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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

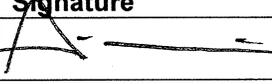
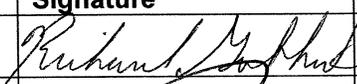
Item # 2 Ordinance/Resolution# 10-002 Council District:       

For Meeting of July 6, 2009  
 (Adoption Date)

**TITLE:**

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

**PURPOSE(S) OF ACTION: Amend two (2) articles of the current labor agreement.**

<b>Name of Drafter: Andre Moquin</b>		<b>Department: Human Resources</b>		<b>Phone: 528-3100</b>	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Originating Department		528 3461	Budget		2300
			Assistant City Manager		
Legal		541-2128	City Manager		7079

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

In January of 2007 Council approved a three (3) year collective bargaining agreement between Las Cruces Police Officers' Association and the City of Las Cruces.

**SECTION 15 – COMPENSATION** paragraph 6 allowed the parties to reopen the agreement to negotiate compensation and one other article in the final year of the agreement. The Union notified the City administration on January 14, 2009 of its desire to begin negotiation.

The parties first met in December of 2008 and negotiations were successfully completed on June 11, 2009.

Negotiations resulted in amendments to Section 15 which calls for an additional eight (8) hours of personal leave in lieu of an increase to base wages. The second negotiated section, Section 32 – Professional Standards Section, included changes to include more specificity in a POA representatives rights during the course of an

(Continue on additional sheets as required)

investigation and the addition of a “sustained other” conclusion for investigation summaries.

The direct costs associated with this resolution are limited and will most likely be associated with occasional overtime required to meet organizational needs during periods of employee leave.

This results in modifications to:

1. Section 15 - Compensation stipulates that in lieu of a salary increase, bargaining unit employees will receive an additional eight (8) hours of personal leave in the third and final year of this contract.
2. Section 32 – Professional Standards Section which clarifies procedures for activities undertaken by the professional standards section.

**SUPPORT INFORMATION:**

Fund Name / Account Number	Amount of Expenditure	Budget Amount
Various	Various	

*List your exhibits and attachments after the fund box just like the example below.*

1. Resolution.
2. Section 15 – Compensation strike through
3. Section 15 – Compensation final
4. Section 32 – Professional Standards Section strike through
5. Section 32 – Professional Standards Section final

**OPTIONS / ALTERNATIVES:**

1. Vote “yes”, approving amendments to the Collective Bargaining Agreement between the Las Cruces Police Officers’ Association and the City of Las Cruces.
2. Vote “no”, approving amendments to the Collective Bargaining Agreement between the Las Cruces Police Officers’ Association and the City of Las Cruces.
3. Modify the Resolution.

(Continue on additional sheets as required)

**RESOLUTION NO. 10-002**  
**A RESOLUTION APPROVING AMENDMENTS TO THE CURRENT  
COLLECTIVE BARGAINING AGREEMENT BETWEEN THE LAS CRUCES  
POLICE OFFICERS' ASSOCIATION AND THE CITY OF LAS CRUCES..**

The City Council is informed that:

**WHEREAS**, in January, 2007 the City Council approved a three (3) year collective bargaining agreement between the Las Cruces Police Officers' Association and the City of Las Cruces; and

**WHEREAS**, section 15 - Compensation of this contract stipulate the contract could be re-opened to negotiate compensation and one other article during the final year of the agreement; and

**WHEREAS**, the parties first met in December, 2008 and negotiations were successfully completed on June 11, 2009; and

**WHEREAS**, section 15 - Compensation will be amended to include a new paragraph; and

**WHEREAS**, this new paragraph provides a additional eight (8) hours of personal leave to bargaining unit members in lieu of a increase to base wages for the final year of this agreement; and

**WHEREAS**, section 32 – Professional Standards Section will be amended to clarify procedures for this investigative section; and

**WHEREAS**, the cost associated with these amendments will most likely take the form of occasional overtime required to meet organizational needs during periods of employee leave.

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

(I)

THAT City Council hereby approves amendments to the collective bargaining agreement between the City of Las Cruces and the Las Cruces Police Officers' Association.

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

DONE AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.

APPROVED:

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE:

Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Connor: \_\_\_\_\_  
Councillor Archuleta: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Jones: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

*[Signature]*  
Deputy City Attorney

**SECTION 15 – COMPENSATION:**

A. Effective on the first full pay period after adoption of this article by the City council and ratification by Union membership, all eligible bargaining unit employees, in lieu of an increase to base rate, shall receive an additional eight (8) hours of personal leave. This additional eight (8) hours will be in effect until July 1, 2010. Employees may choose to take all eight (8) hours at once or in increments of no less than two (2) hours. Leave will be requested as per applicable policy.

B. Step increases will continue for the term of this agreement in accordance with city's rules and regulations.

~~Effective with the approval of the City Council Animal Control Officers, Codes Enforcement Officers, Transport Officers, Evidence Technicians and NCIC Coordinators will receive a three and one half (3.5) percent increase to base wages in accordance with the pay tables attached as Attachment A.~~

~~Effective July 1<sup>st</sup>, 2007 Police Officers, Traffic Investigators and Detectives will receive a three (3) percent increase to base wages in accordance with the pay tables attaches as Attachment B.~~

~~Effective December 31st 2007 Police Officers, Traffic Investigators and Detectives will receive a five (5) percent increase to base wages in accordance with the pay tables attaches as Attachment C.~~

~~Effective January 15th 2008 Animal Control Officers, Codes Enforcement Officers, Transport Officers, Evidence Technicians and NCIC Coordinators will receive a three and one half (3.5) percent increase to base wages in accordance with the pay tables attached as Attachment D.~~

~~Effective July 1st 2008. Police Officers, Traffic Investigators and Detectives will receive a two and one half (2.5) percent increase to base wages in accordance with the pay tables attaches as Attachment E.~~

~~Between September 2008 and December 2008, either party may notify the other in writing of its desire to reopen this Agreement, provided such reopener shall be limited to Section 15 Compensation and one (1) other section. Upon such notice given, the duly authorized representatives of the parties shall meet for the purpose of negotiating~~

~~with respect to said matters. All other provisions of this Agreement shall remain in full force and effect during any reopening.~~

~~This compensation increases shall become effective on the first full pay period after dates specified above.~~

~~Step increases will continue for the term of this agreement in accordance with city's rules and regulations.~~

**SECTION 15 – COMPENSATION:**

- A. Effective on the first full pay period after adoption of this article by the City council and ratification by Union membership, all eligible bargaining unit employees, in lieu of an increase to base rate, shall receive an additional eight (8) hours of personal leave. This additional eight (8) hours will be in effect until July 1, 2010. Employees may choose to take all eight (8) hours at once or in increments of no less than two (2) hours. Leave will be requested as per applicable policy.
  
- B. Step increases will continue for the term of this agreement in accordance with city's rules and regulations.

**SECTION 32 – PROFESSIONAL STANDARDS SECTION:**

Whenever any peace officer is under investigation by the Department for alleged actions that could result in administrative sanctions being levied against the officer, the following shall be adhered to: Lack of ~~technical~~ compliance with the investigativethis sections of the Police Officer's Bill of Rights shall not preclude the Department from taking disciplinary action.

- A. Any interrogation shall be conducted when the officer is on duty or during his normal waking hours, unless the urgency of the investigation requires otherwise;
- B. Any interrogation shall take place at a location designated by the investigating officer, usually a police department facility, unless the urgency of the investigation requires otherwise;
- C. Prior to commencement of any interrogation session:
  1. An officer shall be informed of the name and rank of the person in charge of the interrogation and all other persons who will be present during the interrogation;
  2. An officer shall be informed of the nature of the investigation, and the names of all known complainants shall be disclosed to the officer unless the Chief or his Department Designee determines that the identification of the complainant shall not be disclosed because it is necessary for the protection of an informant or because disclosure would jeopardize or compromise the integrity or security of the investigation; and
  3. A reasonable attempt shall be made to notify the officer's commanding officer of the pending interrogation.
- D. During an interrogation session, the following requirements shall be adhered to:
  1. Each interrogation session shall not exceed two hours unless the parties mutually consent to continuation of the session;
  2. There shall not be more than two interrogation sessions within a twenty-four hours period, unless the parties mutually consent to additional sessions, provided that there shall be at least one-hour rest period between sessions;
  3. The combined duration of an officer's work shift and any interrogation session shall not exceed fourteen hours within a twenty-four hour period, unless the urgency of the investigation requires otherwise;
  4. There shall not be more than two interrogators at any given time;
  5. An officer shall be allowed to attend to physical necessities as they occur in the course of the interrogation session;

6. An officer shall not be subjected to offensive language or illegal coercion by his interrogator in the course of an interrogation session.
- E. When any officer is under investigation for an administrative matter, the officer shall be permitted to produce any relevant documents, witnesses or other evidence to support his case.
- F. Any interrogation of an officer shall be recorded, either mechanically or by a stenographer, and the complete interrogation shall be published as a transcript; provided that any recesses called during the interrogation shall be noted in the transcript; and
- G. An accurate copy of the transcript or tape shall be provided to the officer, upon his written request, no later than fifteen working days after the investigation has been completed.
- H. An officer, must as a condition of continuing employment, truthfully and completely answer any and all questions relating to the matter under investigation whether the officer is a participant or a witness to the matter. The determination of whether a question is relevant to the matter under investigation shall be made solely by the investigator.
- I. The Department shall afford an opportunity if he/she requests, to consult with a POA representative before being questioned, provided the interrogation is not delayed more than two (2) hours and a POA representative may be present during the interrogation, ~~as a silent witness. The investigating officer may remove any party interfering with the interrogation. The POA representative may exercise the following rights:~~
  - a. The right to consult with the employee prior to the interview.
  - b. The right to determine what the allegations are prior to the interview.
  - c. The right to privately consult with the employee during the interview.
  - d. The right to offer investigatory leads at the conclusion of the interview.
  - e. The right to offer mitigating circumstances at the conclusion of the interview.

The investigating officer may remove any party interfering with the interrogation.

- J. In the event a PSU investigator has evidence of an intentional false police report, these observations and opinions may be included as part of the investigative report. In these cases, event it is determined that the complainant falsified his/her statements, the City may take whatever action it deems appropriate and the officer may at his/her discretion pursue whatever legal remedies are available.
- K. The Chief may order a polygraph examination, and only after the following has been done:
1. All reasonable investigative means have been exhausted.
  2. The officer has been advised of the Chief's reasons for ordering the polygraph examination.
- L. At the end of the investigation, the PSU investigator will submit ~~prepare~~ a written summary to the Chief, containing:
1. an outline of the alleged conduct
  2. the finding relative to the alleged actions
  3. specific violations, if any are shown to the evidence
  4. ancillary issues developed during the investigation
  5. conclusion with a recommended finding for each allegation as follows:
    - a. SUSTAINED - conduct alleged apparently occurred and amounts to misconduct
    - b. NOT SUSTAINED - insufficient evidence exists to clearly prove or disprove allegation
    - c. UNFOUNDED - act alleged apparently did not occur
    - d. EXONERATED - personnel's conduct was lawful, justified and proper
    - e. OFFICE INVESTIGATION - complainant failed to cooperate with the investigation and there is not enough evidence available to draw a fair conclusion
    - f. SUSTAINED OTHER - the employee was determined to have committed a violation other than what was originally alleged.
- M. At the time that the written summary is approved by the Chief, a written notice will be provided to the officer, notifying him/her of the completion of the investigation. Upon the Chief's receipt of the written summary, the Chief will render a decision regarding disciplinary action within a reasonable period of time and make notice of his decision to the officer. PSU will submit a monthly report to the Chief, listing all outstanding PSU investigations submitted to the Chief for approval.

M.N. A member may sign a privacy waiver allowing a POA representative to view any allowable investigative materials as per the officers' bill of rights, and to inquire about the status of a pending investigation.

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