

RESOLUTION NO. 31-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING AND RATIFYING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MESQUITE, TEXAS (“CITY”), AND THE MESQUITE POLICE ASSOCIATION (“ASSOCIATION”) UNDER SUBCHAPTER B OF CHAPTER 142 OF THE TEXAS LOCAL GOVERNMENT CODE WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2017, AND EXPIRING ON AUGUST 31, 2019, (THE “CITY/MPA MEET AND CONFER AGREEMENT”); AUTHORIZING THE CITY MANAGER TO EXECUTE THE CITY/MPA MEET AND CONFER AGREEMENT AND 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 CITY/MPA MEET AND CONFER AGREEMENT INCLUDING, WITHOUT LIMITATION, THE EXECUTION OF EXTENSIONS OF THE CITY/MPA MEET AND CONFER AGREEMENT UNDER THE TERMS AND PROVISIONS SET FORTH THEREIN.

WHEREAS, the existing meet and confer agreement, as amended, between the City of Mesquite, Texas (“City”) and the Mesquite Police Association (“Association”) expires on August 31, 2017; and

WHEREAS, the City and the Association meet and confer negotiating teams have met on several occasions for purposes of negotiating and deliberating a new meet and confer agreement, a true and correct copy of which is attached hereto as Exhibit “A” and made a part hereof for all purposes (the “City/MPA Meet and Confer Agreement”); and

WHEREAS, the proposed City/MPA Meet and Confer Agreement would be effective as of September 1, 2017, and expire on August 31, 2019, unless extended as more fully set forth therein provided, however, in no event shall the City/MPA Meet and Confer Agreement be extended beyond February 29, 2020; 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 City/MPA Meet and Confer Agreement by majority vote and the Association must ratify the City/MPA Meet and Confer Agreement by conducting a secret ballot election at which a majority of the police officers who would be covered by the City/MPA Meet and Confer Agreement favor ratifying the Agreement; and

WHEREAS, the Association has ratified the Agreement by conducting a secret ballot election at which a majority of sworn police officers of the Mesquite Police Department who would be covered by the City/MPA Meet and Confer Agreement voted in favor of ratifying the City/MPA Meet and Confer Agreement; and

WHEREAS, the City Council desires to: (i) approve and ratify the City/MPA Meet and Confer Agreement; (ii) authorize the City Manager to execute the City/MPA Meet and Confer Agreement; and (iii) 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 City/MPA Meet and Confer Agreement including, without limitation, the execution of extensions of the City/MPA Meet and Confer Agreement under the terms and provisions set forth in the City/MPA Meet and Confer Agreement.

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 City/MPA Meet and Confer Agreement, 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 City/MPA Meet and Confer Agreement 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 City/MPA Meet and Confer Agreement including, without limitation, the execution of extensions of the City/MPA Meet and Confer Agreement under the terms and provisions set forth in the City/MPA Meet and Confer Agreement.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 21st day of August, 2017.



Stan Pickett  
Mayor

ATTEST:



Sonja Land  
City Secretary

APPROVED:



B. J. Smith  
City Attorney

Exhibit "A"

Attach Memorandum of Understanding  
Between the City of Mesquite, Texas and  
the Mesquite Police Association

**A MEMORANDUM OF  
UNDERSTANDING  
BETWEEN  
CITY OF MESQUITE, TEXAS  
AND  
MESQUITE POLICE ASSOCIATION**

**EXPIRES AUGUST 31, 2019**

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## **PREAMBLE**

This Memorandum of Understanding dated expressly effective the 1<sup>st</sup> day of September, 2017 (the “Effective Date”), is entered into between the City of Mesquite, Texas and the Mesquite Police Association. It is the intent and purpose of this Agreement to achieve and maintain harmonious relations between the parties and discuss issues of mutual concern, as provided in the Texas Local Government Code, Chapter 142, Subchapter B. This Agreement has been reached through the process of Meet and Confer with the objective of fostering effective cooperation between the City and its Police Officers.

## **ARTICLE 1 DEFINITIONS**

1. “ABLP Donation Authorization Form” shall have the meaning set forth in Article 4 of this Agreement.
2. “ABLP Donation Revocation Form” shall have the meaning set forth in Article 4 of this Agreement.
3. “ABL Eligible Police Officers” means Police Officers who serve on either (a) the Association’s Board of Directors or (b) the Association’s meet and confer negotiating team.
4. “Accredited College or University” means an institution of higher education that is, or at the relevant time was, accredited by one of the following agencies: Southern Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Western Association of Schools and Colleges or any other accredited college or university as defined by the Local Rules.
5. “Agreement” refers to this Memorandum of Understanding Between the City and the Association.
6. “Association” means the Mesquite Police Association.
7. “Association Business Activities” means (a) representing Police Officers at disciplinary hearings (to the extent permitted by law or allowed by Department policy) or grievance meetings; (b) preparing for formally scheduled meet and confer negotiating sessions with the City, provided, however, only Police Officers serving on the Association’s meet and confer negotiating team shall be eligible for ABL leave for attending such meetings; (c) administering the terms of this Agreement; (d) attending meetings of the Association’s Executive Board; (e) attending regular business meetings of the Association; (f) attending other meetings, training programs, seminars, workshops, conferences, or events specifically relating to the management of the Association; or (g) appearing before the City Council or Texas Legislature by the Association President or the Association President’s designee.
8. “Business days” means each day exclusive of weekends and holidays.
9. “Calendar days” means each day inclusive of weekends and holidays.

10. "Chief" means the Chief of Police of the City, including any interim or acting Chief of Police.
11. "City" means the City of Mesquite.
12. "City Manager" means the City Manager of the City.
13. "City's Police Civil Service Pay Plan" means 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.
14. "Commission" means the Fire Fighters' and Police Officers' Civil Service Commission of the City.
15. "Comparable Law Enforcement Agency" means (a) an agency which is authorized, recognized, certified or licensed by TCOLE to operate as a law enforcement agency; (b) a state or local law enforcement agency in any state other than Texas which is authorized, recognized, certified or licensed to operate as a law enforcement agency by a state agency equivalent to TCOLE in the state where such law enforcement agency is located; (c) a federal law enforcement agency; or (d) any law enforcement agency which the Chief, in the Chief's sole discretion, determines is comparable to the Department for purposes of the eligibility requirements of the Lateral Entry Program.
16. "Comparable Law Enforcement Agencies" means more than one Comparable Law Enforcement Agency.
17. "Department" means the Police Department of the City.
18. "Director" means the director of the City's fire fighters' and police officers' civil service.
19. "Lateral Entry Applicant" means a certified peace officer with previous law enforcement experience who applies for employment with the Department under the Lateral Entry Program.
20. "Lateral Entry Officer" means a Lateral Entry Applicant who meets the eligibility criteria set forth in Section 2 of Article 9 of this Agreement and who is hired as a Police Officer by the Department under the Lateral Entry Program.
21. "Lateral Entry Program" means 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 9 of this Agreement.
22. "Local Rule" or "Local Rules" mean the City of Mesquite Fire and Police Civil Service Rules and Regulations as currently enacted by the Commission or as amended hereafter.
23. "Police Officer" or "Police Officers" mean person(s) who are peace officer(s) under Texas Code of Criminal Procedure Article 2.12 or other law and who are employed as sworn police officer(s) in the Department.
24. "Party" or "Parties" mean the City and the Association.



25. "Prior Qualifying Service" means the prior law enforcement service of a Lateral Entry Applicant that meets the eligibility criteria set forth in Section 2 of Article 9 of this Agreement.
26. "Special City Events" means Christmas in the Park, the Downtown Square Tree Lighting, Town East Mall Christmas Holiday Season, Summer Sizzle, the Rodeo Bike Ride and the Rodeo Parade.
27. "TCOLE" means the Texas Commission on Law Enforcement or any successor agency.
28. "TLGC" means the Texas Local Government Code.

**ARTICLE 2  
AUTHORITY AND RECOGNITION**

In accordance with TLGC § 142.058, the City recognizes the Association as the sole and exclusive bargaining agent for all Police Officers of the Department who have been hired in substantial compliance with the provisions of TLGC Chapter 143, excluding the head of the Department, the two (2) Assistant Police Chiefs, and any other employees exempt under TLGC §§ 142.058(b) and 143.014 or Local Rule .014.

This Agreement does not include or affect civilians or other employees of either the City or the Department, nor shall it be interpreted or construed to deny local control by the City over wages, rates of pay, hours of work, or other terms and conditions of employment except as expressly provided by this Agreement under TLGC § 142.059.

**ARTICLE 3  
ASSOCIATION RIGHTS**

**Section 1. Payroll Deductions**

A. The City shall deduct a bi-weekly amount from the pay of each individual Police Officer who has voluntarily authorized such membership dues deduction for remittance to the designated bona fide employee association(s). Any Police Officer who wishes to join the Association, Texas Municipal Police Association or Combined Law Enforcement Associations of Texas (collectively, "Designated Organizations") will complete and sign the appropriate City form to authorize the bi-weekly deduction amount. The Designated Organizations may change the amount of the deduction with thirty (30) Calendar days' notice to the City in writing. Within ten (10) working days following the end of a calendar month, the City will remit payment directly to the Designated Organizations along with a list of the amount of deduction taken from each Police Officer. The City will remit deducted amounts directly to the Designated Organizations unless and until such payroll deductions are modified or revoked by the affected Police Officer.

B. During the term of this Agreement, other authorized payroll deductions will be permitted. Police Officers who are current members of one or more Designated Organizations may continue to utilize automatic payroll deductions, as in the past. Police Officers who are currently having membership dues deducted as of the Effective Date will not be required to submit new dues deduction authorization forms. After the Effective Date, a Police Officer seeking to become a new member in a Designated Organization and to pay dues to that organization by automatic payroll

deductions must join the Association in order to utilize automatic payroll deduction for payment of such membership dues.

C. Any individual member of the bargaining unit wishing to voluntarily withdraw authorization for deductions must personally sign the appropriate form as required by the City.

**D. THE ASSOCIATION SHALL INDEMNIFY, DEFEND THE CITY AND HOLD THE CITY HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS OR OTHER FORMS OF LEGAL ACTION THAT MAY ARISE OUT OF, OR BY REASON OF, ANY ACTIONS TAKEN BY THE CITY, OR ANY EMPLOYEE OF THE CITY IN COMPLYING WITH PROVISIONS OF THIS ARTICLE. THE ASSOCIATION AND THE CITY SHALL JOINTLY SELECT AND DIRECT COUNSEL RETAINED FOR SUCH DEFENSE AND THE ASSOCIATION SHALL FURTHER ASSIST AND COOPERATE WITH THE CITY DURING SAID DEFENSE.**

#### **Section 2. Association Access**

Subject to reasonable advance notice from the Association and approval from the Chief or the Chief's authorized designee, the Association may be permitted reasonable access to the premises of the Department for the purpose of administering this Agreement, in a manner that does not interfere with the functions of the Department.

The Association shall have the exclusive right to maintain an association bulletin board. Such bulletin board shall be at the Association's sole expense. The bulletin board shall be maintained in good condition by the Association and shall be encased and capable of being locked with a key provided to the Chief or the Chief's designee.

Any material posted must be dated and signed by the Association official generating the same. The Association shall have the right to post on its bulletin board material pertaining to legitimate Association activities and interests under the following guidelines:

1. Materials shall be directed toward dissemination of Association information such as social and recreational events, association meetings, association elections, and legislation and judicial decisions affecting Association members.
2. Any concerns on the part of the City or the Chief about whether the content of posted material complies with this Article shall be brought to the attention of an Association executive board member for review and adjustment as soon as the concern arises. The Chief may direct material considered objectionable to be removed from the bulletin board.
3. Materials may not contain any personal attacks, inflammatory material, obscene, lewd, distasteful or immoral material, material abusive of any person or organization, or material disruptive of City or Department operations.
4. At no time shall the bulletin boards contain any political endorsement, whether at the local, state or federal level.

**ARTICLE 4**  
**TIME OFF FOR ASSOCIATION BUSINESS**

**Section 1. Association Business Leave Pool.**

A. At the beginning of the first pay period of each calendar year, the City will deduct two (2) hours of accrued vacation leave or compensatory time from any Police Officer covered by this Agreement who has voluntarily authorized the donation and the City will transfer the donated time into the Association Business Leave Pool (“ABLP”) to be utilized for Association Business Leave (“ABL”). Any Police Officer covered by this Agreement wanting to donate vacation leave or compensatory time must personally sign a form acceptable to the City authorizing the donation (the “ABLP Donation Authorization Form”). An ABLP Donation Authorization Form may be submitted to the City’s Human Resources Department by either the Police Officer or the Association, but it must be signed by the individual Police Officer who is donating the vacation leave or compensatory time and shall clearly reflect that any vacation leave or compensatory time donation is voluntary and will never be re-credited to the Police Officer’s accrued time after the donation is credited to the ABLP. Forms submitted to the City’s Human Resources Department shall remain in effect for the duration of this Agreement and any extensions of this Agreement pursuant to Article 12, Section 4; provided, however, notwithstanding anything contained herein to the contrary, any Police Officer may revoke their donation authorization for future years at any time by providing the City’s Human Resources Department with written notice of such revocation on a form acceptable to the City signed by such Police Officer (“ABLP Donation Revocation Form”). A duly executed ABLP Donation Revocation Form must be received by the City’s Human Resources Department at least fifteen (15) Calendar days prior to January 1st of a calendar year to prevent the donation of vacation leave or compensatory time for that calendar year. If on the first pay period of the calendar year, a Police Officer who has authorized an ABLP donation has an insufficient amount of accrued vacation leave or compensatory time as selected on the appropriate form to make the donation, the City will not deduct a donation from that Police Officer for that calendar year.

B. Unused hours remaining in the ABLP at the end of the last pay period of each calendar year shall either be carried over into the next calendar year or forfeited as set forth in this Section. The number of hours which may be carried over into the next calendar year is the lesser of (i) the number of hours remaining in the ABLP at the end of the last pay period of that calendar year or (ii) one-half the total number of hours that were contributed to the ABLP on the first pay period of that calendar year; provided, however, all hours carried over must be used during the next calendar year. All allocations of ABL hours must be used on a first-in, first-out basis. Unused hours in the ABLP which are not eligible for carry over as described in this Section, including any unused carry over hours from the prior calendar year, shall be forfeited and shall not be re-credited to the Police Officer who donated the hours. At the termination of this Agreement, neither the Association nor the Police Officer(s) who donated hours to the ABLP shall have any rights in the hours then remaining in the ABLP and all such hours shall be forfeited and shall not be transferred or paid to the Association or re-credited to the Police Officer(s) who donated the hours. ABL hours in the ABLP shall never have any cash or surrender value.

C. Hours in the ABLP may be utilized starting at the beginning of the first pay period of calendar year 2018. Hours in the ABLP shall be credited on an hour-for-hour basis. The Association shall be allowed to debit the ABLP on an hour-for-hour basis during the calendar year

when the ABL Eligible Police Officers are required to engage in Association Business Activities. ABL is available for use only by ABL Eligible Police Officers while performing Association Business Activities. The Association will notify the Chief, or the Chief's designee, in writing of the names of the ABL Eligible Police Officers within thirty (30) Business days after the execution of this Agreement and will notify the Chief, or the Chief's designee, in writing within thirty (30) Business days of any change of such Police Officers. If the Chief declares an emergency, the Chief may order any ABL Eligible Police Officer to report to work for the duration of the emergency notwithstanding any previously approved ABL.

D. The Association may request the use of ABL for Association Business Activities upon five (5) Business days advance written notification signed by the Association President and provided to the Chief, or the Chief's designee. All ABL shall be subject to the written approval of the Chief, or the Chief's designee, such approval not to be unreasonably withheld. Notwithstanding the foregoing, the Parties agree that the denial of a request for ABL shall be deemed reasonable if the Chief, or the Chief's designee, determines that the granting of the ABL request will result in an insufficient number of Police Officers being available to carry out the normal functions of the Department. The utilization of ABL must be related to legitimate Association Business Activities and not to law enforcement activities or training. City vehicles shall not be used to provide transportation to or from Association Business Activities unless the Association Business Activity is located within the city limits of the City and the Police Officer is using the Police Officers' individually assigned (IA) vehicle or the Police Officer is on-duty and operating their duty vehicle. The Association is solely responsible for the payment of all travel expenses, training fees, or other costs associated with Association Business Activities.

E. ABL shall not constitute City hours worked. ABL shall be administered and benefits will accrue in the same manner as vacation leave. ABL shall not be treated as a break in service, and an ABL Eligible Police Officer shall not lose seniority, promotional opportunity, sick leave, vacation (subject to the City's vacation accumulation restrictions) or retirement benefits while on such leave. While on ABL, ABL Eligible Police Officers will retain the privileges of his or her employment and shall be maintained by the Department as a commissioned peace officer in the State and a classified civil service employee of the City. Notwithstanding the foregoing, however, it is expressly agreed and understood that ABL Eligible Police Officers are not acting as employees of the City while on ABL and, other than the performance of any law enforcement responsibilities required of off-duty Police Officers pursuant to Department policy, their actions and conduct while on ABL or while performing Association Business Activities are for the sole benefit of the Association and shall not constitute conduct within the course and scope of their employment by the City. Notwithstanding the foregoing, ABL Eligible Police Officers on ABL shall at all times remain subject to and comply with the Department's policies and standards of conduct as applicable to all off-duty Police Officers.

**F. REGARDLESS OF ANY FAULT OR NEGLIGENCE OF THE CITY, THE ASSOCIATION AGREES TO INDEMNIFY, DEFEND AND HOLD THE CITY HARMLESS AGAINST ANY CLAIMS, DEMANDS, SUITS, DAMAGES, COSTS, EXPENSES OR ANY OTHER FORM OF LIABILITY ARISING FROM OR RELATING TO (1) ANY ACTION TAKEN BY THE CITY FOR PURPOSES OF COMPLYING WITH THE PROVISIONS OF THIS ARTICLE, (2) ANY ACTION TAKEN BY ANY ABL ELIGIBLE POLICE OFFICER WHILE ON ABL OTHER THAN THE PERFORMANCE**

**OF ANY LAW ENFORCEMENT RESPONSIBILITIES REQUIRED OF OFF-DUTY POLICE OFFICERS PURSUANT TO DEPARTMENT POLICY, OR (3) ANY ACTION TAKEN BY ANY OFFICER OR OTHER INDIVIDUAL ENGAGED IN ANY ASSOCIATION BUSINESS ACTIVITY OR ANY OTHER ACTIVITY FOR THE BENEFIT OF THE ASSOCIATION. THIS INDEMNIFICATION OBLIGATION INCLUDES, BUT IS NOT LIMITED TO, ALL DAMAGES, ATTORNEYS' FEES, COSTS, INTEREST, EXPENSES, AND JUDGMENTS INCURRED BY OR ON BEHALF OF THE CITY IN CONNECTION WITH SUCH CLAIMS, DEMANDS, OR CAUSES OF ACTION.**

**Section 2. Association Negotiating Team.**

Up to five (5) Police Officers who are Association members may serve on the Association's meet and confer negotiating team and may attend negotiation sessions using on-duty time for any meetings that occur during the Association team member's regularly scheduled shift(s). Nothing herein shall prohibit the Association, however, from designating additional members or other individuals who are not Police Officers to serve on the meet and confer negotiating team. Each team shall advise the other of the names and positions of the individuals it intends to designate as negotiating team members. Either team may change the members of its negotiating team by written or electronic notification to the other team. Notwithstanding anything contained in this Article to the contrary, members of the Association's meet and confer negotiating team who are not also members of the Association's Board of Directors may only use ABL hours for Association Business Activities related to meet and confer activities including, without limitation, preparing for formally scheduled meet and confer negotiation sessions with the City and attending Association Business Activities that are associated with or related to training for meet and confer negotiations.

**Section 3. Association Board of Directors.**

Within thirty (30) Business days after the execution of this Agreement, the Association shall notify the Chief in writing as to the names of the Association's Board of Directors. The Association shall thereafter notify the Chief in writing within thirty (30) Business days of any change in the composition of its Board of Directors. Upon five (5) Business days advance written notification to and approval by the Chief in the event of any Association membership meeting or regularly scheduled Association Board meeting, or upon 24-hour notice and approval by the Chief in the event of any specially called Association Board meetings, a Police Officer who is a member of the Association's Board of Directors and who is scheduled to work at the time of such meeting shall be permitted to attend the meeting. Notwithstanding the foregoing, each Police Officer who is a member of the Association's Board of Directors may use ABL to attend one (1) regularly scheduled meeting of the Board of Directors of the Association each calendar month without prior notice to or approval by the Chief. All time attending the Association Business Activities described in this Section will be deducted from the ABLP if there are sufficient hours in the ABLP to cover all or part of the time required when the deduction is to be made.

**ARTICLE 5  
HOLIDAYS, SICK LEAVE AND VACATIONS**

**Section 1. Holidays for Compressed Work Schedule Police Officers**

Police Officers working a ten (10) hour patrol shift (Compressed Work Schedule) will accrue holidays on the basis of eight (8) hours for each holiday observed by the City. For example, for calendar year 2018, such Police Officers are entitled to a total of eighty (80) hours of holiday leave with pay (10 holidays at 8 hours per holiday) which total will be advanced on January 1, 2018. Police Officers assigned to a 10-hour shift must schedule holiday hours in advance, as part of the existing vacation request procedure. Holidays are subject to supervisory review and approval based on manpower levels. Police Officers assigned to ten-hour shifts will schedule at least eighty (80) hours of holiday as part of the yearly vacation request process. Police Officers working a ten (10) hour shift who move to an eight (8) hour shift during the calendar year must immediately restore the holiday hours used equal to the rest of the holidays for the year (based on eight (8) hour holiday) by either agreeing to work the rest of the holidays for the calendar year or agreeing to the equivalent hours being charged to their vacation balance. If a Police Officer terminates the Police Officer's employment, a calculation of actual holiday hours earned verses holiday hours taken will be made. If the Police Officer has taken more holiday hours than hours earned by the passing of each actual holiday, the Police Officer's vacation leave balance will be reduced by the excess hours previously taken. If the Police Officer does not have sufficient vacation hours remaining, the balance of the holiday hours equivalent may be taken from any accrued sick leave for which the Police Officer is eligible for payment or if insufficient, the Police Officer's final pay.

**Section 2. Sick Leave**

Police Officers will accrue and use sick leave on the basis of hours. A "working day" shall mean an eight (8) hour day. A Police Officer who leaves the classified service for any reason is entitled to payment for his/her accumulated sick leave but not more than 720 hours of sick leave.

**Section 3. Vacation**

Police Officers will be entitled to earn a minimum of one hundred twenty (120) hours of vacation leave per year. A working day shall mean an eight (8) hour day.

**ARTICLE 6  
PROMOTIONS**

**Section 1. Eligibility for Promotion**

Police Officers are not eligible for promotion to the rank of Sergeant or to take the Sergeant promotional examination unless the person has served as a Police Officer in the Department for at least five (5) years immediately before the date the promotional examination is held. Police Officers are not eligible for promotion to the rank of Lieutenant or Captain unless the person has served in the Department in the next lower rank for at least two years immediately before the date the promotional examination is held. If promotions to the rank of Sergeant, Lieutenant, or Captain are determined by an Assessment Center process, rather than by promotional examination, a Police Officer is not eligible for promotion unless the Police Officer has served the aforementioned requisite time (i.e., five years for promotion to Sergeant, two years for promotion to Lieutenant or

Captain) in the next lower rank as of the date that the Assessment Center conducts its initial meeting or interview of the promotional candidate(s).

## **Section 2. Promotional Examination Procedure**

### **A. Procedure.**

All promotional examinations shall consist of a written examination pursuant to TLGC Chapter 143 and the Local Rules except as modified by this Section. On or before February 1 of each year, the Association President may submit written recommendations derived from the Police Officers eligible as of February 1 of that year to take the examination in question to the Chief for source material for the promotional examinations for Sergeant, Lieutenant and Captain, which recommendations are not binding on the Chief who retains sole discretion to select the source material for police promotional examinations.

### **B. Modifications**

The Association may develop alternate promotional procedures and systems for Sergeant, Lieutenant, and/or Captain for recommendation and presentation by the Association President to the Chief by February 1 of each year. The recommendation by the Association President shall be derived from those Police Officers eligible as of February 1<sup>st</sup> of that year to take the examination in question. If the Chief finds a recommended procedure and system achievable and in the best interest of the Department, the Chief shall order the procedure and system be adopted for use by the Department, except where the promotional process is already in progress on that date, without the necessity of any further action by the Commission.

## **Section 3. Promotional Eligibility List.**

Promotional eligibility lists in effect on the Effective Date of this Agreement shall continue in effect until their date of expiration or sooner exhausted.

# **ARTICLE 7 APPEALABLE AND NON-APPEALABLE SUSPENSIONS**

## **Section 1. Suspensions of Forty (40) Working Hours or Less**

The Parties agree that when a Police Officer is suspended without pay by the Chief for 40 working hours or less, the Police Officer may elect to proceed as follows:

A. At the time of receipt of the statement of suspension, the Police Officer may forfeit vacation or holiday time equal to the length of the suspension, or forfeit for any number of full days combined with the remaining period to remain suspended without pay, to serve the suspension with no break in service for purposes of seniority or promotion. The forfeited vacation or holiday time will not constitute hours worked. In the event a Police Officer has received a disciplinary suspension within the preceding 24-month period, the Police Officer may only forfeit vacation or holiday time with the permission of the Chief. The Police Officer must agree that there is no right to appeal the suspension nor right of review before any administrative body or judicial body if this

method of suspension is chosen and the Police Officer must sign a waiver of appeal and agree to the suspension.

B. If the Police Officer does not elect to proceed under Section 1A above, the Police Officer may either serve the suspension or appeal the suspension as set forth in TLGC Chapter 143 and the Local Rules.

## **ARTICLE 8 INITIAL HIRING**

### **Section 1. Probationary Period**

A Lateral Entry Officer appointed to a beginning position in the Department must serve a probationary period of twelve (12) months beginning on that Lateral Entry Officer's date of employment as a police officer of the City. The Parties agree that the twelve (12) month probationary period for Lateral Entry Officers shall apply to all Lateral Entry Officers employed by the City as of the Effective Date who are currently serving a probationary period and to Lateral Entry Officers hereafter employed by the City during the term of this Agreement. All other person(s) [i.e. Police Officers not hired through the Lateral Entry Program] appointed to a beginning position in the Department must serve a probationary period of eighteen (18) months beginning on that person's date of employment as a police officer of the City.

### **Section 2. Increase in Maximum Age for Entrance Position**

The Parties agree to increase the maximum age of person(s) appointed to beginning position(s) in the Department as provided in this Section. An applicant for a beginning position in the Department who is not a Lateral Entry Applicant and who is fifty-one (51) years of age or older on the date the applicant applies for a position with the Department may not be certified for a beginning position with the Department. A Lateral Entry Applicant may not be certified for a beginning position with the Department if the Lateral Entry Applicant is fifty-six (56) years of age or older on the date the Lateral Entry Applicant applies for a position with the Department. This Section applies only to non-emergency appointments for beginning positions in the Department and is not intended to alter or limit the Commission's ability to authorize emergency appointments pursuant to TLGC § 143.083 or Local Rule .083.

### **Section 3. Examinations for Entrance Position**

The City shall provide for entrance examination for the Department in accordance with Chapter 143 and the Local Rules except as provided herein. The entrance examination for the Department may be administered by the City to individual applicants, at multiple locations within and outside of the City or state, and at different times as determined by the Director.

### **Section 4. Certified Lists**

Applicants shall be ranked by highest passing score on the entrance examination (an additional 5 points shall be added to a passing grade on the written examination of an applicant who has an honorable discharge from the United States Armed Forces, the reserve components the United States Armed Forces, or the Texas State Guard). Applicants who pass the written entrance



examination must participate in and pass the next scheduled physical agility test to be placed on an eligibility list. Applicants who do not pass the written entrance examination are not eligible to take the physical agility test or proceed further in the hiring process. The ranking of applicants on the eligibility list shall be based on their scores on the entrance examination plus any additional points for an honorable discharge from military service as provided in this Section. Applicants who do not receive a passing grade on the written entrance examination may not retake the examination until after the next scheduled physical agility test. If an applicant receives a failing score on the applicant's second attempt at the entrance examination, the applicant is prohibited from taking the entrance examination for a period of two years from the date of the second attempt. Applicants who do not participate in or who fail the next scheduled physical agility test must retake and pass the written entrance examination to be eligible to take the next scheduled physical agility test.

Based on vacancies and the needs of the Department, the Director may give another entrance examination and have more than one beginning position eligibility list in existence at the same time; however, an earlier eligibility list must have expired or been exhausted before proceeding to hire from the next subsequent eligibility list.

Applicants already on a certified eligibility list shall be carried on the eligibility list for a period of one year unless sooner disqualified.

#### **Section 5. Appointments**

Appointments for a beginning position in the Department shall be made by the Chief in rank order from the current active eligibility list unless the person with the highest score is not appointed by the Chief for good and sufficient reason.

#### **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 hiring process which has been commenced in substantial reliance upon the provisions of this Article;
- b. The length of the "at will" probationary period for individuals in that status prior to the expiration of this Agreement; and
- c. Any eligibility list actively in use created under the terms of this Article will remain in effect for its duration unless exhausted sooner.

### **ARTICLE 9 LATERAL ENTRY PROGRAM**

#### **Section 1. Lateral Entry Program**

The 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 Lateral Entry Program, a Lateral Entry Applicant must satisfy the following eligibility criteria:

- a. A Lateral Entry Applicant shall be: (i) at least twenty-one (21) years of age; and (ii) not fifty-six (56) years of age or older at the time of application;
- b. 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;
- c. 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 Lateral Entry Program;
- d. 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;
- e. Except as expressly provided in this Article, Lateral Entry Applicants hired under the 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; and
- f. The Chief shall make the final determination as to: (i) whether a Lateral Entry Applicant satisfies the eligibility requirements for the 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 a twelve (12) month probationary period and may be terminated by the Chief at any time during the Lateral Entry Officer's probationary period, without any rights to appeal. The Parties agree that the twelve (12) month probationary period for Lateral Entry Officers shall apply to all Lateral Entry Officers employed by the City as of the Effective Date of this Agreement who are currently serving a probationary period and to Lateral Entry Officers hereafter employed by the City during the term of this Agreement.

#### **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 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 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. Police Officers who were in the police officer classification on December 22, 2016 who would have qualified for the Lateral Entry Program at their time of hire, and who were below Step B5 of Pay Grade PG1 on the City's Police Civil Service Pay Plan as of December 31, 2016, shall be advanced as of 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 Police Officer's Prior Qualifying Service as if such Police Officer had been hired under the Lateral Entry Program. The Qualifying Prior Service and the years of experience credited to each Police 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 9.

F. If a Lateral Entry Officer, or a Police 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 Lateral Entry Program, such Lateral Entry Officer and Police Officer satisfying the conditions set forth in Section 4E above (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 such Lateral Entry Officer's or Police 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 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 TLGC § 143.033 and Local 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 Police 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 Lateral Entry Program prior to the expiration of this Agreement;
- b. Any Police Officers hired before the effective date of the Lateral Entry Program, who would have qualified for the 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 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 Lateral Entry Program prior to the expiration of this Agreement will remain in effect for its duration unless exhausted sooner.

### **ARTICLE 10 COMPENSATORY TIME**

As permitted by the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207(o), the City may compensate Police Officers with compensatory time in lieu of overtime compensation required by the FLSA, 29 U.S.C. § 207. Such compensatory time will be at a rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required by 29 U.S.C. § 207. Police Officers shall accrue overtime based on a 40-hour work week.

The Police Officer has the option prior to accepting the work assignment to refuse such compensatory time off and elect to be paid overtime at one and one-half the Police Officer's regular rate of pay. This Article supersedes any and all contrary agreements or understandings related to

compensatory time arrived at between the City and any Police Officer during the term of this Agreement. If this Agreement expires, any lawful contracts or understandings that were made with individual Police Officers regarding compensatory time, including that contained in existing policy, will apply.

The City has difficulty filling assignments for Police Officers to work overtime for the Special City Events. To incentivize Police Officers to work overtime during the Special City Events, the Parties agree that beginning September 1, 2017 and continuing thereafter during the term of this Agreement, Police Officers working overtime during any one or more of the Special City Events shall have the option to elect to be compensated by either: (i) the payment of overtime compensation at the rate equal to one and one-half (1.5) times the Police Officer's regular rate of pay plus one-fourth (.25) of an hour of compensatory time for every overtime hour worked; or (ii) compensatory time in lieu of overtime compensation at the rate equal to one and three-fourths (1.75) hours for every hour of overtime worked.

Police Officers shall be allowed to accrue compensatory time (which shall include but shall not be limited to any compensatory time earned for working Special City Events) up to a maximum accrual of one hundred and twenty (120) hours. This Article does not address the determination of overtime hours which is subject to City policy.

## **ARTICLE 11 APPOINTMENTS OF ASSISTANT CHIEFS**

### **Section 1. Appointment of Assistant Chief**

The Association recognizes the existing right of the Chief to appoint two (2) Assistant Chiefs which is one rank immediately above the rank of Captain and one rank immediately below the Chief in the chain of command. This Agreement does not create additional positions within the rank of Assistant Chief nor limit the right of the City to do so in the future. As vacancies occur in the rank of Assistant Chief, the Chief shall either appoint a Police Officer or permanently abolish the position within ninety (90) Calendar days in accordance with this Section. Positions within the rank of Assistant Chief shall be filled by the Chief at the Chief's sole discretion, within ninety (90) Calendar days of a vacancy occurring in that rank. Police Officers appointed to this rank shall have a minimum of five (5) years' experience in a supervisory rank in addition to existing eligibility requirements in TLGC Chapter 143, and be subject to overall City policies and regulations. The appointment of the Chief shall not be subject to any appeal or review under TLGC Chapter 143 or this Agreement or to any other administrative or judicial body.

Any Police Officer promoted to the rank of Assistant Chief shall be required, as a condition to the appointment as Assistant Chief, to have successfully completed a Bachelor's degree from an Accredited College or University. The Accredited College or University must be accredited either at the time the Bachelor's degree was conferred or at the time of appointment to the rank of Assistant Chief. The loss of accreditation of a college or university that was accredited either at the time the Bachelor's degree was conferred or at the time of appointment to the rank of Assistant Chief shall not affect or impair a Police Officer's appointment to the rank of Assistant Chief. Any Police Officer who is being considered for appointment to the rank of Assistant Chief and who desires to accept such appointment shall present proof of the successful completion of a Bachelor's

degree from an Accredited College or University to the Chief within fourteen (14) Calendar days after request by the Chief. Any transcript shall be provided to the City in a sealed envelope from the Accredited College or University. Any Police Officer appointed to the rank of Assistant Chief may be demoted to their last civil service protected rank at the sole discretion of the Chief without appeal to the Commission and/or Hearing Examiner. Any Police Officer appointed to Assistant Chief may, further, voluntarily return to their last civil service protected rank at any time. Upon demotion or voluntary return to that previously-held civil service protected rank pursuant hereto, the Police Officer shall receive thereafter the full benefits provided in TLGC Chapter 143 and this Agreement as if the Police Officer had served in that rank on a continuous basis throughout the Police Officer's tenure as Assistant Chief, and any other non-civil service protected appointed rank. If no vacancy exists in the previously held civil service protected rank, the least senior Police Officer in that rank will be demoted and placed on a preference list for promotion prior to appointment of any Police Officer on any eligibility list for that rank. This same process will apply to any lower rank where there exists no vacancy for the demoted Police Officer. A Police Officer appointed to the rank of Assistant Chief may be terminated for cause, provided that such termination shall be subject to appeal in the same manner as applicable to all classified Police Officers in the Department.

## **ARTICLE 12 CLOSING STATEMENTS**

### **Section 1. Complete Agreement**

The Parties agree that each has had the full and unrestricted right and opportunity to make, advance, and discuss all matters properly within the province of bargaining for a meet and confer agreement. This Agreement constitutes the full and complete agreement of the Parties and there are no others, oral or written, except as herein contained. No alteration, amendment or variation of this Agreement's terms shall bind the Parties unless made, executed and voted on by the parties as required by TLGC Chapter 142. A failure of the City or the Association to insist in any one or more instances upon performance of any terms or condition of this Agreement shall not be considered as a waiver or relinquishment of the right of the City or the Association to future performance of any such term or condition, and the obligations of the City and the Association to such future performance shall continue in full force and effect.

### **Section 2. Preemption**

Pursuant to TLGC § 142.067, the provisions of this Agreement shall supersede and preempt, during the term of this Agreement (including during the period that any terms or provisions of this Agreement survive beyond the expiration of the Agreement as expressly provided herein) and to the extent of any conflict, any contrary provision of TLGC Chapters 141, 142 or 143, the Local Rules, the City of Mesquite General Government Policy and Procedures Manual, any other state statute as amended from time to time, or any ordinance, executive order, civil service provision, or rule adopted by the Chief, the City, or the Commission.

**Section 3. Savings Clause**

Should any provision of this Agreement be found to be inoperative, void or invalid by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, it being the intention of the Parties that no portion of this Agreement or provision herein shall become inoperative or fail by reason of the invalidity of any other portion or provision.

**Section 4. Duration and Extension**

This Agreement shall be effective as of September 1, 2017, and shall remain in effect through August 31, 2019. If the Parties are engaged in negotiations for a successor agreement at the time this Agreement would otherwise expire, the Association's and the City's meet and confer negotiating teams shall have the authority to extend this Agreement in thirty (30) day increments by mutual written agreement(s) signed by the President of the Association and by the City Manager, or the City Manager's designee, provided, however, in no event shall this Agreement be extended pursuant to this Section beyond February 29, 2020.

**Section 5. Miscellaneous Provisions**

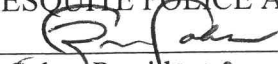
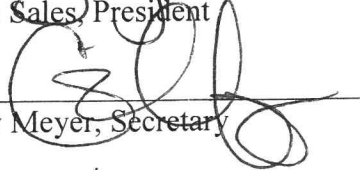
Each Party to this Agreement represents that it has the power and authority to enter into this Agreement, that the person executing this Agreement on behalf of such Party has the authority to bind such Party and that all formal requirements necessary to authorize such Party to enter into this Agreement have been fully complied with.

This Agreement 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.


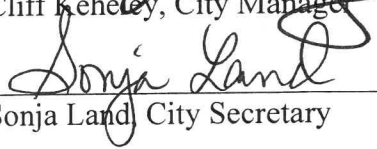
This Agreement shall be effective only upon execution by both the City and the Association.



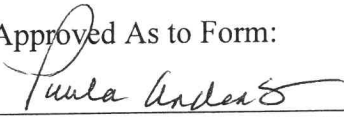
IN WITNESS WHEREOF, the Association has caused this Agreement to be signed by its President, by order of its membership, and the City has caused this Agreement to be signed by its City Manager on the dates set forth below. The effective date of this Agreement shall be September 1, 2017.

MESQUITE POLICE ASSOCIATION  
By:   
Bruce Sales, President  
By:   
Cindy Meyer, Secretary

Executed this 24 day of August, 2017

CITY OF MESQUITE  
By:   
Cliff Keheley, City Manager  
By:   
Sonja Land, City Secretary

Executed this 23 day of August, 2017

Approved As to Form:  
  
Paula Anderson, Deputy City Attorney