



# **AGREEMENT**

**BETWEEN**

**CITY OF RIO RANCHO**

**AND THE**

**AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES  
LOCAL 3277**

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## **Term of Agreement**

**This agreement is to be effective October 13, 2016, and is to remain effective until and including June 30, 2020**

CITY OF RIO RANCHO-AFSCME COLLECTIVE BARGAINING AGREEMENT

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**Appendix A – List of Current Job Titles**

# **AGREEMENT**

**Between**

**THE CITY OF RIO RANCHO**

**And**

**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES  
LOCAL 3277**

## **AGREEMENT**

THIS AGREEMENT is entered into this 13th day of October, 2016 between the City of Rio Rancho ("City") and the American Federation of State, County and Municipal Employees, Local 3277, AFL-CIO, as representative of the employees in the City of Rio Rancho Bargaining Unit ("Union") for and on behalf of all employees to whom it applies, pursuant to Public Employee Bargaining Act (PEBA), (10-7E-1 through 10-7E-26 NMSA 1978) effective beginning on the 13th day of October, 2016 through the 30th day of June, 2020.

## **PREAMBLE**

**WHEREAS**, City and Union recognize the mission, goals and obligations of the City of Rio Rancho as a provider of services to the citizens of the City of Rio Rancho through its employees, and that the best possible services and programs to the public should be provided consistent with available resources; and

**WHEREAS**, City and Union agree to uphold the wellbeing and care of the citizens of Rio Rancho and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of City Government; and

**WHEREAS**, City and Union recognize it is in the best interest of both Parties, the employees and the public that all dealings between the Parties continue to be characterized by mutual responsibility, respect and open communication; and

**WHEREAS**, the Parties agree that to ensure that this relationship continues and improves, City and Union, and their respective representatives at all levels, will apply the terms of the agreement fairly in accord with its intent and meaning and consistent with Union's status as exclusive bargaining representative of all employees in the unit; and

**WHEREAS**, the Parties shall bring to the attention of all employees in the unit, including new hires, (1) their purpose to conduct themselves in a spirit of responsibility, respect and open communication and (2) the measures they have agreed upon to ensure adherence to this purpose; and

**WHEREAS**, while acknowledging each Party's right to appropriate privileged communication with the Party's organization, City and Union agree to cooperate in every reasonable way in carrying out the provisions hereof and to exchange such information with respect to this Agreement as is mutually deemed essential for the furtherance of harmonious relations; and

**WHEREAS**, the purpose of this Agreement is to provide reasonable terms and conditions of employment for employees covered hereunder and a means of amicable and equitable adjustment of any and all differences of grievances which may arise under the provisions of the Agreement, all of which the parties hereto believe and affirm will ensure the welfare and benefit of the people of the City of Rio Rancho; and

**WHEREAS**, it is the intention of the Parties to this Agreement to set forth the entire agreement with respect to matters within the scope of negotiations; and

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, both Parties, who do agree as follows, enter into this Agreement in consideration of the mutual performance thereof in good faith:

## **ARTICLE 1** **RECOGNITION**

### **1.1 – Public Employees Bargaining Act**

The Public Employee Bargaining Act (PEBA), (10-7E-1 through 10-7E-26 NMSA 1978) was enacted to guarantee employees the right to organize and bargain collectively with the City, to protect the rights of the City, employees, and labor organizations, and to promote harmonious and cooperative relationships between the City and the employees; and to acknowledge the rights of the citizens to the orderly and uninterrupted delivery of services.

### **1.2 – Inclusions**

The City hereby recognizes the American Federation of State, County and Municipal Employees, Local 3277, AFL-CIO, as the exclusive representative for the purposes of collective bargaining with respect to wages, hours, benefits and terms and conditions of employment for all employees included in the recognized bargaining unit.

The bargaining unit for which this recognition is accorded is as defined in the certifications issued by the State of New Mexico, Public Employee Labor Relations Board (PELRB), on December 4, 1996, and as modified by City and Union in this and/or subsequent collective bargaining agreements.

This Agreement includes all full-time and part-time regular employees in the classifications and positions listed in Appendix A of this Agreement, except for those full-time and part-time employees excluded in Section 1.3 of this Article.

### **1.3 – Exclusions**

This Agreement specifically excludes: (1) the supervisory, managerial and confidential employment positions determined by PEBA; (2) such employment positions as the Parties shall agree to be excluded under this current Agreement; (3) seasonal employees, temporary employees and term employees; and (4) permanent part-time non-bargaining unit positions which work less than 20 hours per week.

The City recognizes the integrity of the certified bargaining unit, and will not use seasonal, temporary employees and term employees for the purpose of eroding the bargaining unit. Appeals by the Union shall be submitted in accordance with the "Grievance" provisions of Article 14 of this Agreement. Should the grievance be unable to be resolved, the matter shall be appealed to the PELRB.

### **1.4 – Job Titles; Positions**

New positions are approved by the Governing Body either through the budget process or budget amendment process. Existing job titles or positions may be revised or adjusted to accommodate the changes in the City's responsibilities and organization.

New Job Titles – When the City establishes a new job title to be included within the bargaining unit, the Union will be given advance notice in writing as soon as possible, but no later than when the City submits the job or position title to the City Manager for approval.

New Positions – When a position is added, and the job duties and title are the same or similar to an existing job title within the bargaining unit, the position will be automatically certified

within the bargaining unit, unless specifically excluded per Article 1.3.1. City will notify the Executive Board of the addition of the new position.

Confidential Positions – When a new position is created that is considered exempt from the bargaining unit, pursuant to Section 1.3.1, the Human Resources Department will give the Union's Executive Board a copy of the job description and explanation of the position's purpose. The Union's Executive Board shall comment and respond within ten (10) working days to Human Resources Department. Unsettled conflicts shall be resolved by the PELRB.

Revised Job Titles or Position Duties When Warranted – The Human Resources Department may conduct an evaluation of a job title or an individual position covered by this Agreement. This evaluation may be requested by a supervisor, division manager or department director, or by the employee through his/her supervisor, division manager or department director. If the evaluation deems the job title or position needs to be revised or re-classified, the Human Resources Department Manager shall notify the Union's Executive Board in writing of the proposed changes. The Union's Executive Board shall notify the Human Resources Department Manager, in writing within ten (10) working days of any comments it has concerning the proposed changes, or of its desire to discuss the proposed changes(s). Failure of the Union to notify the Human Resources Department Manager within this specified period shall constitute waiver of the right to discuss the change. In addition, the affected employee shall be provided a written copy of the new job title and job description which includes position duties.

New or Revised Job Classifications – If the City revised existing classifications or establishes new classifications, City shall identify the employees covered by this agreement to be included in any new or altered job classification and identify the old job classification, if any, which in whole or in part is being replaced. City will also identify those revised or new classifications, which shall be included in the bargaining unit. City shall notify Union in writing, and Union shall have ten (10) working days during which the Union can raise objections to the inclusion or exclusion of revised or new classifications in the bargaining unit. If Union raises objections, it shall do so in writing to the Human Resources Division. In addition, the affected employee shall be provided a written copy of the new job title and job description which includes positions duties.

Disputes – If there is a dispute under 1.4.4. or 1.4.5. above the matter shall be referred to the Labor Manager Committee (LMC) for review. Should the LMC be unable to resolve the dispute, the matter shall be appealed to and resolved by the "Grievance" provision of this Agreement in accordance with its Rules. Should the grievance be unable to be resolved, the matter shall be appealed to the PELRB.

### **1.5 – Introductory Period/Probationary Employees**

An employee who has never accrued seniority under the Agreement or predecessor agreements between the City and the Union shall be "Introductory Period/Probationary" status until he/she has satisfactorily completed six months of actual work. A permanent employee that has separated employment in good standing and is rehired within 30 days to their previous position shall not re-serve their Introductory Period/Probationary status and shall be considered a permanent employee upon rehire. The discipline or discharge of an employee who is in probationary status shall not be a violation of the Agreement.

**ARTICLE 2**  
**EMPLOYEE RIGHTS AND RESPONSIBILITIES**

**2.1 – Union Membership**

Employees in the AFSCME bargaining unit shall be protected in the exercise of their right, freely and without fear of penalty or reprisal, to form, join, and/or assist an employee labor organization for the purpose of collective bargaining through representatives chosen by the employees without interference, restraint or coercion. The parties recognize there are two classes of employees within the bargaining unit. One class consists of employees who pay full dues and are voting members of Union; the other class consists of employees who pay a pro-rata portion of the dues, but who are not members of Union and are otherwise known as “fair share” employees. Regardless of membership status in Union, (1) employees have the right to refuse or to refrain from participating in or supporting any such activity or labor-organization; and (2) employees in the bargaining unit are entitled to representation by the Union in matters covered by this Agreement, if they request it.

**2.2 – Disputes**

An employee has the right and is encouraged to bring matters of personal concern directly to the attention of the immediate supervisor or other appropriate officials of the City. The exclusive representative, on behalf of an employee has the right to raise a Prohibited Practices Complaint on any decision that violates the terms and conditions of this Agreement or of the Public Employee Bargaining Act (PEBA), (10-7E-1 through 10-7E-26 NMSA 1978). An employee also has the right to choose his/her own representative in an appellate action at the employee's own expense.

**2.3 – Informed Rights**

It is the obligation of the City and the Union to inform employees relative to their rights under this Agreement. The City shall independently take such action consistent with laws or regulations, as it may require, in order to inform employees of their rights and obligations, as prescribed by law. When the City provides management classes on the contract, the Union shall be afforded the same opportunity on City time.

**2.4 – Employee Conduct**

While on duty, employees will conduct themselves in a courteous, professional manner. Additionally, employees shall not engage in any activities that are in conflict with their responsibilities as City employees.

**2.5 – Communication**

Employees have the right to receive communication from both the City and Union concerning what is expected of employees in terms of their performance, conduct, and work relationships with co-workers, and to whom they are responsible.

**2.6 – Meeting with Union Representative**

Employees are not required to announce their intention to speak to a Union Representative if they are doing so before or after their scheduled work times, or on their break times. If a Union Representative is not available on site, and an employee wants to discuss an issue with his/her Union Representative during working hours, that employee may contact the Union Representative directly. In the event the discussion exceeds a minimal amount of time (*ex. five minutes*), the employee shall request and receive permission from his/her supervisor

for a longer meeting, if it is necessary to meet during working hours. The scheduling of that meeting shall be allowed in a timely manner.

## **2.7 – Non-Discrimination**

Employees have the right to work in an environment that is free from discrimination by either the City or the Union, on the basis of race, color, creed, religion, sex, national origin, age, marital status, sexual orientation, gender identity, physical or mental disabling conditions, lawful political affiliation or Union membership or non-membership.

## **2.8 – Accommodations for Employees with Disabilities**

The City recognizes its responsibility for providing adequate facilities and reasonable accommodations for employees with physical or mental disabilities and to meet requirements as prescribed by law.

## **2.9 – Employee Counseling**

Every employee has the right to be treated with common courtesy and consideration normal in employer-employee relations. All efforts will be made to communicate in a manner that is understandable to the employee. Employees shall be given warnings, be counseled, have performance reviews or similar meetings in a setting that protects confidentiality.

## **2.10 – Safe Working Conditions**

All employees have the right to work in safe and healthful working conditions. All employees also have the responsibility to perform their duties in a safe and careful manner and shall follow all applicable law and the City health and safety rules, regulations, and practices so as not to endanger themselves, their co-workers, or the public.

Without fear of discrimination, employees have the right to refuse to perform work if they believe in good faith that they are exposed to an imminent risk of death or bodily injury, and the employee has reason to believe that there is not sufficient time or opportunity to seek effective redress from the City or to apprise State of New Mexico Department of Occupational Health and Safety of the danger. "Good Faith" means that even if an imminent danger is not found to exist, the worker had reasonable grounds to believe it did exist.

Employees have the responsibility to appropriately correct and/or report violations of the City health and safety rules, regulations, and practices as soon as practicable to the appropriate City representative. Whenever an employee reports a condition that the employee feels represents a violation of safety or health rules and regulations or which is an unreasonable hazard to persons or property, such conditions shall be promptly investigated. The appropriate City representative shall reply to the concern, in writing, if the employee's concern is communicated in writing.

Employees also have the right to receive training in safe practices and hazards unique to the job assignment; and to request and take part in making changes to workplace safety and health standards.

## **2.11 – Protection for Whistleblowers**

No person shall discharge or in any manner discriminate against any employee because the employee has filed a complaint or instituted or caused to be instituted a proceeding under or related to the Occupational Health and Safety Act [50-9-1 to 50-9-25 NMSA 1978] or has testified or is about to testify in any such proceeding or because of the exercise by the

employee on behalf of himself or others of any right afforded by the Occupational Health and Safety Act.

## 2.12 – Weingarten Rights

The rights of unionized employees to have a Union representative present during investigatory interviews were announced by the U.S. Supreme Court in a 1975 case (*NLRB vs. Weingarten, Inc.*). Bargaining unit employees may be entitled to Union representation in meetings held in connection with an investigation. There are five conditions established by law for a "Weingarten Meeting". All five of the following conditions must be met before an employee is entitled to Union representation at an investigatory interview:

- The meeting is being conducted by one or more City representatives; and
- The City representatives are conducting an examination (asking questions) in connection with an investigation; and
- The employee is in the AFSCME bargaining unit; and
- The employee reasonably believes that the examination may result in disciplinary action; and
- The employee requests Union representation.

Once all five conditions have been met, management can either stop questioning until the representative arrives; or call off the interview.

During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating tactics. While the interview is in progress the representative cannot tell the employee what to say but may advise him/her on how to answer a question. At the end of the interview the Union representative can add information to support the employee's case.

An employee who has a question about the purpose of a meeting is encouraged to ask City representative the purpose for the meeting. Employees who have questions about their right to representation are encouraged to contact a Union representative or a Human Resources Department representative.

## 2.13 – Loudermill Rights

A 1985 U.S. Supreme Court decision, *Cleveland Board of Education v. Loudermill*, established what are called "Loudermill Rights" for public employees. *Loudermill* Rights apply to incidents of involuntary suspensions or termination and provide that employees are entitled to a hearing before they are discharged. The principles of *Loudermill* are:

- Prior to being suspended or terminated, "the . . . tenured (regular) public employee is entitled to oral or written notice of the charges against him/her, an explanation of the employer's evidence, and an opportunity to present his/her side of the story."
- The "hearing" is not a full evidentiary hearing and need not include the opportunity to cross-examine your accusers.
- The City has an obligation to inform the employee of his/her *Loudermill* Rights.
- The employee has the right to speak or not to speak at the *Loudermill* (or "pre-termination") hearing. Also, the employee has a right to Union representation, and the Union representative may speak on behalf of the employee.
- If the employee chooses not to attend the *Loudermill* (or "pre-termination") hearing, City may proceed with termination.
- An employee deprived of his/her *Loudermill* Rights is not entitled to reinstatement if City can prove that there was just cause for the discharge in any case.

Employees who have questions about their *Loudermill* Rights are encouraged to contact a Union representative or the Human Resources Department.

## 2.14 – Garrity Rights

In the 1967 case of *Garrity v. New Jersey*, the U.S. Supreme Court determined that public employees could not be forced, under clear threat of discipline, to violate the principles of self-incrimination. This decision established what have come to be called "Garrity Rights" for public employees. The *Garrity* rule is similar to *Miranda* rights for citizens. However, the burden is on the employee to assert his/her *Garrity* Rights. These rights can and should be asserted whenever an employee believes he or she is being investigated for possible criminal conduct, and an employee cannot be required to sign a *waiver* of their *Garrity* Rights. Once an employee has asserted his/her *Garrity* Rights, management must:

- Give a direct order to answer the question;
- Make the question specific, directly and narrowly related to the employee's duty or fitness for duty;
- Advise the employee that the answers will not and cannot be used against him/her in a criminal proceeding, nor the fruits of those proceedings; and
- Allow Union representation if the employee also asserts his/her Weingarten Rights.

Employees who have questions about their *Garrity* Rights are encouraged to contact a Union representative or the Human Resources Department.

**ARTICLE 3**  
**EMPLOYER RIGHTS AND RESPONSIBILITIES**

Except as specifically restricted by an express provision of this Agreement or other statutory provision, the City retains and may exercise all statutory and inherent management rights, prerogatives, and functions in its exclusive discretion, including, but not limited to:

**3.1 – Operation of the City**

The City has the right to plan, manage, and control City operations and in all respects carry out the ordinary and customary functions of management, including but not limited to:

- Maintain the efficiency of government operations entrusted to it by law;
- Determine the mission of City government;
- Determine the resources to be allocated to accomplish the mission and goals of the respective City Departments as units of City government;
- Determine methods, means, and personnel by which the operations of the City's Departments are to be operated and conducted;
- Determine the number of employees with Union recommendations;
- Determine qualifications for employment and the nature and content of personnel examinations;
- Take actions as may be necessary to carry out the mission of the City in emergencies;
- Control and regulate all equipment and other property of the City;
- Act in furtherance of all other duties and responsibilities imposed upon it by the Constitution, federal and state statutes, ordinances and administrative regulations;
- Determine the location and operation of the City's facilities;
- Insure the maintenance of uninterrupted service to the community; and
- Take all such actions necessary to maintain such service.

**3.2 – Hiring, Directing, Promoting, Transferring, Demoting, Suspending, Disciplining, Discharging And Terminating**

The rights and responsibilities to maintain the discipline and the efficiency of all employees are all vested solely and exclusively in the City, except as these rights and responsibilities may be expressly abridged or modified by other terms of this Agreement. These rights and responsibilities shall include but not be limited to hiring, suspending, discharging or disciplining employees for just cause, transferring employees to other positions, departments, or facilities, and relieving employees from duty because of other legitimate reasons; as well as:

- Direct employees, establish and enforce reasonable rules and regulations governing the conduct and safety of its employees;
- Establish schedules and take such other actions necessary to carry out the functions entrusted to, or imposed upon, the City and the City's Departments by law;
- Determine qualifications for, select and hire, promote, transfer, assign, and retain employees in positions;
- Determine qualifications for, select and hire, and direct the work of all management and supervisory personnel, and any other person not covered by this Agreement;
- Evaluate, test and provide for the examination of employees and applicants for employment by qualified professionals to determine their fitness and suitability for duty and employment, consistent with the provisions in this Agreement addressing Employee Testing, and the Employee Assistance Program; and

- Determine and implement all procedures and standards not otherwise restricted, limited or prohibited by the specific provisions of this Agreement.

In the event that the City is considering terminating or suspending an employee, the City agrees to provide the employee with “*Loudermill* Rights” as prescribed by law, and as defined in Article 2 of this Agreement; which provide that for incidents of involuntary termination or suspension, employees are entitled to a hearing before they are discharged.

### **3.3 – Retention of Rights**

It is further agreed there may be additional employer rights and responsibilities that have not been addressed in this Agreement. Further, the City’s exercise of, or failure to exercise any right, responsibility, or function hereby reserved to it, shall not be considered a waiver of the City’s right to exercise such right, responsibility, or function, nor preclude it from exercising the same when not in conflict with the express provisions of this Agreement. The parties agree that this Employer Rights Article does not waive the Union’s PEBA bargaining rights.

### **3.4 – Communication**

The City has the responsibility to communicate what is expected of employees in terms of their performance, conduct, and work relationships with co-workers, and to whom they are responsible.

### **3.5 – Safe Conditions**

The City has the responsibility to provide all employees safe and healthful working conditions, training in safe practices and awareness of hazards unique to the job assignment, and through the Health & Safety Committee, to listen, consider, acknowledge, and appropriately act on any concerns regarding workplace safety and health standards proposed by Union, members of the bargaining unit, and all City employees.

**ARTICLE 4**  
**UNION RIGHTS AND RESPONSIBILITIES**

**4.1 – Union Rights**

The City acknowledges that the Union is free to conduct its affairs and business in a manner, which the Union believes to be in its own interest, subject to the provisions of this Agreement.

The City shall not interfere with the internal affairs of the Union, nor with its officials or representatives in the conduct of Union's internal business affairs and other matters not involving collective bargaining subject to other provisions herein.

In accordance with the Public Employee Bargaining Act (PEBA), (10-7E-1 through 10-7E-26 NMSA 1978), employees may form, join or assist the Union for the purpose of collective bargaining through representation chosen by employees without interference, restraint or coercion from the City or the Union.

In accordance with the provisions of this Agreement, the Union shall have the exclusive right to elect or appoint Union staff, officials, and/or stewards in order to assure that the employees of the bargaining unit have Union representation.

In accordance with the provisions of this Agreement, the City agrees that Union staff, officials and/or stewards have the right to reasonable access to the employees and meeting facilities at a work site, with reasonable notice to the supervisor.

**4.2 – Union Representatives**

Designation of Union Representatives. The President of AFSCME Local 3277 shall promptly furnish in writing to the City Manager or his/her designee a complete list of Union representatives, including Union officials, the Executive Board and stewards and any changes regarding these. The City shall not recognize any person as a Union representative, official, member of the Executive Board or steward whose name does not appear on the list. The Union will ensure representation for the various classes of employees it represents. The Executive Board consists of the President, Vice President, Treasurer, Recording Secretary, three at-large members, (all of whom are voting members of the Board) and two Trustees (who are not voting members of the Board).

Number and Location of Union Representatives. The Union will provide a list of Union representatives to the Human Resources Director if changes occur, or quarterly. The number and location of stewards may be altered from time to time by the Union's Executive Board based on the changing makeup and composition of the City's work force.

The City agrees to recognize an alternate steward who will serve in the absence of the regular steward. The alternate steward will serve whenever the regular steward is not available within the period of time in which a grievance has to be filed as provided for in Article 14. The alternate steward may also serve to represent a regular steward in processing a grievance on his/her own behalf. In the absence of a recognized steward and the alternate steward, any member of the Executive Board shall be recognized by the City to serve as steward.

Steward/Union Representation in a Grievance and/or Union Business. It is understood and agreed that employee(s) functioning as Union Representative(s) have City work to perform and will not leave their work site during work hours until requesting and receiving written authorization from their supervisor or his/her written designee(s), and only after confirming there is official Union business to be performed. The request for such time shall include the location

of the meeting and the approximate amount of time they will be away from City business. Such authorization shall not be unreasonably withheld.

Union assumes the responsibility to assure the above mentioned persons do not abuse the time required to conduct such business. The Union shall assume the responsibility for rescheduling meetings held to conduct such business, if necessary. The City may advise a member of the Executive Board if the City perceives an abuse of time is occurring.

Exclusive of time spent in Labor Management Committee meetings, negotiations and/or in collective bargaining, the President and all other Union officials shall be allowed up to twenty (20) cumulative hours per fiscal year outside of their normal work schedule to attend to Union matters. Additionally, no member of the Union may spend more than 4 hours per week outside of their normal work schedule to attend to Union matters. Such time shall be recorded as Administrative-Union Leave on time sheets and subsequently in the payroll system. This time shall not accumulate. Administrative-Union Leave must be requested in writing (email will suffice) by the Union Official/ steward and pre-approved in writing by their respective supervisor. The request for such time shall include the location of the meeting and the approximate amount of time they will be away from City business. Such authorization shall not be unreasonably withheld.

Including the hours allotted above and including time spent in negotiations and or in collective bargaining, for any meeting called or agreed to by the City with respect to business matters in connection with the relations between the City and the Union, at which any representative of the Union is required by the City to be present, such Union representative shall be paid at his or her appropriate rate of pay for the period of such meeting. Such time shall be considered hours worked for purposes of calculating overtime compensation, provided employee qualified for overtime compensation.

A steward shall not be allowed time off with pay to investigate his own grievance.

#### **4.3 – Union Representative Access**

Employees are not required to announce their intention to speak to a Union Representative if they are doing so before or after their scheduled work times, or on their break times. If a Union Representative is not available on site, and an employee wants to discuss an issue with his/her Union Representative during working hours, that employee may contact the Union Representative directly. In the event the discussion exceeds a minimal amount of time (*ex. five minutes*), the employee shall request and receive permission from his/her supervisor for a longer meeting, if it is necessary to meet during working hours. The scheduling of that meeting shall be allowed in a timely manner.

The City shall allow Union representatives, within twenty-four (24) hours of a request, to visit City facilities for the purpose of administering the provisions of this Agreement at such times and places which do not interfere with the operations of the City. Union representative may enter City premises to attend meetings at the appropriate stages of a grievance procedure set forth in Article 14 of this Agreement and such other meetings as may be scheduled between Union representatives and the City Manager, the Human Resources Department Manager or other City Manager's designees.

The City agrees that Union staff, officials and/or stewards have the right to reasonable access to the employees and meeting facilities at a work site, with reasonable prior notice to the supervisor. Union staff, officials and/or stewards shall notify the employee's Department Director, Division Manager or his/her written designee(s), upon arrival at a work site, of their presence.

Union staff, officials, and/or stewards shall be allowed to call employees at their work sites before or after regular working hours, during lunch hours or during break periods.

Employees shall be granted approval from the City's supervisors to call Union staff, officials, and/or stewards regarding administration of this Agreement and arrange for meetings at the work site during break periods.

At the request of a Union official and/or steward, the City's supervisors will agree to release the employee for a reasonable amount of time from the employee's work duties in order to meet privately with Union staff provided that such meetings do not interfere with the operations of the City. Requests shall not be unreasonably denied. The City will take into consideration the possibility of emergency required meetings and Union will make every attempt to follow prior supervisory notification by chain of command.

Union staff, officials and/or stewards shall have the right to communicate with the employees during working hours at the City's work sites provided that such communication does not interfere with the operations of the City. Union staff, officials and/or stewards have the City's approval to distribute Union literature before work, during breaks, meal times and after work. The Union agrees that there shall be no solicitation for membership in the Union, signing up of members, collection of any fees, dues or assessments, general membership meetings or other general membership business activities of the Union on the City's time.

If any area of the City's premises is restricted to the public, permission must be requested to enter such areas and such permission will not be unreasonably denied. Such access shall be during the regular working hours of the employee and shall be to investigate an employee's grievance.

#### New Employee Orientation.

On the new employee's first day at work, the new employee will report to Human Resources. This will include an explanation of the benefits available to employees and the completion of the necessary employment forms. Within the first thirty (30) work days of the new employee's employment, an official orientation session is conducted. If the new employee represents a potential member of the bargaining unit, the Union Agreement shall be given to the new employee and a Union official or steward shall meet with the new employee and be afforded up to thirty (30) minutes to review this Agreement and answer any questions. The Human Resources Division shall make readily available a conference room for such meeting, which may be held in a group format.

The new employee's supervisor will introduce the new employee to co-workers, to acquaint the new employee with the physical environment of the work area, review any technical or departmental rules if applicable, explain the employee's duties and standards of performance, and provide training in safety practices, including hazardous materials.

Employee Re-orientation. In the event of a regular employee's transfer, promotion or reclassification, which requires the Human Resources Department to provide new information to the employee, and the employee remains in the bargaining unit, the Union Agreement shall be given to the promoted/transferred employee and a Union official or steward shall meet with the promoted/transferred employee and be afforded up to thirty (30) minutes to review this Agreement and answer any questions.

#### **4.4 – Distribution of Union Literature**

Bulletin Boards. The Union may post, on existing bulletin boards provided by the City for the posting of notices by individual employees. Such notices shall be dated and bear the signature of an authorized Union representative and the Human Resources Department Manager or his/her designee. The signature of an authorized Union representative and/or the

Human Resources Department Manager or his/her designee does not imply endorsement of the material posted. Where bulletin boards are not available, the City agrees to provide wall space for Union-purchased bulletin boards. Materials posted on these bulletin boards shall comply with all applicable laws, rules and/or regulations. Union bulletin boards may be used for several purposes, including but not limited to the following notices, as long as the notice is in compliance with the provisions stated above:

- Listing of the current Union executive board and stewards;
- Recreational and social affairs of Union;
- Union meetings;
- Union elections;
- Reports of Union committees;
- Union benefit programs;
- Current Union contract;
- Training and educational opportunities;
- Decisions reached through Labor Management Committee Meetings;
- Notices of wage increases for covered employees.

City Electronic Communication Systems. The Union may use City e-mail, facsimile (FAX) and internal telephone services for the purpose of furthering labor relations and collective bargaining with the City and for the administration of this Agreement, as long as such use does not interfere with the efficiency, safety and security of City operations. Union's Executive Board and Labor Management Committee shall have access to the Internet, subject to the City's Internet and e-mail policies as are all City employees.

Copy Services. The Union shall be allowed to use City copy machines within reasonable limits, to reproduce official materials directly related to the administration of this Agreement, including official business conducted by the Labor Management Committee, and work done as a part of collective bargaining negotiations. The Union shall continue its practice of providing the City with paper in order to help defray the cost of copying.

The Union also may use City-designated copying services to conduct Union-specific business on the same basis as other City Departments, at a rate determined annually by the Finance Department to recover actual cost (\$.05 per copy at the date of this Agreement), as long as such use is during approved union hours allowed under this agreement, breaks or other non-working hours and does not interfere with the efficiency, safety and security of City operations.

Mail Services. The Union shall be allowed to use the internal City mail services within reasonable limits, to distribute official materials directly related to the administration of this Agreement, including official business conducted by the Labor Management Committee, and work done as a part of collective bargaining negotiations.

The Union may use City mail services to conduct Union-specific business on the same basis as other City Departments and shall be charged at standard postal rates, as long as such use is during approved union hours allowed under this agreement, breaks or other non-working hours and does not interfere with the efficiency, safety and security of City operations.

Outside, inter-departmental and mail from the Human Resource Department marked personal or confidential, addressed to bargaining unit members shall be treated as confidential and shall not be opened by other office personnel or by any bargaining unit member other than to whom the mail is addressed.

Printing of Agreement. At equal cost to the parties, the City shall:

- Post, with index, the entire text of this Agreement on the City's Intranet;

- Arrange for letter-sized or smaller documents, with index, containing the entire text of this Agreement to be printed and distributed to current members of the AFSCME bargaining unit within thirty (30) days of the ratification by the parties.
- As needed, arrange for additional documents to be printed during the course of this agreement for new employees who are members of the AFSCME bargaining unit.
- Where necessary, arrange for special printing of this Agreement to accommodate those employees with disabilities. Special printing shall include, but not be limited to, audio recordings of the text, Braille printing and large text printing.

#### **4.5 – Union Business Leave**

Union Conventions and Seminars. An employee or employees designated by the Union to attend Union-sponsored or Union-related conventions and seminars shall be granted leave without pay (or may use accrued vacation leave) for scheduled work hours lost for such purposes; provided that the total leave granted under this Section for all employees shall not exceed three-hundred sixty (360) hours per calendar year. For leaves of absence of five (5) days or more, the Union must notify the City in writing, at least ten (10) work days in advance of such seminar or convention, of the name(s) of the employee(s) designated to attend the seminar or convention, and the dates of their absence. Shorter absences require advance notice of five (5) workdays. The City may waive all time notifications. The City may refuse to grant leave under this Section if, in the judgment of the City, the fact of employees being on leave would adversely impact the operations of the City or a given Department within the City.

Union Office. An employee designated by the Union's Council or International organization to serve as a full-time officer or employee of the Union's Council or International organization shall be granted leave without pay for a period not to exceed three hundred sixty-five (365) calendar days. Such leave may not be renewed except upon the mutual written agreement of the City and the Union. An employee's seniority shall not be broken during such leave. An employee shall not accrue vacation or sick leave while on such leave. Human Resources shall determine eligibility for continuation of benefits such as PERA contributions or health insurance in accordance with applicable state and federal laws and governing contracts. The City shall return employees who have taken leave without pay under this Section for up to three hundred sixty-five (365) calendar days to their former position, status and pay, including general wages increases paid to employees of the bargaining unit during the leave without pay period. The City reserves the right to hire a temporary employee for the full term of leave granted an employee under this Section.

#### **4.6 – Retention of Rights**

It is further agreed there may be additional Union rights and responsibilities that have not been addressed in this Agreement. Further, the Union's exercise of, or failure to exercise any right, responsibility, or function hereby reserved to it, shall not be considered a waiver of Unions right to exercise such right, responsibility, or function, nor preclude it from exercising the same when not in conflict with the express provisions of this Agreement. The parties agree that this Article does not waive the City's or Union's PEBA bargaining rights.

**ARTICLE 5**  
**LABOR MANAGEMENT COMMUNICATIONS**

**5.1 – Labor Management Committee**

The City agrees that all collective bargaining is to be conducted with Union representatives designated for that purpose by the Union President and/or Executive Board. The Union agrees that all collective bargaining is to be conducted with City representatives designated for that purpose by the City Manager. There shall be no negotiation by either party at any other level of City government.

In order to promote effective labor-management relations and to promote the purpose set out in the Preamble of this Agreement, both parties agree they will meet on a regular basis as outlined herein 1) to exchange information on matters of mutual concern and interest and 2) to resolve problems relative to the administration of this Agreement. These meetings should include, but not be limited to, (1) exchange of information that will help the other party in the fulfillment of its legal and contractual duty, (2) an attempt to resolve mutual problems in the spirit of cooperation and 3) drafting and approval of Memos of Understanding providing written resolution to those mutual problems.

**Establishment.** The parties shall maintain a Labor Management Committee (hereinafter referred to as the "LMC"), which is a standing committee, comprised of 3 representatives from management and 3 representatives from the Union. Either party may adjust the composition of their representatives on the LMC as necessary. The Union President and/or Executive Board will designate the Union's LMC representatives. The City Manager will designate the City's LMC representatives.

**Meetings.** Scheduled meetings will be held in order that a free exchange of information may occur. In the event of a matter requiring prompt attention, either party may request additional meetings, to include other Management and/or Union officials as appropriate. The LMC shall meet at least quarterly at regularly scheduled, mutually agreed upon time and place. Meetings will not be called to order without a quorum of each team present. All members shall be on paid administrative status.

**Topics for Discussion.** An advance agenda is required. When practicable, written agendas and supporting documentation will be provided seven (7) days in advance of the meeting to allow LMC members time to prepare for discussion and action. The LMC shall be free to address, without restriction, any topic of mutual interest or concern, which affects any working condition of a bargaining unit employee. It is understood and agreed that while the parties shall not be restricted in the topics to be addressed other than set forth above, neither the discussions, nor the outcome thereof shall be considered or treated as constituting a binding agreement between the parties unless reduced to writing, specifically identified in the body thereof as constituting such agreement, and signed and dated respectfully by the authorized representatives of the parties, with copies furnished to the authorized representatives.

**5.2 – Information Exchange**

It is understood by the parties that inaccurate information, incomplete information or the failure to exchange information is one of the major causes of breakdowns in the labor-management relationship. In the interest of preventing misunderstandings stemming from such lapses in communications the Parties agree to furnish information as follows:

The City shall:

- Make available for copying and/or inspection copies of City policies and data that are applicable and relevant to bargaining unit employees;

- Upon written request allow the Union access to City and Departmental policies, at reasonable times and places; and
- Inform the Union of major relevant changes in organizational structure within five (5) workdays in advance of the effective date.

The Union shall:

- Inform the City of major changes in its organization, or policies within five (5) workdays in advance of the effective date; and
- Provide the City with a current list of Union Officers trustees and stewards. Such list shall describe the authority possessed by each individual, and shall be updated within five (5) workdays of any such change.

The Parties agree to communicate only through the appropriate officials as designated by the City (City Manager, Department Directors, Division Managers or their designees) and the Union respectively.

### **5.3 – Notice of Change in Work Rules**

When Management determines it is necessary or advisable to change, modify or replace existing rules or policies that are applicable to Union employees, Management shall so advise the Union's Executive Board and provide the Executive Board members with a copy of the proposed change, modification or replacement document, as appropriate, at least fifteen (15) workdays prior to the proposed effective date thereof or at the next regularly scheduled LMC meeting. Thereupon the parties shall meet and confer regarding the proposed changes as well as any suggestions proposed by the Union. Management may consider the suggestions or proposals advanced by the Union, and may accept or reject all or any portion thereof. This provision does not contemplate that the City shall be required to engage in collective bargaining regarding such change, modification or replacement, other than as may impact wages, hours and working conditions.

In the event the Union Executive Board fails to respond to such notification as provided above, Management shall have no further obligation to meet or confer with the LMC regarding the proposed change, modification or replacement.

In the event Management and Union mutually agree to change, modify or replace existing rules or policies that are applicable to Union employees, the change, modification or replacement need not be subject to the notice requirements set forth above.

### **5.4 – Public Records**

The City shall promptly furnish the Union upon written request, copies of documents and records which come within the definition of public records in accordance with the New Mexico Inspection of Public Records Act. It is understood that it may be necessary to charge the Union in advance for the actual cost of such copies.

**ARTICLE 6**  
**PERSONNEL FILES AND RECORDS**

**6.1 – Official Documents**

The City shall maintain records relative to each employee's employment and performance, including but not limited to: hiring, promotion, accomplishments and awards, training, benefits, disciplinary actions, complaints or other matters relative to the status of an employee. The records shall be collectively referred to as the Personnel file. The personnel files and records maintained by Human Resources shall be the official documents for legal reference purposes and shall be maintained to insure confidentiality as legally required. It is expressly understood that this Article applies only to the official personnel records and files maintained by the Human Resources Department. All personnel files and records are the property of the City.

Placement of Documents in Personnel File. All documentation shall be stamp-dated before inclusion in the Personnel file. The Human Resources Department shall identify any material placed in an employee's file as to its source or originator and its date of receipt. No anonymous material shall become a part of an employee's personnel file.

Privacy Rights and Security. In collecting, maintaining, and disclosing personnel information, the City makes every effort to protect employees' privacy rights and interests and prevent inappropriate or unnecessary disclosures of information from any employee's file. While complying with its governmental reporting and record keeping requirements, the City strives to ensure that it handles all personal and job-related information about employees in a secure, confidential and appropriate fashion.

**6.2 – Disclosure of Public Information**

As employees working in the public sector, our employment status is a matter of public record. As a matter of public record, the Human Resources Department may disclose information allowed under the New Mexico Inspection of Public Records Act.

**6.3 – Employee Inspection of Records**

An employee, or his/her designee as authorized in writing by the employee, shall be permitted to inspect his/her own file.

Copies of Documents. The employee or a steward/ representative authorized by the employee in writing, may receive copies of documents or request a copy of the employee's personnel file. A charge may be assessed for providing the copies.

**6.4 – Confidentiality**

Access to any existing employee personnel files shall be given in accordance with the provisions of the New Mexico Inspection of Public Records Act. An employee's personnel file shall be confidential, except as provided by law, with the following exceptions for allowable access:

- The employee or the employee's direct supervisory line of authority;
- Information needed for the process of responding to or investigating complaints of discrimination or illegal workplace harassment;
- A Department Director or his/her designee as part of the hiring/transfer process; and
- Those employees authorized by the City Manager or the Human Resources Department Manager and who have a legitimate interest.

**Personnel File Confidential Section.** Certain records shall be maintained in a separate confidential section of the employee's personnel file, and are not a part of the Employee's general personnel file. Information records in this section are available only on a restricted access, need to know basis, subject to the confidentiality provisions of the New Mexico Inspection of Public Records Act. These records include but are not limited to written records of disciplinary actions, records of criminal or civil convictions, documents relating to credit reports or background checks, benefits and garnishments or liens.

**Confidential Medical Records.** To insure strict confidentiality, medical reports and records made or obtained by the Employer relating to an employee are not contained in nor released in conjunction with, the employee's personnel file. Medical records are retained in a confidential file, physically separate in a secured file cabinet per the Americans with Disabilities Act and the Family and Medical Leave Act. Only authorized representatives of the Employer, the employee, and Union Representatives authorized by the employee in writing, shall possess or have access to such employee medical reports or records, including records prepared by a private physician, rehabilitation facility, or other resource for professional medical assistance.

Access to an employee's medical file and any medical-related information is restricted to the employee and the Human Resources Department Manager or his or her designee. Supervisors generally may not be provided with medical information about employees. A supervisor is entitled to know any necessary restrictions on an employee's duties and information necessary to make reasonable accommodations.

This provision shall not prohibit the City from placing information in the employee's medical file which reflects Employer-initiated correspondence with a medical practitioner, or the employee, regarding diagnoses, prognoses, and fitness for employment, or absences from work associated therewith, nor from placing copies of records and reports containing conclusions by the City concerning the employee's fitness for duty based upon proper medical records and reports. This file may be reviewed by the employee in the same fashion as the personnel file.

The City shall not be prohibited from furnishing or otherwise releasing medical records or reports pertinent to the grievance made or obtained by the City where such release is specifically required to process a grievance which involves the use or interpretation of such reports or records by the City, to a legal action or arbitration, or to a complaint or claim filed with a government agency by an employee.

## **6.5 – Documentation of Disciplinary Actions**

No material within City control, which contains adverse personnel actions or comments, shall be placed in an employee's personnel file without (a) the employee's signature acknowledging receipt, or (b) the employee being informed within five (5) working days thereof by Human Resources.

**Removal or Sealing of Disciplinary Documents.** Written documentation letters of reprimand, suspension, or disciplinary demotion shall be eligible to be considered for removal from, or being placed within a sealed envelope within, the confidential section of an employee's official personnel file upon written request of the employee, provided that no other similar disciplinary action has occurred within one (1) year of the date of the original letter or official document, and subject to the provisions below. The removal or sealing of the document is at the sole discretion of the City Manager after seeking input from the Human Resources Department Manager and the Union President.

After three (3) years from the date a corrective action (written warning or reprimand) is placed in an employee's personnel file, the corrective action shall be expunged from the personnel file upon notification from the employee.

Rebuttal to Disciplinary Documents. Employees may submit written rebuttal to any material placed in their records, and may request to have removed, any material that is demonstrated and documented by the employee to be unwarranted, inaccurate, irrelevant, untimely, and/or incomplete.

Retention of Certain Discipline Records. The parties agree that with sound justification certain matters which are the subject of a written letter of warning or reprimand, notice of suspension or demotions shall not be removed from an employee's personnel file. These matters are ones involving health and safety issues, illegal workplace harassment and discrimination, criminal matters or where a degree of harm to the City, employees or Departments has occurred. This material shall be kept on a strict confidential, "need to know" basis, and with proper language regarding confidentiality for purposes of the New Mexico Inspection of Public Records Act process.

## **ARTICLE 7** **UNION SECURITY**

### **7.1 – Deductions**

During the life of this Agreement and upon receipt of a voluntary authorization for dues deduction card, the City will deduct each pay period, from the pay of each employee who has executed an authorization card, membership dues levied by the Union. The Union will provide dues deduction cards. All money deducted from wages under this Article shall be remitted to AFSCME Council 18 promptly after the payday covering the pay period of deduction. The Union shall certify to the City, in writing, by a duly authorized officer, the amount per pay period to be deducted for the Union membership dues and other optional Union payroll deductions.

### **7.2 – Fair Share**

The parties acknowledge that any advance to a bargaining unit employee's wages, benefits, and working conditions obtained through this Agreement has been obtained through the collective bargaining process permitted by law. It is also acknowledged that both parties expend their own funds to implement this collective bargaining process. The City agrees to deduct an amount of seventy-five percent (75%) of the membership dues from the non-dues-paying bargaining unit employees. Fair share deductions shall be deducted from bargaining unit employees beginning with the first full pay period following completion of their introductory period. Fair share deductions shall be made to AFSCME Council 18 in accordance with this Article.

The Union shall comply with all audit, accounting, notice and other requirements of law regarding the determination and collection of fair share fees. Upon request from a full share member or fair share member of the bargaining unit who is disputing the fair share fee, the Union shall allow inspection of its records and provide a fair share fee determination.

### **7.3 – Insufficient Earnings**

If the City determines that an employee has net pay less than or equal to the amount of the Union dues payable, no payroll deduction will be made for that employee for that pay period. The City shall notify the Union of this situation no later than the first pay period affected.

### **7.4 – Termination of Deduction**

Only a letter submitted by the employee and acknowledged by Union President's signature will allow termination of Union membership dues, and upon which at immediately following pay period, fair share fees will be deducted instead.

All Union dues deductions shall be terminated when an employee is transferred out of the bargaining unit or is separated from the City.

Upon request by the Union President, payroll will provide a list of bargaining unit employees and the amount deducted from their paychecks from either dues or fair share.

### **7.5 – Indemnification**

The Union shall defend and indemnify the City and hold harmless from, for and against any and all claims, losses, litigation, costs, expenses, and liabilities of any kind and nature, arising from or relating to any act or omission of the Union regarding the determination, audit and/or notice(s) of fair share fees and related matters in contravention of this Article or applicable law.

**ARTICLE 8**  
**FILLING OF VACANCIES**

**8.1 – Filling of Vacancies**

The City wishes to hire the best-qualified candidates to fill vacant positions, based on the relative merit and fitness of applicants. Toward this goal of selecting the best-qualified applicant for each vacancy, it is the City's intent to promote and hire from within the ranks of City employees whenever possible. The City and the Union agree that promotions, transfers and other filling of vacancies provide important career mobility within the system for employees. The parties agree that the provisions of this Article will be followed when making such selections to fill vacant positions.

New employees hired into bargaining unit classification shall normally be paid at the minimum of the salary range in which the classification has been placed. In rare situations in which a candidate for employment has exceptional qualifications, such candidate may be considered to receive a rate of pay between the minimum and the midpoint of the range. At no point shall a new employee hired to a bargaining unit classification (in which there are incumbent employees) receive a starting salary higher than the lowest salary of an employee within that classification.

**8.2 – Posting of Vacancies**

When a vacant or new classified City position occurs, the Human Resources Department shall post a notice on the Intranet of such opening. Each department with limited computer access shall distribute copies of job vacancy postings for all open classified positions within their own departments and off site work locations. Job vacancies for all open positions shall be posted and remain posted for at least five (5) working days for in-house applicants only. The posting shall contain information to include the classification of the position, the testing requirement for applicants if any, the minimum qualifications for the position, the preferred qualifications for the position, the minimum starting salary of the position, the location where applications are to be filed, the opening and closing date, the working conditions, examples of work performed and FLSA status.

**8.3 – Application and Screening Process**

Employees are encouraged to apply for positions in which they are interested and for which they are qualified. Employees and outside applicants will be screened and evaluated based on criteria related to the job including but not limited to the following:

1. Qualifications;
2. Education;
3. Licensure, Certification, and Training;
4. Experience;
5. Knowledge and Skills; and
6. Test results

Bargaining unit employees interested in applying for any vacant or new City position must complete and submit an application to the Human Resources Department.

**Bargaining Unit Position Vacancy.** With respect to vacant positions within the bargaining unit, the City shall first review the applications of qualified bargaining unit employees seeking another position with the City. All bargaining unit employee applicants who meet the posted minimum qualifications of the bargaining unit position shall be interviewed before outside applicants are interviewed. If the reviewing supervisor determines that the in-house applicant

pool is insufficient after the interviews, the supervisor may request Human Resources to advertise the position.

An employee whose qualifications are deemed in the screening process to be insufficient to warrant an interview shall be so notified prior to any appointment to positions for which they have applied. If the applicant is interviewed and not selected to fill the vacancy, Human Resources will notify the applicant in writing of the decision.

Employee applicants who have not been interviewed or selected for the bargaining unit position vacancy are encouraged to contact the reviewing/hiring supervisor or Human Resources to schedule a career advisement meeting.

If multiple in-house applicants are equally qualified, first Department, then City seniority shall govern the applicant selection for vacancies within the bargaining unit covered by this Agreement.

Non-Bargaining Unit Position Vacancy. With respect to non-bargaining unit position vacancies, the City encourages qualified bargaining unit employees seeking promotions or transfers to complete and submit applications to Human Resources. For vacant non-bargaining unit positions, any bargaining unit employee applicant who meets the posted minimum qualifications for non-bargaining unit positions shall be given equal consideration in the applicant screening process as that received by non-bargaining unit employees and outside applicants.

An employee whose qualifications are deemed in the screening process to be insufficient to warrant an interview shall be so notified prior to any appointment to positions for which they have applied. If the applicant is interviewed and not selected to fill the vacancy, Human Resources will notify the applicant in writing of the decision.

Employee applicants who have not been interviewed or selected for the position vacancy are encouraged to contact the reviewing/hiring supervisor or Human Resources to schedule a career advisement meeting.

#### **8.4 – AFSCME Introductory Period**

A new employee must serve a six (6) month introductory period from the date initially hired by City. The City may extend the introductory period for up to one (1) three (3) month period with written justification to the employee and the Human Resources Division. Employees in their introductory period do not qualify as in-house applicants. Employees in their introductory period are not eligible for membership in, or representation by the Union, and are not covered by the terms of this collective bargaining agreement.

#### **8.5 – Return to Former Position**

All bargaining unit employees selected and hired for another position with the City will be granted the opportunity to return to their former position within ten (10) working days. Management shall have the right to return the employee to his/her former position for the same ten (10) working day period and the action shall not be grievable. By mutual written agreement of the employee, the Union, and Directors of the affected Departments, this ten (10) working day period may be extended for a specified period of time, with approval of the City Manager.

#### **8.6 – Transfer**

Regular non-introductory period employees may request transfers within classification or another classification within the same salary grade or in another department. In the event that an employee applies for and is selected to fill a position in the same classification as his/her

former position, the employee's starting pay in the new position will be determined based on consideration of various factors including but not limited to: (1) relevant education and experience compared to the minimum and preferred qualifications contained in the position description; (2) education and experience compared to that of current incumbents in the position, insuring internal equity; and (3) education and experience compared to external wages paid for the position, insuring external competitiveness. In the event that two internal applicants are equally qualified for the new position, first Department, then City seniority shall prevail.

### **8.7 - Voluntary Demotion**

In the event an employee voluntarily requests and is selected to fill the same classified position he/she previously held, the pay decrease will be to the employee's former level of pay plus any general wage increases paid to employees of the bargaining unit during the intervening period. Pursuant to Article 11, "Seniority," in the lower classification, the employee's seniority shall include all time in the higher job classification.

In the event that an employee voluntarily requests and is selected to fill a different position at a classification in a lower pay band, the employee's starting pay in the new position will be determined based on consideration of various factors including but not limited to: (1) relevant education and experience compared to the minimum and preferred qualifications contained in the position description; (2) education and experience compared to that of current incumbents in the position, insuring internal equity; and (3) education and experience compared to external wages paid for the position, insuring external competitiveness. In the event that two internal applicants are equally qualified for the new position, first department, then City seniority shall prevail. If the employee requesting the voluntary demotion is selected, the pursuant to Article 11, "Seniority," in the lower classification, the employee's seniority shall include all time in the higher job classification.

### **8.8 - Working Out of Classification**

Employees will not be required to perform duties outside of their classification as a regular assignment.

### **8.9 - Temporary Upgrades**

Bargaining unit employees may be assigned to fill a vacant position on a temporary basis. Qualified bargaining unit employees shall be given first consideration for temporary upgrades within the bargaining unit. Employees who receive temporary upgrades will receive the minimum pay for the higher classification, or an increase of five percent (5%), whichever is greater, for the term of the temporary upgrade. In order to qualify for the temporary upgrade pay increase, the upgrade must be scheduled to last for more than ten (10) working days. The City shall retain a record of the upgrade in the employee's personnel file. Service in such upgrades shall be considered work experience for promotion criteria. At the conclusion of the temporary upgrade assignment, the employee shall return to the former position and rate of pay, adjusted for any intervening pay increases.

### **8.10 - Additional Duty Pay**

Additional duties are changes or additions to the job content and responsibilities of a position that are substantive, measurable, substantially different in nature and outside the normal scope of the position's job description. Employees who are assigned to perform additional duties on a temporary basis for more than 30 calendar days, or whose jobs have gradually absorbed such duties for more than 30 calendar days shall be eligible to receive additional duty pay at a rate recommended by the Department Director and Human Resources, and approved by the City Manager. In the event that there have been substantive, measurable and quantifiable changes in the job content, a written request may be made by the employee,

his/her supervisor, or Department Director for additional duty pay. The request will include justification, and shall be submitted to the Human Resources Department for review and analysis. The review and analysis shall be conducted in a timely manner, and the parties shall be kept informed of the reviews status.

If the additional duty assignment is temporary, at the conclusion of the temporary assignment, the employee shall return to the former position assignment and rate of pay, adjusted for any intervening pay increases. The Department Director and Human Resources shall review additional duty pay assignments after six months, and at subsequent three-month intervals, in order to determine whether the additional duties have become a permanent part of the employee's job responsibilities. If so, the employee's pay status will be changed from "additional duty pay" to regular pay status. If appropriate, a job reclassification review may also be initiated.

#### **8.11 – Review of Job Descriptions**

Job descriptions shall be reviewed regularly by the City, and revised to reflect current responsibilities and duties of the position. The intent of this review is to ensure that job classifications of individuals remain fair and equitable and properly reflect the duties and responsibilities assigned to them, as well as the skills and effort required to do their jobs.

**ARTICLE 9**  
**WORKFORCE REDUCTION & PRIVATIZATION**

**9.1 – Workforce Reduction Notice**

**Furlough, Layoff and Recall.** A furlough is a temporary reduction of an employee's work hours within a work week due to a shortage of funds. A layoff, or reduction in force, is the elimination of a position(s) on a temporary or permanent basis due to shortage of funds. Upon determination by the City that a furlough or layoff of bargaining unit employees is necessary, the City will notify the Union no less than five (5) work weeks prior to implementation of the furlough or layoff. The City shall provide budgets, reports and any other materials used in its determination. All positions in the City shall be considered when devising such a plan for furlough or layoff. Four (4) calendar weeks prior to any furlough or layoff, The City Manager will meet with the Union to allow the Union to review and consider any cost cutting measures within the bargaining unit represented by the Union that may reduce the need for, or extent of, the furlough or layoff. The Union may offer alternatives to the proposed furlough or layoff. If a furlough or layoff is to be implemented, affected employees shall receive no less than four (4) weeks written notice. Upon layoff, laid off employees shall be paid in full all due wages, accrued annual leave, and compensatory time on the next following regular payday.

If there is to be a layoff of bargaining unit employees, the City shall take all reasonable steps to place any adversely affected employees in existing vacancies for which they are qualified. The City and the Union agree that, while bargaining unit employees are on layoff, the City shall not subcontract any public work or services normally performed by members of the bargaining unit who are in lay off status.

**Order of layoff.** Employees within the affected department(s) and division(s) will be laid off by type of appointment in the following order:

1. Temporary
2. Introductory Period
3. Regular Part-Time
4. Regular Full-Time

At no time will volunteers fill a position formerly held by bargaining unit employees once funding for the position is reauthorized. If a volunteer fills a position formerly held by a bargaining unit employee for more than nine (9) months, the City and the Union will jointly seek the Governing Body's approval to re-fund the position during the next budget cycle.

**Seniority.** Employees within the affected department(s) and division(s) shall be laid off in reverse order of City seniority and shall be recalled in order of City seniority provided the employee meets the minimum qualifications of the job.

**Recall Rights.** Regular status, laid off employees shall have one-year recall rights ("recall period"). Within the recall period, the City may not fill any bargaining unit position which is reauthorized without offering the position to the former incumbent, followed by qualified laid-off bargaining unit employees in order of City seniority. The City must give notice by certified mail to the last known address on file to laid off employees of all recall opportunities for the first six (6) months of the recall period. Recalled employees must give notice of acceptance or refusal of the position within ten (10) work days of the notice date, and if accepted, report for work within two (2) weeks of their notice of acceptance of the position. It will be the employee's responsibility to follow up on employment opportunities for the remaining six (6) months of the recall period. A laid-off bargaining unit employee may refuse one (1) recall offer. A second refusal of a recall offer will serve as a voluntary resignation and the City will have no further recall or employment obligation to the employee.

Job Classification Displacement. If, in accepting a recall opportunity during a recall period, a laid off employee is placed in a lower paying job classification, the employee shall be reassigned to his or her former position upon reauthorization of that position.

Seniority Retention. Employees returning to employment with the City during the recall period shall be reinstated to their former seniority status prior to the displacement.

## **9.2 – Privatization**

For the term of this contract, the City agrees that no regular bargaining unit employees shall be laid off, or be subject to a reduction in base hours worked or base pay received as a direct result of City privatizing work or the type of work currently performed by bargaining unit employees.

## **9.3 – Contracting Out and Temporary Employees**

The City and the Union agree that the City has the right to supplement bargaining unit members with temporary employees and contractors on an as needed basis in order meet seasonal demands, peak demands, emergency demands, and demands where no in house expertise exists. Temporary employees and contractors extending beyond twelve (12) months shall either be terminated or converted to permanent bargaining unit positions, subject to the appropriation of funds for such employees by the Rio Rancho Governing Body. The City and the Union recognize that over an extended period of time the supplementation of bargaining unit members described herein due to peak demands may lead to concerns regarding the economic viability of bringing such supplementary work in-house. Therefore, the City and the Union agree that the supplementation of bargaining unit members due to peak demands over an extended period of time is the proper subject of discussion and negotiation. Any such concerns of the City or the Union in that regard shall be addressed by the Labor Management Committee.

## **9.4 – Limits**

Subject to the provisions of this agreement, the City shall assign bargaining unit work to bargaining unit employees

**ARTICLE 10**  
**TESTING OF EMPLOYEES**

**10.1 – Testing of Employees**

**Drug and Alcohol Testing.** The provisions of the current Drug and Alcohol testing Program are hereby incorporated as set forth as follows:

As a federal funds grantee and a municipal employer, the City complies with the “Drug-Free Workplace Act” and the Federal Highway Administration (FHWA) drug and alcohol testing rules. Pursuant to that Act the City will establish and maintain an ongoing drug-free awareness and drug and alcohol testing program and establishes the following rules and regulations which apply to all City employees.

During working hours, no employee shall consume alcohol, or use controlled substances or any physician prescribed medication that may impair the employee’s ability to perform the required job duties. The use, possession, manufacture or distribution of any alcoholic beverage or controlled substance by any employee during working hours, on City premises, or in City uniform any time is prohibited.

Any employee suspected of being under the influence during working hours will be required to submit to the appropriate detection test(s) to determine the presence of drugs or alcohol. The order for the administration of the detection test(s) shall be given by the department director and coordinated with the Office of the City Attorney and the Human Resources Department.

Public employees shall respect all elements of the criminal justice system. Their conduct shall reflect professional judgment, prudence, and the interests of the City and shall promote public confidence. The use, possession, sale, trade or delivery of illegal drugs or non-prescribed controlled substances by an employee during nonworking hours affects the efficient and credible administration of the City and the safety and welfare of the public and co-workers and is a violation of this policy.

Any employee convicted of a criminal drug statute must notify the Human Resources Department, in writing, no later than five calendar days after such conviction. The City, after receiving such notification, shall take appropriate action including notifying the federal grantor agency within ten calendar days if the violation occurred in the workplace.

Under the FHWA rules, all employees in safety sensitive positions in transportation who drive vehicles requiring a Commercial Drivers License (CDL) are required to be tested for the presence of alcohol and drugs. Consistent with those rules the City will test the affected employee group under the following conditions.

Alcohol testing will be conducted on:

1. A random basis at an annual rate as set by the FHWA and
2. Post-accident involving a fatality or moving violation and
3. Upon reasonable suspicion by a supervisor.
4. Alcohol tests are considered to be positive and in violation of this policy when the BAC results are .02 or greater. Drug testing will be conducted on a
5. A random at an annual rate as set by FHWA and
6. Post-accident involving a fatality or moving violation citation and
7. Upon reasonable suspicion by a supervisor and
8. Pre-employment.
9. Positive test results at the levels established under the federal guidelines of the Substance Abuse and Mental Health Services Administration (SAMSHA) for

marijuana, cocaine, amphetamines, opiates and phencyclidine (PCP) are considered to be a violation of this policy.

Employees who violate this policy are subject to disciplinary action up to and including termination of employment.

All Other Examinations. If the City has a reasonable concern about the ability of an employee to perform the duties of their current position, the City may require and pay for a medical fitness for duty exam to verify the employee's condition. If the employee disagrees with the opinion of the City's physician, the employee may arrange and pay for a second opinion. If the two medical opinions do not agree, the City shall arrange and pay for a third opinion. The third opinion shall prevail.

Qualification and Job Testing. As part of the employment application, screening and selection process, the City will evaluate, test and provide for the use of pre-employment testing of applicants in order to determine their qualifications for duty and employment.

Scheduling of Testing. The City will make every effort to conduct required testing during an employee's normal working hours. If same cannot be accomplished, however, overtime will be paid, or compensatory time accrued for all hours devoted to testing beyond the normal work hours.

Safety Sensitive Employees. Safety sensitive positions are subject to alcohol and drug testing.

- Positions with job descriptions that require an employee to transport citizens and/or youth workers including the following positions; Counselor, Recreation Leader, Transit Bus Driver, Recreation Specialist, Recreation Facility Coordinator, Community Services Coordinator, and Parks and Recreation Intern.
- Lifeguards
- Commercial Driver's License (CDL) employees

## **10.2 – Voluntary Admission of Drug/Alcohol Abuse**

The City's goal remains that employees will take responsibility for their own behavior and voluntarily seek help through the City's EAP or other professional programs to resolve drug or alcohol related problems.

Except for DOT covered employees; an employee who voluntarily admits to drug-alcohol abuse will be referred through the Human Resources Department for assessment counseling and rehabilitation. Upon successful completion of the rehabilitation, the employee will return to work as though returning from other medical leave. Any subsequent voluntary admission to drug/alcohol abuse by such employee will require a written return to duty agreement prior to returning to work.

## **ARTICLE 11** **SENIORITY**

Where relevant factors are equal, seniority shall be the determining factor in, but not limited to, cases of pay, promotion, layoffs, transfers, shift, leave, overtime, job assignments, education and training, but exclusive of the tuition reimbursement program. Each provision of this Agreement for which seniority is a factor shall indicate whether the City, class or department seniority is the determinant. Seniority shall be determined as follows:

### **11.1 – City Seniority**

City seniority shall be defined as the total length of uninterrupted employment with the City of Rio Rancho. Uninterrupted employment means there have been no breaks in employment other than sick leave and City authorized leave of absence or layoff. Employees shall not attain City seniority until the completion of the required introductory period, at which time City seniority shall relate back to the commencement of the most recent period of uninterrupted employment with the City. There shall be no seniority among introductory period employees. When an employee completes the required introductory period, their seniority shall begin from their date of hire. City seniority is broken by resignation or termination.

### **11.2 – Class Seniority**

Class seniority is the entry date the employee began working in his/her current classification. Class seniority is broken by reassignment to another classification. When an employee is promoted into another job classification, the class seniority shall begin on the date the employee is promoted. If an employee is reclassified into a lower job classification, the employee's seniority will include all time in the higher job classification. Time served in a higher job classification shall be considered when calculating seniority in a lower job classification. An involuntary demotion can be grieved.

### **11.3 – Department Seniority**

Department seniority is the length of continuous service an employee has in their current Department. Department seniority is broken by reassignment to another Department. If an employee maintains the same job title but transfers to a different department, the employee shall maintain his/her class seniority.

### **11.4 – Interruption of Continuous Service**

Seniority is not broken during interruptions of continuous service caused by periods of leave without pay, layoff or reduction to less than full-time status.

### **11.5 – Ties in Seniority**

Where two (2) or more employees have the same seniority dates for determining job rights, then alphabetical order by last name shall be used to determine the senior employee. Should a tie still exist, seniority then shall be determined by the Union, using a random method of the Union's choice. Ties in Department Seniority shall first be broken by City Seniority; ties in Class Seniority shall first be broken by Department Seniority, then by City Seniority.

### **11.6 – Seniority for Part-Time Employees**

Seniority for part-time employees shall be determined using the methods described in this Article, except that length of service shall be pro-rated based on actual hours worked during the term of employment.

**ARTICLE 12**  
**COMPLIANCE WITH LAWS AND REGULATIONS**

**12.1 – Compliance with Laws**

All parties (City, Union, and Employees) agree to comply with all applicable city, state and federal laws and regulations, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, Section 503 and 504 of the Rehabilitation Act of 1973 as amended, the Age Discrimination Act of 1975, the Americans With Disabilities Act of 1990, the New Mexico Human Rights Act, The Fair Labor Standards Act of 1938 as amended (29 U.S.C. 201, *et seq.*), and the Family and Medical Leave Act of 1993.

**12.2 – Interpretation**

This Article shall be interpreted in accordance with applicable federal and state law.

**12.3 – Reasonable Accommodation**

In the administration of this Agreement, the City and the Union shall provide reasonable accommodations to qualified employees with a disability and to employees based upon their religious tenets. The City shall determine the need for and extent of such accommodations in accordance with its interpretation of the requirements of the Americans With Disabilities Act of 1990 and the Civil Rights Act of 1964, even if such accommodations may be in conflict with another provision of this Agreement.

**12.4 – Remedy**

An arbitrator hearing a grievance that alleges a violation of this Article is authorized to award only reinstatement and/or back pay to a prevailing grievant and has no authority to award compensatory, punitive or any monetary damages other than back pay.

**12.5 – Waiver of Contractual Rights**

If an employee claiming a violation of this Article elects to proceed to an administrative agency or to court during the pendency of the grievance or at any time prior to the issuance of the written opinion and award of an arbitrator, the grievance shall be considered to have been withdrawn.

**12.6 – Work Environment**

The City and the Union are committed to make every effort to ensure a productive work environment in which all employees are treated with dignity and respect; and to support an atmosphere of trust, mutual responsibility, open communication and respect that is essential to a healthy work environment.

**12.7 – EEO and Non-Discrimination**

The City is committed to maintaining a workplace free of discrimination, and to offer equal employment opportunity based upon qualifications, ability and work performance. In the administration of this Agreement, the City and the Union shall not practice, nor tolerate, illegal discrimination against any employee through employment practices including but not limited to recruitment, hiring, training, education, reassignment, wages, and promotion, because of that employee's race, age, religion, color, national origin, ancestry, sex, ethnicity, qualified physical or mental disability, medical condition, sexual orientation, gender identity, or any other legally protected class. The City and the Union also agree under the terms of this agreement not to

practice or tolerate discrimination on the basis of marital or family status, union activity, political affiliation or beliefs, or use of a second language other than English.

### **12.8 – Illegal Workplace Harassment**

The City and the Union believe and agree that illegal workplace harassment seriously undermines the atmosphere of trust and respect that is essential to a healthy work environment. It is the objective of the City to provide a work environment that respects the rights and dignity of all persons with whom we do business and come into contact. It is the intention of the City and the Union to take whatever action may be needed to prevent, correct, and if necessary discipline behavior which violates this objective.

The City has an anti-harassment policy, which applies to all members of the City community, including contractors, vendors, and other providers of services who are under contract with the City. Therefore, the City's anti-harassment policy prohibits any type of illegal harassment by any representative of the City against any individual in the City's workplace or during City work time.

The City and the Union agree that that no employee shall illegally harass another employee or member of the public; and that employees shall be protected from illegal discrimination, intimidation, restraint, coercion, or retaliation including involuntary reassignment or changes in working duties, or conditions resulting from the filing of a discrimination complaint, grievance or prohibited practices complaint in the exercise of any right granted the employee by this Agreement or law.

Illegal workplace harassment may include, but is not limited to, harassing or discriminatory remarks or actions against an individual or group on the basis of a legally protected class as defined in this Article. Inappropriate behavior also includes, but is not limited to: crude/vulgar language, sexual advances or other verbal, visual, or physical conduct of a sexual nature, intimidation, gender or racial baiting, hazing, banter/teasing, offensive humor, offensive or lewd materials including pictures, sayings and cartoons, ridicule, hostility and threats or acts of violence.

Harassment also includes any other behavior that interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The anti-harassment policy also prohibits any demand for sexual favors that is accompanied by a promise of favorable job treatment or a threat concerning the employee's job.

**ARTICLE 13**  
**CORRECTIVE ACTION, DISCIPLINE AND DISCHARGE**

**13.1 – Basis of Corrective and Disciplinary Action**

Corrective and disciplinary action shall only be for just cause. The degree of discipline imposed shall be progressive in nature when appropriate. In accordance with employee "Weingarten Rights" (See Article 2, Employee Rights and Responsibilities"), employees are entitled to union representation in meetings held in connection with an investigation that the employee believes may result in disciplinary action. All disciplinary action is grievable and arbitrable.

An employee may refuse to answer questions that probe possible criminal conduct until the employee has obtained legal advice and/or Union counsel. The employee shall be given a reasonable period of time to secure counsel.

**13.2 – Progressive Discipline**

The parties agree that corrective and disciplinary action encourages the use of counseling and positive discipline as methods of working with employees to correct and improve employee conduct and/or work violations, and to improve job performance, so as to promote the efficiency and effectiveness of the City. The principles of progressive and constructive discipline shall be followed, except in those cases where the employee's conduct warrants a more serious response.

The types of progressive discipline are as follows:

Corrective Action:

- Non-Disciplinary Counseling
- Written Letter of Warning
- Written Letter of Reprimand

Disciplinary Action:

- Suspension
- Demotion
- Discharge/Dismissal

**13.3 – Time Limits**

Except for cases where outside agencies or divisions are involved in the investigation, the employer may impose any disciplinary action or issue a notice of contemplated action no later than forty-five days (45) after it acquired knowledge of the employee's misconduct for which the disciplinary action is imposed, unless facts and circumstances exist which require a longer period of time.

**13.4 – Non-Disciplinary Counseling**

The City may use non-disciplinary counseling actions including oral warnings, oral admonishments, and written counseling letters as a corrective precursor to formal disciplinary action. Non-disciplinary counseling actions shall be used for performance improvement and corrective action concerning minor infractions, and shall serve to inform the employee that his/her performance, behavior and/or conduct need(s) to be improved, and to provide guidance for training or corrective action needed from the employee to improve.

### **13.5 – Written Letter of Warning**

If the employee's performance, behavior and/or conduct does not improve, a written letter of warning may be issued to formally inform the employee of the performance, behavior and/or conduct that need(s) to be improved, to provide guidance for corrective action needed from the employee to improve, and to give the employee formal written notice conveying the increased seriousness of the situation.

### **13.6 – Written Letter of Reprimand**

An employee shall receive a written reprimand in circumstances where the infraction is perceived to be of a greater consequence than that for which an oral reprimand was issued or if an oral reprimand was ineffective. Written reprimands relating to an employee's job performance or conduct shall be placed in the employee's personnel file after providing the employee with a copy of the reprimand. The employee shall acknowledge having read the contents of the reprimand by affixing his signature to the reprimand. So doing shall not be construed as the employee's agreement that the reprimand was warranted. If the employee refuses to sign, a witness (by his/her signature) must attest that the statement was presented to the employee for signature and the employee refused to sign.

### **13.7 – Suspension**

An employee may be suspended without pay for a period not to exceed twenty (20) working days, for a single serious offense or for continued substandard job performance or misconduct when previous attempt(s) to correct behavior have failed. Suspensions will comply with applicable provisions of the Fair Labor Standards Act.

### **13.8 – Demotion**

Demotions may be issued if it is determined that the employee is not competent to perform his/her job, or as part of progressive disciplinary process. An employee may be demoted for a single serious offense or for continued substandard job performance or misconduct when previous attempt(s) to correct behavior have failed.

### **13.9 – Discharge/Dismissal**

Dismissal is the final consequence when other progressive discipline has failed to correct an employee's unacceptable behavior or job performance, or as the only step of progressive discipline if warranted by an employee's egregious behavior and/or misconduct which constitutes grounds for immediate discharge.

The City may issue the same disciplinary action more than once for any subsequent act constituting just cause. The City and the Union also recognize that certain levels of employee misconduct may warrant immediate serious disciplinary action up to and including possible termination of employment. Examples of such misconduct include but are not limited to: theft, willful misappropriation of City assets, sexual or other illegal workplace harassment, physical abuse or physical harassment, unlawful possession, sale or distribution of a controlled substance in the work place; or any illegal activity impacting adversely upon the City or upon the Employee's ability to perform the functions of her/his position.

### **13.10 – Initial Notice of Contemplated Action and Rebuttal**

Upon determination of the City that an alleged infraction may have occurred that warrants disciplinary action at or above the level of a suspension, and after review by Human Resources, the supervisor or his/her designee shall provide the employee a "Notice of Contemplated Disciplinary Action." This notice is provided to the employee in accordance with

the principles described in Article 2, Section 2.13, "Loudermill Rights," which entitle the employee to written notice of the charges against him/her, an explanation of the evidence supporting the employer's claim, and an opportunity to present his/her side of the story. The Notice shall specify the date, time and place of the predetermination hearing. Predetermination hearings shall be conducted within a reasonable time frame. The Notice of Contemplated Action shall also inform the employee of his/her right to union representation or a representative of his/her choice at the predetermination hearing. The Notice of Contemplated Action shall be provided to and signed for by the employee in person or sent to the address on file via certified return receipt mail within fifteen (15) working days of the date of completion of an appropriate investigation of the alleged infraction, or as soon as practical following that time in the event the employee is unavailable.

Prior to the scheduled predetermination meeting the City, the employee and/or the union representative may request to reschedule the meeting. Any rescheduling of the meeting shall be by mutual agreement and within a reasonable time frame. The purpose of the meeting is to respond to the allegations. The supervisor shall consider any information received during the predetermination meeting before deciding the final disciplinary action. An employee may propose, in writing, to the supervisor, a level of discipline he/she will accept for an offense prior to the supervisor imposing disciplinary action. If the supervisor accepts the discipline proposed by the employee, the issue will be considered settled and the action will not be grieved.

### **13.11 – Final Notice and Appeal**

The supervisor may issue by hand delivery or certified return mail, the final disciplinary action against the employee, whether the originally contemplated or lesser action, no later than five (5) work days after the predetermination hearing in the form of a "Notice of Final Action". The employee and/or union may grieve the disciplinary action in accordance with the Grievance and Arbitration article of this contract.

### **13.12 – Documentation of Written Corrective & Disciplinary Action**

Documentation of corrective and disciplinary actions shall be maintained in accordance with Article 6 of this Agreement, "Personnel Files and Records," which addresses documentation of corrective/disciplinary actions, rebuttal to corrective/disciplinary actions, removal or sealing of corrective/disciplinary records, and confidentiality of corrective/disciplinary records.

### **13.13 – Confidentiality and Privacy**

The City and the Union shall hold all corrective and disciplinary actions in the strictest "need to know" confidence. All discussions with employees regarding any matter of discipline, including verbal, shall be conducted in private. If management needs to talk to an employee concerning corrective or disciplinary action, the meeting shall be held in private. In all cases, the confidentiality of the disciplinary process shall be maintained by the Employer and its representatives as required by law, City Rules and this Agreement.

### **13.14 – Written Allegations or Charges by Public**

Written charges or allegations made to the City by the public against an employee will be processed in accordance with applicable laws, regulations, and guidelines. No record of a complaint, determined to be unfounded or not investigated, will be placed in the employee's official Personnel File.

The City will advise employees of written complaints or allegations pertaining to an employee within a reasonable period after receipt, unless law prohibits the release of such

information or if the release of such information would serve to compromise or disrupt a pending or ongoing investigation. If a determination is made to conduct a review of the situation, the employee(s) against whom the complaint is directed will be given a copy of the complaint, provided that release is not prohibited or restricted as indicated above.