective bargaining Agreement takes precedence over state law and that this Agreement alone controls the wages, hours, terms and conditions of employment of the employees covered by Article 1, Section 1 of this Agreement, all in accordance with the provisions of Section 174.005 of the Texas Local Government Code.

Section 5. The City shall, during negotiations, provide to the Association a current copy of City Ordinance No. 8064, the City Charter, and the Civil Service Commission Rules. During the term of this Contract the City shall also provide the Association all changes, supplements and amendments to the aforementioned documents which pertain to the El Paso Police Department as such are approved.

Section 6. Past practices currently in effect and not specifically covered in this Agreement will be continued.

## **ARTICLE 25** **MISCELLANEOUS PROVISIONS**

Section 1. Nothing contained in this Agreement shall be deemed to create a vested property right in any position of employment covered thereby. However, non-probationary Officers do have a property interest in their employment by virtue of the Civil Service provisions of the City Charter and the Civil Service Rules adopted pursuant thereto.

Section 2. No less than fifty parking spaces in the downtown police garage will be assigned for the use of the officers for their personal vehicles for downtown usage.

Section 3. Commissioned employees completing Police Academy Training after October 1, 1992, shall have completed a minimum of 45 accredited (pursuant to the definitions contained in section 211.1 of the regulations of the Texas Commission on Law Enforcement Officer Standards and Education) college hours within three years. If the 45 hour minimum is not met by then, the Chief of Police shall have the authority to either grant a leave without pay for up to one year or reduce the employee one pay level for a period of one year, but not both. If the 45 hour minimum is not satisfied by that time, the employee shall be terminated. If exigent circumstances exist, the Chief of Police may at his discretion grant an employee an extension of time to complete the educational requirements.

Section 4. The City agrees to pay directly the liability insurance required by employees for driving City owned vehicles while on duty. The City may do so by a bid for all such vehicles.

Section 5. As used in this Agreement, the masculine and feminine genders shall be deemed to include the other, unless the context plainly requires otherwise.

Section 6. The parties recognize their mutual responsibility to deliver to the citizens of El Paso the highest degree of contemporary police service achievable within the financial resources reasonably available. To this desired end we are compelled to make a concerted effort. It is in this community's paramount interest that the projected direction along which public safety in El Paso must proceed be established.

Section 7. The Civil Service provisions of the City Charter adopted January 24, 1984, as amended, the Civil Service Rules adopted pursuant thereto, as amended, and City Ordinance No. 8064, as amended, and departmental policies effected thereunder, in effect at the time of this Agreement takes effect shall in all respects remain in effect during the term of the agreement, except as specifically amended in this Agreement.

Section 8. The Chief of Police and the Association shall meet and discuss the possibility of developing a Reserve Police Officer Program, using part-time officers, retired officers, and creating job sharing and flex-time scheduling. Any agreement of the parties shall be adopted as a Pilot Program through a Memorandum of Understanding ratified by the Association and City.

Section 9. Civil Service Rule 8, Section 1.1, relating to political activity, does not apply to Officers covered by this Agreement. Officers, while on duty, cannot engage in political activity in a manner that would violate State law.

Section 10. The Parties have agreed to form a Labor Management Committee that will explore optimum disciplinary models that will facilitate and encourage Officers' acceptance of responsibility, training and education of discipline. The Parties agree to form the Labor Management Committee within one-hundred eighty (180) days of the signing of this Agreement. The Committee will conclude its study and recommendations of one (1) of signing this Agreement. The recommendations of the Committee will be advisory only and the Chief will retain the discretion to accept, reject or adopt any of the recommendations of the Committee.

## **ARTICLE 26** **WORKING OFF SUSPENDED TIME**

Officers suspended up to a maximum of ten (10) working days may, upon the Officer's request and at the Chief's discretion, forfeit vacation, personal leave, or compensatory time off designated by the Chief for a period equal to the suspension. Approval of forfeited vacation, personal leave, or compensatory time off by the Chief shall not be unreasonably withheld. The provisions of this Section shall apply solely to suspensions which are agreed to by the Officer and no appeal to the Commission or to arbitration may be instituted on suspensions where the officer has agreed to the suspended time.

## **ARTICLE 27** **PERSONNEL RECORDS**

The parties agree to follow Section 143.089 of the Texas Local Government Code (herein referred to as "the Act") as modified by this Section. The "Director" as used in the Act shall be the Personnel Director. The "Commission" as used in (c) of the Act shall include an arbitrator selected in accordance with this Agreement. The "Permanent Personnel File" referred to in the Act will include all file folders on an Officer maintained by the City outside the Police Department, whereas the "Department File" referred to in paragraph (g) of the Act shall consist of all file folders on the officer maintained in the Police Department. The contents of the "Permanent Personnel Files" will be limited to materials presently maintained by the City outside the Police Department as modified by the Act. All present files will be checked to see if they conform to the requirements of this Section. A copy of the Act is attached hereto as Appendix "E." The parties agree that any conflict between this

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provision and the Texas Public Information Act shall be resolved by complying with the latter Act.

## **ARTICLE 28 ASSIGNMENTS**

Section 1. Officers assigned to work the Sun Carnival Parade, events at Southwest University Park, and special events shall be assigned on a voluntary basis first. "Special events" is a parade, demonstration or public assembly as defined by El Paso City Code 13.36.010. The Chief will make the final determination if an event qualifies as a "special event." The Chief's determination is final unless it is arbitrary or capricious. The Association may request that the City Council budget adequate overtime for the event. The City will attempt to staff the Sun Carnival Parade, events at Southwest University Park, and similar special events from the voluntary overtime list prior to altering the schedules of Officers to cover such events.

Any Officer Department-wide may volunteer and will be offered an opportunity to work these events. In the event that the City cannot fill assignments on a voluntary basis, then the City may make said assignments on a mandatory basis. Employees assigned to work the Sun Carnival Parade, events at the Southwest University Park and similar special events shall have consecutive days off. However, at the request of the Officer, subject to the discretion and approval of the Department, the Officer may be granted split days off. This provision shall control irrespective of any past practice.

Section 2. The transfer policy during the term of this Agreement is as reflected in Appendix "G" attached hereto. Seniority shall be considered in the determination of all lateral transfers and job assignments. Any Officer who is interested in a particular job shall have the right, in the event of a permanent vacancy, to be considered for said job, provided he has first signified his interest in said job by completion of the form hereinafter set forth as Appendix "D" and filed same with the Chief or the Chief's designee.

Section 3. During the terms of this Agreement an equal number of representatives of the City and the Association shall meet diligently to study and if possible make recommendations as to the manner in which job assignments are awarded. Either the City representative or the Association representatives may call for any meeting.

Section 4. Regular season baseball games scheduled at Southwest University Park during calendar year 2014 are excluded from the operation of Section 1 of this Article.

Section 5. For the duration of this Agreement, a voluntary overtime list shall be maintained with a procedure to be established by the Chief with input from the Association. The Chief shall retain the right to call in Officers irrespective of an Officer's rank, assignment or placement on the voluntary overtime list based on departmental needs.

Section 6. The voluntary overtime list shall consist of a call list where an Officer volunteers his service to be paid at one and one-half (1 1/2) times the Officer's regular rate.

Section 7. In consideration for volunteering for the overtime list, Officers on the voluntary overtime list will be given first priority in placement to straight time assignments within the department. Officers on the voluntary overtime list will be called on a rotating basis for overtime opportunities as departmental needs arise.

Section 8. Any Officer called to work from the Voluntary overtime list that reports to work, shall be paid for any time worked at the voluntary overtime rate of pay.

Section 9. The voluntary overtime call list shall never be used in lieu of existing staffing.

## **ARTICLE 29 SEPARABILITY**

Should any provision of this Agreement be rendered or declared invalid by reason of any applicable existing or subsequently enacted legislation or regulation or by reason of the decree of a court of competent jurisdiction, such invalidation of part or parts of this Agreement shall not invalidate the remaining portions thereof, and said remaining portions shall remain in full force and effect for the duration of this Agreement.

## **ARTICLE 30 INTERNAL AFFAIRS INVESTIGATIONS**

Section 1. To insure that internal investigations are conducted in a manner conducive to good order and discipline, while observing and protecting the individual rights of each officer on the force, interviews conducted by the

Internal Affairs Division shall be conducted in accordance with the following rules:

- (a) The interview of any officer shall be at a reasonable hour, preferably when the officer is on duty or during the daylight hours, unless the exigencies of the investigation dictate otherwise.
- (b) The interview shall take place at a location designated by the investigating officer, usually the Internal Affairs Division office.
- (c) The officer shall be informed of the rank and name of the officer in charge of the investigation, as well as the rank and name of the interviewing officer and the identity of all persons present during the interview. If an officer is directed to leave the officer's post and report for an interview to another command, the officer's command shall be promptly notified of the officer's whereabouts.
- (d) Except in exigent circumstances, an officer involved in an officer-involved shooting, critical incident, and/or custody death shall be informed forty-eight (48) hours prior to being interviewed or asked to otherwise respond to an internal affairs investigation of the general nature of the investigation before any interview commences. "Exigent circumstances" include necessary cooperation during incident scene procedures, including securing the scene, controlling the public, obtaining witness information, obtaining and processing all physical evidence from the scene or from the officer. During the first forty-eight (48) hours, the parties also agree that an officer shall not be compelled to participate in a "walk-through" investigation without their legal counsel being present. The administration of a post-accident drug test is not defined as a "walk-through" investigation and therefore may be administered immediately following a shooting, critical incident and/or in custody death. The parties agree that a "walk-through" is defined as an investigative tool where El Paso Police Department investigators and/or supervisors request the officer to re-trace their actions in an officer-involved shooting, critical incident, and/or in custody death while being questioned concerning their observations and actions in the incident. Such "walk through" shall not be videoed taped. Sufficient information reasonably to apprise the officer of the allegations shall be provided. If it is known that the officer is being interviewed as a witness only, the officer shall be so informed. If an officer is ordered to write a statement, the City shall provide a form

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DATE: BY: C1003 PAGE:

with the Garrity Warning printed on it as set forth Appendix I. Nothing herein shall prevent an officer from writing into his or her statement any protections afforded by state and federal law.

- (e) The interview shall be completed with reasonable dispatch. Time shall be provided also for personal necessities, meals, telephone calls and rest periods as are reasonably necessary.
- (f) The officer shall not be subjected to any offensive language, nor shall the officer be threatened with transfer, dismissal or other disciplinary punishment. No promise of reward shall be made as an inducement to answering questions. Nothing in this Section is to be construed so as to prohibit the investigating officer from informing the officer that the officer's conduct can become the subject of disciplinary action resulting in disciplinary punishment.
- (g) If an officer is under arrest or likely to be (that is, if the officer is a suspect or a target of a criminal investigation), the officer shall be given his/her rights pursuant to the existing law.
- (h) Upon request, the officer shall be given an exact copy of any written statement the officer may execute.
- (i) The refusal by an officer to answer, pursuant to a direct order, pertinent questions concerning any non-criminal matter may result in disciplinary actions.
- (j) The City shall make an audio recording of the interview. The recording shall commence immediately at the beginning of the interview. There shall be no "off the record" questions. All recesses called during the questioning shall be noted in the record.
- (k) If, during any investigation covered thereby, the Internal Affairs Division fails substantially to comply with the provisions of this Section, no statement which the officer may have given during such interview may be introduced or alluded to by the City in a disciplinary appeal hearing. In the case of a dispute as to whether the Internal Affairs Division has substantially complied with this Section, the issue may be submitted to arbitration pursuant to the provisions of Article 21 prior to an appeal hearing before the Civil Service Commission. The sole question before the arbitrator shall be whether the Internal Affairs Division has substantially complied

with this Section , and, if the arbitrator finds that the Division has not substantially complied therewith, the sole remedy shall be that, in an appeal hearing, the City may not introduce or allude to any statements the officer may have given during such interview.

- (l) The Officer's written statement shall be the official statement to Internal Affairs. The audio recording can be used to clarify alleged conflicts of interpretation of ambiguities in the written statement.
- (m) An officer who goes before a Disciplinary Board shall be advised in writing, of his rights pursuant to Garrity v. New Jersey. Such officer may, upon the officer's request, have present throughout the proceedings any uninvolved member of the unit designated by the Association President to attend as a silent observer, but the Association member shall not be present during the decision making process of the Board.
- (n) The officer shall be allowed to consult the officer's attorney at any time during the investigatory process so long as such consultation does not impede the investigatory process. At the request of an officer other than a witness officer, a member of the Association's Board may be present during the process as a witness, provided that the member is able to, and does, arrive within two hours of the time he is first called to attend. The Association Board member shall attend only as a witness and shall not speak during, or interfere with, the interview. If the Association Board member would otherwise be on duty during the interview, his time shall be charged to Leave for Association Business.

Section 2. Disciplinary action in non-criminal matters must be taken against an officer within one hundred and eighty (180) calendar days following the occurrence of the incident. Disciplinary action in criminal related matters must be taken against an officer within two (2) years of occurrence of the incident or within sixty (60) calendar days of discovery of the incident, whichever is later. The Police Chief and Association may by agreement extend these time periods.

(b) For purposes of this section, if the employee is off duty for any reason during the last five calendar days of any time limit specified in this section, the Association will accept service of any disciplinary notice. If the disciplinary notice is served on the Association, on behalf of an officer who serving on active duty

with the United States Armed Services or on an authorized extended leave of absence, an appeal of the disciplinary action by the officer is automatic.

(c) The time frames set forth in Section 2 of this Article shall apply to all actual or potential disciplinary impositions regarding employees covered by this Agreement, notwithstanding any Civil Service Rule which might otherwise be read to impose a shorter time limit on the City or the Chief.

### Section 3.

A. The Chief, and only the Chief, may order or request a polygraph examination. Polygraph examinations shall be employed only after:

1. The Chief has carefully reviewed the entire case;
2. All investigative leads have been exhausted;
3. The complainant is first examined by a licensed polygraph examiner and passes such examination; and
4. The EPMPOA President, or designated representative, has been briefed on the facts of the case and the reasons for ordering the polygraph examination. The EPMPOA President will be provided access to review the entire case with reasonable review time. The EPMPOA will be given reasonable time to suggest (on the record) any investigative leads that need to be followed.

A copy of the polygraph examination shall be provided to the accused officer immediately following the examination. A copy of the independent evaluator's report shall be provided to the accused officer immediately upon receipt with the Department. When the polygraph examination is used, the accused officer and EPMPOA will be advised 24 hours in advance, in writing, prior to the administration of the polygraph test.

A police officer subjected to a polygraph examination may request a licensed examiner who is an independent contractor from outside the department. An officer is not required to sign a waiver of his or her Constitutional rights or a waiver of his or her right to seek redress of grievances through state or federal courts.

B. If a police officer is subjected to a polygraph examination, the licensed examiner who administers the examination shall not know (1) the

results of the complainant's polygraph examination; or (2) the name of the licensed examiner who conducted such examination. Notwithstanding, the provisions of this Paragraph or Article 24 (Existing Conditions), any applicable prohibitions in future statutes concerning the use of the polygraph examinations shall be followed as of the date the law becomes applicable to the unit covered by this Contract.

C. Polygraphs under this Article are administrative in nature and shall be conducted in accordance with the Internal Affairs provisions outlined in this Agreement, and all administrative rights provided to an officer under this Agreement shall apply.

Section 4. All polygraph examinations shall be in compliance with existing state law.

## **ARTICLE 31** **STRESS MANAGEMENT**

Both the City and the Association believe that it is to be their mutual benefit for law enforcement personnel covered by this Agreement to have available to them a stress management program. To this end a program will be initiated. The program shall satisfy and conform to the following criteria:

- (1) The program shall have the elements of both continuity and individuality of counseling. To that end, the City, after consultation with the Association would, on an independent contract basis, engage the service of an expert in stress management whose office will be located in the City of El Paso.

The expert's duties will be to devise, implement and operate an El Paso Police Department counseling program covering the identification and treatment of stress.

- (2) There shall be four methods of entry into the program:
  - (a) Behavioral cause investigation;
  - (b) Supervisory referral;
  - (c) Voluntary participation;
  - (d) Post trauma referral.

The behavioral cause investigation is an after the fact referral made when the Police Chief orders a behavioral cause investigation be made of an Officer

who has been the subject of an internal affairs investigation immediately prior thereto.

The supervisory referral results when a supervisor detects behavioral patterns which indicate that the Officer requires the intervention of the program. The supervisor can recommend that the supervisor's subordinate be required by the Chief to go to the expert, or the expert's agent, for evaluation and recommendation and such treatment as may be deemed necessary by the expert. To this end, supervisory personnel shall be trained in the recognition of stress.

The voluntary participation method involves any officer who after evaluation, the expert determines needs to be in the program.

Post trauma referral occurs when an Officer, in the performance of his duties, has been involved in the shooting of another individual or has been exposed to any incident including, but not limited to, situations where another may have suffered injury or death, wherein the immediate supervisor of the Officer involved is of the opinion that such referral is in the best interests of the Department or the Officer.

In the cases where an Officer, in the performance of duties has been involved in a shooting, the expert and another person of the Officer's choice will be immediately notified and allowed immediate access to the Officer involved.

(3) All conversations between the Officer and the expert employed in connection with the program and records maintained by the program shall be considered privileged as to the Officer. When the expert has concluded that the Officer constitutes a clear danger to himself/herself or others, the expert shall immediately notify the Chief of said danger. In cases where an Officer is referred to the program by order of the Police Chief, the expert shall report to the Chief only compliance or noncompliance with the order to submit to evaluation and/or compliance or noncompliance with treatment of the expert. The expert shall also, at the appropriate time, report to the Chief that no further participation by the Officer is required.

(4) The stress management program should be designed so as to include physical as well as mental well-being.

(5) This program shall be designed to provide assistance to the Officer in order to manage problems of stress affecting the ability of the Officer to effectively perform the duties of a police officer. If in order to handle problems of

stress peculiar to the officer it becomes necessary, in the sole opinion of the expert, to include significant other persons in order to properly handle the Officer's counseling, then same may be done. It is not the intent of this program to engage in counseling services in areas other than that which directly affect the Officer.

(6) All costs involved in the evaluation and treatment of any Officer in this program shall be paid by the City.

(7) This program shall not be construed as preventing the Chief from requiring independent evaluation of an officer by an appropriate expert on the Chief's choice.

## **ARTICLE 32** **DRUG AND ALCOHOL TESTING**

The City and the Association agree that police officers may be called upon in hazardous situations without warning, and that it is imperative to the interest of police officers and the public to ensure that police officers are not substance impaired. In order to further their joint interest in protecting police officers and the public, the City and the Association agree to mandatory random drug testing described in this section. Forty percent (40%) of police officers of all ranks, including the Chief of Police, shall be subject to mandatory random drug tested during each calendar year on a fair and impartial statistical basis as provided in the Police Department's Drug and Alcohol Policy. The fair and impartial statistical basis (in which each police officer has an equal chance of being selected) shall be by a non-discriminatory computerized program operated and certified as non-discriminatory by an independent firm hired by the City, and the employee shall be tested upon being selected by the computer. The City shall notify the officer as to whether the test was post-accident, random or based upon reasonable suspicion.

For the purposes of this section:

- A. "drug testing" shall be defined as the compulsory production and submission of urine or blood by an officer for chemical analysis to detect the presence of prohibited drug usage.
- B. "random drug testing" shall mean drug testing of individuals selected by the method described in the prior paragraph.

- C. "reasonable suspicion" shall be defined as a judgment/conclusion that a person is unable to safely and/or effectively perform their duties due to the suspected influence of drugs, alcohol, or inhalants. Reasonable suspicion is based on specific, observable facts that an officer may be under the influence of drugs, alcohol, or inhalants. Reasonable suspicion testing is not limited by this article, except to the extent that any urine testing utilized shall be in accordance with the lab testing protocol below. Reasonable suspicion testing may involve urine or blood as determined under existing legal standards. An Officer may, but will not be required to, take more than one of the same tests.
- D. "SAMHSA/CAP FUDT" means Substance Abuse and Mental Health Service Administration, College of American Pathologists and Forensic Urine Drug Testing.

An employee's mandatory random drug test results and related collection and diagnostic information shall be disclosed to the City to administer and enforce the Police Department's Alcohol and Drug Policy and this Collective Bargaining Agreement to include the administration of disciplinary action. The City and the Association otherwise regard an employee's mandatory random drug test results and related collection and diagnostic information as confidential as allowed by law unless a determination otherwise is made by the Attorney General or a Court. The City may use test results in a disciplinary hearing, but shall initially file that evidence under seal, and it shall not become public until a ruling has been made in its admissibility in the proceeding.

The City and the Association have a mutual interest in ensuring that drug impaired employees do not perform law enforcement duties. The City and the Association agree that the purpose of the mandatory random drug testing is not to punish an employee who has not violated the Police Department's Drug and Alcohol Policy. The City and the Association are committed to the principal that the mandatory random drug testing for employees is designed and will be administered to result in disciplinary action only against those officers who have violated the Police Department Drug and Alcohol Policy.

The City has developed a Police Department Drug and Alcohol Policy with procedures and protocols, which follow the requirements of SAMHSA/CAP FUDT. The Police Department Drug and Alcohol Policy currently in effect will remain unchanged during the life of the Agreement, except as modified herein, or if changes are necessary to comply with developments in the law or modifications of the Medical Review Officer Manual. The parties agree that the current police department policy attached as Appendix F, is consistent with this Article, and

contains additional procedural and substantive requirements, and further agree that the City is entitled to continue the implementation of drug

The section of the Police Department Drug and Alcohol Policy dealing with mandatory drug testing and the consequences thereof is subject to amendment by the City only as the City determines is necessary to follow the requirements of SAMHSA/CAP FUDT. The City shall require any laboratory selected for collecting samples to conduct a background investigation on those laboratory personnel involved in collecting or handling an unsealed sample. In addition, the City shall require any laboratory selected for collecting samples to allow only employees who have not been arrested by members of the El Paso Police Department or convicted of a felony or misdemeanor crime involving dishonest conduct or possession of illegal drugs to be involved in the collecting or handling of an unsealed sample collected from an El Paso Police Officer.

The Association may file a grievance regarding the application, interpretation or enforcement of the language in this section, subject to mandatory arbitration if not resolved. A complaint of non-compliance which is related to an individual disciplinary matter shall be heard by the arbitrator or a hearing examiner, as elected by the subject officer.

The sample for testing shall be a split sample. The collector shall inform the officer of the size of the required sample, and shall use a chain of custody process to split, label and send the sample, which shall be forwarded for testing within twenty-four (24) hours of the sample being taken. When an officer appears unwilling or unable to give a urine specimen at the time of the test, laboratory staff will document the circumstances surrounding the inability or unwillingness. The officer will be permitted no more than four (4) hours to provide the sample during which time he will remain in the testing area under observation. Reasonable amounts of fluid may be given to the officer to encourage urination. Failure to provide a sample may be considered a refusal to submit to a drug test. Test results shall be inadmissible in any administrative disciplinary hearing if it is determined that the laboratory collecting samples has failed to conduct a background investigation on the laboratory personnel involved in collecting or handling the unsealed sample which resulted in a positive test result. The burden of showing that a background investigation was not conducted shall be on the party seeking to have the test results excluded from the administrative hearing.

The City shall use only a SAMHSA/CAP FUDT certified laboratory for mandatory drug testing and shall require that such laboratory comply with the requirements of SAMHSA/CAP FUDT. The results of the test or tests shall be sent by the

laboratory to the Medical Review Officer ("MRO") in accordance with the lab protocol or the MRO Handbook. The MRO may act separately on test results for each of the split samples from each lab. The specimens collected for testing shall be maintained in a secured area until picked up by the courier or otherwise forwarded for testing. The City shall use only a Medical Review Officer (MRO) for the City of El Paso who is a licensed physician and who is certified as a Medical Review Officer by the American Association of Medical Review Officers.

Nothing in this article shall be construed to abolish the existing authority and practice of the City to conduct drug tests for:

1. Pre-employment
2. Pre-assignment for Narcotics
3. Reasonable suspicion.
4. On return to duty after an absence of 30-calendar days or more.
5. Post - accident
6. Post - firearm discharge

Such test will be conducted under the same laboratory processes and protocols as mandatory random testing, except that laboratory protocols and provisions of the MRO handbook applicable to blood and other samples shall be followed where indicated.

### **ARTICLE 33 COMPLETE AGREEMENT**

Section 1. The parties acknowledge that, during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining regarding the employees covered by this Agreement and that the understandings and agreements arrived at by the parties hereto after the expiration of that right and opportunity are fully set forth in this Agreement. Therefore, the City and the Association, for the life of this Agreement, each voluntarily and unqualifiedly waives its rights, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter not specifically referred to or covered by this Agreement, even though the subject may or may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

Section 2. The parties further agree that any mutual agreement or understandings which are reached during the term of this Agreement shall be reduced to writing.

## **ARTICLE 34 DURATION**

This Agreement shall be in effect from the date of execution through September 1, 2014 through August 31, 2018, this Agreement shall be automatically renewed from year to year, thereafter, unless either party shall give notice in writing to the other of its intention to terminate or modify this Agreement at least 120 days before the expiration thereof. If either party has given such notice to modify this Agreement, but no new Agreement has been reached, this Agreement shall remain in effect until the earlier of the following dates: August 31, 2019, or the date a successor agreement becomes effective.

If, in the negotiations of a successor Agreement, the parties reach "impasse" as that term is defined in Texas Local Gov't Code Chapter 174, either may utilize the Impasse Procedures set forth in Appendix "C" to this Agreement in an attempt to resolve the impasse.

## **ARTICLE 35 OUTSIDE EMPLOYMENT**

Section 1. Outside employment opportunities for Officers will be governed by the City's Outside Employment Policy dated January 17, 2012. A copy of the City's Outside Employment Policy dated January 17, 2012 is appended to this Agreement as Appendix L.

Section 2. Neither the City nor the Department will require private employers seeking to hire Officers for outside employment to go through a City-created hiring office to facilitate such outside employment opportunities as long as its use is not mandated.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

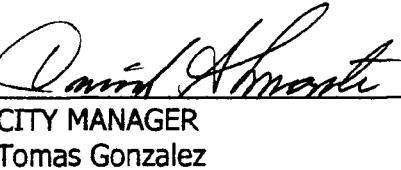
EL PASO MUNICIPAL POLICE  
OFFICERS' ASSOCIATION

By:

  
**PRESIDENT**  
Ron Martin

CITY OF EL PASO

By:

  
*for*  
**CITY MANAGER**  
Tomas Gonzalez

APPROVED AS TO CONTENT:

  
**DANIEL ORTIZ**  
Assistant City Attorney  
For the City of El Paso

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DATE: BY: C1003 T.O.

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**APPENDIX "A"**  
City of El Paso  
Police Department Wage Formula

Section 1. The parties hereto agree that a "market approach" shall be used to determine wage levels for members of the bargaining unit. In implementing this approach, the parties agree to compare wage rates with Police Officers and Supervisors in "competitive" regional cities in Texas, Arizona and New Mexico. The cities to be used to determine the market shall be Albuquerque, Austin, Dallas, Houston, San Antonio, Phoenix and Tucson. The parties agree, that pursuant to the following methodology, the City shall raise Police Officers pay to the "mean" of the pay in the seven competitive regional cities. "Mean" shall be defined as a value that is computed by dividing the sum of a set of terms by the number of terms to achieve the average value of a set of numbers.

In conjunction with this market approach, the parties will use the entry level annual salary in relation to the classifications involving Police Officers and Detectives.

The ranks of Police Sergeant, Lieutenant and Commander are compared at the minimum and maximum levels in the competitive cities. Police Deputy Chiefs and Assistant Chiefs are not matched with the other cities but rather will retain the same percentage relationship to the Police Commander maximum level as existed in the previous Agreement. For purposes of comparison, the method of the average of the cities excluding El Paso will be used.

Base pay figures as shown on each city's official pay schedule as of February 1, for each fiscal year will be used. Base pay figures actually paid as of February 1 for each fiscal year will be used. As used herein, the "base pay figures" will be the actual starting pay being paid to the most recent officers hired into entry-level positions, regardless of the manner or means of their hiring process. In determining starting pay it is assumed the pay starts at the minimum pay level for probationary officers as shown on each city's pay scale. When a question arises as to which job classification or pay step is used by a city for probationary officers, the parties may provide evidence to establish what is the true entry-level pay rate. This evidence may include, but is not limited to, the city's official pay scale and/or pay ordinance, the collective bargaining agreement, the most recent job announcements, the city's website, and entry-level officer pay stubs. Experienced officers and reserve officers, including reinstatements or rehires, hired into positions above entry-level pay are not counted. Officers who graduate from an

academy and take probationary positions are counted, even if they start at a Step above Step 1.

Base pay figures will be adjusted for geographic differential by using current data from Economic Research Institute (ERI) and calculating a geographical index pursuant to the formulas demonstrated by the City in the presentation dated January 25, 2002, which is attached as Appendix H. A member of the Association and the City's management team will review the calculation of the base pay and geographical differentials and provide said figures to the Office of Management and Budget no later than February 15, of each year. The calculation of base pay shall consider all contractual increases in pay for the other cities that are received prior to July 25 of each year.

Section 2. The City shall pay the agreed upon wage formula effective September 1 of each fiscal year of the Agreement after November 16, 2014.

The parties agree to place a maximum cap on the percentage increase that the City will have to pay in any particular fiscal year to no greater than four percent (4.0%). However, any increase more than 3% may be divided and paid half on September 1, and half on June 1, of the affected year.

Under no circumstances will the pay of police officers be reduced as a result of this formula.

Section 3. Both parties recognize that the intent of the wage package is to attempt to place El Paso Police Officers in the middle of the range of Police Officers employed in comparable cities in the Southwest by utilizing the "Market Approach." Both parties also recognize that there are factors that could impact the City's ability to do so beyond the term of this contract. Therefore, the parties agree to collectively bargain in good faith during the last year of this contract to determine whether the goal of paying the officers at the middle range is still achievable within the City's financial plan.

If the parties have not reached a new Agreement for FY 2019 (September 1, 2018 – August 31, 2019) by August 31, 2018, the agreement shall be extended an additional year to August 31, 2019 based on the wage formula, unless the City Manager gives the Association written notice on or before July 31, 2018 that the City Manager has determined that wages cannot be increased based on the wage formula, such determination to be at the sole discretion of the City Manager. If the City Manager gives such notice, both parties shall continue to negotiate toward a new Agreement for FY 2019. If the parties have failed to reach a new agreement by January 1, 2019 the City shall pay an

advance of one percent (1%) effective January 1, 2019. The one percent (1%) will be applied against any future agreed upon wage increase, if any, whether based upon the wage formula or any negotiated wage increase for FY 2019.

Section 4. Effective the first full pay period after January 1, 2009, a new step will be added for Senior Police Officers/Detectives with 20 years or more of service at 3% differential above (P3 Level 5).

Effective first full pay period after January 1, 2011, a new step will be added for Senior Police Officers/Detectives with 15 years but less than 20 years of service at 3% differential above (P3 Level 5).

Effective first full pay period after January 1, 2011, the step added on January 1, 2009 for Senior Police/Detectives with 20 years or more service will be adjusted to be at a 3% differential above the step for Senior Police Officers/Detectives with 15 years or more of service.

Section 5. Effective the first full pay period after September 1, 2015, new pay steps will be added as follows:

- A. A new pay level for Year 13 and Year 14 officers. This pay level is calculated by adding 1.5% to the current P3 Level 5 (or twelve year officer) and rounding to the nearest cent. Officers with 13 and 14 years of service as determined by the Police Department HR staff will move into this new level on their anniversary date in accordance with normal step progression as defined in this agreement. The original 15 year officer step, currently P3-6 is retained although it is renumbered as P3-7 in accordance with Appendix A.
- B. Two new pay levels will be calculated by adding 1% to the current P3-6 (15 year officer) for the first new level. This level is for the year 17 officer, the step to be numbered as P3-8. An additional 1 percent is added to the new P3-8 to create level P3-9 for Year 18 and Year 19 officers. The actual 20 year officer level remains the same without calculation although it is renumbered as Level Ten in accordance with Appendix A. Both new step calculations are rounded to the nearest cent at the biweekly pay rate.
- C. A new 2% level is added to grade P3 resulting in P3-11. P3-11 is the new level is for the 21 year officer and is calculated above the 20 year pay level to the nearest cent.
- D. The new 2% pay levels for grades P4, P5, and P6 are added to each grade respectively and are at Level 8. The new level will be exactly 2% higher than the current survey maximum amount on the pay schedules. When the annual

formula causes an increase in the survey maximum the new step is increased to stay 2% above the survey maximum rounded to the nearest cent.

#### **Section 4. Time Table for Base Wage Determinations; Resolution of Disputes.**

(a) The City will make an initial determination concerning the raise mandated by application of the ERI methodology, and will share its determination and underlying data with the Association by February 15 of each year, commencing February 15, 2015. The Association will provide the City with any disagreements with the City's calculations no later than the last day of February each year.

(b) If the parties fail to agree on a determination under the formula by March 7, both parties shall prepare and file a position paper or brief with an agreed neutral referee by March 21. In the event the parties are unable to agree on a neutral referee, each shall submit the names of three referees on separate slips. One will be drawn and discarded. The parties will then alternate drawing and the one remaining referee will serve. The selected referee shall make a decision within ten days, and shall have the right to conduct a telephone hearing, at his/her discretion, prior to ruling. The amounts determined by the referee shall be used in the budget and paid for the subsequent fiscal year.

(c) The Association retains the right to file a grievance and seek arbitration on the correct pay formula amount. Any back pay award made by an arbitrator shall not be payable until the following fiscal year of the city. The decision of the arbitrator will be binding on the parties, despite subsequent litigation results in comparator cities. However, the parties may present evidence of the arguments in any such litigation to the referee and arbitrator, who may give that evidence whatever consideration they deem appropriate.

**City Of El Paso**  
**Police Department Wage Scale**  
**June 1, 2014**

		Class Grade	Level One	Level Two	Level Three	Level Four	Level Five	Level Six	Level Seven
Police Officer	Annual	P1	40,525.16	42,551.34	44,678.92	46,912.84			
	Monthly		3,377.10	3,545.95	3,723.24	3,909.40			
	4 - Weeks		3,117.32	3,273.18	3,436.84	3,608.68			
	Bi - Weekly		1,558.66	1,636.59	1,718.42	1,804.34			
	Hourly		19.483250	20.457375	21.480250	22.554250			
Advanced Police Officer/ Detective	Annual	P2	49,258.56	51,721.54	54,307.50	57,022.94			
	Monthly		4,104.88	4,310.13	4,525.63	4,751.91			
	4 - Weeks		3,789.12	3,978.58	4,177.50	4,386.38			
	Bi - Weekly		1,894.56	1,989.29	2,088.75	2,193.19			
	Hourly		23.682000	24.866125	26.109375	27.414875			
Senior Police Officer/ Detective	Annual	P3	58,733.74	60,495.76	62,310.56	64,179.96	66,105.26	68,088.54	70,131.10
	Monthly		4,894.48	5,041.31	5,192.55	5,348.33	5,508.77	5,674.05	5,844.26
	4 - Weeks		4,517.98	4,653.52	4,793.12	4,936.92	5,085.02	5,237.58	5,394.70
	Bi - Weekly		2,258.99	2,326.76	2,396.56	2,468.46	2,542.51	2,618.79	2,697.35
	Hourly		28.237375	29.084500	29.957000	30.855750	31.781375	32.734875	33.716875
Sergeant	Annual	P4				63,710.14	68,228.85	72,747.57	77,266.28
	Monthly					5,309.18	5,685.74	6,062.30	6,438.86
	4 - Weeks					4,900.78	5,248.37	5,595.97	5,943.56
	Bi - Weekly					2,450.39	2,624.19	2,797.98	2,971.78
	Hourly					30.629875	32.802333	34.974792	37.147250
Lieutenant	Annual	P5					72,863.96	82,114.11	91,364.26
	Monthly						6,072.00	6,842.84	7,613.69
	4 - Weeks						5,604.92	6,316.47	7,028.02
	Bi - Weekly						2,802.46	3,158.24	3,514.01
	Hourly						35.030750	39.477938	43.925125
Commander	Annual	P6					82,143.88	93,774.72	105,405.56
	Monthly						6,845.32	7,814.56	8,783.80
	4 - Weeks						6,318.76	7,213.44	8,108.12
	Bi - Weekly						3,159.38	3,606.72	4,054.06
	Hourly						39.492250	45.084000	50.675750
Deputy Chief	Annual	P7					110,675.76	116,209.60	122,020.08
	Monthly						9,222.98	9,684.13	10,168.34
	4 - Weeks						8,513.52	8,939.20	9,386.16
	Bi - Weekly						4,256.76	4,469.60	4,693.08
	Hourly						53.209500	55.870000	58.663500
Assistant Chief	Annual	P8					128,120.98	134,527.12	141,253.58
	Monthly						10,676.75	11,210.59	11,771.13
	4 - Weeks						9,855.46	10,348.24	10,865.66
	Bi - Weekly						4,927.73	5,174.12	5,432.83
	Hourly						61.596625	64.676500	67.910375

PUBLIC RECORD INFORMATION  
 ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
 HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
 TEXAS OPEN RECORDS ACT (6202-175 V.A.C.S.)

**City Of El Paso**  
**Police Department Wage Scale**  
**November 16, 2014**

		Class Grade	Level One	Level Two	Level Three	Level Four	Level Five	Level Six	Level Seven
Police Officer	Annual Monthly	P1	41,031.64 3,419.30	43,083.30 3,590.28	45,237.40 3,769.78	47,499.40 3,958.28			
	4 - Weeks Bi - Weekly Hourly		3,156.28 1,578.14 19.726750	3,314.10 1,657.05 20.713125	3,479.80 1,739.90 21.748750	3,653.80 1,826.90 22.836250			
Advanced Police Officer/ Detective	Annual Monthly 4 - Weeks Bi - Weekly Hourly	P2	49,874.50 4,156.21 3,836.50 1,918.25 23.978125	52,368.16 4,364.01 4,028.32 2,014.16 25.177000	54,986.62 4,582.22 4,229.74 2,114.87 26.435875	57,735.86 4,811.32 4,441.22 2,220.61 27.757625			
Senior Police Officer/ Detective	Annual Monthly 4 - Weeks Bi - Weekly Hourly	P3	59,467.98 4,955.67 4,574.46 2,287.23 28.590375	61,252.10 5,104.34 4,711.70 2,355.85 29.448125	63,089.78 5,257.48 4,853.06 2,426.53 30.331625	64,982.58 5,415.22 4,998.66 2,499.33 31.241625	66,932.06 5,577.67 5,148.62 2,574.31 32.178875	68,940.04 5,745.00 5,303.08 2,651.54 33.144250	71,008.34 5,917.36 5,462.18 2,731.09 34.138625
Sergeant	Annual Monthly 4 - Weeks Bi - Weekly Hourly	P4				64,506.52 5,375.54 4,962.04 2,481.02 31.012750	69,081.74 5,756.81 5,313.98 2,656.99 33.212375	73,656.96 6,138.08 5,665.92 2,832.96 35.412000	78,232.18 6,519.35 6,017.86 3,008.93 37.611625
Lieutenant	Annual Monthly 4 - Weeks Bi - Weekly Hourly	P5					73,774.74 6,147.90 5,674.98 2,837.49 35.468625	83,140.59 6,928.38 6,395.43 3,197.72 39.971438	92,506.44 7,708.87 7,115.88 3,557.94 44.474250
Commander	Annual Monthly 4 - Weeks Bi - Weekly Hourly	P6					83,170.62 6,930.89 6,397.74 3,198.87 39.985875	94,946.93 7,912.24 7,303.61 3,651.81 45.647563	106,723.24 8,893.60 8,209.48 4,104.74 51.309250
Deputy Chief	Annual Monthly 4 - Weeks Bi - Weekly Hourly	P7					112,059.48 9,338.29 8,619.96 4,309.98 53.874750	117,662.48 9,805.21 9,050.96 4,525.48 56.568500	123,545.50 10,295.46 9,503.50 4,751.75 59.396875
Assistant Chief	Annual Monthly 4 - Weeks Bi - Weekly Hourly	P8					129,722.84 10,810.24 9,978.68 4,989.34 62.366750	136,209.06 11,350.76 10,477.62 5,238.81 65.485125	143,019.50 11,918.29 11,001.50 5,500.75 68.759375

PUBLIC RECORDS INFORMATION  
ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (6202-475 V.A.C.S.)

Added levels highlighted  
former level P3-6 designated P3-7  
former level P3-7 designated P3-10

City Of El Paso  
Police Department Wage Scale  
September 1, 2015

THIS PAY SCHEDULE SHOWS PAY STEPS PRIOR TO APPLING REQUIRED INCREASES FROM MARKET SURVEY FOR FY16 AND IS FOR INFORMATIONAL PURPOSES ONLY

		Class Grade	Level One	Level Two	Level Three	Level Four	Level Five	Level Six	Level Seven	Level Eight	Level Nine	Level Ten	Level Eleven
Police Officer	Annual	P1	41,031.64	43,083.30	45,237.40	47,499.40							
	Monthly		3,419.30	3,590.28	3,769.78	3,958.28							
	4 - Weeks		3,156.28	3,314.10	3,479.80	3,653.80							
	Bi - Weekly		1,578.14	1,657.05	1,739.90	1,826.90							
	Hourly		19.726750	20.713125	21.748750	22.836250							
Advanced Police Officer/ Detective	Annual	P2	49,874.50	52,368.16	54,986.62	57,735.86							
	Monthly		4,156.21	4,364.01	4,582.22	4,811.32							
	4 - Weeks		3,836.50	4,028.32	4,229.74	4,441.22							
	Bi - Weekly		1,918.25	2,014.16	2,114.87	2,220.61							
	Hourly		23.978125	25.177000	26.435875	27.757625							
Senior Police Officer/ Detective	Anniversary*	P3											
	Annual		59,467.98	61,252.10	63,089.78	64,982.58	66,932.06	67,935.92	68,940.04	69,629.56	70,325.84	71,008.34	72,428.46
	Monthly		4,955.67	5,104.34	5,257.48	5,415.22	5,577.67	5,681.33	5,745.00	5,802.46	5,860.49	5,917.36	6,035.71
	4 - Weeks		4,574.46	4,711.70	4,853.06	4,998.66	5,148.62	5,225.84	5,303.08	5,356.12	5,409.68	5,462.18	5,571.42
	Bi - Weekly		2,287.23	2,355.85	2,426.53	2,499.33	2,574.31	2,612.92	2,651.54	2,678.08	2,704.84	2,731.09	2,785.71
	Hourly		28.590375	29.448125	30.331625	31.241625	32.178875	32.661500	33.144250	33.475750	33.810500	34.138625	34.821375
Sergeant	Annual	P4											
	Monthly												
	4 - Weeks												
	Bi - Weekly												
	Hourly												
Lieutenant	Annual	P5											
	Monthly												
	4 - Weeks												
	Bi - Weekly												
	Hourly												
Commander	Annual	P6											
	Monthly												
	4 - Weeks												
	Bi - Weekly												
	Hourly												
Deputy Chief	Annual	P7	92,191.58	96,801.12	101,641.26	106,723.24	112,059.48	117,662.48	123,545.50				
	Monthly		7,682.63	8,066.76	8,470.11	8,893.60	9,338.29	9,805.21	9,805.21	10,285.46			
	4 - Weeks		7,091.86	7,448.24	7,818.56	8,209.48	8,619.96	9,050.96	9,503.50				
	Bi - Weekly		3,545.83	3,723.12	3,909.28	4,104.74	4,309.98	4,525.48	4,751.75				
	Hourly		44.322875	46.539000	48.866000	51.309250	53.874750	56.568500	59.396875				
Assistant Chief**	Annual	P8	106,723.24	112,059.48	117,662.48	123,545.50	129,722.84	136,209.06	143,019.50				
	Monthly		8,893.60	9,338.29	9,805.21	10,285.46	10,810.24	11,350.76	11,918.29				
	4 - Weeks		8,209.48	8,619.96	9,050.96	9,503.50	9,978.68	10,477.62	11,001.50				
	Bi - Weekly		4,104.74	4,309.98	4,525.48	4,751.75	4,989.34	5,238.81	5,500.75				
	Hourly		51.309250	53.874750	56.568500	59.396875	62.366750	65.485125	68.759375				

\*Applicants are placed into P3-5 on their 12th anniversary, P3-6 on their 13th anniversary, P3-7 on their 15th anniversary, P3-8 on their 17th anniversary, P3-9 on their 18th anniversary, P3-10 on their 20th anniversary and P3-11 on their 21st anniversary. Anniversary in this instance is the number of years since graduating from the Academy.

\*\*When promoting from P5 to P8, applicant will be placed into P8-1. When promoting from P6-8 to P8, applicant will be placed into P8-3. When promoting from P6-7 to P8, applicant will be placed into P8-2.

**APPENDIX "B"**  
**POLICE CLASS TITLES**

<b><u>CODE</u></b>	<b><u>CLASS TITLE</u></b>	<b><u>GRADE</u></b>
7542	Police Officer	P1
7543	Advance Police Officer	P2
7551	Police Detective	P2
7544	Senior Police Officer	P3
7552	Senior Detective	P3
7561	Police Sergeant	P4
7562	Police Lieutenant	P5
7563	Police Commander	P6
7566	Police Deputy Chief	P7
7567	Police Assistant Chief	P8

FBI/HQ RECORDS INFORMATION  
ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (625i-17a U.C.C.S.)

DATE: BY: C1003 IS:

## **APPENDIX "C" IMPASSE PROCEDURE**

Negotiations for a new contract shall commence in accordance with Chapter 174 of the Local Government Code. If impasse should be reached as defined in Chapter 174, either party may request mediation, and upon such request the parties shall immediately proceed to choose one mediator as provided herein. The function and powers of the mediator shall be as specified in Section 174.151. The mediation shall be extended for fourteen (14) calendar days, or such other period as it mutually agreeable to the parties.

If no agreement is reached through mediation, upon request of either party, the parties shall submit the dispute to one Fact Finder, chosen as provided herein. The Fact Finder shall conduct a full and fair hearing on all unresolved issues. The hearing shall be informal and strict rules of evidence shall not apply. After hearing all evidence offered by the parties and any evidence requested independently by the Fact Finder, the Fact Finder shall render a written decision making findings of fact and recommendations as to all matters in dispute. In the opinion the Fact finder shall state the reasons for the findings of fact and recommendations. In rendering such finding and recommendations the Fact Finder shall exercise independent judgment and shall not attempt to "split the difference".

In making the findings of fact and recommendations of the Fact Finder shall consider, *inter alia*, the following evidence submitted to them by the parties or obtained at the Fact Finder's direction: the overall compensation in the current contract including direct salary and fringe benefits; the income available to the City and demands on that income; a comparison of wages, hours and conditions of employment of El Paso Police Officers with the wages, hours and conditions of employment of other public and private employees performing similar services and with other employees generally in public and private employment in comparable communities and in El Paso; the hazards of employment, physical, educational, and mental qualifications, job training and skills required of an El Paso Police Officer; the cost of living in El Paso for the preceding twelve month period using localized data to the fullest extent feasible; and any current national or state policies or guidelines with respect to compensation.

The selection of the mediator and the Fact Finder shall occur as follows: when either party requests mediation or fact finding, the parties may agree to choose any mediator or fact finder or method of choosing same. If no agreement occurs within five (5) days from the request, the parties shall request a list of seven neutrals from the American Arbitration Association (AAA). Upon receiving

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ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (GESS-17-V.A.C.S.)

DATE: BY: C1003 IQ:

the list, the parties shall select the mediator or fact finder by alternately striking names. The request to AAA shall state the dates on which the neutrals must be available. The mediator and the fact finder shall be selected within five (5) days after the receipt of the list from the AAA. The fee and expenses of the mediator and the fact finder shall be split equally between the City and the Association. All other expenses, including witness fees, shall be paid by the party incurring the expense or calling the witness.

If, within seven days after the fact finding, the parties have failed to agree to contract, the major, unresolved issues shall be submitted to the qualified voters of El Paso in a referendum election according to the following procedure. The election shall be held on the first date permissible under state law. By agreement the parties may submit any issue or issues to the voters. If no such agreement is reached, the each party shall be entitled to submit two issues to the voters, each issue on one distinct topic. For example, each of these constitute a distinct issue: salary, dependent health insurance coverage, promotional procedures, political activities. Each party will submit its two issues, and its alternatives to the other party's issues, so that the voters will vote on four distinct issues. Each voter will have the option of voting for all the issues of one party, or for some issues of one party and some of the other. The issues submitted to the voters will appear on the ballot exactly as each respective party would have them appear in the contract. The decision on each issue by a majority of the voters voting on the issue at the referendum election shall be binding on the parties, subject to the laws of Texas, and shall be adopted as part of the collective bargaining agreement. In the absence of agreement of the parties to the contrary, the term of the provisions adopted by the voters shall be the same as the term of entire contract entered into by the parties, or, in absence of such a contract, shall extend until the next August 31 following the election or until a new contract is agreed upon. The Association shall pay the cost of printing the ballots. All other costs of the election shall be paid by the City. The place of the respective parties on the ballot shall be determined by coin flip.

**APPENDIX "D"**  
**REQUEST FOR LATERAL TRANSFER FORM**

TO: CHIEF OF POLICE

**REQUEST FOR LATERAL TRANSFER  
OF JOB ASSIGNMENT**

I, \_\_\_\_\_, am formally requesting that I be considered  
for

\_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
(Job Title) (Job Grade) (Department)

the next time there is a permanent vacancy and the Chief plans to fill that  
vacancy.

\_\_\_\_\_  
(Employee Signature)

\_\_\_\_\_  
(Present Job, Title, Grade, Department)

\_\_\_\_\_  
(Date)

cc: Employee File  
Personnel

PUBLIC RECORDS INFORMATION  
ALL CASE ELEMENTS SUBJECT TO NON-DISCLOSEMENT  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (6252-176 V.A.C.S.)

DATE: BY: C1003 DD:

**APPENDIX "E"**  
**PERSONNEL FILES**  
**(Section 143.089, Local Government Code)**

(a) The Director or the Director's designee shall maintain a permanent personnel file on each fire fighter and police officer. The personnel file must contain any letter, memorandum, or document relating to:

(1) a commendation, congratulation, or honor bestowed on the fire fighter or police officer by a member of the public or by the employing Department for an action, duty, or activity that relates to the person's official duties;

(2) any misconduct by the fire fighter or police officer if the letter, memorandum, or document is from the employing Department and if the misconduct resulted in disciplinary action by the employing Department in accordance with this Act; and

(3) the periodic evaluation of the fire fighter or police officer by a supervisor.

(b) A letter, memorandum or document relating to alleged misconduct by the fire fighter or police officer may not be placed in the person's permanent personnel file if the employing Department determines that there is insufficient evidence to sustain the charge of misconduct.

(c) A letter, memorandum or document relating to disciplinary action taken against the fire fighter or police officer or to alleged misconduct by the fire fighter or police officer that is placed in the person's permanent personnel file as provided by Subsection (a)(2) of this section shall be removed from the employee's file if the Commission finds that:

(1) the disciplinary action was taken without just cause; or

(2) the charge of misconduct was not supported by sufficient evidence;

(d) If a negative letter, memorandum, document, or other notation of negative impact is included in a fire fighter's or police officers permanent personnel file, the Director or the Director's designee shall, within 30 days, notify the affected fire fighter or police officer. The fire fighter or police officer may, on

or before the 15<sup>th</sup> day after the date of receipt of the notification, file a written response to the negative letter, memorandum, document, or other notations.

(e) The fire fighter or police officer is entitled, on request, to a copy of any letter, or document placed in the person's permanent file. The City may charge a fire fighter or police officer a reasonable fee not to exceed the actual cost for any copies provided under this subsection.

(f) The Director or the Director's designee may not release any information contained in a fire fighter's or police officer's permanent personnel file without first obtaining the person's written permission, unless the release of the information is required by law.

(g) A Fire or Police Department may maintain a personnel file on a fire fighter or police officer employed by the Department for the Department's use, but the Department may not release information contained in the Department file to any agency or person requesting information relating to a fire fighter or police officer. The Department shall refer to the Director or the Director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

## **APPENDIX "F" Drug and Alcohol Policy**

PUBLIC RECORDS INFORMATION  
ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (6252-17a V.A.C.S.)

DATE: BY: C1003 TO:

## El Paso Police Department Drug & Alcohol Testing Policy

**Purpose and Scope:** The El Paso Police Department (EPPD) believes employees have a right to work in a drug and alcohol free environment. Persons under the influence of drugs and alcohol on the job may pose serious safety, health and security risks to the public and to other Department employees. In addition to the City's Drug-Free Work Place Policy, this policy provides directives to all sworn employees of the EPPD concerning procedures for drug and alcohol testing. Nothing herein shall replace or supersede any provision of the Drug and Alcohol Testing article in the Collective Bargaining Agreement between the City of El Paso, Texas and the El Paso Municipal Police Officers' Association (hereinafter referred to as the "CBA").

### I. Random Testing:

*Random drug testing (through urine or blood) will entail the 5 panel testing and include the following drugs:  
Marijuana, Cocaine, Opiates, Amphetamines, Phencyclidine*

All sworn employees of the El Paso Police Department (hereinafter referred to in this policy as "employee" or "employees") are subject to random drug testing. Thirty percent (30%) of police officers of all ranks, including the Chief of Police, shall be subject to mandatory random drug testing during each calendar year in accordance with the Collective Bargaining Agreement (CBA).

#### A. Selection of Employees for Random Testing:

Employees shall be subject to random testing on a fair and impartial statistical basis. The fair and impartial statistical basis (in which each police officer has an equal chance of being selected) shall be by a non-discriminatory computerized program operated and certified as non-discriminatory by an independent firm hired by the City, and the employee shall be tested upon being selected by the computer. The firm shall generate a list upon request by the EPPD Human Resources Manager (HRM)

1. The random list will be delivered to the HRM or designee by email, or hand delivered letter.
2. The HRM or designee will issue a written directive to each employee on the list, ordering them to submit to drug testing at the specified date, time, and location, and will provide the reason for the test (post-accident, random or reasonable suspicion).
3. Except when in actual use, possession of and access to the list of names will be limited to the HRM and/or designee.

#### B. Notification to and Reporting by Employees for Random Testing

The El Paso Police Department HRM will coordinate with the testing vendor concerning the date, time, location, and number of employees to be tested. The collection dates will not be announced to the affected employee(s) in advance.

1. The HRM will provide the respective Commanders or designee with a list of names of those employees selected for testing. The *Notification to Report Form (Form #\_\_\_\_)* will be utilized.
2. The Commander or a Special Point of Contact (SPOC) will ensure that all selected employees are ordered both orally, and in written directive using the *Notification to Report Form (Form #\_\_\_\_)*.

a. The use of the *Notification to Report Form* (Form #      ) serves as a direct order by authority of the HRM on behalf of the Chief of Police to provide the necessary sample at the specified location.

b. This notice also instructs the selected personnel to report to the specified collection location within **two hours** of being served with the notice.

3. The HRM shall coordinate the testing process to coincide with an employee's regularly scheduled workday.

a. Supervisors will make every effort to ensure their employees report to the testing facility immediately upon notification.

b. An employee with a legitimate conflict (such as court or training) will immediately inform their supervisors of the conflict and must report for testing as soon as practical.

4. Supervisors will document the absence on the *Notification to Report Form* (Form #      ) and forward it to the HRM when an employee is on approved leave (including calling in sick the day of the test). The form will be routed through the employee's chain-of-command to the HRM via e-mail, hand-delivery or interoffice mail.

5. Employees missing a scheduled test for any reason will be rescheduled for testing within 24 hours upon the employee's return, irrespective of any random sampling selection.

6. An employee who fails to report for testing at the specified date and time for any unapproved reason, refuses, fails or is unable to provide an adequate specimen, shall be placed on administrative leave pending review.

7. Employees who become involved in an emergency situation or police action while en route to the testing facility must notify an on-duty supervisor as soon as practical and request a second employee be dispatched to take over any necessary police functions. When relieved, the employee scheduled for testing shall continue to the testing facility.

## II. Collection Procedure

Collection of the necessary samples and analyses will be conducted by a contracted qualified and independent firm/laboratory, in accordance with the CBA. After arriving at the specified collection location, employees will comply with instructions received from screening personnel. Screening will only be done for prohibited drugs and/or alcohol. No other substances will be screened, nor will any other medical tests be conducted or performed.

- A. The collection dates will not be announced in advance.
- B. Employees will be required to present their El Paso Police Department identification card at the collection location.
- C. The samples will be provided in maximum feasible privacy.
- D. Appropriate chain of custody procedures will be followed at all times at the collection facility and at the laboratory that performs the analysis.

- E. Personnel who are summoned to provide a specimen for analysis will remain at the collection location in view of collection personnel until an adequate sample can be produced.

*Employees will be required to remove the following items (as applicable) and place them in a secured locker: cap, top uniform shirt, body armor, belt, sunglasses. Employees will be allowed up to 4 hours to provide an adequate sample.*

### **III. Positive Test Results**

- A. If the initial screening indicates a positive test result, a second test of this specimen will be performed.
  1. A confirmed positive report will only be made after this second test also comes back positive.
  2. A confirmed positive test report will be maintained by the HRM in a secure area.
- B. Once the HRM has received the initial notification from the drug-testing vendor that an employee has a positive test result, the HRM will notify a supervisor in the employee's immediate chain of command.
- C. Upon notification of a positive test result, a notice of termination will be initiated and served on the employee by his Department Director
- D. Within two working days after receiving notification from his/her department director of the initial positive test result, the employee will have the opportunity, at his own expense, to request that a re-test be performed manually, utilizing the original split sample.
- E. The sample will be maintained for a period of one (1) year.
- F. Drug tests results will be made available to the affected employee upon written request, subject to applicable rules, regulations and legal considerations.
- G. In accordance with applicable privacy laws, drug test results and documentation about drug testing results, other than disciplinary reports, shall be maintained in a secured (locked) cabinet in the office of the HRM. A separate, confidential file will be maintained for each employee who submits to drug or alcohol testing.

#### ***Disciplinary Actions***

- a) A verified, confirmed, positive test result which indicates illegal drug use – will result in termination of the sworn member.
- b) A verified, confirmed, positive test result which indicates controlled substance abuse or presence of alcohol may result in disciplinary action up to and including termination of the sworn member.
- c) A verified, confirmed, positive test result which indicates illicit anabolic steroid abuse may result in disciplinary action up to and including termination of the sworn members.

#### **IV. Reasonable Suspicion Testing**

***Reasonable suspicion testing (through urine or blood) will entail 10 panel testing, anabolic steroid testing and alcohol testing. A violation will occur when the employee has a breath alcohol concentration confirmation test level of 0.01 or greater. The 10 panel testing will be analyzed for at least the following drugs and any adulterants: Marijuana (THC metabolite), Cocaine, Amphetamines, Opiates (including heroin), Phencyclidine (PCP), Barbiturates, Benzodiazepines, Methadone, Methaqualone, Propoxyphene***

***Steroids (Anabolic Steroids) include: Bolasterone, Boldenone, Clostebol, Dehydrochloromethyl testosterone, Fluoxymesterone, Mesterolone, Methyltestosterone, Nandrolone, Oxandrolone, Oxymetholone, Probenecid, Stanozolol, Testosterone***

- A. "Reasonable Suspicion" shall be defined in accordance with the CBA.

##### **B. Procedures for Reasonable Suspicion Testing**

If a supervisor reasonably suspects that an employee subject to this policy is under the influence of a prohibited drug, prohibited inhalant, alcohol, or appears impaired due to the abuse of a prescription drug, the supervisor will:

1. Immediately remove the employee from performing regular duties, and, when possible, bring the employee to a private area away from the observation of coworkers and/or the public.
2. Document in a supervisor's log to the employee's chain of command with a copy to the HRM all observations leading to the suspicion.

*Supervisor will contact the on - call HR Supervisor via Communications to make notification.*

3. Immediately request that the employee's chain of command be contacted to authorize the employee be relieved of duty.
4. If there is probable cause to believe a crime has been committed, then the appropriate arrest procedures will be followed.
5. If there is no probable cause at this point to believe a crime has been committed, the supervisor shall:
  - a. Notify the chain of command and the HRM.
  - b. Make arrangements for the employee to be taken home, and placed on administrative leave unless a decision is made to immediately conduct a drug and/or test, in accordance with this policy.
    - i. Collection procedures defined in Section II above will be followed with the following condition: the affected employee will be escorted to the collection site and will not be permitted to operate a vehicle.

#### **V. Post-Accident/Firearm Discharge Testing**

Conditions for Post-Accident/Firearm Discharge:

- A. In accordance with the City's Drug Free Policy, any sworn employee that is involved in a motor vehicle accident or firearm discharge may be subject to a mandatory drug test.

- B. Collection procedures defined in Section II above will be followed with the following condition: the affected employee will be escorted to the collection site and will not be permitted to operate a vehicle.

*Supervisor will contact the on - call HR Supervisor via Communications to make notification.*

*Critical Incident Testing (for either post- firearm discharge or post- accident situations) may consist of hair follicle, breath, urine or blood analysis.*

1. *Should the employee have at least 90 to 120 strands of 1.5 inches of hair available, the drug and alcohol testing may be done within 72 hours. If the employee removes any hair during the 72 hours following the critical incident, employee will be disciplined.*
2. *Should the employee be hospitalized, the employee may also choose to authorize the HRM to conduct drug and alcohol tests on the blood tests obtained from the hospital; provided hospital policy allows for it.*
3. *If neither option 1 or 2 are available, the HRM will coordinate drug and/or alcohol testing within 48 hours after the following incidents:*

*Post-Firearm Discharge testing will be conducted under either of the circumstances listed below and will entail 10 panel testing, anabolic steroid testing and alcohol testing.*

- a) *Discharge of a firearm, on or off duty, whereby a person was the intentional or accidental object of the shooting. This will include injury and non-injury shootings.*
- b) *Discharge of a firearm on or off duty, while performing a law enforcement function. The following are exceptions: discharge during training, discharge during weapon maintenance, approved shooting of an animal, approved shooting of an object.*

*Post- Accident testing will be conducted under any of the circumstances listed below and will entail the 5 panel testing.*

- a) *A sworn employee while driving a City vehicle, becomes involved in a vehicular accident which results in a human fatality.*
- b) *A sworn employee while driving a City vehicle, becomes involved in a vehicular accident and the employee receives a moving traffic violation arising from the accident.*
- c) *A sworn employee while driving a City vehicle, becomes involved in a vehicular accident from which any involved vehicle requires towing from the scene.*
- d) *A sworn employee while driving a City vehicle, becomes involved in a vehicular accident from which any person involved is transported from the scene for medical treatment.*
- e) *An event in which a sworn employee, on or off duty while performing a law enforcement function causes the death or serious injury of another person*

## **VI. Responsibility for Reporting Legal Prescription Drug Use & Accidental Drug Exposure**

- A. If the medically approved and appropriate use of a prescription or over-the-counter drug adversely affect any El Paso Police Department employee's work performance or the safety of the employee or others, the employee must bring this fact to the attention of his/her immediate supervisor.
- B. The immediate supervisor will then inform the Commander and HRM. The HRM will make a determination whether to question the employee's fitness for duty, and whether to limit, suspend or modify the employee's work activity, or otherwise reasonably accommodate such adverse effect.

- C. As part of this process, the employee may be requested to provide medical documentation of his/her ability to safely and effectively perform the essential functions of the position.
- D. Any information about the employee's medical condition obtained by a supervisor or manager is confidential, and will be shared only on a need to know basis. Any documentation of such medical information must be kept in the employee's confidential file.
- E. Employees subjected to the accidental exposure of any illegal drug must immediately notify the supervisor on duty.
  - 1. The supervisor will handle all accidental exposures as required by departmental policy. Additional information that should be included are:
    - a. the substance the individual was exposed to;
    - b. the period of exposure; and
    - c. a brief statement explaining the necessity for exposure.
  - 2. A copy will be forwarded to the El Paso Police Department HRM who will maintain this documentation for use if needed in the drug-testing program.

## VII. Drug and Alcohol Abuse Treatment

The El Paso Police Department encourages any employee who has an alcohol or other drug problem to seek treatment before the problem manifests itself in a violation of this policy and before the employee has a positive test result. To encourage employees to maintain a safe, healthy and productive work environment, the City of El Paso provides an Employee Assistance Program as an option for an employee seeking treatment. An employee may not self-refer once notification of a drug test has been made.

- A. Employees are encouraged to voluntarily seek assistance for alcohol or other drug problems.
  - 1. All inquiries about assistance will be kept strictly confidential and will be disclosed only to those persons with a legitimate business need to know.
  - 2. An employee's voluntary disclosure of an alcohol or drug problem before submitting to a drug test or being requested to submit to a drug test may be considered by the Chief of Police as a mitigating factor should the facts warrant the matter being handled as a disciplinary issue.
  - 3. Information regarding the Employee Assistance Program is available at the El Paso Police Department's HR Department located at PDHQ.
  - 4. The El Paso Police Department will maintain the confidentiality of any request for such information by an employee or family member.
- B. An employee who is being treated for an alcohol or other drug problem may:
  - 1. Be placed on a medical leave of absence when an employee has exhausted all leave balances.
  - 2. Nothing in this policy is intended to conflict with the provisions of the Family and Medical Leave Act (FMLA) or ADAAA, and in the case of any conflict, the provisions of the FMLA and ADAAA prevail.

C. An employee who seeks rehabilitation assistance must agree to the following:

1. Actively participate in an appropriate alcohol or other drug treatment program of a licensed, accredited treatment facility, and follow all rules, guidelines, and recommendations of that program or facility, including but not limited to, after-care recommendations;
  2. Complete the treatment program, not reject any treatment or recommendations of the program or facility, and not leave or discontinue the treatment program before being properly discharged;
  3. Upon completion of the treatment program, agree to unscheduled, periodic drug tests for a period of not less than one (1) year to be administered by the City's alcohol and drug testing contract vendor. The failure of a subsequent drug test shall result in termination or suspension of the employee; and
  4. Sign all necessary authorizations and consents to allow the treatment facility to furnish copies of the employee's treatment records to El Paso Police Department's physician so that El Paso Police Department can monitor the employee's treatment program. All documentation shall be maintained in a secured (locked) cabinet in the office of the HRM. A separate, confidential file will be maintained for each employee who submits to drug or alcohol testing.
- D. An employee who seeks to return to active employment while undergoing treatment or after completing treatment must make the request in writing and:
1. The employee must submit to a drug test and obtain a negative test result before returning to work;
  2. El Paso Police Department's physician must determine that the employee is capable of returning to full duty status;
  3. The employee must comply with all El Paso Police Department rules, policies and procedures; and
  4. The employee must agree to unscheduled, periodic drug tests for a period of not less than one (1) year.
- E. These guidelines apply only to one requested leave of absence. Any request for additional leave of absence under this Drug and Alcohol Abuse Treatment section will be handled on a case-by-case basis and granted only at the sole discretion of the Chief of Police, his designee, and as required by law. A return to work agreement should be prepared by the affected employee's immediate supervisor, and a copy of this agreement should be sent to the El Paso Police Department HRM.

## **APPENDIX "G"**

### **TRANSFER PROCEDURES AND SPECIALTY UNIT ASSIGNMENT**

**PURPOSE:** To establish procedure for processing employee requests for transfer between work units and specialty unit assignment; to establish a timely and orderly system of applying for and filling vacant positions; and to best utilize the skills and talents of each employee.

**POLICY:**

- A. It is the policy of the El Paso Police Department to give notice to all eligible employees of potential openings or current vacancies. The Department strives to ensure fair, equitable treatment and consideration of all applicants for any position.
- B. The Chief of Police retains the right to direct transfers deemed in the best interest of the Department. These procedures will not apply to situations when transfer of reassignment is deemed appropriate and in the best interest of the Department.
- C. The Department also maintains provisions for temporary transfer (TDY) of employees when it is deemed appropriate and in the best interests of the Department.

**AMENDMENTS:** Nothing herein prohibits the Association and the Chief of Police from meeting and conferring on amendments. Any amendments will be attached as a Letter of Agreement signed by the Association and the Chief of Police and adopted as a pilot program.

**DEFINITIONS:**

Transfer is the permanent reassignment of personnel from one work unit to another. A transfer does not include the hire of any individual that carries a Peace Officer's license from outside the El Paso Police Department. A transfer does not include the hire of an individual who is currently employed with another City Department.

**Coordination.** Planning, Research and Development Division (PRD) will coordinate the application and selection process for vacancies of coveted positions. PRD is responsible for:

1. Maintaining files of position requirements and qualifications:

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2. Preparing and distributing electronic mail announcements of job openings including the qualifications and filing period;
  3. Collecting and forwarding applications to Division Commanders;
  4. Verifying receipt of applications and returning incomplete applications to the applicant;
  5. Coordinating with Division Commanders to assure development of objective measurements and evaluation criteria;
  6. Assisting in the formation of interview panels if requested to do so;
  7. Forwarding selection information and notify applicants of their final status;
  8. Maintaining a database of each request/vacancy/transfer transaction for two years after selection;
  9. Notifying the Chief of Police when a person has requested and been denied transfer after four requests.
- F. **Requests to fill positions.** Division Commanders will forward requests to fill coveted positions through the Chain of Command to Planning, Research and Development. Requests to fill non-coveted positions will be coordinated through the Chief of Staff with the appropriate Bureau Deputy Chief.
- G. **Applying for transfer.** Individuals requesting transfer will submit their request on the approved form directly to the person or division identified in the email position announcement. A second (courtesy) copy will be forwarded to the employee's Division Commander to advise of the intent to seek transfer. Requests for transfer are not held back in any manner by the requesting individual's chain of command. All persons meeting the minimum qualifications are considered applicants.
- H. **The interview process.** Division Commanders may use an informal interview process for filling non-coveted positions. An interview panel will be convened positions using the following guidelines:

1. The Division Commander will arrange for an interview panel to interview all applicants. The panel will consist of three supervisors, at least one of whom is from within the same division as the vacant position. All applicants for the same position will be interviewed by the same panel.
  2. All interviewees will be asked the same questions and allotted the same amount of time respond. The interview panel should be clear on the questions that are to be asked, appropriate answers, and all other criteria to be used in evaluating applicants prior to beginning any interviews.
  3. The panel will rate each applicant in one of the following categories: (1) Highly qualified; (2) Qualified; or (3) Not qualified. An explanation of the deficiencies causing a rating of "Qualified" or "Not Qualified" will be forwarded along with the ratings to the Unit/Section Commander.
  4. At the time the interviews are scheduled, written notification shall be made to the Association. The Association shall be allowed to send a representative to sit in on the interviews.
- I. **Selection.** The Unit/Section Commander will recommend the selection of an applicant from the pool of applicants rated as "Highly Qualified." The recommendation is forwarded in a memo containing a list of all applicants and their rating through the chain of command to the Bureau Commander. The Bureau Commander will recommend approval of the selected individual or another person rated as "Highly Qualified" and forward the recommendation through the Chief of Staff to the Chief of Police who has final authority on all transfers.
- J. **Notification and Review.** Transfer orders are prepared and distributed by the Office of the Chief. Upon final approval of the transfer, PRD is notified of the rating of all applicants, the name of the person selected and the deficiencies noted by the interview panel resulting in a rating of less than "Highly Qualified." PRD will notify each applicant of their ratings, any noted deficiencies and the name of the person selected for the position. PRD will notify the Chief of Police of any person denied transfer after four unsuccessful requests. An officer denied a transfer or job assignment may file a written informational complaint with the Chief of Police. The Chief of Police shall meet personally with the officer within 30-calendar days of written complaint being filed.

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- K. **Minimum commitment.** Employees receiving transfer are expected to honor the minimum commitment period (if any) stipulated in the position announcement. The commitment period excludes promotion and special cases will be evaluated by the unit/section commander on an individual basis. Outstanding transfer requests are purged at the time permanent transfer is granted.
- L. **Temporary transfers (TDY).** TDY transfers are approved through the Chief of Staff. Temporary transfers do not change existing staff tables, however, transfer papers are initiated by the Office of the Chief for documentation purposes.
- M. **Patrol area transfers.** Requests for transfer between areas may be submitted by personnel assigned to patrol functions and general detectives to the Chief of the Office of the Operations at any time. Such requests will be considered, however staffing shortages and other mitigating circumstances may prevent approval. Probationary officers may not request transfers. Approved requests for patrol area transfers will be forwarded through the Chief of Staff to the Chief of Police for final approval and initiation of transfer papers.
- N. **Specialty unit assignments.** Requests for assistance to and the selection of persons to specialty unit positions follow the same procedure as requests for transfer to all coveted positions except that interviews are handled by the specialty unit commander who will also coordinate the administration of any applicable physical or skills testing required. At the conclusion of the process, the commander will evaluate all scores against predetermined percentage weights and compile a ranked list of qualified applicants. Selection will be made based upon the list.

**APPENDIX "H"**  
**January 25, 2002 Wage Formula Document**

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**APPENDIX H**

**El Paso Police Department**  
**January 25, 2002**  
**Index Calculation**  
**Demonstration**

**Overview**

- About ERI
- Salary Differentials Vs. Cost-of-Living
- Geographic Assessor
- El Paso Texas vs. National Average - Graph
- Annual Salaries, 25k to 45k for Eight Cities
- Index Spreadsheet
- Sample Calculations and Formulas
- Final Step
- Questions?

## About ERI\*

\*Source: ERI web-site and Methodology Disclaimer

- ERI Economic Research Institute serves over 10,000 corporate subscribers in a role that was once filled (internally) by corporate statisticians, operations researchers, industrial engineers, compensation analysts, and similar middle management support positions that have largely disappeared from Human Resources Departments.

## About ERI (Continued)\*

\*Source: ERI web-site and Methodology Disclaimer

- ERI's research database software subscriptions are available to management, analysts and consultants and are now widely used by client organizations. Subscribers include corporate compensation, relocation, human resources...and U.S. and Canadian public sector administrators (including military, law enforcement, city/county, state/provincial, and federal government pay administrators).

## About ERI (Continued)\*

\*Source: ERI web-site and Methodology Disclaimer

- Revenues for ERI are earned solely from software and publication sales
- ERI does not provide fee-for-service consulting.

## About ERI (Continued)

- ERI is an information service
- All ERI reports are copyrighted

## **Salary Differentials Vs. Cost-of-Living\***

**\*Source: ERI web-site Frequently Asked Questions**

- Wage and Salary differentials reflect the local demand and supply for labor.
- Cost-of-living is dictated by the local supply for goods and services.

## **Geographic Assessor**

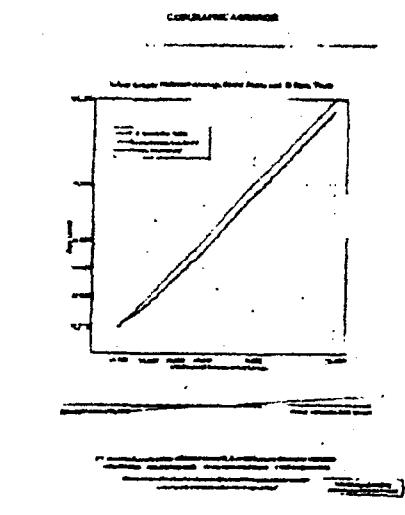
**\*Source: ERI web-site**

- The Geographic Assessor software and databases calculate salary and cost-of-living differentials between any of over 7,400+ U.S. and Canadian cities and neighborhoods and summarizes both percentage and dollar differentials between any base city and up to 99 comparison cities at a time.

## Geographic Assessor (Continued)

\*Source: ERI web-site

- Research for the Geographic Assessor software and databases focuses on the presentation of wage and salary structures for each geographic area based upon consensus regression analyses of salary surveys, and also incorporates summary cost-of-living data from the Relocation Assessor software and databases.



Section		Performance Indicators					
Indicator	Description	Target	Actual	Variance	Notes	Comments	Actions
Revenue	Total revenue generated.	\$100,000	\$95,000	-\$5,000	N/A	Revenue is slightly below target.	Review sales performance and identify areas for improvement.
Profit Margin	Gross profit margin percentage.	25%	23%	-2%	N/A	Profit margin is lower than target.	Analyze cost structure and explore cost reduction opportunities.
Customer Acquisition	New customer acquisition rate.	10%	8%	-2%	N/A	New customer acquisition is below target.	Optimize marketing campaigns and improve lead generation.
Retention Rate	Customer retention rate percentage.	85%	80%	-5%	N/A	Customer retention is lower than target.	Improve customer service and loyalty programs.
Avg. Order Value	Average order value per transaction.	\$50	\$45	-\$5	N/A	Avg. Order Value is below target.	Offer promotions and upsell products to increase average order value.
Net Promoter Score	Net Promoter Score (NPS) index.	70	65	-5	N/A	Net Promoter Score is lower than target.	Enhance customer experience and satisfaction.
Employee Turnover	Employee turnover rate percentage.	10%	12%	+2%	N/A	Employee turnover is higher than target.	Improve employee benefits and recognition programs.
Operational Efficiency	Operational efficiency score.	80	75	-5	N/A	Operational efficiency is lower than target.	Optimize processes and reduce waste.
Supply Chain	Supply chain reliability score.	90	85	-5	N/A	Supply chain reliability is lower than target.	Improve supplier relationships and diversify sources.
Financial Health	Overall financial health score.	75	70	-5	N/A	Financial health is lower than target.	Monitor cash flow and review financial statements.

## Index Spreadsheet

GEOGRAPHIC DIFFERENTIALS CALCULATED RELATIVE TO EL PASO, TEXAS WITH INDEX = 1.00

Compendium Cities	National Salary Levels					National Salary Levels					Average	
	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	Average	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	
Local Salary Levels											Index	
Austin, Texas	\$25,000	\$27,000	\$32,000	\$37,000	\$42,000	\$32,900	1.00	1.000	1.000	1.000	1.000	1.000
Dallas, Texas	\$24,900	\$28,120	\$32,340	\$36,360	\$40,580	\$32,340	1.00	1.047	1.046	1.043	1.042	1.042
EL PASO, TEXAS	\$22,600	\$26,774	\$30,886	\$35,400	\$40,946	\$30,881	1.00	1.000	1.000	1.000	1.000	1.000
Houston, Texas	\$25,000	\$28,241	\$32,808	\$37,316	\$42,948	\$32,808	1.00	1.079	1.079	1.067	1.054	1.057
San Antonio, Texas	\$22,200	\$27,248	\$32,288	\$37,397	\$41,778	\$32,281	1.00	1.037	1.039	1.041	1.042	1.038
Albuquerque, New Mexico	\$22,500	\$27,738	\$32,820	\$37,465	\$42,228	\$32,820	1.00	1.028	1.037	1.026	1.028	1.037
Phoenix, Arizona	\$24,300	\$28,141	\$34,240	\$38,377	\$43,318	\$34,240	1.00	1.117	1.112	1.108	1.106	1.102
Tucson, Arizona	\$22,700	\$27,000	\$32,220	\$37,972	\$42,220	\$32,220	1.00	1.047	1.044	1.042	1.040	1.044

<sup>1</sup> See *Family Income and 1970 Geographic Attainment Patterns*.

## Sample Calculations and Formulas (Continued)

City	Average Local Index	1 / average Local Index = Factor	Actual Biweekly Wage	Actual Wage x Factor = Adjusted
Austin	1.066	1 / 1.066= <b>93.80863%</b>	1,451.77	<b>1,361.89</b>
El Paso	1.000	1 / 1.000= <b>100.000%</b>	1,054.77	<b>1054.77</b>
Phoenix	1.112	1 / 1.112= <b>89.92806%</b>	1,357.60	<b>1,220.86</b>

## The Final Step

- The index adjusted biweekly base pay for the seven competitive Cities are added together and divided by seven.
- The average of the seven competitive Cities becomes the “moving target” in each year of the pay plan.

## Questions?

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DATE: BY: C1003 TO:

## **APPENDIX "I"** **GARRITY WARNING**

I have been advised that I will be questioned as part of an Official Administrative Investigation. I will be asked questions specifically directed and narrowly related to the performance of my official duties or fitness for office. I am entitled to all the rights and privileges guaranteed by the laws and the Constitution of the United States, including the right not to be compelled to incriminate myself in criminal matters. I also have certain rights granted to me by the contract between the City of El Paso and the EPMPOA, and the Civil Service Rules and Regulations.

I have been further advised that if I refuse to testify or to answer truthfully questions relating to the performance of my official duties or fitness for duty, I will be subject to Department charges and disciplinary action up to and including termination. If I do answer, neither my statements nor any information or evidence gained by reason of such statements can be used against me in any subsequent criminal proceedings. However, these statements and any information or evidence gained by reason of such statements may be used against me for any other lawful purpose including but not limited to disciplinary action.

## **APPENDIX "J" PHYSICAL FITNESS**

Upon ratification and execution of this Agreement, the Chief of Police and the Association shall meet to discuss the development of a physical fitness assessment model, adjusted for age and gender. A joint labor and management committee will be formed to develop and implement a physical fitness assessment within 180 days of this agreements. The recommendations of the committee will be considered by the Chief of Police and will be implemented within one year of the signing of this agreement. Any agreement between the Association and Chief of Police shall be adopted as a Pilot Program through a memorandum of understanding and ratified by the parties.

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DATE: BY: C1003 T.O.

**APPENDIX "K"**  
**SCHEDULE OF BENEFITS**

In-Network			Out-of-Network				
Features	CDHP	Basic	Buy Up	CDHP	Basic	Buy Up	
Individual Annual Deductible	\$3,000	\$1,000	\$300	\$8,000	\$3,000	\$1,000	
Family Annual Deductible	\$6,000	\$2,500	\$750	\$16,000	\$7,500	\$2,500	
Co-insurance paid by plan	100%	80%	90%	50%	50%	50%	
Max Individual out of pocket	\$3,000	\$2,000	\$1,500	\$8,000	\$6,000	\$4,500	
Max lifetime benefit	n/a	n/a	n/a	n/a	n/a	n/a	
<b>Hospital Services Co-Pay</b>							
Per admission co-pay	ded then 100%	\$100	\$100	ded then 50%	\$500	\$500	
Room & board (semi-private)	ded then 100%	ded then 80%	ded then 90%	ded then 50%	ded then 50%	ded then 50%	
Ancillary hospital charges	ded then 100%	ded then 80%	ded then 90%	ded then 50%	ded then 50%	ded then 50%	
Outpatient	ded then 100%	ded then 80%	ded then 90%	ded then 50%	ded then 50%	ded then 50%	
Emergency room co-pay	ded then 100%	\$75	\$75	ded then 50%	\$75	\$75	
<b>Physician Office CoPay</b>							
PCP Office Visit	ded then 100%	\$20	\$15	ded then 50%	ded then 50%	ded then 50%	
Specialist Physician Office Visit	ded then 100%	\$30	\$25	ded then 50%	ded then 50%	ded then 50%	
Services not incl in office visit	ded then 100%	ded then 80%	ded then 90%	ded then 50%	ded then 50%	ded then 50%	
Annual preventive care exam	100%	100%	100%	ded then 50%	ded then 50%	ded then 50%	
<b>Pharmacy Benefits 30 day</b>			<b>Pharmacy Benefits 90 day</b>			No out-of-network coverage	
Basic Plan	\$15	\$30	\$45	Basic Plan	\$30	\$60	\$90
Buy Up	\$10	\$25	\$40	Buy Up	\$20	\$50	\$80
*Basic pharmacy rates apply to CDHP for chronic Rx with all others subject to deductible							
<b>City Vision</b>		<b>City Dental &amp; Vision Plans</b>			<b>City Dental</b>		
Employees must enroll for benefit; covers \$30 annual exam and \$35 frames every 24 months		Emp Only	Family	Employees must enroll for benefit Indiv Ded \$25; Family Ded \$75; Annual Benefit \$750 w/ 80% Co-ins			
		City Dental	\$0.00				
		City Vision	\$0.00				

## **APPENDIX "L" OUTSIDE EMPLOYMENT POLICY**

PUBLIC RECORDS INFORMATION  
ALL CASE ELEMENTS SUBJECT TO NON-DISCLOSURE  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (6252-TVX.S.C.S.A.)

DATE: BY: C1003 BY:



## ADMINISTRATIVE POLICIES AND PROCEDURES

Policy ID: Human Resources  
Subject: Outside Employment Policy  
Creation Date: January 17, 2012  
Revision Date:  
Prepared By: Human Resources Department  
Approved By: City Manager  
Legal Review: John Batoon

### DESCRIPTION: OUTSIDE EMPLOYMENT

#### I. Policy:

Regular full time members of the classified services shall be permitted to work part time for other employers subject to the provisions of this policy. Full time employees must recognize that their primary duties are to the City of El Paso. Employees are subject to call at any time for emergencies, special assignments, overtime, and the like, and the obligations of outside employment are always subordinate to the needs of the City of El Paso. Regular part time employees are expected to work all scheduled shifts.

#### II. Procedures:

Request for outside employment must be submitted on appropriate forms as provided by the Department of Human Resources and must include the specific type of employment.

##### A. Application:

1. An employee must submit a request for permission to work at outside employment to the Department Head for approval. Request for outside employment shall not exceed twenty-five (25) hours per week.
2. A Department Head may place reasonable limitations or conditions on the performance of any outside employment.
3. Determination of limitations on outside employment will be based upon the best interest of the City in furthering professionalism, protecting the reputation of the employee and City and ensuring the City receives full and faithful service in return for its expenditure of resources.
4. If the Department Head believes an employment request is inappropriate and does not meet the criteria established by this policy, he must submit the request to a Deputy City Manager or the City Manager and obtain his concurrence prior to disapproving the request.
5. Applications that have been approved by the Department Head will be valid for a period not to exceed two (2) years from the date of approval, and only for the specific type of employment approved.

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6. An original application must be submitted before an

employee may change the type of employment for which he has been approved.

7. Each Department Head shall periodically review outside employment within the department to ensure compliance with this policy.
8. It is the duty of each Department Head to revoke an employee's outside employment approval in the event the employee fails to comply with the provision of this policy, fails to conform to the conditions of qualifications, or receives an overall rating of less than "Meets Performance Standards" on any regularly scheduled Performance Report, provided further that a Department Head may give an employee notice and reasonable opportunity to cure their noncompliance or other deficiency prior to revocation.

**B. Conditions that may disqualify an employee for outside employments:**

1. Where it appears from the employee's sick leave record or other evidence that outside employment would measurably impair the applicant's ability to discharge official duties and responsibilities with the City.
2. Where outside employment, or the place where it is performed, would likely bring either the City or the employee into disfavor with the public, involve the employee in violation of the Rules and Regulations of the Commission or the employee's department, or present the employee with an actual or potential conflict of interest respecting city employment.
3. Where the employment, or the place where it is to be performed, are such as to measurably impair the employee's efficiency, capability, or availability as an employee of the City.
4. Where the outside employment requires the employee to appear in the official uniform of the employee's City employment where such practice would violate a rule of the employee's department or where the outside employment would involve the service of civil process.
5. Where the outside employment of a public safety employee would involve the operation of, or employment in, an establishment where the principle business is the sale of intoxicating beverages.
6. Where the outside employment could affect their ability to make unbiased decisions or recommendations in the duties of their job with the City.
7. Where the outside employment could compromise their independent judgment regarding recommendations or choice of vendors or services that are provided City of El Paso.
8. When the outside employment exceeds the number of hours allowed in any one calendar week more than twice in a year, and is not reported to Department Head for a determination of extenuating circumstances.

**APPROVED BY:**

Joyce Wilson  
Joyce Wilson, City Manager

3/15/12  
Date

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ALL CASE ELEMENTS SUBJECT TO NONDISCLOSURE  
HAVE BEEN REMOVED IN ACCORDANCE WITH THE  
TEXAS OPEN RECORDS ACT (6252-17a V.A.C.S.)

DATE: **C1003** BY: