

RESOLUTION NO. 54-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING AND RATIFYING AN AMENDMENT TO THE EXISTING MEET AND CONFER AGREEMENT BETWEEN THE CITY OF MESQUITE, TEXAS (“CITY”), AND THE MESQUITE POLICE ASSOCIATION (“ASSOCIATION”) ADDING A LATERAL ENTRY PROGRAM FOR THE MESQUITE POLICE DEPARTMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE SECOND AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE ASSOCIATION; AUTHORIZING THE CITY MANAGER, OR THE CITY MANAGER’S DESIGNEE, TO TAKE ALL ACTIONS NECESSARY OR REQUESTED TO CARRY OUT THE TERMS AND PROVISIONS OF THE AMENDMENT TO THE SECOND AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE ASSOCIATION.

WHEREAS, the City of Mesquite, Texas (“City”), and the Mesquite Police Association (the “Association”) have entered into a meet and confer agreement as more fully set forth in that certain Second Amended and Restated Memorandum of Understanding between the City and the Association executed by the Association on July 18, 2016, and executed by the City on July 19, 2016 (the “Second Amended and Restated Meet and Confer Agreement”); and

WHEREAS, the City and the Association desire to establish a lateral entry program for the Mesquite Police Department (“Department”) to assist the Department in being more competitive in attracting applicants with previous law enforcement experience; and

WHEREAS, the City and the Association desire to amend the Second Amended and Restated Meet and Confer Agreement to add a lateral entry program for the Department as more fully set forth in the Amendment to Second Amended and Restated Memorandum of Understanding Between the City and the Association attached hereto as Exhibit “A” and made a part hereof for all purposes (hereinafter the “Amendment”); and

WHEREAS, pursuant to Subchapter B of Chapter 142 of the Texas Local Government Code, to be enforceable and binding, the governing body of the City must ratify the Amendment by majority vote and the Association must ratify the Amendment by conducting a secret ballot election at which a majority of the police officers who would be covered by the Amendment favor ratifying the Amendment; and

WHEREAS, the Association has ratified the Amendment by conducting a secret ballot election at which 158 sworn police officers of the Department, constituting a majority of police officers who would be covered by the Amendment, favored ratifying the Amendment; and

WHEREAS, the City Council desires to approve and ratify the Amendment, to authorize the City Manager to execute the Amendment, and further desires to authorize the City Manager,

or the City Manager's designee, to take all actions necessary or requested to carry out the terms and provisions of the Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Council hereby approves and ratifies the Amendment, a true and correct copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes.

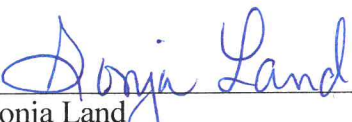
SECTION 2. That the City Manager is hereby authorized to execute the Amendment and the City Manager, or the City Manager's designee, is hereby authorized to take all actions necessary or requested to carry out the terms and provisions of the Amendment.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 19th day of December, 2016.



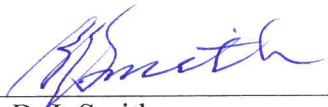
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney

**AMENDMENT TO
SECOND AMENDED AND RESTATED
MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF MESQUITE, TEXAS
AND
MESQUITE POLICE ASSOCIATION**

This Amendment to Second Amended and Restated Memorandum of Understanding between the City of Mesquite, a Texas home rule municipality (the "City") and the Mesquite Police Association (the "Association") (this "Amendment") is made and entered into between the City and the Association.

WHEREAS, the City and the Association have entered into a meet and confer agreement as more fully set forth in that certain Second Amended and Restated Memorandum of Understanding between the City and the Association executed by the Association on July 18, 2016 and executed by the City on July 19, 2016 (the "Second Amended and Restated Meet and Confer Agreement"); and

WHEREAS, the City and the Association desire to amend the Second Amended and Restated Meet and Confer Agreement as more fully set forth herein; and

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Second Amended and Restated Meet and Confer Agreement.

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), the promises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the City and the Association hereby agree as follows:

1. ***Addition of Definitions.*** The Second Amended and Restated Meet and Confer Agreement shall be amended by ***adding the following definitions in Article 1***, to-wit:

"City's Police Civil Service Pay Plan" shall mean the City of Mesquite Civil Service Pay Plan – Police as adopted annually by the City Council of the City, as now existing and as hereafter amended.

"Comparable Law Enforcement Agency" shall have the meanings set forth in this paragraph. A state or local law enforcement agency in the State of Texas shall be a "Comparable Law Enforcement Agency" if the agency is authorized, recognized, certified or licensed to operate as a law enforcement agency in the State of Texas by the Texas Commission on Law Enforcement ("TCOLE") or any agency that is the successor to TCOLE. A state or local law enforcement agency in any state other than Texas shall be a "Comparable Law Enforcement Agency" if the agency is authorized, recognized, certified or licensed to operate as a law enforcement agency by a state agency equivalent to TCOLE [or any agency that is the successor to TCOLE] in the state where such law enforcement agency is located. A federal law enforcement agency or any law enforcement agency not covered by the preceding sentences in this paragraph shall be a "Comparable Law Enforcement Agency" if the Chief, in the Chief's sole discretion, determines that the agency is comparable to the Department for purposes of determining whether a Lateral Entry Applicant meets the eligibility requirements of the

Department's Lateral Entry Program. "Comparable Law Enforcement Agencies" shall mean more than one Comparable Law Enforcement Agency.

"Department's Lateral Entry Program" shall mean the program established by the Department to attract applicants with previous law enforcement experience and shall consist of the terms, provisions, criteria and conditions set forth in Article 7A of this Agreement.

"Lateral Entry Applicant" shall mean a certified peace officer with previous law enforcement experience who applies for employment with the Department under the Department's Lateral Entry Program.

"Lateral Entry Officer" shall mean a Lateral Entry Applicant who meets the eligibility criteria set forth in Section 2 of Article 7A of this Agreement and who is hired by the Department under the Department's Lateral Entry Program.

"Prior Qualifying Service" shall mean the prior law enforcement service of a Lateral Entry Applicant that meets the eligibility criteria set forth in Section 2 of Article 7A of this Agreement.

2. *Addition of Department's Lateral Entry Program.* The Second Amended and Restated Meet and Confer Agreement shall be amended by *adding the following provisions as Article 7A*, to-wit:

ARTICLE 7A LATERAL ENTRY PROGRAM

Section 1. Department's Lateral Entry Program

The Department's Lateral Entry Program is designed to attract additional qualified applicants who would not require the training time involved with an applicant who lacks previous law enforcement experience. This recruiting tool shall involve compensating Lateral Entry Officers for their experience working as certified peace officers in other Comparable Law Enforcement Agencies.

Section 2. Eligibility for Lateral Entry

To be eligible for employment with the Department under the Department's Lateral Entry Program, a Lateral Entry Applicant must satisfy the following eligibility criteria:

1. A Lateral Entry Applicant shall have at least two (2) years of cumulative service as a paid, full-time certified peace officer with one or more Comparable Law Enforcement Agencies;
2. A Lateral Entry Applicant shall have served in one or more positions where he or she had the authority to enforce laws, investigate crimes, make arrests, respond to calls for service, carry a firearm, and use discretion as part of the Lateral Entry Applicant's assigned duties. Time spent in an academy, serving in a jail or in any position not meeting the foregoing criteria as determined by the Chief, in the Chief's sole discretion, shall not

be counted when calculating a Lateral Entry Applicant's eligibility for the Department's Lateral Entry Program;

3. A Lateral Entry Applicant shall not have more than a three (3) year break in service from the time the applicant left a Comparable Law Enforcement Agency and the time the applicant applies for employment with the Department;
4. Except as expressly provided in this Article, Lateral Entry Applicants hired under the Department's Lateral Entry Program must successfully complete each step in the civil service hiring process in the same manner as any other applicant including, without limitation, all Lateral Entry Applicants must pass the civil service exam, physical agility testing, background investigation, medical and psychological assessments.
5. The Chief shall make the final determination as to: (i) whether a Lateral Entry Applicant satisfies the eligibility requirements for the Department's Lateral Entry Program including, without limitation, whether a Lateral Entry Applicant's prior years of service, position(s) and break in service satisfy the criteria set forth herein; and (ii) the maximum number of Lateral Entry Applicants to be hired by the Department each fiscal year. The Chief's decisions shall be final and non-appealable to the Commission or to any court.

Section 3. Training and Probation

A. Attendance at the Department's basic police academy is not required for Lateral Entry Applicants. The Chief, in the Chief's sole discretion, will determine the type, level and amount of training required for all Lateral Entry Applicants. Lateral Entry Applicants shall be required to successfully complete the training requirements as established by the Chief.

B. A Lateral Entry Applicant who successfully completes the training requirements as established by the Chief will be placed in the civil service classification of police officer regardless of any rank or position the Lateral Entry Applicant previously held at any other law enforcement agency.

C. Lateral Entry Officers must successfully complete the same probationary period as any other applicant hired by the Department and may be terminated by the Chief at any time during the Lateral Entry Officer's probationary period, without any rights to appeal.

Section 4. Pay

A. Typically, officers working at larger police departments gain experience at a faster rate due to the level of activity commensurate with the population. Therefore, the starting pay for Lateral Entry Officers will be determined based on: (i) the Lateral Entry Officer's cumulative years of experience calculated as set forth in Section 4B below; and (ii) the number of authorized sworn peace officer positions of each Comparable Law

Enforcement Agency where the Lateral Entry Officer earned his or her Prior Qualifying Service calculated as set forth in Section 4B below.

B. The years of experience of a Lateral Entry Officer will be calculated by counting the total number of years and months of Prior Qualifying Service of the Lateral Entry Officer at each Comparable Law Enforcement Agency and rounding down to the lowest year. If a Lateral Entry Officer has Prior Qualifying Service at multiple Comparable Law Enforcement Agencies, the years and months of service at each agency shall be calculated separately and rounded down to the lowest year at that agency. Lateral Entry Officers will be credited with one (1) year of experience for every full two (2) years of Prior Qualifying Service at a Comparable Law Enforcement Agency that has less than 100 authorized sworn peace officer positions as of the date the Lateral Entry Officer took the civil service examination with the Department. Lateral Entry Officers will be credited with one (1) year of experience for every full one (1) year of Prior Qualifying Service at a Comparable Law Enforcement Agency that has 100 or more authorized sworn peace officer positions as of the date the Lateral Entry Officer took the civil service examination with the Department.

C. The initial base pay for Lateral Entry Officers shall be based on the number of years of experience credited to the Lateral Entry Officer under the Department's Lateral Entry Program as more fully set forth in Section 4B above and shall be the pay rate as set forth in the chart below:

# of Year(s) of Experience Credited to Lateral Entry Officer under the Department's Lateral Entry Program	Pay Rate in the City's Police Civil Service Pay Plan – Position Title: Police Officer
One Year	Pay Grade PG1, Step B1
Two Years	Pay Grade PG1, Step B2
Three Years	Pay Grade PG1, Step B3
Four Years	Pay Grade PG1, Step B4
Five + Years	Pay Grade PG1, Step B5

D. Notwithstanding anything contained herein to the contrary, under no circumstances will a Lateral Entry Officer receive a starting base pay greater than Step B5 of Pay Grade PG1 of the City's Police Civil Service Pay Plan.

E. Officers who are currently in the police officer classification and who would have qualified for the Department's Lateral Entry Program at their time of hire, and who are currently below Step B5 of Pay Grade PG1 on the City's Police Civil Service Pay Plan, shall be advanced on December 31, 2016 to the appropriate pay step in the City's Police Civil Service Plan as set forth in Section 4C above based on such Officer's prior law enforcement experience as if such Officer had been hired under the Department's Lateral Entry Program. The Qualifying Prior Service and the years of experience credited to each Officer who satisfies the conditions set forth in this Section 4E shall be calculated in the same manner and shall be based on the same criteria as set forth in this Article 7A.

F. If a Lateral Entry Officer, or an Officer satisfying the conditions set forth in Section 4E above, is placed in a step higher than the Base pay step of Pay Grade PG1 of the City's Police Civil Service Pay Plan but lower than Step B5 of Pay Grade PG1 in accordance with the Department's Lateral Entry Program, such officer (provided he or she remains in the police officer classification of the City's Police Civil Service Pay Plan) will advance through the subsequent steps of the City's Police Civil Service Pay Plan on each anniversary of the officer's hire date with the Department up to the maximum of Step B5 of Pay Grade PG1, of the City's Police Civil Service Pay Plan.

Section 5. Seniority

A. The Department's Lateral Entry Program shall only affect an applicant's initial placement into the City's Police Civil Service Pay Plan. Actual work experience in another Comparable Law Enforcement Agency shall not be considered for promotional eligibility, for calculating points to be added to promotional examination grades for years of seniority pursuant to LGC 143.033 and Commission Rule .033, for departmental seniority or transfers or for any other matters except as expressly set forth herein. Departmental seniority for all issues other than initial pay grade shall begin on the applicant's civil service hire date with the Department.

B. Longevity pay and vacation time for all Lateral Entry Officers shall be calculated in the same manner as for Officers hired through the Department's regular hiring process and no credit will be given for experience or completed years of service in other Comparable Law Enforcement Agencies in regard to these benefits.

Section 6. Effect of Contract Expiration

The provisions of this Article shall remain in full force and effect after expiration of this Agreement as to:

a. Any Lateral Entry Officers hired under the Department's Lateral Entry Program prior to the expiration of this Agreement;

b. Any Officers hired before the effective date of the Department's Lateral Entry Program, who would have qualified for the Department's Lateral Entry Program at their time of hire, and who are advanced to a higher pay step in the City's Police Civil Service Pay Plan pursuant to Section 4E of this Article;

c. Any hiring process which has been commenced in substantial reliance upon the provisions of this Article;

d. The length of the probationary period for any Lateral Entry Applicant hired under the Department's Lateral Entry Program prior to the expiration of this Agreement; and

e. Any eligibility list actively in use containing Lateral Entry Applicants who have satisfied the conditions of the Departments Lateral Entry Program prior to the

expiration of this Agreement will remain in effect for its duration unless exhausted sooner, notwithstanding the expiration of this Agreement.

Section 7. Preemption

It is expressly understood and agreed that all provisions of this Article and any procedures developed under the authority granted in this Article shall preempt any state statute, executive order, local ordinance, civil service provision and any policy, directive, rule or regulation of the City, the Chief, the Department and/or the Commission, all as may hereafter be amended from time to time, which is in conflict with this Agreement and the procedures developed hereunder, including for example and not by way of limitation, any contrary provisions of Chapters 141, 142, and 143 of the Texas Local Government Code, including but not limited to the provisions of Texas Local Government Code §143.021 through §143.041.

3. ***Effect of Amendment.*** The City and the Association expressly acknowledge and agree that both the City and the Association have had the opportunity to consider, discuss and deliberate the provisions contained in this Amendment and that this Amendment and the Second Amended and Restated Meet and Confer Agreement constitute a negotiated meet and confer agreement between the City and the Association. This Amendment modifies the Second Amended and Restated Meet and Confer Agreement in no other manner except as expressly set forth herein. In the event there is any conflict between this Amendment and the Second Amended and Restated Meet and Confer Agreement, the terms and provisions of this Amendment shall control.

4. ***Authority.*** Each party to this Amendment represents that it has the power and authority to enter into this Amendment, that the person(s) executing this Amendment on behalf of such party has the authority to bind such party and that all formal requirements necessary to authorize such party to enter into this Amendment have been fully complied with. The failure by either party to abide by the provisions of Chapter 142 of the Texas Local Government Code in the execution or ratification of this Amendment does not relieve the party responsible for such failure from the duty to abide by the terms of this Amendment in good faith until such deficiencies are cured.

5. ***Severability.*** In the event any provision of this Amendment is held by a court or government authority of competent jurisdiction to be illegal, invalid or unenforceable under present or future laws, then, and in that event, it is the intention of the parties hereto that the remainder of this Amendment shall not be affected thereby, and it is also the intention of the parties to this Amendment that in lieu of each clause or provision that is so held to be illegal, invalid or unenforceable a provision be added to this Amendment which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.


6. ***Counterparts; Signatures.*** This Amendment may be executed in any number of original, facsimile or electronically-scanned counterparts, each of which shall be considered an original and all of which shall be considered one and the same instrument.

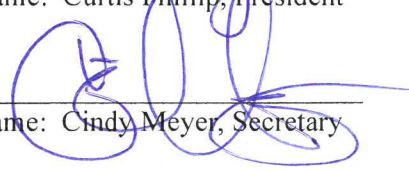
7. ***Entire Agreement.*** This Amendment constitutes the entire agreement of the parties hereto with respect to the matters set forth herein. There are no oral agreements between the City and the Association. This Amendment shall inure to the benefit of, and is binding upon, the parties hereto and their respective successors and assigns.

8. **Effective Date of Amendment.** This Amendment shall be effective only upon execution by both the City and the Association. The effective date of this Amendment shall be the later of the dates set forth below.

IN WITNESS WHEREOF, the Association and the City have executed this Amendment on the dates set forth below.

MESQUITE POLICE ASSOCIATION

By: 
Name: Curtis Phillip, President

By: 
Name: Cindy Meyer, Secretary

Executed December 22, 2016

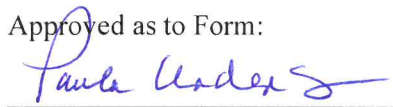
CITY OF MESQUITE

By: 
Cliff Keheley, City Manager

By: 
Sonja Land, City Secretary

Executed December 22, 2016

Approved as to Form:


City Attorney or his Designee