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City of Las Cruces[®]
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Council Action and Executive Summary

Item # 7 Ordinance/Resolution# 13-062

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of November 5, 2012
 (Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING AMENDMENTS TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND THE LAS CRUCES POLICE OFFICERS' ASSOCIATION.

PURPOSE(S) OF ACTION:

Amend two (2) articles of the current collective bargaining agreement.

COUNCIL DISTRICT: N/A		
<u>Drafter/Staff Contact:</u> Andre Moquin	<u>Department/Section:</u> Human Resources	<u>Phone:</u> 528-3401
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In May 2010 Council approved the collective bargaining agreement (CBA) between the Las Cruces Police Officers' Association (Police Union) and the City of Las Cruces (City).

In accordance with Section 15 of the agreement, the parties began negotiations on February 22, 2012. On April 24, 2012 the Police Union declared impasse. In accordance with LCMC 15-15 (c) (1), the parties requested assistance from the Federal Mediation and Conciliation Services (FMCS).

A mediation session was held and did not result in an agreement. On May 29, 2012 the parties requested an arbitration panel from FMCS. An arbitration hearing was scheduled for October 30, 2012.

The parties maintained open communication in this interim period and were able to reach agreement on all outstanding issues on Wednesday, October 17, 2012, which resulted in proposed changes to Section 15 Compensation and Section 33 Discipline.

Changes to Section 15 reflects a one and one half (1.5) percent increase to the wages of employees represented by the Police Union. (Exhibit "A") The increase will be effective at the beginning of the first full pay period after Council approval (Sunday, November 18, 2012). If

(Continue on additional sheets as required)

approved, the estimated budgetary impact will be one hundred and twenty thousand (\$120,000.00) dollars.

Changes to Section 33 include amendments to better define the level of infraction necessary to be defined as an administrative sanctions within the disciplinary process. (Exhibit "B")

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Section 15. Compensation.
3. Exhibit "B", Section 33. Discipline.

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the ____ Fund.
Does this action create any revenue? N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: in the amount of \$ ____ for FY ____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

The total increase from these changes are estimated at \$120,000, and were included as part of the approved FY13 Budget. Appropriate adjustments to Police Department budget will be made.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Various	Various	Various	Various	Various	Various

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the negotiated changes to the Police Union Agreement.
2. Vote "No"; this will require the parties resume negotiations.

(Continue on additional sheets as required)

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

(Continue on additional sheets as required)

RESOLUTION NO. 13-062

A RESOLUTION APPROVING AMENDMENTS TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND THE LAS CRUCES POLICE OFFICERS' ASSOCIATION.

The City Council is informed that:

WHEREAS, in May 2010 Council approved the collective bargaining agreement (CBA) between the Las Cruces Police Officers' Association (Police Union) and the City of Las Cruces (City); and

WHEREAS, in concurrence with Section 15 of the CBA the parties began negotiations on February 22, 2012; and

WHEREAS, on April 24, 2012 the Police Union declared impasse; and

WHEREAS, in accordance with LCMC 15-15 (c) (1), the parties requested assistance from the Federal Mediation and Conciliation Services (FMCS); and

WHEREAS, on October 17, 2012 the parties were successful in reaching agreement on all negotiated items; and

WHEREAS, changes to Section 15 results in a one and one half (1.5) percent increase to the wages of employees represented by the Police Union; and

WHEREAS, changes to Section 33 reflects a better definition of the level of infraction necessary to be defined as an administrative sanctions within the disciplinary process.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the amendments to the CBA, Sections 15 and 33, attached herein as Exhibits "A" and "B" are hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 20_____.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

SECTION 15 – COMPENSATION:

- A. Step increases will continue for the second and third year of the contract.
- B. Effective on the first full pay period after adoption of the agreement by City Council and ratification by union membership, all bargaining unit employees shall receive a one and one half (1.5) percent increase to base wages.

D. PROCEDURES

1. Upon discovering a violation, the reporting supervisor shall;
 - a. Submit a written recommendation to the appropriate Deputy Chief for review and final recommendation to the Chief of Police or Departmental Designee.
 - b. Only the Chief of Police or Departmental Designee shall authorize any disciplinary action deemed necessary for the violations cited.
 - c. The employee may accept the imposed discipline. If the employee does not agree with the imposed discipline he/she may direct his/her concerns to the LCPOA President.
 - d. The POA President and Chief of Police or designee by agreement may meet to discuss an informal resolution on discipline matters involving the loss of pay.
 - e. Final imposition of discipline rests solely with the Chief of Police or Departmental Designee. At the discretion of the Chief, employees may be allowed the forfeiture of vacation or comp time in lieu of leave without pay. (Any further remedies can be found in Section 33 of this contract.)

E. LOUDREMILL HEARING

1. In the event an employee is terminated, demoted, or suspended for more than two (2) working days, the City Manual of Personnel Policy regarding "Loudermill Hearings" shall be adhered to. There shall be a meeting with an employee explaining the reasons for an involuntary transfer.
- F. The Peace Officer's Employer/Employee relations Act (Officer's Bill of Rights) shall be applied and adhered to, throughout the procedures in this section and others.

SECTION 33 - DISCIPLINE:**A. POLICY**

Department, Bureau, Division, and Section commanding officers may exercise Discipline for members' violations of City policy, the Department's General Orders, Special Orders, Administrative Orders, and Rules and Regulations.

B. ELIGIBLE VIOLATIONS

1. Discipline will be applied in a corrective, progressive, and uniform manner unless the facts of the situation warrants a more severe discipline. It shall be the responsibility of the Chief or his Departmental Designee to determine what situations warrant more severe discipline.

Discipline shall take into account the circumstances surrounding the incident, the nature of the violations, the employee's record of discipline, and the employee's record of performance and conduct.

2. Disciplinary action in the form of a suspension may be implemented immediately or postponed pending the outcome of a Grievance or Appeal, dependant on the needs of the Department as determined by the Chief of Police.

C. PENALTIES

Discipline penalties shall be limited to any one of the following:

- Verbal reprimand*
- Corrective action*
- Written reprimand
- Suspension without pay
- Disciplinary transfer
- Terminations

Nothing in this order is meant to prohibit a supervisor or Commanding Officer from, nor relieve same of the responsibility for initiating and/or conducting necessary and appropriate training, as determined by the Department. Verbal reprimands must be specifically recognized by the employee and the supervisor as such. Corrective action is defined as a supervisory action taken to correct an employee's work related performance or behavior problem.

*Verbal reprimands and corrective actions are not considered administrative sanctions.