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STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS POLICE OFFICERS SUPERVISORS ASSOCIATION

Complainant,

vs.

CITY OF LAS VEGAS,

Respondent.

Case No.: 2024-036

COMPLAINT

1. At all times material hereto the Las Vegas Peace Officers Supervisors Association ("LVPOSA") was an employee organization within the meaning of NRS 288.040.

2. At all times material hereto the City of Las Vegas was a local government employer within the meaning of NRS 288.060.

3. The LVPOSA was recognized in 2015 as the exclusive representative for the Corrections Lieutenants employed by the City of Las Vegas at its Jail.

4. Prior to recognition, all Lieutenant positions with the City, both Marshal and Corrections, were deemed to be "non-essential" positions meaning that the position need not be staffed 24 hours a day during the week, or on Saturdays and Sundays.

5. From 2016 through 2018 the LVPOSA negotiated with the City for its initial collective bargaining agreement. That negotiation process resulted in a declaration of impasse, mediation, and ultimately Fact Finding in 2018.

6. Throughout the negotiations and impasse related proceedings one of the largest disagreements between the parties was the issue of payment of overtime and related compensation such as standby/callback pay. The City's position was that Corrections Lieutenants were exempt under the Fair Labor Standards Act ("FLSA") and should not receive such compensation.

7. Because Corrections Lieutenants were "non-essential" the City designated in one (1) week intervals a Lieutenant to the position of Administrative Officer of the Day ("AOD") who was responsible for being on call to handle emergencies during those weeks day hours where there was no Lieutenant coverage, and for weekends at the City of Las Vegas Jail. The AOD would receive additional hours of leave to compensate for AOD duties instead of standby pay or overtime pay.

8. When the matter ultimately went to Fact Finding, the LVPOSA took the position that if the City chose to continue the AOD position that work must stay within the bargaining unit and that a LVPOSA member should receive standby pay and overtime. The City's position was that standby pay and overtime should not be awarded.

9. To prevent the City from re-assigning current Lieutenants to after hours or weekend shifts so as to defeat eligibility for AOD, and any attendant callback pay, mid-contract in the event the Fact Finder selected LVPOSA's proposal, LVPOSA proposed language that "all of the Lieutenants' positions in the Department hierarchy will be identified as either essential or non-essential personal

positions prior to designating assignments and shifts". This language was intended to force the City to hire additional Corrections Lieutenants in the event that it desired 24/7 coverage at the Jail.

10. The Fact-finder's Recommendations/Award issued on December 13, 2018.

11. The Fact-finder's Award determined that Corrections Lieutenants should be paid time and a half overtime pay for any hours worked in excess of their normal scheduled shift or over 80 hours in a 14-day work period. The Fact-finder's award further determined that Corrections Lieutenants should receive standby pay at $35 per day on a normal work day worked, and $50 per day on a normal day off if they are required to be ready to work outside their normal work hours.

12. The parties took the Fact Finder's Recommendations and used it to create the first collective bargaining agreement for LVPOSA for the Years 2018-2023.

13. The collective bargaining agreement included the language "all of the Lieutenants' positions in the Department hierarchy will be identified as either essential or non-essential personal positions prior to designating assignments and shifts".

14. Throughout the 2018-2023 collective bargaining agreement, the City never designated any Lieutenant position as "essential" so as to require 24-hour coverage during the work week, or coverage on weekends.

15. By early 2022, the number of Corrections Lieutenants had been reduced to a single position due to promotion and retirement, and the City's refusal to promote new Lieutenants during Covid 19. During this time the City proposed, and LVPOSA provisionally agreed, to a Memorandum of Understanding ("MOU") which would transition away from the use of AOD when there was no Lieutenant coverage, and that Lieutenants promoted after January 4, 2022 would be designated for "standby" status and pay standby pay at the rate provided by the collective bargaining agreement. If there were vacancies in Lieutenant coverage due to absences, the City would not be obligated to cover

such absences, but if it elected to do so, coverage would be provided by signing a Sergeant from the Las Vegas Peace Officer Association ("LVPOA") bargaining unit to work in an acting capacity.

16. Upon information and belief, the MOU was never executed.

17. LVPOSA and the City entered into a new three (3) year collective bargaining agreement for July 1, 2023 through June 30, 2026. The language from the proposed MOU was not adopted in the new collective bargaining agreement, and the new bargaining agreement included the language "all of the Lieutenants' positions in the Department hierarchy will be identified as either essential or non-essential personal positions prior to designating assignments and shifts".

18. Prior to the effective date of the new 2023-2026 bargaining agreement, the City did not identify any Lieutenant positions as "essential" so as to require any Lieutenant to provide 24-hour coverage during the work week, or work a regular shift on weekends.

19. On September 24, 2024 at 8:00 AM Deputy Chief Matthew Triplett sent an email to LVPOSA stating that it was "proposing changing the Corrections Lieutenant's schedule (POSA) for 2025, and the change "will take effect on January 19, 2025". This change would require Lieutenants to work seven (7) days a week despite the fact that every existing Lieutenant position was deemed "non-essential" prior to such Lieutenants receiving their assignments and shifts. The e-mail contained a shift bid for a seven (7) day work week.

20. At 8:22 AM that same day LVPOSA responded by sending Deputy Chief Triplett the current contract language from Article 9 "Hours of Work", informing Triplett that there have been no proposed meetings to discuss any changes, and in the absence of such discussions the current Lieutenant schedules would have to remain in place.

21. On October 1, 2024 Deputy Chief Triplett e-mailed LVPOSA "Due to your association rejecting the terms of the new 2025 schedule, I have assigned your 2025 work schedule, which will take effect on January 19, 2025" and attached a new seven (7) day work schedule.

22. LVPOSA never rejected the terms of the new 2025 schedule as claimed by Deputy Chief Triplett; it merely asserted that the City must first meet with LVPOSA before changing to such a schedule. Such meetings would constitute impact/effects bargaining.

23. By falsely asserting that LVPOSA rejected the terms of the new schedule, and imposing a new schedule which would make some Lieutenant Positions "essential" for the first time, without agreeing to meet with LVPOSA to bargain the impact/effects of the change, the City has failed to bargain in good faith in violation of NRS 288.270(1)(e).

Wherefore, LVPOSA requests the following remedies:

1. For a finding that the City has failed to bargain in good faith;
2. For an Order compelling the City to bargain with LVPOSA over the implementation of any new schedule which would designate some Lieutenants to be "essential" positions;
3. For the Board to issue an Order rescinding the new schedule and re-instating the prior schedule until the bargaining process is completed;
4. For an Order requiring the City to post Notices of its prohibited practices of the sort ordered in *International Union of Operating Engineers Local 501 v. Esmerelda County*, Case No. 2018-014, Item No. 838 (2019);
5. For an award of costs and attorney's fees; and

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6. And for such other and further relief as determined to be appropriate by this Board.

DATED this 28th day of October 2024.

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STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS POLICE OFFICERS
SUPERVISORS ASSOCIATION,

Complainant,

vs.

CITY OF LAS VEGAS,

Respondent.

CASE NO. 2024-036

RESPONDENT'S ANSWER TO COMPLAINT

Respondent, City of Las Vegas (hereinafter referred to as "CITY"), by and through its attorneys of record Jeffry M. Dorocak, City Attorney, by Morgan Davis, Senior Assistant City Attorney, and by Michelle Di Silvestro Alanis, Deputy City Attorney, and hereby answers Complainants' Complaint as follows:

1. Answering Paragraph 1 of Complainants' Complaint on file herein, CITY admits the allegations in this paragraph.

2. Answering Paragraph 2 of Complainants' Complaint on file herein, CITY admits the allegations in this paragraph.

3. Answering Paragraph 3 of Complainants' Complaint on file herein, CITY admits the allegations in this paragraph.

4. Answering Paragraph 4 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

5. Answering Paragraph 5 of Complainants' Complaint on file herein, CITY admits the allegations in this paragraph.

6. Answering Paragraph 6 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

7. Answering Paragraph 7 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

8. Answering Paragraph 8 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

9. Answering Paragraph 9 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

10. Answering Paragraph 10 of Complainants' Complaint on file herein, CITY admits the allegations in this paragraph.

11. Answering Paragraph 11 of Complainants' Complaint on file herein, CITY responds that the Fact Finder's Award speaks for itself. The CITY denies the remaining allegations therein.

12. Answering Paragraph 12 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

13. Answering Paragraph 13 of Complainants' Complaint on file herein, CITY admits the allegations in this paragraph.

14. Answering Paragraph 14 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

15. Answering Paragraph 15 of Complainants' Complaint on file herein, CITY responds that the Memorandum of Understanding speaks for itself. The CITY denies the remaining allegations therein.

16. Answering Paragraph 16 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

17. Answering Paragraph 17 of Complainants' Complaint on file herein, CITY admits that the LVPOSA and the City entered into a new collective bargaining agreement for July 1, 2023 to June 30, 2026 and that the bargaining agreement included the language "all the Lieutenants' positions in the department hierarchy will be identified as either essential or non-essential personnel positions prior to designating assignments and shifts." The CITY denies the remaining allegations therein.

18. Answering Paragraph 18 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

19. Answering Paragraph 19 of Complainants' Complaint on file herein, CITY admits that on September 24, 2024, Deputy Chief Matthew Triplett sent an email to LVPOSA. The September 24, 2024 email speaks for itself. The CITY denies the remaining allegations therein.

20. Answering Paragraph 20 of Complainants' Complaint on file herein, CITY admits that on September 24, 2024, LPOSA responded to Deputy Chief Triplett's email. The September 24, 2024 email speaks for itself. The CITY denies the remaining allegations therein.

21. Answering Paragraph 21 of Complainants' Complaint on file herein, CITY admits that on October 1, 2024, Deputy Chief Triplett emailed LVPOSA. The October 1, 2024 email speaks for itself. The CITY denies the remaining allegations therein.

22. Answering Paragraph 22 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

23. Answering Paragraph 23 of Complainants' Complaint on file herein, CITY denies the allegations in this paragraph.

FIRST AFFIRMATIVE DEFENSE

All or part of the allegations asserted in the Complaint are untimely.

SECOND AFFIRMATIVE DEFENSE

Complainants' Complaint fails to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

Complainants' Complaint and each cause of action therein is barred by the doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE

Complainants' Complaint and each cause of action therein is barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

Complainant has failed to exhaust its administrative remedies.

SIXTH AFFIRMATIVE DEFENSE

At all times mentioned in the Complaint, CITY acted in a good faith belief that its actions were legally justified or excused.

SEVENTH AFFIRMATIVE DEFENSE

Complainant's claims are barred due to a failure to comply with statutory and/or contractual conditions.

EIGHTH AFFIRMATIVE DEFENSE

The allegations in the Complaint present at best questions of interpretation of the CBA and/or issues of procedural arbitrability that are to be decided by an Arbitrator and are outside the jurisdiction of this Honorable Board. As a result, the matter should be dismissed or deferred under the Limited Deferral Doctrine. The City denies any impact bargaining was required, but did meet and confer.

NINTH AFFIRMATIVE DEFENSE

Pursuant to N.R.C.P. 11, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Respondent's Answer, therefore, this answering Respondent reserves the right to amend its Answer to allege additional affirmative defenses if subsequent investigation so warrants.

WHEREFORE, answering Respondent, City of Las Vegas prays for judgment, as follows:

1. That Complainant take nothing by way of its Complaint on file herein;
2. For reasonable attorney's fees and costs incurred in defending this action; and

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3. For such other and further relief as this Board may deem just and proper.

DATED this 26th day of November, 2024.

JEFFRY M. DOROCAK
City Attorney

By: */s/ Michelle Di Silvestro Alanis*
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Deputy City Attorney
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Attorneys for CITY OF LAS VEGAS

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2024, I served a true and correct copy of the foregoing RESPONDENT'S ANSWER TO COMPLAINT via electronic mail (or, if necessary, by United States Mail at Las Vegas, Nevada, postage fully prepaid) upon the following:

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alevine@danielmarks.net
Attorneys for the Las Vegas Peace Officers Supervisor's Association

/s/ Ryann Milton
AN EMPLOYEE OF THE CITY OF LAS VEGAS

JEFFRY M. DOROCAK
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STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS POLICE OFFICERS SUPERVISORS ASSOCIATION, Complainant, vs. CITY OF LAS VEGAS, Respondent.	CASE NO. 2024-036

RESPONDENT'S MOTION TO DISMISS COMPLAINT OR ALTERNATIVELY DEFER THE COMPLAINT

Respondent, City of Las Vegas (hereinafter referred to as "CITY"), by and through its attorneys of record Jeffry M. Dorocak, City Attorney, by Morgan Davis, Senior Assistant City Attorney, and by Michelle Di Silvestro Alanis, Deputy City Attorney, and files this Motion to Dismiss or Alternatively Defer the Complaint filed by the Las Vegas Peace Officers Supervisors Association ("LVPOSA"). This Motion is made and based upon NAC 288.240 and NAC 288.375(2).

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This Complaint should be dismissed because the Complainant failed to exhaust its administrative remedies; thus, this Honorable Board does not have jurisdiction to hear this matter. Alternatively, the Complaint should be deferred until ruled on by an Arbitrator pursuant to the terms of the contract.

II. STATEMENT OF FACTS

The CITY and LVPOSA are parties to a three year Collective Bargaining Agreement effective July 1, 2023 through June 30, 2026 ("CBA"). *See* CBA attached hereto as Exhibit A. The CBA governs correctional lieutenants with the CITY's Department of Public Safety. *Id.* at Section 1. The CBA's Preamble sets forth that the "City is engaged in furnishing essential public services vital to the health, safety and welfare of the population of the City." *Id.* at 4. The Preamble further provides that parties understand that the CBA is "not intended to modify any of the discretionary authority vested in the City by the statutes of the State of Nevada." *Id*.

Article 4, Management Rights, reserves the right to the CITY to determine appropriate staffing levels. *Id*. at 8. This provision is consistent with NRS 288.150(3)(c). Article 9, Section 2 of the CBA states that the CITY "reserves the right to alter or change the workweek, shift and/or hours of an employee to accommodate an employee's attendance for issues of efficiency and economy." *Id*. at 17. Article 9, Section 4 states that if a change in work schedule is required, the Association and Chief shall meet to discuss the proposed change prior to implementation. *Id*. at 18. Section 4 further states that if after discussions it is determined the current schedule is not in the best interest of the CITY, any change will required advance notice of sixty (60) calendar days. *Id.* Furthermore, Article 9, Section 10, states that all the Lieutenants' positions will be identified as either essential or nonessential personnel positions prior to designating assignments and shifts. *Id*. at 20.

Here the parties discussed changes to the correctional lieutenants' schedules which was essential for effective operations. LVPOSA disagreed with the schedule change. The parties simply have differing opinions about the interpretation or application of the CBA language at issue.

The threshold issue is whether the CITY can change the lieutenants' schedule or whether it impacts bargaining. Further, the parties disagree over the interpretation and application of the language in question. The parties further disagree on whether the parties conducted a meet and confer on the schedule change.

Disagreements over the interpretation, application or alleged violation of CBA language represent a grievance. Exhibit A at 41. Article 21, Section 3 of the CBA in question states in part:

> Any dispute concerning interpretation or application of an expressed provision of this Agreement, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action taken against an employee **shall** be subjected to this grievance procedure. (Emphasis added).

Id.

The CBA establishes a 5-step grievance process that provides the parties the right to submit the matter to arbitration. Here, LVPOSA has yet to file a grievance on this contract interpretation or application. Instead, LVPOSA filed this Complaint on October 28, 2024 alleging violations of the CBA. The threshold issue is set forth in Paragraphs 21 through 23 of the Complaint which state:

> 21. On October 1, 2024 Deputy Chief Triplett emailed LVPOSA "Due to your association rejecting the terms of the new 2025 schedule, I have assigned your 2025 work schedule, which will take effect on January 19, 2025" and attached a new seven (7) day work schedule.
>
> 22. LVPOSA never rejected the terms of the new 2025 scheduled as claimed by Deputy Chief Triplett; it merely asserted that the City must first meet with LVPOSA before changing to such a schedule. Such meetings would constitute impact/effects bargaining.
>
> 23. By falsely asserting that LVPOSA rejected the terms of the new schedule, and imposing a new schedule which would make some Lieutenant Positions "essential" for the first time, without agreeing to meet with LVPOSA to bargain the impact/effects of the change, the City has failed to bargain in good faith in violation of NRS 288.270(1)(e).

CITY DPS adjusted the lieutenants' schedule after discussing with LVPOSA and in accordance with the CBA and gave appropriate notice of the proposed change.

III. LEGAL ARGUMENT

Pursuant to NAC 288.375(2), absent a clear showing of special circumstances or extreme circumstances, this Board may dismiss a matter when the contractual remedies, including arbitration, have not been exhausted. This Board has stated, "The preferred method for resolving disputes is through the bargained-for grievance process, and we apply NAC 288.375(2) liberally to effectuate that purpose." *Storey County Firefighters Ass'n, IAFF Local 4227 v. Storey County,* EMRB Case. No. A1-045951, Item No. 707 (2009). Whether the City violated the CBA is solely a question for an arbitrator. Further, interpretation of the express terms of the CBA is a matter to be decided by an arbitrator. It is clear the matter represents a contract interpretation issue, and that the agreed upon contractual remedies, including filing a grievance and arbitration have not been exhausted. As a result, the matter should be dismissed.

Alternatively, since exhaustion of the contractual remedies has not occurred in this case, that should bar, or at a minimum require deferral of this matter. In *International Association of Firefighters, Local #2905, and Casey Micone v. Reno-Tahoe Airport Authority,* Case No. 2020-013, Item 867 (2020), this Honorable Board reasserted its consistent rulings, stating:

> This Board has repeatedly emphasized that the **preferred method for resolving disputes is through the bargained-for processes**, and the Board applies NAC 288.375 liberally to effectuate that purpose. Moreover, the Board generally may defer to arbitration proceedings in consideration with its exclusive jurisdiction and, in such cases, it is the practice of the Board to stay matters during the arbitration process. [Citations omitted.] (emphasis added).

It is anticipated that the Complainant will attempt to rely on *City of Reno v. Reno Police Protective Association*, 118 Nev. 889, 59 P.3d 1212 (2002), for the generic proposition that a unilateral change of a mandatory subject can be a prohibited labor practice. That case was a Judicial Review of a decision of this Honorable Board. It is clear in that case, this Honorable Board deferred the matter to arbitration. In that unilateral change case, this Board stated:

> The Board has adopted a 'limited deferral doctrine' with regard to disputes arising under labor agreements. (Citation omitted) Under said limited deferral doctrine in order for the Board to consider a

> complaint involving an alleged contract violation the Complaint must establish, at least prima facie, that the alleged contract violation constituted a prohibited practice under NRS 288. While the Association has presented a prima facie case as required it is the **Board's policy to encourage parties,** whenever possible, to exhaust their remedies under the contractual dispute resolution systems contained in their collective bargaining agreement before seeking relief from the EMRB. Thus, where parties have not exhausted their contractual grievance arbitration remedies, the Board will not exercise its discretion to hear a complaint unless there is a clear showing of special circumstances or extreme prejudice. No such showing exists in the instant complaint.
>
> This Board will not take jurisdiction in a matter which is clearly a contract grievance ripe for arbitration.

Reno Police Protective Association v. Reno Police Department, City of Reno, Case No. A1-045626, Item 415 (1997).

While LVPOSA has yet to file a grievance, based on the governing case law, the EMRB should defer the matter to exhaust any and all administrative remedies. LVPOSA has not shown any special circumstances or extreme prejudice. If this Board, is not inclined to dismiss the Complaint, then it should defer the matter for action consistent with the CBA remedies.

IV. CONCLUSION

The Complainant's entire Complaint centers on whether the CITY violated the CBA. The CITY strongly disagrees that modifying the schedules violates the CBA, and asserts that the acts in question were all taken in compliance with the CBA. Nonetheless, the issues presented all pertain to questions of CBA interpretation, which are covered by the grievance process. Additionally, a grievance has not been filed in this matter. This Honorable Board has repeatedly applied the limited deferral doctrine requiring exhaustion of contractual remedies before seeking relief from the EMRB.

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This Honorable Board should continue to follow that precedence and not take jurisdiction of this matter, which is ripe for arbitration.

DATED this 26th day of November, 2024.

JEFFRY M. DOROCAK
City Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2024, I served a true and correct copy of the foregoing **RESPONDENT'S MOTION TO DI**SMISS COMPLAINT OR ALTERNATIVELY DEFER THE COMPLAINT via electronic mail (or, if necessary, by United States Mail at Las Vegas, Nevada, postage fully prepaid) upon the following:

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Officers Supervisor's Association

/s/ Ryann Milton
AN EMPLOYEE OF THE CITY OF LAS VEGAS

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STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS POLICE OFFICERS SUPERVISORS ASSOCIATION Complainant, vs. CITY OF LAS VEGAS, Respondent.	Case No.: 2024-036 **OPPOSITION TO RESPONDENT'S MOTION TO DISMISS COMPLAINT OR ALTERNATIVELY DEFER THE COMPLAINT**

COMES NOW Complainant, Las Vegas Police Officers Supervisors Association ("LVPOSA") by and through undersigned counsel Adam Levine, Esq. of the Law Office of Daniel Marks and files its Opposition to Respondent City of Las Vegas' Motion to Dismiss Complaint or Alternatively Defer the Complaint as follows:

I. DEFERRAL UNTIL RESOLUTION OF THE GRIEVANCE PROCESS IS NOT APPROPRIATE.

The City moves to dismiss the Complaint filed by LVPOSA, or alternatively defer scheduling this matter for a hearing, until the contractual remedies have been exhausted. Under NLRB precedent this matter should not be deferred to the grievance process.

The National Labor Relations Board in *San Juan Bautista, Inc., d/b/a San Juan Bautista Medical Center and Hermandad De Empleados De La Salud Y Otras Agencias*, 356 N.L.R.B. 736 (2011) set forth the criteria which should be utilized to determine whether deferral should take place:

> (1) whether the dispute "arose within the confines of a long and productive collective-bargaining relationship;" (2) whether there is a "claim of employer animosity to the employees' exercise of protected rights;" (3) whether the agreement provides for arbitration "in a very broad range of disputes;" (4) whether the arbitration clause "clearly encompasse[s] the dispute at issue;" (5); and (6) whether the dispute is "eminently well suited to resolution by arbitration."

citing *United Technologies Corp.*, 268 NLRB 557, 558 (1984); and *Collyer Insulated Wire*, 192 NLRB 837, 842 (1971).

Supreme Court has repeatedly held that it is appropriate to look to NLRB precedent in interpreting and applying Chapter 288. *Truckee Meadows Fire Protection District v. International Association of Firefighters Local 2487*, 109 Nev. 367, 849 P.2d 343 (1993). The language of NAC 288.375(2) speaks in terms of "special circumstances". The Board has never actually defined what would constitute such "special circumstances".[1] However, in *City of Reno v. Reno Police Protective Association*, 118 Nev. 889, 59 P.3d 1212 (2002) the Nevada Supreme Court adopted the NLRB's deferral policy. 118 Nev. at 896, 59 P.3d at 1217. The adoption of the NLRB's deferral policy cannot

[1] The closest the Board has come to defining the term "special circumstances" seems to be *Thomas E. Fraley, Jr. v. City of Henderson and Henderson Police Officer's Association*, Case No. A1-045756 Item No. 547 (April 2004) where the Board made passing reference to "inaction of the Association, economic losses, as well as the potential to lose witness and evidence". It appears that the regulation itself was adopted well before the NLRB clarified when deferral is appropriate.

be piecemeal; it must encompass the criteria from *San Juan Bautista, Inc.* as to when to reject the requirement of first going to arbitration, just as much as deferring to a prior arbitration which has already happened.

Therefore, the failure to meet the criteria set forth above from the NLRB in *San Juan Bautista, Inc.* must suffice to qualify as the necessary special circumstances under NAC 288.375. Otherwise, the directive of the Nevada Supreme Court to apply NLRB precedent in the administration of Chapter 288 is rendered meaningless.

A. There Has Not Existed A Long And Productive Bargaining Relationship.

Unlike many City bargaining units which have been around since the 1990s, LVPOSA had to go to statutory impasse to achieve its first bargaining agreement with the recommendations for such issuing on December 13, 2018. The current collective bargaining agreement is only the second bargaining agreement between the parties. As set forth in paragraph 15 of the Complaint, during a substantial portion of the existence of the bargaining unit, there was only one Lieutenant due to the City refusing to promote any new Lieutenants.

B. There Is A Claim Of Employer Animosity To The Exercise Of Protected Rights.

This case involves the protected right to impact bargain. Even where management exercises what would otherwise be its rights, the impact or effects of this management right are still subject to bargaining (i.e. "impact bargaining"). As recognized long ago by *County of Washoe v. Washoe County Employees' Association*, Case No. A1-045365 Item No. 159 (March 8, 1984), once a decision within the province of management rights is made by the employer "the impact of that decision on employees is, in our view, a proper subject of mandatory negotiations under provisions of NRS 288.150(2)". As explained by California's Public Employee Relations Board ("PERB"):

> An employer violates the duty to bargain in good faith when it fails to afford a union reasonable **advance notice and an opportunity to bargain** before it either: (1) reaches a firm decision to establish or change a policy within the scope of representation, (*Public*

> *Employment Relations Bd. v. Modesto City Schools Dist.* (1982) 136 Cal.App.3d 881, 900.) or (2) implements a new or changed policy not within the scope of representation but having a foreseeable effect upon matters within the scope of representation. (Claremont.) Thus, making a firm decision to establish or change a policy on employee wages, hours or other terms and conditions of employment, without affording the union notice and an opportunity to bargain, violates the employer's duty to bargain in good faith. And implementing a new or changed policy not itself within the scope of representation (e.g., staffing levels) but having a foreseeable effect(s) on employee wages, hours or other terms and conditions of employment (e.g., safety or workload), likewise violates the employer's duty to bargain in good faith where implemented without affording the union notice and an opportunity to bargain over the foreseeable effect(s).

Santa Clara County Correctional Peace Officers' Association and v. County of Santa Clara, 2013 Cal. PERB LEXIS 24, PERB Decision No. 2321M (July 25, 2013) (**emphasis added**).

As alleged in paragraphs 19-23 of the Complaint, on September 24, 2024 LVPOSA responded to the announcement of the future unilateral change by pointing out that there been no proposed meetings to discuss any such changes, and in the absence of such discussions the current schedule would need to remain in place. As pointed out in paragraph 21 of the Complaint, in response to this the City falsely asserted that "Due to your Association rejecting the terms of the new 2025 schedule, I have assigned your 2025 work schedule, which will take effect on January 19, 2025".

This evidences hostility towards the right to impact bargain. If management can simply impose the change upon an allegation that the Union has rejected something that it is not even had an opportunity to impact bargain over, the "advance notice and an opportunity to bargain" requirement is rendered meaningless and a nullity.

C. The CBA Does Not Provides For Arbitration In A Very Broad Range Of Disputes, And The Arbitration Clause Does Not Clearly Encompass The Dispute At Issue.

Article 21 "Grievance Procedures" of the collective bargaining agreement does not provide arbitration for "a very broad range disputes". Rather, the definition of a grievance subject to arbitration is very narrow. Section 3 "Grievance Procedure" states in pertinent part:

> Any dispute concerning interpretation or application of an expressed provision of this Agreement, the Department rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action taken against an employee shall be subject to this grievance procedure.

(Exhibit "1"). Thus, if a dispute does not involve "application of an expressed provision" of the CBA, a rule or regulation that violates the CBA (or which is applied in an unfair or inconsistent manner), or disciplinary action, it is not subject to the grievance process, or by extension arbitration.

The right to impact bargain is a statutory right, not an "expressed provision" of the CBA. Therefore, the arbitration clause of the CBA does not "clearly encompass" the dispute at issue.

D. The Dispute Is Not Suitable To Resolution By Arbitration.

The final criteria for the Board to consider is whether the dispute is "eminently well suited to resolution by arbitration."[2] As noted by the NLRB in *San Juan Bautista, Inc.*:

> A dispute is well suited to arbitration when the meaning of a contract provision is at the heart of the dispute. See *Collyer*, supra at 842. Deferral is not appropriate when "no construction of the contract is relevant for evaluating the reasons advanced by Respondent for failing to comply with that contract provision." *Struthers Wells Corp.*, 245 NLRB 1170, 1171 fn. 4 (1979), enfd. mem. 636 F.2d 1210 (3d Cir. 1980), cert. denied 452 U.S. 916, 101 S. Ct. 3051, 69 L. Ed. 2d 419 (1981). Moreover, deferral is also not appropriate if the contract provision at issue is unambiguous. See, e.g., *New Mexico Symphony Orchestra*, 335 NLRB 896, 897 (2001).

356 N.L.R.B. at 737. Thus, deferral should be limited to what are primarily *contractual* disputes.

If a dispute is not is not clearly encompassed by a contractual provision, there is nothing for an arbitrator to decide. The Complaint in this case is not contractual. It involves the *statutory* obligation to impact bargain. In in *San Juan Bautista, Inc.* the NLRB rejected deferral to arbitration because the dispute was primarily statutory (Puerto Rican law required a Christmas Bonus under certain

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[2] The issue of "whether the employer asserts its willingness to resort to arbitration for the dispute" is not at issue in this case. In *San Juan Bautista, Inc.,* the NLRB recognized that not all issues need apply in every analysis holding "Neither the first nor the last factor is present here". 356 N.L.R.B. at 737.

circumstances, exempting employees under a collective bargaining agreement unless the CBA provided for an amount less than the statute).

An arbitrator's jurisdiction is limited to enforcement of the collective bargaining agreement as it exists. As explained long ago by the United States Supreme Court in *United Steelworkers of America v. Enterprise Wheel & Car Corporation*, 363 U.S. 593 (1960):

> [A]n arbitrator is confined to interpretation and application of the collective bargaining agreement; he does not sit to dispense his own brand of industrial justice. He may of course look for guidance from many sources, yet his award is legitimate only so long as it draws its essence from the collective bargaining agreement. When the arbitrator's words manifest an infidelity to this obligation, courts have no choice but to refuse enforcement of the award.

363 U.S. at 597.

II. REQUIRING ARBITRATION PRIOR TO IMPACT BARGAINING RENDERS THE ENTIRE CONCEPT OF IMPACT BARGAINING TO BE MEANINGLESS.

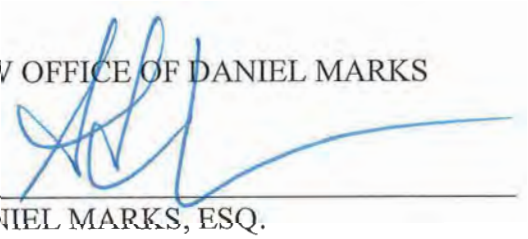
As set forth above, the entire point behind impact bargaining is the obligation of the employer provide *advance* notice and an opportunity to bargain *before* it either: (1) reaches a firm decision to establish or change a policy within the scope of representation or (2) implements a new or changed policy not within the scope of representation but having a foreseeable effect upon matters within the scope of representation. *Santa Clara County Correctional Peace Officers' Association v. County of Santa Clara*, 2013 Cal. PERB LEXIS 24, PERB Decision No. 2321M (July 25, 2013). The key words are "advance" and "before". Given that it takes months to schedule an arbitration, and several additional months to obtain an award following the arbitration hearing, requiring arbitration before the Board will hear a failure/refusal to impact bargain case renders the entire concept of impact bargaining to be meaningless.

Finally, it should be pointed out that the City has not yet even implemented the new schedule. As set forth in the Complaint at paragraph 19, the City announced that it would implement the new

schedule on January 19, 2025. LVPOSA cannot grieve something that has not happened yet. However, LVPOSA can demand to impact bargain prior to the effective date, and upon a failure/refusal by the City to do so, the matter is ripe for the Board to hear as it is the Board which has statutory responsibility for the administration of Chapter 288 – including the enforcement of the obligation to impact bargain *before* a change is made.

DATED this 31st day of December 2024.

LAW OFFICE OF DANIEL MARKS



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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the LAW OFFICE OF DANIEL MARKS, and that on the 31st day of December 2024, I served a true and correct copy of the foregoing OPPOSITION TO RESPONDENT'S MOTION TO DISMISS COMPLAINT by emailing the same to the following recipients. Service of the foregoing document by email is in place of service via the United State Postal Service.

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An employee of the
LAW OFFICE OF DANIEL MARKS

EXHIBIT 1

EXHIBIT 1

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE CITY OF LAS VEGAS

&

LAS VEGAS PEACE OFFICERS SUPERVISORS ASSOCIATION (LVPOSA)

Department of Public Safety

July 1, 2023 - June 30, 2026

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ARTICLE 21 - GRIEVANCE PROCEDURES

Section 1. General

The purpose of the Grievance Procedure shall be to settle all grievances between the City and the employees of the Bargaining Unit as quickly as possible to insure efficiency and promote employee morale. Should any employee or group of employees feel aggrieved, including the claim of unjust discrimination or any matter or condition affecting health and safety which may be a violation of federal or state law, including Occupational Safety and Health Act, 29 U.S.C. Sec. 651-78, Nevada Occupational Safety and Health Act, NRS 618.005 et seq. NRS Chapter 288 and/or may be considered subjects of mandatory collective bargaining, NRS 288.150(2)(m), adjustment may be sought.

The enforcement and establishment of Civil Service Rules promulgated by the Civil Service Board are expressly excluded from consideration as a grievance. Whenever Civil Service rules are contrary to the terms of this Agreement, they shall have no force or effect on the employees covered by this Agreement. Civil Service rules will apply in circumstances where the Agreement is silent. Alleged violations of Civil Service rules, which are not covered by the terms of this Agreement, may only be appealable through the Civil Service Rules. Violations of Federal and State statutory provisions and the enforcement thereof except as referred to in this section are not subject to the grievance procedure hereinafter set forth. Nothing in this paragraph shall be interpreted as prohibiting an employee or the Association from aggrieving an action or conduct which may violate or be in conflict with any federal or state law to the extent the grievance claims or alleges such action or conduct constitutes a violation of this contract or department rules or regulations. No employee shall be deemed to have waived or forfeited any rights, including the right to a jury trial under any applicable federal or state law, by virtue of filing a grievance or requesting arbitration of any dispute within the scope of this Article.

The Association recognizes its responsibility as bargaining agent and agrees to fairly represent all employees in the bargaining unit. The City recognizes the right of the Association to charge non-members of the bargaining unit a reasonable service fee for representation in grievance hearings and appeals.

The parties agree that employees must successfully complete an initial probationary period. Prior to the successful completion of an initial probationary period, the City has the right to discipline or discharge an employee at any time, so long as the action is consistent with applicable state and federal law and the terms of this Agreement. The parties further agree that after a finding of fact, an employee shall have an informal meeting with the Department Director prior to a non-confirmation of appointment.

Section 2. Informal Procedure

Prior to submitting a written grievance, nothing herein shall preclude any employee from discussing their grievance with the immediate supervisor up to and including the Chief or their designee and an Association Representative for informal adjustment. If the problem cannot be resolved informally, as set forth in this section, the employee may proceed to Section 3.

Section 3. Grievance Procedure

Any dispute concerning interpretation or application of an expressed provision of this Agreement, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action taken against an employee shall be subjected to this grievance procedure.

(1) It is agreed that the City has a right to discipline or discharge employees for just cause. Disciplinary actions, except oral reprimands, shall be subject to the Grievance Procedure. Oral reprimand is defined as a verbal warning, which is not placed within the employee's personnel file. The City shall have just cause for any disciplinary action.

(2) No regular employee shall be discharged except for just cause defined in Article 20, Section G, which shall be subject to the Grievance Procedure. It is understood by and between the parties that this section does not affect the City's right to eliminate positions because of layoffs or reduction of force in good faith.

All non-disciplinary grievances must be filed in writing, with the Chief, within thirty (30) calendar days after the matter in dispute/disagreement is alleged to have occurred or thirty (30) days from the time the employee had reason to know the circumstances giving rise to the grievance.

The time limits stated above shall not commence so long as the grievant/Association and the Chief are engaged in informal discussions in an attempt to resolve the issue without filing a formal grievance. However, the grievant/Association may file a written grievance at any time during the informal discussion period in order to move the dispute to the formal process.

Disciplinary appeals must be filed with the Chief, within fourteen calendar (14) days from the date of issuance. A grievant/appellant may have up to two (2) representatives of their choice at any or all steps of the grievance process. Written reprimands may only be appealed through Step 4 of the procedure and are not subject to arbitration.

The Association, upon receiving a written and signed request, shall determine if a grievance exists. If, in their opinion, no grievance exists, the Association may take no further action. Nothing stated herein shall prohibit an employee from proceeding on their own behalf in filing and processing a grievance and the City shall recognize the individual

employee's rights to file a grievance and proceed through the grievance process, including arbitration as "the grievant".

Step 1. An employee having a complaint or grievance shall present the signed written grievance to the Association President. If it is determined by the Association President that a grievance does exist, the Association shall, within ten (10) working days, present the signed grievance to the Department Chief.

Step 2. The Chief, or designee, along with a representative from Human Resources shall meet with the grievant no later than ten (10) working days after receipt of the grievance for the purposes of attempting to resolve this dispute. The Chief, or designee, will have ten (10) working days from the date of the meeting to answer the grievance in writing.

Step 3. Within ten (10) working days after receipt of the Department Chief's, or designee's, response, or lack of response, the Association shall submit the grievance to the City Manager stating the reasons why the Department Chief's reply was not acceptable.

Step 4. Within ten (10) working days after receipt of the grievance, the City Manager, or designee, shall meet with the grievant for the purposes of attempting to resolve this dispute. The City Manager, or designee, will have ten (10) working days from the date of the meeting to answer the grievance in writing.

Step 5. If a mutually satisfactory settlement cannot be reached between the City Manager and the Association, the Association shall have the right to submit the matter to arbitration. The Association must notify the City Manager of its decision in writing within ten (10) working days from the date of the decision by the City Manager, or designee, or within ten (10) working days from the expiration of the period for the City Manager's or designee's response, if none was made.

Section 4. Arbitration Procedures

Following Notice of Arbitration, the City and the Association or the employee's representative, shall agree upon a source for a list of seven (7) arbitrators. The lists shall either be a Federal Mediation and Conciliation Service (FMCS) or an American Arbitration Association (AAA) list.

To select an arbitrator from the panel, the parties may either mutually agree to one or shall alternatively strike one name each, with the Association striking first. The last remaining name shall become arbitrator. The arbitrator shall be notified of their selection by a joint letter from the City and the Association requesting that they set a time and place, subject to availability of the City and the Association. Any dispute, claim or grievance submitted to the final and binding arbitration under the provisions in the Article shall be done under the voluntary Labor Arbitration Rules of the American Arbitration Association (AAA) and/or the Federal Mediation and Conciliation Service (FMCS).

Decisions of the arbitrators shall be final; however, the arbitrator shall have no power to add to, subtract from, or modify the terms of this agreement and department Rules and Regulations, except to the degree when rules conflict with this Agreement; and shall make their decision within thirty (30) calendar days from conclusion of the hearing or as agreed upon by the parties. The arbitrator shall not hear or decide more than one grievance without the mutual consent of the City and the Association. The arbitrator shall be without power to make decisions contrary to or inconsistent with or modifying or varying applicable laws or rules of law and any ruling by the Arbitrator as a question of law may be reviewed by a court of law de novo.

Section 5. Awards

The arbitrator's award will be final and binding on the Association and its members, the employee or employees involved, and the City to the extent of the Arbitrator's authority provided herein. All fees charged by the AAA or FMCS and the arbitrator's fees and costs and any costs of transcription of the record shall be shared equally 50% by the Association or grievant and 50% by the City.

Section 6. Time Limits

In computing any period of time described or allowed in this procedure, the day of the act, event, or default from which designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a holiday.

Section 7. Grievance Resolution

A copy of all written decisions or resolutions will be forwarded to the Association.

(A) Reduction in Discipline - If the decision is to reduce the discipline, then the originating supervisor who meted out the discipline shall be directed to correct the disciplinary record in any files maintained for the grievant and specifically any file maintained with Human Resources.

(B) Exoneration of Discipline - If the discipline is reversed in the favor of the employee, all files including the Human Resource personnel file and the employee's department file will be purged of all references to the discipline. Additionally, the Internal Investigations file will be modified to show the findings.

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GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

STATE OF NEVADA

LAS VEGAS POLICE OFFICERS SUPERVISORS ASSOCIATION, Complainant, vs. CITY OF LAS VEGAS, Respondent.	CASE NO. 2024-036

RESPONDENT'S REPLY IN SUPPORT OF MOTION TO DISMISS COMPLAINT OR ALTERNATIVELY DEFER THE COMPLAINT

Respondent, City of Las Vegas (hereinafter referred to as "CITY"), by and through its attorneys of record Jeffry M. Dorocak, City Attorney, by Morgan Davis, Senior Assistant City Attorney, and by Michelle Di Silvestro Alanis, Deputy City Attorney, and files this Motion to Dismiss or Alternatively Defer the Complaint filed by the Las Vegas Peace Officers Supervisors Association ("LVPOSA"). This Motion is made and based upon NAC 288.240 and NAC 288.375(2).

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The gravamen of this action is the interpretation or application of Article 9 of the CBA which governs changes to the work schedule. Interpretation or application of a provision of the CBA is subject to arbitration and not properly before this Board. Any disagreements about the interpretation, application or alleged violation of the CBA are considered grievances which are subjected to the 5 step grievance procedure in the CBA that provides the right to arbitration. Instead of following this procedure, LVPOSA filed the instant action. Everything described in LVPOSA's opposition is grievable and should be subject to arbitration. There are no special circumstances to allow LVPOSA to avoid its contractual remedies, thus this matter should be dismissed. Alternatively, this matter should be deferred under the Limited Deferral Doctrine which requires the EMRB to defer to the administrative remedies set forth in the CBA. LVPOSA's reliance on the NLRB's ruling in *San Juan Bautista* is misplaced. Even assuming it applied in this case, *San Juan Bautista* supports the City's position that deferral is appropriate. Additionally, reliance on *City of Reno* is also misplaced as those factors apply to deferral to a prior arbitration. Furthermore, impact bargaining is not required as there was no change in policy but rather a disagreement in the interpretation and application of the CBA. Lastly, LVPOSA admits that it could file a grievance when the new schedule is imposed which further supports that they have not exhausted their administrative remedies and that this matter should be dismissed or deferred.

II. LEGAL ARGUMENT

A. LVPOSA has failed to show any special or extreme circumstances exist to excuse them from exhausting their administrative remedies and avoid dismissal.

The disagreement in this case stems from the City's proposal to change the lieutenants' work schedule and LVPOSA believing the change in work schedule and alleged failure to identify the lieutenants as essential or non-essential personnel violated the terms of the CBA.

Pursuant to NAC 288.375(2), absent a clear showing of special circumstances or extreme circumstances, this Board may dismiss a matter when the contractual remedies, including arbitration, have not been exhausted. "The preferred method for resolving disputes is through the

bargained-for grievance process, and we apply NAC 288.375(2) liberally to effectuate that purpose." ***Storey County Firefighters Ass'n,*** *IAFF Local 4227 v. Storey County,* EMRB Case. No. A1-045951, Item No. 707 (2009).

In its Opposition, LVPOSA noted that the EMRB has not defined special circumstances but failed to describe or establish that any special circumstances exist in this case that would allow LVPOSA to avoid their contractual remedies of filing a grievance and proceeding to Arbitration. Instead of setting forth any special circumstances, LVPOSA turns to the deferral criteria set forth in *San Juan Bautista Medical Center and Hermandad De Empleados De La Salud Y Otras Agencias,* which does not establish any criteria for special circumstances preventing dismissal.

In fact, in this case, no special circumstances exist to avoid dismissal. The disagreement in this case is one over the interpretation, application or alleged violation of the language found in CBA Article 9- Hours of Work:

> **Section 10. Essential and Non-Essential Personnel**
> The City and the Association agree that all the Lieutenants' positions in the department hierarchy will be identified as either essential or non-essential personnel positions prior to designating assignments and shifts.

See Exhibit A, CBA attached hereto.

LVPOSA uses the terms "essential" and/or "non-essential" in its Complaint no less than nine times. *See Compl. at* ¶¶ 4, 7, 9, 13, 14, 17, 18, 23 and prayer for relief at 2. It is clear that the parties have a disagreement on the interpretation, application or alleged violation of Article 9. Because this case stems from the interpretation, application or alleged violation of the contract, it is governed by Article 21, Section 3 which provides that a dispute "shall be subjected to this grievance procedure."

Here, LVPOSA has not grieved the matter or exhausted its administrative remedies. LVPOSA argues that it "cannot grieve something that has not happened yet" since the schedule will go into effect January 19, 2025. *See* Opposition at 7. LVPOSA's position is a tacit admission that issue is one subject to a grievance. Whether the grievance is timely, would also be a matter subject to arbitration. Thus, this matter should be dismissed as it involves contract interpretation, and pursuant to the applicable CBA and governing law, LVPOSA has failed to exhaust its

administrative remedies.

B. Alternatively, LVPOSA has failed to show why this matter should not be deferred until the contractual remedies have been exhausted.

If this Board is not inclined to dismiss, this case should be deferred until after the exhaustion of the contractual remedies i.e. filing a grievance and/or Arbitration. Everything described in LVPOSA's opposition is grievable and should be subject to the contractual remedies including Arbitration.

1. The matter should be deferred pursuant to the Limited Deferral Doctrine

When filing a Prehearing Statement NAC 288.250(c) requires:

> A statement of whether there are any pending ***or anticipated*** administrative, judicial or other proceedings related to the subject of the hearing and, if so, a description of the manner in which those proceedings may affect the hearing and an opinion concerning whether the hearing should be stayed pending the outcome of any such proceedings. (emphasis added).

The EMRB has adopted a "limited deferral doctrine" with regard to disputes arising under labor agreements. *I.A.F.F. #731 v. City of Reno*, EMRB Item No. 257, Case No. A1-045466. Under the limited deferral doctrine, in order for the Board to consider a complaint involving an alleged contractual violation, the Complaint must establish that the violation constituted a prohibited practice under NRS 288. *Reno Police Protective Association, v. Reno Police Department, City of Reno,* EMRB Item No. 415, Case No. A1-045626. However, it's the Board's policy to encourage parties to exhaust their remedies under the contractual dispute resolutions systems contained in their collective bargaining agreement before seeking relief from the EMRB. *Id.*

Here, the dispute is nothing more than an alleged contractual violation and the matter should be deferred to any anticipated proceeding relating to this case. As set forth in *Reno Police Protective Association*, it is the Board's policy to encourage parties to exhaust their administrative remedies unless there is a clear showing of special circumstances or extreme prejudice. LVPOSA has not exhausted its administrative remedies nor have they shown special circumstances. Thus, this matter should be deferred under the EMRB's limited deferral doctrine.

2. *San Juan Bautista* is inapplicable to the instant case

As stated above, the EMRB has adopted the Limited Deferral Doctrine. Thus, LVPOSA's reliance on the NLRB's ruling in *San Juan Bautista, Inc.,* 356 N.L.R.B 736 (2011) is misplaced and the deferral factors are irrelevant to this case. Even assuming *San Juan Bautista* applied in this case, *San Juan Bautista* supports the City's position that deferral is appropriate.

In *San Juan Bautista*, a hospital failed to pay its employees a Christmas bonus guaranteed by the collective bargaining agreement. *San Juan Bautista, Inc.,* 356 N.L.R.B 736 (2011). The matter was heard by an Administrative Law Judge, who concluded that deferring the case to arbitration was inappropriate. *Id*. The employer filed an exception and the matter was heard by a three member panel of the Board. *Id.* The Board set forth six factors to consider when determining when to defer a dispute to arbitration:

> (1) whether the dispute "arose within the confines of a long and productive collective-bargaining relationship;" (2) whether there is a "claim of employer animosity to the employees' exercise of protected rights;" (3) whether the agreement provides for arbitration "in a very broad range of disputes;" (4) whether the arbitration clause "clearly encompasse[s] the dispute at issue;" (5) whether the employer asserts its willingness to resort to arbitration for the dispute; and (6) whether the dispute is "eminently well suited to resolution by arbitration."

Id. at 737, citing *United Technologies Corp.*, 268 NLRB 557, 558 (1984)

The Board declined to defer the case to arbitration because the employer and union did not have a long productive bargaining relationship since the contract has been in effect for only six months, and because the **case did not require interpretation of the collective bargaining agreement**. *San Juan Bautista, Inc.,* 356 N.L.R.B 736 (2011) (emphasis added). Unlike in *San Juan Bautista*, deferral is appropriate here.

a. There is a Long and Productive Bargaining Relationship

Here, LVPOSA was first recognized as the exclusive bargaining unit in 2015 which was ten years ago. The first negotiated CBA went into effect in 2018, which was seven years ago and since that time there was a second CBA. In *San Juan Bautista*, the collective bargaining agreement had only been in effect for 6 months. Here, the parties have had a long and productive bargaining

relationship as they have entered into two different CBAs over the course of seven years. Thus, this factor is in favor of the City and deferring the case to Arbitration.

b. There is no employer animosity to the exercise of Protected Rights.

Here, the parties are in a disagreement on Article 9 and the classification of lieutenants as essential or non-essential employees and on Article 4 with the City's ability to modify their work schedules. Changing a work schedule is not employer animosity. Further, LVPOSA's argument that it requires impact bargaining is misplaced because there is no change to policy. Both the governing statutes and the CBA allow the City to reserve their right to determine staffing or alter or change the work week. If there is a disagreement on the CBA Articles then it is one of interpretation and application and is not evidence of animosity. Thus, this factor supports the City and deferral.

c. The CBA provides for arbitration a broad range of disputes.

Here, the CBA has a 5 step grievance process applicable to "any dispute concerning the interpretation or application of an expressed provision of this Agreement, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action." Exhibit Article 21, Section 3. The range of disputes includes a least three broad categories of disputes. The specific issue in this case is governed by the grievance procedure and Arbitration. A dispute is well suited to arbitration when the meaning of a contract provision is at the heart of the dispute. *Collyer Insulated Wire*, 192 NLRB 837, 842 (1971). This case is suited for arbitration because the meaning of Article 9, Section 10 is in dispute. Thus, this factor is in favor of the City and deferral.

d. The arbitration clause clearly encompasses the dispute.

As referenced above, the Arbitration clause found in Article 21, section 3 clearly encompasses the dispute. Here, the disagreement in this case stems from the City's proposal to change the lieutenants work schedule and LVPOSA believing the change in work schedule and alleged failure to identify the lieutenants as essential or non-essential personnel violated the terms of the CBA. This dispute is grievable and subject to the grievance procedure and potential arbitration. Thus, this factor favors the City and deferral.

e. The City has asserted its willingness to resort to arbitration.

The City is requesting dismissal or deferral because LVPOSA should exhaust its administrative remedies which pursuant to the applicable CBA is to follow the 5 step grievance procedure which includes Arbitration. Thus, the City is willing to resort to arbitration and this factor is in favor of the City and deferral.

f. The dispute is eminently well suited to resolution by arbitration.

A dispute is well suited to arbitration when the meaning of a contract provision is at the heart of the dispute. *Collyer Insulated Wire*, 192 NLRB 837, 842 (1971). In evaluating this factor, it is crucial to correctly characterize the present dispute. *San Juan Bautista, Inc.*, 356 NLRB 736, 737 (2011).

Here, the dispute revolves around the meaning of Article 9, Section 10 which is a contract provision and suitable for arbitration. The City proposed changing the work schedules of the lieutenants and LVPOSA argues that the City cannot change the work schedule without defining essential and nonessential employees. All issues raised by the LVPOSA in its complaint are interpretations of contract. Furthermore, LVPOSA admitted it could file a grievance but did not believe the matter was ripe for a grievance since the schedule was to be implemented on January 19, 2025. Therefore, even LVPOSA acknowledged this matter was well suited for arbitration. As will be discussed below, this is not a case involving impact bargaining. Thus, this factor is also in favor of the City and deferral.

3. The Nevada Supreme Court's adoption of the NLRB's Deferral Policy does not include *San Juan Bautista* nor is it applicable here.

The Nevada Supreme Court adopted the NLRB's deferral policy. *City of Reno v. Reno Police Protective Ass'n*, 118 Nev. 889, 896, 59 P.3d 1212, 1217 (2002). LVPOSA cites City of Reno and argues it cannot be piece meal and must encompass *San Juan Bautista.* Again this reliance is misplaced. *The* NLRB defers to a ***prior*** arbitration if:

> (1) the arbitration proceedings were fair and regular; (2) the parties agreed to be bound; (3) the decision was not "clearly repugnant to the purposes and policies of the [National Labor Relations Act (NLRA)];" (4) the contractual issue was factually parallel to the unfair labor practice issue; and (5) the arbitrator was presented generally with the facts relevant to resolving the [unfair labor practice].

Here, an arbitration has not taken place yet. It is difficult to analyze the factors in *City of Reno* because most of the factors would not make sense and we cannot determine if an arbitration was fair and regular if it has not happened. The issue is that administrative remedies should be exhausted and the arbitration should occur if not resolved through the administrative grievance process. It is the policy of the EMRB to exhaust administrative remedies and that should occur here.

4. This dispute does not require impact bargaining because there was no change in policy and only involves the interpretation and application of the contract.

The City is not changing a policy within the scope of representation nor is the City refusing to bargain. The issue in this case is the interpretation and application of the terms of the current CBA. Specifically, the dispute stems from the interpretation and application of Article 9.

Article 9, Section 2 states that the CITY "reserves the right to alter or change the workweek, shift and/or hours of an employee to accommodate an employee's attendance for issues of efficiency and economy." Exhibit A at 17. Article 9, Section 10, states that all the Lieutenants' positions will be identified as either essential or nonessential personnel positions prior to designating assignments and shifts. *Id*. at 20.

The dispute is whether the lieutenants are deemed essential or nonessential as noted under Section 10 and whether the City, and more particularly the Department of Public Safety, can change the lieutenant's workweek, shift and/or hours to accommodate issues of efficient and economy as noted under Section 2. These are not new policies or new bargaining.

In its Opposition, LVPOSA argues that deferral to arbitration prior to impact bargaining renders impact bargaining meaningless. Yet, LVPOSA fails to identify how the instant dispute requires impact bargaining, likely because this dispute does not involve a change to mandatory subjects of bargaining. To advance its position, LVPOSA cites to *Santa Clara County Correctional Peace Officers' Association v. County of Santa Clara,* 2013 Cal. PERB LEXIS 24, a California Public Employment Relations Board decision which is not binding to the EMRB. LPOSA asserts that the employer must give advance notice and an opportunity to bargain before it (1) reaches a decision to change a policy within the scope of representation or (2) implement a new or changed

policy not within the scope of representation but having a foreseeable effect upon matters within the scope of representation. *See* Opposition at 6, lines 13-18. However, these are not new policies. The dispute is the parties' interpretation and application of Article 9.

5. Deferral is appropriate and LVPOSA admits it did not exhaust its administrative remedies.

In its Opposition, LVPOSA asserts that it cannot grieve something that has not happened yet. *See* Opposition at 7. This is a tacit admission that this matter should be grieved and subject to the grievance procedure and arbitration. The timeliness of a grievance or whether LVPOSA's assertion that it cannot grieve something that has not happened yet, would be an issue for the arbitrator to determine. Thus, if the EMRB is not inclined to dismiss, this matter should be deferred.

III. CONCLUSION

LVPOSA's entire Complaint and its Opposition centers on whether the City violated the CBA. The City strongly disagrees that modifying the schedules violates the CBA, and asserts that the acts in question were all taken in compliance with the CBA. Nonetheless, the issues presented all pertain to questions of CBA interpretation, which are covered by the grievance process. Additionally, a grievance has not been filed in this matter. This Honorable Board has repeatedly applied the limited deferral doctrine requiring exhaustion of contractual remedies before seeking relief from the EMRB. This Honorable Board should continue to follow that precedence and not take jurisdiction of this matter, which is ripe for arbitration.

DATED this 21st day of January, 2025.

JEFFRY M. DOROCAK
City Attorney

By: */s/ Michelle Di Silvestro Alanis*
MORGAN DAVIS
Senior Assistant City Attorney
Nevada Bar No. 3707
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Attorneys for CITY OF LAS VEGAS

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2025, I served a true and correct copy of the foregoing **RESPONDENT'S REPLY IN SUPPORT OF** MOTION TO DISMISS COMPLAINT OR ALTERNATIVELY DEFER THE COMPLAINT via electronic mail (or, if necessary, by United States Mail at Las Vegas, Nevada, postage fully prepaid) upon the following:

Adam Levine, Esq.
Law Office of Daniel Marks
610 S. Ninth Street
Las Vegas, NV 89101
alevine@danielmarks.net
Attorneys for the Las Vegas Peace
Officers Supervisor's Association

/s/ Ryann Milton
AN EMPLOYEE OF THE CITY OF LAS VEGAS

Exhibit A

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE CITY OF LAS VEGAS

&

LAS VEGAS PEACE OFFICERS SUPERVISORS ASSOCIATION (LVPOSA)

Department of Public Safety

July 1, 2023 - June 30, 2026

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PREAMBLE

WHEREAS, the City is engaged in furnishing essential public services vital to the health, safety and welfare of the population of the City; and

WHEREAS, both the City and its employees have a high degree of responsibility to the public in so serving the public without interruption of essential services; and

WHEREAS, both parties recognize this mutual responsibility, they have entered into this Agreement as an instrument and means of maintaining the existing harmonious relationship between the City and its employees, and with the intention and desire to foster and promote the responsibility of sound, stable and peaceful labor relations between the City and its employees; and

WHEREAS, the parties recognize that this Agreement is not intended to modify any of the discretionary authority vested in the City by the statutes of the State of Nevada; except as modified in this Agreement; and

WHEREAS, the parties have reached an understanding concerning, wages, hours and conditions of employment and have caused the understanding to be set out in this Agreement.

NOW, THEREFORE, the parties do agree as follows:

ARTICLE 1 – RECOGNITION

Pursuant to the provisions of the Local Government Employee Management Relations Act, Chapter 288, Nevada Revised Statutes as amended, the City of Las Vegas (hereinafter call the "CITY") recognizes the LAS VEGAS PEACE OFFICERS SUPERVISORS ASSOCIATION - LVPOSA (hereinafter called the "ASSOCIATION") as the exclusive representative of the eligible Department employees as hereinafter defined for the purpose of collective bargaining. The Association makes the Agreement in its capacity as the exclusive bargaining agent for the Department employees in the bargaining unit.

The City and the Association agree that, members of the Bargaining Unit who have "Peace Officer" status are covered by NRS 289 (Rights of Peace Officers). Both parties will also comply with future legislative changes to NRS 289. Those changes, if any, will supersede the rights listed below.

Section 1. Classifications

The City and the Association agree that the following classifications are represented by the Association:

Corrections Lieutenant

Section 2. Community of Interest

It is agreed that the Association shall represent any employees within the above classification assigned to the Detention Services Unit within the City of Las Vegas Department of Public Safety.

When a new classification is created to be in the Department of Public Safety, the Human Resources Department will make an initial determination if the classification is to be included or excluded from the Association's bargaining unit. The Human Resources Department will notify the Association of the decision, in writing.

ARTICLE 2 - CHECK OFF

The City agrees to deduct from the paycheck of each employee within the bargaining unit who has signed an authorized payroll deduction card such amount as has been designated by the Association as dues and is so certified by the Treasurer of the Association. The City will be notified of any change in the rate of membership dues at least thirty (30) days prior to the effective date of such change.

The City shall remit such funds to the Association within one (1) month after such deductions. The employee's authorization for such deductions is irrevocable except that authorization may be withdrawn during the months of April or October by the employee giving written notice to the City and the Association, or upon termination of employment.

ARTICLE 3 - NO STRIKES

The Association agrees that there shall be no strikes under any circumstances. Employees shall continue to furnish efficient service within all areas of assigned responsibility.

For the purpose of this Agreement the meaning of the word "strike" shall include but not be limited to any concerted stoppage of work; slowdown; interruption of work or operations by employees; absence from work upon any pretext or excuse, such as illness, which is not founded in fact; or interruption of the operations of the City by the Association and/or its members.

ARTICLE 4 - MANAGEMENT RIGHTS

The City and the Association agree that management officials of the City possess the sole right to operate the City and that all management rights remain with these officials.

Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the City without negotiations include:

(1) The right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(2) The right to reduce in force or lay off any employee because of lack of work or lack of funds, subject to Paragraph (V) of Subsection 2 of NRS 288.150.

(3) The right to determine:

(a) Appropriate staffing levels and work performance standards except for safety considerations.

(b) The content of the workday, including, without limitation, workload factors, except for safety considerations.

(c) The quality and quantity of services to be offered to the public.

(d) The means and methods of offering those services.

(e) Any other exclusive rights as may be determined by NRS 288.150.

(4) Safety of the Public

Notwithstanding this Agreement, the City is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency as defined in this paragraph as riot, military action, disaster, civil disorder, or matters of similar magnitude. Such actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this Subsection shall not be construed as a failure to negotiate in good faith.

The City shall have the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, taxpayers and employees.

ARTICLE 5 - ASSOCIATION/MANAGEMENT COOPERATION

Section 1. Employee and Association Rights

(A) The City and the Association agree that employees eligible for membership in the Association shall have the right to freely, and without fear of penalty or reprisal, to form, join, not join, resign from, and/or assist the Association. The freedom of such employees to assist the Association shall be recognized as extending to participation in the management of the Association in the capacity of an Association officer or representative. The presentation of the Association's position to the officials of the City shall not be grounds for any punitive action unless such presentation is done in an illegal or reprehensible manner. The City and the Association shall not interfere, restrain, or discriminate against any employee exercising their rights under this provision and/or any City, State, or Federal statute.

(B) The Association will designate employees to serve as Association representatives and stewards. The Association shall notify the City, in writing, of these representatives. Each representative shall be allowed to serve in their capacity as a representative. Those duties being defined as:

1) The investigation of a bargaining unit member's grievance;
2) Representation of a member/grievant at any step of the grievance procedure; and,
3) Consultation with duly accredited representatives of the Association who are not employees of the City.

(C) The conduct of Association representative business shall be such as not to unduly interfere with other employees' duties. Association representatives must check with a Deputy Chief or designee before contacting the employee in order to identify themselves and to make arrangements to communicate with a particular employee.

(D) Whenever practical, all representatives shall notify a Deputy Chief or designee a minimum of 48 hours prior to the time they wish to conduct appropriate business. Representatives shall be relieved of duty with pay, subject to the provisions of SB241, for the time requested unless operational demands preclude permission to leave the work location being granted or if they do not provide sufficient advance notice. The employee, as provided herein, shall not abuse use of representative time off; and the supervisor or designee will not unreasonably withhold use of said time.

(E) The City shall have available copies of or computer access to all Civil Service Rules, Personnel Policies Manual, Department rules, regulations and policies that affect employees' employment with the City.

(F) All the rights guaranteed under the Constitution and laws of the United States of America, the Constitution of the State of Nevada and the Nevada Revised Statutes, are applicable to the employees covered by this Agreement.

Section 2. Rules and Regulations vs. Contract

The City and the Association agree that a number of documents govern the administration and compensation of City employees. In order of authority, they are:

1. The Nevada Revised Statutes;
2. The Charter of the City of Las Vegas;
3. The Collective Bargaining Agreements between City and its recognized bargaining units;
4. The City of Las Vegas Personnel Policies Manual.
5. The Department of Public Safety policies and work rules.
6. The City of Las Vegas Civil Service Rules.

The City and the Association agree that in the event any inconsistencies arise between departmental rules and regulations and this Agreement, the Agreement controls.

The City and the Association further recognize that the matters covered by departmental rules and regulations include matters that are and are not subject to mandatory bargaining under the provisions of Nevada Revised Statutes, Chapter 288. The City and the Association also recognize that these rules and regulations are subject to change by the Department Head, provided that any changes shall not affect subjects of mandatory bargaining without prior negotiations.

ARTICLE 6 – ASSOCIATION BUSINESS

Section 1. Association Membership

Membership shall be at the sole discretion of the employee. Any individual, who refuses membership, shall not be responsible for bi-weekly dues, but will be billed for their "fair share" for contract negotiations. Non-members will also be billed for, handling of grievances, arbitration and other legal matters incurred during the performance of their duties as a peace officer on duty. Non-members will also be responsible for reimbursement for litigation costs and attorneys fees directly incurred on their behalf. The Association will indemnify and hold the City harmless for any disputes or litigation arising out of this section of the Collective Bargaining Agreement.

Section 2. Association Officers

Any changes to the current officers or stewards representing employees under this Agreement shall be evidenced to the City in writing within ten (10) working days of the change.

Section 3. Association Leave Hours

For the purposes of representation of members within the bargaining unit, the Association shall be entitled to a reasonable and adequate number of Association officers and representatives. They shall restrict their activities to dealing with grievances and other legitimate Association business (representations, conventions, conferences, seminars, contract negotiations, etc.). The Association shall be allowed up to 300 collective hours of administrative leave each fiscal year for this purpose. However, the City is under no obligation to pay Association officers for time spent conducting union business when they are not scheduled to work. Every effort shall be made to schedule grievance meetings and hearings during regular work hours. Once the maximum yearly hours are exceeded, annual leave will be used for the remainder of that fiscal year.

This administrative leave may be used by Association officers or stewards for official union business as defined by the LVPOSA, unless operational demands preclude granting permission (e.g., in some cases all board members may not be approved to attend training at the same time). Any employee approved for the use of administrative leave by the LVPOSA must follow all the Standard Operating Procedures and Policies for properly requesting and executing all payroll and time and attendance records related to the use of administrative leave.

Section 4. Permission to Conduct Association Business

Association Officers must notify their supervisors of the need to leave their jobs to conduct Association business. Such time off will not be unreasonably withheld.

Section 5. Receiving Grievances

Association Officers may receive and discuss, but not solicit, complaints and grievances of employees on the premises and time of the City. Such time spent shall not interfere with the work and duties for the City of either the Association officers or the employees. Association officers and the employee or employees involved in a grievance, hearing or investigation may be granted time off for meetings with the approval of the department Chief or designee. Such meetings shall be set at a time mutually agreeable with the City and the Association.

Section 6. Negotiating Committee

Members of the Association Negotiating Committee shall be granted leave from duty, when reasonable, for all meetings between the City and the Association for the purpose of renegotiating the terms of this Agreement, when such meetings take place at a time during which such members are scheduled to be on duty. Such leave shall be charged against the Association Leave Hours allotted in Section 3 of this Article. With the employees' agreement, employees may be assigned to different shifts because of participation in the negotiations.

Section 7. Meeting Space

Space for meetings shall be provided for the Association when reasonable during the length of this Agreement.

ARTICLE 7 - COMPENSATION

Section 1. Wages

Effective the first pay period following the approval of this new agreement by City Council, the City and the Association agree that the base wage of classification covered by this Agreement shall be increased by the same wage increase negotiated by the Las Vegas Peace Officers Association (LVPOA), including any applicable CPI adjustments. If the LVPOA has not negotiated a wage modification by the beginning of the fiscal year, modifications to the LVPOSA wage schedule will occur on the same effective date of any subsequent LVPOA wage schedule change.

The LVPOSA wage schedule reflects the following wage differentials between Corrections Sergeants and Corrections Lieutenants:

- Corrections Lieutenant Step 1 shall be fixed at 8.0% above the Corrections Sergeant top step.
- Corrections Lieutenant Step 2 shall be fixed at 12.0% above the Corrections Sergeant top step.
- Corrections Lieutenant Step 3 shall be fixed at 16.0% above the Corrections Sergeant top step.
- Corrections Lieutenant Step 4 shall be fixed at 20.0% above the Corrections Sergeant top step.

Section 2. Initial Step Placement and Annual Step Increases

Corrections Lieutenants hired after July 1, 2023 will enter the Corrections Lieutenant wage schedule at step 1.

Employees covered by this Agreement shall receive an annual step increase on July 1 of each year, until they reach the top step.

Section 3. Longevity Pay

For all current members of the Association, longevity pay percentage is frozen as of December 13, 2018. Any existing longevity amount will continue to be paid on a biweekly basis as a separate pay element from base pay.

For all future Corrections Lieutenants promoted from a prior classification, longevity pay percentage is frozen as of the date of promotion. Any existing longevity amount will continue to be paid on a biweekly basis as a separate pay element from base pay.

Corrections Lieutenants hired from outside the city are not eligible for longevity pay.

Section 4. Shift Differential Pay

Shift Differential is defined as the amount of compensation authorized to be paid to an employee in addition to a regular straight time hourly rate for working a complete regularly scheduled shift other than a day shift. A day shift is defined as any regularly scheduled work shift that begins no earlier than 0500 hours or ends no later than 1900 hours. A regularly scheduled shift that exceeds these limits by twenty-five percent (25%) or more is entitled to shift differential pay computed at five percent (5%) of base pay on a 12 hour shift configuration. An employee must be assigned to work a complete shift other than a day shift to be eligible for shift differential. Should the department implement a 3-shift configuration; the shift differential pay will be as follows:

Days = 0% Swing = 4% Grave = 6%

Section 5. Field Training Officer Pay

Field Training Officer (FTO) pay is temporary compensation paid to Corrections Lieutenant(s) who are assigned to supervise the Field Training Program. FTO pay is 8% of the employee's base wages.

Section 6. Acting Pay

Employees who are required to assume temporarily the full responsibilities of a position of a higher salary grade for a full shift or more shall be paid at a rate equal to five percent (5%) higher than the employee's current base salary or the minimum rate of the salary grade for the classification in which the employee is acting, whichever is greater for the duration of the assignment. Acting pay for periods in excess of thirty (30) continuous calendar days requires the written approval of the Director of Human Resources.

Section 7. Stand-By Time

Stand-by time is defined as time that an employee is assigned, in writing and in advance, to be ready to work outside their normal work hours. Stand-by time shall be paid at a rate of thirty-five dollars ($35) per day on a normal work day worked and fifty dollars ($50) per day on a normal day off. Stand-by time shall not be included in the computation of overtime. During this time, the employee must be ready and able to report to work within forty-five (45) minutes if so notified by telephone, pager, or other electronic device provided by the City. No employee will receive stand-by pay while on annual leave, sick leave, or TILO. The employee will be paid for a minimum of four (4) hours for the first call out. In the event an employee is called out for a second time after the expiration of the

fours (4) hours from the first call out, they will be paid a minimum of four (4) hours for each call out.

Section 8. Wellness Benefit or Deferred Compensation Match

The City agrees to provide either (1) a health and wellness reimbursement or (2) a deferred compensation match for a 457 plan, in the amount of two thousand dollars ($2000) annually. Prior to the beginning of each calendar year the Corrections Lieutenant must choose which benefit (health and wellness reimbursement or 457 plan match) they desire for that calendar year. Election form must be completed annually and submitted to HR Benefits by December 1 for the upcoming year. No changes to the election may be made during that calendar year.

ARTICLE 8 - CLOTHING AND EQUIPMENT ALLOWANCE

Section 1. Issued Equipment

Upon initial appointment/promotion, the City shall provide appropriate uniforms and equipment.

Section 2. Protective Vests

Each Corrections Lieutenant will be provided with a ballistic protective vest and replaced by the City upon expiration.

Section 3. Uniform Clothing Allowance

The City shall provide annual uniform and footwear maintenance and replacement allowance to all uniformed personnel. Employees shall be paid quarterly for the purposes of maintaining and replacing uniforms. Payments of $450 will be made on the second pay date of each quarter. Any uniform item damaged in the performance of work duties will be replaced by the City. Any uniform not damaged will be inspected no less than every three years to determine whether it should be replaced. New hires shall be paid the first quarter following their hire date.

Uniforms and equipment must be maintained in good condition and shall only be worn or used on official City business or as authorized by the City.

ARTICLE 9 - HOURS OF WORK

Section 1. Normal Work Period

The City and the Association do hereby agree to a 14-day work period, and have adopted the FLSA 7(k) partial exemption from overtime for employees engaged in law enforcement activities. Under this adopted exemption, employees will be entitled to overtime compensation, for all hours worked at 1.5 times for all hours in excess of their normal scheduled shift or over 80 hours in a 14 day work period.

Section 2. Shift Arrangement

Notwithstanding the adoption of the 14 day work period and 80 hour threshold for overtime, the parties agree that the general work day and work week configuration will be 4 consecutive 10 hour shifts. The City expressly indicates that it does not intend to routinely assign work or expect or allow employees covered by this agreement in excess of the general work day work week. Except for emergency situations, any such assignments are expected to be rare and infrequent. The parties agree to meet and to discuss this arrangement on a quarterly basis.

The City reserves the right to alter or change the workweek, shift and/or hours of an employee to accommodate an employee's attendance at:

1. In-house training
2. Training provided out of state
3. Special Assignments or Projects
4. For issues of efficiency and economy

Whenever deviations from regular shift hours are necessary, the supervisor shall provide employees with sufficient notification prior to such deviation changes in schedule. Sufficient notification is deemed to be a minimum of 14 calendar days, unless the employee agrees to a shift deviation with a shorter notification period.

Section 3. Mutual Swaps

Employees may be permitted to exchange hours of work with other employees in the same classification or level, performing the same type of duties in the same work area, provided:

(1) The employees give written notice to their supervisor(s), at least seven (7) calendar days in advance;
(2) The supervisor(s) approves the exchange in writing; and
(3) The employees exchanging the hours or work shall not be entitled to any additional compensation (e.g., overtime, shift differential), which they would not have otherwise received.

Once approved, shift changes shall not be subjected to further review, except for operational needs.

Each employee shall be responsible for the coverage of the work assignment they accept. If the employee who agrees to work for another employee fails to show for the swap because of illness or injury, they shall be required to provide a physician's return to duty statement.

All swaps must be paid back within one hundred twenty (120) calendar days, not to be extended past the same bid year.

Probationary employees shall not be allowed to exchange hours of work with other employees.

Section 4. Work Schedule Changes

If a change in work schedule is requested or required, the Association and the Chief shall meet to discuss the proposed change prior to implementation.

The City may discontinue a work schedule, if, in good faith, and after discussions with the Association, it is determined that the current schedule is not in the best interest of the City or the department. Any change to a work schedule requires an advance notice of a period of sixty (60) calendar days, unless the employee agrees to a work schedule change with a shorter notification period.

Under any work schedule, payment for overtime and paid holidays shall be in accordance with the provisions of this Agreement.

Section 5. Meal Breaks

Lieutenants will be provided a paid meal break. FSLA standards will apply.

Section 6. TILO

(A) Employees may work Time in Lieu of (TILO) rather than paid overtime.

(B) TILO time will be accumulated at a time and one-half (1 ½) rate for payment purposes. No employee can be required to accumulate TILO rather than be paid at the overtime rate.

(C) To use TILO time, employees must schedule their absence from work with their supervisor in advance of the absence.

(D) TILO accumulation and usage will be reported to the payroll department by appropriate coding on the bi-weekly time cards. TILO time balances will be reported to the employees in the same manner as vacation and sick leave hours are reported.

(E) No employees may have an accumulated balance of TILO time exceeding four hundred (400) hours at the end of any pay period. TILO may be sold back annually in accordance with the Annual Sellback Provisions identified in annual leave article of this agreement.

(F) Whenever an employee separates from City employment, any unused TILO will be paid at a straight time rate including longevity.

Section 7. Overtime

(A) Regular Overtime - Regular overtime pay is defined as additional compensation earned by an employee who is held over on a regularly scheduled shift. Supervisors may require that employees work overtime. Employees who work longer than their normal daily hours shall be paid overtime on a time and one-half (1 ½) hourly rate basis based on their hourly rate of pay at their normal weekly working hours, including longevity, if applicable, for all overtime work.

(B) Scheduled Overtime - If an employee is required by a supervisor, to return to duty after completing a normal shift or reports to work on a day in which a normal shift is not scheduled, the employee shall be compensated for a minimum of four (4) hours or the actual time worked, whichever is greater at time and one-half (1 ½) hourly rate basis, plus longevity if applicable, for all overtime hours or any fraction thereof worked.

(C) Holiday Overtime – Holiday overtime is paid the same as scheduled overtime (one and one half times the employee's regular rate of pay).

Section 8. Overtime Procedures

(A) Voluntary Overtime - the City and the Association agree to use the following procedure:

1) Pre-scheduling should be accomplished whenever possible.

Section 9. Call Back Pay

When required, the Department Head or designee may call back one or more members of the Department. For purposes of this paragraph, Call Back Pay is defined as compensation earned for returning to duty after an employee has completed their regular

work shift, is off duty for any period of time, and then returns to duty with less than 12 hours' notice. When an employee is called back to work, the employee shall be paid overtime on a time and one-half rate basis. In addition, the employee shall be paid no less than four (4) hours or the time actually worked if over the four (4) hour minimum. However, in the event the period of call back runs into an employee's normal work shift, said employee shall be paid time and one-half (1 ½) for only those hours worked outside of their normal work shift.

Section 10. Essential and Non-Essential Personnel

The City and the Association agree that all the Lieutenants' positions in the department hierarchy will be identified as either essential or non-essential personnel positions prior to designating assignments and shifts.

Section 11. Administrative Officer of Day (AOD)

To the extent AOD is utilized by the city, the assigned AOD will be paid according to the Stand-By Time provisions in Article 7, Section 8. Current bargaining unit members who were promoted to Lieutenant before January 4, 2022 can continue to receive TILO when assigned as AOD.

ARTICLE 10 - HOLIDAYS

The City and the Association agree that the legal holidays shall be:

New Year's Eve
New Year's Day
Martin Luther King Holiday
President's Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Nevada Day
Veteran's Day
Thanksgiving Day
Family Day (Day after Thanksgiving)
Christmas Day

Any day that may be declared a legal national holiday by the President of the United States, or any day that may be declared a legal holiday by the Governor of the State of Nevada or the Mayor of the City of Las Vegas, unless the City is exempted from closings its operations to observe the holiday under State law.

All holidays shall be observed as dictated in NRS 236.015.

Employees wishing to have a holiday off who are normally scheduled to work, may request time off by submitting a leave request.

Employees who are scheduled to work on a legal holiday and who are relieved of duty after reporting for duty on the holiday shall continue to receive holiday pay for the balance of their shift. No employee will be forced not to work the holiday to avoid overtime payment.

Section 1. Holiday Pay

All full-time employees shall receive holiday pay, and such time shall be computed as regular workday. In addition to straight time pay, any such employee shall be compensated at one and one-half the regular rate of pay for all hours worked on the holiday.

In order to receive holiday pay, the employee must be in paid status for the entire work shift preceding and following the holiday.

Holidays that fall on an employee's regular day off, annual vacation or sick day, shall receive holiday compensation for the holiday(s) paid as straight time. Employees may convert their regular Holiday straight-time pay to annual leave. Employees may volunteer to accumulate TILO equivalent to the paid overtime rather than be paid for the holidays.

PERS will be paid for all hours worked when a state recognized holiday falls on a normal workday. If an employee works on a holiday that is not their regular workday, PERS is not paid (per NRS).

ARTICLE 11 - ANNUAL LEAVE

Section 1. Purpose

The City and the Association agree that annual leave is provided to employee for the purposes of rest and relaxation from their duties and for attending to personal business. Absences not specifically covered by the provisions herein shall be chargeable to annual leave to the extent it has been accrued or advanced.

Section 2. Accrual

Employees shall be eligible to take annual leave after completion of six (6) months of continuous full-time service. Annual leave shall accrue from the date of duty to all employees, except those employed on a temporary appointment basis, in an amount equal to:

(A) Three and sixty-nine hundredths (3.69) hours bi-weekly for the first year. (Months 1-12).

(B) Five and eighty-five hundredths (5.85) hours bi-weekly for the second through the fifth year (Months 13-60).

(C) Seven and eight hundredths (7.08) hours bi-weekly for years six through ten (Months 61-120).

(D) Seven and sixty-nine hundredths (7.69) hours bi-weekly for years eleven through fifteen (Months 121-180).

(E) Eight (8.00) hours bi-weekly for each year thereafter (after 180th month).

Section 3. Accumulation

Annual leave may be accumulated up to a maximum of five hundred and twenty hours (520 hours). During the calendar year, any annual leave that exceeds the allowed maximum shall be forfeited at the end of the last pay period of the calendar year, unless the employee was not allowed to take or complete a vacation as scheduled or rescheduled during the last sixty (60) days of the year. Employees who were so affected shall be paid at their full salary plus longevity for all vacation hours they are required to forfeit at the end of the calendar year.

Corrections Lieutenants hired from outside the City may accumulate up to a maximum (hard cap) of 250 hours annually.

Section 4. Payout

Employees with more than six (6) months service who are separated from the City's employment are entitled to payment for unused annual leave.

In the case of death of an employee during their tenure with the City, 100% of the employee's unused annual leave shall be paid to the employee's designated beneficiaries as specified in their personnel records, or if no designated beneficiary, to the employee's estate.

Section 5. Annual Sellback

Employees who have been employed for a minimum of six (6) months may elect to exchange annual leave for payout, subject to the following conditions:

(A) Exchange of annual leave or TILO shall occur in June and December of each year.

(B) Exchange privileges apply only to accrued annual leave or TILO.

(C) Annual leave balance after sellback must equal at least forty (40) hours. There is no leave balance requirement for TILO.

Section 6. Applications for Leave

Application for leave must be approved in advance of taking leave and shall be scheduled annually on a seniority basis. Approved leave shall not be canceled unless an emergency situation exists.

By the first week of November, Lieutenants will be allowed to make their "first pick" for annual leave based on maximum annual vacation accrual.

The second pick can be submitted any time throughout the year, after all first picks are complete based on maximum annual vacation accrual.

Seniority will prevail when another employee has requested leave for the same period of time on the same request date.

Section 7. Advanced Leave

Upon approval by the City Manager via Department chain of command, an employee may be advanced annual leave.

ARTICLE 12 - SICK LEAVE

Section 1. Earning & Use of Sick Leave

The City and the Association agree that all full-time employees shall accrue four (4.00) hours of sick leave bi-weekly. Employees who are in a non-pay status for a part of a pay period shall have their sick leave accumulation reduced on a prorated basis. Employees shall be paid their current hourly rate plus longevity, if applicable, for each hour of sick leave used.

Sick leave with pay may be used by employees who are:

(A) Illness or Injury. Incapacitated by illness or injury from the performance of their duties, or whose attendance is prevented by public health requirements; or

(B) Immediate Family Care. Required to absent themselves from work to personally care for a member of their immediate family as defined in Article 25, in those medical emergencies, which require the employee's prompt attention. Immediate Family Care leave shall be taken as sick leave; such cases require approval from immediate supervisor. Such leave, typically, is limited to a maximum of five (5) work shifts per year.

(C) Doctor Appointment: Required to take time off from work for the purpose of keeping a personal medical appointment.

(D) FMLA - Any leave covered by the Family Medical and Leave Act.

(E) An employee incapacitated beyond the period covered by sick leave may be granted accrued annual leave, TILO or leave without pay by the Department Head. On the approval of the City Manager, an advance of additional sick leave with full or partial pay may be granted. In this case of sick leave depletion, annual leave or TILO shall be used in place of sick leave.

Section 2. Reporting Requirements

(A) Employees who become ill prior to the start of the workday shall call in at least two (2) hours before the beginning of their shift when using sick leave, unless incapacitated.

(B) Sick Leave Request: Employees are required to file and sign a sick leave request as evidence that the reason for the employee's absence was a use of sick leave as outlined above and in the timecard policy.

(C) Employees shall report to work if recovery of illness is made during the normal work hours.

(D) The Department will not conduct resident checks of any kind.

Section 3. Payoff of Sick Leave

Corrections Lieutenants who are promoted from within the City will retain the annual accrual maximum, annual buy back, and payout program that was in effect prior to the promotion.

Corrections Lieutenants hired from outside the City may accumulate up to a maximum (hard cap) of 420 hours annually. Unused sick leave hours are not eligible for annual buy back or compensation upon separation.

For employees who are eligible to participate in annual buy back and payout of sick leave hours:

(A) Employees shall receive payment for one-half the amount of unused sick leave accrued, up to a maximum payment for 420 hours, upon separation, after five (5) years of continuous full-time service. Said payment shall be computed as follows: one-half (1/2) of the employee's accumulated sick leave hours, up to a maximum accrual of 840 hours, and paid at the employee's hourly rate including longevity at the time of separation.

(B) On the first payday of December of each year, the City shall "buy back" one-half (1/2) of all sick leave hours accrued above the 840 hour maximum payoff limit, during that calendar year by said employees. The one-half (1/2) sick leave accrual for any calendar year that was not bought back by the City shall become a sick leave "bank" and part of the total sick leave accrual of the employee, but shall not be eligible for pay-off at any time, including separation. Sick leave "bank" hours shall be used only upon exhaustion of all other sick leave hours.

(C) Employees shall receive payment for 100% of the accrued sick leave up to maximum of 840 hours upon separation after 20 years of continuous employment with the City.

(D) In the case of death or medical retirement under the PERS system of an employee during their tenure with the City, the employees unused sick leave shall be computed based upon the above provisions and paid to the employee or the employee's designated beneficiaries as specified in their personnel records or, if no designated beneficiary, to the employee's estate.

Section 4. Bereavement Leave

(A) The department shall authorize any accrued leave for bereavement purposes due to the death of an employee's immediate family as defined in Article 25.

(B) Such absence for bereavement leave with pay shall be limited to not more than five (5) workdays, fifty (50) hours, per occurrence. In the event the employee requires additional time, they must receive approval in advance from their Director or designee.

Section 5. Sick Leave Bonus

Employees will be awarded a sick leave bonus based on the following:

(A) $625 paid for perfect attendance from July 1 through September 30, with payment on the first pay date of November;

(B) $625 paid for perfect attendance from October 1 through December 31, with payment on the first pay date of February;

(C) $625 paid for perfect attendance from January 1 through March 31, with payment on the first pay date of May; and

(D) $625 paid for perfect attendance from April 1 through June 30, with payment on the first pay date of August.

The only exceptions that do not count against perfect attendance are approved bereavement and approved workers' compensation. FMLA will be a disqualifier for attendance bonus contest purposes.

ARTICLE 13 - MEDICAL BENEFITS

Section 1. The City and the Association agree that the City will pay the cost of the premium equivalent or fully insured monthly premium for hospitalization and health insurance and the cost of the monthly premium for dental, vision, long term disability and term life insurance for each individual employee covered by the provisions of this contract as approved by the Las Vegas City Council.

The City also agrees to pay the costs equal to fifty percent (50%) of the premium equivalent or fully insured monthly premium for the hospitalization and health insurance coverage for dependents.

Section 2. All communications concerning employee insurance by the City shall be directed to the Executive Director of the Association or their Designee. The City agrees that it will provide the Association, upon request, copies of all written correspondence relating to the premiums charged in the last insurance year, the current insurance year and the prospective insurance year between the City, the insurance providers and the administrator.

Section 3. The City agrees to deduct from the paycheck of each employee in the bargaining unit and the Association who has signed an authorized payroll deduction card such amount as the employee may designate as insurance coverage. All premium deductions will be submitted to the fully insured plan.

The City shall establish the necessary accounts and accounting procedures to ensure that:

(A) A record is kept, by pay period, of the number of employees eligible for insurance coverage and the amount of funds paid by the City on their behalf.

(B) A record is kept, by pay period, of the employees' contributions collected and deposited on their behalf.

(C) All disbursements of funds from the insurance payment accounts shall be for the appropriate payment of insurance premiums, claims, or other legitimate expenses of the group hospitalization, health, vision, dental, life insurance, and any other insurance programs provided.

Section 4. The City shall provide one hundred thousand dollars ($100,000.00) life insurance protection with double indemnity for the accidental death of a member of the bargaining unit.

ARTICLE 14 – DISABILITY

Section 1. Covered Employees

The City and the Association agree that all eligible members shall be covered by provisions of an appropriate Workers' Compensation Insurance Program, that may be self-insured or State Insured.

Section 2. Accidents or Injury

Should an employee suffer a service-incurred disabling accident or illness and the benefits paid to such employee under the provisions of the Workers' Compensation Program shall not equal the employee's present gross salary, then and in that event, the employer shall pay to the employee an amount equal to the difference between the compensation received under the Worker's Compensation Program and the employee's then present gross salary excluding overtime, for a period of two hundred eighty (280) hours from the first day of absence due to illness or injury. In the event there exists a reason to believe an employee is abusing their rights under this provision, the employer may disallow the "equal payment" benefit. The City Manager must review all requests for continuance of maintenance of income beyond two hundred eighty (280) hours and approve or disapprove in writing.

Section 3. Procedures

Before the City grants these benefits, the employee shall comply with reasonable administrative procedures established by the City. The City may also request, at its option and expense, that the employee be examined by a physician appointed by the City. The examining physician shall provide to the City and the employee a copy of their medical findings and their opinion as to whether or not the employee is able to perform their normal work duties and/or whatever, if any, work duties the employee is able to perform or unable to perform. The City may further require that such injured employee make themself available for light duty work as soon as possible after release by a qualified physician, which may be either City or employee appointed.

An employee whose full salary is being maintained under the provisions of this Article shall not be charged with the use of sick leave for the period of full income maintenance.

Section 4. Long Term Disability Insurance

The City agrees to provide to all employees covered by this agreement long term disability insurance benefits for the off the job injury equivalent to benefits under Social Security Disability Income or the present or any replacement disability insurance policy issued to cover employees of the City of Las Vegas to the full extent of benefits currently provided whichever offers the greater benefits.

ARTICLE 15 – RETIREMENT

(A) The City and the Association agree that all employees shall participate in the Public Employees Retirement System of the state of Nevada in accordance with the rules of that system. The City will comply with all PERS statutes; any disputes will not be subject to the grievance procedure.

(B) Any increase to the Public Employees Retirement System contribution rate above the current rate will be shared by the City and the employee, each paying 50% of the increase; employee paying through salary reduction and the City paying the other half.

ARTICLE 16 - REDUCTION IN FORCE

Section 1. Notice to Association

(A) Whenever it is determined that a lay-off of employees may occur because of lack of work or funds, the City shall give written notice of the layoff, including the reason(s) such action is necessary and the estimated length of the layoff period to the Association President and the employee(s) at least thirty (30) calendar days prior to the effective date of notification to employees.

(1) Any employee terminated under this Article shall have their name placed on the city's reduction-in-force list for a period of twelve (12) months. Previous employees shall be notified by email, if known, or by certified mail, return receipt requested, at their last known address, and must respond within ten (10) calendar days of receipt by email, certified mail or in person that they are accepting the offer of re-employment on date specified in the offer, or they shall be deemed to have refused the offer of re-employment and shall forfeit all seniority and/or rehire rights and privileges. In the event that the notice of delivery is not returned within ten (10) calendar days of mailing, the City may proceed to fill the position.

(B) Employees who are rehired after an involuntary layoff shall be reinstated with all benefits for which they were not paid at the time of their separation and their service date will be adjusted in compliance with Civil Service Rules. Therefore, for the purposes of longevity, sick leave, annual leave and other service time related benefits; rehired employees will start securing these benefits at the same rate as when they left City employment.

(C) Employees rehired under the provision of this article will be required to submit to and pass a background investigation and entrance physical examination.

Section 2. Provisions

(A) The City and the Association agree that reduction in personnel as it pertains to employees covered under the provisions of this contract shall be as hereinafter prescribed. When City funded positions of indefinite duration, and which are presently filled, are abolished, reductions shall be accomplished in accordance with the following provisions after all part-time temporary and probationary employees within the classification have been separated from City service.

(1) Competition for retention shall be by classification within the department.

(2) Further, priority for retention shall be based upon seniority of service within the classification within the given department.

(3) The order of reduction in force within a classification shall be

(a) Probationary Employees

(b) Regular employees in the reverse order of their seniority. In the case of a tie within classification seniority, the employee with the least city employment seniority shall be released first.

(4) All personnel who are affected by reduction in force shall have the right to elect a reduction in classification to a lower classification in the same department that they are qualified to fill through previous service in that classification.

(5) An employee shall not be separated before the employee has been made a reasonable offer of reassignment, if such offer is possible in the determination of the City.

(6) As a result of the application of this reduction in force procedure, the City may cause the reassignment, transfer, reduction in classification, or any combination thereof, or the separation of an employee.

(7) Employees who return to the lower classified rank within the first twenty-four (24) months will be credited 100% toward classification seniority of the time spent in the lieutenant classification.

(8) Employees who return to the lower classified rank after twenty-four (24) months will be credited 50% toward classification seniority of the time spent in the lieutenant classification.

ARTICLE 17 - RE-EMPLOYMENT

Employees who resign in good standing from employment may request in writing, within two (2) years after such resignation, that their name be placed upon a rehire list of the classification held upon resignation.

1. Requests shall be submitted to the Human Resources Director, and the Department Head before the individual making the request can be placed upon the rehire list for that classification. The individual making the request shall be notified in writing upon approval or denial of request. All decisions of the Human Resources Director will be final.

2. The rehire list will be utilized in the same manner as an open competitive list and the hiring authority will have the opportunity to conduct selection interviews with the individuals from both lists.

3. Individuals placed on the rehire list will remain on that list for a maximum for one (1) year.

4. Upon rehire, employees will have their salary set at the closest salary grade and step as existed at the time of separation. Department seniority shall be reinstated to same level as of the time of prior separation and the employee shall serve a probationary period of a minimum of six (6) months and up to a maximum of twelve (12) months. Rehired employees may request removal from probationary status after six (6) months of successful performance. The request must be in writing and directed to the Chief. Removal from probationary status prior to the twelve month period will be at the discretion of the Chief.

5. Individuals rehired will be subject to the same background procedures currently being utilized for new hires and may be subject to additional testing as deemed necessary by the Human Resource Department.

ARTICLE 18 - OUTSIDE EMPLOYMENT

(A) Employees will notify the City of an "outside" employment on an appropriate and reasonable City form. All legal employment shall be approved unless the City can show just and reasonable cause for the denial of the employment (e.g. conflict of interest). The response shall not be delayed for more than thirty (30) calendar days from date of receipt.

(B) Any "outside" employment shall not exceed an average of twenty-four (24) hours per week over any three (3) month period.

(C) Outside employment shall not create a conflict of interest with City or Departmental business and will be considered secondary employment in all instances.

ARTICLE 19 - SAVINGS CLAUSE/WAIVER

(A) If any provision of this Agreement is subsequently declared by legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, and the parties shall meet as soon as possible to agree on a substitute provision. However, if the parties are unable to agree within a reasonable time the matter shall be submitted to Arbitration.

(B) The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the areas of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the employer and the Association, for the life of this Agreement, each voluntarily and unqualifiedly waives the right and agrees that the other shall not be obliged to bargain collectively with respect to any subject or matter referred to or covered in this Agreement.

(C) Any subject or matter not specifically referred to or covered in this Agreement, even though such subject and/or matter may not have been within the knowledge or contemplation of either or both parties at the time that they negotiated or signed this Agreement, is not subject to negotiation but may be the topic of discussions between the parties.

ARTICLE 20 - DISCHARGE AND DISCIPLINARY PROCEDURES

Section 1. Grounds for Disciplinary Action

The City shall adhere to NRS 289, Peace Officers Bill of Rights when initiating discipline under this Article. The City will not take corrective or disciplinary action against an employee except for just cause, as defined below. The City shall follow the disciplinary procedures set forth below in enforcing any discipline.

An employee shall be notified in writing of any possible disciplinary action within thirty (30) days of the incident giving rise to the possible discipline, or within thirty (30) days of when the City discovers or reasonably should have discovered the facts supporting possible discipline. Except as otherwise noted in this paragraph, no disciplinary action shall be taken on incidents occurring six (6) months prior to the administration of disciplinary action.

The City shall make a determination of the level of disciplinary action meted out no later than thirty (30) days from the date of the first disciplinary meeting. The two thirty (30) day limitation periods and the six (6) month limitation period do not include vacation leave or any other leave taken by the employee.

An employee may appeal any written reprimand, demotion, suspension or other form of discipline through the grievance procedure of this contract, which shall be exclusive remedy for the appeal of disciplinary actions. Oral reprimands may not be grieved. Written reprimands may be grieved up to and through Step 3 - City Manager level of grievance procedure.

LVPOSA representation shall be allowed at every level of discipline. Nothing in this paragraph shall be interpreted as prohibiting the application of progressive discipline as set forth in Section 2 based upon prior disciplinary action being taken against any employee.

Section 2. Progressive Disciplinary Action

The City and the Association recognize the principle of progressive discipline as the form of discipline to be used by the City. Discipline shall be progressive from a minor form of discipline to major disciplinary actions. Serious disciplinary offenses may result in the disciplinary procedure starting at some level other than an oral warning. Discipline steps may be skipped, depending on the severity of the offense. Nonetheless, skipping steps in the discipline process shall be the exception of the general rule requiring following progressive discipline.

Section 3. Progressive Discipline Steps - The usual progressive discipline steps are:

(A) Oral Reprimand or Warning - This is the first disciplinary step taken by a supervisor which puts an employee on notice that the employee's behavior or performance is not acceptable in specific and identifiable areas and that further unacceptable

behavior or performance in the same area may result in more severe disciplinary action. The intent is for the supervisor to give the employee a clear notice that the specific behavior or performance should be corrected. Oral reprimands are to be documented in memo form with the supervisor and employee each signing and keeping a copy for their record. Copies of the memo are not to be placed in the employee's Department or Human Resources personnel file. Oral reprimands are valid for a period of up to nine (9) months.

(B) Written Reprimand - This is the first level of discipline which is documented and which may be placed in the employee's personnel file. Supervisor shall document the violation and corrective action on a Disciplinary Action Form. The employee who is the subject of the disciplinary action will be allowed to read the Disciplinary Action Form, may make any comments desired, and will then sign the form and may prepare a response to the allegations contained therein. That response, if prepared, shall be attached as a permanent part of the written reprimand. However, the failure of the employee to respond or deny the charges on the form shall not be interpreted as a waiver of any of the employee's rights under the agreement or as an admission that the allegations are true.

(C) Suspension - Suspension may be used after a written reprimand has apparently not corrected the specific unacceptable performance or behavior or rule violations. Documentation is done on a Notice of Suspension Form. Suspensions in excess of 40 hours must have the approval of the City Manager or designee.

(D) Other Disciplinary Actions - After an employee has been suspended, if there is a continuation or reoccurrence of the problem that caused the suspension, the employee may be subject to more serious discipline. The same procedure regarding documentation and rebuttal must be followed, as in the case of a written reprimand or suspension. Examples are:

a. Reduction in Classification - This involves the individual reducing in classification from the position currently held to one in a lower pay grade or one of lesser responsibility. This step should be used when the difficulties the employee is experiencing appear to stem from the level of duties and/or responsibilities of the position currently held.

b. Reduction in Salary Step - When it can clearly be shown that a monetary punishment other than a suspension is appropriate, the employee's salary step may be reduced by one step for, a maximum of thirteen (13) pay periods, or withheld.

(E) Termination - Termination is the final step of the progressive disciplinary process. Termination is used when other efforts to correct a disciplinary situation have failed or when the offense committed by the employee is a very serious nature as so to warrant immediate separation from employment.

Section 4. Records

Investigations of allegations, which do not result in a corrective or disciplinary action, shall not become part of the employee's personnel file or department file under any circumstances. Employees shall be entitled to the retraction of any document that is proven to be in error or was placed in the employee's personnel files without the employee receiving a copy of the document.

Employee's permanent personnel files are private and confidential and must not be reviewed or otherwise seen by any person other than an authorized employee of the Department of Human Resources, the City Manager or designee, the City Attorney or designee assigned to work on personnel matters, and/or the employee's current Department Director or designee without the prior approval of the employee.

Section 5. Disciplinary Meetings

Disciplinary Meetings shall be conducted during an employee's regular work hours or the employee shall be compensated in accordance with this agreement. An employee shall be given written notice at least forty-eight (48) hours prior to the beginning of any meeting called for disciplinary purposes with that employee that the meeting could lead to a written reprimand or more serious disciplinary action. The employee shall be provided in writing with the name of the person conducting the meeting, the date, time, location and topic of the meeting. If the employee is not notified, or if the employee comes to reasonably believe that a meeting or interview might lead to disciplinary action against them, the employee shall be given an opportunity to request, and adequate time to secure, the presence of a representative at such meeting, inquiry or investigation.

Section 6. Purging Files and Records

(A) The record of any disciplinary action resulting in a written reprimand shall be removed from an employee's personnel file after a period of twelve (12) months has elapsed, upon written request. Any subsequent disciplinary action of similar nature shall extend the period of retention of the original offense for twelve (12) months. Similar nature is defined as a disciplinary action in the same general area of discipline, such as performance, attendance, or rule violations.

(B) Records of disciplinary actions resulting in a suspension of 40 hours or less, or an equivalent loss of pay, will be removed from an employee's personnel file after a period of eighteen (18) months has elapsed, upon written request. Any subsequent offense of a similar nature shall extend the period of retention of the original disciplinary action for eighteen (18) months.

(C) Provided that the above conditions are met, an employee may submit a written request to the Director of Human Resources to have an action removed from their personnel file. Human Resources staff will review the employee's personnel file, contact the employee's department to verify the record, and notify the employee of the results of the request. Additionally, the director will notify the employee's supervisor to destroy such disciplinary action records. If disciplinary documents

exist at the department level alone, those documents shall be returned to the employee for disposal.

(D) These guidelines regarding the purging of records shall not apply in case of termination or resignation of the employee.

(E) The City shall allow every employee the opportunity to review their own official employee personnel file and/or department file shall remain under the control of the Department of Human Resources.

(F) If an employee, upon examining their employee personnel file, has reason to believe there are inaccuracies in the documents in the personnel file, the employees may write a memorandum to the Director of Human Resources explaining the alleged inaccuracy and ask that the documents be corrected. Continuous absences in excess of thirty (30) calendar days, other than vacation or sick leave, shall not be credited towards the time necessary to purge records.

(G) Purging time limits identified above begin on the date of the employee interview when the employee is formally notified of the disciplinary action.

Section 7. Just Cause

Just Cause exists when an employee commits an act of substance relating to the character or fitness of the employee to perform official duties that is contrary to sound public practices or acceptable work performance. The following, although not all inclusive, shall constitute just cause:

(A) Conviction of an offense which is punishable as a felony or gross misdemeanor in the State of Nevada, conviction of an offense in any place other than the State of Nevada, which offense if committed in the State of Nevada, would be punishable as a felony or gross misdemeanor, or conviction of any offense which involves moral turpitude;

(B) Knowing violation of City or Department Rules and Regulations that do not conflict with the terms of this Agreement and have been properly approved by the City Manager or Chief Officer - Public Safety and have been punishable in writing and circulated;

(C) Solicitation of the public for money, goods or services which has not been approved in accordance with established departmental procedures;

(D) Acceptance of any substantial reward, gift or other form of remuneration, in addition to regular compensation for City related duties;

(E) Repeated incompetency, repeated inefficiency, repeated carelessness, abuse of sick leave, neglect of duties, unexplained and unapproved absence from duty, excessive absenteeism or tardiness, misuse or theft of City property, continuing or life threatening safety violations, on the job alcohol, or other drug abuse,

malfeasance, misconduct in office, conduct unbecoming an employee, or insubordination;

(F) Physically striking or threatening a supervisory, managerial, or other employee;

(G) Striking in violation of this Agreement, or of NRS 288;

The above grounds are not deemed all inclusive, but merely descriptive.

ARTICLE 21 - GRIEVANCE PROCEDURES

Section 1. General

The purpose of the Grievance Procedure shall be to settle all grievances between the City and the employees of the Bargaining Unit as quickly as possible to insure efficiency and promote employee morale. Should any employee or group of employees feel aggrieved, including the claim of unjust discrimination or any matter or condition affecting health and safety which may be a violation of federal or state law, including Occupational Safety and Health Act, 29 U.S.C. Sec. 651-78, Nevada Occupational Safety and Health Act, NRS 618.005 et seq. NRS Chapter 288 and/or may be considered subjects of mandatory collective bargaining, NRS 288.150(2)(m), adjustment may be sought.

The enforcement and establishment of Civil Service Rules promulgated by the Civil Service Board are expressly excluded from consideration as a grievance. Whenever Civil Service rules are contrary to the terms of this Agreement, they shall have no force or effect on the employees covered by this Agreement. Civil Service rules will apply in circumstances where the Agreement is silent. Alleged violations of Civil Service rules, which are not covered by the terms of this Agreement, may only be appealable through the Civil Service Rules. Violations of Federal and State statutory provisions and the enforcement thereof except as referred to in this section are not subject to the grievance procedure hereinafter set forth. Nothing in this paragraph shall be interpreted as prohibiting an employee or the Association from aggrieving an action or conduct which may violate or be in conflict with any federal or state law to the extent the grievance claims or alleges such action or conduct constitutes a violation of this contract or department rules or regulations. No employee shall be deemed to have waived or forfeited any rights, including the right to a jury trial under any applicable federal or state law, by virtue of filing a grievance or requesting arbitration of any dispute within the scope of this Article.

The Association recognizes its responsibility as bargaining agent and agrees to fairly represent all employees in the bargaining unit. The City recognizes the right of the Association to charge non-members of the bargaining unit a reasonable service fee for representation in grievance hearings and appeals.

The parties agree that employees must successfully complete an initial probationary period. Prior to the successful completion of an initial probationary period, the City has the right to discipline or discharge an employee at any time, so long as the action is consistent with applicable state and federal law and the terms of this Agreement. The parties further agree that after a finding of fact, an employee shall have an informal meeting with the Department Director prior to a non-confirmation of appointment.

Section 2. Informal Procedure

Prior to submitting a written grievance, nothing herein shall preclude any employee from discussing their grievance with the immediate supervisor up to and including the Chief or their designee and an Association Representative for informal adjustment. If the problem cannot be resolved informally, as set forth in this section, the employee may proceed to Section 3.

Section 3. Grievance Procedure

Any dispute concerning interpretation or application of an expressed provision of this Agreement, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action taken against an employee shall be subjected to this grievance procedure.

(1) It is agreed that the City has a right to discipline or discharge employees for just cause. Disciplinary actions, except oral reprimands, shall be subject to the Grievance Procedure. Oral reprimand is defined as a verbal warning, which is not placed within the employee's personnel file. The City shall have just cause for any disciplinary action.

(2) No regular employee shall be discharged except for just cause defined in Article 20, Section G, which shall be subject to the Grievance Procedure. It is understood by and between the parties that this section does not affect the City's right to eliminate positions because of layoffs or reduction of force in good faith.

All non-disciplinary grievances must be filed in writing, with the Chief, within thirty (30) calendar days after the matter in dispute/disagreement is alleged to have occurred or thirty (30) days from the time the employee had reason to know the circumstances giving rise to the grievance.

The time limits stated above shall not commence so long as the grievant/Association and the Chief are engaged in informal discussions in an attempt to resolve the issue without filing a formal grievance. However, the grievant/Association may file a written grievance at any time during the informal discussion period in order to move the dispute to the formal process.

Disciplinary appeals must be filed with the Chief, within fourteen calendar (14) days from the date of issuance. A grievant/appellant may have up to two (2) representatives of their choice at any or all steps of the grievance process. Written reprimands may only be appealed through Step 4 of the procedure and are not subject to arbitration.

The Association, upon receiving a written and signed request, shall determine if a grievance exists. If, in their opinion, no grievance exists, the Association may take no further action. Nothing stated herein shall prohibit an employee from proceeding on their own behalf in filing and processing a grievance and the City shall recognize the individual

employee's rights to file a grievance and proceed through the grievance process, including arbitration as "the grievant".

Step 1. An employee having a complaint or grievance shall present the signed written grievance to the Association President. If it is determined by the Association President that a grievance does exist, the Association shall, within ten (10) working days, present the signed grievance to the Department Chief.

Step 2. The Chief, or designee, along with a representative from Human Resources shall meet with the grievant no later than ten (10) working days after receipt of the grievance for the purposes of attempting to resolve this dispute. The Chief, or designee, will have ten (10) working days from the date of the meeting to answer the grievance in writing.

Step 3. Within ten (10) working days after receipt of the Department Chief's, or designee's, response, or lack of response, the Association shall submit the grievance to the City Manager stating the reasons why the Department Chief's reply was not acceptable.

Step 4. Within ten (10) working days after receipt of the grievance, the City Manager, or designee, shall meet with the grievant for the purposes of attempting to resolve this dispute. The City Manager, or designee, will have ten (10) working days from the date of the meeting to answer the grievance in writing.

Step 5. If a mutually satisfactory settlement cannot be reached between the City Manager and the Association, the Association shall have the right to submit the matter to arbitration. The Association must notify the City Manager of its decision in writing within ten (10) working days from the date of the decision by the City Manager, or designee, or within ten (10) working days from the expiration of the period for the City Manager's or designee's response, if none was made.

Section 4. Arbitration Procedures

Following Notice of Arbitration, the City and the Association or the employee's representative, shall agree upon a source for a list of seven (7) arbitrators. The lists shall either be a Federal Mediation and Conciliation Service (FMCS) or an American Arbitration Association (AAA) list.

To select an arbitrator from the panel, the parties may either mutually agree to one or shall alternatively strike one name each, with the Association striking first. The last remaining name shall become arbitrator. The arbitrator shall be notified of their selection by a joint letter from the City and the Association requesting that they set a time and place, subject to availability of the City and the Association. Any dispute, claim or grievance submitted to the final and binding arbitration under the provisions in the Article shall be done under the voluntary Labor Arbitration Rules of the American Arbitration Association (AAA) and/or the Federal Mediation and Conciliation Service (FMCS).

Decisions of the arbitrators shall be final; however, the arbitrator shall have no power to add to, subtract from, or modify the terms of this agreement and department Rules and Regulations, except to the degree when rules conflict with this Agreement; and shall make their decision within thirty (30) calendar days from conclusion of the hearing or as agreed upon by the parties. The arbitrator shall not hear or decide more than one grievance without the mutual consent of the City and the Association. The arbitrator shall be without power to make decisions contrary to or inconsistent with or modifying or varying applicable laws or rules of law and any ruling by the Arbitrator as a question of law may be reviewed by a court of law de novo.

Section 5. Awards

The arbitrator's award will be final and binding on the Association and its members, the employee or employees involved, and the City to the extent of the Arbitrator's authority provided herein. All fees charged by the AAA or FMCS and the arbitrator's fees and costs and any costs of transcription of the record shall be shared equally 50% by the Association or grievant and 50% by the City.

Section 6. Time Limits

In computing any period of time described or allowed in this procedure, the day of the act, event, or default from which designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a holiday.

Section 7. Grievance Resolution

A copy of all written decisions or resolutions will be forwarded to the Association.

(A) Reduction in Discipline - If the decision is to reduce the discipline, then the originating supervisor who meted out the discipline shall be directed to correct the disciplinary record in any files maintained for the grievant and specifically any file maintained with Human Resources.

(B) Exoneration of Discipline - If the discipline is reversed in the favor of the employee, all files including the Human Resource personnel file and the employee's department file will be purged of all references to the discipline. Additionally, the Internal Investigations file will be modified to show the findings.

ARTICLE 22 - OTHER LEAVE

Section 1. Application and Examination Leave

An employee may be permitted reasonable time off with pay during their shift to make an application and/or take an examination for promotional transfer opportunities with the City, when it is not possible or practical to do so during non-working time. All such absences shall be scheduled with the employee's supervisor. In no case shall an employee become eligible for overtime as a result of leave for promotional or transfer opportunity.

Section 2. Catastrophic Leave

(A) When an eligible employee suffers a catastrophic illness or injury, and the eligible employee has exhausted all accrued leave as a result of the illness/injury, the eligible employee may file a request for donations of leave with the Association.

(B) Catastrophic Leave requests must be accompanied by a medical statement from the attending physician explaining the nature of the illness/injury, and an estimated amount of time the employee will be unable to work.

(C) A committee appointed by the Association Board will review the request to verify the employee's eligibility to receive donations.

(D) The Association will conduct the solicitation of donations and will be limited to an information-only solicitation, with no personal lobbying by employees. Solicitations will be conducted for 14 calendar days per request and all donations will be submitted to the Association on a form provided by the Association.

(E) Donations can be made from the donor's compensable sick leave, TILO time, and annual leave.

(F) The minimum donation is four (4) hours; the maximum donation is forty (40) hours. Employees must have a cumulative leave balance of at least forty (40) hours after the donation.

(G) The Association will forward donations to the City Payroll office, where the donated time will be converted to dollars at the hourly rate of the donor. The dollars will then be converted to sick leave at the hourly rate of the recipient.

(H) Eligible employees:

a. The Catastrophic Leave Program is available to all Association bargaining unit members.

b. Employees must meet the following definition of catastrophic illness/injury: "Catastrophic illness/injury is an illness or accident that keeps an employee

from performing duties of their job, (i.e., hospitalized or home bound). The illness or accident cannot be a result of an illegal act, nor can it be self-inflicted."

c. Employees who are receiving worker's compensation benefits are not eligible for the Catastrophic Leave Program.

d. Personnel who have been released to a light duty status by a medical physician and refuse a light duty assignment will not be eligible for Catastrophic Leave.

Section 3. Family and Medical Leave Act

All legal requirements of Family & Medical Leave Act apply to this Article.

Section 4. Jury Duty or Court Witness

Employees called to serve on jury duty or subpoenaed to appear as a witness in a court proceeding, related to their employment, during regular working hours shall receive their regular City pay, less any jury or witness pay. Employees who are subpoenaed to appear as a witness to testify other than during normal work hours shall be entitled to call-back pay as specified under Article 9. Employees who work a swing or graveyard shift shall be excused for the day(s) that they are required to report for jury duty.

Section 5. Leave of Absence or Leave without Pay

Leave without pay may be granted to employees for purposes normally covered by sick or annual leave only when such paid leave has been exhausted, or for other justifiable reasons approved by the Chief (or designee) in advance.

Section 6. Childbearing/Employee Bonding Leave

Employees shall be entitled to leave without pay for up to a maximum of six (6) months for purposes of childbearing and/or for caring for newly born or newly adopted children. This leave runs concurrently with any available FMLA leave the employee may have. Employees are eligible for this leave for a period up to 12 months after the birth or placement of a child.

Section 7. Military Leave

An employee having a reserve status in any of the regular branches of the Armed Forces of the United States or the Nevada National Guard, upon request to serve on active duty or inactive duty for training as outlined in the provision of NRS 281.145, shall be granted a maximum of thirty (30) shifts of leave and pay, or in accordance NRS281.145, whichever is greater.

Any employee who is called to active duty by the President of the United States to serve in a national or international deployment of the United States Armed Forces shall be granted leave and pay as prescribed by Federal Law.

At the beginning of each calendar year or after a change in shift or status, the employee will provide their immediate supervisor with documentation establishing reserve status and unit assignment. Such documentation shall include the name and phone number of the reservist's commanding officer or designee as a contact point. The employee will provide an annual training schedule, or orders in case of activity duty, by the first scheduled work day after such documentation becomes available to the employee. These documents are to be maintained in the employee's department file.

The employee will provide an Application for Leave form, to their immediate supervisor two weeks prior to their scheduled military leave, when possible. The approved leave slip will serve as full documentation for Payroll purposes.

When an employee is ordered to report for a pre-induction physical, time spent up to three (3) days shall be considered an emergency military leave and shall be granted with pay upon presentation of such orders to the employee's immediate supervisor.

The employees shall be entitled to retain any Armed Services pay earned during the training duty.

If an employee has an approved scheduled vacation leave, that leave will not be canceled because another employee has been granted military leave.

Employees may utilize vacation in lieu of leave without pay for military leave. Use of these leaves for this purpose shall not be controlled by other policies, procedures or rules that affect leaves.

If an employee submits a request for Annual Leave of one (1) day or more, that leave will not be denied solely because another employee has been granted military leave.

ARTICLE 23 - SENIORITY

Section 1. Seniority List

(A) City seniority shall be defined as an employee's length of active continuous service with the City. Classification seniority for Lieutenants means the length of service in a classification. Classification seniority for Lieutenants shall be based upon service date. Employees in classifications that have been re-titled or reclassified shall retain all seniority through any such changes. Employees who are promoted from one classification to a higher classification(s), within the bargaining unit and subsequently return to the former classification shall be credited with all time spent in the higher classification(s) for their classification seniority. Employees who return to classified service as a result of a reduction in force will be credited 100% toward classification seniority of the time spent in the appointive rank.

For movement from appointive to classified rank for any reason other than a reduction in force:

- Employees who return to the classified rank within the first twenty-four (24) months will be credited 100% toward classification seniority of the time spent in the appointive rank.
- Employees who return to the classified rank after twenty-four (24) months will be credited 50% toward classification seniority of the time spent in the appointive rank.

Seniority shall not be broken by annual leave, sick leave, suspension, maternity leave, military leave, or any leave(s) without pay of less than a thirty-day (30) day duration. Except for military leave, FMLA and leave without pay resulting from job-related illness or injury, periods of leave without pay in excess of thirty (30) consecutive calendar days shall not be credited for purposes of seniority.

(B) By the first week in August, the City shall provide the Association with a current seniority list for each classification, showing the service date and date of last promotion to present classification of the employees covered by this contract. The seniority lists shall be posted on the Association bulletin board for each division by the Association.

(C) For purposes of promotion, seniority shall be determined by:

a. Length of time in classification; if tie, then
b. Department service date; if tie, then
c. City hire date; if tie, then
d. Human Resources time stamp
e. Any further ties or disputes will be determined by a one-time lottery

If no one protests the seniority shown on their behalf within 30 days of such posting, each classification seniority list shall stand as conclusive evidence of each person's seniority until the posting of the next annual seniority listing.

Section 2. Use of Seniority

(A) In scheduling annual leave, Regular Days Off and shift preference, the Lieutenants shall be treated as one classification with seniority determined based upon classification service date, subject to availability as determined by the Department Chief.

(B) Beginning the second week of September, all employees will bid for shift assignments and regular days off. All bidding will be accomplished by the end of the second week of October. Transfers will take place after the first full pay period in January.

As vacancies occur throughout the year, notice will be given to all employees within 30 days after the vacancy has been created, allowing persons to bid for the vacancy. The senior person submitting a bid shall be approved to fill the vacancy. The secondary vacancy created by the switch will be also subject to the bid process and will continue until no Lieutenant wants the vacancy.

(C) By the first week of November, Lieutenants will be allowed to make their "first pick" for annual leave. Employees must submit annual leave requests to secure their seniority rights. A maximum of four (4) weeks will be allowed.

The first picks will be completed no later than 14 days prior to the annual shift change. Any subsequent requests for annual leave must be submitted within the next 45 days, which is known as the "45 Day Rule."

One second pick will be allowed beyond the 45 day rule after everyone has made their "first pick" selection. A maximum of four (4) weeks will be allowed. The second pick can be submitted any time throughout the year, after all first picks are complete.

All applications for annual leave will be responded to within ninety-six (96) hours of submission.

Seniority will prevail when another employee has requested leave for the same period of time on the same request date.

ARTICLE 24 - LABOR MANAGEMENT MEETINGS

A) A joint Labor-Management Committee shall meet at set times which are to be determined between the President of the Association and the Chief (or designee) at the beginning of each fiscal year in order to supplement the collective bargaining process. These times can be changed upon mutual agreement between the parties.

The purpose of such meetings may be to:

- Discuss the administration of the Agreement;
- Notify the Association of changes made or contemplated by the Department which may affect the working conditions of employees represented by the Association; including but not limited to changes in posts;
- Disseminate general information of interest to the parties; and
- Give the Association representatives the opportunity to share the views of their members and/or make suggestions on subjects of interests to their members.

B) An agenda of issues shall be prepared by the City and Association jointly or separately which shall be approached through meeting of the Labor-Management committee which shall be composed of not more than five (5) representatives of the City and five (5) representatives of the Association. The process shall serve to study issues of mutual interest, including, but not limited to safety and health of employees. Performance evaluations and staffing issues to be discussed in good faith on a prompt basis. Issues may fall within or without the instant contract, but it shall be understood that the City and the Association must mutually agree to any modification of this Agreement reached through this procedure in writing.

C) The Association shall designate a representative to serve as liaison with the Chief or designee, for the purpose of selecting agenda items and organizing meetings. Each party agrees to a reasonable notice to the other party to cancel a meeting. The Association's representative will prepare the Agenda(s) for each meeting and the City's representative.

D) Minutes of the Labor-Management Committee meetings shall be prepared by the Department Director, or designee, and shall be reviewed and approved by the Association's representative by both parties' signatures. The minutes shall expressly state each issue or topic discussed during the meeting, the positions of the City and the Association with respect to each issue and the decision reached. Copies of approved minutes will be available for the Association to pick up and are distributed within one week of each meeting.

E) By virtue of agreeing to the provisions of this Article, neither party shall waive any rights under the Nevada Revised Statutes.

ARTICLE 25 - DEFINITIONS

This Agreement is made pursuant to and in conjunction with the Local Government Employee-Management Relations Act of the state of Nevada, and all terms herein which are terms used in the Local Government Employee-Management Relations Act shall have definitions ascribed to them by said Act.

The City and the Association agree that the Civil Service Rules of the City shall be the general rules by which the City administers its duties and rights with respect to the conditions of employment of Association members except as hereinafter provided.

It is the continuing policy of the City and the Association that the provisions of this Agreement shall be applied to employees without regard to sex, race, color, religion, age, national origin, political affiliation, sexual orientation, or disability.

Most of the following definitions or terms used in this Agreement are derived from the City of Las Vegas Personnel Policies Manual, the City of Las Vegas Civil Service Rules, the Nevada Local Government Employee-Management Relations Act, the Nevada Industrial Insurance Act, or the Nevada Occupational Safety and Health Act. Where any conflict is found between the following defined terms and the terms as described in the Nevada Revised Statutes and Amendments thereto, the definitions as set forth in the Nevada Revised Statutes and Amendments thereto shall control.

The following are definitions of terms used in this agreement.

Abuse of Sick Leave: The use of sick leave for purposes other than the legitimate uses of sick leave listed in Article 12 - Sick Leave of this contract.

Arbitrator: An impartial third party chosen in accordance with the provisions of this Agreement.

Base Salary: Remuneration received by the employee in accordance with the rates specified on the appropriate salary schedule or other compensation plan in effect for any one employee or group of employees.

Bereavement Leave: Leave granted to an employee to attend the funeral and/or for bereavement purposes for a member of the employee's immediate family.

Call-Back: When an employee is called back to work during off-duty hours after the employee has left the normal duty location.

Classification: A group of positions, which have essentially similar duties and responsibilities, is allocated to the same salary range, and is designated by the same general title.

Demotion: Movement of an employee from one classification to a different classification, that is on a lower salary grade than the original classification.

Domestic Partner: Defined by meeting the following criteria:

A. Share the same permanent residence, AND
B. Have a close personal relationship, AND
C. Are jointly responsible for basic living expenses, AND
D. Are single or divorced, AND
E. Are eighteen (18) years of age or older, AND
F. Are not related by blood, AND
G. Are each other's sole domestic partner and are responsible for each other's common welfare.

Emergency Leave: Leave that may be granted after a request for immediate leave that, by the nature of the condition prompting the request, could not have been predicted in advance of need and been scheduled in accordance with normal departmental policy. Emergency leave may not be used in lieu of an employee's accrued sick leave.

Extended Sick Leave: Extended sick leave is when an employee is off work for maternity/paternity/adoption leave, continuing special treatment, recovery from disabling illness or injury or other recognized use of sick leave for more than five (5) working days.

Family Leave: Leave taken under the auspices of the Family Medical Leave Act of 1993, amended in 2009.

Grade: A term used to designate salary range to which one or more classifications may be allocated.

Grievance: A complaint regarding wages, benefits, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or interpretation and application of this Agreement.

Holiday: A day set aside for the special observance of a memorable event or occasion as referenced in NRS 236.

Immediate Family: Current spouse or domestic partner, parent, brother, sister, children, (including step, adopted and foster relationships), grandchild, grandparent, current mother/father-in-law, current sister/brother-in-law, current son/daughter-in-law.

Job-Related Disability: Incapacity resulting from an accident or occupational disease arising out of and/or in the course of employment as defined in NRS 616 & 617.

Just Cause: A factual reason cited by the City that is used to issue disciplinary action. Just cause is defined in the discipline article of this contract.

Negotiations: The process of collective bargaining between the City and the Association that determines the contract between the City and the Association.

Normal Work Period: An employee's normal paid, bi-weekly work period shall be eighty (80) hours.

Overtime: Time that an employee works in addition to the employee's normal bi-weekly or daily work schedule.

Childbearing/Employee Bonding Leave: Leave, with or without pay, granted to employees for the purposes of caring for newly born and/or newly adopted children.

Probationary Employee (Initial Hire): An employee who has not completed the probationary period of employment and whose permanent appointment has not been confirmed. The probationary period for a new employee shall be twelve (12) months from the date of hire.

Promotion: A change of an employee from a position in one classification to a position in a higher classification, when such change is other than a result of reclassification of the employee or reallocation of the position.

Qualifying Period: Any person transferred, or promoted to a non-temporary classified position in the City of Las Vegas is required to serve a probationary qualifying period of not less than twelve (12) months prior to confirmation of the transfer or promotion.

Reassignment: The movement of an employee or a position from one work unit to another with the same department, with no change of classification.

Regular Employee: One who has successfully completed his/her initial probationary period and whose appointment has been confirmed in a permanent position.

Salary Range: The minimum and maximum base salaries that may be to an employee working in a classification in accordance with the salary grade to which the classification is allocated.

Salary Step: An increment within a salary grade that designates a specific pay rate as on the appropriate salary schedule.

Service Date (Anniversary Date): Usually the actual date of hire, an employee's service date is that date which reflects the length of active non-hourly employment with the City of Las Vegas. For purposes of determining seniority, longevity, or other matters associated with length of active employment, the service date shall be adjusted to reflect any periods of leave without pay in excess of thirty (30) consecutive calendar days.

Suspension: A temporary removal from work status, with or without pay, resulting from, or pending, disciplinary action.

Temporary Employee: "At-will" employees hired for a term not to exceed two thousand eighty (2,080) hours in any twenty-four (24) month period. Temporary employees may be appointive or classified employees and may be hired on a full time or part-time basis.

Termination: The separation of an employee from employment with the City of Las Vegas.

TILO (Time in Lieu of): The accrual of paid time off at time and one-half, due an employee in exchange for time worked in excess of the employee's normal workweek.

Work Location: The areas under the jurisdiction of the Detention Center.

ARTICLE 26 - DURATION

This Agreement shall be as of July 1, 2023 upon ratification and execution by City Council and will continue in full force and effect through June 30, 2026. However, if the parties hereto do not arrive at a new agreement before June 30, 2026, the City shall not pay to or on behalf of any employee in the affected bargaining unit any compensation or monetary benefits in any amount greater than the amount in effect as of the expiration of the collective bargaining agreement.

DATE Sept. 20. 2023

CITY OF LAS VEGAS

BY _____
Sue Brown, HR Deputy Director

LAS VEGAS PEACE OFFICERS SUPERVISORS ASSOCIATION, INC.

BY _____
Frank Dent, President

Approved: _____
Carolyn Goodman, Mayor

Attest: _____
LuAnn Holmes, City Clerk

Approved as to Form: _____
Morgan D. Davis, Assistant City Attorney

City of Las Vegas
Dept. of Human Resources

Job Titles in Step Ranges
For Peace Officers Supervisors Association
As of 01-JUL-2023

Grade	Job Title	BIWEEKLY Min	BIWEEKLY Max	ANNUAL Min	ANNUAL Mid	ANNUAL Max
POSA.2	Corrections Lieutenant	$5,056.50	$5,618.33	$131,469	$138,773	$146,077

Salaries for Grades with Steps
for Peace Officers Supervisors Association
Effective Date 01-JUL-2023

	Hourly	Biweekly	Monthly	Annually
POSA 2				
Step 1	$63.21	$5,056.50	$10,955.75	$131,469.00
Step 2	$65.55	$5,243.77	$11,361.50	$136,338.02
Step 3	$67.89	$5,431.05	$11,767.28	$141,207.30
Step 4	$70.23	$5,618.33	$12,173.05	$146,076.58

Job Titles in Step Ranges
For Peace Officers Supervisors Association
As of 23-JUL-2023

Grade	Job Title	BIWEEKLY Min	BIWEEKLY Max	ANNUAL Min	ANNUAL Mid	ANNUAL Max
POSA.2	Corrections Lieutenant	$4,904.81	$5,449.79	$127,525	$134,610	$141,695

Salaries for Grades with Steps
for Peace Officers Supervisors Association
Effective Date 23-JUL-2023

	Hourly	Biweekly	Monthly	Annually
POSA 2				
Step 1	$61.31	$4,904.81	$10,627.09	$127,525.06
Step 2	$63.58	$5,086.47	$11,020.69	$132,248.22
Step 3	$65.85	$5,268.13	$11,414.28	$136,971.38
Step 4	$68.12	$5,449.79	$11,807.88	$141,694.54