

# City of Albuquerque and Albuquerque Police Officers Association

COLLECTIVE BARGAINING AGREEMENT  
EFFECTIVE FEBRUARY 6, 2016 THROUGH JUNE 30, 2016

1.	RECITALS.....	3
2.	GENERAL LABOR/MANAGEMENT PROVISION .....	3
3.	PAY PROVISIONS .....	7
4.	INSURANCE COVERAGE and BENEFITS .....	11
5.	RETIREMENT PLANS .....	11
6.	VACATION LEAVE.....	12
7.	LEAVE.....	13
8.	RECOGNIZED HOLIDAYS.....	15
9.	MILITARY LEAVE .....	16
10.	WORK WEEK.....	19
11.	WORK HOURS.....	19
12.	WORK ASSIGNMENTS .....	20
13.	SENIORITY .....	20
14.	BIDDING and VACANCIES .....	22
15.	UNIFORMS, BODY ARMOR .....	23
16.	OCCUPATIONAL HEALTH and SAFETY.....	24
17.	PROMOTIONAL PROCEDURES and POLICIES .....	26
18.	PERSONNEL FILES and RECORDS .....	27
19.	CONDITIONS of EMPLOYMENT .....	28
20.	INVESTIGATION and DISCIPLINE .....	29
21.	GRIEVANCE and APPEAL PROCEDURES.....	33
22.	EMPLOYEE REIMBURSEMENTS .....	35
23.	LEGAL PROTECTION.....	36
24.	EMPLOYEE ASSISTANCE PROGRAMS.....	37
25.	TAKE HOME CAR PLAN.....	37
26.	FIREARMS .....	39
27.	CITY PROVIDED EQUIPMENT and TOOLS .....	39
28.	EMPLOYEE INCENTIVE PROGRAMS.....	40
29.	EMPLOYEE PAYROLL DEDUCTIONS .....	41
30.	LAYOFF/REDUCTION IN FORCE and RECALL .....	41
31.	RESIGNATION and RETIREMENT .....	42
32.	RULES and REGULATIONS .....	42
33.	SPECIAL PROVISIONS FOR AVIATION .....	42
34.	STRIKES and LOCKOUTS.....	43
35.	GENERAL ADMINISTRATIVE PROVISIONS.....	43

## **AGREEMENT**

### **1. RECITALS**

#### 1.1. Authority

1.1.1. This Agreement is entered into by and between the City of Albuquerque, a municipal corporation of the state of New Mexico, hereinafter sometimes referred to as "City", and the Albuquerque Police Officers' Association, hereinafter referred to as "Association".

#### 1.2. Agreement Control/Scope of Agreement

1.2.1. The parties have reached an agreement on all matters which have been a subject of negotiation as required by the City of Albuquerque Labor-Management Relations Ordinance 153-1971: *am* Ordinance 4-1977 Section 3-2-12A and have reduced such agreement to writing as reflected in this agreement.

#### 1.3. Recognition

1.3.1 The APOA is recognized as the Exclusive Representative for regular full time, non-probationary police officers through the rank of Lieutenants in the APD and Aviation department.

1.3.2. The City of Albuquerque extends to the Albuquerque Police Officers' Association representing such unit of employees the following rights:

1.3.2.1 To represent the employees in negotiations and in the settlement of grievances;

1.3.2.2 To membership dues deduction, upon presentation of dues authorization cards signed by individual employees;

1.3.2.3 To exclusive representation status during the term of this agreement as provided in the Employee Relations Ordinance; and

1.3.2.4 Unless specifically stated otherwise, all sections in this collective bargaining agreement will apply to APD and Aviation.

### **2. GENERAL LABOR/MANAGEMENT PROVISION**

#### 2.1 Agency Fee/Fair Share

2.1.1 Payment of an agency fee by non-bargaining unit employees has been authorized by Resolution of the Albuquerque City Council; and Resolution requires that any agency fee provision negotiated pursuant to the Resolution comply with all state and federal legal requirements.

2.1.1.1 The APOA will retain an independent auditor to audit its receipts and expenditures for the previous twelve (12) months and once every twelve (12) months thereafter.

2.1.1.2 The APOA will publish the results of the audit, including an adequate explanation of the agency fee to the bargaining unit members.

2.1.1.3 Bargaining unit members shall have thirty (30) days to file a challenge to the apportionment of the agency fee.

2.1.1.4 Any challenge shall be heard by an impartial decision maker.

2.1.1.5 The amount of the agency fee shall only include costs which arise from the negotiation and administration of the collective bargaining agreement and the adjustment of grievances or prohibited practices charges filed by the APOA.

2.1.1.6 Under no circumstances shall non-union bargaining unit members be required to contribute towards the APOA social, political or charitable activities, nor shall any bargaining unit member be subject to any retaliation for refusal to contribute to such activities.

2.1.1.7 The APOA has the burden at all times of proving that its costs were properly apportioned to the agency fee.

2.1.1.8 Any portion of the agency fee, which is specifically challenged shall be held in escrow until resolution of the challenge.

2.1.1.9 To the extent permitted by law the APOA will indemnify and hold the City harmless, including payment of attorney fees and costs for counsel chosen by agreement of the parties for any claim or challenge to this Section or the imposition of an agency fee;

2.1.1.10 Once the appropriate amount of the agency fee for the previous 12 months has been determined, the City agrees to deduct that amount from the pay of bargaining unit members for the subsequent 12 months;

2.1.1.11 The City shall make such fair share payment deductions for employees in the Union's bargaining unit who do not submit an authorization form for Union dues deduction, as otherwise provided for by the current collective bargaining agreement.

2.1.1.12 The City shall make employee payroll deductions for fair share payments upon notification to the non-dues paying bargaining unit employee of the amount and reason for such payment

2.1.1.13 All money deducted from wages for fair share payment shall be remitted to the Union after payday covering the pay period deduction. If any employee has insufficient earnings for the pay period, no fair share payroll deduction will be made for that employee for that pay period.

2.1.1.14 If as a result of litigation, changes to this Section become necessary, the parties will meet to negotiate the issues.

## 2.2 Payroll Deduction for Dues

2.2.1 The City shall for the duration of this Agreement and for any officer, who submits authorization thereof, deduct from such officer's pay for each pay period of each month Association dues in the amount specified.

2.2.2 The City shall forward the amount withheld to the Association.

2.2.3 The Union shall indemnify, defend, and save the City harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or as a result of any conduct taken by the City for the purpose of complying with this section.

## 2.3 Union Rights

### 2.3.1 Association Representative

2.3.1.1 The Association President and Vice-President will be assigned to a sworn day shift position as determined by the Chief.

2.3.1.2 APOA members shall, on or about January 1<sup>st</sup> of each year, contribute four and one-half (4.5) hours of their accrued vacation pool of time to be known as Association Time. This time will be utilized by Association Officers to conduct any and all Association business that requires release time from APD assigned work regular duty time.

2.3.1.3 Hours worked utilizing the Association Time are understood between the parties to be within the course and scope of employment for the purposes of Workers' Compensation Act protections and PERA service credits. The city shall manage the Association hours and provide an annual audit on June 1 of each year to the Union Treasurer. Unused Association hours shall roll-over and be added to the subsequent yearly allocation.

2.3.1.4 If an investigation results in the implementation of disciplinary action and the affected employee requests APOA representation, the APOA may designate up to two (2) representatives to participate at all stages of the proceedings. The employee shall be provided with copies of the charges and decision. In all cases where a formal grievance over discipline has been filed with the CAO by a bargaining unit employee who documents in writing that the employee does not wish to be represented by the APOA, the City will notify the APOA President.

2.3.1.5 Association Officers shall be authorized to be present with an employee at any disciplinary interview, disciplinary interrogation, or disciplinary investigation initiated by the City.

2.3.1.6 All Association Business Leave under this Section will be properly documented and approved by the Chief of Police or the Chief's designee on a City approved P-Form.

2.3.1.7 The APOA President or the President's designee will be placed on the call out roster for any officer involved shooting and any on-duty injury to an officer, reported to Dispatch that requires medical intervention provided the injured officer authorizes assistance from the APOA. The Department shall place the APOA President or the President's designee on the APD Communications call out protocol list. The call to the APOA President or designee is a courtesy call and not an order to report to duty. The APOA President shall on his own determine whether he will or will not report to the scene it will be considered Association business and will be handled accordingly.

2.3.2 The City will notify the Association of elections or appointments to the City's Labor Relations Board and the Personnel Board.

2.3.3 Bulletin Boards

2.3.3.1 The City shall provide a reasonable amount of bulletin board space in sizes and location mutually agreed upon by the parties for the display of official Association literature, correspondence or notices.

2.3.3.2 The Association will not post literature, correspondence or notices at any city facility or in any location other than the bulletin boards, employee mailboxes, or briefing blotters.

2.3.3.3 The bulletin board will not be used to criticize the Association officers, the City, any City policies, or any City officials or employees.

2.3.3.4 The Association or the City may remove any material which violates this Section.

2.4 Employer Rights

2.4.1 The parties hereby incorporate by reference all rights reserved to the City as set forth in Sections 3-2-5 and 3-2-7 of the City's Labor-Management Relations Ordinance.

2.5 The City and the APOA recognize the necessity to collaborate on issues that arise as a result of the Department of Justice's (DOJ) investigation and proposals related to the findings of the DOJ regarding the Albuquerque Police Department. If the City anticipates the implementation of policies or directives related to its agreement discussions with the DOJ that impacts Officers' terms or conditions of employment, the City will notify the APOA of its anticipated changes and provide APOA the opportunity to meet and confer with the City in a timely manner on the anticipated changes. The commitment will not prevent the APOA from submitting the changes for negotiations when the parties negotiate a successor collective bargaining agreement.

**3. PAY PROVISIONS**

**3.1 Salary Schedule**

3.1.1 Pay – The regular straight time hourly rate of pay for employees entering the bargaining unit, as identified in section 1.3.1 of the CBA, after this Agreement is executed will be the following:

APOA Pay Plan #1

	Grade	Step	
Police Patrolman 1C	PEO	1	\$26.44
Aviation Police 1C	PEO	1	\$26.44

Employees in class number 112 shall move to APOA Pay Plan #2 six (6) months after they have moved into the bargaining unit, provided their probationary period has been satisfactorily completed by June 30, 2016.

3.1.2. Pay - The regular straight time hourly rate of pay for employees who are in the bargaining unit, as identified in section 1.3.1. of the CBA, at the time this Agreement was executed shall be the following:

APOA Pay Plan #2

Police Patrolman 1C	\$28.00
Police Sergeants	\$32.00
Police Lieutenants	\$36.70
Aviation Police 1C	\$28.00
Aviation Police Sergeant	\$32.00

3.1.3 No movement within the pay plans shall occur during the term of this Agreement, except as provided above in Section 3.1.1.

3.1.4 Specialty Pay: The City shall pay the following to officers assigned to hazardous classifications as follows:

<u>Hazardous Classifications</u>	<u>Amount per pay period</u>
Pilots	\$23.08
Aerial Observers	\$23.08
Motorcycle Officers	\$23.08
Horse Mounted Unit	\$23.08
Search & Rescue Dive Team	\$23.08
CNT	\$23.08
EOD Part-Time	\$23.08
Tactical Team (SWAT,K-9, EOD Full-time)	\$115.38: 6 Hrs of compensatory time for each week of On-Call Status-this applies only to officers who are "On-Call Status"

Officers are eligible for only one hazardous duty pay. Assignment to the above hazardous classi-

fications shall be voluntary; however, re-assignment to another classification shall not be a grievable issue.

3.1.5 Special Skills Pay: The City shall pay the following to officers who have the following specialties (to be paid to officers on the department's active rosters in these specialties):

<b><u>Special Skill</u></b>	<b><u>Amount per pay period</u></b>
Aviation Field Training Officers	\$ 50.00 To be paid during the time these officers provide such services to the Dept.
Aviation Area Sgt. Coordinators	\$ 50.00
Polygraph Examiner	\$ 50.00
APD Area Sgt. Coordinators	\$ 50.00
CARES	\$ 50.00
APD Field Training Officers	\$ 100.00

This special skill pay is separate and additional to any other incentive pay.



3.1.6 Court Allowance: The City will pay a minimum of two (2) hours court time at time-and-one-half, unless the officer appears in court within one (1) hour of his/her tour of duty, starting or ending. In the event that court appearance is within one (1) hour of the tour of duty, starting or ending, the officer will be paid a sum of one (1) hour. This section does not apply to officers appearing in court during their tour of duty.

Officers assigned to graveyard shift who have worked the previous shift will be paid a minimum of two (2) hours at time-and-one-half beginning thirty (30) minutes after shift ends plus actual time spent in court following two-and-one-half (2-1/2) hours after close of shift.

3.1.7 Bilingual Pay: Only those languages recognized by the Human Resources and Productivity Committee as adding to the increased productivity and efficiency of the Police Department shall qualify for bilingual pay.

An officer shall qualify for bilingual pay upon demonstrating an acceptable level of reading, writing and conversational proficiency. Job-related material will be used in determining the reading, writing and conversational proficiency. The certification of proficiency will be established by an expert selected by the H.R.P. Committee.

Officers who are certified in all three proficiency areas shall be paid \$23.08 per pay period. Should an officer only pass the conversational portion of the test, that officer shall be paid \$9.23 per pay period.

It is recognized that if an officer is bilingual but fails to apply for or pass the certification required for bilingual pay, the officer must continue to utilize whatever bilingual abilities he/she has as needed on the job.

3.1.8 Shift Differential: Patrolmen, sergeants, and lieutenants assigned to Watch 1 will be paid \$23.08 per pay period, and patrolmen, sergeants, and lieutenants assigned to Watch III will be paid \$11.54 per pay period.

#### Longevity Pay for Members

##### 3.1.9. Longevity Scale #2

Years of Sworn Service	
6-7	\$65.35
8-9	\$66.01
10-11	\$90.90
12-13	\$91.68
14-15	\$93.22
16-17	\$96.29
18-19	\$100.14
20 +	\$103.98

Employees currently receiving longevity pay under Longevity Scale #2 will continue to receive longevity pay. No other officers shall move into this longevity scale. This is a transitional accommodation applicable only to employees currently receiving such payment.

The current Longevity Plan identified as Longevity Scale #2 will continue in effect for the term of this Agreement for employees currently being paid under this plan.

Aviation will be included in the above (APD Longevity) pay plan subject to the conditions of this subsection.

3.1.10 Super Longevity - Once an officer has been at the top step of his/her grade for 364 days or more, the officer will receive \$34.62 per pay period. Once an officer has received this "Super Longevity", this compensation will not be lost upon promotion within the bargaining unit. Officers currently receiving Super Longevity will continue to receive this pay during the term of the contract. Employees shall not become eligible for this benefit after July 1, 2004.

3.1.11 All economic terms are subject to appropriation

## 3.2 Overtime

3.2.1 Employees shall be entitled to overtime compensation at the rate of time-and-one-half their regular straight-time rate when they perform work in excess of forty (40) hours in any one workweek.

3.2.1.1 The workweek shall consist of seven (7) consecutive days beginning at 0001 each Saturday, or the tour starting the nearest to that time.

3.2.1.2 The workday will be any regularly scheduled, consecutive twenty-four hour period beginning at the start of the employees regularly assigned shift.

3.2.1.3 In accordance with Subsection 2.5 (FLSA) of this Agreement, the workdays, days off and start times of the shifts will be fixed and will not vary from week to week. The bid will include a variety of work schedules for the four (4) day workweek. A number of work schedules will include a schedule of one (1) start time for two (2) days and another start time for the other two (2) days. Additionally, a number of the schedules will include a schedule of one start time for three (3) days and another time for the other day. The remaining schedules will have the same start time for all four days. If a shift begins on or between the hours of 1700 and 0329, this shift will be Watch I. If a shift begins on or between 0330 and 0959, this shift will be Watch II and no shift differential will be paid. If a shift begins on or between 1000 and 1659, then the shift will be Watch III. Shift differential will be paid in accordance with Subsection 3.1.8 (Shift Differential) of this Agreement. For those schedules with varying start times as described above, shift differential will be paid on a prorated basis based on the start time of each shift in accordance with the amounts provided in Subsection 3.1.8 (Shift Differential).

3.2.1.4 The Department shall retain the prerogative to implement either a four ten hour or five eight hour work schedule.

3.2.1.5 For the purpose of this section, an employee who elects to change shifts will not be considered to have worked in excess of eight hours on any one workday.

3.2.1.6 For the purpose of computing overtime, paid leave shall be considered time worked, as per Subsection 2.5 (FLSA).

### 3.3 Compensatory Time

3.3.1 Time worked over 40 hours per week will be compensated at 1-1/2 times the officer's regular rate of pay, or in the form of compensatory time. Compensatory time will be computed at the rate of 1-1/2 times the hours actually worked. The maximum accrual of comp time for any officer, including Aviation Police, is 150 hours.

3.3.2 Upon separation of employment from the Albuquerque Police Department and Aviation, an officer is limited to cash-out of no more than forty (40) hours of unused comp time at straight time pay. Any accrual of comp time over forty (40) hours must be used 6 months prior to separation.

### 3.4 Fair Labor Standards Act

3.4.1 Under the Fair Labor Standards Act (FLSA), paid leave is not considered time worked for the purpose of computing overtime and the regular rate for the purpose of computing overtime includes all remunerations.

3.4.2 The parties hereto agree that for the purpose of computing overtime, paid leave will be considered time worked and the regular rate includes the hourly rate with no other remunerations included. Under 7K of the FLSA, the parties agree that for the purpose of computing overtime, the pay schedule will be a 7-consecutive-day, 40-hour workweek.

3.4.3 Applications of the FLSA as it pertains to the exempt status of positions will not change from current practice.

## 4. **INSURANCE COVERAGE and BENEFITS**

### 4.1 Premium Costs

4.1.1 The City provides certain voluntary group medical, hospitalization, vision, and dental insurance to its employees. The officer shall pay twenty percent (20%) of the premium cost for the employee and the employee's family if the employee elects to participate in one or more of the plans. The City will pay the remaining eighty percent (80%) of the premium cost.

### 4.2 Insurance Programs

4.2.1 The City shall maintain the existing benefits for life and accidental death and dismemberment at no cost to the employee.

## 5. **RETIREMENT PLANS**

### 5.1. NM Public Employees Retirement Association

5.1.1 The City shall pay twelve and twenty-three hundredths percent (12.23%) of each Employee's PERA contribution in addition to the City's employer premium contribution.

## 5.2. Deferred Compensation Plan – Catch-up Deferral

5.2.1 Any officer, on a deferred compensation program, who retires at the end of the calendar year is entitled to be paid a catch-up deferral from accumulated sick and vacation leave in conjunction with the last regular paycheck of the calendar year.

5.2.2 The officer will be entitled to a second similar catch-up deferral in conjunction with or immediately following final payment of hours worked in the first regular payroll of the new calendar year.

5.2.3 Such catch-up deferrals shall be for amounts allowed by federal law and shall use payroll practices currently in place.

5.2.4 Any officer who intends to retire during a calendar year, but not at the end of a calendar year as stipulated above, is entitled to be paid a catch-up deferral from accumulated sick and vacation leave in conjunction with the last regular paycheck of the calendar year immediately preceding the year in which retirement will occur, subject to submittal of an irrevocable letter of retirement.

5.2.5 The officer will be entitled to a second similar catch-up deferral in conjunction with or immediately following final payment of hours worked in the final regular paycheck at retirement.

5.2.6 Payment of any balance remaining of accumulated sick or vacation hours shall be in accordance with the current cash-out policy as stated elsewhere within this agreement.

5.2.7 Under no circumstances will the allowable deferral be exceeded in any calendar year.

## 6. VACATION LEAVE

### 6.1 Vacation Leave

6.1.1 All excess vacation accruals will be paid to the employee as monetary compensation at the end of the calendar year on an hour for hour basis. Effective January 12, 2002, excess vacation accruals up to a maximum of (80) hours will be paid to the employee as monetary compensation at the end of the calendar year on an hour for hour basis.

6.1.2 Any employee may request advanced vacation leave pay for forty (40) or more hours of approved vacation leave by submitting a written request to the Chief of Police (with an approval Line) ten days in advance. Payment will be made in the regularly scheduled payday prior to the vacation leave being taken. Special checks will normally not be authorized except in emergency situation approved by the Chief of Police.

### 6.2 Vacation Leave Accrual Rates

6.2.1 Vacation leave will accrue as follows:

Continuous Service Accrual per Year	Accrual Rate per Bi-Weekly Pay Period	Per Year
		(based on 8-hour Day)
Less than 5 years	3.85 hours	12.5 days
More than 5 years/less than 10 years	4.62 hours	15.0 days
More than 10 years/less than 15 years	5.54 hours	18.0 days
More than 15 years	6.16 hours	20.0 days

**7. LEAVE**

7.1 Sick Leave

7.1.1 A police officer may accumulate sick leave up to a maximum of 2000 hours. Sick leave accrued over the maximum will automatically be converted to hazardous duty leave at the rate of two days of sick leave for one day of hazardous duty leave

7.1.2 Sick leave will accrue at the rate of three and seven tenths (3.70) hours per pay period.

7.1.3 Emergency Leave: Emergency leave charged to sick leave for up to three (3) work days may be requested when the presence of the employee is required by a physician as a result of a serious illness or injury to a member of an employee's immediate family.

7.1.4 Employees may elect to use accrued vacation leave instead of sick leave for an "emergency leave", however, they shall be subject to the conditions of using "emergency leave."

7.2 Sick Leave Death Benefit

7.2.1 The City will pay to the designated beneficiary of a deceased police officer the total amount of sick leave accumulated as of the date of his/her death; provided, however, that the police officer is killed in the line of duty or dies of injuries or illness sustained in the line of duty.

7.2.2 The City will pay to the designated beneficiary of a deceased police officer the total amount of sick leave accumulated whether or not the deceased police officer dies in the line of duty; provided however, that the death of the police officer is under honorable circumstances. This benefit is not applicable in cases of suicide.

7.2.3 Payment under this section will be made to the specific beneficiary identified for this benefit, the payment will be made to the current spouse or if the officer was not married at the time of death, the payment will be made to the officer's estate.

### 7.3 Bereavement Leave

7.3.1 The City will allow as many as three (3) workdays emergency leave for a death in the employee's immediate family. For the purposes of this section, an employee's immediate family shall include the employee's spouse, child, parent, parent-in-law, grandparent, brother or sister. If travel over five hundred miles (500) miles (one way from Albuquerque) is required for a death of a member of the immediate family of an employee, one (1) additional leave day per five hundred (500) mile increment shall be granted.

### 7.4 Hazardous Duty Leave

7.4.1 It is mutually understood by the parties hereto that police officers perform duty, which is hazardous in nature, in that it is strenuous, both mentally and physically, and in many instances involves physical danger. Therefore, because of this fact, the City will allow sick leave to be converted to leave to be known as hazardous duty leave as follows:

7.4.2 When an officer has accumulated and maintains 360 hours of sick leave, he/she may convert any part of the sick leave accumulated over and above 360 hours to hazardous duty leave on the basis of eight (8) hours hazardous duty leave for twenty-four (24) hours sick leave.

7.4.3 When a police officer has accumulated and maintains a total of 720 hours of sick leave the police officer may convert any sick leave accumulated over and above 720 hours to hazardous-duty leave on the basis of one (1) hour hazardous-duty leave for one (1) hour of sick leave.

### 7.5 Parental Leave

7.5.1 The City will grant leave benefits set forth in the Family and Medical Leave Act (FMLA) for the purposes set forth in the FMLA and the City's Rules and Regulations. The employee shall notify the City of the employee's intent to use FMLA Leave as required by the City's Rules and Regulations.

7.5.2 Employees taking FMLA Leave for the purposes of childbirth or care of a newborn child may choose to take either sick leave, vacation or compensatory time. In accordance with federal regulations either the employer or the City may designate such leave as FMLA Leave.

7.5.3 The Chief of Police may grant up to 720 hours of Leave without Pay for the purpose of the medical condition related to childbirth and care of a newborn child. The leave will be granted in the following manner: (1) up to 360 hours of Leave Without pay in lieu of sick leave for a medical condition related to childbirth; and (2) up to 360 hours of Leave without Pay for care of a newborn child. The officer is limited to one request in a 12-month period. It is recognized that staffing requirements may be a major factor in the approval of the request for leave for care of a newborn child.

7.5.4 Upon returning to active duty under this section the employee will retain full seniority, in the same grade and step, rank and previously held position.

7.5.5 Employees are eligible to request additional Leave Without Pay up to one (1) year under the City's Rules and Regulations to be approved by the Chief Administrative Officer upon the recommendation of the Chief of Police. Such requests may only be approved if the officer agreed in writing to allow their seniority/anniversary date to be adjusted for the time they are on leave without pay beyond the 720 hours allowed by this section. This change in anniversary date will also be used in calculating the experience requirement for promotion. The anniversary date shall be calculated from the day the employee returns to paid status, less the 720-hour period provided by this section.

## **8. RECOGNIZED HOLIDAYS**

### **8.1 Paid Holidays**

8.1.1 Legal holidays for police officers shall be as follows:

New Year's Day	Friday, January 1
Martin Luther King's Birthday	Monday, January 18
President's Day	Monday, February 22
Memorial Day	Monday, May 30
Independence Day	Monday, July 4
Labor Day	Monday, September 5
Veteran's Day	Friday, November 11
Thanksgiving Day	Thursday, November 24
Day After Thanksgiving	Friday, November 25
Christmas Day	Monday, December 26

And those holidays that the CAO announces as legal holidays for city employees. If the CAO designates additional holidays the City and Association will meet to determine how the additional holiday should be compensated. As dates for the listed holidays change in subsequent calendar years this Agreement will change those dates. As dates for the listed holidays change in subsequent calendar years this Agreement will change those dates.

### **8.2 Holiday Pay**

8.2.1 Police officers shall receive holiday pay at straight time at their hourly rate for either 8 hours or 10 hours based on their normal work shift for all holiday hours not worked. In the event a police officer is required to work on a holiday, and does not exercise the option to take a floating holiday, he or she shall be paid holiday pay as mentioned above plus time and one-half for the duration of the Employee's assigned shift.

8.2.2 Any or all holidays mentioned in Subsection 8.1 may be designated as floating holidays by the employee. A floating holiday is one that the employee may convert to vacation (their option), either eight (8) hours or ten (10) hours per holiday depending on normal work shift, any time after the actual holiday has occurred, or within the pay period prior to the holiday as an additional vacation day.

8.2.3 In filing the routine manning requirements for the holidays, the required personnel shall be assigned from a roster of those police officers who are normally scheduled to work the holiday as defined in Subsection 8.1, based upon seniority in rank within sections or division and by shift. If manning requirements cannot be met from those who volunteer, then those officers who are required to work shall be assigned on the basis of

reverse order of seniority. Officers ordered to work a holiday may choose to float the holiday or receive holiday pay as specified in Subsection 8.2.1.

8.2.4 Any officer forced off on a holiday may elect to work the holiday and float the day off by converting it to vacation.

8.2.5 Sections that are not required to be manned on holidays may be allowed, at the discretion of the Division Commander to work that holiday only as a floating holiday.

## **9. MILITARY LEAVE**

### 9.1 Military Leave of Absence :

9.1.1 Employees who are members of the National Guard, Air National Guard or any organized reserve unit of the Armed Forces of the United States, including the Public Health Services, are granted:

- (1) the equivalent of fifteen (15) 10-hour work days of paid military leave per calendar year. This leave may be used for annual training purposes; and/or
- (2) the equivalent of an additional fifteen (15) 10-hour work days of paid military leave per calendar year if the employee is mobilized to active duty by the President of the United States in support of operations overseas, in defense of our nation, or in response to national disasters, or in response to an emergency declared by the Governor of New Mexico. This additional leave may be used for pre-deployment training or active duty service; and/or
- (3) the equivalent of an additional fifteen (15) 8-hour work days of paid military leave per calendar year if the employee is mobilized to active duty by the President of the United States in support of operations overseas, in defense of our nation, or in response to national disasters, or in response to an emergency declared by the Governor of New Mexico. This additional leave may be used for regular training, pre-deployment training, or active duty service.

The maximum paid military leave is 420 hours per calendar year for classified employees who are members of the Police bargaining unit, who are also members of organized reserve units, regardless of the purpose for which that paid military leave is used.

9.1.2 When an officer is called into active service with the National Guard or Air National Guard of New Mexico or any organized unit of the armed forces of the United States, including the public health service, the Officer may choose to utilize sick leave for hazardous duty purposes while on the assignment. This provision shall only apply for activations of eighty (80) hours or more.

9.1.3 Employees whose military commitment requires leave time in excess of that granted above may elect:

- (1) to be placed into unpaid military leave of absence status; or
- (2) to use accrued vacation leave, in whole or in part, during their period of military leave. When an employee has used all available paid military leave and paid va-



ation leave, that employee will be placed into unpaid military leave of absence status for the balance of their military leave period.

## 9.2 Vacation and Sick Leave Accruals While in Military Active Duty Status:

9.2.1 Employees mobilized to active duty by the President of the United States on or after September 12, 2001 in support of operations overseas, in defense of our nation, or in response to national disasters will continue to accrue vacation and sick leave at the same accrual rate as if the employee was not on active military duty during all periods of active military duty, regardless of whether the military leave of absence is paid or unpaid.

This accrual shall continue while the employee is in active military duty status and until: 1) the employee returns to City employment; or 2) until the employee notifies the City of their resignation from City employment while in active military duty status; or 3) until the employee notifies the City of their intention not to return to City employment at the end of their active military duty, whichever date is earlier.

Any retroactive vacation or sick leave accrual allowed to an employee in active military duty status between September 12, 2001 and October 1, 2004 may not be converted to cash at the time the employee terminates his employment with the City. This provision shall be administered only with respect to employees who terminate their City employment within twenty-four months of returning to City employment after their completion of activity military duty.

9.3 Health Insurance Benefits While in Military Active Duty Status: For employees mobilized to active duty by the President of the United States on or after September 12, 2001 in support of operations overseas, in defense of our nation, or in response to national disasters, the City shall continue to pay the employer portion of health insurance premiums for that employee to the same extent as if that employee were not on active military duty status.

The employee on active military duty status must continue to timely make payment of the employee portion of health insurance premiums to the same extent as if that employee were not on active military duty status. Failure to do so will result in termination of health insurance coverage. It is the obligation of the employee on active military duty status to notify the Benefits Division of the Human Resources Department and to complete all necessary forms and make all necessary elections to ensure that the employee's portion of health insurance premiums are made timely, if the employee wishes to continue to have health insurance coverage.

Provided the employee is and remains current on all required employee contributions to health insurance premiums, the City shall continue to pay the employer portion of health insurance premiums while the employee is in active military duty status and until: 1) the employee returns to City employment; or 2) until the employee notifies the City of their resignation from City employment while in active military duty status; or 3) until the employee notifies the City of their intention not to return to City employment at the end of their active military duty, whichever date is earlier.

## 9.4 Members of Unorganized Reserve Units

9.4.1 Employees who are members of unorganized reserve components, as sanctioned

by the State of New Mexico or the Federal government, are granted:

- (1) the equivalent of fifteen (15) 8-hour work days of paid military leave per calendar year. This leave is for the purpose of attending organized course of instruction or training; and or
- (2) the equivalent of fifteen (15) 8-hour work days of paid military leave per calendar year if the employee is mobilized to active duty by the President of the United States in support of operations overseas, in defense of our nation, or in response to national disasters, or in response to an emergency declared by the Governor of New Mexico. This leave may be used only for active duty service.

The maximum paid military leave is 240 hours per calendar year for employees who are members of unorganized reserve units, regardless of the purpose for which that paid military leave is used.

Employees whose military commitment requires leave time in excess of that granted above may elect: (1) to be placed into unpaid military leave of absence status; or (2) to use accrued vacation leave, in whole or in part, during their period of military leave. When an employee has used all available paid military leave and paid vacation leave, that employee will be placed into unpaid military leave of absence status for the balance of their military leave period.

## 9.5 GENERAL PROVISIONS

9.5.1 In no case shall the hours of paid military leave in a calendar year exceed the maximum number of hours provided above, even though the maximum number of hours may be calculated by reference to "work days".

All military leave pay is paid at the employee's straight-time rate of pay.

Employees-working on a part-time basis will be granted paid military leave on a prorated basis.

## 9.6 TRANSITION PROVISION

9.6.1 Any employee who has received paid military leave prior to January 1, 2008 in excess of the maximum amount allowable in any calendar year under the terms of this Administrative Instruction shall not be required to reimburse the City for the excess.

## 9.7 OTHER LEAVE WITH PAY

### Birthday Leave

9.7.1. An employee's birthday shall be considered a personal leave day. Officers shall not be required to work their birthday except in emergencies. Should an employee be forced to work their birthday they will be compensated under Subsection 8.2.1.

## 9.8 PHYSICAL EXAMINATION LEAVE

9.8.1 Each employee may utilize one half (1/2) day paid leave each year for the purpose of undergoing a physical examination. The leave shall not be deducted from the employee's accumulated paid leave. An employee who utilizes this leave shall be required to provide written medical documentation verifying that the physical examination has taken

place.

## **10. WORK WEEK**

### 10.1 General Work Week Provision

10.1.1 The normal workweek will be forty (40) hours comprised of either five (5) eight-hour or four (4) ten-hour days.

10.1.2 Under normal circumstances, management will assign consecutive days off in a normal workweek.

## **11. WORK HOURS**

### 11.1 General Work Day Provisions

11.1.1 The normal workday shall be eight (8) or ten (10) hours. The ten hour workday shall be consecutive.

11.1.1.1 Should Aviation Police return to an eight (8) hour workday, their eight-hour (8) workday shall be consecutive.

11.1.2 Upon request of the APOA, the Chief or the Chief's designee shall meet with the APOA to discuss 4/10 schedules. The department will notify the APOA when the department decides to place a division or bureau on a 4/10 schedule.

### 11.2 On Call and Call Backs

11.2.1 On call status shall be defined as the ability of an officer to assume full responsibilities of the officer's assignment with one (1) hour's notice. The standards for the assumption of these responsibilities shall be those required by the Fair Labor Standards Act's Rules and Regulations for standby time.

11.2.2 Call-Back Time: When an officer is called to work at a period other than his/her regularly scheduled working hours, he/she is guaranteed pay at either his/her hourly overtime rate for two (2) hours work or overtime pay for the hours actually worked, whichever is greater. Callback time will not apply when the assignment immediately precedes or follows the regular assignment.

The two-hour call back time guarantee will not apply if the call-out is cancelled within fifteen (15) minutes of the notification to the officer.

11.2.3 Time shall be computed from the time of notification.

11.2.4 When an employee is assigned to on-call status, the officer will receive eight (8) hours of straight compensatory time for each seven (7) days of such assignment. If an officer is on call on a day-to-day basis, the officer will receive two (2) hours of straight

compensatory time for every twenty-four hours of such assignment, not to exceed eight (8) hours in a week. The determination of the need for the use of on-call status and the number of officers required will be made by Chief or the chief's designee.

11.2.5 An employee who is authorized or approved by the Chief or the Chief's designee for call-back time shall receive five (5) hours of compensatory time each pay period provided the employee is authorized or approved for this status for at least six (6) workdays during the pay period.

### 11.3 Change in Work Hours

11.3.1 In the event a supervisor proposes to permanently change the work hours of an officer who is not part of the bidding Section 13 (Seniority), the Association will be provided the opportunity for input in accordance with the provisions of Section 32 (Rules and Regulations). Should the Department not agree with the input provided by the Association, the final decision on the employee's work hours will be made by the Chief of Police. A permanent change is defined as a change of more than 45 working days.

11.3.2 Upon seven (7) days advance notice a section commander may adjust an officer's shift/days off on a temporary basis for training or dignitary protection. This may be done at the request of the officer or the Department.

### 11.4 CSA Part-Timers

11.4.1 For the purposes of this agreement CSAs shall be defined as certified and armed personnel who are authorized to perform administrative and law enforcement duties on a part-time capacity. The city shall limit the number of CSAs employed at any given time to a maximum of twenty-two (22). CSAs shall be allowed to work a maximum of one thousand forty (1040) hours per year. The chief of Police may increase weekly hours up to thirty-nine (39) as needed. Such an increase shall be on a short-term basis only and authorized only by department heads.

## 12. WORK ASSIGNMENTS

### 12.1 Chief's Time

12.1.1 Section 1-11-3 of the Standard Operating Procedures for the Albuquerque Police Department will continue in full force for the duration of this Agreement.

12.1.2 If the Aviation Police Department decides to initiate a Chief's Time Program, the City and the Association will meet and negotiate a program.

## 13. SENIORITY

### 13.1 Seniority Determination

Except for sections, which contain specific different definitions such as Section 35.1 (Layoff and Recall) of this Agreement, for this Agreement, seniority is defined as follows:

13.1.1 Higher ranks have seniority on junior ranks. The officer with the most continuous service within rank is senior within that given rank. For the purpose of breaking a tie on

seniority, the first criteria to be applied shall be continuous service with the Albuquerque Police Department, with the officer with the most continuous time being senior. Should the continuous service with the Department be identical, then the tie will be broken by the use of the employee numbers or lottery numbers, whichever is applicable. The officer with the lowest number is senior. The term continuous service shall be interpreted to mean total service from the date of last hire as a sworn police officer.

13.1.2 Departmental seniority for non-supervisory personnel will be the only recognized method of establishing seniority within a unit, section, division, or bureau.

13.1.3 For the purpose of establishing seniority for entry into the bargaining unit beginning with the 55th, 56th, and 57th Cadet Classes and all classes thereafter, seniority will initially be established by using the following method:

13.1.3.1 Highest seniority within the class will be given to those cadets who were in the employment of the Police Department, when they were accepted into the Police Academy. If there is more than one cadet with the same date of hire, their seniority will be determined by their overall class standing between them.

13.1.3.2 The remaining cadets will be assigned seniority by overall class standing upon graduation. The cadet who had the highest overall class standing in the group will be given the highest seniority within the cadet class.

13.1.3.3 Final seniority will be determined when an officer becomes non-probationary.

13.1.3.4 The final seniority standing is not subject to grievance.

13.1.4 When section cut backs occur, the mandatory transfers between units should be made in such a way as to maximize the efficiency and effectiveness of the Police Department. In making such transfer decisions, the following facts shall be considered:

13.1.4.1 The nature of the transfer and the skill it calls for within the unit being transferred to;

13.1.4.2 The availability of pre-qualified persons;

13.1.4.3 The stated assignment preferences; and

13.1.4.4 All other factors being equal, seniority of members of the bargaining unit.

13.1.5 If within one year a unit that was cut back is increased in size, the officer subjected to mandatory transfer will be given at their option the opportunity to return prior to any other officer.

13.1.6 An employee who voluntarily leaves the department and is rehired after ninety (90) days will be placed at the bottom of the non-probationary seniority list. An employee who is rehired within ninety (90) days will retain all seniority.

## **14. BIDDING and VACANCIES**

### 14.1 Bidding

14.1.1 Unless there is justifiable cause ( i.e. for efficiency, discipline or general conduct), bidding by APO lieutenants, sergeants and patrolmen for assignment based on seniority City wide will occur every twelve (12) months. Lieutenants will bid first, sergeants will bid second and patrolmen will bid third.

Bidding is for shift, days off, squad and area command. This applies to officers taking calls for service. Traffic and Open Space officers and field investigators will bid within their sections first. The bid for traffic officers, Open Space officers and field investigators will occur every six (6) months, and take effect on the first day of the pay period closest to March 1 and September 1.

14.1.2 Unless there is justifiable cause ( i.e. for efficiency, discipline or general conduct), City Wide bidding by APO lieutenants, sergeants and patrolmen for assignment based on seniority will occur every twelve (12) months. Lieutenants will bid first, sergeants will bid second and patrolmen will bid third. Bidding is for shift, days off, squad and area command. This applies to all officers taking calls for service. Traffic and Open Space officers and field investigators will bid within their sections first. The bid for traffic officers and Open Space officers and field investigators will occur every six (6) months, and take effect on the first day of the pay period closest to March 1 and September 1.

#### 14.1.3 PERA Retiree Officers' Assignments:

14.1.3.1 All PERA Retiree officers shall be assigned to uniformed field services patrol functions upon rehire with the City. This shall not be applied retroactively.

14.1.3.2 After a PERA Retiree Officer has been rehired and assigned to uniformed field services for at least one (1) year, the officer shall be eligible to participate in the general bid for work schedules and vacations and will also be eligible to participate in any test for circularized positions. The officer will bid with seniority accrued since the officer's resworn date.

14.1.4 The PERA retiree officers' staffing levels set forth herein shall not result in a reduction of staffing assignments offered to other officers.

14.1.5 The subsequent bids shall remain in effective for one year each.

### 14.2 Shift Exchanges

14.2.1 Nothing in this section shall prevent an area commander from permitting employees to mutually exchange bidded slots for hardship reasons.

14.2.2 Sworn personnel of equal rank and assigned the same basic duties may ex-

change shifts or portions thereof when the change does not interfere with the operations of the Department. Shift exchanges are at the discretion of and subject to the approval of the watch commander.

14.2.3 The parties agree that shift exchanges shall not involve any exchanges of money, but are strictly an exchange of time.

14.2.4 The Department may develop appropriate administrative guidance.

14.2.5 Officers who agree to work that shift shall be responsible for working the shift. In the event an officer fails to report under the shift exchange for any reason, it shall be in the sole discretion of Department's Commander to authorize an overtime replacement and the officer failing to report, may at the Department's discretion, be docked at time and one half at his/her hourly rate. No other disciplinary action will be taken against the officer.

## **15. UNIFORMS, BODY ARMOR**

### 15.1 Uniforms

15.1.1 It is understood by the parties of this Agreement that uniform regulations of the Departments are established by the Chiefs of Police, and the primary purpose of this section is to protect covered employees from financial hardship resulting from changes in uniform regulations.

15.1.2 Optional changes in the authorized uniform regulations may be made at any time. Optional items of uniforms shall remain optional during the term of this Agreement. Replacement changes in the uniform regulations that delete a previously authorized piece of uniform apparel, insignia, or item, shall only be mandatory for those hired after the effective date of this Agreement, or the date of the most current change.

15.1.3 Sworn personnel shall not be required to purchase newly approved uniform apparel, insignia, or items until any existing, owned uniform items, insignia, or apparel are deemed unserviceable or in need of replacement.

15.1.4 All replacement purchase or gifts of uniform apparel must conform to current uniform regulations as of the date of purchase or receipt of the gift.

15.1.5 All Employees will be provided with two (2) uniforms (shirts, pants, patches, and hemming) per calendar year for the duration of this agreement.

### 15.2 Body Armor

15.2.1 Replacement of Body Armor. The City will annually replace body armor that is five years old for uniformed personnel as soon as practical. Non-uniformed and other Officers requesting body armor replacement prior to the five years will be considered on a case-by-case basis.

## **16. OCCUPATIONAL HEALTH and SAFETY**

### 16.1 Union Management Safety/Security Committees

16.1.1 It is the responsibility of all bargaining unit members, officials of the association, and managers to contribute to a healthful and safe working environment. In the furtherance of this policy, a joint Union Management Safety/Security Committee will be established to review safety issues and make recommendations for improvement to the director.

16.1.2 Security is included in this Section only as it relates to safety. Members of the Safety/Security Committee will meet at least once per month during working hours without loss of pay. If issues arise requiring immediate attention, the parties may agree to meet on a more frequent basis. If minutes of the committee meetings are kept, such minutes shall be made available to all committee members

16.1.3 The parties hereby propose a Pilot Program regarding injury time to be implemented through an MOU. Any conflicts that arise between the Pilot Program MOU and Section 16.3 Injury Time, the Pilot Program MOU language shall control.

16.1.4 The Safety Committee will not initiate or recommend disciplinary action.

16.1.5 Each Committee will adopt guidelines governing the focus of its review.

16.1.6 Concerns regarding the effectiveness of Safety Committees may be addressed at the department level or through the Employee Relations Office.

16.1.7 At the request of the Safety/Security Committee, the Chief or his/her designee will meet to confer with the Association to discuss and attempt to resolve issues related to safety, including equipment and training needs.

16.1.8 In the event that equipment issued by the Department is considered unsafe or defective by an employee, the employee must identify the problem to the best of his/her ability and submit the issue in writing to his/her supervisor. Management will respond within ten (10) working days.

### 16.2 Inoculation and Immunization

16.2.1 If a police officer, while carrying out the officer's duties, is exposed to a contagious disease, the City agrees to pay the expense for inoculation and immunization for members of the officer's family. The City further agrees to reimburse any officer covered by one of the City's H.M.O. Programs any co-payment required for inoculation and/or immunization required due to the exposure to a contagious disease as a result of the officer



carrying out the officers duties. This is subject to the review and approval of the Chief on the basis of documentation and verification presented by the employee to the employee health department and the Chief of Police.

16.2.2 Should an officer miss duty as a direct result of exposure to a contagious disease, which resulted from carrying out the officer's official duties, and the exposure is determined by the City medical authorities to be job-related, the time off will be charged to available injury time.

### 16.3 Injury Time

16.3.1 An officer injured, or suffering an occupational disease while actually engaged in the performance of his/her duties and who, as a result of such injuries, receives benefits under the Workers' Compensation Act of New Mexico, shall be granted injury time from the date of injury as provided for under Section 3-1-15 "Injuries In Performance of Duty" of the Merit System Ordinance, as amended, and in effect on the date of the injury.

16.3.2 Injury time may be extended for a period not to exceed 12 months beyond the current provisions of the Merit System Ordinance. This extension may be granted by the CAO upon the written request of an injured police officer subject to the following conditions being met:

16.3.2.1 A certification, in writing, by the City selected doctor confirming, barring unforeseen medical complications, that the employee will be physically and mentally able to return to full, unrestricted duty on the previously held position within the requested extended injury time period.

16.3.2.2 And that the Chief of Police recommends that the extension of injury time be granted.

16.3.2.3 That the employee has not and will not refuse to:

16.3.2.3.1 Submit to medical examination by the City-selected doctors.

16.3.2.3.2 Perform a limited-duty assignment that is not detrimental to the officers condition or recovery as determined by the City's doctors or the panel of doctors as set forth below (limited duty subsection applies to the period while on Injury Time).

16.3.3 An officer who is terminated from the City for physical medical which were brought about as a result of and in the performance of the officer's duties, will be eligible for reinstatement to the previous position held with the same rank and grade restored if, within thirty-six (36) months from date of termination, the medical condition(s) responsible for the termination have been completely corrected and the officer is otherwise fit to perform as a police officer.

16.3.4 No provision herein will restrict an officer so injured from applying for the additional leave period provided for under the hardship provision of the Merit System Ordinance.

16.3.5 The parties agree that the officers injured in the line of duty are subject to the provisions of the Departments light duty/modified duty program.

## **17. PROMOTIONAL PROCEDURES and POLICIES**

### 17.1 Circularized Positions

17.1.1 All positions will be advertised.

17.1.2 Advertisements will identify the qualifications for positions.

17.1.3 Interested individuals will submit their resumes to APO Personnel prior to the deadline.

17.1.4 A testing and interview process will be utilized to determine the best qualified applicant for circularized positions. The position will be offered based on the highest test results. Three (3) officers in the Mayor's office shall be exempt; rotation after a maximum of three (3) years for undercover officers in Narcotics, Vice; Internal Affairs officers after a maximum of two (2) years. Task Force officers shall be assigned to this assignment for a maximum of two (2) years. The rotation time periods shall commence July 1, 2006. This two (2) year limitation may be extended by the Chief provided a request for extension is submitted by the affected officer. This process shall not be subject to this Agreement's grievance procedure.

17.1.5 Assignments to exempt positions will be made by the Division Commander based upon the unit supervisor's recommendation, subject to the approval of the Chief.

17.1.6 The term "Exempt Position" only refers to the final selection process of qualified applicants after the testing and interview process.

17.1.7 All personnel selected for circularized positions shall be subject to a minimum assignment of one year unless otherwise mutually agreed upon by the employee and the Department.

17.1.8 After the one-year trial period an officer may only be removed from a circularized position with cause.

17.1.9 Removal from any circularized position during the one-year trial period is not subject to grievance.

17.1.10 Involuntary reassignments are subject to the review and approval of the Chief of Police.

17.1.11 The Department may transfer an officer within a bureau without advertising the position provided the reason for the transfer is hardship. The APOA President or designee shall be informed of the transfer prior to its implementation.

A bureau may temporarily assign an officer already assigned to the bureau for a maximum of three (3) months in order to maintain adequate staffing levels and/or bureau efficiency. The three (3) month temporary assignment may be extended by mutual agreement of the parties.

This provision shall be considered separate and distinct from the rights set forth in Article 11.3 of this Agreement. This provision does not violate Article 11.3.

Unless the parties agree to maintain this section within the Agreement, this section shall cease to exist upon expiration of this Agreement.

## 17.2 Payroll Upgrading

17.2.1 An employee who is assigned the responsibilities and temporarily performs the duties of a position graded higher than the one he/ she holds shall upon approval of the Director or Chief, be reimbursed accordingly. Such employee shall receive the entrance rate of the class or one step above his present rate whichever is higher, while so assigned. Employees selected for Payroll upgrading must be qualified to perform the duties of the higher position. The need for upgrades shall be determined by the division commander.

## 17.3 General Promotion/ Transfer Provisions

17.3.1 PERA retirees shall not be eligible to participate in any promotional process within the Albuquerque Police Department.

17.3.2 For promotional purposes, final score standing in the promotional process will determine the seniority for being promoted off the list. In the event of a tie, departmental seniority will break the tie.

17.3.3 An employee who transfers from one APOA bargaining unit department to another shall retain all benefits based on time that the employee received while serving in the original department.

## **18. PERSONNEL FILES and RECORDS**

### 18.1 Employee Records

18.1.1 A copy of any material pertaining to an employee's performance or to disciplinary actions to be placed in the employee's personnel files must be presented to the employee for signature and review.

18.1.2 By arranging an appointment in advance, employees shall be allowed to review the contents of their Department personnel file during working hours. Reasonable requests for copies or documents in the file shall be honored and reasonable charges made for such copies.

18.1.3 Only the personnel files kept in the Human Resources Department and the department where the employee is currently assigned will be used for interdepartmental interviews.

18.1.4 Employees shall have the right to submit written responses to all derogatory documents placed in their Human Resources or Departmental file within each department. Such written responses will be placed in the appropriate file. Derogatory material may be purged within twelve (12) months from the employee's departmental file at the department head's discretion.

18.1.5 Human Resources Department files are a permanent record of an employee's performance with the City of Albuquerque. Such files will not be purged. However, employees who have been cleared of any charges shall not have reference of these charges included in their permanent personnel file.

18.1.6 It is hereby recognized that, upon written notification by the employee, the Association will be allowed to view his/her file.

18.1.7 The Association President or designee may request to meet with the Department Director to mediate disputes concerning purging of derogatory material from the Human Resources Department files.

## **19. CONDITIONS of EMPLOYMENT**

### **19.1 Probation Period**

19.1.1 The probationary period for Albuquerque Police Officers except sworn officers who are PERA Retirees shall be twelve (12) months from the date of graduation from the Albuquerque Police Academy, whether or not such appointee has been previously employed by the City. A PERA Retiree Officer who has been hired as a sworn officer by the City will serve a twelve (12) month probationary period from the date of PERA Retiree Officers hire whether or not the PERA Retiree Officer has been previously employed by the City. Discipline or termination of a probationary officer is not a grievable issue under the terms of this Agreement.

19.1.2 APD lateral transfers from agencies outside the City, will serve a probationary period of twelve (12) months from the date the employee completes the Lateral Academy.

19.1.3 For purposes of this section, Aviation Police shall serve a probationary period of one year from the date of hire.

19.1.4 APD officers and Aviation Police who laterally transfer between departments shall serve a one year trial period. The trial period shall be used to closely evaluate the Officer's work.

19.1.4.1 At any time during the trial period, an Officer may be dismissed for any reason which is no prohibited by law. Such dismissal shall not be subject of a grievance.

19.1.4.2 An Officer dismissed for a non-disciplinary reason(s) during the Officer's APD trial period shall be entitled to reinstatement as an Aviation officer, if a vacancy exists. An Officer shall retain rehire rights for a period of three (3) months from the date of his/her dismissal during the trial period. During the rehire period, the Officer shall have the right to be offered any entry-level vacancy, subject to the provisions of Section 3-1-7 B of the Merit System Ordinance. It is the responsibility of the Officer to keep the City informed as to his/her current address and telephone number. If an Officer is offered a rehire and fails or refuses to report back to work, the officer shall lose any further rehire rights.

19.1.4.3 An Officer rehired under this subsection shall not be required to serve a probationary period. In all other aspects, an Officer rehired under this subsection shall be treated as a new hire, and the Officer's seniority date shall be his/her date of rehire.

## **20. INVESTIGATION and DISCIPLINE**

### **20.1 Administrative Investigations**

To insure that investigations are conducted in a manner conducive to public confidence, good order, discipline, good management practices, and recognizing the individual rights of each member of the force, the following guidelines are hereby established.

20.1.1 The interrogation of any officer shall be at reasonable hours, preferably when the officer is on duty and during the daylight hours unless the exigencies of the investigation dictate otherwise as determined by the City.

20.1.2 The interrogation shall take place at a location designated by the investigating officer, usually a police department facility.

20.1.3 The name of the charging officer, complainant, or citizen making the charge shall be disclosed if this information is known to the officer conducting the investigation. If this information is not known, this shall also be disclosed. Disclosure of the complainant's name will not be required if revealing his/her name jeopardizes the investigation; however, once the investigation is completed, the name(s) of the complainants will be revealed at the request of the officer who was under investigation along with a copy of the official complaint, signed or unsigned.

20.1.3.1 Official complaint shall be defined as any complaint made by a citizen where the complainant provides his name, address, and telephone number and the complainant has completed a signed statement. The signed statement will not be required where the complainant is a member of the department. Complaints will also be classified as official if the complainant refuses to complete a signed statement and the charge is of such a serious nature as to warrant investigation, or the charge is of a criminal nature.

20.1.3.2 Unofficial complaints shall be defined as any complaint of a non-criminal nature made by a citizen where the complainant refuses to complete a signed statement. The Department will not conduct administrative investigations into unofficial complaints of a non-criminal nature. The department is not prohibited from conducting preliminary investigation to determine if allegations are in fact true. This may result in an unofficial Complain being elevated into an official complaint.

20.1.4 The officer shall be informed of the nature of the investigation before any interrogation commences. Prior to any administrative interview being conducted sufficient information shall be disclosed to reasonably apprise the officer of the allegations. This information will be provided to the target officer(s) in writing via certified US Mail. Through the course of the investigation, additional issues of concern may arise that may be incorporated into the investigation.

If it is known that the member being interrogated is a witness only, he/she shall be so informed. If the officer(s) being questioned may be the subject(s) of the investigation, this fact shall be immediately disclosed prior to any questioning.

20.1.5 The interrogation shall be completed as soon as possible and the actual interrogation shall be limited as follows:

20.1.5.1 On-duty and off-duty personnel: Maximum of two, (2) two-hour sessions within any twenty-four (24) hour period with a one (1) hour break between sessions. In no event shall the officer's tour of duty and interrogation exceed fourteen (14) hours unless both parties agree to continuation of the sessions.

20.1.5.2 In all instances, in addition to the one-hour break provided for in section 20.1.5.1 above, time shall be provided for personal necessities, telephone calls, and rest period as are reasonably necessary.

20.1.6 Only two interrogators, the involved officer and his/her representatives (up to two) will be allowed to participate, observe or monitor the interrogation. Others may be allowed by mutual consent.

The officer shall not be subjected to any offensive language, coercion, or promise of reward as an inducement to answering questions. Nothing herein is to be construed to prohibit the investigating officer from informing the officer that his/her conduct can become the subject of disciplinary action.

20.1.7 The complete interrogation of the member shall be recorded mechanically or by stenographer. There will be no "off-the-record" conversations except by mutual agreement. All recesses called during the investigation shall be noted in the record. Nothing discussed "off-the-record" during the administrative interrogation shall be used as part of the administrative interrogation, investigation, or official file, or shall be submitted for any official action.

20.1.8 If a member is under arrest or is likely to be; that is, if he/she is a suspect or the target of a criminal investigation, the criminal investigation shall not be handled by the Internal Affairs unit, but by a criminal investigative unit of the Police Department and/or an appropriate Law Enforcement Agency with jurisdiction over the matter in question. The officer shall be given his/her rights pursuant to the Miranda Decision or applicable law. Should the officer decide to exercise his/her Miranda Rights, the Department is in no way limited from taking any administrative and/or criminal action regarding the incident, provided however, that no administrative and/or criminal action will be based on the officer's exercise or his/her Miranda or any other legal rights.

20.1.9 The officer shall be given an exact copy of the written statement he/she may execute, or if the questioning is mechanically or steno graphically recorded, the member shall be allowed to provide his/her own mechanical recording device.

20.1.10 An officer must, as a condition of continuing employment, truthfully answer any and all questions relating to the matter under investigation whether the officer is a subject or a witness to the matter. The determination of whether a question is relevant to the matter under investigation shall be made solely by the Internal Affairs officer conducting the investigation. All compelled statements will remain confidential and will only be used for the Independent Review Officer's investigation. Unless the City is ordered to release the documents pursuant to an order issued by a court of competent jurisdiction, the compelled statements will only be released to Internal Affairs, the Chief of Police, the City Attorney, the Independent Review Officer, the involved officer and his/her representative. Information from a compelled statement shall not be made public by the city.

The Independent Review Officer may prepare an investigative summary of discipline administered by the Department. The only information released to the Police Oversight Commission, will consist of the alleged charges, disposition of the case (i.e. findings of sustained/non-sustained), and any discipline imposed.

If a complainant citizen appeals the discipline that has been issued to the target officer, the investigative file, minus the compelled statements, may be forwarded to the Police Oversight Commission for its review.

If an appeal is taken, the Independent Review Officer may provide a summary of conclusions to the Police Oversight Commission. The summary would be in his/her own words and would be a synopsis of the investigation. The summary of conclusions shall not contain any direct quotes, statements or actual language as contained within the compelled statement.

Any information released to the Police Oversight Commission shall not contain information that identifies sworn department personnel; this includes any report completed by the Independent Review Officer, and any statements by complainants, witnesses, target officers, suspects, etc. An officer can allow portions or summaries of his/her compelled statements to be released to the Police Oversight Commission if he/she chooses. Should the officer choose not to release summaries or the compelled statements, this shall not be considered as a lack of cooperation in the process. The Chief of Police will have access to all compelled statements for the purpose of disciplinary decisions.

Nothing contained herein shall be the basis for an individual waiving his/her Fifth Amendment rights under the Constitution of the United States of America.

20.1.10.1 The Association will, upon direction of the Chief of Police or the Chief's designee, comply with the Police Oversight Ordinance by submitting to interrogations in connection with administrative investigations by the Independent Review Officer and/or full-time investigators employed by the City.

20.1.10.2 The named administrative investigators shall be bound by all the provisions of this section of the Collective Bargaining Agreement and by all confidentiality provisions in the Police Oversight Ordinance currently in effect.

20.1.10.3 The provisions of this article shall not be interpreted in a manner which violates those rights guaranteed by the Garrity vs. New Jersey or subsequent decisions.

20.1.11 The Department shall afford an opportunity for an officer, if he/she so requests, to consult with counsel before being questioned, provided the interrogation is not delayed for more than two hours. Counsel and another person of his/her choice who is a member of the bargaining unit may be present during the interrogation.

All interviewing shall be limited in scope to activities, circumstances, events, conduct or acts, which pertain to the incident, which is the subject of the investigation. Nothing in this section shall prohibit the employer from questioning the employee about information, which is developed during the course of the interview.

The representative may ask for a question to be repeated or restated for clarification purposes.

The representative may also object to any questions they feel is inappropriate and state into the record the reasons why. The interviewer will consider the objection and the question asked.

At the end of the interview, the interviewer will allow the employee or representative the opportunity to make any additional comments or provide any information they deem necessary.

If the officer's representative(s) disrupts the interview process, the representative may be removed. If an officer's representative is removed, the officer may be allowed up to two (2) hours to obtain another representative before the interview is continued.

If a representative is removed, the APOA President or his/her designee will be notified and provided a copy of the audiotape of the interview within four calendar days. The APOA President may request a meeting with the Internal Affairs Commander to discuss the matter.

20.1.12 When available, before an administrative investigator interrogates an officer as a direct result of an official complaint by a citizen whose identity is known, that citizen shall be required to sign a statement clearly provided to the officer at the same time of the interrogation.

20.1.13 In the event it is determined that the complainant falsified his/her statements, the City may take whatever action it deems appropriate and the officer may at his/her discretion pursue whatever legal remedies are available.

20.1.14 The Chief, and only the Chief, may order or request a polygraph examination. Unless there are extenuating circumstances, deception detection examinations shall be employed only after:

20.1.14.1 The Chief has carefully reviewed the entire case;

20.1.14.2 All investigative leads have been exhausted;



20.1.14.3 The APOA President, or his designated representative, has been briefed on the facts of the case and the reasons for ordering the polygraph examination. The APOA President will receive a copy of the entire case with reasonable review time. The APOA will be given reasonable time to suggest (on the record) any investigative leads that need to be followed.

20.1.14.4 The citizen complainant has submitted to and passed such an examination.

20.1.14.5 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 APOA will be advised 24 hours in advance, in writing, prior to the administration of the polygraph test.

20.1.15 In all cases where a sworn member becomes aware of a violation of the S.O.P or a violation of federal, state, or municipal law that is or is likely to lead to an investigation, Internal Affairs must be notified.

20.1.16 Any administrative investigation will be completed within 90 days. The 90 day period shall not include time for review. An extension of up to 30 days may be granted but will only be obtained in writing and approved by the Chief of Police. A copy of the approval will be sent to APOA. The review process shall be completed within 30 days.

20.1.17 Officers who are the subject of an investigation shall be provided with written notification as to the disposition of the investigation within fourteen (14) days.

20.1.18 As soon as an officer is determined to be the subject of an administrative investigation, he/she will be notified unless this disclosure would jeopardize the investigation.

## **21. GRIEVANCE and APPEAL PROCEDURES**

### **21.1 Grievance Procedures**

21.1.1 The purpose of this procedure is to secure, in an atmosphere of courtesy and cooperation and at the lowest possible administrative level, an equitable solution to the problems, which may arise. A grievance or appeal should first be discussed with the aggrieved person's immediate supervisor with the objective of resolving the matter informally.

21.1.2 Grievances and Appeals are formal complaints of employees concerning actions taken by management, which result in loss of pay or seniority, or in written reprimand. Other complaints officers have about working conditions, rules and regulations, promotions and transfers must be made through the chain of command.

21.1.3 Since it is important that grievances be resolved as rapidly as possible, time limits given shall be considered as maximum and every effort shall be made to expedite the process. In the event that the last day of a time limit falls on a weekend or a legal holiday as defined herein, the time limit shall include the next working day.

21.1.4 Refusal to appear and participate in a grievance or appeal proceeding at any formal stage in a proceeding shall result in forfeiture of the right to grieve or appeal. As a condition of employment, employees are required to appear as witnesses in grievances and appeal hearings when requested by the aggrieved employee or by members of the City administrative staff.

21.1.5 Before taking action which could result in loss of pay or seniority or in a written reprimand, a Chief of Police, the Chief's designee, or in the case of Aviation, the appropriate department director or his designee may call for an informal review of the circumstances surrounding the proposed action. An officer who is aggrieved by such action may appeal the decision to the Chief of Police, the Chief's designee, or in the case of Aviation or officers, the appropriate department director or his designee within ten (10) calendar days of the action being taken. A supervisor contemplating discipline shall not be required to submit the issue to the City Mediation Program Coordinator prior to the employee's response to the discipline.

The decision of the Chief of Police, the Chief's designee, or in the case of Aviation the appropriate department director or his designee may be grieved or appealed through the procedures set forth in this Section.

21.1.6 Disciplinary action in the form of a suspension may be implemented immediately or postponed pending the outcome of a grievance or appeal. The decision by the Chief of Police, the Chief's designee, or in the case of Aviation the appropriate department director or his designee as it relates to the immediate implementation or postponement of the suspension will be made on a case by case basis, and shall not be considered to set precedent.

21.1.7 An attempt will be made to notify an officer in a disciplinary action in everyday languages and not track the language of a criminal statute or criminal ordinance. No specific language is required to meet any jurisdictional test. The language need only be specific enough to notify the officer of the alleged misconduct. This section will not limit the City from pursuing any criminal charges against the officer.

21.1.8 Participation in the City Mediation Program shall be voluntary. The member may elect mediation or he/she may bypass the City Mediation Program and the additional review by the Chief of Police, the Chief's designee, or in the case of Aviation officers, the appropriate department director or his designee.

21.1.9 Written reprimands will not be grievable through the Chief Administrative Officer as per the Merit System Ordinance 3-1-23, reference Grievance Procedure. The following will be the process for written reprimands.

21.1.9.1 Unless there is a request for mediation, the parties will not be required to submit written reprimands through the City Mediation Program.

21.1.9.2 A written reprimand will only be determined and issued through the employee's chain of command.

21.1.9.3 A written reprimand will be appealed to the appropriate deputy chief of the issuing individual who determined and issued the reprimand. This will be the employee's opportunity to respond to the discipline. This appeal may be in writing

or in person and must occur within 10 days after the employee receives and has the opportunity to sign for the reprimand. The decision of the deputy chief will be final.

21.1.9.4 The discipline will be considered imposed after the final decision of the appropriate deputy chief or chief. If there is no request for review the discipline will be considered imposed after the ten day period passes.

21.1.9.5 The Chief of Police, the Chief's designee, or in the case of Aviation, the appropriate department director or his designee within the Department has the sole authority to discipline.

21.1.10 A written reprimand will be purged from all files within one year of the date of the incident. A written reprimand will not be considered for transfer or in the promotional process. If a written reprimand is used for progressive discipline, the Ad Hoc Grievance Committee may consider the underlying issues in determining the appropriateness of the progressive discipline.

## 21.2 Appeals

21.2.1 Grievances involving discipline resulting in a suspension of 40 hours or less and transfers as a result of a disciplinary action will be appealed through the City's Merit System Ordinance.

21.2.2 Appeals involving discipline resulting in suspensions of more than 35 hours, demotion or discharge, will be appealed in accordance with the provisions of Section 3-1-24 of the Merit System Ordinance.

21.2.3 The Chief of Police or his designee has the option on a suspension of five (5) days or less to prohibit the employee from the workplace or to allow the employee to work through the suspension with pay.

21.2.4 The employee may file a written response to any document containing adverse comments entered into his/her personnel file. The written response shall be attached to the document.

## **22. EMPLOYEE REIMBURSEMENTS**

### 22.1 Other Employee Reimbursements

22.1.1 The City will reimburse an officer for replacement of repair, at the City's option, for health aids, uniform apparel and personal equipment approved by the Department, lost, damaged, or stolen in the line of duty as a result of a direct delivery of service that has been officially documented. In the case of a uniform replacement, the Officer will receive a voucher for the purchase of another uniform. The City will reimburse the cost for replacement or repair of health aids, personal equipment or for each piece of uniform apparel, according to the City Risk Management guidelines. The City will have the right to retain any damaged equipment that is replaced. This language is not intended to be used to replace old, worn out health aids or uniform apparel. Any replacement equipment will be of equal value to the damages property.

If the health aids, uniform apparel or personal equipment are lost, stolen or damaged as a result of the contributory negligence of the officer, proven to the satisfaction of the chain-of command, the City will not be liable for reimbursement for replacement or repair.

## **23. LEGAL PROTECTION**

### 23.1 Legal Protection/ Civil Actions

23.1.1 Should a police officer be sued in a civil action for any allegations arising out of the course and scope of the officer's employment, the City will defend and indemnify that officer pursuant to the requirements of the New Mexico Tort Claims Act, Section 41-4-1 et. seq., NMSA 1978, as amended.

23.1.2 The city will notify the officer prior to the first interview with the City Attorney if there is any conflict of interest between the city and the officer or if the city intends to dispute that the officer was in the course and scope of employment at the time of the incident on which the complaint is based. If a conflict exists or if the city intends to dispute that the officer was in the course and scope of employment, the officer, an APOA Representative and/or Association Attorney, and the City Attorney must meet and confer to address the conflict or the dispute. Additionally, if the officer perceives a conflict of interest the officer, an APOA Representative and the City Attorney must meet and confer to address and resolve the conflict.

In the event the officer is notified of a conflict of interest or dispute that the officer was in the course and scope of employment, there shall be no interview between the officer and the City Attorney until such time as the officer is represented by counsel and/or consents to an interview.

If a conflict of interest is identified, the City will provide a contract attorney from a list compiled by the City Attorney's office. If the officer agrees to waive the conflict, the city must have this waiver in writing.

No information provided by an officer to the City Attorney's office or any agent of that office shall be used in any disciplinary or criminal action against the officer.

23.1.3 In the event an officer is sued in a civil action in which punitive damages are alleged, and the officer was not personally served with the summons and complaint, it shall be the duty of the City to notify the officer, in writing (either personally or through the APOA representative), within thirty (30) days of the receipt of the suit by the City Attorney's Office of the potential personal exposure of the officer for punitive damages. This provision shall only apply to suits filled after the effective date of this contract.

23.1.4 The officer shall have the right to consult the attorney of the officer's choice after notifying the City Attorney's office regarding a lawsuit to which the officer is a party at City expense up to \$300.00 per lawsuit.

23.1.5 The City further agrees to communicate to the officer's chosen attorney, once the officer's attorney has notified the City Attorney in writing of his/her representation, any and all settlement offers communicated by the plaintiffs attorney. The City likewise agrees to meet in good faith with the officer's chosen attorney to discuss such settlement offers, upon the request of the officer's chosen attorney.

23.1.6 Should an officer have punitive damages awarded against him/her by a judge or jury, the City agrees to appeal that judgment should cause exist in the discretion of the City.

## 23.2 Public Policy/ Criminal Actions

23.2.1 It is understood by the parties that it is against public policy to defend an officer in a criminal suit once the officer is indicted for a criminal act.

## 23.3 Legal Protection/ General Provisions

23.3.1 If the City, or its insurer, declines to defend and indemnify an officer because the City believes that officer acted outside the course and scope of the officer's employment, the City, or its insurer, agrees to pay the reasonable hourly attorney's fees of an attorney of the employee's choice (up to \$150.00 per hour) to litigate in a declaratory judgment action the issue of whether the conduct was within the course and scope of the officer's employment. If such a declaratory judgment action is decided favorably to the officer, that is, if it is determined that the officer was acting within the course and scope of the officer's employment, then the City, or its insurer, will defend and indemnify the officer, pursuant to the New Mexico Tort Claims Act 41-4-1 et. seq., NMSA 1978, as amended.

23.3.2 For purpose of this section and Agreement, the phrase "course and scope of employment" means the lawful acts, which an officer is requested, required, or authorized to perform by the City.

23.3.3 Nothing herein shall bar the use in Court of case law and common law in the resolution of any disputes arising out of an interpretation of the New Mexico Tort Claims Act 41-4-1 et. seq., NMSA 1978.

23.3.4 It is understood by the parties that a breach of this Agreement shall not, in itself, cause the City to be liable for any punitive damages arising out of any suit to which the officer is a party.

## **24. EMPLOYEE ASSISTANCE PROGRAMS**

### 24.1 Burial and Funeral Expense

24.1.1 The City agrees to defray funeral and burial expense of any officer who dies while performing their law enforcement duties up to a maximum of nine thousand dollars, (\$9,000).

## **25. TAKE HOME CAR PLAN**

25.1 The continuation of the "Take Home Vehicle Plan" is within the sole prerogative of the Chief of Police. If the Chief of Police decides to discontinue the "Take Home Vehicle Plan", he/she shall give the APOA 45 days advance notice. Officer's hired after 7/1/11 who live outside of the territorial city limits of the City of Albuquerque are prohibited from participating in the take home car plan.

25.2 During the 45 days, the Chief of Police, or his/her designee, and the Association will meet and attempt to solve problems relating to this program, in an effort to continue the “Take Home Vehicle Program.” If no agreement is reached, the Chief of Police may discontinue the “Take Home Vehicle Plan.” Nothing in this section prohibits the Chief from discontinuing the program, then implementing a new program after the 45 days’ notice has expired.

25.3 Participation Provisions

25.3.1 Participation in this program shall be totally voluntary and will be available to every non-probationary officer, subject to Department Rules and Regulations governing this program (herein referred to as “regulations”). The right to limit or deny participation in this program is reserved to the Chief of Police.

25.3.2 Officers volunteering to participate in this program agree to abide by all regulations governing this program.

25.3.3 The Take Home Motorcycle Plan will be held to the same condition as the “take Home Vehicle Plan.”

25.4 Due Process

25.4.1 If an officer fails to follow the regulations governing this program, it will be cause for the Vehicle to be taken away from an officer.

25.4.2 The Department gas allotment will be followed. Officers who fail to abide by the policy will be subject to the sanction set forth in this agreement.

25.4.3 A vehicle may be taken from an officer for other infractions, not listed, and the appeal process will be the same.

25.4.4 Sanctions

1 <sup>st</sup> infraction in a 12 –month period	14 calendar days
2 <sup>nd</sup> infraction in a 12-month period	4 weeks
3 <sup>rd</sup> infraction in a 12-month period	6 months

25.4.5 Officers will be notified in writing of the suspension of their take home vehicle privileges.

25.4.6 The following will be the only appeal process for suspension of an officer’s take home vehicle privileges for cause.

25.4.6.1 Upon being notified of the suspension of his/her take home car vehicle privileges, the officers may acknowledge the violation and begin serving the sanction.

25.4.6.2 If the officer wishes to appeal the sanction, within five (5) days of notification of suspension of the officer’s take home vehicle privileges, he/she must submit a letter in writing to the President of the Association, notifying the President

of his/her intention to appeal and specifying the reasons the officer feels the sanction should be imposed.

25.4.6.3 Within five (5) days of notification, the President of the Association will advise the Chief of Police, a panel will be selected to hear the appeal.

25.4.6.4 The panel will consist of 3 sworn personnel chosen by the Chief of Police and 2 sworn personnel chosen by the APOA president.

25.4.6.5 The panel will meet at a mutually agreed upon time. Attendance at the meeting is voluntary on the part of the officer. If the officer does not appear before the panel, an Association representative will present the case.

25.4.6.6 The decision of the panel will be binding.

25.4.6.7 The officer will be advised of the panel's decision at the end of the review, in writing.

25.4.6.8 The loss of a take home vehicle will not occur until after the entire review process is completed, if the officer appeals the suspension.

25.4.6.9 The final decision of the panel will not be considered disciplinary action and will not be placed on the officer's employee card.

## 25.5 Regulations

25.5.1 The regulations of the "Take Home Vehicle Plan" will be identified separately from this contract.

25.5.2 The regulations of the "Take Home Vehicle Plan" may be modified at the discretion of the Chief of Police. Prior to any modification of the regulations, the City will provide notice to the Association pursuant to Section 32 (Rules and Regulations).

## 25.6 Aviation Police

25.6.1 Nothing in this Section shall be interpreted to require a "Take Home Vehicle Plan" be implemented for Aviation Police.

## 26. **FIREARMS**

26.1 Firearms regulations of the Albuquerque Police Department as prescribed in the Department's Standard Operating Procedures Manual at the signing of this Agreement shall remain in full force and effect for all bargaining unit employees for the term of the Agreement.

26.2 The Employer shall provide practice ammunition for .38, 9mm, .45 ACP, 12 Gauge Shotgun Slug, .223, and .40 as well as duty ammunition for those calibers.

## 27. **CITY PROVIDED EQUIPMENT and TOOLS**

27.1 Lost, Damaged or Stolen Property

27.1.1 Officers who have lost, damaged or have had City property stolen in the line of duty, regardless of the cost, will not be required to reimburse the City unless negligence is proven to the satisfaction of their chain-of command.

27.1.2 Officers who have been determined to have contributory negligence for lost, damaged, or stolen property shall only be required to reimburse the City up to the value of \$250, or may elect to replace the lost, damaged, or stolen item. Appropriate disciplinary action may also be taken when necessary.

## **28. EMPLOYEE INCENTIVE PROGRAMS**

### 28.1 Employee Recognition Program

28.1.1 The Parties recognize that the City has the discretion to develop and implement a system of awards pursuant to Section 3-1-19 of the Merit System Ordinance. The decision of the City to implement or continue an awards system, or the decision to make an award under such a system, shall not be the subject of a grievance or claim of contract violation.

### 28.2 Sick Leave Incentive Program

28.2.1 A police officer will receive one extra day of vacation every six (6) months, if that officer does not use any sick leave during the same six (6) month period.

### 28.3 Academic Incentive Program

28.3.1 Credit hours shall be compensated for on a fixed dollar amount as follows:

28.3.1.1 All officers shall continue to receive academic incentive pay at the rate they are receiving as of the effective date of this agreement.

28.3.1.2 Bachelor's Degree shall be compensated at sixty-two dollars and thirty-one cents (\$62.31) biweekly so long as such degrees is from an accredited college or university and can be officially verified.

28.3.1.3 Master's Degree shall be compensated at seventy-three dollars and eighty-five cents (\$73.85) bi-weekly so long as such degree is from an accredited college or university and can be officially verified.

28.3.1.4 A Ph.D. shall be compensated at eighty-five dollars and thirty-eight cents (\$85.38) bi-weekly so long as such degree is from an accredited college university and can be officially verified.

28.3.1.5 Payment shall be implemented bi-weekly.

28.3.1.6 Officers will be paid for only one degree at the highest academic level obtained.

28.3.2 The initial verification of education status made by the department for entry into police service will also be used to determine the qualification for the Academic Incentive.



28.3.3 It is the responsibility of the officer to update his/her file from transcripts from an accredited college or university and can be officially verified.

## **29. EMPLOYEE PAYROLL DEDUCTIONS**

29.1 Officers will be required to sign up for pay by direct deposit. Paychecks will be cut for officers in cases where hardships would otherwise result.

## **30. LAYOFF/REDUCTION IN FORCE and RECALL**

### **30.1 Layoff and Recall**

30.1.1 In the event that layoffs are necessary, the City shall provide the Police Departments and the APOA with an opportunity to propose alternatives.

30.1.2 When it is necessary to have a reduction in work force, officers will be laid off in reverse order of seniority within the Department.

30.1.3 Officers laid off due to a reduction in force will be called back to work in their seniority order according to the following procedures:

30.1.3.1 The City will advise the officer to be recalled by certified or registered United States mail. A copy of such recall notice will be furnished to the APOA.

30.1.3.2 An officer, upon receiving notice of recall, within seven (7) days will acknowledge receipt by certified or registered mail advising the Chief of Police of the date he/she will be available for service, which available dates must not be later than twenty (20) calendar days from the date the officer receives the recall notice, unless there are extenuating circumstances.

30.1.3.3 Officers failing to comply with this section will forfeit their recall right to this position and be placed at the end of the recall list. Failure to report after the second recall notice will be considered an automatic resignation. It is understood that the City will have discharged its obligations of notification to laid-off officers by having forwarded recall notices as herein outlined.

30.1.4 The City will not start a new academy police class until police officers, laid off as a result of a reduction in the work force, have been given an opportunity to return to work.

30.1.5 The term seniority, for purpose of this section, shall mean time in rank. In situations where officers are required to bump into a lower rank, the officer moving to the lower rank shall be considered senior in that rank.

30.1.6 As officers are called back, the officers assigned to lower ranks will be returned to the former rank, in order of seniority, as the position becomes available.

30.1.7 Officers may remain on layoff status for a period of two years. Officers on layoff status will not lose seniority as a result of being on layoff status.

## **31. RESIGNATION and RETIREMENT**

### 31.1 Resignation

31.1.1 Employees shall be compensated in cash at their regular rate of pay for any unused accumulation of vacation when they are permanently separated from the City.

### 31.2 Retirement

31.2.1 The City will pay to a police officer the total amount of his/her accumulated sick leave at the time of his/her retirement, provided he/she has completed a minimum of fifteen (15) years of service in the Police Department and/or Aviation Police. In lieu thereof, the police officer who is contemplating retirement, may, immediately prior to his/her retirement, convert his/her accumulated sick leave to leave with pay on the basis of one (1) day sick leave for one (1) day leave with pay. No sick leave will be accrued while the officer is on early retirement leave.

31.2.2 If the police officer is eligible to early retire, he/she may convert his or her accumulated sick leave with pay on the basis of (1) day sick leave with pay regardless of the number of years he/she worked for the Albuquerque Police Department and/or Aviation Department.

## **32. RULES and REGULATIONS**

32.1 The employer reserves the right to develop and implement such directives rules and regulations as may be deemed necessary to the employer for the conduct of affairs of the Department.

32.2 The Association (APOA) agrees that the employees shall be bound by and obey such directives, rules, and regulations insofar as the same do not conflict with this Agreement, the laws of the United States, the laws of the State of New Mexico and/or the laws of the City of Albuquerque. Under normal circumstances, the Association will be given written notice of proposed changes to Department directives, rules and regulations that directly affect the wages, hours, and working conditions of bargaining unit member and may submit written input to the Chief within fourteen (14) days.

32.3 An M.O.U. between the parties must be reached and executed in the case where either party wishes to change or amend a policy which would be in conflict with the provisions of this Agreement. All MOUs shall require the signature of the CAO and the President of the Union, the signatures must be dated.

## **33. SPECIAL PROVISIONS FOR AVIATION**

### 33.1 Aviation

33.1.1 During the month of December the Aviation Department will provide for its employees the right to bid for vacation on scheduling for the following year. Vacation will be bid in seniority order by department. A calendar for bidding, identifying vacation slots will be provided for employees to bid for their vacation. It is required that one Union representative on each shift be identified to assist management with the bidding process. Em-

ployees will be allowed to bid in conjunction with their days off, and will not be required to bid in blocks of three. Units that are currently on a 6-month bid will continue to do so for the duration of this contract.

33.1.2 Unscheduled vacation is defined as accrued vacation time which was not scheduled during the bidding period. Such vacation time may be requested on an individual basis for available days on a first come, first serve basis. These requests will be submitted to the employee's immediate supervisor on a P-30 form and the request will identify the date and time received.

33.1.3 All P-30's will be returned to employees within forty-eight hours (48) hours.

33.1.4 If an employee is on suspension, injury leave, administrative leave, sick leave or other leave during their scheduled vacation, any other employee may request such vacation time as unscheduled vacation on a first-come, first-served basis.

### 33.2 Aviation

33.2.1 For Aviation Departments, sergeants and officers will bid for assignment based on seniority and the bidding will occur every (6) months. Sergeants will bid first, followed by the officer's bid. Bidding is for shift, days off, overtime, and vacation. The Department Director's or Chief's decisions shall not be subject to challenge under this Agreement's Grievance Procedure.

33.2.2 Aviation shall continue to receive a uniform allowance of \$23.08 per pay period. The Aviation allowance shall be terminated when the department begins its distribution of uniforms to employees.

## 34. **STRIKES and LOCKOUTS**

34.1 The Association, its elected officials, and members of the Association agree that they will not call, sanction, encourage, or participate in any way in any strike. For the purposes of this section, a person will be deemed a member of the Association if that employee is currently a member or if the employee has resigned the employee's membership within sixty (60) days of the first day of a strike or during a strike.

34.2 Strike shall be defined as stated in the City of Albuquerque Labor Management Relations Ordinance (Ordinance 4-1977).

## 35. **GENERAL ADMINISTRATIVE PROVISIONS**

### 35.1 Memoranda of Understanding (MOU)

35.1.1 The parties may execute memoranda of Understanding (MOUs) during the term of this agreement. The MOUs will expire no later than the termination date of this Agreement.

### 35.2 Complete Agreement

35.2.1 It is understood and agreed by and between the parties hereto that this Agreement is the only existing Agreement between the parties, and replaces any and all previous Agreements.

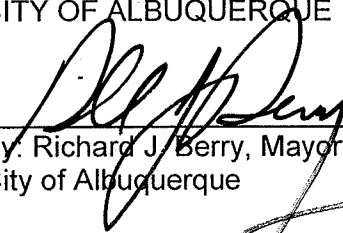
35.3 Savings Clause

35.3.1 Should any part of this Agreement or any provision contained herein be declared invalid by a District Court or competent jurisdiction, the validity of the remaining portions shall not be affected. Should this occur, the parties will immediately meet to negotiate a suitable provision or replace the provision held invalid.

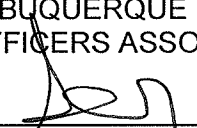
35.4 Term of the Agreement – This Agreement shall become effective on the first full pay period following ratification by the membership, approval by the Mayor, and signature by the parties, and shall remain in effect through June 30, 2016.

IN WITNESS WHEREOF, the parties have entered their names and affixed the signatures of their authorized representatives on this 5<sup>th</sup> day of February, 2016.

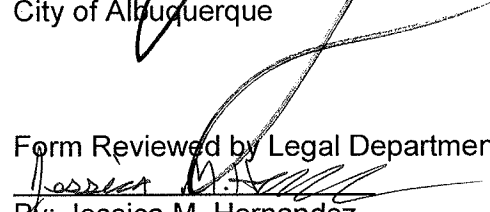
CITY OF ALBUQUERQUE

  
By: Richard J. Berry, Mayor  
City of Albuquerque

ALBUQUERQUE POLICE  
OFFICERS ASSOCIATION

  
By: Shaun Willoughby,  
Acting President APOA

Form Reviewed by Legal Department

  
By: Jessica M. Hernandez,  
City Attorney

(Seal)

  
Natalie Howard,  
City Clerk



**MEMORANDUM OF UNDERSTANDING  
BETWEEN ALBUQUERQUE POLICE OFFICERS ASSOCIATION  
AND THE CITY OF ALBUQUERQUE  
REGARDING GARRITY STATEMENTS**

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THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into on this 4<sup>th</sup> day of February, 2015, by and between the City of Albuquerque (“City”) and the Albuquerque Police Officers Association (“APOA”) (the City and APOA are collectively referred to as the “Parties”).

WHEREAS, the Parties agree previous contract language in the prior Collective Bargaining Agreement, section 20.1.10, as it applies to the release of Garrity statements to the POB and the CPOA, is no longer applicable;

WHEREAS, the parties agree it is desirable to have clear guidelines for this issue moving forward.

NOW, THEREFORE, the parties agree to the following:

**I. EFFECTIVE DATE.** The Parties agree that, so long as both Parties sign this MOU, the “effective date” is the date that the last Party executes this MOU.

**II. TERMS PERTAINING TO GARRITY STATEMENTS**

1. The Parties have reached an agreement that is embodied in a proposed amended ordinance, which will be submitted to City Council for their consideration.
2. The Parties agree to take no action or make any attempt to further change or amend the agreed upon proposed amended ordinance.
3. Until such time, the Parties agree that the CPOA and the POB will receive the names of the involved officers when an investigation is conducted.
4. The Parties agree that once City Council has taken action on the proposed amended ordinance, they will meet within thirty (30) days to rewrite section 20.1.10.

**III. MOU CREATES NO THIRD PARTY BENEFITS.**

By entering into this MOU, the Parties do not intend to create any right, title, or interest in or for the benefit of any person other than the Parties. No person shall claim any right, title, or interest under this MOU or to seek to enforce this MOU as a third party beneficiary of this MOU. The Parties agree that this MOU shall only be applicable to positions within the APOA bargaining unit.

**IV. NO FURTHER AGREEMENT.**

This MOU incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants, and understandings have been merged into this MOU. This MOU expresses the entire MOU and understanding between the parties. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this MOU.

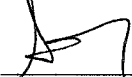
**V. SEVERABILITY.**

In case any one or more of the provisions contained in this MOU or any application thereof shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

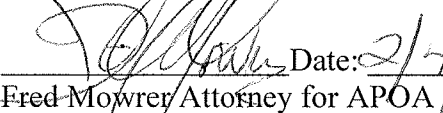
IN WITNESS WHEREOF, each Party has executed this agreement on the date indicated by the signature.

APOA:

APPROVED BY:


 Date: 2.4, 2016  
Shaun Willoughby, Acting President APOA

APPROVED AS TO LEGAL FORM:

 Date: 2/4, 2016  
Fred Mowrer Attorney for APOA

CITY OF ALBUQUERQUE

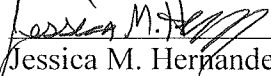
APPROVED BY:

 Date: 2/4, 2016  
Robert J. Perry, Chief Administrative Officer  
City of Albuquerque

APPROVED AS TO FORM:

 Date: 02/04, 2016  
Gorden Eden, Chief Albuquerque Police Department

APPROVED AS TO LEGAL FORM:

 Date: Feb. 4, 2016  
Jessica M. Hernandez, City Attorney City of Albuquerque

SMH

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE ALBUQUERQUE POLICE OFFICERS' ASSOCIATION  
AS REPRESENTATIVE OF THE PRISONERS TRANSPORT UNIT  
AND THE CITY OF ALBUQUERQUE REGARDING  
COLLECTIVE BARGAINING AGREEMENT CORRECTIONS**

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This **MEMORANDUM OF UNDERSTANDING** (“MOU”) is entered into by and between the City of Albuquerque (“City”) and the Albuquerque Police Officers’ Association (“APOA”) (the City of Albuquerque and the APOA are collectively referred to as the “Parties”).

**WHEREAS**, the Parties have entered into a Collective Bargaining Agreement (“CBA”); and

**WHEREAS**, the parties have agreed to correct the following errors in the aforementioned CBA;

**NOW, THEREFORE**, the parties agree to the following:

**I. EFFECTIVE DATE.**

The Parties agree that, so long as both Parties sign this MOU, the “effective date” is the date that the last Party executes this MOU.

**II. ADD THE FOLLOWING LANGUAGE TO ARTICLE 2.1:**

“2.1.1. Employees permanently assigned to the swing shift will receive fifteen cents (\$0.15) per hour swing shift differential pay and twenty cents (\$0.20) per hour shift differential pay for permanent assignment to graveyard shift.

2.1.2. Swing and graveyard shifts shall be defined by each department.”

**III. AMEND 5.1.2 TO READ AS FOLLOWS:**

“**Excess vacation accruals up to** a maximum of eighty (80) will be paid to the Employee as monetary compensation at the end of the calendar year, on an hour for hour basis.”

**IV. AMEND 7.2.3 TO READ AS FOLLOWS:**

A floating holiday may be used at any time after the actual holiday or within the pay period **after** the holiday provided the day is used during the calendar year in which it occurs and the employee’s supervisor agrees with the employee’s request.

**V. MOU CREATES NO THIRD PARTY BENEFITS**

By entering into this MOU, the parties do not intend to create any right, title, or interest in or for the benefit of any person other than the Parties. No person shall claim any right, title or interest under this MOU or to seek to enforce this MOU as a third party beneficiary of this MOU. The

parties agree that this MOU shall only be applicable to positions within the APOA bargaining unit.

**VI. NO FURTHER AGREEMENT**

This MOU incorporates all the agreements, covenants, and understandings between the Parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this MOU. This MOU expresses the entire MOU and understanding between the parties. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this MOU.

**VII. SEVERABILITY**

In case any one or more of the provisions contained in this MOU or any application thereof shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

**IN WITNESS WHEREOF**, each party has executed this agreement on the date indicated by the signature.

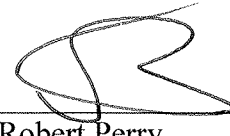
APOA

CITY OF ALBUQUERQUE

APPROVED BY:

APPROVED BY:

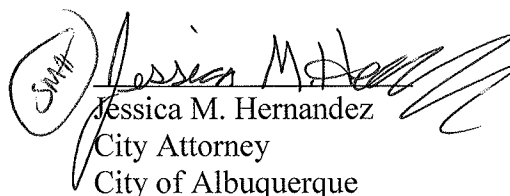
  
\_\_\_\_\_  
Mr. Shaun Willoughby  
APOA President

  
\_\_\_\_\_  
Mr. Robert Perry  
Chief Administrative Officer  
City of Albuquerque

Date: 3/7/16

Date: 3/10/16

APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
Jessica M. Hernandez  
City Attorney  
City of Albuquerque

Date: 3/09/16



MEMORANDUM OF UNDERSTANDING  
BETWEEN THE ALBUQUERQUE POLICE OFFICERS' ASSOCIATION  
AND THE CITY OF ALBUQUERQUE REGARDING  
SUPPLEMENT TO COLLECTIVE BARGAINING AGREEMENT

This MEMORANDUM OF UNDERSTANDING ("MOU") is entered into on this \_\_\_\_ day of March 2016, by and between the City of Albuquerque ("City") and the Albuquerque Police Officers' Association ("APOA") (the City of Albuquerque and the APOA are collectively referred to as the "Parties").

WHEREAS, the Parties have entered into a Collective Bargaining Agreement ("CBA") and

WHEREAS, the Parties have agreed to memorialize the current practices regarding the Canine Unit in the Albuquerque Aviation Police and

WHEREAS, the parties have agreed to supplement the CBA currently in effect to reflect these practices.

NOW, THEREFORE, the parties agree to the following:

**I. COLLECTIVE BARGAINING AGREEMENT ADDITIONAL LANGUAGE**

Add the following language to Article 33 – Special Provisions for Aviation

- a. Section 33.3.1, Aviation Police K9 officers will not be required to remain at home for the purposes of stand-by, so long as the officer assigned to stand-by is able to respond to the Albuquerque International Sunport within forty-five (45) minutes of call. Canine Officers will be issued cell phones to facilitate this response time.
- b. Section 33.3.2, In the event the Aviation Police Department Canine Unit is discontinued, all Canine Officers will be reassigned to the Aviation Patrol Unit.
- c. Section 33.3.3, Vacancies within the canine unit will be hired from within the Aviation Police Department. If no qualified Officers are available to fill such vacancies, the department may then consider hiring certified law enforcement officers from within Albuquerque Police Department. Such outside hires will be required to satisfy Section 19 of the Contract.
- d. Section 33.3.4, The Take Home Car Plan will be applicable by Aviation Police Canine Officers. The Aviation Police Department will provide such a take home car. The continued use of such take home car will be within the sole prerogative of the Director of Aviation, in accordance with Section 25, and will only be used in accordance with the Aviation Police Canine Standard Operating Procedure or at the direction of the AAPD Deputy Chief Operations.
- e. Section 33.3.5, Higher ranks have seniority over junior ranks. The officer with the most continuous service within the Canine Unit is senior within the unit. For the purpose of breaking a tie on seniority, the first criteria to be applied shall be date of hire with the department. Should the date of hire within the department

be identical, then the tie will be broken by the use of employee numbers or lottery numbers, whichever is applicable.

1. Aviation Canine Officers returning to Aviation Police Patrol will retain seniority per Section 13.
- f. Section 33.3.6, the work days, days off and start times of shifts will be fixed, but as training and utilization are required, shifts can be flexible as agreed upon by Canine Handlers and AAPD Deputy Chief Operations. Canine Handlers will receive one (1) hour of regular time per day for each eight-hour (8) shift (7 hours on duty, 1 hour dog care), or one (1) hour and fifteen (15) minutes of a ten (10) hour shift (8 hours, 45 minutes on duty, 1 hour, 15 minutes dog care) for upkeep of the canine and associated equipment.
- g. Section 33.3.7, Canine Officers will receive Hazardous Duty Pay at \$23.08 per pay period.

## **II. MOU CREATES NO THIRD PARTY BENEFITS**

By entering into this MOU, the parties do not intend to create any right, title, or interest in or for the benefit of any person other than the Parties. No person shall claim any right, title or interest under this MOU or to seek to enforce this MOU as a third party beneficiary of this MOU. The parties agree that this MOU shall only be applicable to positions within the APOA bargaining unit.

## **III. EXPIRATION**

This MOU will expire upon expiration of the current CBA, or upon renegotiation of above mentioned sections by the parties.

## **IV. NO FURTHER AGREEMENT**

This MOU incorporates all the agreements, covenants, and understandings between the Parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this MOU. This MOU expresses the entire MOU and understanding between the parties. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this MOU.

## **VI. SEVERABILITY**

In case any one or more of the provisions contained in this MOU or any application thereof shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.


IN WITNESS WHEREOF, each party has executed this agreement on the date indicated by the signature.

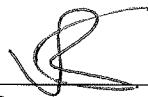
APOA

CITY OF ALBUQUERQUE

APPROVED BY:

APPROVED BY:

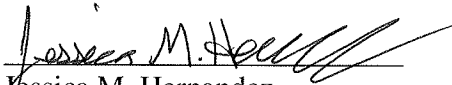
  
\_\_\_\_\_  
Shaun Willoughby  
APOA Acting President

  
\_\_\_\_\_  
Robert J. Perry  
Chief Administrative Officer  
City of Albuquerque

Date: 3/15/16

Date: 3/17/14

APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
Jessica M. Hernandez  
City Attorney  
City of Albuquerque

Date: 3/09/16