

FILED  
September 29, 2025  
State of Nevada  
EMRB.  
4:08 p.m.

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8 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

9 **STATE OF NEVADA**

10 HENDERSON POLICE SUPERVISORS )  
11 ASSOCIATION, A NEVADA ) CASE NO: 2025-019  
12 NON-PROFIT CORPORATION AND )  
13 LOCAL GOVERNMENT EMPLOYEE, )  
14 ORGANIZATION, and ITS NAMED AND )  
15 UNNAMED AFFECTED MEMBERS )  
16 Complainants )  
17 vs ) COMPLAINT  
18 CITY OF HENDERSON )  
19 Respondents )  
— — — — —

20 COMES NOW, Complainants, HENDERSON POLICE SUPERVISORS  
21 ASSOCIATION (hereby "THE ASSOCIATION"), a local government employee organization,  
22 and the Associations' named and unnamed affected members, by and through their undersigned  
23 counsel, CHRISTOPHER CANNON, ESQ., and ANDREW REGENBAUM, J.D., of the  
24 NEVADA ASSOCIATION OF PUBLIC SAFETY OFFICERS (hereby "NAPSO"), and hereby  
complain and allege against the CITY OF HENDERSON as follows:

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28

## **JURISDICTIONAL ALLEGATIONS**

2       I.     At all relevant times herein, HENDERSON POLICE SUPERVISORS  
3 ASSOCIATION was, and is, an *employee organization* as that term is defined in NRS 288.040.  
4 The Association is comprised of active police officers who serve the community of Henderson,  
5 Nevada. The HENDERSON POLICE SUPERVISORS ASSOCIATION's current mailing  
6 address is 145 Panama, Henderson, Nevada 89015.

7        2. At all relevant times herein, the Association's affected members were and are  
8 *local government employees* as that term is defined in NRS 288.050.

9       3.     At all relevant times herein, the City was and is a political subdivision of the State  
10    of Nevada. The City is a *local government employee* of the Association's members as that term is  
11    defined in NRS 288.060.

4. The Government Employee-Management Relations Act was adopted by the  
Nevada Legislature in 1969, and is now embodied in NRS Chapter 288.

14 || 5. NRS 288.140(1) provides as follows:

16 It is the right of every local government employee, subject to the limitations  
17 provided in subsections 3 and 4, to join any employee organization of the  
18 employee's choice or to refrain from joining any employee organization. A local  
government employer shall not discriminate in any way among its employees  
on account of membership or nonmembership in an employee organization.  
(Emphasis added).

6. NRS 288.150 provides in pertinent part as follows:

1. Except as otherwise provided in subsection 6 and NRS 354.6241, every local  
21 government employer shall negotiate in good faith through one or more  
22 representatives of its own choosing concerning the mandatory subjects of  
23 bargaining set forth in subsection 2 with the designated representatives of the  
recognized employee organization, if any, for each appropriate bargaining unit  
among its employees. If either party so requests, agreements reached must be  
reduced to writing.

2. The scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

**(q) Duration of collective bargaining agreements.**

(v) Procedures for reduction in workforce consistent with the provisions of this chapter.

7. NRS 288.270(1) provides in pertinent part as follows:

It is a prohibited practice for a local government employer or its designated representative willfully to:

**(a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.**

(b) Dominate, interfere or assist in the formation or administration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or testimony

1 under this chapter, or because the employee has formed, joined or chosen to be  
2 represented by any employee organization.

3 (e) Refuse to bargain collectively in good faith with the exclusive representative as  
4 required in NRS 288.150. Bargaining collectively includes the entire bargaining process,  
5 including mediation and fact-finding, provided for in this chapter.

6 (f) Discriminate because of race, color, religion, sex, sexual orientation, gender identity or  
7 expression, age, physical or visual handicap, national origin or because of political or  
8 personal reasons or affiliations.

9 (g) Fail to provide the information required by NRS 288.180.

10 (Emphasis added).

11 8. This Government Employee-Management Relations Board ("Board") has  
12 jurisdiction pursuant to NRS 288.110(2) to "bear and determine any complaint arising out of the  
13 interpretation of, or performance under, the provisions of this chapter by the Executive  
14 Department, any local government employer, any employee, as defined in NRS 288.425, any  
15 local government employee, any employee organization or any labor organization."

16 9. This Board has further jurisdiction pursuant to NRS 288.080 to hear and  
17 determine "any controversy concerning prohibited practices."

18 10. When a labor dispute arises, employees and recognized employee organization are  
19 required to raise before the Board issues within the jurisdiction of the Board before resorting to  
20 civil litigation. *Rosequist v Int'l Ass'n of Firefighters Local 1908*, 118 Nev. 444, 450-451, 40  
21 P.3d 651, 655 (2002), overruled on other grounds by *Allstate Ins. Co. v. Thorpe*, 123 Nev. 565,  
22 170 P.3d. 989 (2007).

23 11. The Association is the recognized bargaining unit for the members of the  
24 Association. As such, committee members, officers, board members and other representatives  
25 engage in collective bargaining negotiations with representatives of the City with respect to  
26 contractual obligations and terms of employment. As part of this, these members of both the  
27 Association and the City agree upon dates and times for these collective bargaining meetings,  
28 and both parties are represented by legal counsel during these sessions.

12. The violations of state law, the lack of good faith in bargaining and the unfair  
2 labor practices identified herein have been an ongoing policy and practice of the City.

## **GENERAL ALLEGATIONS**

2       13. This matter revolves around the allegations that the City of Henderson has  
3       engaged in “bad faith bargaining” and/or committed a prohibited labor practice activities during  
4       the course and scope of the creating of the new collective bargaining agreement between the City  
5       of Henderson and the Henderson Police Supervisors Association (“HPSA”).

6       14. That prior to the entering of these collective bargaining negotiations, the HPSA  
7 and the City of Henderson had an existing Collective Bargaining Agreement (“CBA”), beginning  
8 June 1, 2021 and ending June 30, 2025.

9       15. Within that prior CBA, the parties had negotiated an article outlining the process  
10 of promotions and qualifications for promotion within the City of Henderson Police Department.  
11 This Article is designated within the CBA as Article 19, entitled "Promotion/Qualifying Period".

12        16. This article was still valid and in effect during the current period of negotiation,  
13 and even if the CBA expires, would be covered under the “evergreen clause” - remaining in  
14 effect until a new CBA is completed and ratified.

15        17. That the parties, the City of Henderson and the Association selected negotiating  
16 teams and designated lead negotiators to lead and conduct the meetings to develop and agree to  
17 the terms of a new collective bargaining agreement (CBA).

18. That for the Association, the lead negotiator was initially designated to be  
19. Lieutenant Charles Hedrick..

19. That for the City, the lead negotiator was designated to be Carlos McDade.

21       20. That following the "ground rules" meeting, the City and the Association  
22 conducted at least six (6) meetings, where wages, benefits and other employment terms contained  
23 with the CBA were negotiated.

24        21. That during the negotiations, both the City and the Association wanted to make  
25 changes to Article 19 - Promotion.

26       22. That on May 14, 2025, during the negotiation session, the Association proposed a  
27 change to Article 19, attempting to add a Subsection J. The City, upon review of the language  
28 rejected such a change.

1        23. That on May 28, 2025, during the negotiation session, the City proposed a change  
2 to Article 19, attempting to add a Subsection B1. The Association, upon review of the language,  
3 rejected such a change. Significant discussion was held on the topic during the negotiation  
4 session. The City included an HR representative tasked with handling the promotion process in  
5 the negotiation session.

6        24. That during the subsequent negotiation session on June 15, 2025, the City  
7 proposed a change to Article 19, attempting to address concerns about the language in Subsection  
8 B1. The language proposed to be added included the following:

9                (1) A committee comprised of the HR Business partner or designee, and two  
10 additional representatives knowledgeable in the subject (one appointed by the  
11 CITY and one appointed by the UNION) shall serve as the Appeals Committee  
12 upon conclusion of the written exam challenge process. The representatives must  
13 be incumbent level or above.

14  
15                (2) The UNION shall be allowed one (1) representative for each section of the  
16 examination, and representative(s) must be incumbent level or above.

17  
18                (a) If a subject matter expert (SME) is needed to assist with the  
19 development or review of the examination tools, Human Resources will  
20 request one (1) SME from the City and one (1) SME from the Union.

21  
22        25. After a caucus and upon review of language proposed by the City, the Association  
23 agreed to accept the change and asked to sign the tentative agreement - removing it from the  
24 other articles that needed to be negotiated.

25        26. That inexplicably - after offering the change and subsequent to the Association  
26 agreeing to the change (effectively making it a tentative agreement), the City then withdrew the  
27 proposal, ignored the agreement and stated that the language would need further review by the  
28 City - effectively engaging in regressive bargaining.

1        27. That on July 16, 2025, both the HPSA and NAPSO Executive Director received  
2 an email from the Assistant City Attorney, Kristina Gilmore. Within the email, Gilmore provided  
3 additional changes to Article 19, including adding a Subsection 3, and then further subsections  
4 3(a)-(b). This new subsection addressed the appeals process - adding new language to who can  
5 review appeals, what parties can see appeals, creates a “challenge board” and the process of a  
6 challenging a section of the test. *This new language was not agreed upon by the Association and*  
7 *no tentative agreement was made to place it within the CBA.*

8        28. Gilmore further stated within her correspondence that:

9                “The previous version of the article did not address the challenge process,  
10                or challenge board, so we (the City) added language to clarify the  
11                challenge process and define the challenge board’s purpose and  
12                composition. **These additions reflect and formalize our current**  
13                **practice**”.    (Emphasis added)

14        29. That the changes reflected by Gilmore in her email and the proposed changes  
15 attached to that correspondence *were not agreed upon by the Association*. Those changes, as with  
16 any other changes to the CBA, must be proposed and accepted by both sides of the negotiation -  
17 **not made unilaterally by the City Attorney’s Office or a designated Assistant City**  
18 **Attorney**, as the promotional process is a mandatory subject of bargaining because promotional  
19 panels are significantly related to the subjects set forth in NRS 288.150.

20        30. While it may be true that a public employer may not be required to negotiate the  
21 ultimate decision on who to promote, the process of promotion is a mandatory subject of  
22 bargaining, pursuant to NRS 288.150.

23        31. That due to the lack of agreement between the parties, until a further agreement  
24 was made in negotiations, the *existing* Article 19 in the 2021-2025 CBA would remain in effect  
25 and controlling.

26        32. That while negotiations stalled, in September of 2025, the City of Henderson  
27 conducted a promotional testing process for the positions of Police Sergeant and Police  
28 Lieutenant.

1       33. That during this designated testing process, the City *unilaterally* changed the  
2 testing process - without the consent of the Association - permitting an Assistant City Manager  
3 (ACM) and other persons from Human Resources (HR) to be added as subject matter experts and  
4 personnel that would help develop the promotional test.

5       34. Under the existing CBA, the City and the Association were to provide SME for  
6 the development of the written and practical exercise portion of the testing.

7       35. That a City representative, Erin Long, *unilaterally* made the decision for the City  
8 to exclude the Association from providing a SME in the development of the promotional testing.  
9 Long later withdrew the exclusion - asking the Association to participate, but then again  
10 excluded the Association when the test itself was actually developed and written.

11       36. That the unilateral change is a prohibited labor practice under NRS 288.270(1)(e).  
12 Under the unilateral change theory, an employer commits an unfair labor practice when it  
13 changes the terms without proper negotiation.

14       37. That it has been a past practice, consistent with the CBA, for HR to provide the  
15 scenario based assessment exercises to both the City SME and Association SME prior to the  
16 implementation of the test. Further both SME would then brief the external graders on the  
17 scenario and the key scoring areas of the test. This practice occur in a prior testing process.

18       38. That for the September 2025 testing, the Association SME was not asked to  
19 participate in the development of the test questions, was excluded from the tactical scenario  
20 planning of the assessment center, and was excluded from the period of briefing the external  
21 graders.

22       39. That the Association SME were only briefed about the test questions and  
23 scenarios, *the day before the actual testing date - effectively removing them from the process*  
24 *and violating the past practice and terms of the existing CBA.* This change led to an alteration  
25 of test scoring which altered and affected unit members' terms and condition of employment.

26       40. That the City resorted to such tactics in an attempt to coerce the Association to  
27 agree to their terms and deprive the Association's of their individual right to negotiate for the  
28 terms and conditions of their CBA, for their respective members.

41. That the actions of the City was a prohibited labor practice as outlined in NRS Chapter 288 and NRS Chapter 268.

42. **Based on the foregoing**, the City of Henderson has committed unfair labor practices in ways that included, but may not be limited to the following:

- a. Interfere, restrain or coerce any employee in the exercise of any right guaranteed under NRS 288, including engaging in bad faith bargaining by interfering with the association's ability to collectively bargain and/or engaging in an unfair labor practice.
- b. Violating the terms of the existing CBA between the Association and the City.
- c. Engaging in retaliatory treatment against the Association and their officers for exercising their rights under NRS 288.
- d. Engaging in a concerted pattern of conduct to ignore contractual rights, rights imposed by state and federal law, judicial orders for the purpose of coercing the members of the Association to waive and/or give up their ability to enforce their rights within the law.
- e. Engaging in regressive bargaining and therefore bargaining in bad faith.
- f. Refuse to bargain collectively and in good faith as required by NRS 288.150

### PRAYER FOR RELIEF

WHEREFORE, Complainants and its members, while reserving the right to amend this Complaint to set forth additional facts or causes of action that are presently unknown to them, pray for relief as follows:

1. For a finding in favor of the Complainants that the City engaged in an unfair labor practice by (1) failing to follow the promotional practice in the existing Collective Bargaining Agreement; (2) unilaterally changing the terms of the promotional practice, without the input or participation of the Association; (3) enforcing the new unilateral terms - drafted by an Assistant City Attorney - as the controlling manner to conduct promotions; (4) excluding the Association from participating in the testing process conducted in September 2025; (5) adding new City

1 personnel to the testing process, without the consent or bargaining of the Association.

2 2. For a finding in favor of the Complainants that the City refused to bargain  
3 collectively and in good faith, violating NRS 288.150;

4 3. For a finding that the Respondent interfered in the administration of the  
5 Association in violation of NRS 288.270;

6 4. For an order that the Respondent cease and desist from retaliatory behavior  
7 towards the Association, its members and its officers;

8 5. For an order that Respondent cease and desist from all prohibited and unfair labor  
9 practices therein, and for any other conduct that would be considered "union busting";

10 6. For reasonable attorney's fees to prosecute this action;

11 7. For such other and further relief as the Board deems appropriate under the  
12 circumstances.

13  
14 DATED this 29th day of September, 2025.

15 BY: /Christopher Cannon/  
16 CHRISTOPHER M. CANNON, ESQ.  
Nevada Bar No. 9777  
17 ANDREW REGENBAUM, J.D.  
Nevada Association of Public Safety Officers  
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HENDERSON, NEVADA 89015  
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20 Attorneys for the Complainants  
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**City of Henderson (Respondent)**

**Answer and Defenses to Complaint**

FILED  
October 30, 2025  
State of Nevada  
E.M.R.B.  
1:52 p.m.

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7 Attorneys for Respondent  
8 City of Henderson

9 **STATE OF NEVADA**

10 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

11 Henderson Police Supervisors Association, A  
12 Nevada Non-Profit Corporation and Local  
13 Government Employee, Organization, and Its  
14 Named and Unnamed Affected Members

15 EMRB Case No.: 2025-019

16 Complainants,

17 vs.  
18 **RESPONDENT CITY OF  
19 HENDERSON'S ANSWER AND  
20 DEFENSES TO COMPLAINT**

21 City of Henderson,

22 Respondent.

23 Respondent City of Henderson ("City"), by and through its undersigned counsel or  
24 record, hereby submits its Answer to the above-captioned Complaint filed by the Henderson  
25 Police Supervisors Association and its members ("Union").

26 **JURISDICTIONAL ALLEGATIONS**

27 1. At all relevant times herein, HENDERSON POLICE SUPERVISORS ASSOCIATION  
28 was, and is, an *employee organization* as that term is defined in NRS 288.040. The  
29 Association is comprised of active police officers who serve the community of  
30 Henderson, Nevada. The HENDERSON POLICE SUPERVISORS ASSOCIATION's  
31 current mailing address is 145 Panama, Henderson, Nevada 89015.

32 **ANSWER:** The City admits the allegations contained in Paragraph 1.

1 CITY ATTORNEY'S OFFICE  
2 CITY OF HENDERSON  
3 240 S. WATER STREET, MSC 144  
4 HENDERSON, NV 89015

1       2. At relevant times herein, the Association's affected members were and are local  
2       government employees as that term is defined in NRS 288.050.

3       **ANSWER:** The City admits the allegations contained in Paragraph 2.

4       3. At all relevant times, the City was and is a political subdivision of the State of Nevada.  
5       The City is a local government employee of the Association's members as that term is  
5       defined in NRS 288.060.

6       **ANSWER:** The City admits that at all relevant times, the City was and is a political  
7       subdivision of the State of Nevada. The City further admits that it is a local governmental  
8       employer of certain employees who are members of the Association. The City denies each  
9       and every remaining allegation contained in Paragraph 3.

10      4. The Government Employee-Management Relations Act was adopted by the Nevada  
11       Legislature in 1969, and is now embodied in NRS Chapter 288.

12      **ANSWER:** The City admits the allegations contained in Paragraph 4.

13      5. NRS 288.140(1) provides as follows:

14       It is the right of every local government employee, subject to the limitations provided in  
15       subsections 3 and 4, to join any employee organization of the employee's choice or to  
16       refrain from joining any employee organization. A local government employer shall not  
16       discriminate in any way among its employees on account of membership or  
17       nonmembership in an employee organization.

18       (Emphasis added)

19      **ANSWER:** The City admits that NRS 288.140(1) provides:

20       It is the right of every local government employee, subject to the limitations  
21       provided in subsections 3, 4 and 5, to join any employee organization of the  
22       employee's choice or to refrain from joining any employee organization. A  
22       local government employer shall not discriminate in any way among its  
22       employees on account of membership or nonmembership in an employee  
23       organization.

24       The City denies each and every remaining allegation contained in Paragraph 5.

25      6. NRS 288.150 provides in pertinent part as follows:

26       1. Except as otherwise provided in subsection 6 and NRS 354.6241, every local  
27       government employer shall negotiate in good faith through one or more  
27       representatives of its own choosing concerning the mandatory subjects of bargaining  
28       set forth in subsection 2 with the designated representatives of the recognized  
28       employee organization, if any, for each appropriate bargaining unit among its

1 employees. If either party so requests, agreements reached must be reduced to  
2 writing.

3 2. The scope of mandatory bargaining is limited to:

4 (a) Salary wage rates or other forms of direct monetary compensation.

5 (j) Recognition Clause

6 (k) The method used to classify employees in the bargaining unit

7 (m) Protection of employees in the bargaining unit from discrimination because  
8 of participation in recognized employee organizations consistent with the  
9 provisions of this chapter.

10 (o) Grievance and arbitration procedures for resolution of disputes relating to  
11 interpretation or application of collective bargaining agreements.

12 (p) General savings clauses.

13 (q) Duration of collective bargaining agreements.

14 (v) Procedures for reduction in workforce consistent with the provisions of this  
15 chapter.

16 ANSWER: The City admits that Section 288.150 provides, in part, as follows:

17 1. Except as otherwise provided in subsection 6 and NRS 354.6241, every  
18 local government employer shall negotiate in good faith through one or more  
19 representatives of its own choosing concerning the mandatory subjects of  
20 bargaining set forth in subsection 2 with the designated representatives of the  
recognized employee organization, if any, for each appropriate bargaining  
unit among its employees. If either party so requests, agreements reached  
must be reduced to writing.

21 2. The scope of mandatory bargaining is limited to:

22 (a) Salary or wage rates or other forms of direct monetary  
23 compensation.

24 (b) Sick leave.

25 (c) Vacation leave.

26 (d) Holidays.

27 (e) Other paid or nonpaid leaves of absence.

28 (f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or  
workweek.

(h) Total number of days' work required of an employee in a work  
year.

(i) Except as otherwise provided in subsections 8 and 11, discharge  
and disciplinary procedures.

1 (j) Recognition clause.  
2 (k) The method used to classify employees in the bargaining unit.  
3 (l) Deduction of dues for the recognized employee organization.  
4 (m) Protection of employees in the bargaining unit from  
5 discrimination because of participation in recognized employee  
6 organizations consistent with the provisions of this chapter.  
7 (n) No-strike provisions consistent with the provisions of this  
8 chapter.  
9 (o) Grievance and arbitration procedures for resolution of disputes  
10 relating to interpretation or application of collective bargaining  
11 agreements.  
12 (p) General savings clauses.  
13 (q) Duration of collective bargaining agreements.  
14 (r) Safety of the employee.  
15 (s) Teacher preparation time.  
16 (t) Materials and supplies for classrooms.  
17 (u) Except as otherwise provided in subsections 9 and 11, the policies  
18 for the transfer and reassignment of teachers.  
19 (v) The salary incentive program for differential pay for professional  
20 growth that must be made available to licensed educational personnel  
21 pursuant to section 55 of this act.  
22 (w) Procedures for reduction in workforce consistent with the  
23 provisions of this chapter.  
24 (x) Procedures consistent with the provisions of subsection 6 for the  
25 reopening of collective bargaining agreements for additional, further,  
26 new or supplementary negotiations during periods of fiscal  
27 emergency.

28 The City denies each and every remaining allegation contained in Paragraph 6.

15 7. NRS 288.270(1) provides in pertinent part as follows:

16 It is prohibited practice for a local government employer or its designated representative  
17 willfully to:

18 (a) **Interfere, restrain or coerce any employee in the exercise of any  
right guaranteed under this chapter.**  
19 (b) **Dominate, interfere or assist in the formation or administration of  
any employee organization.**  
20 (c) **Discriminate in regard to hiring, tenure or any term or condition of  
employment to encourage or discourage membership in any  
employee organization.**  
21 (d) **Discharge or otherwise discriminate against any employee because  
the employee has signed or filed an affidavit, petition or complaint or  
given any information of testimony under this chapter, or because  
the employee has formed, joined or chosen to be represented by  
any employee organization.**  
22 (e) **Refuse to bargain collectively in good faith with the exclusive  
representative as required in NRS 288.150. Bargaining collectively**

1 includes the entire bargaining process, including mediation and fact-  
2 finding provided for in this chapter.

3 (f) Discriminate because of race, color, religion, sex, sexual orientation,  
4 gender identity or expression, age, physical or visual handicap,  
5 national origin or because of political or personal reasons or  
6 affiliations.

7 (g) Fail to provide the information required by NRS 288.180.

8 (Emphasis added).

9 ANSWER: The City admits that NRS 288.270 contains the alleged language. The City  
10 denies each and every remaining allegation contained in Paragraph 7.

11 8. This Government Employee-Management Relations Board ("Board") has jurisdiction  
12 pursuant to NRS 288.110(2) to "hear and determine any complaint arising out of the  
13 interpretation of, or performance under, the provisions of this chapter by the Executive  
14 Department, any local government employer, any employee, as defined in NRS 288.425,  
15 any local government employee, any employee organization or any labor organization."

16 ANSWER: The City admits that NRS 288.110(2) provides as follows:

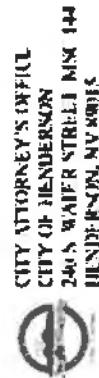
17 The Board may hear and determine any complaint arising out of the  
18 interpretation of, or performance under, the provisions of this chapter by the  
19 Executive Department, any local government employer, any employee, as  
20 defined in NRS 288.425, any local government employee, any employee  
21 organization or any labor organization. Except as otherwise provided in this  
22 subsection and NRS 288.115, 288.280 and 288.625, the Board shall  
conduct a hearing within 180 days after it decides to hear a complaint. If a  
complaint alleges a violation of paragraph (a) of subsection 1 of NRS  
288.620 or paragraph (b) of subsection 2 of NRS 288.620, the Board shall  
conduct a hearing not later than 45 days after it decides to hear the  
complaint, unless the parties agree to waive this requirement. The Board,  
after a hearing, if it finds that the complaint is well taken, may order any  
person or entity to refrain from the action complained of or to restore to the  
party aggrieved any benefit of which the party has been deprived by that  
action. Except when an expedited hearing is conducted pursuant to NRS  
288.115, the Board shall issue its decision within 120 days after the hearing  
on the complaint is completed.

23 NRS 288.110(2). The City denies each and every remaining allegation contained in  
24 Paragraph 8.

25 9. This Board has further jurisdiction pursuant to NRS 288.080 to hear and determine "any  
26 controversy concerning prohibited practices."

27 ANSWER: The City admits NRS 288.280 provides as follows:

28 Any controversy concerning prohibited practices may be submitted to the  
Board in the same manner and with the same effect as provided in NRS



CITY ATTORNEY'S OFFICE  
CITY OF HENDERSON  
240 N WAFFER STREET, NV 89014  
HENDERSON, NV 89014

1       288.110, except that an alleged failure to provide information as provided  
2       by NRS 288.180 must be heard and determined by the Board as soon as  
possible after the complaint is filed with the Board.

3       The City denies each and every remaining allegation contained in Paragraph 9.

4       10. When a labor dispute arises, employees and recognized employee organization are  
5       required to raise before the Board issues within the jurisdiction of the Board before  
resorting to civil litigation. *Rosequist v Int'l Ass'n of Firefighters Local 1908*, 118 Nev.  
6       444, 450-451, 40 P.3d 651, 655 (2002), overruled on other grounds by *Allstate Ins. Co.*  
v. *Thorpe*, 123 Nev. 565, 170 P.3d. 989 (2007).

7       ANSWER: The City admits that the Board has exclusive jurisdiction over purported  
8       violations of the Act and that the Board's final decision may be appealed. The City denies  
9       each and every remaining allegation contained in Paragraph 10.

10       11. The Association is the recognized bargaining unit for the members of the Association.  
11       As such, committee members, officers, board members and other representatives engage  
12       in collective bargaining negotiations with representatives of the City with respect to  
13       contractual obligations and terms of employment. As part of this, these members of both  
14       the Association and the City agree upon dates and times for these collective bargaining  
15       meetings, and both parties are represented by legal counsel during these sessions.

16       ANSWER: The City admits the allegations contained in Paragraph 11.

17       12. The violations of state law, the lack of good faith in bargaining and the unfair labor  
18       practices identified herein have been an ongoing policy and practice of the City.

19       ANSWER: The City denies the allegations contained in Paragraph 12.

20       GENERAL ALLEGATIONS

21       13. This matter revolves around the allegations that the City of Henderson has engaged in  
22       “bad faith bargaining” and/or committed a prohibited labor practice activities during the  
23       course and scope of the creating of the new collective bargaining agreement between the  
24       City of Henderson and the Henderson Police Supervisors Association (“HPSA”).

25       ANSWER: The City admits that HPSA has made allegations against the City involving  
26       successor negotiations. The City denies each and every remaining allegation contained in  
27       Paragraph 13.

28       14. That prior to the entering of these collective bargaining negotiations, the HPSA and the  
29       City of Henderson had an existing Collective Bargaining Agreement (“CBA”),  
30       beginning June 1, 2021 and ending June 30, 2025.

1 ANSWER: The City admits that the parties' most recent collective bargaining agreement  
2 ("CBA") was dated June 1, 2021, through June 30, 2025. The City further admits that the  
3 parties were engaged in negotiations for a successor agreement to this CBA. The City denies  
4 each and every remaining allegation contained in Paragraph 14.

5  
6 15. Within that prior CBA, the parties had negotiated an article outlining the process of  
7 promotions and qualifications for promotion within the City of Henderson Police  
8 Department. This Article is designated within the CBA as Article 19, entitled  
9 "Promotion/Qualifying Period".

10 ANSWER: The City admits that the parties' most recent CBA contained Article 19  
11 Promotion/Qualifying Period which establishes certain processes and qualifications for  
12 certain promotions in the Police Department. The City denies each and every remaining  
13 allegation contained in Paragraph 15.

14 16. This article was still valid and in effect during the current period of negotiation, and  
15 even if the CBA expires, would be covered under the "evergreen clause" – remaining in  
16 effect until a new CBA is completed and ratified.

17 ANSWER: The City admits the allegations contained in Paragraph 16.

18 17. That the parties, the City of Henderson and the Association selected negotiating teams  
19 and designated lead negotiators to lead and conduct the meetings to develop and agree to  
20 the terms of a new collective bargaining agreement (CBA).

21 ANSWER: The City admits that it selected its negotiating team and designated a lead  
22 negotiator for negotiations. The City is without knowledge or information sufficient to form  
23 a belief as to the truth of the allegations as to the Association's decisions and therefore deny  
24 the same. The City denies each and every remaining allegation contained in Paragraph 17.

25 18. That for the Association, the lead negotiator was initially designated to be Lieutenant  
26 Charles Hedrick.

27 ANSWER: The City admits the allegations contained in Paragraph 18.

28 19. That for the City, the lead negotiator was designated to be Carlos McDade.

ANSWER: The City admits the allegations contained in Paragraph 19.

1 20. That following the "ground rules" meeting, the City and the Association conducted at  
2 least six (6) meetings, where wages, benefits and other employment terms contained  
with the CBA were negotiated.

3 **ANSWER:** The City admits the allegations contained in Paragraph 20.

4 21. That during the negotiations, both the City and the Association wanted to make changes  
5 to Article 19 – Promotion.

6 **ANSWER:** The City admits that during negotiations, both the City and the Association  
7 proposed to change the current language set forth in Article 19 – Promotion. The City is  
8 without knowledge or information sufficient to form a belief as to the truth of the allegations  
9 regarding the Association's intent and therefore deny the same. The City denies each and  
10 every remaining allegation contained in Paragraph 21.

11 22. That on May 14, 2025, during the negotiation session, the Association proposed a  
12 change to Article 19, attempting to add a Subsection J. The City, upon review of the  
13 language rejected such a change.

14 **ANSWER:** The City admits the allegations contained in Paragraph 22.

15 23. That on May 28, 2025, during the negotiation session, the City proposed a change to  
16 Article 19, attempting to add a Subsection B1. The Association, upon review of the  
17 language, rejected such a change. Significant discussion was held on the topic during the  
18 negotiation session. The City included an HR representative tasked with handling the  
promotion process in the negotiation session.

19 **ANSWER:** The City admits that during a negotiation session on or about May 28, 2025, it  
20 made a proposal to amend Article 19 and that the Association rejected the change. The City  
21 further admits that the topic was discussed and an HR representative was involved in the  
22 discussion. The City lacks knowledge or information sufficient to form a belief as to the truth  
23 of the allegations regarding the process behind the Association's rejection of the proposal and  
24 therefore deny the same. The City denies each and every remaining allegation contained in  
25 Paragraph 23.

26  
27  
28



1 24. That during the subsequent negotiation session on June 15, 2025, the City proposed a  
2 change to Article 19, attempting to address concerns about the language in Subsection  
3 B1. The language proposed to be added included the following:

- 4 (1) A committee comprised of the HR Business partner or designee, and two  
5 additional representatives knowledgeable in the subject (one appointed by the  
6 CITY and one appointed by the UNION) shall serve as the Appeals Committee  
7 upon conclusion of the written exam challenge process. The representatives must  
8 be incumbent level or above.
- 9 (2) The UNION shall be allowed (1) representative for each subsection of the  
10 examination, and representative(s) must be incumbent level or above.
  - 11 (a) If a subject matter expert (SME) is needed to assist with the  
12 development or review of the examination tools, Human Resources  
13 will request one (1) SME from the City and one (1) SME from the  
14 Union.

15 **ANSWER:** The City admits that during a negotiation session on or about June 18, 2025,  
16 the City provided the Association with proposed amendments to Article 19 in response to the  
17 Association's proposal as set forth in Paragraph 24. The City denies each and every remaining  
18 allegation contained in Paragraph 24.

19 25. After a caucus and upon review of language proposed by the City, the Association  
20 agreed to accept the change and asked to sign the tentative agreement – removing it from  
21 the other articles that needed to be negotiated.

22 **ANSWER:** The City admits that the Association wanted to sign off on the Article 19  
23 proposal as a tentative agreement. The City lacks knowledge or information sufficient to form  
24 a belief as to the truth of the allegations regarding the Association's caucus and review of the  
25 language and therefore deny the same. The City denies each and every remaining allegation  
26 contained in Paragraph 25.

27 26. That inexplicably – after offering the change and subsequent to the Association agreeing  
28 to the change (effectively making it a tentative agreement), the City then withdrew the  
proposal, ignored the agreement and stated that the language would need further review  
by the City – effectively engaging in regressive bargaining.

29 **ANSWER:** The City admits that representatives informed the Association that the  
30 language needed to be further reviewed by the City. The City denies each and every remaining  
31 allegation contained in Paragraph 26.

1 allegation contained in Paragraph 26.

2 27. That on July 16, 2025, both the HPSA and NAPSO Executive Director received an email  
3 from the Assistant City Attorney, Kristina Gilmore. Within the email, Gilmore provided  
4 additional changes to Article 19, including adding a Subsection 3, and then further  
5 subsections 3(a)-(h). This new subsection addressed the appeals process – adding new  
6 language to who can review appeals, what parties can see appeals, creates a challenge  
7 board and the process of a challenging a section of the test. *This new language was not  
agreed upon by the Association and no tentative agreement was made to place it within  
the CBA.*

8 **ANSWER:** The City admits that on or about July 16, 2025, Assistant City Attorney  
9 Kristina Gilmore emailed Andrew Regenbaum and HPSA President Lt. Charles Hedrick  
10 regarding three different articles for their consideration including Article 19. The City further  
11 admits that the proposal amended the language provided for in Section 3 including, among  
12 other things, detailing a challenge process. The City also admits that the Association never  
13 responded to the email, and therefore no tentative agreement was made to place the language  
14 in the CBA. The City denies each and every remaining allegation contained in Paragraph 27.

15 28. Gilmore further stated within her correspondence that:

16 "The previous version of the article did not address the challenge process, or  
17 challenge board, so we (the City) added language to clarify the challenge  
18 process and define the challenge board's purpose and composition. *These  
additions reflect and formalize our current practice*". (Emphasis added)

19 **ANSWER:** The City admits the allegations contained in Paragraph 28.

20 29. That the changes reflected by Gilmore in her email and the proposed changes attached to  
21 that correspondence were not agreed upon by the Association. Those changes, as with  
22 any other changes to the CBA, must be proposed and accepted by both sides of the  
23 negotiation – not made unilaterally by the City Attorney's Office or a designated  
24 Assistant City Attorney, as the promotional process is a mandatory subject of bargaining  
25 because promotional panels are significantly related to the subjects as set forth in NRS  
26 288.150.

27 **ANSWER:** The City admits that the proposed language changes were not agreed to by the  
28 Association as the Association never responded to the email. The City denies each and every  
remaining allegation contained in Paragraph 29.

1 30. While it may be true that a public employer may not be required to negotiate the ultimate  
2 decision on who to promote, the process of promotion is a mandatory subject of  
bargaining, pursuant to NRS 288.150

3 **ANSWER:** The City denies the allegations contained in Paragraph 30.

4 31. That due to the lack of agreement between the parties, until a further agreement was  
5 made in negotiations, the *existing* Article 19 in the 2021-2025 CBA would remain in  
6 effect and controlling.

7 **ANSWER:** The City admits that Article 19 of the 2021-2025 CBA remained in effect  
8 during successor negotiations. The City denies each and every remaining allegation contained  
9 in Paragraph 31.

10 32. That while negotiations stalled, in September of 2025, the City of Henderson conducted  
11 a promotional testing process for the positions of Police Sergeant and Police Lieutenant.

12 **ANSWER:** The City admits that in or about September 2025, the City conducted a  
13 promotional testing process of the position of Police Lieutenant. The City denies each and  
14 every remaining allegation contained in Paragraph 32.

15 33. That during this designated testing process, the City *unilaterally* changed the testing  
16 process – without the consent of the Association – permitting an Assistant City Manager  
17 (ACM) and other persons from Human Resources (HR) to be added as subject matter  
experts and personnel that would help develop the promotional test.

18 **ANSWER:** The City admits that an Assistant City Manager and persons from Human  
19 Resources were involved in the Lieutenant promotional process. The City denies each and  
20 every remaining allegation contained in Paragraph 33.

22 34. Under the existing CBA, the City and the Association were to provide SME for the  
23 development of the written and practical exercise portion of the testing.

24 **ANSWER:** The City admits that Article 19 provides in part as follows:

25 (b) The Human Resources Director or designee shall prepare and conduct the  
26 examinations, which shall contain questions designed to test for job-related  
qualifications. Such tests shall be formulated on a general competitive basis and shall  
not be used to facilitate the hiring of any particular individual.

27 (1) A committee comprised of the HR Business Partner and representatives  
28 selected by the Chief of Police and the HPSA President or designee will  
participate in the development and review of testing instruments for promotion



1 to classifications represented by this Agreement.

2 (2) The same committee that develops and reviews the testing instruments will

3 serve as the Appeals Committee upon conclusion of testing.

4 (3) This applies for both the Sergeants and Lieutenants promotional testing

5 processes.

6 The City denies each and every remaining allegation contained in Paragraph 34.

7

8 35. That a City representative, Erin Long, unilaterally made the decision for the City to

9 exclude the Association from providing a SME in the development of the promotional

10 testing. Long later withdrew the exclusion – asking the Association to participate, but

11 then again excluded the Association when the test itself was actually developed and

12 written.

13 **ANSWER:** The City denies the allegations contained in Paragraph 35.

14

15 36. That the unilateral change is a prohibited labor practice under NRS 288.270(1)(e). Under

16 the unilateral change theory, an employer commits an unfair labor practice when it

17 changes in terms without proper negotiation.

18 **ANSWER:** The City admits that a unilateral change to a mandatory subject of bargaining

19 is a prohibited labor practice under NRS 288.270(1)(e). The City denies each and every

20 remaining allegation contained in Paragraph 36.

21

22 37. That it has been a past practice, consistent with the CBA, for HR to provide the scenario

23 based assessment exercises to both the City SME and Association SME prior to the

24 implementation of the test. Further both SME would then brief external graders on the

25 scenario and the key scoring areas of the test. This practice occur [sic]in a prior testing

26 process.

27 **ANSWER:** The City denies the allegations contained in Paragraph 37.

28

29 38. That for the September 2025 testing, the Association SME was not asked to participate

30 in the development of the test questions, was excluded from the tactical scenario

31 planning of the assessment center, and was excluded from the period of briefing the

32 external graders.

33 **ANSWER:** The City denies the allegations contained in Paragraph 38.

34

35 39. That the Association SME were only briefed about the test questions and scenarios, *the*

36 *day before the actual testing date – effectively removing them from the process and*

37 *violating the past practice and terms of the existing CBA.* This change led to an

38 alteration of test scoring which altered and affected unit members' terms and condition

39 of employment.

1 ANSWER: The City denies the allegations contained in Paragraph 39.

2 40. That the City resorted to such tactics in an attempt to coerce the Association to agree to  
3 their terms and deprive the Association's of their **individual right to negotiate for the**  
4 **terms and conditions of their CBA, for their respective members.**

5 ANSWER: The City denies the allegations contained in Paragraph 40.

6 41. That the actions of the City **was a prohibited labor practice** as outlined in NRS  
7 **Chapter 288 and NRS Chapter 268.**

8 ANSWER: The City denies the allegations contained in Paragraph 41.

9 42. **Based on the foregoing**, the City of Henderson has committed unfair labor practices in  
10 ways that included, but may not be limited to the following:

- 11 a. Interfere, restrain or coerce any employee in the exercise of any right guaranteed  
12 under NRS 2888, including engaging in bad faith bargaining by interfering with  
13 the association's ability to collectively bargain and/or engaging in an unfair labor  
14 practice.
- 15 b. Violating the terms of the existing CBA between the Association and the City.
- 16 c. Engaging in retaliatory treatment against the Association and their officers for  
17 exercising their rights under NRS 288.
- 18 d. Engaging in a concerted pattern of conduct to ignore contractual rights, rights  
19 imposed by state and federal law, judicial orders for the purpose of coercing the  
20 members of the Association to waive and/or give up their ability to enforce rights  
21 within the law.
- 22 e. Engaging in regressive bargaining and therefore bargaining in bad faith.
- 23 f. Refuse to bargain collectively in good faith as required by NRS 288.150

24 ANSWER: The City denies the allegations contained in Paragraph 42.

#### 25 AFFIRMATIVE DEFENSES

26 Respondent, the City, asserts the following non-exclusive list of defenses to this  
27 action. These defenses have been labeled as "Affirmative" defenses regardless of whether, as  
28 a matter of law, such defenses are truly affirmative defenses. Such designation should in no  
way be construed to constitute a concession on the part of the City that it bears the burden of  
proof to establish such defenses.

29 **First Affirmative Defense:** The Complaint fails to conform to the requirements of NAC  
30 288.200(1)(c) and should be dismissed as it fails to include a clear and concise statement of

1 the facts constituting the alleged practice sufficient to raise a justiciable controversy under  
2 chapter 288 of NRS.

3 **Second Affirmative Defense:** The Complaint fails to state facts that support a claim for bad  
4 faith, interference with the administration of the Association, or retaliation.

5 **Third Affirmative Defense:** The Union's Complaint alleges a violation of the parties'  
6 collective bargaining agreement. The Union has also filed a grievance contending that the  
7 same allegations at issue in the instant Complaint constitute a violation of the parties' CBA.  
8 By extension, the instant Complaint should be deferred to the parties' binding grievance  
9 arbitration process.

10  
11 **PRAYER FOR RELIEF**  
12

13 WHEREFORE, the City of Henderson prays for judgment against Plaintiff as follows:

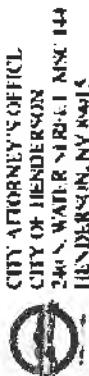
14 1. That Complainants take nothing by virtue of their claims against the City of Henderson  
15 and that the Complaint be dismissed with prejudice;  
16 2. That Respondents be awarded attorneys' fees and costs incurred herein; and  
17 3. For such other and further relief as the EMRB may deem just and proper.

18 Dated this 30th day of October 2025.

19 CITY OF HENDERSON  
20

21 */s/ Brandon Kemble* \_\_\_\_\_  
22 BRANDON P. KEMBLE  
23 Assistant City Attorney  
24 Nevada Bar No. 011175  
25 240 Water Street, MSC 144  
26 Henderson, NV 89015  
27

28 Attorney for Respondent  
City of Henderson

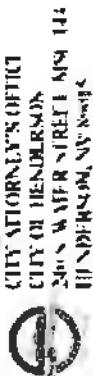


**CERTIFICATE OF SERVICE**

2 I hereby certify that on the 30<sup>th</sup> day of October 2025, the above and foregoing,  
3 **RESPONDENT CITY OF HENDERSON'S ANSWER AND DEFENSES TO**  
4 **COMPLAINT**, was electronically filed with the EMRB ([emrb@business.nv.gov](mailto:emrb@business.nv.gov)) and served  
5 by depositing a true and correct copy thereof in the United States mail, postage fully prepaid  
6 thereon, to the following:

Christopher Cannon, Esq.  
Andrew Regenbaum  
Nevada Association of Public Safety Officers  
145 Panama Street  
Henderson, Nevada 89015  
[andrew@naso.net](mailto:andrew@naso.net)  
[aregenbaum@aol.com](mailto:aregenbaum@aol.com)

/s/ Laura Kopanski  
Employee of the Henderson City Attorney's Office



**City of Henderson (Respondent)**

**Motion to Dismiss**

FILED  
October 30, 2025  
State of Nevada  
E.M.R.B.  
1:52 p.m.

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8

9 **STATE OF NEVADA**

10 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

11 Henderson Police Supervisors Association, A  
12 Nevada Non-Profit Corporation and Local  
13 Government Employee, Organization, and Its  
14 Named and Unnamed Affected Members

15 EMRB Case No.: 2025-019

16 Complainants,

17 vs. **RESPONDENT CITY OF  
18 HENDERSON'S MOTION TO DISMISS**

19 City of Henderson,

20 Respondent.

21 Respondent City of Henderson ("City"), by and through its undersigned counsel,  
22 hereby submits this Motion to Dismiss the Complaint filed by the Henderson Police  
23 Supervisors Association ("HPSA" or "Union"). This Motion is made pursuant to NRS Chapter  
24 288 (the Employee-Management Relations Act), NRS Chapter 233B and NAC Chapter 288

25 ///

26 ///

27 ///

28 ///

1 and based upon the following points and authorities, the pleadings and documents on file with  
2 the Board and attached to this Motion.

3 Dated this 30th day of October 2025.

4 CITY OF HENDERSON

5 */s/ Brandon Kemble*  
6 BRANDON P. KEMBLE  
7 Assistant City Attorney  
8 Nevada Bar No. 011175  
9 240 Water Street, MSC 144  
Henderson, NV 89015

10 Attorney for Respondent  
11 City of Henderson

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. INTRODUCTION**

14 Dissatisfied with the parties' negotiations, as well as the results of a promotional  
15 testing process, the Union contends that the City has engaged in a smattering of misconduct  
16 including making unilateral changes to the parties' collective bargaining agreement and  
17 withdrawing a proposal during successor negotiations. But as has been the case with the  
18 Union's recent litigation efforts, the Union has, yet again, sounded the alarm for an imaginary  
19 wolf.

20 As detailed in full below, the unilateral change aspects of the Union's Complaint are  
21 premised on two significant fallacies. First, the Union brings forward this complaint as if the  
22 City interfered with a mandatory subject of bargaining. However, as promotional processes  
23 are a permissive subject of bargaining, the Union's unilateral change theory fails immediately.  
24 Only changes to a mandatory subject of bargaining are objectionable under NRS Chapter 288.  
25 Secondly, the Unions "unilateral change argument" is nothing more than an allegation that the  
26 City violated the parties' collective bargaining agreement. But even if this was true, which  
27 it is not, a pure violation of the CBA is not a violation of Chapter 288 either. Indeed, the Union  
28

1 likely knows this, because they in fact filed a grievance regarding the same issues.

2 The Union's remaining arguments similarly fail. Of particular note, the Union  
3 contends that the City engaged in regressive bargaining by withdrawing a proposal on  
4 promotions and issuing an updated document clarifying the promotional language. But the  
5 Union fails to establish how this is regressive bargaining. The Complaint does not establish  
6 that the amended proposal was worse for the Union than the first, a critical component of any  
7 regressive bargaining charge. Moreover, there is nothing to suggest that the City's amended  
8 proposal was designed or intended to frustrate the parties' negotiations, another key element  
9 to establish regressive bargaining. The Union's disappointment in the process does not equal  
10 regressive bargaining. Indeed, it is impossible to engage in regressive bargaining over a  
11 permissive subject because the City has an absolute right to say "no" to a permissive subject  
12 at any point in the process.  
13

14 Given the significant issues in the Union's Complaint, the City respectfully requests  
15 that the Board dismiss it in its entirety.

## 17 II. BACKGROUND

18 The HPSA represents the City's Police and Corrections Sergeants and Lieutenants.  
19 The City and the Union have been parties to collective bargaining agreements ("CBA")  
20 including their most recent agreement dated June 1, 2021, through June 30, 2025. (Complaint  
21 ¶¶14-20; Ex. A). Consistent with Nevada law, the parties' CBA recognizes in Article 2 that  
22 the City possess the "sole right" to "assign" HPSA members, and further recognizes the City's  
23 sole right to "promote HPSA members and determine promotional procedures."  
24

25 Although the City has the sole right to promote and determine promotional procedures,  
26 the City did agree to certain processes in Article 19, entitled "Promotion/Qualifying Period"  
27 which provides, in relevant part, as follows:  
28

(b) The Human Resources Director or designee shall prepare and conduct the examinations, which shall contain questions designed to test for job-related qualifications. Such tests shall be formulated on a general competitive basis and shall not be used to facilitate the hiring of any particular individual.

(1) A committee comprised of the HR Business Partner and representatives selected by the Chief of Police and the HPSA President or designee will participate in the development and review of testing instruments for promotion to classifications represented by this Agreement.

(2) The same committee that develops and reviews the testing instruments will serve as the Appeals Committee upon conclusion of testing.

(3) This applies for both the Sergeants and Lieutenants promotional testing processes.

(Ex. A at 27).

During successor negotiations, the parties exchanged proposals seeking to amend Article 19 in a variety of ways. (Complaint ¶ 21). At one point, the City provided a proposal to the Union regarding Article 19 which the Union vocalized interest in; however, the City needed to further vet the language before reaching an agreement. (Complaint ¶¶ 24-26). On or about July 16, 2025, an Assistant City Attorney emailed the City's updated proposal to the Union and explained that the changes to the proposal following the City's additional review to ensure it reflected the parties' current status quo regarding certain aspects of the promotional process. (Complaint ¶¶ 27-28).

While the parties were negotiating the successor agreement, the City conducted a promotional process for Police Lieutenant. (Complaint ¶ 31). During the promotional process, the City's Assistant City Manager and other persons from Human Resources participated as subject matter experts and personnel to help develop the promotional test. (Complaint ¶ 33). The CBA does not include any language that prohibits or limits the City from determining who from the City may participate in the promotional testing process. The Union was asked to participate in the process as well and were provided with test questions and scenarios before

<sup>1</sup> the statutory mandated third-party conducting the test. (Complaint ¶¶ 35 and 39); *see also* NRS 268.4069.

### III. ARGUMENT

#### **A. HPSA's Complaint Fails to State a Claim for Relief.**

First, HPSA's Complaint fails to state a claim for relief. The Board may dismiss a complaint if it "determines that no probable cause exists for the complaint ...." NAC 288.375(1). To establish a viable complaint, the complainant must include a "clear and concise statement of facts constituting the alleged practice sufficient to raise a justiciable controversy under chapter 288 of NRS ...." NAC 288.200(1)(c). Parties in proceedings before the Board do not have the right to engage in extensive pre-hearing discovery; by extension, respondents are prejudiced by pleadings that fail to provide sufficient notice of the issues because they cannot adequately prepare to defend themselves. *See Coury v. Whittlesea-Bell Luxury Limousine*, 102 Nev. 302, 308 (1986). Additionally, failure to allege facts constituting a justiciable controversy equates to a lack of probable cause. *See Nevada Service Employees Union, v. Clark County Water Reclamation District*, Case No. 2024-030, Item No. 905 (EMRB, Dec. 17, 2024).

## **1. HPSA's Complaint Fails to Establish the City Made a Unilateral Change to a Mandatory Subject of Bargaining.**

Under the Act, an employer commits a prohibited labor practice when it unilaterally changes a mandatory subject of bargaining without negotiating in good faith with the applicable bargaining agent. *Pershing County Law Enforcement Association & Operating Engineers Local Union, No. 3, v. Pershing County*, Case No. A1-045974, Item No. 725A (2010). "Typically, a complainant can meet this burden by showing the following 4 elements:

(1) the employer breached or altered the CBA or established past practice; (2) the employer's action was taken without bargaining with the union over the change; (3) the change in policy

1 concerns a matter within the scope of representation; and (4) the change is not merely an  
2 isolated breach of contract, but amounts to a change in policy (i.e. the change has a generalized  
3 effect or continuing impact on the bargaining unit members' terms and conditions of  
4 employment)." *Officer Jake Grunwald, Individually and the Las Vegas Police Protective  
5 Association, v. Las Vegas Metropolitan Police Department*, Case No. 2017-006, Item No. 826  
6 (2017). The Union's Complaint simply fails to establish the City made a change to a  
7 mandatory subject of bargaining.

9 "The mandatory subjects of bargaining are limited and are set forth in NRS  
10 288.150(2)." *Pershing County Law Enforcement Association & Operating Engineers Local  
11 Union, No. 3, v. Pershing County*, Case No. A1-045974, Item No. 725A (2010). Of relevance  
12 to the instant case, "[t]he Board has consistently found that promotions are a management  
13 right under NRS 288.150(3) and not a mandatory subject of bargaining under NRS  
14 288.150(2)." *Nevada Service Employees Union, v. Southern Nevada Health District*, Case No.  
15 2024-009, Item No. 903 (2024). This management right also includes "'promotional  
16 requirements' and 'promotional examinations'" *Las Vegas Police Protective Association  
17 Metro, Inc., v. City of Las Vegas, Nevada*, Case No. A1-045474, Item No. 264 (1991).

19 Essentially, the Union contends that the City made unilateral changes to the  
20 promotional testing process allegedly set forth in the parties' CBA and part of the parties' past  
21 practice. Even assuming for the sake of argument that the City made changes as the Union  
22 contends, each of these purported changes relates to a permissive subject of bargaining.  
23 Despite the Union's attempts to suggest otherwise, the promotional process is not a mandatory  
24 subject of bargaining or even significantly related to one. There is nothing to suggest that these  
25 aspects of the testing process have anything to do with employees' continued employment.  
26 These components of the promotional process are entirely permissive and cannot serve as the  
27  
28

1 basis for the Union's unilateral change theory. As its Complaint does not contain any reference  
2 to the City altering a mandatory subject of bargaining, the Union has failed to allege an actual  
3 violation of the Act.

4 At best, and as detailed more fully below, the Union has effectively alleged a pure  
5 contract violation. But addressing a pure contract violation is not within the Board's purview.  
6 See *Nicholas Eason, v. Clark County*, Case No. A1-046109, Item No. 798 (2014). Unless the  
7 violation addresses a mandatory subject of bargaining, which it does not, the Union's  
8 arguments fall flat. *Nevada Classified School Employees Association Chapter 5, Nevada Aft,*  
9 *v. Churchill County School District*, Case No. 2020-008, Item No. 863 (2020); *Reno Police*  
10 *Protective Association v. City of Reno, et al.*, Case No. 18273, Item #16 (1974). By extension,  
11 the Union's unilateral change allegations should be dismissed.

12 **2. The Union's Complaint Fails to Sufficiently Allege the City Engaged in  
13 Regressive Bargaining.**

14 Next, the Union appears to argue that the City engaged in regressive, or bad faith,  
15 bargaining by withdrawing a proposal during negotiations. Regressive bargaining is a form of  
16 bad faith bargaining. *Clark County Defenders Union, v. Clark County*, Case No. 2024-014,  
17 Item No. 904 (2024). Whether an employer has violated its duty to bargain in good faith turns  
18 on the totality of its conduct and not on a single incident. *Int'l Brotherhood of Electrical*  
19 *Workers, Local 1245 v. City of Fallon*, Case No. A1-045485, Item No. (1991); *N.L.R.B. v.*  
20 *Insurance Agents' Union*, 361 U.S. 477, 49 (1960).

21 Labor boards have repeatedly recognized that bargaining in good faith *does not require*  
22 the parties to actually reach an agreement, rather, it requires the parties put forth "a sincere  
23 effort" to do so. *City of Reno v. Int'l Ass 'n of Firefighters, Local 731*, Item No. 253-A, Case  
24 No. A1-045472 (1991). "In order to show 'bad faith', a complainant must present 'substantial  
25 evidence of fraud, deceitful action or dishonest conduct.'" *Juvenile Justice Supr. Ass 'n v.*  
26 *City of Las Vegas, et al.*, Case No. A1-045472, Item No. 253-A (1991).

1 *County of Clark*, Case No. 2017-20, Item No. 834 (2018). When it comes to regressive  
2 bargaining, “[t]he question was whether the proposals were intended to frustrate the  
3 bargaining process.” *Clark County Defenders Union, v. Clark County*, Case No. 2024-014,  
4 Item No. 904 (2024).

5 Here, the Union effectively argues that the City should have allowed it to formally  
6 sign off on a tentative agreement and that by the City saying it needed to more fully review  
7 the language, the City engaged in regressive bargaining. As a preliminary matter, the mere  
8 withdrawal of a proposal is not indicative of bad faith bargaining. *Aero Alloys*, 289 NLRB  
9 497 (1988). Furthermore, the Union’s allegations do not establish “regressive bargaining” as  
10 it is typically construed. Regressive bargaining means the proposing party made a proposal  
11 that is more negative or less favorable than a prior proposal and it was done with the intent to  
12 frustrate the process. *Clark County Defenders Union, v. Clark County*, Case No. 2024-014,  
13 Item No. 904 (2024). But the Complaint fails to allege that the amended proposal was (a) less  
14 favorable from the earlier proposals, or (b) that the City did so with the intent to frustrate the  
15 bargaining process.

16 In fact, the Complaint demonstrates that the City’s purpose in amending the language  
17 was to clarify certain aspects of the promotional process that had not been previously  
18 addressed. There is nothing in the Union’s allegations that demonstrates the City’s amended  
19 proposal was “so illogical” as to warrant the conclusion that the Respondent by offering them  
20 demonstrated an intent to frustrate the bargaining process and thereby preclude the reaching  
21 of any agreement.” *Id.* (internal citations omitted). Therefore, the Union’s allegations that the  
22 City engaged in regressive or bad faith bargaining should be dismissed as well.

23 **3. The Union Failed to Establish the City Interfered with the Union’s Ability to  
24 Bargain or that it Retaliated Against the Union for Exercising Their Rights.**

25 In addition to arguing that the City violated its duty to bargain in good faith, HPSA

1 also conclusory alleges that the City interfered with their rights, discriminated against them,  
2 and/or retaliated against them. Absent any clear indication in the complaint, which is an  
3 additional basis for dismissal as discussed below, the City presumes all of this relates to the  
4 purported unilateral changes addressed above. As a preliminary matter, the Union presents no  
5 facts or arguments indicating how the City's proposal could be construed as discriminatory or  
6 retaliatory in nature. Thus, those arguments are inherently defective.

7  
8 To establish a viable interference claim pursuant to NRS 288.270(1)(a), the Board  
9 determines whether there are sufficient facts demonstrating (1) a reasonable employee would  
10 view the actions as coercive; (2) there was protected activity; and (3) "the employer fails to  
11 justify the action with a substantial and legitimate business reason." *Billings and Brown v.*  
12 *Clark County*, Case No. A1-046002, Item No. 751 (2012); *citing Medeco Sec. Locks, Inc. v.*  
13 *NLRB*, 142 F.3d 733, 745 (4th Cir. 1988); *Reno Police Protective Ass'n v. City of Reno*, 102  
14 Nev. 98, 101, 715 P.2d 1321, 1323 (1986). With respect to the purported unilateral changes,  
15 no reasonable employee would construe changes to a permissive bargaining subject as  
16 coercive. Certainly, if these actions do not constitute bad faith bargaining, they cannot be  
17 construed as satisfying an interference claim. Taking the Union's argument to its logical  
18 conclusion, every time an employer simply violated a contract, the employer would be guilty  
19 of unlawful interference. Such a conclusion stretches the boundaries of logic.

20  
21 Furthermore, the City's alleged rescinding of a proposal is not coercive either. The  
22 City is unaware of any instance in which an employer was found to have engaged in unlawful  
23 interference by merely amending a proposal that had not even been tentatively agreed to.  
24 Additionally, the City had legitimate reasons for its conduct. As the Union itself alleged, the  
25 City "withdrew" its proposal in order to further review the language and the only changes to  
26 the proposal were to make the language consistent with the parties' status quo. This is a  
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1 legitimate reason for amending a proposal. *See Juvenile Justice Supervisors Association and*  
2 *Juvenile Justice Probation Officers Association v. County of Clark, Nevada*, Case No. 2017-  
3 020, Item No. 834, pp. 12-13 (2018) (employer's actions while bargaining in good faith did  
4 not "tend[] to interfere with, coerce, or deter the exercise of protected activity by the  
5 EMRA."). Given the benign nature of these allegations, HPSA's interference claim also fails  
6 and this Complaint should be dismissed in its entirety

7

8 **B. The Complaint Should be Dismissed for Failure to Exhaust the Union's  
9 Contractual Remedies.**

10 As noted above, at best, the Union has alleged a violation of the parties' collective  
11 bargaining agreement. "The Board has repeatedly stated that the preferred method for  
12 resolving disputes is through the bargained for processes, and the Board applies NAC  
13 288.375(2) liberally to effectuate that purpose." *Las Vegas City Employees' Ass'n v. City of*  
14 *Las Vegas*, Case No. 2021-008, Item No. 884 (2023). Thus, pursuant to NAC 288.75(2), the  
15 Board may dismiss a Complaint for failing to exhaust contractual remedies "[u]nless there is  
16 a clear showing of special circumstances or extreme prejudice . . . ."

17 Here, the Union has filed a grievance contending that the same conduct underlying the  
18 purported prohibited labor practice violated the parties' collective bargaining agreement. Put  
19 differently, the parties' agreement is at the heart of the Union's case and, therefore, the Union  
20 should be mandated to exhaust its contractual requirements before resorting to the Board's  
21 processes. *Operating Engineers Local Union No. 3, v. Incline Village General Improvement*  
22 *District* Case No. 2020-012, Item No. 864-C. Moreover, there are no special circumstances  
23 that would justify not following the parties' arbitration process, nor is there any indication that  
24 the Union would suffer extreme prejudice by litigating this dispute at arbitration rather than  
25 before the Board. Therefore, the Union's Complaint should be dismissed on this basis as well.

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1

#### IV. CONCLUSION

2 Based on the foregoing, the City respectfully requests the Board dismiss the Complaint  
3 for failing to present a justiciable controversy under NRS Chapter 288 for the Board's review  
4 and/or for failing to exhaust the parties' contractual remedies pursuant to NAC 288.75(2), and  
5 any other relief the Board deems appropriate.  
6

7

Dated this 30<sup>th</sup> day of October 2025.

8

CITY OF HENDERSON

9

*/s/ Brandon Kemble*  
BRANDON P. KEMBLE  
Assistant City Attorney  
Nevada Bar No. 011175  
240 Water Street, MSC 144  
Henderson, NV 89015

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Attorney for Respondent  
City of Henderson

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#### CERTIFICATE OF SERVICE

16 I hereby certify that on the 30<sup>th</sup> day of October 2025, the above and foregoing,  
17 **RESPONDENT CITY OF HENDERSON'S MOTION TO DISMISS** was electronically  
18 filed with the EMRB ([emrb@business.nv.gov](mailto:emrb@business.nv.gov)) and served by depositing a true and correct  
19 copy thereof in the United States mail, postage fully prepaid thereon, to the following:

20

Christopher Cannon, Esq.  
Andrew Regenbaum  
Nevada Association of Public Safety Officers  
145 Panama Street  
Henderson, Nevada 89015  
[andrew@napso.net](mailto:andrew@napso.net)  
[aregenbaum@aol.com](mailto:aregenbaum@aol.com)

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*/s/ Laura Kopanski*  
Employee of the Henderson City Attorney's Office

# EXHIBIT “A”

**LABOR AGREEMENT BETWEEN  
CITY OF HENDERSON, NEVADA  
AND  
HENDERSON POLICE SUPERVISORS ASSOCIATION**

**JULY 1, 2021 – JUNE 30, 2025**

**LABOR AGREEMENT BETWEEN  
CITY OF HENDERSON, NEVADA  
AND  
HENDERSON POLICE SUPERVISORS ASSOCIATION**

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**PREAMBLE:**

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

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;

WHEREAS, both the CITY and the Henderson Police Supervisors Association (the "Parties") recognize this mutual responsibility, and 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;

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; 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, with the effective dates of July 1, 2021 through June 30, 2025 and

NOW, THEREFORE, the parties do agree as follows:

**ARTICLE 1. RECOGNITION:**

The City of Henderson, (hereinafter referred to as the "CITY"), and the Police Department (hereinafter referred to as the "DEPARTMENT") recognizes the HENDERSON POLICE SUPERVISORS ASSOCIATION (hereinafter referred to as the "HPSA"), as the bargaining agent for the classifications listed in this Agreement for the purpose of collective bargaining as set forth in NRS 288.

**ARTICLE 2. ASSOCIATION AND MANAGEMENT RIGHTS:**

Section 1: The CITY and the HPSA agree that the City possess the sole right to operate the Department and that all Management rights remain with those officials. These rights include, but are not limited to:

- (a) Hire, direct, classify, assign, or transfer HPSA Members; except when such assignment or transfer is done as a part of the disciplinary process.
- (b) Reduce in force, demote, or lay off any HPSA Member because of lack of work or lack of money.
- (c) Determine appropriate staffing levels and work performance standards, and the means and methods by which operations are conducted, except for HPSA Member safety considerations.

- (d) Determine work schedules, tours of duty, daily assignments, standards of performance, and/or the services to be rendered.
- (e) Determine quality and quantity of services to be offered to the public and the means and methods of offering those services.
- (f) Determine the content of the workday, including without limitation workload factors, except for HPSA Member safety considerations.
- (g) Take whatever action may be necessary to carry on its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder.
- (h) Manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers, and HPSA Members.
- (i) Promote HPSA Members and determine promotional procedures, as provided in this Agreement.
- (j) Educate and train HPSA Members and determine corresponding criteria and procedures.
- (k) The CITY shall have such other exclusive rights as may be determined by N.R.S. 288.150 and this Agreement.
- (l) The CITY'S failure to exercise any prerogative or function hereby reserved to it, or the CITY'S exercise of any such prerogative or function in a particular manner shall not be considered a waiver of the CITY'S rights reserved herein or preclude it from exercising the same in some other manner not in conflict with the provisions of this Agreement. Notice requirements set forth in this Agreement shall not be deemed as a limitation on the CITY'S right to exercise the prerogatives provided by this Article or the Nevada Revised Statutes.

Section 2: The CITY and the HPSA agree that the HPSA possesses those rights afforded to its members pursuant to NRS 288, NRS 289, State and Federal law, Departmental Policy, and the terms and conditions of this Agreement.

### **ARTICLE 3. CLASSIFICATION AND REPRESENTATION:**

Section 1: The CITY and the HPSA agree that the following classifications are represented by the HPSA:

Police Sergeant  
Police Lieutenant  
Corrections Sergeant  
Corrections Lieutenant

Section 2: Assignment Differential Pay:

(a) For the period assigned, HPSA Members identified below shall receive assignment differential pay (ADP) as follows:

<b>Specialized Assignments</b>	<b>ADP</b>
Acting Pay	10%
Professional Standards Lieutenant	8%
K-9/ Tactical Response Lieutenant	8%
SWAT Sergeant	8%
K-9 Sergeant	8%
Motors Lieutenant	8%
Motors Sergeant	8%
CRU/PSU Lieutenant	8%
PSU Sergeant	8%
Narcotics/ROP/Intel Lieutenant	8%
Homeland Security Sergeant	8%
Homeland Security Lieutenant	8%
Narcotics Sergeant	8%
ROP/Intel Sergeant	8%
Investigations Lieutenant	8%
Investigations Sergeant	8%
Field Training Supervisor (per Section (c) below)	8%
Training Lieutenant	8%
Training Sergeant	8%
Support Lieutenant (Jail)	8%
Intelligence Lieutenant (Jail)	8%
Intelligence Sergeant (Jail)	8%
Technical Services Lieutenant	8%
Accreditation Sergeant	8%
IAB Lieutenant	8%
IAB Sergeant	8%
CRU Sergeant	8%
Administrative Sergeant	8%
Administrative Lieutenant	8%
PIO Lieutenant	8%
Special Programs and Services Sergeant (Jail)	8%
Special Programs and Services Lieutenant (Jail)	8%

If determined necessary by the Chief of Police that new specialized assignments are required and are eligible for ADP, a Sergeant and/or Lieutenant will receive the applicable ADP.

(b) Assignment differential pay is a temporary monetary compensation paid to HPSA Members who are assigned to the assignment categories indicated above. ADP assignments are not promotional and therefore, no property rights exist. Employees shall only receive ADP pay for the duration of their assignment and the elimination of an ADP does not constitute a reduction in salary as defined in NRS 289.010.

The parties recognize that certain specialized assignments require

flexibility in work hours, locations and the sharing operational guidance during active enforcement incidents.

- (c) The number of required employees serving as Field Training Supervisors (FTS) will be based upon the number of projected promotions and the needs of the department. Those individuals assigned as an FTS will receive the appropriate PERS eligible ADP as defined in Section 2 (a) for the period(s) of time they are assigned and developing a Supervisor trainee, with a two (2) pay period minimum assignment. Extensions of the original assignment will be made on a full-pay period basis. Field Training Supervisors who are not assigned a trainee but who fill in as an FTS in the absence of a trainee's assigned FTS will receive the appropriate ADP as defined in Section 2 (a), on a day for day basis.
- (d) K-9 handlers will receive the equivalent of five (5.0) overtime hours of compensation bi-weekly per dog, for the at-home care, grooming, transportation, and feeding of the dog.
- (e) Police Sergeants and Lieutenants assigned to motorcycles will receive the equivalent of one and one-half (1.5) overtime hours bi-weekly for the off-duty maintenance and care of the motorcycle assigned to them.

**Section 3:** Shift Differential: For those HPSA Members whose 51% of the hours worked fall after 2:00 p.m. shall receive a 4% swing shift differential. For those HPSA Members whose 51% of the hours worked fall after 8:00 p.m. shall receive a 6% graveyard shift differential.

Shift Differential	4% swing shift	6% graveyard shift
(a) Upon re-assignment, differential pay would cease if no longer applicable. An exception to this policy would be in the case where an HPSA Member is injured in the line of duty, working modified duty, and whose normally assigned shift is other than days. In such cases, the HPSA Member will receive full salary, including shift differential.		
(b) Shift differential pay is a temporary monetary compensation paid to the HPSA Member who is assigned to the shifts indicated above. Employees working swing or graveyard shifts who are assigned to day shift to accommodate requests for temporary modified duty for non-occupational injury or illness will not receive shift differential for the duration of that accommodation. Shift differential shall continue to be paid during vacation leave, sick leave, and any other paid leaves, including administrative leave authorized by the Chief of Police or designee		
(c) Members assigned to swing, or graveyard shifts receive shift differential for all hours worked, including overtime. Conversely, day		

shift employees do not receive shift differential when working overtime on swings or graveyard shifts. HPSA Members who receive overtime per the provisions of Article 3 Section 2 (d) and (e), will be paid shift differential for those hours.

(d) **Temporary assignments:** HPSA Members that are assigned to a shift on a temporary basis through a written order from the Chief of Police, will be paid the applicable shift differential for the actual shift they work. For example: a dayshift employee assigned to a graveyard shift will receive graveyard shift differential and a graveyard shift employee assigned to day shift will receive no shift differential. Shift differential while on vacation or sick leave during this temporary assignment will be paid in accordance with the appropriate differential for the shift assigned.

**Section 4:** **Bilingual Pay:** HPSA Members who are eligible for bilingual pay must pass a City of Henderson approved Spanish proficiency examination at the City of Henderson's expense to receive a monthly payment of \$80.00 per month, beginning the first month after they have successfully completed the assessment. The payment will be received in the HPSA Member's paycheck. Once an HPSA member has successfully completed the mandatory assessment, they will not be required to complete another exam unless they voluntarily withdraw and then wish to re-enter the program. Should the HPSA Member demonstrate an unwillingness to utilize his second language skills for the benefit of the department, the department may remove the individual from the list and bilingual pay will cease for that individual.

**Section 5:** **Acting Pay:** Sergeants and Lieutenants who are directed via department Special Order by the Deputy Chief of Police, Chief of Police, or designee, to temporarily accept the responsibilities of their superior officer (Lieutenant or Captain) will be awarded acting pay. Acting pay shall be paid at a rate of ten percent (10%) higher than the HPSA Members current hourly rate and be in addition to any applicable shift differential and assignment differential if the elevated responsibilities are in a position eligible for an assignment differential.

**Section 6:** For full-shift absences where a Sergeant serves as Watch Commander, they will receive an eight percent (8%) premium for their shift. The Lieutenant designated as the Watch Commander will receive a 6% premium for all hours worked as the Watch Commander.

#### **ARTICLE 4. HPSA MEMBERSHIP:**

**Section 1:** HPSA membership shall be at the sole discretion of the employee.

**Section 2:** HPSA membership shall carry no validity in reclassification of an employee.

**Section 3:** The HPSA shall evidence in writing to the CITY all current officers of the HPSA representing employees under this Agreement.

## **ARTICLE 5. WAGES:**

### Section 1: Lump-Sum Bonus

Each member will receive a one-time lump-sum payment of one thousand five hundred (\$1,500) dollars. This payment will be made within two pay periods following the approval of this agreement.

For the years between July 1, 2022 – June 30, 2025, if HPOA members receive a lump-sum payment in lieu of wages, HPSA members will receive the same lump-sum payment under the same parameters as the HPOA payment. Notwithstanding the language in Article 36 or any other language in this Agreement, after the expiration date of the Agreement, which ends on June 30, 2025, HPSA will not be entitled to any lump-sum payments received by HPOA members as provided in this Section, and the City will not pay any other matching lump-sum payments. Subject to the provisions of (NRS 288 as amended), any lump-sum payment due to HPSA will be made in the same pay period as the HPOA payment.

## Section 2: Wages:

Subject to the provisions of (NRS 288 as amended), and Section 1 above, effective the first pay period that includes July 1 of each fiscal year, the base wage of classifications covered by this Agreement shall be increased by the same general wage increase negotiated by the Henderson Police Officers' Association (HPOA). If the HPOA has not negotiated a wage modification by the beginning of the fiscal year, modifications to the HPSA wage schedule will occur on the same effective date of any subsequent HPOA wage schedule change.

- (a) This HPSA wage schedule reflects a twenty-five percent (25%) hourly wage differential between police and corrections officers and their respective sergeants. It also reflects a twenty percent (20%) hourly wage differential between police and corrections sergeants and their respective lieutenants. These percentage differentials will be maintained after each negotiation between the Henderson Police Officers' Association and the CITY.
- (b) The wage schedule for HPSA members covered by this Agreement is defined in Appendix B of this Agreement. The implementation details of this wage schedule and Step assignments for promotions after the effective date of this Agreement are included in Appendix B of this Agreement.

**Section 3:** Newly promoted HPSA members will establish and maintain a Step Increase Date that will mirror their promotion date and will not receive an additional Step increase at the end of their qualifying period.

(a) Should subsequent negotiations between the Henderson Police Officers' Association and the CITY produce additional Steps above the current Thirteen (13) Step wage schedule, the CITY will add an

additional Step(s) to this wage schedule if a complimentary Step that reflects the 25% and 20% differential does not already exist.

(b) Should subsequent negotiations between the Henderson Police Officers' Association and the CITY produce a wage schedule that increases the current five percent (5%) spread between each Step, the CITY will make the same change to the HPSA wage schedule.

**Section 4:** In the event of an employee's death, the CITY will help the beneficiaries fill out the necessary forms and ensure that they are properly signed in order to ensure that the beneficiaries will receive any monies due them.

(a) A deceased employee's final paycheck, including wages earned and all payable leave accruals per this Agreement, will be distributed to the beneficiary(s) designated on the employee's COH Final Check Beneficiary Form, or the City-provided life insurance form if the Final Check Form has not been completed. If no such beneficiary(s) exist, the proceeds will be dispersed per NRS 281.155.

**Section 5:** The City will continue to make an \$118.28 contribution each pay period to a retirement health saving plan (RHS). This amount reflects the \$22 per pay period deduction per the provisions of the Joint Benefits Agreement.

#### **ARTICLE 6. PAY DAY:**

Pay day shall be bi-weekly and in no case shall more than five (5) regularly scheduled work days' pay be held back from the end of the pay period. All payroll-generated compensation will be made by electronic direct deposit to the HPSA Members' identified accounts, except for those circumstances where electronic deposit is temporarily unavailable to the Member. The Member should contact Payroll in advance if direct deposit is temporarily suspended.

#### **ARTICLE 7. LONGEVITY:**

In the event any other labor agreement with the City of Henderson incorporates and/or reinstates Longevity pay, the HPSA may request to reopen negotiations of the terms of Article 5 Wages and/or Article 7 Longevity, and such negotiations will commence no later than 30 days after the HPSA's request.

#### **ARTICLE 8. CLOTHING AND PERSONAL EFFECTS ALLOWANCE:**

**Section 1:** Effective the 1st month after City Council approval of this Agreement, the CITY shall provide a uniform allowance in the amount of One-Hundred Dollars (\$100.00) per month to each full-time HPSA member for the purchase and maintenance of uniforms. Such allowance shall be paid monthly and added to the HPSA Members' paycheck.

**Section 2:** Uniform standards shall be at the discretion of the CITY and as further specified in the Departmental Rules and Regulations.

**Section 3:** Upon any changes in the existing police uniform, including but not limited to the addition of clothing, equipment or related items, the party requesting the

change shall bear the initial expense. Any changes initiated by the HPSA must receive the approval of the CITY.

**Section 4:** For those HPSA Members assigned to the motorcycle unit of the Henderson Police Department, the CITY agrees to purchase the following initial clothing and safety equipment:

- (a) Two pair of boots
- (b) Two pair of pants
- (c) One pair of night safety glasses
- (d) One pair of safety glasses

It is understood that any additional uniforms or replacements will be at the HPSA Members expense.

#### **ARTICLE 9. INSURANCE:**

This Article has been deleted from this Agreement and replaced by the terms of the Joint Benefits Agreement between the City, Local 1883 IAFF, the HPOA and HPSA; with a term of January 1, 2019 through December 31, 2022. Should the Joint Benefits Agreement fail to be extended or potential legislative changes render the purpose of the agreement moot, the City acknowledges that "Insurance benefits" are a mandatory subject of bargaining as defined in NRS 288.150(f).

#### **ARTICLE 10. SAFETY AND HEALTH:**

**Section 1:** The CITY agrees to provide annually a physical examination as required by NAC 617 and NRS 617 to all personnel in the HPSA with a copy of the results inserted into the HPSA Members confidential health file. The CITY will allow four (4) hours of overtime pay to each HPSA Member to complete this physical. These hours do not qualify for shift differential pay. The physical will be conducted on a member's off-duty time.

**Section 2:** HPSA Members agree to comply with the City and Police Department smoking policies.

#### **ARTICLE 11. LEGAL COMPLIANCE:**

The City of Henderson and the HPSA agree to fully comply with all Federal, State or local laws and executive orders pertaining to all aspects of employment with the City.

All references to an HPSA Member also cover any employee classification represented by this Agreement who is not a dues paying member of the HPSA. It is understood that only dues-paying HPSA Members in good standing shall have voting rights for Agreement ratification, or any other rights per the HPSA Constitution and By Laws.

## **ARTICLE 12. ANNUAL LEAVE:**

Section 1: Annual leave will accrue and be credited on a monthly basis at the established rate according to the employee's years in service as follows:

Years of Service	Hours of Vacation
6th through 12th	160
13th and beyond	200

Section 2: HPSA Members may accumulate and carry over annual leave up to a maximum of 480 hours plus accrued bonus days, if applicable. Any annual leave which exceeds the allowed maximum will be forfeited on the last day of the last full or partial pay period charged to the calendar year.

Section 3: HPSA Members who separate from employment for any reason are entitled to payment for unused annual leave up to 480 hours plus accrued bonus days in the fiscal year prior to the year of separation from City employment. This payout is calculated using the base hourly rate and does not include any form of differential pay.

Section 4: In the case of death of a HPSA Member during his tenure with the CITY, 100% of the employee's unused annual leave shall be paid to the employee's designated beneficiaries per the provisions of Article 5 Section 4(a).

Section 5: Application for annual leave must be approved in advance of taking leave.

Section 6: In exceptional circumstances, HPSA Members may be advanced annual leave, subject to approval of the Chief of Police and the City Manager or designee.

Section 7: An HPSA Member who has taken annual leave beyond that accrued at the time of termination shall reimburse the City via deduction from their final paycheck for any amount owed.

Section 8: No monthly annual leave benefits will accrue if an employee is on an unpaid leave of absence for fifty percent (50%) or more of the month. If employment ends during the first fifteen (15) days of the month, no annual leave accrues for that month. If employment ends after the 15th of the month, an additional monthly accrual will be credited to the employee. "Employment ends" is defined as the last day on the CITY's payroll.

Section 9: It is the HPSA Members' responsibility to assure that their annual leave balances do not exceed the maximum allowable accumulated annual leave at the end of the designated calendar year. The CITY will not be responsible for making up any time forfeited at the end of the year that is caused by an individual taking insufficient vacation time.

## **ARTICLE 13. SICK LEAVE:**

Section 1: Sick leave shall accrue at the rate of ten (10) hours per month commencing on the first day of hire into a regular position. Sick leave is earned by active

employees on the 1st day of the month.

- (a) HPSA Members shall be paid their current hourly rate for each hour of sick leave used.

**Section 2:** Sick leave will accrue on an unlimited basis.

**Section 3:** Upon approval of the Chief of Police or designee and Director of Human Resources or designee, sick leave may be used by HPSA Members who are:

- (a) Incapacitated from the performance of their duties by illness or injury, or
- (b) Whose attendance is prevented by public health requirements, or
- (c) Who are required to absent themselves from work for the purpose of keeping an appointment with the doctor; or
- (d) Who are required to absent themselves from work to personally care for a member of their immediate family in those medical situations which require the employee's prompt attention.

**Section 4:** With the exception of sick leave depletion, annual leave shall not be used in place of sick leave.

**Section 5:** HPSA Members shall call in as required by department policy before the beginning of their shift when using sick leave.

**Section 6:** HPSA Members who have exhausted all accumulated sick leave will be granted the use of accrued annual leave, floating holidays, banked holidays, then donated leave. Leave without pay may be granted when all other paid leaves are exhausted.

**Section 7:** HPSA Members covered by this Agreement shall be subject to the following requirements for payment of such leave:

- (a) Sick leave may not be used for any gainful employment, pursuit of personal business, recreation, travel for recreation, non-sick leave purposes, or other non-sick leave related activity, unless approved in advance by the Chief of Police or designee.
- (b) Physician's Certificate of Recovery and Fitness: A certificate of recovery and fitness shall be submitted by all HPSA Members upon return to work from any illness that required the use of sick leave for periods longer than three consecutive working days.
- (c) An employee who accrues more than eight (8) incidents of sick leave usage in a twelve (12) month rolling period looking back from the latest incident may be subject to disciplinary action up to and including

termination.

(1) **Incident of Use (Sick Leave):** Any period of continuous absence for the same reason, or the use of sick leave for an individual non-chronic condition's repeated treatment shall be considered one incident. Use of sick leave for a scheduled medical/dental appointment or when on approved FMLA leave shall not constitute an incident of sick leave. An incident will be defined as a period of continuous absence for an item defined in Section 3 of this Article no matter how long that incident lasts. After returning to work, absences for the same incident that requires continued treatment will not be counted as a separate incident.

(2) Unscheduled patterned absences utilizing sick leave associated with normal days off, scheduled leave or holidays are not subject to the eight (8) incident threshold and after being counseled about such patterned absences a HPSA Member may be subject to discipline if these types of absences continue.

(d) HPSA Members shall report to work if recovery of illness is made during the normal work hours. Any gainful employment, pursuit of personal business, recreation, travel for recreation or non-sick leave purposes, or other such activity when a HPSA Member is on such leave is considered evidence of abuse of sick leave unless approved in advance in writing by the Chief of Police or designee. This does not preclude the HPSA Member from the ability to vote, attend religious services or engage in other activities which are constitutionally protected.

**Section 8:** Employees with one or more years of full-time service, who use no more than the sick leave usage outlined below during the fiscal year shall receive bonus hours of vacation credited in July annually on the following schedule:

0 – 1 day usage	-	4 days bonus
1.1 – 2 days usage	-	3 days bonus
2.1 – 4 days usage	-	2 days bonus

**Section 9:** HPSA Members, hired prior to July 1, 1995, upon separation for any reason excluding disciplinary termination, shall be paid for all accrued unused sick leave not to exceed 1600 hours.

(a) In the case of death of a HPSA Member hired prior to July 1, 1995 during his tenure with the CITY, 100% of the HPSA Members' unused sick leave shall be paid to the HPSA Members' designated beneficiaries per the provisions of Article 5 Section 4 (a).

**Section 10:** (a) Effective July 1, 1995, for HPSA Members hired on July 1, 1995 or after, with six (6) or more years of service, upon termination for any reason excluding disciplinary termination, sick leave hours accrued

shall be computed based upon the HPSA Members' base hourly rate, and shall be paid for all accrued sick leave hours not to exceed 500 hours.

- (b) Effective July 1, 1995, for HPSA Members hired July 1, 1995 or after, with twenty (20) years or more of service, upon termination for any reason excluding disciplinary termination, sick leave hours accrued shall be computed based upon the HPSA Members' hourly rate, and shall be paid for all accrued sick leave hours not to exceed 900 hours.
- (c) Effective July 1, 1995, HPSA Members hired July 1, 1995 or after, upon retirement under the provisions of the Nevada Public Employees Retirement System, or HPSA Members, upon termination from the CITY, who retire under the provisions of the Social Security Act, shall be paid for all accrued unused sick leave not to exceed 900 hours.
- (d) Effective July 1, 1995, in the case of death of a HPSA Member hired after July 1, 1995, during his tenure with the CITY, 100% of the HPSA Members' unused sick leave shall be paid to the employee's designated beneficiaries per the provisions of Article 5 Section 4 (a).

Section 11: (a)

Effective July 1, 2015, for HPSA Members hired by the City on July 1, 2015 or after who have completed six (6) years of service, upon termination for any reason excluding disciplinary termination, sick leave hours accrued shall be computed based upon the HPSA Members' base hourly rate, and shall be paid accrued sick leave hours equal to similarly situated HPOA members.

- (b) Effective July 1, 2015, in the case of death of a HPSA Member hired by the City after July 1, 2015, during his tenure with the CITY, 100% of the HPSA Members' unused sick leave shall be paid to the employee's designated beneficiaries per the provisions of Article 5 Section 4 (a).

**ARTICLE 14. OTHER LEAVES:**

Section 1. Leave of Absence: Leave of Absence shall be granted as follows:

- (a) Upon approval of the Chief of Police and City Manager or designee, an HPSA Member may be granted an unpaid leave of absence for good and valid reasons up to 90-days. During such leave, the HPSA Member will not accrue annual or sick leave. An HPSA Member will not be eligible to earn service credit toward a step increase, completion of probation, qualifying period, or seniority.
- (b) An HPSA Member may be suspended without pay for an indefinite period of time if: (1) The employee is arrested for felony charges or; (2) If felony charges are filed against the employee in a court of law. In either of these cases, the employee's suspension may continue

until the matter is either: (1) In the case of an arrest, if there is good cause for the Chief of Police to believe that felony charges will not be filed against the employee in a court of law, or; (2) In the case felony charges having been filed against the employee in a court of law, the matter or matters are adjudicated or dismissed by the court. If the felony charges are not sustained (found not guilty of the felony charge), the CITY may still administer discipline if the CITY can substantiate misconduct under HPD or City policy. If the HPSA Member remains on suspension without pay after the Department disciplinary review is completed and is subsequently found not guilty of the felony charge, the Member would be reinstated with full pay, benefits and seniority, not to exceed eighteen (18) months from the date the Member was placed on suspension without pay for an off-duty incident and up to thirty-six (36) months for an active duty incident.

Suspension without pay under Section 1 (b) requires an Administrative Hearing and must be approved by the Chief of Police.

**Section 2: Jury Duty Leave:**

- (a) HPSA Members who are called for jury duty, including grand jury leave, will be paid regular pay for time served during their scheduled working hours. All jury duty pay will be retained by the HPSA Member. HPSA Members assigned to swing shift, or grave shift will have their shift adjusted to the hours required to complete jury duty on a normally scheduled work day.
- (b) Those persons called but not selected to serve on the jury or who complete the day's jury duty prior to the end of their normal shift shall report back to work when excused.

**Section 3: Administrative Leave: The Chief of Police, City Manager or designee, has the authority to grant administrative leave as deemed necessary.**

**Section 4: Military Leave: Military leave shall be granted as follows: When an HPSA Member enters any branch of the Armed Forces of the United States, whether by enlistment, recall to active duty, selective service, or call to duty from the Nevada National Guard or other military reserve unit the following rules shall apply:**

- (a) The HPSA Member shall be provided military leave.
- (b) During the period of military service, the HPSA Member shall retain all rights to which he is entitled under the provisions of the Charter of the CITY, State and Federal law and this Agreement.
- (c) After the completion of service the HPSA Member may be restored to his former position if it appears to the satisfaction of the department head, after such examinations as may appear necessary, that the

HPSA Member is able to perform his former service to the CITY, provided that the HPSA Member makes written application for immediate reinstatement within ninety (90) days after receiving an honorable discharge or release from active duty. The provisions of this subsection shall not apply to any HPSA Member receiving other than an honorable discharge.

- (d) Persons employed to fill positions becoming vacant under these rules shall hold such positions subject to being transferred to another post or assignment upon the reinstatement of the returning HPSA Member to his former position in accordance with subsection (c).
- (e) An HPSA Member having a reserve status in any of the regular branches of the Armed Services of the United States or Nevada National Guard, upon request to serve under orders for training duty shall be relieved from his duties, upon request, to serve under orders on training duty without loss of pay for a period not to exceed 210 hours in any one calendar year. The HPSA Member shall file with the CITY a copy of such orders indicating thereon the date said duty is to commence and the date duty is to cease. The HPSA Member shall receive his regular compensation in addition to his military pay. It is understood that this provision is in accordance with NRS281.145.
- (f) An HPSA Member having reserve status that is activated to serve on a full-time basis due to an extended military action will receive additional compensation from the CITY, to supplement their military pay, up to the Member's regular base pay for the duration of this activation.

**Section 5:** Bereavement Leave: Upon the death of an immediate family member, an HPSA Member will be granted three (3) consecutive workdays of bereavement leave. Bereavement leave is independent of other types of leave.

- (a) In the event the funeral services are held 400 miles or more from the City limits of Henderson, Nevada, one (1) additional workday of bereavement leave may be granted. This may be extended at the discretion of the Chief of Police, City Manager or their designee.
- (b) Immediate family is defined as an HPSA Members' spouse, mother, father, child, foster child, in loco parentis, stepchild, brother, sister, mother-in-law or father-in-law, half-brother, brother-in-law, half-sister, sister-in-law, daughter-in-law, son-in-law, grandchild, grandparent, spouse's grandparent, stepparent, or any person permanently living in the employee's household.

**Section 8:** Family & Medical Leave Act (FMLA): The CITY will comply with the Family Medical Leave Act as detailed in this 1993 legislation. Highlights of the Act are:

- Up to 12 weeks of leave that may be paid or unpaid leave
- Leave can be taken for the birth or adoption of a child, providing care for a

spouse, child, or parent that have a serious health condition as defined within the Act

- Your own serious health condition

HPSA Members with questions about FMLA are encouraged to consult with the Risk Manager within Human Resources and/or the HPSA. Additional details concerning the Family Medical Leave Act are included in Appendix C at the end of this Agreement.

## **ARTICLE 15. HOLIDAY PAY:**

**Section 1:** The following days are declared to be the holidays for all members of the HPSA and are observed on the calendar day of the actual holiday. Holidays that fall on Saturday and Sunday are moved to the adjacent work day by Nevada PERS. Christmas Eve is not a PERS-designated holiday.

1.	New Year's Day	January 1st
2.	Martin Luther King Day	Third Monday in January
3.	Presidents Day	Third Monday in February
4.	Memorial Day	Last Monday in May
5.	Juneteenth	June 19th
6.	Independence Day	July 4th
7.	Labor Day	First Monday in September
8.	Nevada Day	Last Friday in October
9.	Veterans	November 11th
10.	Thanksgiving Day	Fourth Thursday in November
11.	Family Day	Friday following Thanksgiving
12.	Christmas Eve	December 24th
13.	Christmas Day	December 25th

And any day that may be designated by the State Legislature and made applicable to local government employers.

**Section 2:**

- (a) All full time HPSA Members shall receive ten (10) hours of holiday pay for the holiday at straight time. For those HPSA Members that are required to work on the holiday, they will receive double time (premium pay) for hours worked on their regular shift, for up to ten (10) hours.
- (b) Shift swaps are permitted on a holiday are subject to the following:
  - (1) The shift swap must be approved by a Captain or above in advance of the shift swap.
  - (2) The employee who actually works on the holiday will receive the premium pay but will not accrue a holiday banked earned for that holiday.

(3) The employee who has the day off will accrue a holiday bank earned for that holiday.

(4) Employees may only swap full shifts.

- (c) Should an HPSA Member work overtime as an extension of their regular shift on a holiday, they would be paid at the applicable overtime rate consistent with Article 20 of this Agreement.
- (d) Nevada PERS-eligible holidays cover the hours of Midnight through 11:59 P.M. on the PERS-designated day. Accordingly, HPSA Members who work on a holiday will continue to receive 10 hours of both holiday pay and double time premium pay and will record their payroll hours per Article 16 Section C with the appropriate Holiday TRC codes. Should an HPSA Member, work beyond their regular shift on a holiday, they will be compensated at the appropriate overtime rate.
- (e) For Corrections Supervisors Working the Twelve (12) Hour Schedule:
  - (1) The HPSA Member working the holiday on a twelve (12) hour shift will be paid 10 hours of holiday pay and the double time premium for their regular hours on their assigned shift that day, not to exceed twelve (12) hours.
  - (2) The HPSA Member observing and not working the holiday on a regularly scheduled twelve (12) hour shift will record ten (10) hours of holiday pay and two (2) hours of annual leave, floating holiday or banked holiday.
  - (3) The HPSA Member assigned to the eight (8) hour shift on the holiday, who works beyond the end of their shift, would receive double time premium pay for up to ten (10) hours before reverting to the appropriate overtime rate.
  - (4) The HPSA Member assigned to the eight (8) hour shift and observing the holiday would record eight (8) hours of holiday pay (H), and 2 hours of holiday banked earned (HBEP).

**Section 3:** In order to receive holiday pay, the HPSA Member must work, or be on annual leave, sick leave, leave without pay approved by management, or be on a scheduled day off the day preceding and/or following a holiday. In the case of sick leave, documentation may be required by the supervisor in the form of a doctor's certificate confirming the Member was unable to work. A HPSA Member that uses sick or annual leave for the week of a holiday will receive ten (10) hours of holiday pay on the holiday in lieu of any other leave payment.

**Section 4:** Floating Holidays: HPSA Members will be eligible for two (2) floating holidays each calendar year. The floating holidays will be scheduled in the same

manner as a vacation day.

The floating holidays must be used within the calendar year and cannot be carried over to the following year. If an HPSA member schedules their floating holiday and is then called into work during their normal work hours, they would be paid as if they were working any holiday defined in Section 2.

**Section 5:** Effective September 2017 September 11th Memorial Holiday: All HPSA Members will be provided the September 11th Memorial Holiday each calendar year. The holiday is equal to ten (10) hours of regular pay at the base hourly rate and will be paid in the pay period that includes September 11th. This holiday provides 10 hours of additional compensation and is not available as paid time off; is not considered time worked for the purpose of overtime calculations and is not PERS-eligible compensation. New hires beginning their employment before July 1st will receive the September 11th Memorial Holiday in the year of hire.

**Section 6:** Holiday on a Normal Day Off: Should a holiday fall on the HPSA Members' regularly scheduled day off, the Member shall bank the equivalent hours for future time-off with pay. All HPSA Members will be required to bank holidays that fall on normal days off.

- (a) For the term of this Agreement, HPSA Members will not be limited in the number of hours of banked holidays accumulated. Holiday hour banks will carry over from year to year and must be utilized prior to termination or retirement. Any hours remaining at termination or retirement will be forfeited. Banked holiday hours must be scheduled in the same manner as annual leave.
- (b) In the event of an HPSA Members death, the CITY shall pay 100% of the Members unused banked holiday hours per the provisions of Article 5 Section 4 (a).
- (c) In the event an HPSA Member is subject to layoff per the provisions of Article 24 of this Agreement, they would be paid for unused banked holiday hours at the time of layoff.

**Section 7:** Administrative Leave for Critical Incidents: HPSA members who are on administrative leave for a critical incident due to a use of force investigation shall receive the holiday premium pay benefit for holidays they were scheduled to work as though the member was working their regular work schedule.

## **ARTICLE 16. SHIFT ARRANGEMENT:**

**Section 1:** The work schedule shall consist of four (4) consecutive ten-hour shifts. Corrections Sergeants and Corrections Lieutenants may work schedules that consist of six (6) twelve-hour work days with one (1) eight-hour work day per bi-weekly pay period.

- (a) Whenever deviations from regular shift hours are necessary, the supervisor shall provide HPSA Members with sufficient notification prior to such deviation. Sufficient notification is deemed to be a minimum of 48 hours. Such notice shall not be required for emergency work.
- (b) The CITY reserves the right to alter or temporarily change the work schedule, shift and/or hours of an HPSA Member to accommodate the HPSA Members attendance at:
  - (1) Training as provided out of the City or State
  - (2) In-house training longer than four days
  - (3) Special assignments not to exceed one year unless mutually agreed upon by the Chief of Police and the HPSA Member concerned.
- (c) HPSA Members working graveyard shifts shall record 100% of their work hours for payroll purposes on the day where they work 51% or more of their regular hours. PERS eligible holidays require specific time recording codes to comply with PERS regulations.

**Section 2:** There shall be no split shifts or split schedules unless covered under Section 1 above or by mutual Agreement.

**Section 3:** Any unusual circumstances causing deviation from the aforementioned hours shall be discussed by the HPSA and the CITY.

**Section 4:** The policy regarding time change during the Spring and Fall shall be as follows:

- (a) HPSA Members on a four day work week scheduled to work graveyard shift during the Spring time change shall work nine (9) hours but be paid for ten (10) hours.

HPSA Members in the Corrections Facility working a twelve (12) hour shift during the Spring time change shall work eleven (11) hours but be paid for twelve (12) hours.

- (b) HPSA Members on a four day work week scheduled to work graveyard shift during the Fall time change shall work eleven (11) hours but be paid for ten (10) hours.

HPSA Members in the Corrections Facility working a twelve (12) hour shift during the Fall time change shall work thirteen (13) hours but be paid for twelve (12) hours.

**ARTICLE 17. COMPENSATION FOR SERVICE INCURRED ACCIDENTS OR ILLNESS:**

**Section 1:** HPSA Members shall be covered by a workers' compensation program of the CITY's choice that conforms with the provisions of the Nevada Industrial Insurance Act (NRS Chapter 616) and the Nevada Occupational Diseases Act (NRS Chapter 617) and that provides for payment of industrial accident benefits and compensation for partial and total disability arising from industrial injuries and occupational diseases.

**Section 2:** HPSA Members injured on the job, with an accepted workers' compensation claim, will receive full salary while away from work due to their injury for a period not to exceed 850 hours.

The HPSA Member, in exchange for salary continuation, will endorse workers' compensation payments received from the workers' Compensation Administrator back to the CITY.

Any hours that are charged to workers' compensation, up to the 850 hours of salary continuation, will not affect an HPSA Member's sick or annual leave accruals.

**Section 3:** Upon expiration of the 850 hours of salary continuation, the HPSA Member who continues to receive workers' compensation benefits may elect to use their previously accumulated sick leave, then annual leave, and shift trades to receive a full salary. In the event the HPSA Member has exhausted all of the above, the CITY may authorize additional paid time at its discretion. The Finance Department will calculate sick and annual leave usage.

**Section 4:** HPSA Members shall be granted an additional one thousand (1000) working hours as defined in Section 2 hereof, for disabilities incurred in the line of duty involving a deadly weapon. "Deadly weapon" is defined as "a weapon which, from the manner used, is calculated or likely to produce death or serious bodily injury".

**Section 5:** If, as a result of a licensed physician's evaluation and prognosis, it appears that the HPSA Member will not return to his regular CITY job, the CITY may require a medical separation.

**Section 6:** The CITY may disallow the salary continuation benefit provided in Section 2 herein, upon a finding by a preponderance of the evidence that the employee is abusing this benefit. The suspension of this benefit does not preclude the Department from completing a proper investigation and potentially issuing the appropriate disciplinary action. Any such investigation will be conducted in accordance with all IAB procedures and members will be provided with all rights guaranteed under NRS 289, the Nevada Peace Officer Bill of Rights.

**Section 7:** Before the CITY grants these benefits, the HPSA Member shall comply with reasonable administrative procedures established by the CITY. The CITY may also request, at its option and expense, that the HPSA Member be examined by a physician appointed by the CITY. The examining physician shall provide to the CITY and the HPSA Member a copy of his medical

findings and his opinion as to whether or not the HPSA Member is able to perform his normal work duties and/or whatever, if any, work duties the HPSA Member is able to perform or unable to perform. The CITY may further require that such injured HPSA Member make himself available for light duty work as soon as possible after release by a qualified physician which may be either CITY or HPSA Member appointed.

- (a) Temporary modified duty assignments will be at the sole discretion of the Chief of Police and Human Resources Director, or designee as provided in NRS 288.150 3(c)(2).
- (b) HPSA Members on temporary modified duty will not be eligible for acting pay, overtime pay or any other premium pay, except in the case of an emergency. HPSA Members receiving shift differential will be paid in accordance with Article 3 Section 3 (a).
- (c) HPSA Members that are released to modified duty by the treating physician, offered such work by the City and refuse to perform modified duty, may supplement their salary continuation benefit defined in Section 2 with any paid leave.

Section 8: The CITY will comply with the NRS Chapters 616 and 617, and the Nevada Administrative Code for rehabilitation of an HPSA Member with an industrial injury or occupational disease that resulted from employment with the CITY. An injured HPSA Member of the CITY may be returned to work with the CITY in any available position for which the HPSA Member is qualified and which accommodates the HPSA Member's limitations.

- (a) The HPSA Member may be appointed to the position even if there is an existing list for the classification that does not contain the HPSA Member's name.

#### **ARTICLE 18. COMPENSATION FOR NON-SERVICE INCURRED ACCIDENTS OR ILLNESS:**

Section 1: An HPSA Member who is incapacitated due to non-service incurred accident(s) or illness shall be entitled to draw his full wage against sick then annual leave accrued to his benefit.

Section 2: The HPSA Member will continue to be eligible for benefits from the City Self-insured Benefit Plans while they are utilizing previously accrued sick, personal time off, banked holidays or any other paid leave during the time of absence from work.

Section 3: Upon exhausting all available leave, the CITY, at its sole discretion, shall determine whether the HPSA Member shall be retained in his current position and in CITY employment.

Section 4: **Temporary Light Duty:** An HPSA Member incapacitated due to an injury or illness that is not work related may, at the option of the CITY, be employed

in other work on a job within the CITY which a physician determines the HPSA Member is able to perform. The HPSA Member shall be paid one-hundred percent (100%) of the HPSA Member's current base pay grade, providing no current employee is displaced or laid off as a result of such placement.

- (a) An HPSA Member making the request for temporary light duty shall submit the request to the Chief of Police or designee or Human Resources with a letter from the physician outlining the restrictions and approximate time the HPSA Member could return to full duty.
- (b) All requests for temporary light duty assignments shall be reviewed by Human Resources for approval of eligibility. Requests approved by Human Resources shall be referred to the Chief of Police or designee to determine if work assignments are available that meet the employee's work restrictions.
- (c) The length of the assignment will be temporary based upon factors which include, but are not limited to operational needs, treatment plans and restrictions as outlined by the physician, etc. The HPSA member may be asked to resubmit the request and provide additional documentation from the physician, as appropriate, throughout the term of the light duty assignment. Renewal requests for light duty must follow the same criteria as contained in this Section (a).
- (d) The authorization for temporary light duty can be denied or withdrawn and this action will not be subject to the grievance procedure.

**Section 5:** The CITY will allow an absence of up to a total of six (6) months, or to the extent the HPSA Member has any type of paid leave available, whichever is greater. If an HPSA Member has less than six months of paid leave available, the HPSA Member must use all of their paid leave to be eligible for extended leave of up to the total of six (6) months of absence. Any HPSA Member who is on leave without pay per the provisions of this Section, will remain eligible for benefits from the City's Self-insured Benefit Plan. At the end of this extended leave the employee may be medically separated. If the employee is medically separated, they will be eligible for COBRA coverage through the City's Self-insured Benefit Plan.

#### **ARTICLE 19. PROMOTION/QUALIFYING PERIOD:**

**Section 1:** The term "promotion" means the advancement of an HPSA Member to a post of higher grade. All promotions shall be subject to a qualifying period of six (6) months.

- (a) The CITY reserves the right to extend said qualifying period for an additional three (3) months.
- (b) The HPSA shall be notified, in writing, of such extensions.

(c) HPSA Members serving in qualifying period status who are absent from work in excess of one work week shall automatically have their qualifying period extended for a like amount of time.

**Section 2:** Insofar as practicable and consistent with the best interest of the CITY, all vacancies in the HPSA within the Police Department shall be filled by promotion from within the HPSA (for Lieutenant) or Police Department members holding the rank of officer (for Sergeant) after an examination has been given and a promotional list established.

(a) To be eligible for promotional testing to the rank of Police or Corrections Lieutenant, no less than three years as a Police or Corrections Sergeant with the City of Henderson Police Department will be required.

(1) If the pool of eligible candidates for promotional testing to the rank of Police or Corrections Lieutenant is insufficient for testing purposes (less than 3 people), the Chief of Police will contact the President of the HPSA and discuss the need for a lower minimum year service requirement (i.e. two years, one year, etc.). It is understood that the lowering of the minimum year service standard would be accomplished through a

Memorandum of Agreement and would be for that testing cycle only, and that the requirements in Section 2A will resume upon completion of that testing cycle.

(b) To be eligible to take a promotional examination for an eligibility list, an applicant must meet the minimum requirements by no later than the filing deadline in the year given.

(c) The promotional list that is established shall be maintained by the Human Resource Department and a copy shall be furnished to the HPSA.

(d) For the purposes of 'in time and classification' for seniority or promotional consideration acting supervisory time will not be considered when determining eligibility.

**Section 3:** Appointments to and promotions to Lieutenants shall be determined by competitive examination, as follows:

(a) Examination may consist of written, oral, performance, evaluation of training and experience, evaluation of weighted supplemental application form, assessment center and any other examination that is a valid selection instrument, at the discretion of the CITY.

Whenever Assessment Centers are held, the Chief will determine the number of candidates that will participate based on the needs of the department. This number will be identified and posted at the same

time as the notice of examination. This applies for both the Sergeants and Lieutenants promotional testing process.

- (b) The Human Resources Director or designee shall prepare and conduct the examinations, which shall contain questions designed to test for job-related qualifications. Such tests shall be formulated on a general competitive basis and shall not be used to facilitate the hiring of any particular individual.
  - (1) A committee comprised of the HR Business Partner and representatives selected by the Chief of Police and the HPSA President or designee will participate in the development and review of testing instruments for promotion to classifications represented by this Agreement.
  - (2) The same committee that develops and reviews the testing instruments will serve as the Appeals Committee upon conclusion of testing.
  - (3) This applies for both the Sergeants and Lieutenants promotional testing processes.
- (c) Notice of examination, to include the reading list, shall be posted in the Police Department at least sixty (60) days prior to the examination date.
- (d) In all examinations, a minimum eligibility rating shall be established by the Human Resources Director or designee. Minimum ratings shall also be established for each part of the test. Candidates shall attain at least a minimum rating on each part of the test in order to receive a passing grade or to be rated on the remaining parts of the test.
- (e) The final rating shall be determined by adding each portion of the selection process according to assigned weights.
- (f) At the conclusion of any examination an eligibility list consisting of the names of persons successfully passing the examination, arranged in order of final ratings received, from the highest passing score to the lowest, shall be prepared and kept.
- (g) Whenever identical ratings are received, names will be arranged in order of date of initial hire. If date of application is identical, names will be arranged in alphabetical order. Priority in respect to the date of application shall be considered only when identical ratings are received.
- (h) The entire eligibility list shall be certified, and appointments made by the Department Head directly down the list starting with the candidate having the highest overall score. However, if there are less than two (2) passing scores, the Department Head may request that a new examination be given. The name of any person appearing on the

eligibility list shall not be removed, unless for cause, until such list has expired. When a permanent, existing vacancy is created requiring promotion, appointments shall be made from the current eligibility list in effect when the vacancy occurs. If the promotions are to be made due to an increase in the complement of personnel, they shall be made during the pay period that the personnel are placed "in service."

(i) Eligibility lists shall remain in effect for one year from the date of certification. The eligibility list may be extended for an additional period not to exceed six (6) months at the request of the Human Resources Director or designee. The HPSA shall be notified of the initial date and period of the extension prior to the eligibility list expiration and before the extension is implemented.

## **ARTICLE 20. OVERTIME PAY:**

Section 1: It is the policy of the CITY to keep to an absolute minimum the necessity for any HPSA Member to work in excess of his regularly scheduled tour of duty. When overtime is necessary and is specifically authorized by the Chief of Police or their designated representative(s) the CITY's policy is to pay overtime as delineated herein.

Section 2: **Patrol Supervisory Staffing Requirements:**

(a) In Patrol, when overtime is required of a Sergeant or Lieutenant, that overtime will be offered first (1<sup>st</sup>) to a Sergeant or Lieutenant before utilizing an OIC. If there are not three (3) promoted supervisors (two (2) Sergeants and one (1) Lieutenant) on duty, overtime will be assigned. An acting Sergeant or Lieutenant, through written order, satisfies the three promoted supervisors as well.

(b) If overtime is required in a supervisory position, it will be offered to the appropriate classification. If there is sufficient staff on shift where an OIC may be utilized without going below minimum manning levels, the OIC will be utilized. An OIC will not be utilized if it creates overtime in the Officer classification, until all eligible Sergeants have been offered the opportunity to work the overtime.

Section 3: **End of Shift (Hold-over) Overtime for the Patrol Division:**

At the end of a shift, overtime will be offered per the seniority list of those supervisors currently on duty. This process will repeat for each incident of overtime. Overtime that is necessary at the end of a patrol shift will be filled from the appropriate classification in the following order:

- (1) From the current shift of the affected Patrol Area Command based on seniority.
- (2) From the current shift of the other Patrol Area Commands based on seniority.
- (3) In cases where there are not two other promoted sergeants remaining on the Patrol Watch, the on duty sergeant with the least amount of seniority will remain on duty until they are relieved by the oncoming sergeant who is called out.
- (4) For a Lieutenants position: If no member of the Lieutenants classification is available, to a member of the Sergeants classification who is under orders as an Acting Lieutenant and is receiving ADP (Acting) Pay.
- (5) For a Sergeants position: If no member of the Sergeants classification is available, to a member of the Officers classification who is under orders as an Acting Sergeant and is receiving ADP (Acting) Pay

**Section 4:**

**Call Out and Call back overtime for the Patrol Division:**

When this type of overtime is needed, the on-duty supervisor will offer it per seniority. This process will repeat for each incident of call out/call back. Callout/call back that is necessary to fill a patrol shift will be filled using personnel in the following order:

- (a) From the oncoming shift of the affected Area Command based on seniority.
- (b) From the oncoming shift of the other Area Commands based on seniority.
- (c) From a supervisor of the same rank from the Patrol Division, based on seniority.
- (d) From a supervisor of the same rank assigned to any other assignment based on seniority.
- (e) If no supervisor from the same rank is available, but there is a Sergeant who is under orders as an Acting Lieutenant (for Lieutenants position), or an Officer under orders as an Acting Sergeant (for a Sergeants position).

**Section 5:**

**Fair and Equitable Assignments and Calculations:**

- (a) "Fair and Equitable" scheduled overtime assignments will be offered to the supervisor with the least amount of overtime, call-out and callback

hours awarded/worked in that calendar year at the time the overtime is assigned. In cases where supervisors have equal amounts of overtime, call-out or callback, the most senior supervisor will be awarded the assignment.

- (1) "Fair and Equitable" awarded/assigned overtime, callout and callback hours will be available to current supervisors via the supervisor's portal in the current overtime scheduling software in seniority order for each classification. The hours of overtime, call-out and callback awarded/worked will be automatically updated at the time the assignment is awarded/scheduled by the current overtime scheduling software.
- (2) All overtime, call-out, and callback worked will be recorded by the member in both the current scheduling software and the current payroll software by the end of the shift on the day it was worked. The parties recognize that there will be isolated situations where overtime, call-out or callback is not recorded on the day it was worked or in the same pay period that it was accrued, and the overtime, call-out, and callback hours worked will be updated as quickly as possible in both the appropriate scheduling software and the appropriate payroll software.
- (3) It will be the responsibility of the member to ensure that their hours of overtime, call-out and callback awarded/worked are updated via the current overtime scheduling software and current payroll system.
- (4) The parties recognize that for the purposes of "Fair and Equitable" awarded overtime, all types of overtime awarded through the current overtime scheduling software, whether past or future, will be used to calculate who is assigned the overtime assignment. Future overtime is defined as overtime awarded/assigned to a member that has not yet been worked by that member.
- (5) The parties acknowledge and agree that all hours of overtime, call-out, and callback awarded/worked in the HPSA member's assignment count towards "Fair and Equitable" awarded overtime hours, with the EXCEPTION of hours worked for Court attendance, off-duty motorcycle maintenance, and off-duty police canine care and maintenance. Court attendance, off-duty motorcycle maintenance, and off-duty police canine care and maintenance should not be entered into the overtime/work scheduling software, but they must be entered into the payroll software.
- (6) The parties recognize that certain "Fair and Equitable" scheduled overtime assignments may require certain skills or attributes that limit who is eligible to work that particular scheduled overtime assignment, such as Specialized

Assignments as determined by the Chief (e.g.: Bicycle Unit, SWAT Unit, Traffic Unit, K-9 Unit and Investigative Services Division). The department will provide HPSA members with training classes necessary to work other assignments which do not require the specialized skills and attributes needed by Specialized Assignments as determined by the Chief (e.g.: Bicycle Unit, SWAT Unit, Traffic Unit, K-9 Unit and Investigative Services Division) without cost to the member or the HPSA which will be offered at a minimum annually.

- (7) Sergeants and Lieutenants are primarily responsible for the scheduling of overtime, callout and callback. Neither the City nor HPSA assumes financial or grievance liability in circumstances where an error is made in the scheduling of overtime, callout and callback, including errors based upon problems caused by the current overtime scheduling software.
- (8) Supervisors will be given a minimum of 48 hours of notice from the time of the email notification being sent out until such time as they must report for the assignment.
- (9) At the beginning of the 1<sup>st</sup> full pay period on/or after January 1<sup>st</sup>, the overtime list by seniority for each classification will start anew and all previous overtime hours will be zeroed out.

**(b) Scheduled & Contracted Overtime for Patrol & Corrections:**

Scheduled overtime for the Patrol & Corrections Divisions, and Contracted Patrol Overtime Assignments will be handled as follows:

- (1) Opportunities for scheduled Overtime in Patrol or Corrections will be managed via the current overtime scheduling software which will notify all supervisors in the classification needed for the assignment, and shall be awarded pursuant to the "Fair and Equitable" assignment procedure in Section 5(a). "Fair and Equitable" scheduled overtime assignments in the Patrol Division will first be offered to the appropriate classification of supervisors (sergeant or lieutenant) assigned to the Patrol Division. If no Patrol Division supervisor has submitted for the assignment when the posting closes, it may then be offered to the appropriate classification of supervisor (sergeant or lieutenant) in any assignment within the department.
- (2) If no supervisor in the classification requests the overtime, it will then be offered to other personnel in the following order:

**(a) For a Lieutenants position: To an Acting (ADP) Lieutenant:**

To a member of the Sergeants classification who is under orders as an Acting Lieutenant and is receiving ADP (Acting) Pay. If there is more than one Sergeant in this category, it will be

awarded to the most senior ADP (Acting) Lieutenant (based on their Sergeant classification seniority) with the least amount of awarded/assigned overtime, callout or callback hours worked to that point in that calendar year. In cases where Sergeants have equal amounts of overtime, callout, or callback, the senior Sergeant in this ADP/Acting assignment (based on their Sergeant classification seniority) will be awarded/assigned the assignment.

**(b) For a Sergeants position: To an Acting (ADP) Sergeant:**

To a member of the Officers classification who is under orders as an Acting Sergeant and is receiving ADP (Acting) Pay. If there is more than one Officer in this category, it will be awarded/assigned to the most senior ADP (Acting) Officer based on their Officer classification seniority.

**(c) For a Sergeants position: No Acting (ADP) Sergeant:**

If there are no Acting (ADP) Sergeants, it may then be offered to a member of the Officers classification who has successfully completed the Field Training Sergeant training program and is currently certified as such by the PD Training Bureau.

**(c) Special Event Overtime:**

(1) Special Events are different from Scheduled overtime, Grant overtime or Patrol overtime. Special Events require extensive planning, collaboration meetings, and supervision. These special events occur outside normal programming and activities. The Chief of Police shall determine which assignments are categorized as special events. Examples of special events may include, but are by no means limited to:

- (a) Parades/Running/Auto Racing or biking events
- (b) Concerts
- (c) "Wide-load" movement events/permits
- (d) Outdoor festivals
- (e) Road closures for the purpose of filming
- (f) Major sporting events
- (g) Any other event that is considered large scale and/or requires permitting.

This list is not exhaustive as the Chief of Police has the sole discretion to classify an event as a "Special Event" based on a case

by case basis and dependent on the facts and circumstances of the event.

- (2) The Homeland Security and Special Events (HSSE) Section is responsible for planning, coordinating, and on-site supervision of traffic control and/or security operations for each event and shall be assigned to these overtime assignments. HSSE will schedule any additional overtime that is needed for these events via the current overtime scheduling software, and in-line with "Fair and Equitable" assignment defined above in Section 5(a).
- (3) Sergeants and Lieutenants not assigned to HSSE who wish to work Special Events overtime,
  - (a) must meet eligibility and training requirements for the assignment as set forth in Section 5(a)(6);
  - (b) must successfully complete a training course, determined by the City, in order to be eligible for assignment to these events; and
  - (c) will be assigned to these events for any remaining available overtime assignments after HSSE staff has been assigned.

(d) Grant Overtime:

- (1) Grant Overtime is overtime where a Grant has been awarded/assigned to the City and is specific to a specialized unit. Examples of Grant overtime include, but are not limited to:
  - (a) Grants from the Office of Traffic Safety
  - (b) Justice Assistance Grants
  - (c) Urban Area Working Group Grants
  - (d) DEA, FBI, HSS, Grants.

Grant overtime awarded to a specific unit will be awarded/assigned by the unit/section that was awarded/assigned the grant. These grants are specialized and usually have a match work guarantee that will also need to be worked by that specialized unit. This overtime will be awarded/assigned via the current overtime scheduling software but will not be covered under "Fair and Equitable" as outlined above in Section 5(a).

Section 6: Overtime:

For HPSA Members on a four ten-hour day work week, work in excess of ten (10) hours during one shift or forty (40) hours during one work week shall be considered overtime.

For HPSA Members on a five eight-hour day work week, work in excess of eight (8) hours during one shift or forty (40) hours during one work week shall be considered overtime.

For Corrections Facility HPSA Members, work in excess of their normal scheduled work shift (i.e. twelve hours, ten hours, or eight hours) or eighty (80) hours during one pay period shall be considered overtime.

Overtime shall be defined and compensated as follows:

**Section 7: Time and One-half Overtime**

- (a) **Regular Overtime:** accrues when an HPSA Member is directed to work beyond his regular work shift.
- (b) **Scheduled Overtime:** accrues when an HPSA Member is directed to work and is given 48 hours advance notification of the date and time such work will be required.
  - (1) Any HPSA Member scheduled to work on a regular assigned day off shall be guaranteed three (3) hours work at time and one-half his regular rate of pay. The HPSA member will be guaranteed the three (3) hour minimum, or actual hours worked, whichever is greater. The HPSA member may be released prior to the three (3) hours with supervisory approval.
  - (2) Any HPSA Member scheduled to work on a regularly assigned work day, but not immediately following his shift, shall be guaranteed one (1) hours work at time and one-half his regular rate of pay.
- (c) **Court Appearances:** will be compensable when an HPSA Member is required to appear during his regularly scheduled time off for a scheduled: (1) criminal court appearance, (2) a Department of Motor Vehicles administrative hearing, or (3) for other scheduled matters wherein the HPSA Member's presence is required by the City of Henderson, as opposed to any other party or a grievant, and for which the HPSA Member is not otherwise compensated. Members receiving shift differential due to their shift assignment will receive that differential for court-related overtime.
  - (1) HPSA Members under Section 3(c) shall be guaranteed two (2) hours work at time and one-half his regular rate of pay.
  - (2) HPSA Members under Section 3 (c) who receive a duces tecum subpoena shall be guaranteed three (3) hours work at time and one half his regular rate of pay. Duces tecum shall be paid when evidence with a chain of custody is required.

- (3) On Duty Court Attendance: HPSA Members subpoenaed to appear on duty as a witness in a criminal proceeding connected with official duties, and who are not party in such criminal proceeding, shall receive their regular pay, providing that all witness fees or pay are returned to the City of Henderson. HPSA Members shall report to work when excused.
- (4) On Duty Court Attendance: HPSA Members subpoenaed to appear on duty as a witness in a criminal proceeding connected with official duties, and who are not party in such criminal proceeding, shall receive their regular pay, providing that all witness fees or pay are returned to the City of Henderson. HPSA Members shall report to work when excused.
- (5) Off Duty Court Attendance: HPSA Members subpoenaed to appear off-duty in court as a witness for the prosecution or defense, connected with official duties, shall be paid overtime with a minimum of two (2) hours. In the event a 'duces tecum' subpoena is received an additional one (1) hour will be paid for the pick-up and return of evidence. All witness fees or pay are to be returned to the City of Henderson.

(d) Contracted Overtime

- (a) Contracted Overtime assignments are not guaranteed for any HPSA Member. All events are subject to cancellation at any time. All assignments for Contracted Overtime will be on a voluntary basis and no HPSA Member will be forced to accept this type of overtime assignment.
- (b) Contracted Overtime is paid for by a third-party. Contracted Overtime deviates from the requirements for overtime set forth elsewhere in this Agreement as follows:
  - (1) The duration of Contracted Overtime assignments are established via the agreement between the contractor and the Henderson Police department. However, the assignment's start and end time shall depend on whether the contractor requires the HPSA Member to use a City of Henderson vehicle.
    - a. Travel Time is Included If Contractor Requires A City Vehicle: If a City of Henderson vehicle is required for the Contracted Overtime assignment, then the start time of the shift shall commence upon the HPSA Member leaving their assigned station and shall end upon the HPSA Member returning to their assigned station. HPSA Members are required to immediately return to their assigned stations upon being released by the contractor.
    - b. Travel Time Is Not Included If Contractor Does Not Require A City Vehicle: If a City of

Henderson vehicle is NOT required for the Contracted Overtime assignment, then the HPSA Member shall travel to the Contracted Overtime assignment in their personal vehicle on their own time. The start time of the shift shall commence upon the HPSA Member's arrival at the designated overtime location and end upon the contractor's release of the assignment.

- (2) All Contracted Overtime shall be paid at an overtime rate of time and one-half (1.5x) the HPSA Member's regular rate of pay.
- (3) Contracted Overtime scheduled without 48 hours' notice will be paid at time and one half (1.5x).
- (4) Contracted Overtime that falls on a holiday will be paid at time and one half (1.5x).

(c) Contracted Overtime will be assigned by fair and equitable totals.

(d) Contracted Overtime Eligibility Limitations – Vendor Complaints

- (1) In general, vendors have the right to request that HPSA Members not return to work on their property. If a contractor has reported complaints of misconduct, conduct unbecoming by a HPSA Member, or a violation of event planning guidelines, while working a Contracted Overtime event, and the contractor has requested that the HPSA Member not return to the contractor's Contracted Overtime events (current or future), a form describing why the contractor does not want the HPSA Member to return to the contractor's facility or worksite must be completed. The Special Event Lieutenant will forward the complaint to the supervising Captain. The Captain shall provide a copy of the complaint to the HPSA member within seven (7) business days of receipt of the complaint by the Special Event Lieutenant. The Captain shall consult with their Deputy Chief to determine the most appropriate course of action. While the complaint is being reviewed, the HPSA Member will be ineligible to work Contracted Overtime for that particular contractor only. Upon receipt of the complaint, the HPSA Member shall have seven (7) business days to submit a written rebuttal to the allegations. The complaint review shall be completed by the Deputy Chief within thirty (30) calendar days of the receipt of the complaint. Both parties can mutually agree to an extension.
- (2) If the complaint is sent to IAB for investigation, the

HPSA Member will be ineligible to work Contracted Overtime for that particular contractor only until IAB's investigation is concluded and disciplinary action has been determined, if appropriate. However, if the HPSA Member is placed on Administrative Leave or in a temporary assignment as a result of the allegations, then the HPSA Member is ineligible to work any contracted overtime.

- (3) If the complaint does not warrant being sent to IAB, the Deputy Chief will determine whether the vendor's reasoning is unlawful (i.e., discriminatory). If the vendor's reasoning is not unlawful, then the HPSA Member shall be temporarily ineligible to work Contracted Overtime for that particular contractor only for a period of ninety (90) days. The 90 days shall be computed from the date of the receipt of the initial complaint from the vendor. This ineligibility will not be considered discipline and will not be recorded as discipline in the HPSA Member's file.
- (4) The City has the exclusive right to make any of the above determinations in this section as it relates to handling the vendor complaint:
  - a. Whether to send the vendor's complaint to IAB.
  - b. Whether the vendor's complaint is unlawful.
  - c. Whether the vendor's complaint results in the HPSA Member being ineligible for 90 days.

(e) **Contracted Overtime Expectations and No-Call-No Show/Late to Assignment**

- (1) HPSA Members will be punctual, prepared for duty and report on time at the designated overtime location.
- (2) If a HPSA Member is unable to work an assigned contracted overtime assignment, the HPSA Member will contact the Special Event Lieutenant or designee. The Special Event Lieutenant or designee will attempt to reassign the contracted overtime to another HPSA Member who applied for the assignment under the original posting using fair and equitable standards. If the Special Events Lieutenant or designee is unable to reassign the contracted overtime they may repost the contracted overtime for additional volunteers or require the initially assigned HPSA Member to work the originally assigned overtime.
- (3) HPSA Members will not seek out their own replacement for Contracted Overtime.

(4) All cases of unexcused tardiness and absent without leave notification will be handled in accordance with DPM1094.

**Section 8: Double Time Overtime**

(a) Call-out overtime will accrue when an HPSA Member is not provided 48 hours' notice of the required overtime and does not qualify as call-back overtime. Call-out overtime is paid at double the regular rate.

(b) Call-back overtime will accrue when an HPSA Member has completed their regular shift and is not in pay status or on normal days off and is called to return to work and is required to report within twelve (12) hours of that call. Any call that requires immediate reporting is considered call-back overtime and is paid at double the regular rate.

(1) HPSA Members having been called out/back on a regularly scheduled day off shall be guaranteed four (4) hours work at twice his regular rate of pay.

(2) HPSA Members having been called out/back on a regularly assigned work day shall be guaranteed two (2) hours work at twice his regular rate of pay. Should the two (2) hour guarantee overlap with the start of their regular shift, the Member would record callback/callout for the time before the shift begins and regular pay and a non-PERS eligible straight time pay code to satisfy the two (2) hour guaranteed minimum.

(3) Should an HPSA Member be called back to work while on a scheduled vacation, during their normal work hours, they would record the number of hours of actual vacation hours used; record the number of hours worked during their normal shift and record an equal number of hours of a PERS- eligible straight time pay. Should the assignment extend beyond the Members' normal work hours, call-back would be recorded for those hours.

(4) Should an HPSA Member be contacted after hours due to a developing operational incident that requires their expertise and direction, the HPSA Member is eligible for the appropriate overtime compensation rounded to the next highest six (6) minute increment.

(c) For Members enrolled in PERS prior to January 1, 2010, Call-back overtime is PERS eligible compensation, while regular overtime, scheduled overtime, contract overtime, and call-out overtime are not PERS eligible compensation.

(d) Contract Overtime: See Section 7 (d)

## **Section 9: Compensatory Time**

An HPSA Member accruing overtime as stated above, with the exception of call-back overtime, shall elect to be paid at the rate upon which the overtime was accrued or to receive compensatory time off in lieu of overtime, which shall be computed at the rate upon which the overtime was accrued. Compensatory time off accrued that is subject to shift differential is adjusted at the time of the accrual through an increase in the hours of compensatory time available. Accordingly, when compensatory time off is utilized, that specific compensation is not shift differential eligible. For clarity: Ten (10) hours of double time or twenty (20) hours of compensatory time off for a graveyard shift Member will be recorded as 21.2 hours (20 x 6%) of compensatory time off accrued.

- (a) All compensatory time off will be paid to the HPSA Member at the overtime rate in which it was earned prior to the end of each fiscal year. There will be no early payments or special checks for accumulated compensatory time-off.
- (b) An HPSA member shall request the use of compensatory time in advance. The approval to use compensatory time-off will be based on the staff available to cover the vacancy, the specific operating environment on the requested day(s) and only in rare circumstances, will compensatory time off be granted if overtime is required to cover the absence. Exceptions to this overtime exclusion require the approval of the Chief of Police or his designee. The Department Command Staff will strive to accommodate compensatory time off requests whenever possible and understand its obligation under the Fair Labor Standards Act.
- (c) HPSA members who are approved for compensatory time-off will not have this time cancelled due to subsequent, unanticipated absences by other HPSA members.
- (d) The premium pay of double time for regular hours worked on a holiday as defined in Article 15 are not eligible for compensatory time-off accrual.
- (e) All compensatory time off accrual and utilization will be managed through the City's payroll processes.

## **Section 10: Overtime – Six Minute Increments**

Overtime shall be earned and paid in increments of six (6) minutes. Overtime less than six (6) minutes will not be eligible for compensation. Overtime in excess of six (6) minutes will be rounded up to the next highest tenth (10th) of an hour.

## **Section 11: Stand-by Pay**

Stand-by pay will be provided should an HPSA Member be required to stand-by anytime between work shifts, on regular days off or on holidays. HPSA Members shall be compensated by one (1) hour of double time for each twelve (12) hour period they are required to stand-by. HPSA Members on stand-by shall keep their supervisor and/or the Police Department notified of their location for emergency call-out/call-back purposes and must remain fit for duty during these stand-by hours.

- (a) Should HPSA Members on stand-by be called out for work, they shall be compensated for the actual time worked at the rate of double time the regular rate of pay in addition to stand-by pay.

## **Section 12: Travel**

Travel time to and from work is not compensable per the federal Portal-to-Portal Act.

- (a) Out-of-town travel and same day return: Time traveling to and from the airport is considered "home-to-work" time and is not compensable. All other hours associated with this assignment that day would be compensable.
- (b) Overnight travel: Travel time is compensable when it occurs during the HPSA Member's regular work hours. This is true on non- working days as well and would be paid at the appropriate rate of pay which may include overtime payments. Travel time in any means of travel outside of normal work hours is not compensable. However, if the HPSA Member is directed to perform work while traveling, this time would be compensable.

## **ARTICLE 21. RETIREMENT:**

**Section 1:** The CITY and the HPSA 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.

**Section 2:** The CITY shall comply with all provisions of NRS 286.421 for the purpose of paying the HPSA Members' retirement contribution but will not pay for the purchase of eligible service.

**Section 3:** Effective with ratification of this Agreement, increases or decreases in mandatory contributions to the Public Employees Retirement System (PERS) for employees covered by this Agreement will be split evenly between the employee and the City.

## **ARTICLE 22. HPSA MEMBER DISCIPLINE/TERMINATION:**

Section 1: **Resignation:** HPSA Members who resign should submit his resignation in writing to the Chief of Police and give at least two (2) weeks' notice.

Section 2: **Probation:** If an HPSA Member is placed in a probationary period due to performance or conduct deficiencies as part of disciplinary action, the issuance of the probation may be contested through the Grievance Procedure defined in Article 29 of this Agreement. Additional discipline for further conduct or performance issues while in this probationary period may be contested through the Grievance Procedure defined in Article 29 of this Agreement. Discipline in accordance with this provision will only occur after a pre-disciplinary hearing with the Chief of Police.

Section 3: **Unsatisfactory Service:** An HPSA Member may be terminated or subject to disciplinary action if his performance or conduct is not satisfactory; if he proves unsuited to his work; or if for medical (with a reasonable accommodation) reasons he is no longer qualified for the position.

Section 4: It is agreed that the CITY has a right to discipline or discharge, in accordance with the Henderson Police Department Manual (DPM) 1094 and Appendix A. Discipline matters, as outlined in the DPM1094, and discharge is subject to the grievance procedure.

(a) **Types of Discipline:** HPSA Members who do not correct unsatisfactory conduct or performance, or who commit offenses of such a serious nature as outlined in (DPM) 1094 and Appendix A, are subject to the following:

(1) **Suspension:** An HPSA Member may be suspended without pay as a disciplinary measure. Suspension without pay pursuant to NRS 289 requires a pre-disciplinary hearing and must have the approval of the Chief of Police.

(2) **Demotion:** An HPSA Member may be demoted as a result of a disciplinary action. Prior to any demotion, an HPSA Member shall receive a pre-disciplinary hearing.

(3) **Probation:** As a form of discipline a HPSA Member may be placed on probation for a period not to exceed six (6) months in an effort to further evaluate and rehabilitate the HPSA Member. Should a Member be subject to this probationary period, they would not be eligible for a step increase during this time. A step increase would be awarded at the end of the successfully completed probationary period.

(4) **Termination:** An HPSA Member may be terminated as a result of disciplinary action. Prior to any termination, the HPSA

Member shall receive a pre-disciplinary hearing. This pre-disciplinary hearing will not be scheduled until the HPSA representation or the employee's representative(s) has had a minimum of two (2) weeks to examine the investigative file that will be the foundation for the hearing.

(b) **Notification:** An HPSA Member shall be notified in writing of any disciplinary action that could lead to suspension, demotion, or termination, and shall be afforded the opportunity to meet with the Chief of Police or designee to discuss the proposed disciplinary action prior to the action being taken. An HPSA Member may also respond to the proposed disciplinary action in writing.

**Section 5: Abandonment of Post:**

(a) An HPSA Member absent from duty in excess of three (3) consecutive work days without satisfactory explanation shall be considered to have abandoned his post and shall be terminated provided that the Chief of Police or designee make a reasonable effort to locate the HPSA Member.

(b) Reasonable effort to locate an HPSA Member shall be satisfied if the Chief of Police or designee sends a certified letter return receipt requested or similar attempts to the HPSA Member at the address shown in the HPSA Member's personnel file.

(c) Termination pursuant to this section shall be deemed to be for just cause.

**Section 6: Notice:**

(a) **Written notification:** Any termination under this article shall be in writing and shall set forth the reasons for such termination.

**ARTICLE 23. SENIORITY**

**Section 1:** Classification Seniority shall be based on promotional date within each rank. Acting time within a classification will not be considered in establishing seniority.

**Section 2:** Classification Seniority shall apply to the following:

(a) **Departmental Shift Bids -** Management retains the right to assign HPSA Members with special skills to shifts as required, by seniority. Management has the right to re-examine the status of HPSA Members and may reassign based on that review with supporting documentation. The HPSA Member re-assigned will select their choice from the remaining shifts. For the purpose of this Article, the meaning of shifts will be day, swing, or graveyard. Departmental Shift

bids (Patrol and Corrections HPSA members) will normally be completed by the end of June of each year and take effect the first pay period prior to the start of the school year (usually the last pay period of August). Management retains the right to modify the timing of the shift bids if operational conditions warrant.

- (b) An HPSA Member requesting a voluntary transfer from a special assignment will, after reorientation, have the ability to select the shift of their choice by seniority at the next shift bid. Until that time, they will have the choice of any vacant shifts available.
- (c) Demotion - When an employee is demoted to a position which was previously held, classification seniority will be based upon the employee's original date of promotion to that classification. The parties agree that should a Police Captain be demoted into a previously held classification in this Agreement, the individual's classification seniority will be the date of promotion to that classification.
- (d) Reduction in Force.

#### **ARTICLE 24. REDUCTION IN FORCE:**

This Article 24, Reduction in Force, and the manner in which it is executed, applies to all HPSA represented positions only.

Section 1: A reduction in force may take place upon approval of the City Council and is defined as an action wherein management eliminates a position.

- (a) The CITY may eliminate any position.
- (b) The CITY will notify the Henderson Police Supervisors Association prior to any City Council action that relates to a reduction in force.
- (c) Notice of at least thirty (30) calendar days will be given to HPSA Members whose positions are eliminated through a reduction in force. In lieu of notice, an equivalent amount of salary, based on the HPSA Member's regular work schedule, will be paid to the HPSA Member.

Section 2: When a position is eliminated and/or a reduction in force takes place, the following procedure will apply:

- (a) HPSA Members that are serving a qualifying period within the classification that is impacted by the reduction in force will be returned to their former classification first.
- (b) HPSA Members whose positions are eliminated shall be permitted to exercise their classification seniority to move laterally and displace the least senior Member in the same classification. If the impacted Member is the least senior employee in that classification, they will

displace the least senior employee in the previously held lower classification. An employee who has been displaced as a result of this procedure will have the same seniority rights as the employee whose position was eliminated.

- (c) HPSA Members who are not placed in previously held positions within this Agreement will fill a vacancy as a Police Officer or Corrections Officer as appropriate.
- (d) Notice of at least 30 calendar days must be given to HPSA Members whose positions are to be eliminated through Reduction in Force. In lieu of notice, or less than 30-day notice, an employee shall be paid the amount of salary the employee would have, received based on the employee's regular work schedule, had a 30-day notice been given.

### **Section 3: RETURN TO FORMER CLASSIFICATION RIGHTS**

- (a) If an HPSA Member has been subject to the demotion to a lower classification as a result of the reduction in force, they will be placed on a Recall to Former Classification List in classification seniority order. Members will be recalled to their former classification in seniority order as vacancies occur. Should a Member decline a return to their former classification, they will be removed from the list and all classification seniority expires.
- (b) Return to Former Classification rights do not expire while the Member is an active employee, unless the Member declines an offer of return to that classification.
- (c) Return to Former Classification List will have precedence over all other Eligibility Lists.

### **ARTICLE 25. BULLETIN BOARDS:**

- Section 1:** The CITY shall provide a bulletin board in a location agreeable to both the HPSA and CITY.
- Section 2:** The bulletin board may be used by the HPSA to post notices of interest to HPSA Members. The HPSA further agrees that it will not use the bulletin board for the purpose of disparaging the CITY or its duly authorized representatives, or for any purpose other than the announcement of the business activities of the HPSA as they relate to the HPSA Members in the HPSA.
- Section 3:** The City agrees to allow the HPSA to use the CITY's e-mail system to keep its members informed of HPSA business. The HPSA agrees to maintain an e-mail group so that only members of the HPSA will receive the e-mails and it will not unduly disrupt the day-to-day business of the CITY.

## **ARTICLE 26. RULES AND REGULATIONS:**

Section 1: Any and all conduct of the parties hereto shall be governed by this Agreement and not by any current or previous Civil Service Rules.

Section 2: HPSA Members shall be subject to the rules and regulations of the Henderson Police Department and Detention Bureau Manual where applicable, not in conflict with any specific section, article or provision of this Agreement. The CITY shall present to all members of the HPSA copies of the applicable department rules.

Section 3: Copies of any proposed changes to the Department Rules and Regulations or Detention Bureau Manual shall be submitted to the HPSA President, or his designee, thirty (30) days prior to the proposed change.

Section 4: Section 1094.6 Types of Discipline Chart will remain in this Agreement and changes to this chart will require proper bargaining between the parties.

Section 5: Record of Previous Discipline: All disciplinary matters will be removed from the HPSA Members personnel file at the following times and under the following conditions. A subsequent corrective action is defined as disciplinary action in the same general area of discipline, such as performance, attendance, or rules violations.

- (a) Written Reprimand - 24 months after the date the employee signs or is given the opportunity to sign the adjudication. Any subsequent corrective action of a similar nature shall extend the purging of the original discipline by another 12 months or the purge length of the latest disciplinary action, whichever is shortest.
- (b) Minor Suspension (less than 41 hours) - three (3) years after the date the employee signs or is given the opportunity to sign the adjudication. Any subsequent corrective action of a similar nature shall extend the purging of the original discipline by another 24 months or the purge length of the latest disciplinary action, whichever is shortest.
- (c) Major Suspension (41 or more hours) - five (5) years after the date the employee signs or is given the opportunity to sign the adjudication. Any subsequent corrective action of a similar nature shall extend the purging of the original discipline by another 24 months or the purge length of the latest disciplinary action, whichever is shortest.
- (d) Disciplinary Transfer - two (2) years after the date the employee signs or is given the opportunity to sign the adjudication. Any subsequent corrective action of a similar nature shall extend the purging of the original discipline by another 24 months or the purge length of the latest disciplinary action, whichever is shortest.

Removed documents may only be accessed by the IAB Lieutenant, Deputy Chief(s) or Chief of Police. Removed documents may be retained by the City pursuant to any applicable statutory document retention schedules; however,

such documents may not be used by the Department for disciplinary purposes in the future. Evidence of previous discipline can only be raised for rebuttal purposes in an administrative hearing if the employee claims he has no disciplinary history.

#### **ARTICLE 27. LUNCH AND REST PERIODS:**

Section 1: **Rest Periods:** Personnel will be allowed a fifteen (15) minute rest period in the first half of the shift and fifteen (15) minute rest period in the second half of the shift.

Section 2: **Lunch Break:** HPSA Members shall be allowed a lunch period not to exceed one (1) hour. Personnel will not be called away from their rest or meal periods unless an emergency situation exists. In the event that an HPSA Member is called away from his meal period due to an emergency, the supervisor shall make a second meal period available to the HPSA Member whenever possible.

Section 3: HPSA Members in the Detention Bureau shall not leave the Police Facility for purposes of lunch breaks. The CITY shall provide the on-duty Corrections Sergeants and Lieutenants with two (2) separate meals as available in the Detention Facility kitchen.

#### **ARTICLE 28. PHYSICAL AGILITY TEST:**

Section 1: No member of the HPSA Member shall be required to participate in any physical agility test, except to comply with the requirements for special assignments. Nothing in this Article shall be construed as impacting Article 10, Safety and Health, of this Agreement.

#### **ARTICLE 29. GRIEVANCE PROCEDURE:**

A grievance is defined as any dispute which arises regarding an interpretation, application, or alleged violation of any of the provisions of this Agreement or policy or procedure. A grievance can be filed on discipline with the exception of counseling sessions or verbal reprimands.

The purpose of the Grievance Procedure shall be to settle all grievances between the CITY and the HPSA as quickly as possible to ensure efficiency and promote employee morale. Should any HPSA Member, group of HPSA Members or the CITY feel aggrieved, regarding any matter or condition affecting health and safety beyond those normally encountered in all phases of normal work requirements, adjustment shall be sought.

Section 1: Any dispute concerning the interpretation or application of an expressed provision of this Agreement shall be subject to this, and exclusive to this grievance procedure.

(a) It is agreed that the CITY has a right to discipline or discharge HPSA

Members for just cause. Disciplinary matters, except oral reprimands, shall be subject to the Grievance Procedure. Oral reprimand is defined as a verbal warning which is not placed within the HPSA Member's personnel file.

- (b) No HPSA Member shall be discharged except for just cause as defined in Article 35, 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 in force.
- (c) Any grievance alleging the inappropriate termination of employment by the Chief of Police will be immediately advanced to Step 4 of the Grievance Procedure. The HPSA President and/or Grievance Committee Chairman will deliver the grievance directly to the City Manager or their designee.

All grievances must be filed in writing with the HPSA President or designee, or the Grievance Chairman within 30 calendar days of the HPSA Member becoming aware of a grievable issue. This calculation of time does not include any attempts to informally resolve the issue before filing the grievance.

**STEP 1: The HPSA GRIEVANCE COMMITTEE**, upon receiving a written and signed request, shall determine if a grievance exists. If in their opinion no grievance exists, the matter will be deemed settled. In the event the HPSA chooses not to pursue a grievance involving demotion or termination of a non-member of the HPSA, the employee filing a grievance may pursue the matter, without the assistance of the HPSA, in accordance with the remainder of this article and NRS 288. All costs incurred by the non- member, including but not limited to those outlined in Step 8 of this article, will be the responsibility of the non-member. Should the non- member choose to arbitrate their dispute, both the City of Henderson and the non- member will be required to place ten thousand dollars (\$10,000) into an escrow account to ensure the payment of the arbitrator as detailed in Step 8 of this procedure. Should the grieving non-member fail to comply with this requirement within twenty-one (21) calendar days of notification of the escrow account details via certified mail or attempted delivery via certified mail, they will forfeit their ability to arbitrate the issue and the matter will be considered withdrawn.

**RIGHT TO RECORDS:**

Once notified of grievable discipline, the HPSA Member will be entitled to review the entire investigative file used to make the adverse determination in the case.

The review will be held in the IAB office under the supervision of IAB personnel. The HPSA Member will be allowed to take notes.

In the event the HPSA Grievance Committee convenes and requests the file, the Internal Affairs Bureau will present a copy of the entire investigative file to

the HPSA Grievance Committee and HPSA Member.

Other than this Grievance Process, all Internal Affairs Records are to be kept confidential and under the control of IAB. Information related to an administrative investigation may only be released to the media or outside interests at the direction of the Chief of Police.

**STEP 2:** If a grievance exists, within thirty (30) calendar days from the date of receipt of grievance, the HPSA Grievance Committee Chairman shall, present a signed written grievance to the Police Chief or designee for adjustment.

**STEP 3:** The Police Chief or representative shall arrange for such meetings with the HPSA Grievance Committee Chairman and the HPSA President or designee and make such investigations as are necessary. The Police Chief or designee shall respond in writing to the HPSA Grievance Committee Chairman and the HPSA President or designee within thirty (30) calendar days of his receipt of said grievance. If the response does not resolve the grievance, it may proceed to Step 4.

**STEP 4:** Within thirty (30) calendar days from receipt of the written response from the Police Chief or designee, the HPSA Grievance Committee Chairman and the HPSA President or designee shall present the grievance to the City Manager through the Human Resources Director. The City Manager or designee will then make a determination within thirty (30) calendar days from the date of submission to him/her. The City Manager or designee may conduct a hearing if they deem it necessary to render their decision. In cases of termination of employment, any hearing and the ultimate decision will be accomplished within the 30 calendar days identified above.

**STEP 5:** If a mutually satisfactory settlement cannot be reached between the City Manager and the HPSA Grievance Committee Chairman and the HPSA President or designee, the HPSA Grievance Committee Chairman and the HPSA President or designee or the CITY shall have the right to refer the matter to an arbitrator mutually agreed upon for final determination. If the City Manager's response is unacceptable to the HPSA they must notify the City of its decision to arbitrate in writing within thirty (30) calendar days from the date of the City Manager's written response or the grievance shall be deemed withdrawn with prejudice.

**STEP 6:** In the event the CITY and the HPSA GRIEVANCE COMMITTEE Chairman and the HPSA President or designee cannot agree within five (5) days after the receipt of the "notice" to arbitrate, the parties shall proceed to arbitration and jointly request the Federal Mediation and Conciliation Service for the names of seven (7) arbitrators experienced in the field to be arbitrated.

- (a) One arbitrator shall be selected by alternately striking names from the list and the dispute shall be submitted to the arbitrator then remaining.
- (b) The HPSA President or designee shall strike the name of the first

arbitrator.

(c) The arbitration hearing shall be conducted under the rules of the Federal Mediation and Conciliation Service.

**STEP 7:** Jurisdiction of the Arbitrator. The jurisdiction and authority of the Arbitrator's opinion and award shall be confined exclusively to the interpretation and application of an expressed provision or provisions of this Agreement at issue between the HPSA and the CITY. The Arbitrator shall have no authority to add to, detract from, alter, amend, or modify any provision of this Agreement or impose upon any party hereto a limitation or obligation not explicitly provided for in this Agreement; to establish or alter any wage rate or wage structure or to consider any term or condition of employment not expressly set forth within a provision of this Agreement. The Arbitrator shall not hear or decide more than one grievance without the mutual consent of the CITY and the HPSA President or designee. The written award, of the Arbitrator, on the merits of any grievance adjudicated within his jurisdiction and authority as specified in this Agreement, shall be final and binding.

**STEP 8:** The Arbitrator's decision shall be final and binding, and the non-prevailing party shall pay the fee and related expenses of the arbitrator. The parties shall bear their own expenses for attorneys, court reporters and other related arbitration expenses.

**Section 2:** Grievances not filed, processed or responded to within the time limits set forth above and not extended by Agreement in writing, may be subject to unfair labor practice charges with the EMRB. Both parties to this Agreement commit to the timely resolution of all grievances, to the time frames defined herein and to proactive, timely requests for deviation from those timelines. The City Manager will ensure that the timeframes and protocols within this Grievance Procedure are followed and should be notified immediately by the HPSA if this is not occurring.

**Section 3:** Nothing herein shall preclude any HPSA Member from discussing his grievance with the HPSA GRIEVANCE COMMITTEE or his representative for informal adjustment.

### **ARTICLE 30. HPSA REPRESENTATION:**

**Section 1:** The CITY agrees to allow six (6) HPSA representatives of the HPSA to sit at the bargaining table for the purpose of negotiations without loss of pay or deduction from the HPSA Member's leave time. HPSA Members involved in the bargaining process will record their time using the appropriate TRC (Time Reporting Code) code.

(a) If for any reason additional HPSA Members are needed for informational purposes, upon Agreement by the CITY and the HPSA, said HPSA Members will be called in the meeting without loss of pay. HPSA Members involved in the bargaining process will record their time

using the appropriate TRC code.

**Section 2:** The President, or designee, of the Henderson Police Supervisors Association, as being the representative of the HPSA, will be given authority to enter the premises of the CITY during any shift for the purpose of investigating working conditions of HPSA Members covered by this Agreement, to assist in the settlement of grievances arising under this Agreement, and to post notices relative to the HPSA activities, after notifying the CITY or his supervisor of their presence on the job. It will be required that the HPSA designate for each shift an Executive Board member for the purpose of handling grievances (the HPSA President or his designee).

**Section 3:** The HPSA President shall receive a copy of all disciplinary actions against HPSA members, if HPSA Member requests.

**Section 4:** The CITY agrees to provide one thousand two hundred (1200) hours of Union Leave per fiscal year for use of the HPSA President or designee to conduct HPSA business, i.e., conventions, seminars, training, lobbying etc. HPSA Members utilizing this leave will record their time using the appropriate TRC code.

- (a) The HPSA President, or his designee, will determine the use of association leave.
- (b) The HPSA agrees not to exceed six (6) individual requests for HPSA leave at one time and, under normal circumstances, no two of the individuals can be from the same shift of the Department unless authorized by the Division Commander. All leave will be approved by the Department Head or designee.
- (c) When HPSA members participate in departmental or City committees or work groups as representatives of the HPSA (i.e. Assessment Centers and the Promotional Process, Diversity Committee, Risk Management Committee, Management Team Meetings, etc.) they will record their time using the appropriate TRC code.
- (d) Approved union leave taken during normal working hours will be considered time worked for the purposes of computing overtime.

**Section 5:** The Chief of Police or designee and the Human Resources Director or designee shall meet quarterly with representatives of the Henderson Police Supervisors Association as designated by the HPSA Executive Board. The purpose of said meetings is to informally discuss matters of concern and/or interest to either party. On-duty time shall be provided for four (4) HPSA representatives and may be increased if both parties mutually agree. HPSA Members involved in these meetings will record their time using the appropriate TRC code.

**Section 6:** During the negotiations of this Agreement, the City and the Union expressly agree that the time spent by the Union's employee representatives in

performing duties or providing services toward the purpose of this Agreement and in obtaining these joint benefits, and the allowance for the use of Union Leave, as well as attending Committee meetings and future negotiations to be conducted during normal work hours without payment for such time or reimbursement by the Unions for such time, have been negotiated with sufficient concessions pursuant to (NRS Chapter 288).

The parties acknowledge that the concessions contained in this Agreement satisfy the HPSA financial obligation for Union leave in compliance with NRS Chapter 288

#### **ARTICLE 31. CHECK-OFF:**

Section 1: The CITY agrees to deduct from the paycheck of each HPSA Member within the HPSA who has signed an authorized payroll deduction form such amount as has been designated by the HPSA as HPSA dues and is so certified by the Treasurer of the HPSA. The HPSA will certify to the CITY, in writing, the current rate of membership dues. The CITY will be notified of any change in the rate of membership dues thirty (30) days prior to the effective date of such change. The CITY may require the submission of new authorization forms when the Association increases its membership dues.

Section 2: Such funds shall be remitted by the CITY to the Treasurer of the HPSA within one (1) month after such deductions. The HPSA Member's authorization for such deduction is revocable at the will of the HPSA Member, provided by the law, and may be so terminated at any time by the HPSA Member giving thirty (30) days written notice to the CITY and the HPSA or upon termination of employment.

Section 3: The HPSA agrees to indemnify and hold the CITY harmless against any and all claims, suits, orders or judgments brought or issued against the CITY as a result of any action taken or not taken by the CITY under the provisions of this Article.

Section 4: The CITY will not be required to honor any biweekly deduction authorizations that are delivered to the payroll section after the beginning of the pay period during which the deductions should start.

Section 5: The HPSA agrees to refund to the CITY any monies paid to it in error on account of the payroll deduction provisions herein upon presentation of proper evidence thereof.

#### **ARTICLE 32. LIABILITY INSURANCE:**

The CITY shall provide liability protection for every member of the HPSA. The form of such protection shall be via self-funded or private carrier at the discretion of the CITY. The CITY shall indemnify and defend pursuant to the provisions of NRS 41.0349 and NRS 41.0339, respectively.

### **ARTICLE 33. WARRANTY OF AUTHORITY:**

The officials executing this Agreement on behalf of the CITY and HPSA signatory hereto hereby warrant and represent that they have the authority to act for, bind and collectively bargain in behalf of the organization which they represent, during the term of this Agreement.

### **ARTICLE 34. SAVINGS CLAUSE:**

This Agreement is declared to be severable and if any paragraph, phrase, sentence, or part is declared to be void by a court of competent jurisdiction, it shall not be construed to void or nullify the entire Agreement; and those parts not declared void shall be binding upon the parties provided, however, upon such invalidation the parties agree immediately to meet and negotiate such parts of provisions affected.

### **ARTICLE 35. 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 used herein which are terms used in the Local Government Employee-Management Relations Act shall have definitions ascribed to them by said Act.

Acting Pay: Sergeants and Lieutenants who are directed in writing by the Division Commander, Deputy Chief of Police, Chief of Police, or designee; to temporarily accept the responsibilities of their superior officer (Lieutenant or Captain) will be awarded acting pay. Acting pay is a form of Assignment Differential Pay and does not provide the member with rights to the classification that they are temporarily filling (they maintain the classification rights for the position they currently have). Time served in Acting Supervisory positions does not count for seniority or any other rights or eligibility requirements for promotion to the higher classification. \* HPOA Officers may be temporarily designated as Acting Sergeants per their labor agreement with the City.

Administrative Transfer: Administrative transfers occur to enhance operations, further the department's mission, or improve efficiency and effectiveness. These transfers will also occur when an act compromises the integrity of the individual or unit, and/or the performance of the employee creates an environment where the employee loses effectiveness in the unit.

Appointing Authority: Persons having power by law or by lawfully delegated authority to make appointment to positions, terminate an employee, and other matters relating to their employment.

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

Assignment Differential Pay: A temporary monetary compensation paid to HPSA Members who are assigned to Specialized Assignments within the department. ADP assignments are not promotional and therefore, no property rights exist. Employees shall only receive ADP pay for the duration of their assignment.

Base Salary: Remuneration received by the employee in accordance with the rates specified on the salary schedule established by this Agreement.

Bereavement Leave: Leave granted to an HPSA Member to attend the funeral of the HPSA Member's immediate family as defined herein.

Call-Back: When an HPSA Member returns to work during off-duty hours within twelve (12) hours of receiving the phone call to return to work.

Call-Out: When an HPSA Member works overtime with less than twenty-four hours' notice and it does not qualify as call-back overtime.

Cause: A factual reason cited by the CITY that is used to issue disciplinary action.

City Manager: The person designated as the chief executive officer having final authority by law in all matters relating to employment in the City of Henderson, except as provided for herein.

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

Classification Specifications: A written description of the work required of positions in the classification that includes the classification title, definition, authority, essential functions, and minimum or desirable qualifications. Classification specifications are descriptive, and explanatory of the general work required in positions in that classification and are not necessarily inclusive of all duties to be performed in a particular position.

Demotion: Movement of an HPSA Member from one classification to a different classification which is on a lower salary grade than the original classification. Seniority within the previous classification held will be maintained and applied during this movement.

Disciplinary Transfers: Disciplinary transfers occur where it is determined that an HPSA Member's conduct warrants a transfer as part of discipline. This transfer would be part of the disciplinary process and subject to the grievance process.

Emergency Annual Leave: Leave that may be granted after a request for immediate annual leave that, by the nature of the condition prompting the request, could not have reasonably been predicted in advance of need and been scheduled in accordance with normal departmental policy.

Gender Definition: In accordance with NRS 0.030, and except as otherwise expressly provided in a particular statute or required by this context:

- (a) The use of a masculine noun or pronoun in conferring a benefit or imposing a

duty does not exclude a female person from that benefit or duty. The use of a feminine noun or pronoun in conferring a benefit or imposing a duty does not exclude a male person from that benefit or duty;

- (b) the singular number includes the plural number, and the plural includes the singular;
- (c) the present tense includes the future tense.

The use of a masculine noun in conferring a benefit or imposing a duty does not exclude the female person from that benefit or duty. The use of a feminine noun or pronoun in conferring a benefit or imposing a duty does not exclude a male person from that benefit or duty.

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

Holiday: A day set aside for the special observance of a memorable event or occasion.

Immediate Family: A HPSA Member's spouse, mother, father, child, foster child, in loco parentis, stepchild, brother, sister, mother-in-law or father-in-law, half-brother, brother-in-law, half-sister, sister-in-law, daughter-in-law, son-in-law, grandchild, grandparent, spouse's grandparent, stepparent, or any person permanently living in the employee's household.

Incident of Use (Sick Leave): Any period of continuous absence for the same reason, or the use of sick leave for an individual non-chronic condition's repeated treatment shall be considered one incident. Use of sick leave for a scheduled medical/dental appointment or when on approved FMLA leave shall not constitute an incident of sick leave. An incident will be defined as a period of continuous absence for an item defined in Section 3 of this Article no matter how long that incident lasts. After returning to work, absences for the same incident that requires continued treatment will not be counted as a separate incident.

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 and 617.

Negotiations: The process of collective bargaining between the CITY and the HPSA that determines the Agreement between the CITY and the HPSA.

Normal Work Day: The hours normally required for an HPSA Member to work any one day or one shift pursuant to the terms of this Agreement.

Normal Work Week: An HPSA Member's normal work week will be as designated depending upon work site and classification assignment.

Overtime: Time that an HPSA Member works in addition to the HPSA Member's normal work schedule.

Probationary Employee: A HPSA Member who has been placed in a probationary review period for conduct or performance issues.

Promotion: A change of a HPSA Member 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 HPSA Member or reallocation of the position. Such advancement carries more responsibility and an increased salary. A HPSA Member on probationary or qualifying period status is not eligible to apply for closed promotional positions.

Qualifying Period: A regular employee appointed, transferred, or promoted to a non-temporary classified position in the City of Henderson may be required to serve a qualifying period of not less than six (6) months or more than nine (9) months prior to confirmation of the appointment.

Reassignment: The movement of an HPSA Member or a position from one work unit to another within the organization with no change of classification.

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

Retraction/Purging: The process by which CITY/DEPARTMENT management removes material, specifically including that of a detrimental nature relating to a specific incident regarding an HPSA Member, from CITY and DEPARTMENTAL files.

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

Salary Schedule: The step, grade, and range structure for allocation of classifications as established by this Agreement.

Salary Step: An increment within a salary grade which designates a specific pay rate.

Service Date (Anniversary Date): Usually the actual date of hire, an employee's service date is that date which reflects the length of continuous active employment with the City of Henderson. For purposes of determining seniority, or other matters associated with length of active employment, the service date shall be adjusted to accommodate any period of leave without pay in excess of thirty (30) calendar days. Prior service periods of employment will not be used in the calculation of service date. Seniority within classifications reflects the length of time of continuous active employment within the classification from the actual date of promotion to the current classification.

Shift: The hours which an HPSA Member is normally scheduled to work on any normal work day.

Shift Differential: Temporary monetary compensation paid to HPSA Members assigned to Swing Shift or Grave Shift for the duration of their assignment to that shift.

Step Increase: A salary increase between steps of a given salary range marking a steady progress from the minimum of the grade to the maximum.

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

Termination: The separation of an HPSA Member from employment with the City of Henderson.

Transfer: The formal movement of an HPSA Member or a position from one department to another department without any change to the classification of the position.

Within-Grade Increase: A salary increase from one step within a salary grade to a higher step within the salary grade.

#### **ARTICLE 36. DURATION OF AGREEMENT:**

**Section 1:** This Agreement, dated this 13<sup>th</sup> day of December, 2022, shall be effective beginning on July 1, 2021 and expiring on June 30, 2025 and shall remain in full force and effect until such time as a new Agreement is approved by the City Council. The City acknowledges it cannot make unilateral changes to this Agreement should a successor Agreement not be approved by the City Council prior to June 30, 2025, subject to the continued representation of the classifications covered by this Agreement by the Henderson Police Supervisors Association.

**Section 2:**

- (a) In the event either party desires to open negotiations concerning a subject which would require the budgeting of money by the CITY, written notice of such desire shall be given on or before February 1, 2025.
- (c) In the event either party desires to open negotiations concerning a subject which would not require the budgeting of money by the CITY, written notice of such desire shall be given on or before February 1, 2025.

**Section 3:** In the event the parties cannot negotiate a new Agreement, it is agreed that the parties shall comply with statutory impasse procedures.

**Section 4:** Each party reserves its rights as established by Chapter 288 of the Nevada Revised Statutes, as amended.

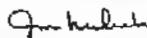
**Section 5:** Except as specifically amended by future agreements, all provisions of this Agreement shall remain in full force and effect for the term of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed and delivered this Agreement as of the effective date.

Date of Council Action: **December 13, 2022**

**CITY OF HENDERSON  
CLARK COUNTY, NEVADA**

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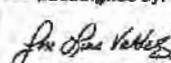
**RICHARD DERRICK**  
City Manager/CEO

01/10/2023 | 11:36 AM PST

Date

**ATTEST:**

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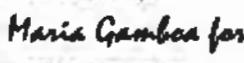


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**JOSE LUIS VALDEZ, CMC**  
City Clerk

**APPROVED AS TO FUNDING:**

DocuSigned by:

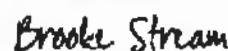


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**JIM MCINTOSH**  
Assistant City Manager/Chief Financial Officer

**APPROVED AS TO CONTENT:**

DocuSigned by:



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**BROOKE STREAM**  
Director of Human Resources

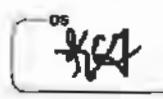
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**NICHOLAS G. VASKOV**  
City Attorney



CAO  
Review

**HENDERSON POLICE SUPERVISORS ASSOCIATION:**

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**CHRISTOPHER AGUIAR**  
Association President

12/17/2022 | 10:12 PM PST

Date

## Appendix A

During 2014 - 2016 negotiations, the parties agreed to maintain the Types of Discipline Chart that is an element of DPM-1094 within this Agreement and any changes to the Chart will be the subject of negotiations between the HPSA and the CITY.

### 1094.6 Types of Discipline Chart

The Types of Discipline Chart was developed to assist in the uniform application of our progressive discipline system.

TYPES OF DISCIPLINE CHART		
Class	Type	Subsequent Similar Violation
1	<b>Written Reprimand</b> – A letter from the Chief of Police or designee, outlining the sustained violations and future expectations.	24 months (2 years) after the date on the written reprimand. Subsequent similar violations add up to 12 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
2	<b>Minor Suspension</b> – A temporary removal from active work status, without pay for a minimum of 1 hour to a maximum of 40 hours.  <b>Removal from Promotion Lists</b> – Removal of an employee from a promotion eligibility list prior to the expiration of such list.	36 months (3 years) after the date on the notice of suspension. Subsequent similar violations add up to 24 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
3	<b>Disciplinary Transfer</b> – The reassignment of an employee from one assignment to another at the direction of the Chief of Police.  <b>Major Suspension</b> – A temporary removal from active work status, without pay, for a minimum of 41 hours to a maximum of 80 hours.	36 months (3 years) after the date on the notice of suspension. Subsequent similar violations add up to 24 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
4	<b>Reduction in Grade/Pay</b> – Reduction from one step in the pay scale to the next lower step in the pay scale or, for those employees not in a progressive pay scale, reduction of pay whether hourly or salary.  <b>Demotion</b> – Movement of an employee from one classification to a different classification which is on a lower salary grade than the original classification.	60 months (5 years) after the date on the notice of suspension. Subsequent similar violations add up to 24 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
5	<b>Termination</b> – The involuntary separation of an employee from employment with the City of Henderson.	Not Applicable

## APPENDIX B

**Wage Schedule Effective in First Pay Period to Include July 1, 2021 with 2.90% COLA Increase and 0.75% PERS Decrease**

Position Title	Grade	Hours	Step 1	Step 2	Step 3	Step 4	Step 5
Corrections Lieutenant	484	40	\$57.946	\$60.842	\$63.887	\$67.081	\$70.434
Corrections Sergeant	455	40	\$48.289	\$50.704	\$53.238	\$55.901	\$58.694
Police Lieutenant	488	40	\$59.377	\$62.343	\$65.463	\$68.735	\$72.172
Police Sergeant	477	40	\$49.479	\$51.950	\$54.552	\$57.279	\$60.144

\*COLA Increase effective June 28, 2021

\*PERS Decrease effective July 26, 2021

**Promotional Increases will occur as follows:**

<b>Corrections Officer to Corrections Sergeant OR Police Officer to Police Sergeant</b>	
<b>Officer</b>	<b>Sergeant</b>
Step 13	Step 3
Step 12	Step 2
Steps 7-11	Step 1

<b>Corrections Sergeant to Corrections Lieutenant OR Police Sergeant to Police Lieutenant</b>	
<b>Sergeant</b>	<b>Lieutenant</b>
Step 5	Step 4
Step 4	Step 3
Step 3	Step 2

**Employees will remain at the promotional wage for one (1) year**

## **Appendix C**

**The City and the HPSA agree that they shall comply with the provisions of the Family Medical Leave Act (FMLA) of 1993, as well as the City's Administrative Policy C-5, Family and Medical Leave, with regard to the administration of FMLA Leave.**

**HPSA (Complainant)**

**Opposition to City of Henderson's  
Motion to Dismiss**

FILED  
November 18, 2025  
State of Nevada  
E.M.R.B.  
4:36 p.m.

1 CHRISTOPHER M. CANNON, ESQ.  
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7 Attorneys for the Complainants

8 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

9 **STATE OF NEVADA**

10 HENDERSON POLICE SUPERVISORS )  
11 ASSOCIATION, A NEVADA ) CASE NO: 2025-019  
12 NON-PROFIT CORPORATION AND )  
13 LOCAL GOVERNMENT EMPLOYEE, )  
14 ORGANIZATION, and ITS NAMED AND )  
15 UNNAMED AFFECTED MEMBERS )  
16 )  
17 Complainants )  
18 )  
19 vs ) COMPLAINT'S OPPOSITION TO  
20 CITY OF HENDERSON ) CITY OF HENDERSON'S MOTION TO  
21 ) DISMISS  
22 )  
23 Respondents )  
24 )  
25 )  
26 )  
27 )  
28 )

19 COMES NOW, Complainants, HENDERSON POLICE SUPERVISORS  
20 ASSOCIATION (hereby "THE ASSOCIATION"), a local government employee organization,  
21 and the Associations' named and unnamed affected members, by and through their undersigned  
22 counsel, CHRISTOPHER CANNON, ESQ., and ANDREW REGENBAUM, J.D., of the  
23 NEVADA ASSOCIATION OF PUBLIC SAFETY OFFICERS (hereby "NAPSO"), and hereby  
24 submit their OPPOSITION TO THE CITY OF HENDERSON'S MOTION TO DISMISS. This  
25 is Motion is made pursuant to NRS Chapter 288, NRS Chapter 233B and NAC Chapter 288, and  
26 based upon the following points and authorities, the pleadings and documents on file with the  
27 Board.  
28

1 DATED this 18TH day of November, 2025

2

3 LAW OFFICE OF CHRISTOPHER  
4 CANNON, ESQ

5 /Christopher Cannon/

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Attorney for Complainant

10

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. STATEMENT OF FACTS**

13 The HPSA is the employee organization, as defined in NRS 288.040, which is  
14 compromised of police officers who work for the City of Henderson (local government  
15 employees), and is the sole bargaining unit for the supervisory officers of City of Henderson  
16 Police Department.

17 That the HPSA and the City of Henderson had an existing Collective Bargaining  
18 Agreement (“CBA”), beginning June 1, 2021 and ending June 30, 2025. Within that CBA, the  
19 parties had negotiated an article outlining the process of promotions and qualifications for  
20 promotion within the City of Henderson Police Department. This Article is designated within the  
21 CBA as Article 19, entitled “Promotion/Qualifying Period”.

22 That as the CBA was about to expire, the City and the Association entered into  
23 negotiations to confer on a new CBA for the subsequent years. This article - Article 19 - was still  
24 valid and in effect during the current period of negotiation, and even if the CBA expires, would  
25 be covered under the “evergreen clause” - remaining in effect until a new CBA is completed and  
26 ratified.

27 That during the negotiations, both the City and the Association wanted to make changes  
28 to Article 19 - Promotions.

1       That during the subsequent negotiation session on June 15, 2025, the City proposed a  
2 change to Article 19, attempting to address concerns about the language in Subsection B1. The  
3 language proposed to be added included the following:

4           (1) A committee comprised of the HR Business partner or designee, and two  
5 additional representatives knowledgeable in the subject (one appointed by the  
6 CITY and one appointed by the UNION) shall serve as the Appeals Committee  
7 upon conclusion of the written exam challenge process. The representatives must  
8 be incumbent level or above.

9  
10           (2) The UNION shall be allowed one (1) representative for each section of the  
11 examination, and representative(s) must be incumbent level or above.

12  
13           (a) If a subject matter expert (SME) is needed to assist with the  
14 development or review of the examination tools, Human Resources will  
15 request one (1) SME from the City and one (1) SME from the Union.

16  
17       After a caucus and upon review of language proposed by the City, the Association agreed  
18 to accept the change and asked to sign the tentative agreement - removing it from the other  
19 articles that needed to be negotiated. That inexplicably - after offering the change and subsequent  
20 to the Association agreeing to the change (effectively making it a tentative agreement), the City  
21 then withdrew the proposal, ignored the agreement and stated that the language would need  
22 further review by the City - effectively engaging in regressive bargaining.

23       Later, on July 16, 2025, both the HPSA and NAPSO Executive Director received an  
24 email from the Assistant City Attorney, Kristina Gilmore. Within the email, Gilmore provided  
25 additional changes to Article 19, including adding a Subsection 3, and then further subsections  
26 3(a)-(h). This new subsection addressed the appeals process - adding new language to who can  
27 review appeals, what parties can see appeals, creates a "challenge board" and the process of a  
28 challenging a section of the test. *This new language was not agreed upon by the Association and*

1      no tentative agreement was made to place it within the CBA.

2      Assistant City Attorney Gilmore further stated within her correspondence that:

3                "The previous version of the article did not address the challenge process,  
4                or challenge board, so we (the City) added language to clarify the  
5                challenge process and define the challenge board's purpose and  
6                composition. **These additions reflect and formalize our current**  
7                **practice**".      (Emphasis added)

8      It is the position of the Association that the changes reflected by Gilmore in her email and  
9      the proposed changes attached to that correspondence *were not agreed upon by the Association*.  
10     Those changes, as with any other changes to the CBA, must be proposed and accepted by both  
11     sides of the negotiation - **not made unilaterally by the City Attorney's Office or a designated**  
12     **Assistant City Attorney**, as the promotional process is a mandatory subject of bargaining  
13     because promotional panels are significantly related to the subjects set forth in NRS 288.150.

14     That due to the lack of agreement between the parties, until a further agreement was made  
15     in negotiations, the *existing* Article 19 in the 2021-2025 CBA would remain in effect and  
16     controlling.

17     As negotiations stalled, in September of 2025, the City of Henderson conducted a  
18     promotional testing process for the positions of Police Sergeant and Police Lieutenant. That  
19     during this designated testing process, the City *unilaterally* changed the testing process - without  
20     the consent of the Association - permitting an Assistant City Manager (ACM) and other persons  
21     from Human Resources (HR) to be added as subject matter experts and personnel that would  
22     help develop the promotional test.

23     Under the existing CBA, the City and the Association were to provide SME for the  
24     development of the written and practical exercise portion of the testing. That a City  
25     representative, Erin Long, *unilaterally* made the decision for the City to exclude the Association  
26     from providing a SME in the development of the promotional testing. Long later withdrew the  
27     exclusion - asking the Association to participate, but then again excluded the Association when  
28     the test itself was actually developed and written.

1       That the unilateral change is a prohibited labor practice under NRS 288.270(1)(e). Under  
2 the unilateral change theory, an employer commits an unfair labor practice when it changes the  
3 terms without proper negotiation. That it has been a past practice, consistent with the CBA, for  
4 HR to provide the scenario based assessment exercises to both the City SME and Association  
5 SME prior to the implementation of the test. Further both SME would then brief the external  
6 graders on the scenario and the key scoring areas of the test. This practice occur in a prior testing  
7 process.

8       That for the September 2025 testing, the Association SME was not asked to participate in  
9 the development of the test questions, was excluded from the tactical scenario planning of the  
10 assessment center, and was excluded from the period of briefing the external graders. That the  
11 Association SME were only briefed about the test questions and scenarios, *the day before the*  
12 *actual testing date - effectively removing them from the process and violating the past practice*  
13 *and terms of the existing CBA.* This change led to an alteration of test scoring which altered and  
14 affected unit members' terms and condition of employment.

15

16

17       II.      **LEGAL ARGUMENT/STANDARD**

18

19       A.      **THE BOARD SHOULD GIVE FULL WEIGHT AND HEARING TO THE**  
20       **CLAIMS BROUGHT BY THE HPSA, AS THEY HAVE BEEN WELL**  
21       **PLED AND ARE A JUSTICIALE CONTROVERSY FOR THE BOARD**  
22       **TO HEAR.**

23

24       1. THE LEGAL STANDARD

25       In evaluating a motion to dismiss, the Board must consider "all factual allegations in  
26 [the plaintiff's] complaint as true and draw all inferences in [the plaintiff's] favor."

27       *Limpraser v. PAM Specialty Hosp. of Las Vegas LLC*, 140 Nev. Adv. Op. 45, 550 P.3d  
28 825, 829 (2024) (citing *Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 244, 228, 181  
P.3d 630, 672 (2008)). The Board cannot consider facts outside of the complaint. Instead,  
a motion to dismiss tests the sufficiency of the pleadings. See *Brelian v. Preferred Equities*

1 *Corp.*, 109 Nev. 842, 846, 858 P.2d 1258, 1260 (1993) (“This court’s task is to determine  
2 whether … the challenged pleading sets forth allegations sufficient to make out the elements  
3 of a right to relief.”)

4 The Nevada Rules of Civil Procedure instruct the Board to secure a “just, speedy and  
5 inexpensive determination” of a complaint and/or civil action. NRCP 1. In order to serve that  
6 purpose NRCP 12(b)(5) entitles the Defendant to seek dismissal of a complaint when the  
7 Plaintiff failed to set forth a cognizable claim for relief.

8 There are two basis reasons for dismissal at this stage, Dismissal is proper where the  
9 complaint is not founded upon a “cognizable legal theory.” *Balistreri v Pacificia Police Dep’t*,  
10 901 F.2d. 696, 699 (9<sup>th</sup> Cir, 1988) (cited for this point in *Walsh v Green Tree Servicing, LLC*,  
11 Case No. 65066, 2015 WL 3370399 (unpublished order) (Nev. May 10, 2015). Yet, even of a  
12 complaint does manage to articulate a cognizable legal theory, dismissal is still proper if the  
13 complaint fails to allege adequate and sufficient facts to support the claim. *Id.*

14 Whether a complaint alleges a viable legal theory or not depends upon the facts as well as  
15 the applicable law. *Cf Randazza v Cox*, No. 2:12-CV-2040-JAD-PAL, 2014 WL 1407378, at 7  
16 (D. Nev. Apr. 10, 2014) (Dismissing common law claim for failure to state a claim where  
17 “Nevada law does not recognize this cause of action”).

18 When considering a motion to dismiss, the Court should take any well pled factual  
19 allegations in the complaint at face value. *Morris v Bank of America*, 110 Nev. 1274, 1276, 886  
20 P.2d 454, 456 (1994). While NCRP 8 accommodates a generous notice pleading standard, a  
21 complaint must still set forth factual allegations that are sufficient, if true, to support a viable  
22 claim of relief. *Sanchez et rel. Sanchez v. Wal-Mart Store, Inc.*, 125 Nev. 818, 823, 221 P.3d  
23 1276, 1280 (2009) (explaining that, although the Court will accept the factual allegations in the  
24 complaint as true, “the allegations must be legal sufficient to constitute the elements of the  
25 claims asserted”). Conclusory allegations alone are inadequate to state a viable claim. *See Comm.*  
26 *For Reasonable Regulation of Lake Tahoe v Tahoe Reg’l Planning Agency*, 365 F. Supp. 2d  
27 1146, 1152 (D. Nev. 2005). Where the factual allegations in the complaint fall short of alleging a  
28 viable claim, the Court should dismiss the complaint. *Danning v Lum’s Inc.*, 86 Nev. 868, 478

1 P.2d. 166 (1970).

2 The standard of notice pleading does not mean the complaint can rest on conclusory  
3 allegation and devoid of factual substance. *State v Sandler*, 21 Nev. 13, 23 P. 799, 800 (1890)  
4 (“To raise an issue before a Court facts must be stated, showing that there are real questions  
5 involved”); *Dixon v City of Reno*, 43 Nev 413, 187 P. 308, 309 (1920); *Guzman v Johnson*, 137  
6 Nev. 126, 132, 483 P.3d 531, 537, n. 7 (2021).

7 In contravention of these rules of law governing motions to dismiss, the City’s  
8 response is rife with factual allegations that attempt to undermine Complainant HPSA’s claims.  
9 Thus, the City is essentially endeavoring to convert their motion to dismiss into a motion for  
10 summary judgment<sup>1</sup> without even attempting to follow the procedural requirements for doing so  
11 or presenting facts that could meet their evidentiary burden <sup>2</sup> on a motion for summary judgment.

12 The City is not entitled to dismissal just because it denies the HPSA’s allegations,  
13 as factual issues cannot be resolved on a motion to dismiss. The City’s failure to recognize that  
14 on a motion to dismiss, HPSA’s allegations do not require proof and must be taken as true, and  
15 the City’s bizarre effort to rely on unsupported factual claims to obtain dismissal are fatal to its  
16 Motion, which should be denied without further consideration. Even if that were not the case,  
17 HPSA’s claims are cognizable, as detailed below and as the City’s own cited case law shows.

18

19                   2. APPLICATION TO THE “UNILATERAL CHANGE THEORY”

20                   NRS 288.270(1)(e) deems it a prohibited labor practice for a local government employer  
21 to bargain in bad faith with a recognized employee organization and a unilateral change to the

22

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23                   <sup>1</sup>See NRCP 12(d).

24

25                   <sup>2</sup> See NRCP 56(c)(1); see also Nev. Ass’n Servs., Inc. v. Eighth Judicial Dist. Court, 130  
26 Nev. 949, 957, 338 P.3d 1250, 1255 (2014) (“Arguments of counsel are not evidence and  
27 do not establish the facts of the case.”)

28

1 bargained for terms of employment is regarded as a per se violation of this statute. Under the  
2 unilateral change theory, an employer commits a prohibited labor practice when its changes the  
3 terms and conditions of employment without first bargaining in good faith with the recognized  
4 bargaining agent. *Boykin v. City of N Las Vegas Police Dep't*, Case No. AI-045921, Item No.  
5 674E (2010); *City of Reno v. Reno Police Protective Ass'n*, 118 Nev. 889, 59 P.3d 1212 (2002).

6 A party claiming that a unilateral change has been committed must show by a  
7 preponderance of the evidence that the actual terms of conditions of employment have been  
8 changed by the employer such that after the occurrence, which the subject of the complaint, terms  
9 of the employment differ from what was bargaining for or otherwise established. *O'Leary v. Las*  
10 *Vegas Metropolitan Police Dep't*, Item No. 803, EMRB Case No. AI-046116 (May 15, 2015);  
11 see also *Serv. Employees Int'l Union, Local 1107 v. Clark County*, Item No. 713A, Case No.  
12 AI-045965 (Oct. 5, 2010); *Krumme v. Las Vegas Metropolitan Police Dep't*, Item No. 822, Case  
13 No. 2016-010 (2017); *Brown v. Las Vegas Metropolitan Police Dep't*, Item No. 818, Case No.  
14 2015-013 (2016).

15 Typically, a complainant can meet this burden by showing the following 4 elements: (1)  
16 the employer breached or altered the CBA or established past practice; (2) the employer's action  
17 was taken without bargaining with the union over the change; (3) the change in policy concerns a  
18 matter within the scope of representation; and (4) the change is not merely an isolated breach of  
19 contract, but amounts to a change in policy (i.e. the change has a generalized effect or continuing  
20 impact on the bargaining unit members' terms and conditions of employment). *O'Leary*, at 7;  
21 *California State Employees' Ass'n v. Pub. Employment Relations Bd.*, 51  
22 Cal. App. 4th 923, 935, 59 Cal. Rptr. 2d 488,496 (1996).

23 *Here*, the City and the Association has an agreed upon process for the promotional  
24 process under the agreed upon CBA (Article 19). The City then, after reaching an impasse with  
25 the Association, about changes within the CBA, then made significant alterations to the testing  
26 process - excluding Union representatives in the testing process and further making unilateral  
27 interpretations of the CBA - which favored the City, without consultation with the Association.

28 A unilateral change occurs where an employer changes the terms of employment relating

1 to a mandatory subject of bargaining and does so without first bargaining in good faith with the  
2 recognized bargaining agent. *City of Reno v. Reno Police Protective Ass'n*, 118 Nev. 889, 899 59  
3 P.3d 1212, 1219 (2002).

4 A unilateral change is a prohibited labor practice because it amounts  
5 to a rejection of the most basic of collective bargaining principles. See *Sea Bay Manor Home*  
6 253 NLRB 739 (1980). While a unilateral change may factually align with allegations of  
7 breach of contract, see *City of Reno*, one distinguishing feature between a breach of contract  
8 and a unilateral change is that under a unilateral change, the employer's action goes beyond  
9 an isolate breach of the agreement and imposes a generalized effect or continuing impact  
10 upon bargaining unit members. *Grant District Education Association v. Grant Joint Union*  
11 *High School District* California PERB Decision No. 196, Case No. S-CE-366 (Feb. 26, 1982).  
12 The EMRB has consistently recognized that disputes asserting only a breach of the agreement,  
13 and which do not rise to the level of a prohibited labor practice, are beyond our authority. *Reno*  
14 *Police Protective Association v. City of Reno*, Item No. 16, EMRB Case No. 18273, (Aug. 16,  
15 1974).

16 However, here the City's actions do not reflect a generalized effect or change to the  
17 bargained-for terms of the collective bargaining agreement - specifically promotions. The City's  
18 unilateral changes, are not only in the singular circumstance, but constitute a broad  
19 application to any employee in the bargaining unit. Consequently under the circumstances  
20 the behavior and actions of the City transcends a mere breach of the agreement and rises to the  
21 level of a unilateral change.

22

23 3. THE HPSA'S COMPLAINT ESTABLISHES BAD FAITH BARGAINING

24 The City of Henderson acted in bad faith in violation of its duty to bargain in good faith  
25 per NRS 288.270(1). It is a prohibited practice for a local government employer willfully to  
26 refuse to bargain collectively in good faith with the exclusive representative as required in NRS  
27 288.150. NRS 288.270(1)(e). The Act imposes a reciprocal duty on employers and bargaining  
28 agents to negotiate in good faith concerning the mandatory subjects of bargaining listed in NRS

1 288.150. *Ed. Support Employees Ass 'n v. Clark County Sch. Dist.*, Case No. Al-046113, Item  
2 No. 809, 4 (2015).

3 The duty to bargain in good faith does not require that the parties actually reach an  
4 agreement, but does require that the parties approach negotiations with a sincere effort to do so.  
5 *Id.* Adamant insistence on a bargaining position or "hard bargaining" is not enough to show bad  
6 faith bargaining. *Reno Municipal Employees Ass'n v. City of Reno*, Item No. 93 (1980).

7 "In order to show 'bad faith', a complainant must present 'substantial evidence of fraud,  
8 deceitful action or dishonest conduct.'" *Boland v. Nevada Serv. Employees Union*, Item No. 802,  
9 at 5 (2015), quoting *Amalgamated Ass'n of St., Elec. Ry. And Motor Coach Emp. of America v.*  
10 *Lockridge*, 403 U.S. 274, 301 (1971). "A party's conduct at the bargaining table must evidence a  
11 sincere desire to come to an agreement.

12 The determination of whether there has been such sincerity is made by drawing inferences  
13 from conduct of the parties as a whole." *City of Reno v. Int'l Ass'n of Firefighters, Local 731*,  
14 Item No. 253-A (1991), quoting *NLRB v. Ins. Agent's Int'l Union*, 361 U.S. 488 (1970).

15 NRS 288.270(1)(e) deems it a prohibited labor practice for a local government employer  
16 to bargain in bad faith with a recognized employee organization and a unilateral change to the  
17 bargained for terms of employment is regarded as a per se violation of this statute. A unilateral  
18 change also violates NRS 288.270(1)(a). *O'Leary v. Las Vegas Metropolitan Police Dep't*, Item  
19 No. 803, EMRB Case No. Al-046116 (2015).

20 Under the unilateral change theory, an employer commits a prohibited labor practice  
21 when it changes the terms and conditions of employment without first bargaining in good faith  
22 with the recognized bargaining agent. *Boykin v. City of N Las Vegas Police Dep't*, Case No.  
23 Al-045921, Item No. 674E (2010); *City of Reno v. Reno Police Protective Ass'n*, 118 Nev. 889,  
24 59 P.3d 1212 (2002).

25 Regarding the offer itself, the City prides itself on its creativity - to agreed to the terms  
26 and in fact enter into a "tentative agreement" and then immediately move to dismiss the  
27 agreement. In its place, the City then proposes an interpretation - not agreed to by the Association  
28 - which effectively alters the promotional process completely.

1       The City, in their actions, meet the standard of “frustrating the process”, as outlined in  
2 *Clark County Defenders Union v Clark County*, Case No. 2014-14, Item No. 904 (2024). The  
3 City agreed to substantive changes in the agreed upon CBA, but then withdrew them without  
4 consideration. Then, the City advanced a directive, in which their own City Attorney’s Office  
5 interpreted the “existing process” and stated that this would be the practice until the new  
6 contract was agreed upon, in violation of the evergreen clause and existing contract language.  
7 Further, the City then ran the testing process and did not include the Union, as it had done in the  
8 past, and instead created a new testing process, without the Union’s agreement or discussion.

9       Here, the City - by their actions - now have questions if any of the agreed upon contract  
10 language would be followed and what would stop the City from further changing the articles of  
11 the CBA, without agreement or negotiation.

12       The allegations advanced alone in the Complaint are sufficient on their face, and  
13 accepting them as true, would require the Board NOT to dismiss the claim and allow the matter  
14 to go to hearing for consideration and deliberation by the Board.

15

16       4.      THE HPSA’S COMPLAINT SETS OUT NUMEROUS INSTANCES OF A  
17            PROHIBITED LABOR PRACTICE. THIS IS SUFFICIENT TO DENY THE  
18            MOTION TO DISMISS.

19       The Association brought the claim on discrimination and interference based on the  
20 actions of the City. The Association has entered into these negotiations in good faith, and has  
21 acted in accordance with all the terms of their CBA, NRS 288, and any ground rules that the  
22 parties have agreed to. The City, while arguing that they were acting in  
23 “good faith” has resorted to coercive tactics in their bargaining which has interfered with the  
24 operation of the Association and attempted to deprive them of the rights granted under NRS 288.

25       There are three elements to claim of interference with a protected right: "(1) an employer's  
26 action can be reasonably viewed as tending to interfere with, coerce, or deter (2) the exercise of  
27 protected activity, and (3) the employer fails to justify the action with a substantial and legitimate  
28 business reason." *Medec Sec. Locks, Inc. v. N.L.R.B.*, 142 F.3d 733, 745 (4th Cir. 1998); *Clark*

1      *Count Classroom Teachers Ass'n v. Clark County School Dist.*, Item No. 237, EMRB Case No.  
2      A1-04543 (1989).

3      While the City insists that it has done nothing wrong in withdrawing an agreed upon  
4      negotiation term, the Association argues that it is undermining the fundamental process of  
5      negotiation. If the City cannot be taken at its word, and terms agreed upon help up between the  
6      parties, then there is no meeting of the minds and no true agreement on the terms.

7      There is no need to "twist" these actions into the appearance of a coercive tactic - as the  
8      City suggests, the actions themselves are coercive.

9      The City has engaged in coercive interference with the Association, their bargaining  
10     rights and their remedies. In looking at the Complaint and assuming all the facts are true, which  
11     is required under a motion to dismiss, the Complaint on its face is valid and should not be  
12     dismissed.

13  
14     5.      **THE HPSA'S UNFAIR LABOR PRACTICE IS NOT SOLELY A GRIEVABLE  
15     ISSUE BUT DEMONSTRATES THE CITY'S ACTIONS TO UNFAIR AND  
REGRESSIVE BARGAINING.**

16     NAC 288.375 provides the EMRB may dismiss a matter for any of the following reason,  
17     namely: "Unless there is a clear showing of special circumstances or extreme prejudice, if the  
18     parties have not exhausted their contractual remedies, including all rights to arbitration." NAC  
19     288.375(2).

20     While the Board has exclusive jurisdiction over unfair labor practices, the parties must  
21     first exhaust their contractual remedies, "including all rights to arbitration". In the Board's  
22     discretion, the EMRB may defer to arbitration proceedings unless there is a showing of special  
23     circumstances or extreme prejudice. *City of Reno v. Reno Police Protective Ass'n*, 118 Nev. 889,  
24     895, 59 P.3d 1212, 1217 (2002).

25     Here, the Association is not complaining *solely* about the interpretations of the Article 19  
26     - the Promotional Process. The City has entered into an agreement with the Association to make  
27     changes to the process, and then unilaterally withdrew the agreement (to the City's benefit) and  
28     then made changes to the testing process itself, without the input of the Union. Therefore, the

1 Union is not simply arguing that the "interpretation" was wrong, the Association is asserting that  
2 the City: (1) participated in regressive bargaining in making changes to the Article, (2)  
3 unilaterally interpreted the Article to their benefit through the Office of the City Attorney, (3)  
4 imposed those new changes to a testing process that was occurring while the Article was  
5 "tentatively closed" and (4) then refused to redress the violation of the Article.

6 This is not simply an interpretation issue, this is an issue of bad faith bargaining that has a  
7 lasting impact on those that participated in the testing process and the entire Union itself. To  
8 force the matter to arbitration without hearing the underlying regressive bargaining issue would  
9 be a disservice to the Association and will not be addressed by an arbitrator, as they have  
10 consistently told Unions that they will not address municipalities "bad faith" bargaining claims -  
11 as they should be taken to other venues.

12 These are the exact "special circumstances" that the prior decisions by the Board have  
13 required for the matter to bypass the arbitration process.

14

### 15 III. CONCLUSION

16 The Board should deny the Motion and should after consideration of the City's  
17 Answer — assign the matter to a full panel for review and deliberation on the merits.

18

19 DATED this 18th day of November, 2025.

20

21 .BY: /Christopher Cannon/  
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27

28

**City of Henderson (Respondent)**

**Reply in Support of Its Motion to Dismiss**

FILED  
December 18, 2025  
State of Nevada  
E.M.R.B.  
10:12 a.m.

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STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

Henderson Police Supervisors Association, A  
Nevada Non-Profit Corporation and Local  
Government Employee, Organization, and Its  
Named and Unnamed Affected Members

EMRB Case No.: 2025-019

Complainants,

vs.

City of Henderson,

Respondent.

RESPONDENT CITY OF  
HENDERSON'S REPLY IN SUPPORT  
OF ITS MOTION TO DISMISS

Respondent City of Henderson ("City"), by and through its undersigned counsel,  
hereby submits this Reply in Support of its Motion to Dismiss the Complaint filed by the  
Henderson Police Supervisors Association ("HPSA" or "Union") pursuant to NRS Chapter  
288 (the Employee-Management Relations Act), NRS Chapter 233B and NAC Chapter 288

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1 and based upon the following points and authorities, the pleadings and documents on file with  
2 the Board.

3 Dated this 18<sup>th</sup> day of December 2025.

4 CITY OF HENDERSON

5 *Is/ Brandon Kemble*  
6 BRANDON P. KEMBLE  
7 Assistant City Attorney  
8 Nevada Bar No. 011175  
9 240 Water Street, MSC 144  
Henderson, NV 89015

10 Attorney for Respondent  
11 City of Henderson

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. ARGUMENT**

14 **A. The Union Cites the Wrong Standard**

15 The Union argues that the applicable standard for a motion to dismiss is governed by  
16 the Nevada Rules of Civil Procedure. (Union Response at 5). However, this is not the  
17 applicable standard. *See Nevada Service Employees Union vs. Clark County Water*  
18 *Reclamation District*, Case 2024-030, Item No. 905 (2024) (detailing EMRB standard for  
19 motion to dismiss). In *Nevada Service Employees Union vs. Clark County Water Reclamation*  
20 *District*, the union argued that “the Board must apply the same standard as a motion to dismiss  
21 brought under NRCP 12(b)(5).” *Id.* However, “the Board is not subject to the Nevada Rules  
22 of Civil Procedure because the Nevada Rules of Civil Procedure do not apply to administrative  
23 proceedings unless expressly adopted by the agency.” *Id.* Reviewing the applicable  
24 regulations, the Board concluded that the NRCP motion to dismiss standards were  
25 inapplicable in motions to dismiss before the Board. *Id.*

26 The actual applicable standard was set forth in the City’s initial Motion. In short, the  
27 questions for the Board are whether there is probable cause and a clear and concise statement

1 of facts establishing a legal violation of the Act. *Coury v. Whittlesea-Bell Luxury Limousine*,  
2 102 Nev. 302, 308 (1986); *see also Nevada Service Employees Union, v. Clark County Water*  
3 *Reclamation District*, Case No. 2024-030, Item No. 905 (EMRB, Dec. 17, 2024). The City  
4 has previously pointed out that the Union's standard of review argument has been rejected by  
5 the Board. (See EMRB Case No. 2025-018). Why the Union continues to attempt to pave this  
6 non-existent pathway is unknown. Despite the Union's apparent faith that this argument will  
7 eventually prevail, the City is unaware of any rationale for the Board to use a different standard  
8 from the one articulated in *Nevada Service Employees Union*. Therefore, the Board should  
9 ignore the entirety of Argument point A in the Union's brief.

10

11 **B. The Union Failed to Establish a Viable Unilateral Change Claim.**

12 As the City fully articulated in its opening brief, the Union's unilateral change theory  
13 is fatally defective. To establish a viable unilateral change claim, the change at-issue must be  
14 to a mandatory subject. *See Consolidated Municipality of Carson City vs. Carson City*  
15 *Employees Association, et al.*, Case No. A1-045498, Item No. 276, Dec. Order (1992) ("a  
16 unilateral decision to become self-insured or to select an administrator would not be a  
17 prohibited unfair labor practice unless it 'changed a term that is a mandatory rather than a  
18 permissive subject of bargaining.'") (internal citations omitted). This concept is confirmed by  
19 the Union's citations. *Boykin v. City of N Las Vegas Police Dep't*, Case No. A1-045921, Item  
20 No. 674E (2010) ("an employer commits a prohibited labor practice when it changes the terms  
21 and conditions of employment which fall under the subjects of mandatory bargaining listed in  
22 NRS 288.150 without first bargaining in good faith with the recognized bargaining agent.").

23 Here, the subject matter at-issue is promotions. Thus, unless promotions constitute a  
24 mandatory subject of bargaining, the Union's argument fails at the outset. As the City  
25 previously explained, promotions are a permissive subject, not a mandatory one. *See Nevada*  
26



1 *Service Employees Union, v. Southern Nevada Health District*, Case No. 2024-009, Item No.  
2 903 (2024). The Union fails to establish otherwise. Therefore, the Union cannot establish a  
3 viable unilateral change claim.

4 Curiously, the Union spends no time defending its position that promotions are a  
5 mandatory subject of bargaining or otherwise addresses the City's referenced cases on the  
6 permissive nature of promotions. Instead, the Union focuses on whether the City's purported  
7 changes were significant enough to constitute a change in policy as opposed to a simple breach  
8 of contract. But that argument only addresses whether there was, in essence, a material change.  
9 It does nothing to salvage the Union's failure to point to a mandatory subject at-issue. As the  
10 Union has failed to articulate sufficient allegations establishing a viable claim that the City  
11 unlawfully and unilaterally changed a *mandatory* subject of bargaining, this claim should be  
12 dismissed.  
13

14 **C. The Union's General Bad Faith Bargaining Claim is Equally Deficient.**

15 Next, the Union's general bad-faith bargaining claim is equally deficient. As the Union  
16 notes, bad faith bargaining must include "*substantial evidence* of fraud, deceitful action or  
17 dishonest conduct." (Union Response at 10) (emphasis added). The only factual allegations  
18 the Union cites in support of its bad faith bargaining claim are (a) the City made unilateral  
19 changes to the City's promotional processes (which were discussed in full above) and (b) the  
20 City rescinded a bargaining proposal that the Union wanted to accept. The Union contends  
21 these allegations support a finding that the City was "frustrating the process". (Union  
22 Response at 11). The Union is incorrect.  
23

24 Notably, the Union does not cite to any case finding bad faith bargaining under similar  
25 allegations at-issue here. Rather, the Union simply references that (a) bad faith bargaining is  
26 when a party "frustrates the process" and that (b) the Union found the City's purported actions  
27 when a party "frustrates the process" and that (b) the Union found the City's purported actions  
28

1 frustrating. Even if the Union found the City irritating, personal feelings do not serve as the  
2 basis of a bad faith bargaining charge. The Union needed to set forth allegations sufficient to  
3 find that the City's actions *objectively* demonstrated the City did not want to reach an  
4 agreement. *See City of Reno v. Reno Police Protective Ass'n*, Case No. A1-046096, Item No.  
5 790 (2013) (relevant question is whether the Board finds the totality of the conduct evidences  
6 a desire to reach an agreement). Put differently, simply claiming it was annoyed by the City,  
7 is not enough. The Union needed to set forth allegations that indicated it was unwilling to  
8 bargain and, therefore, frustrating the bargaining process as a whole. That's not what occurred  
9 here, according to the Union's own allegations. By extension, the Union's bad faith bargaining  
10 claim should be dismissed as well.

12 **D. The Union's Coercive Allegations are Meritless**

13 The Union's allegations that the City has engaged in coercion are entirely derivative  
14 of its other allegations. If they are not sufficient to establish a bargaining violation, they cannot  
15 independently validate an interference charge.

17 **E. The Union Failed to Demonstrate that it Shouldn't be Obligated to Exhaust  
18 its Contractual Remedies.**

19 Finally, the Union's argument that it should not be obligated to follow its contractually  
20 bargained-for process, i.e. its own grievance process, is unavailing. The Union fights against  
21 being obligated to use the grievance process, or deferral, suggesting that the allegations  
22 against the City involve more than a contractual violation. The Union contends that it "is not  
23 complaining *solely* about the interpretation of the Article 19 – the Promotional process." The  
24 Union says it is also arguing the City unilaterally withdrew an agreement, i.e. engaged in bad  
25 faith bargaining. The problem with the Union's suggestion is that it is not supported by its  
26 own allegations. According to the Complaint, the parties never had an agreement. The City  
27 stated it wanted to consider the proposal further before reaching an ultimate agreement. Thus,  
28



1 the Union's factual allegations do not support its argued legal conclusion.

2 The Union's main, if not sole, argument is that the City conducted a promotional  
3 process in a manner contrary to the parties' contract. The Union has filed grievances on these  
4 issues, challenging the City's actions on promotions. The City has denied any contractual  
5 breach; the City's actions were consistent with the CBA as well as its managerial authority  
6 pursuant to the CBA and applicable state laws. This is the exact type of case that should be  
7 processed through the parties' grievance procedure. *Las Vegas City Employees' Ass'n v. City*  
8 *of Las Vegas*, Case No. 2021-008, Item No. 884 (2023). The Union has proffered the Board  
9 should allow the Union to avoid its contract obligations for resolving contractual disputes.  
10 Given the interpretation of the contract is the main issue, the Union must be required to  
11 arbitrate this dispute.

## II. CONCLUSION

15 Based on the foregoing, the City respectfully requests the Board dismiss the Complaint  
16 for failing to provide adequate notice and failing to present a justiciable controversy under  
17 NRS Chapter 288 for the Board's review.

18 Dated this 18<sup>th</sup> day of December 2025.

## CITY OF HENDERSON

*/s/ Brandon Kemble*  
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Attorney for Respondent  
City of Henderson

**CERTIFICATE OF SERVICE**

2 I hereby certify that on the 18<sup>th</sup> day of December 2025, the above and foregoing,  
3 **RESPONDENT CITY OF HENDERSON'S REPLY SUPPORTING ITS MOTION TO**  
4 **DISMISS**, was electronically filed with the EMRB ([emrb@business.nv.gov](mailto:emrb@business.nv.gov)) and served by  
5 depositing a true and correct copy thereof in the United States mail, postage fully prepaid  
6 thereon, to the following:

Christopher Cannon, Esq.  
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145 Panama Street  
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/s/ Laura Kopanski  
Employee of the Henderson City Attorney's Office

