

AGREEMENT
BETWEEN
THE CITY OF AUSTIN
AND
THE AUSTIN POLICE ASSOCIATION

EFFECTIVE October 1, 2013

AS AMENDED
EFFECTIVE December 10, 2015

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1 **ARTICLE 1**
2 **PREAMBLE**
3

4 As authorized by Chapter 143 of the Texas Local Government Code, the City of Austin,
5 Texas (hereinafter referred to as the "CITY") and the Austin Police Association (hereinafter
6 referred to as the "ASSOCIATION") reached a Meet and Confer Agreement effective October 1,
7 2013 (hereinafter referred to as the "AGREEMENT"). The AGREEMENT was ratified by the
8 City Council and the Association prior to the effective date.
9

10 **Section 1. Date of Agreement**
11

12 This AGREEMENT was made, entered into, and first effective this 1st day of October 2013
13 (unless specific provisions or Exhibit terms set forth a later effective date) by and between the
14 CITY and the ASSOCIATION, and its terms shall be effective only until the expiration date of
15 the Agreement, or as stipulated in this Agreement.
16

17 **Section 2. Purpose of Agreement**
18

19 WHEREAS, the CITY has voluntarily endorsed the practices and procedures of the statutory
20 meet and confer process as an orderly way of conducting its relations with its police officers,
21 insofar as such practices and procedures are appropriate to the functions and obligations of the
22 CITY to retain the rights to operate the CITY government effectively in a responsible and
23 efficient manner; and
24

25 WHEREAS, the ASSOCIATION has pledged to support the service and mission of the
26 Austin Police Department and to abide by the statutorily imposed no strike or work slowdown
27 obligations placed upon it; and
28

29 WHEREAS, it is the intent and purpose of the parties to set forth herein their entire
30 Agreement;
31

32 NOW, THEREFORE, IN CONSIDERATION OF THE mutual covenants and agreements
33 herein contained, the parties mutually agree as follows:
34
35

36 **ARTICLE 2**
37 **DEFINITIONS**
38

39 The following definitions apply to terms used in this Agreement, unless a different definition
40 is required by the context in which the term is used.
41

- 42 1. "ASSOCIATION" means the Austin Police Association, and its officers and agents
43 authorized to act on its behalf.
- 44 2. "Chief" means the Chief of Police of the Austin Police Department or his designee.
45
46

- 1 3. "Employer" or "CITY" means the City of Austin, Texas, the Austin Police Department
2 and its officers, agents, managers, and others authorized to act on the CITY's behalf.
3
- 4 4. "HRD" means the City of Austin's Human Resources Department.
5
- 6 5. "Officer" means, all police officers, as the term is currently defined in Texas Local
7 Government Code, Section 143.003 (5), and those hired under the provisions of this
8 Agreement in the Austin Police Department, except the Head of the Department and,
9 unless otherwise specified, Assistant Department Heads in the rank or classification
10 immediately below that of the Department Head. The term also excludes cadets, civilian
11 employees, retirees, reserve officers, and any other employees specifically exempted by
12 the terms of this Agreement. Probationary officers are excluded from the coverage of
13 Article 18 and cannot file grievances pursuant to Article 20 regarding disciplinary
14 actions.
15
- 16 6. "Meet and Confer Statute" means Subchapter I of Chapter 143 of the Texas Local
17 Government Code, Sections 143.301-143.313.
18
- 19 7. "Chapter 143" means Chapter 143 of the Texas Local Government Code.
20
- 21 8. "Authorized ASSOCIATION Representative" means a representative of the ASSOCIA-
22 TION authorized by the ASSOCIATION's executive board to conduct business on behalf
23 of the ASSOCIATION.
24
- 25 9. "Civil Service Commission" means the three (3) member Civil Service Commission
26 appointed by the City Manager, pursuant to Section 143.006 of the Texas Local
27 Government Code.
28
- 29 10. "Business day" means a day on which the City conducts normal business. In addition,
30 the day of the act, event or default after which a period of time begins to run is not
31 included. The last day of the period is included unless it is a weekend or City observed
32 holiday.
33
- 34 11. "Reserve Officer" means an honorably retired Austin Police Officer who meets the
35 minimum standards as determined by the Department. This definition may be amended
36 by agreement of the ASSOCIATION President and the City Manager.
37
- 38 12. "Department" means the Austin Police Department.
39
40

41 **ARTICLE 3**
42 **RECOGNITION**
43

44 The City recognizes the ASSOCIATION as the sole and exclusive bargaining agent for all
45 covered Police Officers, pursuant to Subchapter I of Chapter 143, excluding the Police Chief, the
46 Assistant Police Chiefs, and all civilian employees of the Police Department.

1
2
3 **ARTICLE 4**
4 **MANAGEMENT RIGHTS**
5

6 **Section 1. Retained Rights – General**
7

8 The CITY retains all inherent rights to manage the Police Department and its work force
9 which it presently enjoys, subject to applicable federal and state statutes and local ordinances,
10 resolutions, and rules, except as specifically provided in this Agreement. These rights include,
11 but are not limited to: direction of the work force, including but not limited to, the right to hire;
12 the right to discipline or discharge; the right to decide job qualifications for hiring; the right to
13 lay-off or abolish positions; the right to make rules and regulations governing conduct and
14 safety; the right to determine schedules of work together with the right to determine the methods,
15 processes and manner of performing work; the determination of the size of the work force, and
16 the assignment of work to officers within the department, including the right to transfer officers;
17 the determination of policy affecting the selection of new officers; the right to establish the
18 services and programs provided by the department, including the nature and level of such
19 services and programs, as well as the type and quantity of resources allocated; the right to
20 establish work performance measurement and standards; and the right to implement programs to
21 increase the cost effectiveness of departmental operations.
22

23 **Section 2. Retained Right of Independent Investigation**
24

25 The Chief of Police and the City Manager fully retain their rights to independently
26 investigate police conduct.
27

28 **Section 3. Public Release of Information**
29

30 a) The provisions of Section 143.089(g) of the Texas Local Government Code are expressly
31 modified to the extent necessary to permit public release of information to the extent and in the
32 manner authorized by this AGREEMENT.
33

34 b) This Section shall apply to any authorized Independent Investigation whether completed
35 prior to or after the effective date of this AGREEMENT. This section shall also apply to any
36 authorized Citizen Review Panel report or recommendation issued after the effective date of this
37 AGREEMENT. The public release of Panel reports or recommendations issued prior to the
38 effective date of this AGREEMENT are governed by the provisions of the 2008 AGREEMENT,
39 as amended in 2009.
40
41

42 **ARTICLE 5**
43 **NON-DISCRIMINATION**
44

45 **Section 1. Discrimination Prohibited**
46

47 Neither the CITY nor the ASSOCIATION shall discriminate with regard to the

1 implementation of any term or condition of this contract, or against any officer covered by this
2 AGREEMENT, in a manner that would violate any applicable federal or state law or any CITY
3 ordinances prohibiting discrimination on the basis of race, creed, color, national origin, religion,
4 age, sex, sexual orientation, or disability.

5
6 **Section 2. Association Membership or Activity**
7

8 a) Neither the CITY nor the ASSOCIATION shall interfere with the right of Officers
9 covered by this AGREEMENT to become or not become members of the ASSOCIATION, and
10 there shall be no discrimination or retaliation against such Officers because of lawful
11 ASSOCIATION membership or non-membership activity or status.

12
13 b) The CITY will not retaliate against Officers for seeking ASSOCIATION assistance with
14 regard to employment matters, nor will it take actions to discourage them from doing so. The
15 parties agree that this subsection does not provide the basis for a dispute, claim or complaint
16 under Article 20 unless there is a pattern of retaliation that has not been appropriately addressed
17 by APD management.

18
19 **Section 3. Association Fair Representation**
20

21 The ASSOCIATION recognizes its responsibility as the exclusive representative under the
22 Meet and Confer Statute and agrees to fairly represent all Officers in the Department covered by
23 this AGREEMENT.
24

25
26 **ARTICLE 6**
27 **UNION DUES, CHECK OFF**
28

29 **Section 1. Payroll Deductions and Union Dues**
30

31 a) Upon receipt of a signed authorization from an Officer on a form supplied by the CITY, the
32 dues and assessments that existed on the date of this AGREEMENT, including but not necessarily
33 limited to: APA dues, telephones, PAC, and dues for Austin Police Women's Association, Amigos
34 en Azul, Texas Peace Officers' Association, Combined Law Enforcement Associations of Texas,
35 Police Officers Memorial Fund, Spectrum Advisory Group, LLC, ASSOCIATION members' dues
36 for the "100" Club, and contributions by Officers to the ASSOCIATION'S charitable organization,
37 *Austin Cops for Charities*, shall be deducted from such Officer's pay. Officers who are already
38 having dues deducted as of the execution date of this AGREEMENT are not required to submit a
39 new dues deduction form. During the term of this AGREEMENT, should the CITY determine to
40 stop offering short term disability insurance to its employees, as an automatic benefit, the CITY
41 shall notify the APA and will cease deducting the premiums for Spectrum Advisory Group, LLC,
42 by the last pay period of the calendar year in which the CITY made such determination.
43

44 b) The CITY agrees to deduct, for those Officers who provide a signed authorization form
45 supplied by the CITY, premiums for other ASSOCIATION-preferred providers if approved by the
46 CITY. Dues deductions for such premiums will begin no later than the third pay period after the

1 Officer submits a properly completed dues deduction form authorizing such deductions. Any such
2 deductions will be discontinued if requested by the ASSOCIATION.
3

4 c) The dues deductions shall be remitted promptly to the treasurer of the ASSOCIATION. The
5 ASSOCIATION agrees to defray the actual cost of making such deductions, except deductions for
6 *Austin Cops for Charities*, not to exceed the per deduction amount paid by other employee
7 associations. The City agrees to provide a list of those members for whom deductions are made
8 each month. The ASSOCIATION may change the amount of the deduction for those employees
9 who have authorized payroll deductions by providing the City with a letter, at least thirty (30)
10 calendar days in advance of the change, from the ASSOCIATION President advising the City that
11 the amount has changed pursuant to the requirements of the ASSOCIATION's Constitution and
12 Bylaws. The ASSOCIATION will promptly refund to the CITY any amount paid to the
13 ASSOCIATION in error on account of this dues deduction provision. Additional assessments may
14 be deducted by mutual agreement of the parties.
15

16 d) The CITY understands that the ASSOCIATION may prohibit affiliate organizations from
17 activities that impair or interfere with its role as the exclusive bargaining agent.
18

19 **Section 2. Other Payroll Deductions**

20

21 The CITY agrees that it will not authorize payroll deduction of dues or fees for any
22 organization that purports to represent Austin police officers in employment matters, that is not
23 currently authorized to have payroll deduction of dues. This requirement shall not apply to
24 organizations specifically listed in this Article or organizations that enjoyed dues check off as of
25 the date the Austin City Council recognized the ASSOCIATION as the sole and exclusive
26 bargaining representative of officers in the Department, including the ASSOCIATION and the
27 Combined Law Enforcement Association of Texas.
28

29 **Section 3. Deductions for Death of Officer**

30

31 Whenever an Officer dies, and the CITY is notified by the ASSOCIATION of its intent
32 to invoke this provision, the CITY will deduct \$10 or \$20 dollars, as directed by the
33 ASSOCIATION, from each ASSOCIATION member's pay one time during the month
34 immediately following the Officer's death. In the case of multiple applicable deaths in a month,
35 the ASSOCIATION may have the deductions spread over consecutive pay periods upon
36 reasonable notice to the CITY. As with other deductions, said amount will be forwarded directly
37 to the ASSOCIATION. The ASSOCIATION shall provide, by internal policy, all other details,
38 such as designation of beneficiaries, reimbursement to members, eligibility for benefits, and
39 distribution of funds.
40

41 **Section 4. Effect of Contract Expiration**

42

43 The provisions of this Article shall remain in full force and effect after expiration of this
44 AGREEMENT until a successor AGREEMENT has been reached, or for twelve (12) months
45 after expiration of this AGREEMENT, if no subsequent agreement is ratified.
46

1
2
3 **ARTICLE 7**
4 **WAGES AND BENEFITS**

5 **Section 1. Base Wages**
6

7 **a) For Fiscal Year 2013-2014**
8

9 Effective with the first pay period of Fiscal Year 2013-2014, the pay scale attached
10 hereto as Appendix A-1 shall apply to all Officers covered by this AGREEMENT. The pay
11 scale reflects a 1.5% increase to base wages.
12

13 **b) For Fiscal Year 2014-2015**
14

15 Effective with the first pay period of Fiscal Year 2014-2015, the pay scale attached
16 hereto as Appendix A-2 shall apply to all Officers covered by this AGREEMENT. The pay
17 scale reflects a 1.0% increase to base wages.
18

19 **c) For Fiscal Year 2015-2016**
20

21 Effective with the first pay period of Fiscal Year 2015-2016, the pay scale attached
22 hereto as Appendix A-3 shall apply to all Officers covered by this AGREEMENT. The pay
23 scale reflects a 1.0% increase in base wages.
24

25 **d) For Fiscal Year 2016-2017**
26

27 Effective with the first pay period of Fiscal Year 2016-2017, the pay scale attached
28 hereto as Appendix A-4 shall apply to all Officers covered by this AGREEMENT. The pay scale
29 reflects a 2.0% increase to base wages.
30

31 **Section 2. Longevity Pay**
32

33 Beginning with Fiscal Year 2013-2014 longevity pay in the amount of one hundred and
34 seven dollars (\$107.00) per year of service, up to a maximum of 25 years, shall be paid in a lump
35 sum in the first regularly scheduled pay period after the Officer's anniversary date, which is the
36 annual anniversary of the Officer's most recent commission date. This change in payment of
37 longevity does not affect the treatment of longevity for retirement and overtime purposes, and
38 the CITY and the Officers shall continue making contributions for longevity payments.
39

40 **Section 3. Field Training Officer Pay**
41

42 Field training Officer (FTO) pay shall be paid at the effective rate of one hundred and
43 seventy five (\$175.00) per month to each Officer assigned in the FTO program, as selected
44 according to criteria established by the Chief. This payment shall not be made to Officers
45 assigned to the Training Division, or to the FTO Program Coordinator. Officers authorized to
46 train probationary patrol officers during their probationary period, and not a part of the FTO

1 program, will be compensated for the actual hours spent training.
2

3 **Section 4. Mental Health Certification Pay**
4

5 Mental Health Certification Pay shall be paid at the effective rate of one hundred and seventy
6 five dollars (\$175.00) per month to each Officer assigned to a Patrol Shift, and serving as a
7 Mental Health Officer as selected and approved according to criteria established by the Chief.
8 This payment shall not be made to the Officers assigned to the Crisis Intervention Team.
9

10 **Section 5. Bilingual Pay**
11

12 Bilingual pay will be paid at the rate of one hundred and seventy five dollars (\$175.00) per
13 month for Officers certified under standards established by the Chief and assigned to the
14 bilingual program. The bilingual program shall include German, Spanish, French/Haitian, Farsi,
15 Arabic, Asian (Vietnamese, Cantonese, Thai, Korean, Japanese, and Malaysian), Russian,
16 Ukrainian, and sign language for the deaf. Officers will not be paid cumulatively if they are
17 certified in more than one language.
18

19 **Section 6. Compensation for Lieutenants and Commanders**
20

21 a) Lieutenants and Commanders shall be compensated on a salary basis and are exempt
22 employees for purposes of overtime compensation under applicable federal law. The parties
23 further agree that the Lieutenants and Commanders accept their salaries as inclusive of any and
24 all overtime compensation.
25

26 b) Lieutenants permanently assigned to an evening or night shift in Patrol shall be paid an
27 additional stipend of three hundred dollars (\$300.00) per month. Lieutenants assigned to a Patrol
28 Area Command who are assigned to an evening or night shift for a twenty eight (28) calendar
29 day cycle, when the shift begins at or after 2:00 p.m., shall be entitled to three hundred dollars
30 (\$300.00) per month.
31

32 **Section 7. Assistant Chiefs**
33

34 The Chief of Police has the right to set wages and benefits for the Assistant Chiefs, subject to
35 the approval of the City Council as a part of the budget. The Chief may designate one Assistant
36 Chief as the Executive Assistant or Chief of Staff, whose pay and benefits may be different than
37 the other Assistant Chiefs. Additional performance pay may be awarded in the Chief's
38 discretion.
39

40 **Section 8. Clothing Allowance**
41

42 During the term of this AGREEMENT, the clothing allowance shall be five hundred dollars
43 (\$500.00) per year for all Officers deemed eligible by the Chief, with a payment schedule to be
44 determined by the Chief.
45

46 **Section 9. Education and Certificate Pay**

1
2 An Officer shall be entitled to either Certificate pay or Education pay, at the highest
3 qualifying rate, but shall not be entitled to both. Education pay shall only be payable for degrees
4 or college credit from an accredited college or university. An accredited college or university is
5 an institution of higher education that is accredited or authorized by the Southern Association of
6 Colleges and Schools, the Middle States Association of Colleges and Schools, the New England
7 Association of Schools and Colleges, the North Central Association of Colleges and Schools, the
8 Northwest Association of Schools and Colleges, or the Western Association of Schools and
9 Colleges (Reference: TCLEOSE Rule 211.1(a)(3), as modified by the Commission from time to
10 time).

11
12 **a) Certificate Pay**

13
14 (1) Each Officer holding an Intermediate TCLEOSE Certificate shall be paid fifty
15 dollars (\$50.00) per month. Each Officer holding an Advanced TCLEOSE Certificate shall be
16 paid one hundred dollars (\$100.00) per month. Each Officer holding a Master TCLEOSE
17 Certificate shall be paid one hundred fifty dollars (\$150.00) per month.

18
19 (2) No Officer hired after March 25, 2001, will be eligible for Intermediate or
20 Advanced Certificate pay. Certificate pay amounts at or above those set forth in this
21 AGREEMENT remain in effect, and this AGREEMENT continues the right of all Officers to
22 qualify for or achieve Master Certification pay.

23
24 **b) Education Incentive Pay**

25
26 (1) Each Officer holding an Associate's degree or sixty (60) hours of college credit
27 shall be paid one hundred dollars (\$100.00) per month.

28
29 (2) Each Officer holding a Bachelor's degree shall be paid two hundred and twenty
30 dollars (\$220.00) per month.

31
32 (3) Each Officer holding a Master's degree shall be paid three hundred dollars
33 (\$300.00) per month.

34
35 **Section 10. Shift Differential**

36
37 The CITY shall pay an additional three hundred dollars (\$300.00) per month to an Officer
38 normally assigned to an evening or night shift for a twenty eight (28) calendar day cycle, when
39 the shift begins at or after 2:00 p.m. Only Officers working 50% or more of their shifts
40 beginning at or after 2:00 p.m., in a 28 calendar day cycle, shall be eligible. Shift differential
41 pay shall apply to all ranks up to and including Sergeant. This provision shall apply in lieu of the
42 City policy applicable to shift differential for any other employees.

43
44 **Section 11. Monthly Paid Compensation**

45
46 It is expressly understood and agreed that the CITY reserves the right to pro-rate and pay all

1 monthly payments in bi-weekly equivalents.

2
3 **Section 12. Work Furloughs**
4

5 It is expressly agreed and understood that during the term of this AGREEMENT, Officers
6 covered by this AGREEMENT shall be exempt from any mandatory employee work furlough or
7 other unpaid leave plan implemented by the CITY for the purpose of reducing base wages paid
8 to employees by reducing an employee's normal work hours. This section does not apply to
9 disciplinary actions. 1

10
11 **Section 13. Severe Weather**
12

13 Nothing in this AGREEMENT prohibits the Department from adopting a policy regarding
14 leave for Officers required to provide essential services during severe weather or other
15 emergencies.

16
17 **Section 14. Officer Residency Incentive Pay**
18

19 a) The City Council may authorize Officer Residency Incentive Pay if the ordinance applies
20 equally to each Officer who meets the criteria established by the ordinance.

21
22 b) The Residency Incentive Pay shall be in an amount and is payable under conditions,
23 requirements and criteria set by the ordinance. Residency Incentive Pay is in addition to the base
24 salary received by Officers.

25
26 c) The Chief of Police is not eligible for the Residency Incentive Pay authorized by this
27 Section.

28
29 d) To the extent of any conflict between this subsection and portions of any state statute,
30 local ordinance, City or Department policy, including but not limited to Texas Local
31 Government Code §143.041, the provisions of this subsection shall preempt such statute, local
32 ordinance, City or Department policy only to the extent of such conflict.
33
34
35

36 **ARTICLE 8**
37 **OVERTIME, ON-CALL, COURT TIME AND CALL BACK**
38

39 **Section 1. Overtime**
40

41 For purposes of computing overtime, all approved paid leave time, other than sick leave,
42 shall be calculated as hours worked. 25
43

44 **Section 2. On-call status**
45

46 The CITY will allow eight (8) hours of comp time per week for any non-exempt Officer on

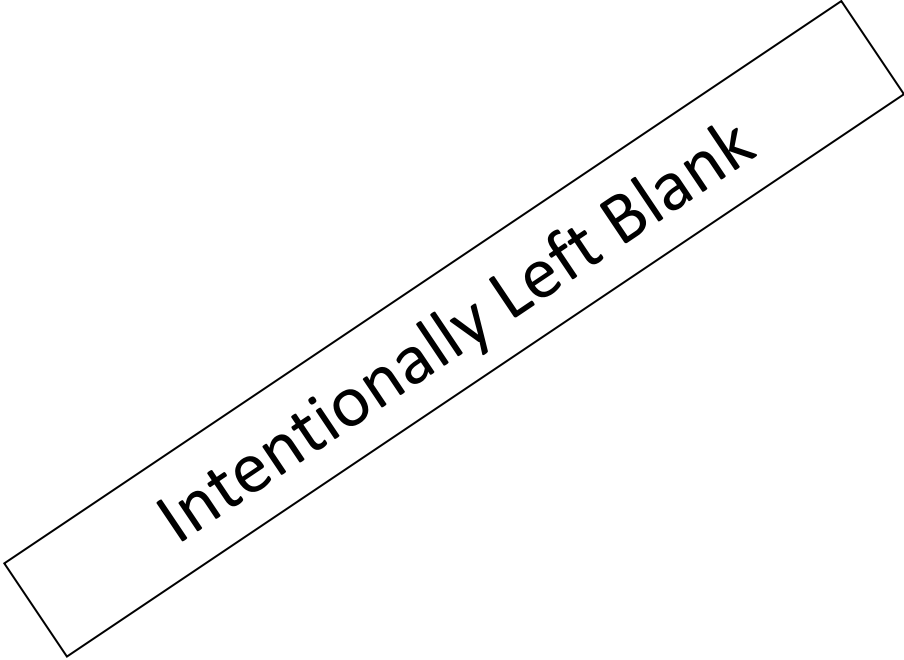
1 call, as defined by Department policy implemented by the Chief. Officers placed on “court call”
2 while under subpoena to court for two or more consecutive calendar days, shall not be eligible
3 under the prior sentence, but shall receive one (1) hour of additional comp time per day for each
4 regularly scheduled day off or pre-approved leave day.

5
6 **Section 3. Court time**
7

8 a) An Officer who attends court more than one hour before the start of his/her regularly
9 scheduled shift shall receive a minimum of four (4) hours compensation at time and one half.
10 (e.g. If the Officer is assigned to work from 9:00 a.m. till 7:00 p.m., and he/she must attend
11 municipal court at 7:00 a.m. the same day, the Officer is entitled to four (4) hours of overtime).

12
13 b) If the Officer attends court one hour or less before the start of his/her regularly scheduled
14 shift, the Officer shall receive one (1) full hour of compensation at time and one half. (e.g. If the
15 Officer’s shift starts at 9:00 a.m., but he/she must attend municipal court at 8:00 a.m. or later, the
16 Officer shall receive one full hour of overtime).

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1 c) An Officer who attends court after his/her regularly scheduled shift has ended shall
2 receive a minimum of four (4) hours compensation at time and one half (e.g. If the Officer is
3 assigned to work from 10:00 p.m. till 8:00 a.m., and he/she must attend municipal court at 8:00
4 a.m. the same date, the Officer is entitled to four (4) hours of overtime).

5
6 d) If the Officer's court assignment begins during his/her regularly scheduled shift but
7 continues beyond his/her normal duty hours, the Officer will only be entitled to the actual
8 amount of overtime hours worked. (e.g. If the Officer is assigned to work from 10:00 p.m. till
9 8:00 a.m., and if the Officer's court assignment begins at 7:30 a.m. and the Officer is not
10 dismissed from court until 9:00 a.m., the Officer shall receive only one (1) hour of overtime).

11
12 **Section 4. Call back**

13
14 a) Non-exempt Officers who are off-duty and receive notification to return to duty status
15 one hour or less before the start of their regularly scheduled shift shall receive one (1) full hour
16 of compensation at time and one half.

17
18 b) Non-exempt Officers who are off-duty and receive notification to return to duty status
19 shall receive a minimum of three (3) hours of compensation at time and one half when notified to
20 return to duty status:

- 21
22 1. After the conclusion of their regularly scheduled shift, or
23 2. More than one (1) hour before their regularly scheduled shift.

24
25 c) Non-exempt Officers who are off-duty and receive notification to return to duty status
26 shall receive only fifteen (15) minutes of compensation at time and a half should the callback be
27 cancelled within fifteen (15) minutes of the notification, or the actual time spent completing the
28 assignment lasts no more than fifteen (15) minutes.

29
30
31
32 **ARTICLE 9**
33 **SPECIAL LEAVE PROVISIONS**

34
35 **Section 1. Emergency Leave**

36
37 Each Officer may utilize up to forty (40) hours of paid emergency leave for a death in the
38 immediate family as defined in the City of Austin personnel policies.

39
40 **Section 2. Sick Leave Donation**

41
42 a) If an employee is in danger of having used all accrued time (vacation, sick, etc.) due to a
43 serious illness or injury, as defined by the FMLA, Officers may voluntarily donate up to forty
44 (40) hours of vacation or sick leave to the ill or injured employee to avoid loss of pay. No
45 Officer shall be permitted to bank more than four hundred (400) hours of such donated leave
46 within any twelve (12) month period of time. Donated leave may only be used for the employee

1 to whom donated. In the event that all of the donated leave time is not used, the CITY shall not
2 be obligated to make any redistribution of banked hours to the donors. The remaining unused
3 donated amount shall not be paid on separation.
4

5 b) For purposes of Section 2 of this Article, “employee” shall mean any City of Austin
6 employee except a Chapter 143 civil service employee of the Fire Department or the EMS
7 Department.
8

9 **Section 3. Payment of Sick Leave on Separation**

10
11 a) Separation pay for accrued sick leave will be paid only to Officers with at least twelve
12 (12) years of actual service who separate in good standing. An Officer shall not be considered to
13 have separated in good standing if he/she is indefinitely suspended or leaves the Department in
14 lieu of termination. Except as provided in the following paragraph, the maximum accrued sick
15 leave payable will be 1400 hours.
16

17 b) The maximum accrued sick leave payable will be increased to 1700 hours if, in addition
18 to the above requirements, the Officer has not used more than 80 hours of sick leave in either of
19 the two prior twelve month periods before the date of separation, and has not used more than 120
20 hours cumulative in the prior 24 month period before the date of separation. The Chief shall
21 have the right to grant hardship approval for use of leave above these amounts on the basis of
22 actual documented medical conditions or treatment justifying the absence.
23

24 **Section 4. Administrative Leave**

25
26 Officers may be granted Administrative Leave based on participation in a CITY or
27 Departmental program that awards Administrative Leave to program participants or for any
28 purpose or event authorized by the Chief.
29

30 **Section 5. Preemption**

31
32 Officers shall be entitled to Special leave as provided in this Article and as provided for
33 and defined by City of Austin and APD policy and procedure as of the effective date of this
34 AGREEMENT. Such entitlements shall not be changed during the term of this AGREEMENT,
35 and shall totally preempt any provisions for leave under Chapters 141, 142, and 143 of the Local
36 Government Code.
37
38
39

40 **ARTICLE 10**

41 **HOLIDAYS, VACATION AND SICK LEAVE**

42 **Section 1. Christmas Holiday**

43
44
45 All non-exempt hourly Officers whose shift begins on December 25 shall continue to be paid
46 time and one half their regular hourly rate for all hours actually worked for the entire shift.

1 Exempt Officers who are required by their immediate supervisor to work on Christmas shall be
2 paid a holiday stipend pursuant to CITY policy.

3
4 **Section 2. Seniority Standards**

5
6 The CITY shall provide by policy for the application of seniority standards on use of
7 Holidays and Vacation, but agrees that any policy will apply equal standards, either department-
8 wide or division-wide.

9
10 **Section 3. Vacation Accrual Rate**

11
12 All Officers shall accrue regular vacation leave at the rate of 6.25 hours for each pay period
13 in which benefits accrue.

14
15 **Section 4. Accrual Caps for Vacation and Exception Vacation**

16
17 a) All Officers may accrue up to four hundred (400) hours of vacation and up to one
18 hundred sixty (160) hours of exception vacation. The maximum hours of vacation payable upon
19 separation shall continue to be two hundred forty (240) hours of vacation and one hundred sixty
20 (160) hours of exception vacation, in accordance with City policy.

21
22 b) It is the Officer's responsibility to ensure that the vacation and exception vacation
23 balances remain at or below the accrual caps. Hours in excess of the caps will not accrue and no
24 Officer will receive financial compensation for any hours in excess of the cap.

25
26 **Section 5. Sick Leave Accrual Rate**

27
28 All Officers shall accrue sick leave at the rate of 6.08 hours for each pay period in which
29 benefits accrue.

30
31 **Section 6. Preemption**

32
33 Officers shall be entitled to Holiday, Vacation and Sick leave as provided in this Article
34 and as provided for and defined by City of Austin and APD policy and procedure as of the
35 effective date of this AGREEMENT. Such entitlements shall not be changed during the term of
36 this AGREEMENT, and shall totally preempt any provisions for leave under Chapters 141, 142,
37 and 143 of the Local Government Code.

38
39
40
41 **ARTICLE 11**
42 **ASSOCIATION BUSINESS LEAVE**

43
44 **Section 1. Definitions**

45
46 As used in this Article:
47

1 a) "Association Business" means time spent in Meet and Confer negotiations; administering
2 the terms of this AGREEMENT, including the adjusting of grievances and participating in a
3 dispute resolution process; representing Officers in a disciplinary process (to the extent allowed
4 by this AGREEMENT); and attending the annual State CLEAT conference, the
5 ASSOCIATION'S Executive Board meetings, regular ASSOCIATION business meetings and
6 ASSOCIATION seminars and workshops (subject to the provisions of Section 4 below).
7

8 **Section 2. Establishment of Association Business Leave Time Pool**

9

10 a) Each year during the term of this AGREEMENT, during the first ten (10) days of the
11 calendar year, the CITY will contribute 7,000 hours of Association Business Leave (ABL) to a
12 pool of leave time which may be used in accordance with this Article. The CITY will track
13 deductions from the pool as ABL is used.
14

15 b) Any pool hours remaining at the end of a calendar year will remain in the pool to be
16 utilized in the following year. Hours of leave in the pool shall never have any cash or surrender
17 value.
18

19 **Section 3. Use of Association Business Leave**

20

21 a) ASSOCIATION President

22

23 (1) The ASSOCIATION President may use ABL for any lawful activity consistent with
24 the ASSOCIATION'S purposes, except as specifically prohibited by this AGREEMENT.
25

26 (2) The ASSOCIATION President may be permitted up to 2080 hours of ABL per
27 year. Use of ABL by the ASSOCIATION President may be denied or revoked only in the event
28 of an emergency situation. The ASSOCIATION President will be returned to ABL status after
29 the emergency situation ends.
30

31 b) ASSOCIATION Board Members and Committee Chairs

32

33 (1) ASSOCIATION Board Members and Committee Chairs may use ABL to conduct
34 ASSOCIATION Business as authorized in this Section. Board Members and Committee Chairs
35 may also use ABL for special events that support the mission of the Department or the
36 ASSOCIATION, but do not otherwise violate the terms of this Article. The practice of
37 addressing cadet classes twice during cadet training, with approval of the time and content by the
38 Chief, shall continue through the duration of this AGREEMENT. Such time spent addressing
39 cadet classes shall be deducted from the Pool. This provision does not exclude the Chief from
40 approving other individuals or groups to address cadet classes at his/her discretion, including
41 employee representative groups with current dues check off, but excluding groups that seek to
42 represent Officers regarding wages, hours and other conditions of employment.
43

44 (2) ASSOCIATION Board Members and each of the standing Committee Chairs may
45 each be authorized to utilize up to three hundred (300) hours of ABL from the Pool during the
46 year.

1
2 (3) Subject to the Chief's operational control and approval, two (2) Board Members or
3 Committee Chairs may be authorized to use more than three hundred (300) hours of ABL from
4 the Pool during the year. No more than one-half (1/2) of the hours specified in this Subsection
5 may be utilized for legislative and/or political activities as limited by Section 4. If ABL for such
6 Board Members(s) or Committee Chair(s) is revoked for any reason other than an emergency
7 situation, the ASSOCIATION President may meet with the Deputy City Manager or the
8 Assistant City Manager over public safety to review such action. The timeline for filing a
9 grievance, if any, shall be tolled until such review has been completed.

10
11 c) ASSOCIATION Members

12
13 The ASSOCIATION may request approval for the use of additional ABL for
14 ASSOCIATION members. Any use of additional ABL will be solely at the Chief's discretion.

15
16 d) Accounting for ABL

17
18 All Officers shall account for all ABL taken through the Chief's office, and such time
19 shall be subtracted from the Association Leave Pool. There shall be no entitlement for overtime
20 pay for any hours worked on ABL.

21
22 e) Officer Conduct While on ABL

23
24 While on ABL, all Officers shall abide by the policies, rules, regulations, procedures, and
25 directives of the Austin Police Department. ABL may be revoked for violations of such policies,
26 including but not limited to acts that bring discredit to the Department or to the CITY, that tend
27 to adversely affect the confidence of the public in the integrity of the Department, or improperly
28 damage or impair the reputation of the Department. The CITY recognizes the
29 ASSOCIATION'S prerogative to publically express interests related to the wages, rates of pay,
30 hours of employment, or conditions of work affecting the members of the ASSOCIATION. The
31 CITY further recognizes that from time to time, the interests of the ASSOCIATION may not be
32 shared by the Department or CITY. Expression of such interests in a manner consistent with the
33 philosophy and values of the Department will not be considered to be a violation of this
34 Subsection.

35
36 f) Temporary Vacancy

37
38 (1) In his or her sole discretion, the Chief of Police may determine that the continuous
39 absence from duty of more than three months due to the usage of ABL creates a vacancy in the
40 affected Officer's rank, but shall not expand the size of the classified service. When the Officer
41 whose absence created the vacancy returns to active duty, thus creating a surplus in his/her rank,
42 the last person promoted to that rank will be demoted to the next lower classification and placed
43 on a reinstatement list, with such rights as prescribed by this Article.

44
45 (2) The same result applies to all other promotions in lower ranks which resulted from
46 the first promotion and subsequent demotion.

1
2 (3) There shall be only one reinstatement list for each rank for persons demoted by
3 virtue of this Section. Any person placed on the reinstatement list shall remain on the list
4 indefinitely. Persons on the list shall be entitled to reinstatement to the rank from which they
5 were demoted in the same order as the demotion occurred. This results in the last demoted at that
6 rank being the first reinstated. Reinstatements must occur off of the reinstatement list for that
7 rank before any promotions from a promotional eligibility list. Until such reinstatements occur
8 and the reinstatement list is exhausted, there shall be no “vacancy” created at that rank for the
9 purpose of any promotional eligibility list.

10
11 **Section 4. Use of ABL for Legislative/Political Activities**

12
13 a) It is specifically understood and agreed that ABL shall not be utilized for legislative
14 and/or political activities at the State or National level, unless they relate to the wages, rates of
15 pay, hours of employment, or conditions of work affecting the members of the ASSOCIATION.
16 At the local level, the use of ABL for legislative and/or political activities shall be limited to
17 raising concerns regarding officer safety. ABL shall not be utilized for legislative and/or
18 political activities related to any election of public officials or City Charter amendments. ABL
19 shall not be utilized for legislative and/or political activities that are sponsored or supported by
20 the ASSOCIATION’S Political Action Committee(s).

21
22 b) It is specifically understood and agreed that no ABL shall be utilized for legislative
23 and/or political activities at the local, state, or national level that are contrary to the CITY's
24 adopted legislative program. No ABL shall be utilized for activities prohibited by Section
25 143.086 of Chapter 143 or by the Texas Ethics Commission. Nothing contained in this
26 Subsection is intended to prohibit an Officer from using vacation time to engage in legislative
27 and/or political activities.

28
29 **Section 5. Request for ABL**

30
31 All Association Business Leave will be requested in writing to and approved by the
32 ASSOCIATION President, and submitted in advance for final approval by the Chief in
33 accordance with this Article. The Chief may waive the requirement that the request and approval
34 be in writing. Requests for use of ABL shall be made as far in advance as is practicable.

35
36 **Section 6. Effect of Contract Expiration**

37
38 The provisions of this Article shall remain in full force and effect after expiration of this
39 AGREEMENT until the earlier of the date a successor Agreement has been reached, or twelve
40 (12) months after expiration of this AGREEMENT.

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ARTICLE 12
ASSOCIATION COMMUNICATION

36
37

Section 1. Association Access to Bulletin Boards, Pagers

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The ASSOCIATION'S access to CITY facilities and equipment to communicate with its membership shall include the use of one (1) bulletin board installed at each substation and satellite office, one (1) bulletin board in other locations agreed to by the ASSOCIATION and the Chief, and Departmental pagers. Use of pagers shall be in accordance with written Departmental policy, or shall otherwise be approved in advance by the Chief's office. Use of Department equipment to create or send email on ASSOCIATION business is not allowed. The design and placement of the bulletin boards shall be approved in advance by the Chief or his designee.

45
46

Section 2. Guidelines for Association Bulletin Boards

The following guidelines shall apply to materials posted on the bulletin boards:

- a) There shall be no personal attacks or inflammatory statements.
- b) All materials shall be directed toward dissemination of ASSOCIATION information.
- c) Any concerns about the content of posted material shall be brought to the attention of the ASSOCIATION'S executive board for review and adjustment as soon as the concerns are noticed. The Chief shall direct the objectionable material to be removed from the bulletin board until final determination.
- d) In any case, the Police Chief retains the final decision as to whether ASSOCIATION material may be posted on bulletin boards. At no time shall the bulletin boards contain any political endorsement, whether at the local, state or federal level.

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ARTICLE 13
PROMOTIONS

Section 1. Corporal/Detective

- a) Eligibility

(1) A Police Officer shall be eligible to sit for the Corporal/Detective promotional examination after completing four (4) years of continuous service in the rank of Police Officer immediately before the date of the written examination from the date of initial commission with APD

(2) The job description for the Corporal/Detective rank shall include acting as a supervisor when a Sergeant is not available, conducting assigned investigation and other duties

1 as determined by the Chief and set out in the job description and general orders.

2
3 (3) A Corporal/Detective becomes eligible for promotion to Sergeant after two (2)
4 continuous years in rank. Any Corporal/Detective designated to perform duties as an acting
5 Sergeant, shall be entitled to higher classification pay under the same criteria set forth in
6 Department policy then applicable to any other supervisor temporarily working in the next
7 higher rank.

8
9 (4) Positions in the rank of Corporal/Detective shall be filled from an eligibility list
10 created by a promotional procedure consisting of a written examination conducted in accordance
11 with this Article.

12
13 b) Scoring

14
15 For the rank of Corporal/Detective the eligibility list shall be calculated as follows:

16
17 **Written Examination Points:**

18 (See Section 5)

19
20

Maximum Exam Points	100
Maximum Education Points	2
Maximum Seniority Points	<u>+15</u>
Total Maximum Points:	117**

21
22
23
24

25 **Formula shall be carried to 3 decimal points and rounded up from .0005. Police Civil
26 Service tie-breaking rules will be applied if necessary.

27
28 c) Seniority

29
30 Each Officer shall be entitled to up to a maximum of fifteen (15) seniority points to be
31 added to the written exam score, equivalent to one (1) point per year of service, which shall be
32 prorated for partial years.

33
34 d) Education

35
36 (1) The following education points shall be added to each candidate's score, in
37 accordance with the accreditation standard referenced in Article 7 Section 9 for education
38 incentive pay. No cumulative points shall be allowed for more than one degree or Certification.
39

- 40 (i) Add .5 point for 60 college credits
41 (ii) Add 1.0 point for Bachelor Degree or Master Police Officer Certificate
42 (iii) Add 2.0 points for Masters Degree
43

44 It is the responsibility of the Officer seeking education points to ensure that the Training
45 Academy has the necessary supporting documentation for education points. The documentation
46 must be received by the Training Academy no later than 5:00 p.m. on the seventh (7th) business

1 day before the written examination is administered. No education points will be counted unless
2 proper documentation is timely received by the Training Academy.

3
4 **Section 2. Sergeant**

5
6 a) Promotional Procedure for Rank of Sergeant

7
8 (1) Positions in the rank of Sergeant shall be filled from an eligibility list created by a
9 promotional procedure consisting of a written examination and either a Technical Skills
10 Evaluation or an Assessment Center conducted in accordance with this Article.

11
12 (2) For each promotional cycle, the Chief of Police will determine whether the process
13 will include a Technical Skills Evaluation or an Assessment Center. The notice for the Written
14 Examination shall indicate whether the process will include a Technical Skills Evaluation or an
15 Assessment Center.

16
17 b) Optional Technical Skills Evaluation

18
19 (1) The Technical Skills Evaluation will be developed by a consultant chosen by the
20 Chief of Police from a list generated by the Director of Civil Service. The Evaluation will consist
21 of a written scenario to which the candidate shall submit a written response.

22
23 (2) The Evaluation will be administered by the Civil Service Commission immediately
24 following the Written Examination and before the grading of the Written Examination. The
25 candidate's written responses to the Evaluation will be sealed and held for scoring by assessors
26 selected by the consultant based on the same criteria used for selecting Assessment Center
27 assessors in Section 6 below. The candidate's written responses to the Evaluation will not be
28 graded unless the candidate scored at least seventy percent (70%) on the Written Examination.

29
30 (3) Scoring of the written responses will be based on a key provided to the assessors by
31 the consultant. The scoring key will award points based on whether the response includes
32 applicable topics or concepts and shall not allow partial credit for topics or concepts, to ensure
33 that the scoring is objective in nature and does not reflect the assessor's subjective judgment.

34
35 c) Scoring

36
37 After the Assessment Center or Technical Skills Evaluation scoring has been completed
38 for the rank of Sergeant the eligibility list shall be calculated as follows:

39

<u>Written Examination Points:</u>		<u>Assessment Center or</u>	
(See Section 5)		<u>Technical Skills Evaluation</u>	
Maximum exam points	100	Maximum points	100
Maximum seniority points	<u>+15</u>	Maximum education points	<u>+ 2</u>
Total maximum points:	115	Total maximum points:	102

46

1
2 **PROMOTION ELIGIBILITY LIST FORMULA:**
3

4 (Written examination points + seniority points) / 115 x 100 x .70 adjustment factor
5 +
6 (Assessment Center or Technical Skills Evaluation Points + Education Points
7 / 102 x 100 x .30 adjustment factor
8 =
9 Total points for promotion list**
10

11 **Formula shall be carried to 3 decimal points and rounded up from .0005. Police Civil
12 Service tie-breaking rules will be applied if necessary.
13

14 d) Seniority
15

16 Each Officer shall be entitled to up to a maximum of fifteen (15) seniority points to be
17 added to the written exam score, equivalent to one (1) point per year of service, which shall be
18 prorated for partial years.
19

20 e) Education
21

22 (1) The following education points shall be added to each candidate's score. These
23 points shall only be added to the Assessment Center or Technical Skills Evaluation score in
24 accordance with the formula below, and shall only apply to college degrees from an accredited
25 college or university, meeting the accreditation standard referenced in Article 7 Section 9 for
26 education incentive pay. No cumulative points shall be allowed for more than one degree or
27 Certification.
28

- 29 (i) Add .5 point for 60 college credits
30 (ii) Add 1.0 point for Bachelor Degree or Master Police Officer Certificate
31 (iii) Add 2.0 points for Masters Degree
32

33 (2) It is the responsibility of the Officer seeking education points to ensure that the
34 Training Academy has the necessary supporting documentation for education points. The
35 documentation must be received by the Training Academy no later than 5:00 p.m. on the seventh
36 (7th) business day before the written examination is administered. No education points will be
37 counted unless proper documentation is timely received by the Training Academy.
38

39 **Section 3. Lieutenant**
40

41 a) Promotional Procedure for Rank of Lieutenant
42

43 Positions in the rank of Lieutenant shall be filled from an eligibility list created by a
44 promotional procedure consisting of a written examination and an Assessment Center conducted
45 in accordance with this Article.
46

1 b) Scoring

2
3 After the Assessment Center scoring has been completed, for the rank of Lieutenant the
4 eligibility list shall be calculated as follows:

<u>Written Examination Points:</u>		<u>Assessment Center:</u>	
(See Section 5)			
Maximum exam points	100	Assessment Center points	100
Maximum seniority points	<u>+15</u>	Maximum education points	<u>+2</u>
Total maximum points:	115	Total maximum points:	102

13
14 **PROMOTION ELIGIBILITY LIST FORMULA:**

$$\begin{aligned} & (\text{Written examination points} + \text{seniority points}) / 115 \times 100 \times .50 \text{ adjustment factor} \\ & + \\ & (\text{Assessment Center Points} + \text{Education Points}) / 102 \times 100 \times .50 \text{ adjustment factor} \\ & = \\ & \text{Total points for promotion list**} \end{aligned}$$

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21
22 **Formula shall be carried to 3 decimal points and rounded up from .0005. Police Civil
23 Service tie-breaking rules will be applied if necessary.

24
25 c) Seniority

26
27 Each Officer shall be entitled to up to a maximum of fifteen (15) seniority points to be
28 added to the written exam score, equivalent to one (1) point per year of service, which shall be
29 prorated for partial years.

30
31 d) Education

32
33 (1) The following education points shall be added to each candidate's score. These
34 points shall only be added to the assessment score in accordance with the formula below, and
35 shall only apply to college degrees from an accredited college or university, meeting the
36 accreditation standard referenced in Article 7 Section 9 for education incentive pay. No
37 cumulative points shall be allowed for more than one degree.

- 38
- 39 (i) Add 1.0 point for Bachelor Degree
- 40 (ii) Add 2.0 points for Masters Degree
- 41

42 (2) It is the responsibility of the Officer seeking education points to ensure that the
43 Training Academy has the necessary supporting documentation for education points. The
44 documentation must be received by the Training Academy no later than 5:00 p.m. on the seventh
45 (7th) business day before the written examination is administered. No education points will be
46 counted unless proper documentation is timely received by the Training Academy.

1
2 **Section 4. Commanders**

3
4 a) Promotional Procedure for Rank of Commander

5
6 Positions in the rank of Commander shall be filled from an eligibility list created by a
7 promotional procedure consisting of a written examination and an Assessment Center conducted
8 in accordance with this Article, or by appointment by the Chief in accordance with Section 4e
9 below.

10
11 b) Scoring

12
13 After the Assessment Center scoring has been completed for the rank of Commander, the
14 eligibility list shall be calculated as follows:

	<u>Written examination points:</u>		<u>Assessment Center:</u>	
	(See Section 5)			
19	Maximum exam points	100	Assessment Center points	100
20	Maximum seniority points	<u>+15</u>	Maximum education points	<u>+ 2</u>
21	Total maximum points:	115	Total maximum points:	102

22
23
24 **PROMOTION ELIGIBILITY LIST FORMULA:**

$$\begin{aligned} & (\text{Written examination points} + \text{seniority points}) / 115 \times 100 \times .50 \text{ adjustment factor} \\ & + \\ & (\text{Assessment Center Points} + \text{Education Points}) / 102 \times 100 \times .50 \text{ adjustment factor} \\ & = \\ & \text{Total points for promotion list}^{**} \end{aligned}$$

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31
32 ****Formula shall be carried to 3 decimal points and rounded up from .0005. Police Civil**
33 **Service tie-breaking rules will be applied if necessary.**

34
35 c) Seniority

36
37 Each Officer shall be entitled to up to a maximum of fifteen (15) seniority points to be
38 added to the written exam score, equivalent to one (1) point per year of service, which shall be
39 prorated for partial years.

40
41 d) Education

42
43 (1) The following education points shall be added to each candidate's score. These
44 points shall only be added to the assessment score in accordance with the formula below, and
45 shall only apply to college degrees from an accredited college or university, meeting the

1 accreditation standard referenced in Article 7 Section 9 for education incentive pay. No
2 cumulative points shall be allowed for more than one degree.

- 3
- 4 (i) Add 1.0 point for Bachelor Degree
- 5 (ii) Add 2.0 points for Masters Degree
- 6

7 (2) It is the responsibility of the Officer seeking education points to ensure that the
8 Training Academy has the necessary supporting documentation for education points. The
9 documentation must be received by the Training Academy no later than 5:00 p.m. on the seventh
10 (7th) business day before the written examination is administered. No education points will be
11 counted unless proper documentation is timely received by the Training Academy.

12

13 e) If, during the term of this AGREEMENT, the number of classified positions at the rank
14 of Commander is increased from the current number of eighteen (18) authorized Commanders to
15 either twenty (20) or twenty-one (21), such newly created positions shall be filled as follows:

16

17 (1) Upon creation of the twentieth (20th) classified position at the rank of Commander,
18 the Chief of Police shall be entitled on a one-time basis to fill that position by discretionary
19 appointment of any Officer on the Commander Eligibility List in existence on the date the
20 position is created. It is expressly understood and agreed by the Parties that no Officer shall have
21 a right to fill such position by virtue of being on a reinstatement list.

22

23 (2) Upon creation of the twenty-first (21st) classified position at the rank of
24 Commander, the Chief of Police shall be entitled on a one-time basis to fill that position by
25 discretionary appointment of any Officer on the Commander Eligibility List in existence on the
26 date the position is created. It is expressly understood and agreed by the Parties that no Officer
27 shall have a right to fill such position by virtue of being on a reinstatement list.

28

29 (3) The Officers appointed in accordance with this Article will have full civil service
30 protection.

31

32 (4) This provision expires at the end of this AGREEMENT.

33

34 **Section 5. Written Examination for Promotion to the Ranks of Corporal/ Detective,**
35 **Sergeant, Lieutenant, and Commander**

36

37 All candidates for the ranks of Corporal/Detective, Sergeant, Lieutenant, and Commander
38 shall first take a written examination. The maximum score for the written examination shall be
39 one hundred (100) points. The written examination shall consist of questions relating to the
40 duties of the rank to be filled, as contained in reading material selected by the Chief of Police.
41 The CITY may engage an independent consultant to professionally develop the written
42 examination questions after consultations with the Director of Civil Service. The CITY will
43 make a reasonable effort to have the written examination validated. The examination may be
44 validated before or after the examination is given. Prior to being administered, the finalized
45 examination shall be kept in a safe and secure manner.

1 The CITY shall make reasonable efforts to provide a six (6) month study time window prior
2 to promotional examinations, but it is recognized that expiration or exhaustion of a list may
3 necessitate an earlier examination.
4

5 **Section 6. Assessment Center Process for Promotion to the Ranks of Sergeant,**
6 **Lieutenant or Commander**
7

8 a) Officers who pass the Sergeant's, Lieutenant's or Commander's written promotional
9 examination with a score of seventy percent (70%) or higher will proceed to the next step of the
10 examination process, which is an Assessment Center (unless a Technical Skills Evaluation is
11 used for the rank of Sergeant).
12

13 b) Prior to the written test being administered, the Chief shall establish assessment criteria
14 based on job content and responsibility. The Director of Civil Service will generate a list of
15 consultants, and will review that list with the Chief, who will approve the list. The Chief shall
16 also appoint three (3) members to serve on an Assessment Center Review Committee (ACRC),
17 plus one (1) alternate. The ASSOCIATION shall also select three (3) individuals to serve on the
18 ACRC and one (1) alternate. All ACRC members shall be selected from the tested rank or
19 above. The ACRC shall meet and consider the list of consultants approved by the Chief and
20 recommend an Assessment Center Consultant from the list, subject to Council approval,
21 pursuant to City purchasing policies and procedures.
22

23 c) After the Assessment Center Consultant has been selected, the Consultant will orient the
24 ACRC. The Consultant will confer with both the Chief and the ACRC on the needs or issues
25 affecting the design of the Assessment Center. Any input from the ASSOCIATION will be
26 summarized by the ACRC and made available to anyone who requests it. The Consultant shall
27 make all final decisions concerning the design and implementation of the Assessment Center.
28

29 d) The consultant will design the Assessment Center from among the following exercises:
30

- 31 In-Basket
- 32 Problem Solving/Analysis
- 33 Written and Oral Resumes/Structured Interviews
- 34 Role-Playing
- 35 Memo/Report Writing
- 36 Oral Presentation/Plan Preparation
- 37 Staff Meeting
- 38 Special Event/Operations
39

40 The consultant is not required to utilize all of the exercises, but may select the exercises or
41 combine the listed exercises into one or more exercises that are best suited for the particular
42 rank.
43

44 e) The Consultant also selects the assessors, who shall meet the following criteria:
45

1 (1) Active duty, sworn officers of similar rank to the promotion, or above, from cities
2 with a population of 200,000 or greater;

3
4 (2) Shall not reside in Austin;

5
6 (3) Shall not be related to any candidates for promotion;

7
8 (4) Shall not be known to, beyond mere acquaintance, any candidates for promotion;

9
10 (5) Shall have two (2) years of experience in the promoted or equivalent rank; and

11
12 (6) Shall not be a current or former employee of the City of Austin.
13

14 f) The Consultant shall conduct an orientation for candidates prior to administering the
15 Assessment Center. If the Consultant deems the orientation mandatory, all candidates must
16 attend in order to participate. If the consultant deems orientation to be mandatory, then at least
17 two (2) orientations shall be scheduled with one in the morning and one in the afternoon. If a
18 mandatory orientation is scheduled during an Officer's work time, he/she will be permitted to
19 attend.
20

21 g) The assessors selected by the Consultant will assess the candidates for the rank. The
22 assessors shall award up to one hundred (100) points to each candidate participating in the
23 assessment center. The assessment sessions will be videotaped, and candidates may review their
24 own session pursuant to procedures established by the Civil Service Director, provided that
25 candidates are given up to four (4) hours, which may be provided in smaller increments of time,
26 to review their assessment session. The Civil Service Director shall make blocks of time
27 available for Officers to review examination results from 8:00 a.m. to 5:00 p.m., and, in addition,
28 shall provide at least two (2) evening options until 10:00 p.m. However, the Civil Service
29 Director will not provide these time periods and the required staff unless the times are reserved
30 in advance. Examination reviews will be conducted on the Officer's off-duty time. Copies of
31 the videotapes will not be given to the candidate. Nothing in the assessment center process may
32 be appealed either to the Police Civil Service Commission, hearing examiner, or the District
33 Court.
34

35 h) Eligible Officers who do not participate in the Assessment Center process or the
36 Technical Skills Evaluation process without legitimate excuse shall be removed from the
37 eligibility list.
38

39 **Section 7. Eligibility Lists for the Ranks of Corporal/Detective, Sergeant, Lieutenant, and** 40 **Commander**

41
42 a) All promotional eligibility lists created under this Article shall be constructed, with the
43 highest total score being ranked number one and descending in numerical order.
44

45 b) All promotional eligibility lists shall be valid for twenty-four (24) months from the date
46 the final eligibility list is initially posted. In the event of any occurrence which results in a

1 change to the eligibility list, the changed list shall be effective on the day the original list was
2 effective, even after termination of this AGREEMENT. In the event of a clerical or electronic
3 error in computing the test scores, the expiration date of any promotional examination eligibility
4 list may be amended by written agreement between the President of the ASSOCIATION and the
5 City Manager.

6
7 c) If a written promotional examination for a rank has been given prior to the expiration of
8 this AGREEMENT, the promotional process for that rank may continue to completion, the
9 expiration of this AGREEMENT notwithstanding, and the resulting eligibility list shall have a
10 life of twenty-four (24) months from the date the final eligibility list is initially posted. In the
11 event of any occurrence which results in a change to the eligibility list, the changed list shall be
12 effective on the day the original list was effective, even after termination of this AGREEMENT.
13

14 **Section 8. Appeals Criteria Committee**

15
16 An Appeals Criteria Committee (ACC) will determine the criteria for what may be appealed
17 to the Police Civil Service Commission following all written promotional examinations. The
18 ACC shall establish appeal criteria which will be used for all written examinations held during
19 the term of this AGREEMENT. The ACC, composed of seven (7) individuals, shall be
20 appointed as follows:

21
22 a) Three (3) members appointed by ASSOCIATION, each having taken at least one (1)
23 promotional exam;

24
25 b) Two (2) members appointed by the Chief of Police, each having taken at least one (1)
26 promotional exam;

27
28 c) One (1) member appointed by the Director of Civil Service ; and

29
30 d) One (1) member appointed by the Chair of the Police Civil Service Commission.
31

32 A simple majority of the ACC shall approve the criteria. The Chief may reconvene the ACC
33 if, after an eligibility list has been established, it appears that clarification or modification of the
34 criteria is warranted. The criteria approved by the ACC shall not be appealable to the Police
35 Civil Service Commission, a hearing examiner, or to District Court.
36

37 **Section 9. Appeal Process After Written Examination**

38
39 Within 72 hours after a promotional examination is held, the Commission shall post the
40 individual raw scores by PID numbers only on a bulletin board located in the main lobby of the
41 city hall. Any Officer who has taken a written promotional examination may, within seven (7)
42 business days of the posting of the written promotional exam results, review his/her examination
43 results. The process shall be established by the Director of Civil Service; provided, however,
44 that each Officer who has taken a promotional examination may have up to four (4) hours to
45 review his/her examination, write, and submit the appeal, if any, which must be based on the
46 appeal criteria approved by the ACC. Once an appeal is filed, it shall be assigned a number and

1 processed anonymously. The Officer may obtain a copy of his or her appeal. The Civil Service
2 Director shall make blocks of time available for Officers to review examination results from 8:00
3 a.m. to 5:00 p.m., and, in addition, shall provide at least two (2) evening options until 10:00 p.m.
4 However, the Civil Service Director will not provide these time periods and the required staff
5 unless the times are reserved in advance. Examination reviews will be conducted on the
6 Officer's off-duty time. There will be no appeal to the Civil Service Commission, a hearing
7 examiner, or to the District Court of any facet of the examination review process.
8

9 **Section 10. Review by Employee Review Committee**

10
11 An Employee Review Committee (ERC) will be appointed to screen written examination
12 appeals to the Civil Service Commission, applying the criteria established by the ACC to
13 determine which appeals should be rejected because they do not meet the criteria. Assuring for
14 diversity as is practical and possible the ERC shall be comprised of five (5) members as follows:
15

16 a) Four (4) officers of the rank of the promotional exam or higher, two (2) each appointed
17 by the ASSOCIATION and the Chief of Police; and
18

19 b) One (1) member appointed by the Director of Civil Service.
20

21 Appeals may advance from the ERC to the Civil Service Commission by a vote of a simple
22 majority of the ERC. The ERC will not make any statement, assertion, or recommendation
23 regarding the validity of an appeal or subsequent Civil Service Commission action. There will
24 be no State District Court appeal of the ERC's examination appeal determinations or from the
25 Police Civil Service Commission's written examination appeal decisions, except an appeal
26 alleging the CITY's failure to validate the written examination.
27

28 **Section 11. Time Limit to Fill Vacant Positions**

29
30 It is expressly understood and agreed that the provisions in Chapter 143.036(d) and (e) and
31 143.014(f) of the Local Government Code prescribing time limits for filling vacancies at the rank
32 of Sergeant or above shall be expanded to one hundred and twenty (120) calendar days from the
33 date the vacancy occurs during the term of this AGREEMENT.
34

35 **Section 12. Committee on the Assessment Center Process**

36
37 The CITY and the ASSOCIATION shall each appoint two (2) persons to a committee that
38 shall schedule a meeting with the participants in each Assessment Center process to discuss the
39 strengths and weaknesses perceived by the participants, after completion of the process. The
40 Committee may recommend changes in the procedures to the Chief.
41

42 **Section 13. Military Promotions/Demotions**

43
44 The following changes are made to Sections 143.036 and 143.072 of the Texas Local
45 Government Code:
46

1 a) When an Officer is promoted as the result of a vacancy created by a military leave of
2 absence, when the Officer on military leave returns to active duty in the Department, the person
3 who filled the most recent vacancy at that rank shall be the one who is demoted to the next
4 lowest classification and placed on a reinstatement list, with such rights as prescribed in this
5 Article.

6
7 b) The same result applies to all other promotions in lower ranks which resulted from the
8 first promotion and subsequent demotion.

9
10 c) All other provisions of Sections 143.036 and 143.072 not specifically changed by this
11 AGREEMENT shall remain in effect.

12 13 **Section 14. Vacancy Created by Indefinite Suspension**

14
15 a) Notwithstanding any provision in this Article or any provision in Local Government
16 Code Chapter 143, an indefinite suspension of an Officer (despite any pending appeal) shall
17 create a vacancy, but shall not expand the size of the classified service. In the event that an
18 indefinite suspension is overturned on appeal and the Officer is reinstated to active duty in the
19 Department, the person who filled the most recent vacancy at that rank shall be the one who is
20 demoted to the next lowest classification and placed on a reinstatement list, with such rights as
21 prescribed in this Article.

22
23 b) The same result applies to all other promotions in lower ranks which resulted from the
24 first promotion and subsequent demotion.

25 26 **Section 15. Reinstatement List**

27
28 a) There shall be only one reinstatement list for each rank for persons demoted by virtue of
29 Sections 13 and 14 of this Article.

30
31 b) Any person placed on the reinstatement list shall remain on the list indefinitely.

32
33 c) Persons on the list shall be entitled to reinstatement to the rank from which they were
34 demoted in the same order as the demotion occurred. This results in the last demoted at that rank
35 being the first reinstated. Reinstatements must occur off of the reinstatement list for that rank
36 before any promotions from a promotional eligibility list. Until such reinstatements occur and
37 the reinstatement list is exhausted, there shall be no “vacancy” created at that rank for the
38 purpose of any promotional eligibility list.

39
40 d) Time spent on a reinstatement list shall not be considered a break in service for civil
41 service purposes, including, but not limited to eligibility for future promotional examinations.

42 43 **Section 16. Effect of Contract Expiration**

44
45 The provisions of this Article shall remain in full force and effect after expiration of this
46 AGREEMENT as to:

- a) All promotional eligibility lists created during this AGREEMENT; and
- b) All reinstatement lists created pursuant to this Article.

**ARTICLE 14
HIRING PROCESSES**

Part A. Application of Chapter 143 Processes

The ASSOCIATION, recognizing the CITY’s need for flexibility in the hiring of both experienced police officers and Cadets for the Department’s regular Training Academy program, hereby agrees to the deviations from Chapter 143 hiring procedures specifically authorized by this Article. Except as allowed by this Article, the CITY will comply with the hiring procedures specified in Chapter 143, and retains all prerogatives granted to it by the statutory procedures.

Part B. Initial Hiring Process

Section 1. Submission of Proper Application

a) In order to be considered for the position of cadet, each applicant must first submit a proper application as defined by the Department. A proper application shall include, but not be limited to, information on personal history, criminal history, driving record and age. The information submitted shall be used by the Police Department to determine whether the applicant meets the minimum qualifications to proceed to the testing phase of the process.

b) The Police Chief shall establish the eligibility requirements for applicants for the position of police cadet, consistent with Chapter 143 and this AGREEMENT.

Section 2. Maximum Age of Applicants

For all applicants, the maximum age for application to the cadet position shall be forty-five (45) years old.

Section 3. Screening and Testing of Applicants

a) The Police Chief will develop and implement the screening and testing procedures used to determine whether an applicant will be offered a position as a police cadet in a Police Academy class. The screening and testing procedures will include, at a minimum, a structured Oral Interview Board and a background investigation. Nothing in this AGREEMENT or in Chapter 143 will restrict the nature of the tests administered to applicants or the procedures used to administer those tests.

b) Applicants who successfully complete all of the screening and testing procedures will be

1 placed on an eligibility list per Department policy or procedure. Applicants on the eligibility list
2 may be offered a position as police cadet in any upcoming Police Academy class.
3

4 c) Each eligibility list created as a result of the process described in this Section shall
5 remain effective for twenty-four (24) months after certification by the Civil Service Commission.
6

7 **Section 4. Police Internship Program**

8

9 The Department may create and implement a Police Internship Program for individuals who
10 are interested in becoming Austin Police officers. Anyone hired into the Internship Program
11 must pass the same screening and testing procedures as applicants for the position of Police
12 Cadet, either at the beginning or at the end of their participation in the Program. The duration of
13 the Police Internship Program will be at least the equivalent of a college semester. Any intern
14 who successfully completes the Police Internship Program shall be placed at the top of the
15 current or next eligibility list for hire as a Police Cadet. Up to thirty-eight percent (38%) of each
16 Police Academy class may consist of interns who successfully completed the Police Internship
17 Program.
18

19 **Section 5. Effect on Present Cadet Classes**

20

21 It is specifically understood and agreed that the hiring process set out in this AGREEMENT
22 shall not apply to persons hired before the effective date of this AGREEMENT.
23

24 **Section 6. Probationary Period**

25

26 The “at will” probationary period of individuals filling beginning positions in the police
27 Department shall begin, under this AGREEMENT, on the date the cadet receives his/her
28 commission and shall end at the expiration of fifteen (15) months. The probationary period of
29 any cadet that already holds a commission prior to entering the police academy shall begin on the
30 date the officer receives their first assignment after successful completion of the academy, and
31 shall end at the expiration of fifteen (15) months. However, any leave taken by a probationary
32 police officer during this probationary time period, including but not limited to injury leave,
33 FMLA leave, sick leave, shall extend this probationary period by the length of the leave taken.
34 (Approved vacation leave other than FMLA will not so extend the probationary period.)
35

36 **Part C. Modified Hiring Process**

37

38 **Section 1. Applicability**

39

40 The Modified Hiring Process applies only to the hiring of experienced police officers who
41 may not need to attend the Department’s regular Training Academy program.
42

43 **Section 2. Eligibility Requirements**

44

45 a) The Chief of Police shall establish the eligibility requirements for applicants for the
46 Modified Hiring Process. The requirements need not be the same as those established by
47 Chapter 143 or those applicable to applicants for the position of Cadet in the Department’s

1 regular Training Academy. The requirements may be modified by the Chief of Police, but shall
2 include at least the following:

- 3
- 4 (1) At the time of application, each applicant must be actively employed as a police
5 officer for a municipal, county, or state law enforcement agency that handles a full
6 array of urban police work. Each applicant must have a total of at least three years
7 of active service as a police officer for one or more municipal, county, or state law
8 enforcement agency. Employment by or experience with a school or university law
9 enforcement agency is not acceptable.
 - 10
 - 11 (2) Each applicant shall hold a current peace officer license from the Texas
12 Commission on Law Enforcement Officer Standards and Education (TCLEOSE) or
13 shall meet criteria established by the Chief for obtaining the TCLEOSE license.
 - 14
 - 15 (3) Each applicant will be subject to a background investigation.
 - 16

17 b) The Chief of Police or his designee may, at his or her sole discretion, deny the application
18 of any applicant for the Modified Hiring Process and may determine whether a particular
19 applicant meets the eligibility requirements.

20

21 c) Once the hiring process for a modified class has been identified, the CITY will provide
22 the process to the ASSOCIATION prior to accepting applications. The CITY agrees not to
23 change the hiring process for that hiring cycle unless a court, the DOJ, the EEOC/TWCCRD, or
24 a third party vendor that participated in designing the process, determines that the process
25 outcome is unlawful under Title VII or Chapter 21 of the Texas Labor Code.

26

27 **Section 3. Selection and Placement**

28

29 a) The Chief of Police shall establish the selection criteria and procedures for the Modified
30 Hiring Process, which need not be the same as those established by Chapter 143 or those
31 applicable to applicants for the position of Cadet in the Department's regular Training Academy.
32 Applicants who meet the selection criteria and procedures may be hired without being placed on
33 an eligibility list.

34

35 b) Upon hire, the applicant will be placed in the position of "Cadet Senior," regardless of
36 any rank or position the officer previously held in another law enforcement agency, to the same
37 extent as if they had been hired under the processes prescribed by Chapter 143. Each Cadet
38 Senior must complete a Modified Training Academy and probationary period.

39

40 **Section 4. Training and Probation**

41

42 a) The Chief of Police shall establish the training requirements for a Modified Training
43 Academy. All Cadet Seniors hired through the Modified Hiring Process must successfully
44 complete the Modified Training Academy.

45

46 b) Each Cadet Senior shall successfully complete a probationary period of at least three

1 months following completion of the Modified Training Academy, but not to exceed the
2 probationary period for officers hired through the Department’s regular hiring process.

3
4 **Section 5. Civil Service Status**

5
6 a) A Cadet Senior who successfully completes the Modified Training Academy will be
7 placed in the Civil Service classification of Police Officer and automatically becomes a full-
8 fledged Civil Service employee and has full Civil Service protection, subject to successfully
9 completing probation. Until completion of probation, each officer hired through this Modified
10 Hiring Process is an at-will employee who may be discharged by the Chief of Police at any time,
11 without right of appeal.

12
13 b) Until completion of probation, an Officer hired through the Modified Hiring Process is
14 excluded from the coverage of Articles 17 and 18 and cannot file grievances pursuant to Article
15 20 regarding disciplinary actions.

16
17 **Section 6. Pay and Seniority**

18
19 a) The Chief of Police may determine the pay rate for each Cadet Senior during the
20 Modified Training Academy. Upon completion of the Academy, the Chief of Police may
21 determine the pay rate for each Police Officer hired through this Modified Hiring Process. Any
22 pay rate established by the Chief shall not exceed that of an Officer with two years’ experience
23 in the Austin Police Department.

24
25 b) Regardless of the pay rate established for each Cadet Senior, seniority for purposes of
26 longevity pay shall begin when the Officer successfully completes the Modified Training
27 Academy.

28
29 **Section 7. Promotional Eligibility**

30
31 Officers hired through the Modified Hiring Process must meet the same promotional
32 eligibility requirements as Austin Police Department Officers hired through the Department’s
33 regular initial hiring process.

34
35 **Section 8. Implementation**

36
37 The Modified Hiring Process described by this Article may be used at any time, for any
38 number of applicants, as authorized by the Chief of Police.

39
40 **Part D. Additional Provisions**

41
42 **Section 1. Benefit of the Bargain**

43
44 The ASSOCIATION and the CITY share the goal of recruiting and hiring the most qualified
45 applicants to become Austin Police Officers. The ASSOCIATION acknowledges the significant
46 effort and skill of the Department’s Recruiting Unit in trying to meet this goal, but recognize that

1 the Department needs to be able to adjust hiring procedures as necessary, without having to wait
2 until the next Meet & Confer negotiation process. The parties agree that the degree of flexibility
3 incorporated into this Article is of benefit to both parties and that this AGREEMENT would not
4 have been reached without the flexibility provided by this Article.
5

6 **Section 2. Effect of Contract Expiration**
7

8 The provisions of this Article shall remain in full force and effect after expiration of this
9 Agreement as to:

10
11 a) Any hiring process which has been commenced in substantial reliance upon the
12 provisions of this Article;

13
14 b) The length of the “at will” probationary period for individuals in that status prior to the
15 expirations of this AGREEMENT;

16
17 c) Any eligibility list created under the terms of this Article will remain in effect for 24
18 months, notwithstanding the expiration of this AGREEMENT;

19
20 d) Any interns who are participating in the Police Internship Program at the expiration of
21 this AGREEMENT may be placed at the top of the first eligibility list created after expiration of
22 this AGREEMENT.
23
24
25

26 **ARTICLE 15**
27 **DRUG TESTING**
28

29 **Section 1. Commitment to an Effective Drug Interdiction Program**
30

31 The CITY and the ASSOCIATION agree that Officers may be called upon in hazardous
32 situations without warning, and that it is imperative to the interest of the Officers and the public
33 to ensure that Officers are not substance impaired. In order to further their joint interest in
34 protecting Officers and the public, the CITY and the ASSOCIATION agree to mandatory drug
35 testing as described in this section. The CITY and the ASSOCIATION have a mutual interest in
36 ensuring that drug impaired Officers do not perform law enforcement duties. The CITY and the
37 ASSOCIATION are committed to the principle that the mandatory drug testing policy for
38 Officers is designed and shall be administered to result in disciplinary action only against those
39 Officers who have violated the Police Department's rules, regulations, policies and procedures.
40

41 **Section 2. Random Testing**
42

43 One hundred percent (100%) of Officers at all ranks, including the Chief, shall be susceptible
44 to mandatory testing for illegal drugs and controlled substances during each calendar year on a
45 fair and impartial statistical basis at the CITY's expense. The fair and impartial statistical basis
46 (in which each Officer has an equal chance of being selected during a calendar year) shall be by

1 a non-discriminatory computerized program operated and certified as non-discriminatory by an
2 independent firm hired by the CITY, and the Officer shall be tested upon being selected by the
3 computer.
4

5 Upon notice of selection for random testing, any Officer shall provide a urine sample in
6 accordance with the policy or protocol established by the testing laboratory. Failure to provide a
7 sample shall be equivalent to insubordination and may be the basis for suspension or indefinite
8 suspension
9

10 **Section 3. Assurance of Accurate Results**

11
12 Officers shall have the right to request that their urine sample be stored in case of legal
13 disputes. The urine sample will be submitted to the designated testing facility where a sample
14 will be maintained for the period of one year. Officers may, at their own expense, request to
15 have a test administered at an approved physician's office accompanied by the testing personnel
16 provided such testing is administered within eight (8) hours after notification by the Chief. Drug
17 testing shall consist of a two-step procedure:
18

- 19 1. Initial screening test.
- 20 2. Confirmation test.

21
22 Should a confirmation test be required, the test procedure will be technologically different
23 and more sensitive than the initial screening test. Officers shall be provided with a notice of the
24 result and may obtain a copy of the actual laboratory result upon request to the Lieutenant
25 assigned responsibility as Drug Testing Coordinator.
26

27 The CITY and the ASSOCIATION agree that only an appropriately certified laboratory
28 should conduct drug testing. The laboratory selected shall be experienced and capable of quality
29 control documentation, chain of custody and have a demonstrated technical expertise and
30 proficiency in urine analysis and shall comply with all requirements of an appropriately certified
31 laboratory. The CITY shall require any laboratory selected for collecting samples to conduct a
32 background investigation on those laboratory personnel involved in the collecting or handling of
33 an unsealed sample. In addition, the CITY shall require any laboratory involved in collecting
34 samples to use only employees who have not been arrested by Officers of the Austin Police
35 Department or convicted of a felony or misdemeanor crime involving dishonest conduct or
36 possession of illegal drugs to be involved in collecting or handling of an unsealed sample
37 collected from an Officer. In the event that the laboratory that collects the initial samples is not
38 the same laboratory that conducts the actual testing of those samples, only the laboratory that
39 collects the initial samples must comply with the background and criminal history provision of
40 this AGREEMENT. Test results shall be inadmissible in any administrative disciplinary hearing
41 if it is determined that the laboratory collecting samples failed to conduct a background
42 investigation on the laboratory personnel involved in collecting or handling the unsealed sample
43 which resulted in a positive test result.
44

45 All records pertaining to the Department-required drug tests shall remain confidential except
46 to the extent used in a disciplinary appeal. Drug test results and records shall be stored in a

1 locked file under the control of the Drug Coordinator, and under the supervision of the Chief,
2 who will maintain original copies submitted by the laboratory. No access to these files shall be
3 allowed without written approval of the Chief.
4

5 **Section 4. Testing on Reasonable Suspicion**

6

7 Nothing in this Article shall be construed to prohibit the Chief from conducting a drug test on
8 an Officer, or a search of any areas in which the Officer does not have a personal privacy
9 expectation, based upon reasonable suspicion in accordance with the guidelines as set forth in
10 Department policy for such actions. Such actions may be taken upon the agreement of any two
11 supervisors that there is a reasonable basis for a suspicion that:

12
13 a) An Officer is presently using or under the influence of illegal drugs or inhalants;

14
15 b) An Officer has possession of illegal drugs or inhalants;

16
17 c) An Officer has been associated with or involved with others who were using or under the
18 influence of illegal drugs or inhalants, or who were in possession of same, which association or
19 involvement was not authorized or required in connection with any law enforcement duty, under
20 circumstances which reasonably indicate participation or complicity with, or protection of such
21 other individuals; or

22
23 d) Any conduct or situation described in a-c immediately above involving alcohol, while on
24 duty, or which results in on-duty impairment.
25

26 **Section 5. Definitions**

27

28 For the purposes of this Article:

29
30 "Drug testing" shall be defined as the compulsory production and submission of a urine
31 sample by an Officer for chemical analysis to detect the presence of prohibited drug usage, in
32 connection with the random testing process set forth herein; and production or submission of
33 urine, blood, or hair sample for a required test based on the reasonable suspicion standards set
34 forth herein.
35
36
37

38 **ARTICLE 16** 39 **CITIZEN OVERSIGHT OF** 40 **THE AUSTIN POLICE DEPARTMENT**

41

42 **Section 1. Citizen Oversight**

43

44 a) Citizen Oversight means the process which incorporates citizen input into the
45 administrative review of conduct of APD Officers and the review of the Austin Police
46 Department's policies and procedures. The City of Austin may provide for Citizen Oversight of

1 the Austin Police Department. Citizen Oversight may include an Office of the Police Monitor
2 and a Citizen Review Panel. The CITY agrees that there will be no parallel process created in
3 addition to the one contemplated by these provisions.
4

5 b) The purpose of Citizen Oversight is:
6

7 (1) To assure timely, fair, impartial, and objective administrative review of complaints
8 against police officers, while protecting the individual rights of officers and citizens;
9

10 (2) To provide an independent and objective review of the policies and procedures of
11 the Austin Police Department; and
12

13 (3) To provide a primary, but not exclusive, location for accepting administrative
14 complaints of officer misconduct.
15

16 c) Except as otherwise provided by this AGREEMENT, the Chief of Police retains all
17 management rights and authority over the process of administrative investigation of alleged
18 misconduct by APD Officers that could result in disciplinary action.
19

20 d) Except as specifically permitted in this Article, the Citizen Oversight process, regardless
21 of its name or structure, shall not be used or permitted to gather evidence, contact or interview
22 witnesses, or otherwise independently investigate a complaint of misconduct by an Officer.
23 There shall be no legal or administrative requirement, including but not limited to subpoena
24 power or an order from the City Manager or the Department, that an Officer appear before or
25 present evidence to any individual, panel, committee, group, or forum of any type involved in
26 Citizen Oversight. This provision has no application to any Independent Investigation
27 authorized by the Chief of Police or the City Manager, regardless of whether the Independent
28 Investigation was recommended by a Panel or Police Monitor, or to any hearing of an appeal of
29 disciplinary action pursuant to this AGREEMENT and/or Chapter 143 of the Texas Local
30 Government Code. Police Officers remain subject to orders or subpoenas to appear and provide
31 testimony or evidence in such investigations or hearings.
32

33 **Section 2. Definitions** 34

35 In this Article:
36

37 a) “Critical Incident” means:
38

39 (1) An alleged use of force or other action by an Austin Police Officer that directly
40 results in serious bodily injury or death (The definition of “serious bodily injury” found in the
41 Texas Penal Code, Section 1.07(a)(46) will apply.);
42

43 (2) A death in custody; or
44

45 (3) An officer involved shooting.
46

1 b) “Independent Investigation” means an administrative investigation or inquiry of alleged
2 or potential misconduct by an Officer, authorized by the Chief of Police or City Manager and
3 conducted by a person(s) who is not:

- 4
- 5 (1) An employee of the City of Austin;
- 6
- 7 (2) An employee of the Office of the Police Monitor; or
- 8
- 9 (3) A volunteer member of the Panel.

10

11 An “Independent Investigation” does not include attorney-client work product or privileged
12 material related to the defense of claims or suits against the City of Austin.

13

14 c) “Complaint” means an affidavit setting forth allegations or facts that may form the basis
15 of future allegations of misconduct against an officer and which serves as the basis for initiating
16 an investigation.

17

18 d) “Complainant” means a person, including an Officer, claiming to be a witness to or the
19 victim of misconduct by an Officer. “Complainant” does not include the Department designee in
20 the case of an administrative referral.

21

22 **Section 3. The Office of the Police Monitor (“OPM”)**

23

24 a) Access to Confidential Information

25

26 The Police Monitor will have unfettered access to the Internal Affairs investigation
27 process, except as provided herein. The Police Monitor may inquire of the Commander of the
28 Internal Affairs Division or the Chief of Police, or the Chief’s designee, as to the status of any
29 pending IAD investigation.

30

31 b) Complaint Intake

32

33 (1) The OPM shall not gather evidence, contact or interview witnesses (except the
34 complainant as provided herein), or otherwise independently investigate a complaint or other
35 information of police misconduct. The OPM shall not have the authority to subpoena witnesses.
36 There shall be no administrative requirement, including but not limited to an order from the City
37 Manager or the Department, that an Officer appear or present evidence to the Police Monitor.
38 The OPM is authorized to accept complaints of Officer misconduct as provided in this Section.

39

40 (2) The OPM may obtain the following information in connection with the filing of a
41 complaint of officer misconduct:

- 42
- 43 (a) The complainant’s personal information;
- 44 (b) The nature of the complaint;
- 45 (c) Witness information;
- 46 (d) The incident location, date, and time; and

1 (e) The APD officer(s) involved.
2

3 (3) The OPM shall digitally audio record the taking of the information provided in
4 subsection (b)(2). The OPM will promptly forward the completed complaint and audio
5 recording to IAD. A complaint by a complainant who is not a Police Officer shall not be
6 accepted unless the complainant verifies the complaint in writing before a public officer who is
7 authorized by law to take statements under oath. A complainant may be subsequently
8 interviewed by the IAD investigator for purposes of clarification or to obtain additional
9 information relevant to the investigation.
10

11 (4) Personnel from the OPM shall assist an individual in understanding the complaint
12 process and the requirements for filing a complaint but shall not solicit or insist upon the filing of
13 a complaint by any individual.
14

15 c) Access to Investigation Interviews
16

17 A representative from the OPM may attend an interview of the Officer who is the subject
18 of the investigation or administrative inquiry, as well as all witness interviews. The OPM
19 representative may directly question the Officer who is the subject of the investigation only if
20 agreed to by the subject Officer or his/her representative and the IAD investigator. At the
21 conclusion of or during a break in any interview, the OPM representative may take the IAD
22 investigator aside and request that the investigator ask additional questions. Whether such
23 information is sought in any witness interview is within the discretion of the IAD investigator.
24

25 d) Access to Dismissal Review Hearings
26

27 The Police Monitor may attend any Dismissal Review Hearing (or other administrative
28 hearing conducted for the purpose of determining whether the Department shall take disciplinary
29 action against an Officer for alleged misconduct). Neither the Police Monitor nor the Internal
30 Affairs Representative(s) may remain in the Hearing while the chain of command and the Chief
31 of Police or his/her designee discusses the final classification and/or appropriate discipline, if
32 any, to be imposed. The final classification of an allegation of misconduct is within the sole
33 discretion of the Chief of Police, subject to the Officer's right of appeal of any discipline
34 imposed as provided by Chapter 143 of the Texas Local Government Code and this
35 AGREEMENT.
36

37 e) Quarterly Meetings
38

39 On a quarterly basis, the Police Monitor, the Chief of Police, the Commander of the
40 Internal Affairs Division, and the ASSOCIATION President shall meet to discuss any issues
41 related to the citizen oversight process.
42

43 **Section 4. Citizen Review Panel ("Panel")**
44

45 a) Function
46

1 The Panel shall serve to make recommendations to the Chief of Police as provided in this
2 Article, and in addition to review individual cases of Officer conduct as authorized in this
3 Article. Panel members shall perform their duties in a fair and objective manner.
4

5 b) Qualifications
6

7 To be eligible for appointment to the Panel, applicants must not have a felony criminal
8 conviction, received deferred adjudication for a felony, or be under felony indictment. Prior to
9 appointment, Panel members must submit to a criminal background investigation to determine
10 their eligibility to serve on the Panel. A felony conviction, felony indictment, or felony deferred
11 adjudication, after appointment, shall result in the immediate removal of the member from the
12 Panel by the City Manager.
13

14 c) Training
15

16 Each member must complete the training prescribed herein prior to commencing their
17 service on the Panel, except as specified herein. The required training shall include:
18

19 (1) Attending a three to four (3-4) day training by APD tailored specifically for Panel
20 members including, at a minimum, the following:
21

- 22 a. Special Investigations Unit;
- 23 b. Officer Involved Shootings;
- 24 c. Response to resistance;
- 25 d. The Police Training Academy;
- 26 e. Crisis Intervention Team;
- 27 f. Firearms, including FATS training;
- 28 g. Bomb and SWAT;
- 29 h. Ride-outs on at least two shifts (14 hours) in different parts of the City, one of
30 which must include a Friday or Saturday night in Downtown Command from 11
31 pm to 3 am. The Downtown Command ride-out must be completed within six
32 months of selection as a Panelist, and
- 33 i. A presentation by the Association.
34

35 (2) Attending six (6) hours of training provided by the Internal Affairs Division.
36

37 These training requirements are subject to change by unanimous agreement of the Chief of
38 Police, the ASSOCIATION President, and the Police Monitor.
39

40 d) Resign to Run
41

42 Any person involved in the citizen oversight process as a Panel member, who files for
43 public elective office shall immediately resign from their position in the citizen oversight
44 process, and failing such resignation shall be immediately removed by the City Manager.
45

46 e) Cases Subject to Review by Panel

1
2 The Panel may review the following two categories of cases regarding officer conduct:
3

- 4 (1) Review Requested by Complainant: Not later than thirty (30) calendar days after
5 the Police Monitor forwards notice of the outcome of the investigation to the
6 complainant, the complainant may request that the Police Monitor refer the
7 complaint to the Panel. There is no limitation as to the type of case which may be
8 referred to the Panel at the request of the complainant.
9
- 10 (2) No Review Request by Complainant: Without a complainant's request, only the
11 following cases may be referred to the Panel:
12
- 13 a. A "Critical Incident" as defined in this Article;
 - 14 b. The appearance of a pattern of serious misconduct by the Officer involved;
 - 15 c. The appearance of a pattern of Department-wide misconduct;
 - 16 d. The appearance of serious official misconduct by one or more members of the
17 Department;
 - 18 e. The appearance of bias based misconduct; or
 - 19 f. The appearance of issue(s) to be addressed by policy, procedure, or training
20 recommendations.
21

22
23
24
25
26
27 f) Nature of Proceedings
28

29 (1) The review of any case by the Panel shall not be conducted as a hearing or trial.
30 Except for the receipt of public input/communications as provided by this Section or an
31 Independent Investigation authorized by this Article, the Panel shall not gather evidence, contact
32 or interview witnesses, or otherwise independently investigate a complaint. The Panel shall not
33 have the authority to subpoena witnesses. There shall be no administrative requirement,
34 including but not limited to an order from the City Manager or the Department, that a Police
35 Officer appear or present evidence to the Panel. The Panel shall immediately forward any
36 information or evidence of which it becomes aware to the Chief of Police through the Police
37 Monitor.
38

39 (2) A quorum shall be established prior to beginning the review of any case by the
40 Panel.
41

42 (3) Not less than five (5) business days prior to a Panel meeting, the OPM shall provide
43 the Internal Affairs Division and the individual designated by the President of the
44 ASSOCIATION as the Panel liaison, with a copy of the Panel meeting agenda. The Panel shall
45 not take action upon or receive public input/communications concerning any case or issue not
46 listed as an agenda item. Citizens wanting to address the Panel during the public

1 input/communications section of the meeting must complete a speaker sign-up card listing the
2 agenda item they wish to address, and will be limited to addressing the topic identified. The
3 Internal Affairs Division shall promptly notify any Officer who is the subject of a complaint
4 listed as an agenda item as to the scheduled Panel meeting. Notice of special meetings shall be
5 handled in a similar manner, unless circumstances require a shorter notice, in which case the
6 notice shall be issued as soon as the special meeting is scheduled.

7
8 (4) By virtue of its purely advisory role, the Panel is not a governmental body and is
9 not subject to the Open Meetings Act. Those portions of the meeting during which public
10 input/communication is accepted shall be open to the public and recorded by video and audio.

11
12 g) Access to Confidential Information

13
14 (1) Panel members shall have full access to all administrative investigative and
15 disciplinary files necessary to perform their functions under this AGREEMENT. Panel members
16 may ask questions and obtain specific facts, details and information from the Police Monitor,
17 IAD, or the Chief's office. As part of such access, the Police Monitor shall make available to
18 individual Panel members all IAD case files scheduled for review pursuant to subsection "f (3)"
19 above. Individual Panel members may review the IAD case file for up to eight (8) hours, at the
20 Police Monitor's office and in the presence of a member of the Monitor's staff. This review
21 opportunity may occur before the Panel's private session and/or after the Panel's public session
22 regarding such case. The Monitor's Office may hold a conference call with the Panel in which
23 the Panel is given a preview of the general nature of the cases that will appear at the next Panel
24 meeting. The focus of the discussion shall not be on the specific facts of any particular case.
25 The purpose of this conference call is so that the Panel members may decide if they need to
26 review the file prior to the meeting. The prohibitions and restrictions in Section 8 of this Article
27 apply to any confidential information viewed by Panel members during this review opportunity.
28 Panel members shall not copy or remove any portion of the file. The Police Monitor shall be
29 responsible for security of the file.

30
31 (2) In an effort to ensure the Panel has a more complete view of the types of cases the
32 APD reviews, the Police Monitor shall meet with the Panel twice a year to provide them an
33 overview of APD activity up to that point in the calendar year.

34
35 h) Private Case Briefing Session

36
37 (1) Prior to receiving any communication from the complainant or any other public
38 input/communications, the Panel may meet in Private Session to be briefed concerning the facts
39 of the particular case to be reviewed. The Police Monitor and/or the IAD representative shall
40 present to the Panel the information obtained from the IAD investigation. The duties of the IAD
41 representative may be performed by others, including the chain of command, training staff, and/
42 or forensics. Members of the Panel may be provided with READ ONLY electronic access to all
43 or part of the IAD files, or the physical files themselves, during these presentations.

1 (2) An APD Officer designated by the President of the ASSOCIATION and one
2 individual from the Internal Affairs Division shall be present during the Panel Private Session
3 case briefing, subject to the following provisions:
4

- 5 a. The Association's Representative will not participate in the briefing and is
6 present only as an observer, with the following exceptions:
7
- 8 (i) The Association Representative may request that the Police Monitor allow
9 the representative to present information relevant to a case before the
10 Panel.
 - 11 (ii) A Panel member may request that the Association Representative present
12 information relevant to a case before the Panel.
 - 13 (iii) Any information provided by the Association Representative shall be
14 presented in a neutral manner.
15
- 16 b. The Association Representative may not be involved in the case as a witness,
17 investigator, relative, or officer in the chain of command.
18
- 19 c. Information in the possession of the Association Representative as a result of
20 participation in such briefing shall not be disclosed or revealed other than as
21 necessary as a part of official Association business in monitoring and enforcing
22 this AGREEMENT, or in the normal course of dispute resolution processes
23 under this AGREEMENT.
24
25
26

27 (3) During any private Panel briefing, the presenter should exercise discretion and omit
28 information from the briefing that the Police Monitor deems to be irrelevant to the citizen's
29 complaint, as well as information of a highly personal nature that would constitute an
30 unwarranted invasion of an individual's personal privacy interests.
31

32 (4) In addition to those individuals involved in briefing the Panel, and the Association
33 Representative, the Assistant Police Monitor, the staff member from the Office of the Police
34 Monitor that is assigned to the case, and a designated attorney from the City Attorney's Office
35 may be present during the Private Case Briefing Session. No other individual may be present
36 unless the Panel requests further information.
37

38 i) Public Session and Comments
39

40 After the Private Session, the Panel shall meet in Public Session to receive public
41 input/communications. During the public session, the Police Monitor shall take precautions to
42 prevent discussion of the facts of the particular case and to prevent the Public Session from being
43 used as a forum to gather evidence, interview witnesses, or otherwise independently investigate a
44 complaint. Any individual who indicates that he has new or additional evidence concerning the
45 particular case shall be referred to the Chief of Police or his designee. The rules that apply to
46 citizen communications with the City Council shall apply to the public session of the Panel

1 meetings. The Police Monitor, in consultation with the Panel, shall set the time limits for such
2 proceedings, and shall be responsible to prevent discussion of matters not on the Session agenda.

3
4 j) Communication from Complainant and/or Officer

5
6 (1) Public Session:

7
8 Subject to the provisions of Subsection “h,” the Complainant shall be permitted to
9 address the Panel in the Public Session. The Officer who is the subject of the complaint may, but
10 is not required, attend and listen to the address by the complainant, and may also address the
11 Panel.

12
13 (2) Private Session:

14
15 If the Complainant articulates relevant privacy or safety concerns, the Police Monitor
16 may allow the complainant to address the Panel in a private session. The Officer who is the
17 subject of the complaint may, but is not required, attend and listen to the address by the
18 complainant, and may also address the Panel. If the complainant is anxious or intimidated by
19 the presence of the Officer, the Panel shall videotape the complainant’s address to the Panel, and
20 allow the Officer to view and respond to the taped statement outside the complainant’s presence.
21 Other than the complainant and the responding police officer, only those persons authorized to
22 attend the Panel Private case briefing may be present during this private Panel Session.

23
24 k) Deliberations

25
26 After receiving public input, if any, the Panel shall discuss the particular case under
27 review in private session. The Police Monitor and/or the Assistant Police Monitor, the staff
28 member from the Office of the Police Monitor that is assigned to the case, and a designated
29 attorney from the City Attorney’s Office may be present during such discussion. No other
30 individual may be present unless, the Panel requests further information; if the Panel does so, the
31 Police Monitor or Assistant Police Monitor, and the IA Commander or Lieutenant, must also be
32 present.

33
34 l) Action and Recommendations

35
36 (1) The Panel shall not take action or make recommendations not authorized by this
37 Article. At the conclusion of the review process set forth above, the Panel, upon a majority vote
38 of its total members, may make the following written recommendations to Chief of Police:

- 39
40 a. Further investigation by the Department is warranted;
- 41
42 b. Department policies warrant review and/or change;
- 43
44 c. An “Independent Investigation” is warranted; or
- 45
46 d. A non-binding recommendation on discipline, limited to cases involving a

1 “critical incident” as defined in this Article.
2

3 (2) The final decision as to appropriate discipline is within the sole discretion of the
4 Chief of Police, subject to the Officer’s right of appeal of any discipline imposed as provided by
5 Chapter 143 of the Texas Local Government Code and this AGREEMENT. Neither the OPM
6 employees nor individual members of the Panel shall publicly express agreement or
7 disagreement with the final disciplinary decision of the Chief, other than as set forth in the
8 written recommendation. A deliberate violation of this provision shall be subject to the dispute
9 resolution process set forth in Section 7 of this Article, but a Panel member shall be permanently
10 removed from the Panel upon a violation of this standard.
11

12 (3) Members must attend the meeting and hear the merits of the case in order to vote.
13 The Panel’s recommendations shall be reduced to writing. The Panel’s written recommendations
14 shall explain the Panel’s issues(s) or concern(s).
15

16 (4) The Police Monitor shall consult with the Panel in formulating any
17 recommendations to the Chief of Police.
18

19 **Section 5. Independent Investigation** 20

21 a) The Chief of Police and the City Manager retain all management rights to authorize an
22 Independent Investigation concerning police conduct.
23

24 b) If the Panel, pursuant to Section 4(l)(1)(c), recommends that an Independent
25 Investigation is warranted, the Panel shall provide a public report setting forth the basis and
26 concerns of the Panel supporting any recommendation for an Independent Investigation. In
27 addition, the Panel shall provide a public report setting forth the Panel’s conclusions and
28 recommendations after its review of any Independent Investigation.
29

30 **Section 6. Public Release of Information** 31

32 a) Documents Subject to and Timing of Public Release:
33

34 The provisions of Section 143.089(g) of the Texas Local Government Code are expressly
35 modified to the extent necessary to permit public release of the following documents in
36 the manner prescribed by this Section:
37

- 38 1) A Panel recommendation that Department policies warrant review and/or change, as
39 authorized by Section 4(l)(1)(b). Unless made confidential by a law other than
40 Section 143.089(g) of the Texas Local Government Code, such recommendations
41 shall be subject to public release, in their entirety, upon delivery to the Chief of
42 Police.
43
- 44 2) A Panel recommendation that further investigation by the Department is warranted, as
45 authorized by Section 4(l)(1)(a). Unless made confidential by a law other than
46 Section 143.089(g) of the Texas Local Government Code, such recommendations

1 shall be subject to public release, in their entirety, only after the Police Chief's final
2 disciplinary decision as to the subject Officer(s), and only if the Police Chief imposes
3 discipline.
4

- 5 3) A Panel recommendation that an Independent Investigation is warranted, as
6 authorized by Section 4(1)(1)(c). Unless made confidential by a law other than
7 Section 143.089(g) of the Texas Local Government Code, such recommendations
8 shall be subject to public release, in their entirety, only after the Police Chief's final
9 disciplinary decision as to the subject Officer(s), regardless of whether discipline is
10 imposed.
11
- 12 4) A Panel report setting forth the basis and concerns of the Panel supporting any
13 recommendation for an Independent Investigation, as authorized by Section 5(b).
14 Unless made confidential by a law other than Section 143.089(g) of the Texas Local
15 Government Code, such recommendations shall be subject to public release, in their
16 entirety, only after the Police Chief's final disciplinary decision as to the subject
17 Officer(s), regardless of whether discipline is imposed.
18
- 19 5) A Panel report setting forth the Panel's conclusions and recommendations after its
20 review of any Independent Investigation, as authorized by Section 5(b). Unless made
21 confidential by a law other than Section 143.089(g) of the Texas Local Government
22 Code, such recommendations shall be subject to public release, in their entirety, only
23 after the Police Chief's final disciplinary decision as to the subject Officer(s),
24 regardless of whether discipline is imposed.
25
- 26 6) A panel recommendation on discipline in a case involving a critical incident, as
27 authorized by Section 4(1)(1)(d). Unless made confidential by a law other than
28 Section 143.089(g) of the Texas Local Government Code, such recommendations
29 shall be subject to public release, in their entirety, only after the Police Chief's final
30 disciplinary decision as to the subject Officer(s), regardless of whether discipline is
31 imposed.
32
- 33 7) The body of a final report (but not exhibits) prepared by an investigator who conducts
34 an Independent Investigation authorized by the Chief of Police or City Manager
35 concerning police conduct, whether or not recommended by the Panel. Unless made
36 confidential by a law other than Section 143.089(g) of the Texas Local Government
37 Code, the body of such report shall be subject to public release, in its entirety, only
38 after the Police Chief's final disciplinary decision as to the subject Officer(s),
39 regardless of whether discipline is imposed.
40

41 It is expressly understood and agreed by the parties that any recommendation and/or
42 report released pursuant to this Section may contain information which would otherwise
43 be made confidential by Section 143.089(g) of the Texas Local Government Code.
44

45 b) The public release of information authorized in this AGREEMENT will be reviewed by
46 the City of Austin Law Department to insure compliance with this AGREEMENT and to

1 determine whether the release of such information may be prohibited by any other law.

2
3 c) Unauthorized Release of Confidential Documents/Information:
4

5 (1) Except as permitted by this AGREEMENT, employees of the OPM and members of
6 the Panel shall not publicly comment on the specifics of pending complaints and investigations
7 prior to a Panel decision. All public comments and communications by the OPM shall be factual
8 and demonstrate impartiality to individual police officers, the Austin Police Department, the
9 Austin Police Association, employees of the City of Austin, residents of the City of Austin, and
10 community groups.

11
12 (2) Should a person participating on a Panel make public statements which, to a
13 reasonable observer, would be perceived to express or demonstrate a position, bias, or
14 prejudgment on the merits of a particular case that is under investigation or subject to review,
15 prior to the completion of the citizen panel process for that case, such person will not be allowed
16 to participate in the review, deliberation, or drafting of recommendations concerning that case.
17 This provision does not prohibit the Panel or an individual Panel member from making generic,
18 non-case related public statements about the Austin Police Department, or from providing
19 information about the process, which does not appear to prejudge the merits, or demonstrate a
20 bias on the case. In the event of a deliberate violation of this standard, the Panel member shall
21 be permanently removed from the Panel as set forth below.

22
23 (3) No public comment or communication (including but not limited to oral or written
24 statements, reports, newsletters, or other materials made, released, published or distributed) by
25 the OPM or Panel members will make reference to or identify an Officer by name, unless such
26 release is then permitted by law, or the Officer's name has become public as a matter of fact by
27 lawful or authorized means, or by the Officer's own release. Public comments or
28 communications by the OPM and the Panel shall conform to state and federal law and this
29 AGREEMENT regarding confidentiality, and shall not contain information that is confidential or
30 privileged under this AGREEMENT or state, federal or common law.

31
32 (4) All OPM written publications shall be provided to the APD and the APA
33 simultaneously with distribution to the public.

34
35 (5) Any deliberate release of information that is made confidential by law or by this
36 AGREEMENT shall result in the permanent removal of the offending member from the Panel.
37 Any deliberate premature release of information before it may properly be released likewise will
38 result in the permanent removal of the offending member from Panel.

39
40 **Section 7. Dispute Resolution**

41
42 a) Complaints concerning the conduct of OPM employees shall be filed with the Police
43 Monitor, or if the complaint concerns the personal conduct of the Police Monitor, shall be filed
44 with the City Manager. If not resolved at the first level, a fact finder shall be appointed to review
45 relevant materials and take evidence to reach written findings of fact, which shall be expedited
46 for final resolution within two weeks after appointment. The fact finder shall be appointed by

1 striking an AAA list, if the parties do not otherwise agree on a fact finder. Upon conclusion of
2 the fact finding, and after review and evaluation of the fact finder's report, the Police Monitor (or
3 City Manager if the complaint concerns the personal conduct of the Police Monitor) shall make a
4 decision. The final decision shall be made by the City Manager.
5

6 b) Complaints concerning the conduct of Panel members shall be filed with the City
7 Manager. If a signed complaint is filed alleging specific comments by a Panel member that
8 violate the standards in subparagraph 6(c) above, the Panel's consideration shall be postponed or
9 the particular Panel member shall not participate, until the matter is finally resolved. A
10 complaint may not be based on statements or conduct previously raised and found insufficient
11 for disqualification. Only one of such Panel members may be temporarily disqualified under this
12 provision on a particular case. The City Manager shall promptly determine the complaint. The
13 ASSOCIATION may appeal from the decision of the City Manager through the expedited
14 arbitration process in this AGREEMENT. If two (2) consecutive complaints are found
15 insufficient on a particular Panel member, subsequent complaints on that Panel member shall not
16 result in temporary removal, but upon final determination that there has been a violation, such
17 member shall be subject to permanent removal. Nothing shall prevent the Chief from taking
18 disciplinary action within the statutory time frame, under the provisions of Chapter 143, as
19 modified by this AGREEMENT.
20

21 **Section 8. Access to Section 143.089(g) Files**

22

23 a) Information concerning the administrative review of complaints against Officers,
24 including but not limited to Internal Affairs Division files and all contents thereof, are intended
25 solely for the Department's use pursuant to Section 143.089(g) of the Texas Local Government
26 Code (the 143.089(g) file). All records of the Police Monitor's Office that relate to individual
27 case investigations and the APD 143.089(g) file, although same are not APD files or records,
28 shall have the same statutory character in the hands of the Police Monitor, and shall not be
29 disclosed by any person, unless otherwise authorized by law or this AGREEMENT. Public
30 access to such information is strictly governed by this AGREEMENT and Texas law. To the
31 extent necessary to perform their duties, individuals involved in the Citizen Oversight process
32 are granted a right of access to the information contained within the 143.089(g) files of Officers
33 to the extent authorized by this AGREEMENT.
34

35 b) Individuals involved in the Citizen Oversight process shall not be provided with
36 information contained within a personnel file, including the 143.089(g) file of an Officer, that is
37 made confidential by a law other than Chapter 143 of the Texas Local Government Code, such
38 as records concerning juveniles, sexual assault victims, and individuals who have tested positive
39 for HIV. All persons who have access to IAD files or investigative information by virtue of this
40 AGREEMENT shall not be provided with access to any records of criminal investigations by the
41 APD unless those materials are a part of the IAD administrative investigation file.
42

43 c) All individuals who have access by virtue of this AGREEMENT to IAD files or
44 investigative information, including the information contained within the 143.089(g) files of
45 Officers, shall be bound to the same extent as the Austin Police Department and the City of
46 Austin to comply with the confidentiality provisions of this AGREEMENT, Chapter 143 of the

1 Texas Local Government Code, and the Texas Public Information Act. All such individuals
2 shall further be bound to the same extent as the Austin Police Department and the City of Austin
3 to respect the rights of individual Police Officers under the Texas Constitution and the Fourth,
4 Fifth, and Fourteenth Amendments to the U.S. Constitution, including not revealing information
5 contained in a compelled statement protected by the doctrine set forth in *Garrity v. New Jersey*,
6 385 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967).

7
8 d) A breach of the confidentiality provisions of this AGREEMENT and/or Chapter 143 of
9 the Texas Local Government Code by any individual involved in Citizen Oversight:

10
11 (1) Shall be a basis for removal from office;

12
13 (2) May subject the individual to criminal prosecution for offenses including, but not
14 limited to Abuse of Official Capacity, Official Oppression, Misuse of Official
15 Information, or the Texas Public Information Act; and/or

16
17 (3) May subject the individual to civil liability under applicable State and Federal law.

18
19 e) The confidentiality provisions of this AGREEMENT, Chapter 143 of the Texas Local
20 Government Code, and the Texas Public Information Act, are continuous in nature. All
21 individuals involved in Citizen Oversight are subject to these confidentiality provisions even
22 after their association with the Oversight process has terminated.

23
24 f) Following any review of an alleged violation of the confidentiality provisions of this
25 AGREEMENT, the City Manager’s office will provide information about the outcome of that
26 review to any Officer(s) directly affected by the alleged violation.

27
28 **Section 9. Use of Evidence from the Citizen Oversight Process in Disciplinary Appeals**

29
30 Opinions or recommendations from individuals involved in Citizen Oversight in a particular
31 case may not be used by a party in connection with an appeal of any disciplinary action under the
32 provisions of Chapter 143 of the Texas Local Government Code and this AGREEMENT. No
33 party to an arbitration or Civil Service proceeding may use or subpoena any member of the
34 Citizen Review Panel or the Police Monitor (unless the Police Monitor took the complaint in the
35 relevant case) as a witness at an arbitration or Civil Service proceeding including, but not limited
36 to live or deposition testimony, which concerns their duties or responsibilities in the oversight
37 process or their opinions or recommendations in a particular case. This provision shall not
38 prevent any testimony for evidentiary predicate.

39
40 **Section 10. Partial Invalidation and Severance**

41
42 In the event that a Court Order, Judgment, Texas Attorney General Opinion, or arbitration
43 decision, which is final and non-appealable, or which is otherwise allowed to take effect, which
44 order, judgment, opinion, or decision holds that the right of access to the information contained
45 within the 143.089(g) files of Officers granted by this Article or the public dissemination of
46 information pursuant to this Article, results in “public information” status under the Texas Public

1 Information Act of the information contained within the 143.089(g) files of an Officer, the
2 provision or provisions resulting in such a change in the status of the 143.089(g) file shall be
3 invalidated and severed from the balance of this AGREEMENT.
4

5 **Section 11. Remedies**
6

7 a) Benefit of the Bargain
8

9 The CITY expressly retains its right and ability to proceed with the determination of whether
10 or not police misconduct occurred and the authority of the Chief to impose disciplinary action.
11 The ASSOCIATION recognizes the fact that such reservations are essential to this
12 AGREEMENT. No dispute concerning the operation and function of the Police Monitor's
13 Office or the Panel shall impair or delay the process of the Chief's investigation and
14 determination of whether or not police misconduct occurred and the degree of discipline, if any,
15 to impose. This includes internal dispute resolution procedures in this AGREEMENT, any
16 grievance process or arbitration, and any litigation over such issues. In other words, any such
17 dispute resolution processes may proceed, as set forth in this contract or by law, but the
18 disciplinary process may likewise and simultaneously proceed to its conclusion without delay.
19 The statutory time period for the Chief of Police to take disciplinary action against an Officer
20 shall be tolled to the extent of any period in which a court order, injunction, or TRO, obtained by
21 the Officer involved or the ASSOCIATION on behalf of the Officer, halts the Department's
22 investigative or disciplinary process. In no event will the actual time exceed 180 calendar days.
23 The parties agree that the processes in this AGREEMENT, together with the remedies set forth
24 and the procedural protections and rights extended to Officers in this AGREEMENT are
25 adequate remedies at law for all disputes arising under this Article.
26

27 b) Expedited Arbitration
28

29 The parties have agreed to expedited arbitration for all unresolved grievances related to the
30 application or interpretation of this Article in order to achieve immediate resolution and to avoid
31 the need for court intervention in equity. Such arbitrations shall be conducted pursuant to the
32 Expedited Labor Arbitration Procedures established by the American Arbitration Association
33 ("AAA"), and in effect at the time of the dispute. To be appointed, the arbitrator must be
34 available to hear the arbitration within thirty (30) calendar days of selection and a decision shall
35 be made within one (1) week of the hearing. The parties agree to create a list of pre-approved
36 arbitrators. Failing same, or in the absence of an available arbitrator from such pre-approved list,
37 the arbitrator designated by the AAA shall be required to be licensed as an attorney in the State
38 of Texas. The parties both agree that the arbitrator has the discretion to receive and hear issues
39 and testimony by written submission or phone conference, but may also require live testimony
40 where appropriate.
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ARTICLE 17
PROTECTED RIGHTS OF OFFICERS

Section 1. Effect of Article

a) The following provisions shall apply to the administrative investigation of alleged misconduct by Officers and the process of administrative discipline. To the extent of any conflict between this AGREEMENT and the provisions of Chapter 143 of the Texas Local Government Code, the provisions of this AGREEMENT shall control. To the extent of any conflict between this Article and any other provision of this AGREEMENT, this Article shall control.

b) To be considered by the CITY as a basis for investigation and/or discipline, there must be a complaint as defined in this Article.

Section 2. Definitions

In this Article:

- a) "Complaint" means any affidavit, administrative referral, or other document setting forth allegations or facts that may form the basis of future allegations of misconduct against an officer and which serves as the basis for initiating an investigation. The complaint must be signed by the complainant.
- b) "Complainant" means either a person claiming to be a witness to or victim of misconduct by an Officer; or the Department designee in the case of an anonymous complaint or administrative referral.
- c) "Disciplinary Action" means suspension, indefinite suspension, demotion in rank, reprimand, or any combination of those actions.
- d) "Investigation" means an administrative investigation of alleged misconduct by a police officer that could result in disciplinary action.
- e) "Investigator" means an agent or employee of the Department or an Independent Investigator who is conducting an investigation.
- f) "Statement" means any communication (oral or written) setting forth particulars or facts regarding the alleged misconduct under investigation.
- g) "Evidence" means statements, reports, records, recordings, documents, computer data, text, graphics, videotape, photographs, or other tangible forms of information, including a "complaint".

Section 3. Compelled Testimony

1 There shall be no legal or administrative requirement, including but not limited to subpoena
2 power or an order from the City Manager or the Department, that an officer appear before or
3 present evidence to any individual, panel, committee, group, or forum of any type involved in
4 Citizen Oversight. This provision has no application to any Independent Investigation
5 authorized by the Chief of Police or the City Manager, regardless of whether the Independent
6 Investigation was recommended by the Citizen's Review Panel or the Police Monitor, or to any
7 hearing of an appeal of disciplinary action pursuant to this AGREEMENT and/or Chapter 143 of
8 the Texas Local Government Code. Officers remain subject to orders or subpoenas to appear and
9 provide testimony or evidence in such investigations or hearings.

10
11 **Section 4. Access to Records by Officers**

12
13 a) Not less than forty eight (48) hours before the Officer who is the subject of an
14 investigation provides a statement to an investigator, the Officer shall be provided a copy of the
15 complaint(s). The Department may omit the name and/or identity of the person making the
16 complaint. In the event that the complaint(s) does not contain all allegations of misconduct
17 under investigation, not less than forty eight (48) hours before the investigator begins the initial
18 oral or written interrogation of the Officer, the investigator must inform the Officer in writing of
19 the additional allegations being investigated. This paragraph does not apply to a Dismissal
20 Review Hearing or any other administrative hearing conducted for the purpose of determining
21 whether the Department shall take disciplinary action against an Officer for alleged misconduct.

22
23 b) Before the Officer who is the subject of an investigation provides a statement to an
24 investigator, the Officer and his representative shall be provided an opportunity to review any
25 videotape, photograph, or other recording of the operative conduct or alleged injuries, if any,
26 which is the subject of the allegations if such recording is within the possession or control of the
27 Department.

28
29 c) An Officer is entitled to a copy of his or her statement to the Internal Affairs Division at
30 the time when the statement is finalized and signed by the Officer, but the statement remains
31 confidential in the hands of the Officer pursuant to 143.089(g), APD policy, and orders of non-
32 communication about internal investigations, except for consultations with counsel and/or
33 ASSOCIATION representatives who are not involved in the investigation.

34
35 d) Before the Officer who is the subject of an investigation provides a statement to an
36 investigator, the Officer and his representative shall be allowed to review the portions of any
37 document(s) in which it is alleged that the Officer provided false, incomplete, inconsistent, or
38 conflicting information, or in which it is alleged that the Officer omitted information in violation
39 of any law or Department policy.

40
41 e) Before the Officer who is the subject of an investigation provides a statement to an
42 investigator, the Officer and his representative shall be allowed to review any report, supplement,
43 use of force report, or other statement recorded or written by the Officer, setting forth particulars
44 or facts regarding the operative conduct which is the subject of the allegation(s).

1 f) Not less than forty eight (48) hours before a Dismissal Review Hearing (or any other
2 administrative hearing conducted for the purpose of determining whether the Department shall
3 take disciplinary action against an Officer for alleged misconduct):
4

5 i) The Officer and his representative shall be allowed up to eight hours to review any
6 and all evidence gathered or obtained during the investigation. The evidence available for
7 review shall include the IA summary, if any; and
8

9 ii) The Department shall provide written notice of the alleged policy violations and the
10 specific range of discipline being considered. The Chief of Police shall not be restricted to the
11 alleged policy violations and/or the range of discipline provided pursuant to this subsection in
12 making the final decision as to discipline, if any.
13

14 g) When the Chief of Police is notified that the Panel plans to review a case involving a
15 “critical incident” or an allegation of a civil rights violation, the Officer and his representative
16 shall be given an opportunity to meet with the Internal Affairs investigator and review witness
17 statements and photographic or videotape evidence contained in the IA file, for up to eight hours.
18

19 h) Neither the Officer nor his representative will be permitted to make copies of any
20 witness statements, audio tapes, photographic or videotape evidence reviewed; however, they
21 may take written notes only, provided that they comply with the confidentiality and use
22 provisions in Section 6.
23

24 i) Nothing in this Article shall be construed as requiring the Department to provide or make
25 available for review by the Officer or his representative any evidence from criminal
26 investigations by the Austin Police Department unless that evidence is a part of the Internal
27 Affairs Division administrative file. No criminal investigation material that is part of the Internal
28 Affairs Department case file can be released if there is a pending criminal investigation or
29 judicial proceeding.
30

31 **Section 5. Dismissal Review Hearings (The Officer’s Loudermill Hearing)**

32

33 When a Dismissal Review Hearing (or any other administrative hearing conducted for the
34 purpose of determining whether the Department shall take disciplinary action against an Officer
35 for alleged misconduct), is held, the following procedures shall apply:
36

37 a) It shall be optional for the Officer who is the subject of the investigation to attend and
38 answer any questions at the hearing. Questions posed at the DRH do not constitute an
39 “investigation” as defined in Section 2d. No negative inference will be permitted should the
40 Officer elect not to attend or answer questions. If the Officer chooses not to attend or has
41 determined he/she will not answer any questions at the hearing, the Officer must give 48 hours-
42 notice to the Department by filling out the necessary waiver form.
43

44 b) Should the Officer choose to attend, the Officer may audio tape the portions of the
45 hearing in which the chain-of-command and Chief of Police or his designee discuss the IAD
46 investigation and the disciplinary decision with the Officer.

1
2 **Section 6. Confidentiality of Records and Misuse of Information**
3

4 The access to records provided in Section 4 of this Article has been granted in exchange for
5 the following agreements intended to insure confidentiality and to prevent retaliation or the
6 threat of retaliation against any witness in an investigation:
7

8 a) Information provided or made available for review remains confidential in the hands of
9 the Officer and his/her representative pursuant to 143.089(g), APD policy, and orders of non-
10 communication about internal investigations, except for consultations with counsel and/or
11 ASSOCIATION representatives who are not involved in the investigation.
12

13 b) Retaliation or the threat of retaliation by an Officer, or by an individual at the direction
14 of the Officer, against the author of an Internal Affairs statement is strictly prohibited. A
15 sustained violation of this subsection shall result in either a temporary or indefinite suspension.
16

17 c) If an Officer is suspended for an alleged violation of Subsection b, the Officer shall have
18 the right to appeal the suspension to the Civil Service Commission or to an Independent Third
19 Party Hearing Examiner pursuant to the provisions of this AGREEMENT and Chapter 143 of the
20 Texas Local Government Code. The Commission or the Hearing Examiner shall decide whether
21 the specific charge related to this Section is true. If the charge is found to be true, the
22 Commission or Hearing Examiner must affirm the disciplinary action and cannot amend, modify,
23 or reduce the period of disciplinary suspension. Sections 143.053(e) & (f) of the Texas Local
24 Government Code are hereby superseded to the extent of any conflict with this Section.
25

26 **Section 7. Right to Representation**
27

28 An Officer who is the subject of an investigation or administrative inquiry shall have the
29 right to be represented either by an attorney or an ASSOCIATION representative of the Officer's
30 choice during an interview, provided the attorney/representative complies with the Internal
31 Affairs interview protocol. An Officer shall have the right to be represented by either an
32 attorney or an ASSOCIATION representative of the Officer's choice during a Dismissal Review
33 Hearing (or administrative hearing conducted for the purpose of determining whether the
34 Department shall take disciplinary action against an Officer for alleged misconduct.)
35

36 **Section 8. Violation of Officer's Rights**
37

38 If the Department or any investigator violates any of the provisions of this Article or of
39 Section 143.312 of the Texas Local Government Code while conducting an investigation, the
40 violation may be considered by the Civil Service Commission or a Hearing Examiner in any
41 disciplinary appeal hearing if the violation substantially impaired the Officer's ability to defend
42 against the allegations of misconduct.
43

44 **Section 9. Scheduling of Indefinite Suspension Appeal**
45

46 If an Officer appeals an indefinite suspension to an Independent Third Party Hearing

1 Examiner, the parties will make a good faith effort to schedule the appeal of an indefinite
2 suspension within 90-180 days of the date the Officer was indefinitely suspended.
3
4
5

6 **ARTICLE 18**
7 **DISCIPLINARY ACTIONS, DEMOTIONS & APPEALS**
8

9 **Section 1. Suspensions of Three (3) Days or Less**
10

11 a) Appealable and Non-Appealable Suspensions
12

13 It is understood that most Officers will make some errors during their career involving
14 rule violations, including those who are good, professional Police Officers. The parties agree
15 that short disciplinary suspensions are for the purpose of reinforcing the need for compliance
16 with Departmental standards and not necessarily as punishment.
17

18 The parties agree that when an Officer is suspended for 1, 2, or 3 days, the Officer may
19 choose one of two methods of dealing with the suspensions as listed below:
20

21 (1) Suspensions that may not be appealed. The Officer may choose to use vacation or
22 holiday time to serve the suspension with no loss of paid salary and no break in
23 service for purposes of seniority, retirement, promotion, or any other purpose. The
24 Officer must agree that there is no right to appeal if this method of suspension is
25 chosen.
26

27 (2) Suspensions that may be appealed. The Officer may appeal the suspension to a
28 Hearing Examiner or the Civil Service Commission. If the Officer chooses to
29 appeal the suspension, the Hearing Examiner or Civil Service Commission's
30 authority is limited to ruling on whether or not the charges against the Officer are
31 true or not true. If the Hearing Examiner or Civil Service Commission finds the
32 charges to be true, there is no authority to mitigate the punishment. If the Hearing
33 Examiner or Civil Service Commission finds the charges to be not true, the Officer
34 shall be fully reinstated with no loss of pay or benefit.
35

36 b) Hearing Costs on Appealable Suspensions
37

38 In the event that an Officer appeals a 1, 2 or 3 day suspension to a Hearing Examiner, it is
39 agreed that the party that loses the hearing shall be responsible for all costs of the Hearing
40 Examiner, including travel and lodging if necessary.
41

42 To facilitate such payment on the part of the Officer, he/she shall submit, at the time of
43 appeal, a signed payroll deduction agreement that if the Hearing Examiner rules in favor of the
44 CITY he/she authorizes up to one hundred dollars (\$100.00) per month to be deducted from
45 his/her regular pay until such time as what would usually be the CITY's portion of the Hearing
46 Examiner's costs have been satisfied.

1
2 c) Reductions of Suspensions of Three (3) Days or Less to a Written Reprimand
3

4 The parties agree that temporary suspensions of 1, 2, or 3 days that were imposed on or
5 after March 25, 2001, will be automatically reduced to a written reprimand under the following
6 conditions:
7

- 8 (1) Suspensions of 1, 2, or 3 days, which are/were not appealed, shall be reduced to a
9 written reprimand two (2) years after the date the suspension was served on the
10 Officer if:
11
12 i. The Officer does/did not have a sustained complaint for substantially similar
13 conduct within two (2) years from the date the suspension was served on the
14 Officer.
15
16 (2) Suspensions of 1, 2, or 3 days, which are/were not appealed, shall be reduced to a
17 written reprimand three (3) years after the date the suspension was served on the
18 Officer if:
19
20 i. The Officer has been previously disciplined for substantially similar conduct,
21 and;
22
23 ii. The Officer does/did not have a sustained complaint for substantially similar
24 conduct within the next three (3) years from the date the suspension was served
25 on the Officer.
26
27 (3) Any controversy over whether or not the prior conduct was substantially similar
28 may be presented to a Hearing Examiner under the other provisions of this Article.
29
30 (4) Suspensions of 1, 2, or 3 days that are/were appealed to the Civil Service
31 Commission or a Hearing Examiner are not eligible for reduction to a written
32 reprimand under this AGREEMENT.
33
34 (5) Suspensions of 1, 2, or 3 days that are/were reduced to a written reprimand shall not
35 be introduced, cited, or used in any manner in subsequent disciplinary suspensions
36 or appeals as to that Officer, but the original disciplinary decision is not covered by
37 this Section as to contentions of disparate discipline by other Officers.
38
39 (6) If the conditions set forth in subparts (a) or (b) are met, the Department shall notify
40 the Civil Service Commission in writing that the temporary suspension has been
41 reduced to a written reprimand. A copy of this document shall be included in the
42 IAD investigative file, and the Department shall enter a notation in all disciplinary
43 databases or records reflecting this change. The parties agree that the Department
44 and the Civil Service Commission will not alter, destroy, conceal, or remove, any
45 documents related to the temporary suspension, including but not limited to the

1 letter of temporary suspension that was filed with the Commission as required by
2 LGC 143.052(c), or the IAD investigative file itself.
3

4 **Section 2. Suspensions of Fifteen (15) Days or Less**
5

6 If the Chief determines to suspend an Officer for fifteen (15) days or less, the Chief may, at
7 his sole discretion in hardship cases, authorize use of the Officer's accumulated vacation leave to
8 cover all or part of the suspension. It is also understood and agreed that if the Chief permits the
9 use of vacation days for suspension, such days off shall be considered as equal punishment to
10 traditional unpaid days of suspension. In no case will sick leave be substituted for unpaid days
11 of suspension.
12

13 **Section 3. Mutually Agreed Temporary Suspensions of Sixteen (16) to Ninety (90) days.**
14

15 a) The Police Chief may, in cases the Chief deems to warrant indefinite suspension, offer to
16 impose instead a suspension without pay for a period from sixteen (16) to ninety (90) days. If
17 the Officer accepts the mutually agreed suspension, there shall be no appeal either to the Civil
18 Service Commission, to the District Court or to a Hearing Examiner. It is also understood and
19 agreed that if the Chief permits the use of vacation days for suspension, such days off shall be
20 considered as equal punishment to traditional unpaid days of suspension. In no case will sick
21 leave be substituted for unpaid days of suspension.
22

23 b) In cases where the Officer's TCLEOSE license is suspended, the Chief of Police may
24 impose a non-appealable suspension commensurate with the period during which the license is
25 suspended.
26

27 **Section 4. Payment for Accrued Leave Upon Indefinite Suspension.**
28

29 a) An Officer who has been indefinitely suspended may, upon request, be paid in a lump
30 sum for up to two hundred forty (240) hours of accrued vacation and up to one hundred sixty
31 (160) hours of accrued exception vacation.
32

33 b) If the indefinite suspension is overturned as a result of the appeal, the Civil Service
34 Commission or a Hearing Examiner may restore such leave, but a total award of leave and back-
35 pay, if any, shall be offset by the amount paid to the Officer under Subsection a) above.
36

37 **Section 5. Alternative Discipline by the Police Chief**
38

39 In considering appropriate disciplinary action the Police Chief may require that an Officer be
40 evaluated by a qualified professional designated by the Police Chief. If that professional
41 recommends a program of counseling and/or rehabilitation for the Officer, the Police Chief may,
42 as an alternative to temporary or indefinite suspension, or in combination with a temporary
43 suspension, require that the Officer successfully complete the recommended program. The
44 program of counseling and/or rehabilitation will be completed on the Officer's off-duty time,
45 unless the Police Chief approves the use of accrued vacation leave or sick leave. The Officer
46 shall be responsible for paying all costs of the program of counseling and/or rehabilitation which

1 are not covered by the Officer's health insurance plan. If the Officer's misconduct involves
2 alcohol-related behavior, the Police Chief may require that the Officer submit to mandatory
3 alcohol testing, when ordered by the Police Chief, for a specified period of time. If, after
4 entering the program of counseling and/or rehabilitation, the Officer fails or refuses to complete
5 the program, the Officer may be indefinitely suspended. The Officer has the right to appeal to
6 the Police Civil Service Commission or to a third party Hearing Examiner any discipline
7 imposed under this section by filing an appeal notice in accordance with the provisions of
8 Chapter 143. On appeal, the Police Civil Service Commission or Hearing Examiner shall have
9 the same duties and powers set forth in Chapter 143, but shall not have the power to substitute a
10 program of counseling and/or rehabilitation different from the program imposed by the Police
11 Chief or to substitute any period of suspension for the required program of counseling and/or
12 rehabilitation.

14 **Section 6. Alternative Discipline by Agreement**

16 In considering appropriate disciplinary action, the Police Chief may require that an Officer be
17 evaluated by a qualified professional designated by the Police Chief. If that professional
18 recommends a program of counseling and/or rehabilitation for the Officer, the Police Chief may
19 offer the Officer the opportunity to enter into an alternative disciplinary agreement under which
20 the Officer would accept a temporary suspension of up to ninety (90) days and agree to
21 successfully complete the program of counseling and/or rehabilitation recommended by the
22 qualified professional designated by the Police Chief. The program of counseling and/or
23 rehabilitation will be completed on the Officer's off duty time, unless the Police Chief approves
24 the use of accrued vacation leave or sick leave. The Officer shall be responsible for paying all
25 costs of the program of counseling and/or rehabilitation, which are not covered by the Officer's
26 health insurance plan. If the Officer's misconduct involved alcohol related behavior, the Police
27 Chief may require that the Officer submit to mandatory alcohol testing, when ordered by the
28 Police Chief, for a specified period of time. If the Officer accepts the opportunity for agreed
29 alternative discipline, the Officer may not appeal any terms of the Agreement. If the Officer fails
30 to successfully complete the program of counseling and/or rehabilitation, the Officer may be
31 indefinitely suspended without right of appeal.

33 **Section 7. Last Chance Agreement**

35 a) In considering appropriate disciplinary action, the Police Chief may require that an
36 Officer be evaluated by a qualified professional designated by the Police Chief. If that
37 professional recommends a program of counseling and/or rehabilitation for the Officer, the
38 Police Chief may offer the Officer, as an alternative to indefinite suspension, the opportunity to
39 enter into a last chance agreement. The agreement may include the following provisions in
40 addition to any other provisions agreed upon by the Officer and the Police Chief.

- 42 (1) The Officer will successfully complete the program of counseling and/or
43 rehabilitation recommended by the qualified professional designated by the Police
44 Chief.

1 (2) The program of counseling and/or rehabilitation will be completed on the Officer's
2 off-duty time, unless the Police Chief approves the use of accrued vacation leave or
3 sick leave. The Officer shall be responsible for paying all costs of the program of
4 counseling and/or rehabilitation, which are not covered by the Officer's health
5 insurance plan.
6

7 (3) The Officer will agree to a probationary period not to exceed one (1) year, with the
8 additional requirement that if, during the probationary period, the Officer commits
9 the same or a similar act of misconduct, the Officer will be indefinitely suspended
10 without right of appeal.
11

12 b) If the Officer's misconduct involves alcohol-related behavior, the Police Chief may
13 require that the Officer submit to mandatory alcohol testing, upon order by the Police Chief, for a
14 specified period of time. If the Officer accepts the opportunity for a last chance agreement, the
15 Officer may not appeal any terms of the agreement. If the Officer fails to successfully complete
16 the agreed upon program, the Officer may be indefinitely suspended without right of appeal.
17

18 **Section 8. Extending Disciplinary Deadline by Agreement**
19

20 a) An Officer and the Chief, or designee, may agree to extend any statutory deadline for
21 imposing discipline for a period not to exceed thirty (30) days. Either the Officer or the Chief
22 may offer or request the extension. The agreement to extend the statutory deadline shall be in
23 writing and shall be signed by both the Officer and the Chief, or designee.
24

25 b) Any disciplinary action taken by the Chief before the extended deadline shall be
26 considered timely. An agreement to extend the deadline does not affect an Officer's right of
27 appeal from the disciplinary action.
28

29 **Section 9. Hearing Examiner Retained**
30

31 The CITY recognizes that during the term of this AGREEMENT Officers have the right to
32 an appeal of an indefinite suspension or suspension for a definite number of days (subject to the
33 provisions herein on non-appealable suspensions of 1 to 3 days) before a Hearing Examiner as
34 provided in Section 143.057 of the Texas Local Government Code. During the term of this
35 AGREEMENT, the parties specifically agree to retain this right of appeal, as modified herein,
36 notwithstanding any change to Section 143.057 which may occur as a result of court or
37 legislative action.
38

39 **Section 10. Hearing Examiner Provisions**
40

41 In order to be mutually accepted on the hearing examiners list, an individual must be
42 impartial to the ASSOCIATION and the CITY, shall be a member of the American Arbitration
43 Association (AAA), have formal training in presentation and evaluation of evidence, and have
44 experience in deciding municipal employment issues.
45
46

1 **Section 11. Procedures for Hearings Before the Civil Service Commission and**
2 **Independent Hearing Examiners**
3

4 It is expressly agreed that Civil Service Commission hearings and hearings before Hearing
5 Examiners under 143.057 are informal administrative hearings and are not subject to discovery
6 or evidentiary processes. Specifically it is understood that neither the Texas Rules of Evidence
7 (TRE) or the Texas Rules of Court (TRC) apply to such hearings. If the Department calls a
8 witness to testify during a hearing and that witness has given a statement to Internal Affairs
9 regarding the pending case, then the Department will provide a copy of that statement to the
10 Officer's counsel/representative at the time the witness is called to testify.
11

12 **Section 12. Procedures Before Hearing Examiners**
13

14 In any proceeding before a hearing examiner, the following procedures shall be followed:
15

- 16 a) The Department shall furnish the charge letter to the Hearing Examiner by delivering
17 a copy to the AAA far enough in advance, so that the Hearing Examiner receives the
18 copy at least five (5) days before the start of the hearing.
19
- 20 b) The Officer may furnish a position statement to the Hearing Examiner by delivering
21 copies to the AAA and to the Department far enough in advance, so that the Hearing
22 Examiner and the Department receives the copies at least five (5) days before the start
23 of the hearing.
24
- 25 c) At the close of the presentation of evidence, the Hearing Examiner shall conduct a
26 post-hearing conference with counsel/representatives for the Department and the
27 Officer and advise them as to what issue(s) the Hearing Examiner wants covered in
28 post-hearing briefs. This does not preclude either party from briefing anything not
29 requested by the Hearing Examiner.
30
- 31 d) Failure of the AAA to meet its obligations as set out in this Subsection does not
32 jeopardize the hearing rights of either the CITY or the Officer.
33

34 **Section 13. Special Appeal Process for Demotions**
35

36 a) This Section applies only to involuntary demotions based on misconduct or performance
37 issues. It does not apply to the following:
38

- 39 (1) Demotions related to the return from military service of another officer;
- 40 (2) Demotions caused by a reduction in force;
- 41 (3) Demotions related to the reinstatement of another officer after recovery from a
42 disability;
- 43 (4) Demotions from the rank of Assistant Chief of Police;
- 44 (5) Demotions related to the reinstatement of another officer after indefinite
45 suspension; or
- 46 (6) Demotions due to return to work of an ASSOCIATION representative on ABL.

1
2 b) If the Chief chooses to demote an Officer, the Chief shall file with the Civil Service
3 Commission a written statement giving the reasons for the demotion. A copy of the written
4 statement shall be furnished immediately to the affected Officer.

5
6 c) The Officer may appeal the demotion by filing a written appeal notice with the Director of
7 Civil Service within ten (10) days after the date of the demotion. The Officer may elect to
8 appeal to an independent third-party Hearing Examiner selected in accordance with the
9 provisions of Section 143.057 of the Local Government Code, as amended by this
10 AGREEMENT. The Officer's election to appeal to a Hearing Examiner must be contained in the
11 Officer's initial notice of appeal.

12
13 d) During the pendency of the appeal, the Officer's rank and pay shall not be changed but
14 the Chief may reassign the Officer to perform duties appropriate to the rank held by the Officer
15 immediately prior to the promotion. The Officer's absence from his promoted position shall not
16 create a vacancy, but the Chief may pay higher classification pay to another Officer to perform
17 the duties of the promoted position.

18
19 e) If the Officer appeals to the Civil Service Commission, the decision of the Commission is
20 final and may not be appealed further. If the Officer appeals to a Hearing Examiner, the decision
21 may be appealed only on the grounds that the Hearing Examiner was without jurisdiction or
22 exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful
23 means.

24
25 f) If the Commission or Hearing Examiner upholds the Chief's demotion, the Officer shall
26 be returned to the rank held immediately prior to the promotion, the Officer's pay shall be
27 adjusted accordingly, and the Officer's name shall be permanently removed from the
28 promotional eligibility list if the list is still in effect. The Officer's time in grade in the promoted
29 position shall not count toward eligibility for future promotion.

30
31 g) If the Commission or Hearing Examiner overturns the Chief's demotion, the Officer shall
32 be returned to the promoted rank in an assignment to be determined by the Chief.

33
34 h) This Section shall be entitled to preemption including but not limited to Sections
35 143.010, 143.015, 143.054, 143.057 and all provisions of Subchapter B of the Texas Local
36 Government Code Chapter 143.

37
38 **Section 14. Substitution of Demotion for Indefinite Suspension**

39
40 In the appeal of an indefinite suspension, the Civil Service Commission or a Hearing
41 Examiner may substitute a demotion for the indefinite suspension imposed by the Chief.

42
43 **Section 15. Mediation**

44
45 The CITY shall implement a voluntary mediation process concerning both citizen and
46 internal complaints. The ASSOCIATION may appoint two persons to work with the CITY in

1 developing the specific operating procedure. The process shall include and be based upon the
2 following concepts:

- 3
- 4 a) Mediation shall be an option offered to the complainant at the time the initial
5 complaint is filed for minor nature complaints, such as rudeness.
6
- 7 b) For a complaint to proceed to mediation, both the Officer and the complainant must
8 voluntarily agree.
9
- 10 c) Once mediation has been agreed to, the matter cannot be returned to the Department
11 to be handled as a disciplinary matter.
12

13 **Section 16. Effect of Contract Expiration**

14
15 The provisions of this AGREEMENT shall remain in full force and effect after expiration of
16 this AGREEMENT as to:

- 17
- 18 a) Any investigation assigned a Control Number by the Internal Affairs Division prior to
19 the expiration of this AGREEMENT;
20
- 21 b) Any disciplinary decision by the Chief prior to the expiration of this AGREEMENT;
22 or
23
- 24 c) Any appeals of such disciplinary action.
25
26

27 **Section 17. Authority of the Civil Service Commission/Hearing Examiner**

28
29 If an Officer is indefinitely or temporarily suspended, the Officer shall have the right to
30 appeal the suspension to the Civil Service Commission or to an Independent Third Party Hearing
31 Examiner pursuant to the provisions of this AGREEMENT and Chapter 143 of the Texas Local
32 Government Code. The Commission or the Hearing Examiner shall decide whether the specific
33 charge related to this Section is true. If the charge is found to be true, the Commission or
34 Hearing Examiner may affirm or reduce the suspension imposed by the Chief of Police to a
35 temporary suspension not to exceed 180 days.
36

37 **Section 18. Access to IAD File**

38
39 If an Officer appeals a disciplinary action, and provides a written request, the CITY will
40 provide to the Officer and his/her representative a copy of the unredacted IAD file within five (5)
41 business days of receiving the request. The file remains confidential in the hands of the Officer
42 and his/her representative to the extent the release of such information is still protected from
43 public disclosure by Local Government Code Section 143.089(g) or other law. Additionally, all
44 individuals who have access by virtue of this AGREEMENT to IAD files or investigative
45 information, including the information contained within the 143.089(g) files of Officers, shall be
46 bound to the same extent as the Austin Police Department and the City of Austin to comply with

1 the confidentiality provisions of this AGREEMENT, Chapter 143 of the Texas Local
2 Government Code, and the Texas Public Information Act. All such individuals shall further be
3 bound to the same extent as the Austin Police Department and the City of Austin to respect the
4 rights of individual Officers under the Texas Constitution and the Fourth, Fifth, and Fourteenth
5 Amendments to the U.S. Constitution, including not revealing information contained in a
6 compelled statement protected by the doctrine set forth in *Garrity v. New Jersey*, 385 U.S. 493
7 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967). The Officer and his/her representative shall
8 not be provided information contained within an IAD file that is made confidential by a law
9 other than Chapter 143 of the Texas Local Government Code, such as records concerning
10 juveniles, sexual assault victims, and individuals who have tested positive for HIV.
11
12
13

14 **ARTICLE 19** 15 **ASSIGNMENT CHANGES**

17 **Section 1. Advance Notice of Assignment Changes**

18 a) Notice of Assignment Changes

19
20
21 Except for normal shift rotations, for assignment changes that are determined far enough
22 in advance, the Department will provide a twenty-eight (28) calendar-day notice to the affected
23 Officer. Advance notice of the assignment change is not required if prior notice is not in the best
24 interest of the Department or in any emergency situations. Advance notice of the assignment
25 change may be waived by the Officer.
26

27 b) Hardship Transfers

28
29 In the event of special hardship, an affected Officer may appeal to the Assistant Chief of
30 their Bureau for consideration of temporary scheduling or other adjustments to reduce or address
31 personal hardships. The Chief shall create a joint committee with representatives appointed by
32 the ASSOCIATION to evaluate hardship claims and to recommend action to the Assistant Chief.
33

34 **Section 2. Requested Job Assignment Transfers**

35
36 a) A list of all currently vacant positions throughout the Department will be maintained on
37 the APD intranet and available for review by Officers. Absent exigent circumstances, a vacancy
38 will be posted on the APD intranet as near as possible to 10 days prior to the application
39 deadline.
40

41 b) A reasonable, good faith effort shall be made to post initial assignment vacancies. It is
42 recognized and understood that notice cannot be sent for all backfill transfers resulting from the
43 initial vacancies.
44

45 c) The posting process shall not apply to vacancies that the Department fills by promotion,
46 vacancies filled during Department-wide leveling, involuntary transfers, or mutually agreed

1 swaps.

2
3 d) All Officers are eligible to seek transfer to any vacancies within the Department for
4 which they are qualified. Oral or written reprimands shall not affect an Officer's ability to apply
5 for a transfer to a sought after position, but may be considered along with all other factors in
6 making a selection among applicants.

7
8 e) Applying for a posted position shall neither jeopardize nor insure an Officer's current
9 assignment. The Chief shall establish a committee with representatives appointed by the
10 ASSOCIATION to recommend changes or improvements in the process of posting notice of job
11 assignment opportunities or openings.

12 13 **Section 3. Proposed Adjustments to Work Schedules**

14
15 a) It is recognized that Command Staff, through the authority of the Chief of Police, retains
16 the right to adjust work schedules, days off, and other similar conditions of employment within
17 the Department.

18
19 b) In the event of a proposed adjustment to work schedules that would have a significant
20 impact upon working conditions of affected Officers, the Commander or Assistant Chief
21 contemplating that adjustment shall notify the President of the ASSOCIATION in writing of the
22 proposed work schedule adjustment at least thirty (30) calendar days prior to its implementation.
23 Advanced notice shall not be required in emergency situations. The ASSOCIATION, after
24 receiving such notification may request in writing a meeting with the involved
25 Commander/Assistant Chief to discuss the merits/necessity of the work schedule change, and to
26 suggest an implementation plan that accomplishes the goals of the Department and has least
27 possible impact upon the affected Officers. The involved Commander/Assistant Chief shall be
28 required to meet with the President of the ASSOCIATION within five (5) business days of this
29 written request. If the ASSOCIATION and the Commander/Assistant Chief do not resolve the
30 ASSOCIATION's concerns, the President of the ASSOCIATION may schedule a meeting with
31 the Chief of Police and involved Commander/Assistant Chief to further consult on the matter.
32 The final decision to implement the proposed work schedule adjustment shall be retained by the
33 Chief of Police.

34
35 c) For purposes of this Article, significant impact upon working conditions caused by an
36 adjustment to work schedules refers to a change to an organizational component's hours or days
37 off.

38
39 d) This Section shall not apply to any work hour adjustments made as a result of an
40 emergency or unforeseen event, staffing shortages, or emergency crime threats to the
41 community, and nothing in this Article is intended to diminish the capability of the Chief of
42 Police to move personnel in response to unforeseen events and emergencies.

43
44 e) This Article shall not apply to reasonable work hour adjustments within units that by their
45 very nature must remain flexible in scheduling capability in response to crime trends, ongoing
46 investigations, and community outreach requirements.

1
2 f) The failure to notify and meet with the President of the ASSOCIATION as provided in
3 this Article is subject to the AGREEMENT grievance procedure set forth in Article 20 of this
4 AGREEMENT, and any remedy shall be limited to requiring notice and review of the decision in
5 accordance with this Article, and not any change in hours or days off.
6

7 **Section 4. Proposed Adjustments to Policies and Procedures**
8

9 a) It is recognized that Command Staff, through the authority of the Chief of Police, retains
10 the right to set policy and procedures for employees, which may vary from one operational unit
11 or division to another. On the other hand, the ASSOCIATION has a legitimate interest in
12 providing input on behalf of its members as to the choices to implement variations in policy that
13 have an impact on members.
14

15 b) In the event of a proposed adjustment to policies which differ or vary between units or
16 divisions, the Commander or Assistant Chief contemplating that adjustment shall notify the
17 President of the ASSOCIATION in writing of the proposed change at least thirty (30) calendar
18 days prior to its implementation. Advanced notice shall not be required in emergency situations.
19 The ASSOCIATION, after receiving such notification may request in writing a meeting with the
20 involved Commander/Assistant Chief for the purpose of discussing the merits/necessity of the
21 change, and to suggest an implementation plan that accomplishes the goals of the Department
22 and has least possible impact upon the affected Officers. The involved Commander/Assistant
23 Chief shall be required to meet with the President of the ASSOCIATION within five (5) business
24 days of this written request. If the ASSOCIATION and the Commander/Assistant Chief do not
25 resolve the ASSOCIATION's concerns, the President of the ASSOCIATION may schedule a
26 meeting with the Chief of Police and involved Commander/Assistant Chief to further consult on
27 the matter. The final decision to implement the proposed policy or procedure change shall be
28 retained by the Chief of Police.
29

30 c) This section shall not apply to any policy and procedure changes made as a result of an
31 emergency or unforeseen event, staffing shortages, or emergency crime threats to the
32 community, and nothing in this Article is intended to diminish the capability of the Chief of
33 Police to make changes in policy and procedure in response to unforeseen events and
34 emergencies.
35

36 d) The failure to notify and meet with the President of the ASSOCIATION as provided in
37 this Article is subject to the AGREEMENT grievance procedure set forth in Article 20 of this
38 AGREEMENT, and any remedy shall be limited to requiring notice and review of the decision in
39 accordance with this Article, and not any change in policy or procedure.
40

1 **Section 5. Special Event Assignments**

2
3 **a) Definitions**

4 In this Section:

5
6 (1) “Special Event(s)” means the following listed events only:

- 7 ❖ Mardi Gras
- 8 ❖ South by Southwest
- 9 ❖ Texas Relays
- 10 ❖ Halloween
- 11 ❖ F-1 Race

12
13 (2) “Significant schedule change” or “schedule change” means a change to an Officer’s
14 regularly assigned duty-hours or days off initiated or approved by the Chief of Police or Assistant
15 Chief of Police.

16
17 (3) “Department Overtime” or “Elective Department Overtime” means voluntary
18 participation in job or duty related assignments originating from within the Department, which are
19 outside an employee's regularly scheduled 40 hours of work per week, and for which the
20 employee normally, but not necessarily, receives overtime compensation from the City of Austin.
21 Compensation either can be at the expense of the Department or reimbursed through outside
22 funding, and will be included in the Officer’s regular City payroll. This does not include Court
23 Overtime, late calls, overtime related to workload or emergency holdovers.

24
25 (4) “Outside Law Enforcement Agency” means a municipal, county, or state police
25 agency that serves a minimum population base of 50,000.

26
27 **b) Special Event Staffing**

28
29 The Chief of Police shall have the responsibility of staffing Special Events. The number
30 of Officers needed at any such Event shall be within the exclusive prerogative of the Chief.

31
32 **c) Department Overtime Policies**

33
34 Department policies regarding Department Overtime, Elective and Secondary
35 Employment, and Attendance and Leave shall apply to Special Event assignments.

36
37 **d) South by Southwest**

38
39 (1) This subsection shall only apply to South by Southwest staffing assignments. The
40 purpose of this subsection is to establish a two-year trial public safety staffing model for the 2016
41 and 2017 South by Southwest Events only, in order to lessen the need for reassigning Officers
42 from their normal duty assignments while still adequately staffing the Event to protect our citizens
43 and visitors. Subject to the provisions set out below, nothing in this subsection shall be construed
44 as limiting the Police Chief’s authority and discretion to determine personnel assignments.

1 (2) The Department shall establish a South by Southwest volunteer sign-up roster
2 (hereinafter referred to as the “South by Southwest Volunteer Roster”) for non-exempt Officers
3 who wish to work South by Southwest as an Elective Department Overtime assignment.
4 Sergeants on the South by Southwest Volunteer Roster may be assigned to work in a non-
5 supervisory assignment after eligible Police Officers and Corporal / Detectives have been
6 assigned.

7
8 (3) Subject to subsection 4 below, the Department shall first be required to call or
9 otherwise make available the opportunity for eligible Officers on the South by Southwest
10 Volunteer Roster to work South by Southwest as an Elective Department Overtime assignment.
11 The South by Southwest Volunteer Roster shall be open for at least twenty-one (21) days, after
12 which the Department may fill any remaining need for certified personnel with (1) paid or
13 volunteer peace officers employed by Outside Law Enforcement Agencies, (2) paid Reserve
14 Officers, (3) by a schedule change for Officers not on the South by Southwest Volunteer Roster,
15 or (4) by any combination thereof. Officers not on the South by Southwest Volunteer Roster
16 whose schedules are changed to work South by Southwest may use vacation leave or may modify
17 their regular schedules, with supervisory approval, so that the South by Southwest shift(s) qualify
18 for overtime.

19
20 (4) Officers on the South by Southwest Volunteer Roster may be denied the ability to
21 work South by Southwest:

22 (i) In accordance with Department overtime, elective and secondary employment,
23 and attendance policies; or

24 (ii) If assigning an Officer from the South by Southwest Volunteer Roster creates a
25 need for backfill.

26
27 (5) The parties agree that denial of an Officer’s ability to work South by Southwest, the
28 failure for any reason to select or use an Officer on the South by Southwest Volunteer Roster, or
29 the reassignment of an Officer from their normal duty assignment shall not provide the basis for a
30 dispute, claim, or complaint under Article 20 of this AGREEMENT. This provision does not
31 prohibit a dispute, claim, or complaint under Article 20 of this AGREEMENT for the failure to
32 comply with the process set forth herein.

33
34 (6) Non-exempt Officers selected from the South by Southwest Volunteer Roster shall
35 receive overtime pay, at the rate of 1.5 times the Officer’s base salary, for productive hours
36 worked in excess of 40 in a work week.

37
38 **e) Notice of Significant Schedule Change for Special Events**

39
40 (1) Subject to subsection e) (2) below, an Officer subjected to a significant schedule
41 change to perform duties at a Special Event will be provided a twenty-eight (28) calendar-day
42 notice of the schedule change. If such notice is not provided, the Officer will be granted 20 hours
43 of Administrative Leave. Failure to utilize any part of these hours by December 31st of the year
44 accrued will result in forfeiture of the accrued Administrative Leave hours.

45 (2) An Officer subjected to a significant schedule change to perform duties at the 2016

1 South by Southwest Event will be provided a twenty-one (21) calendar-day notice of the schedule
2 change. If such notice is not provided, the Officer will be granted 20 hours of Administrative
3 Leave. Failure to utilize any part of these hours by December 31st of the year accrued will result
4 in forfeiture of the accrued Administrative Leave hours. An Officer subjected to a significant
5 schedule change to perform duties at the 2017 South by Southwest Event will be provided notice
6 of the schedule change pursuant to subsection e) (1) above.

7
8 (3) When the ASSOCIATION President knows or should know of the Department's
9 failure to provide advance notice as required by this Section, the ASSOCIATION President
10 shall promptly notify the Chief or designee and the Labor Relations Office.

11
12 (4) This subsection shall not apply to:

13
14 (a) A significant schedule change caused, less than twenty-eight (28) days prior to
15 the Special Event (twenty-one (21) days prior to the 2016 South by Southwest Event), by the need
16 to back-fill for any law enforcement personnel assigned to work the Special Event pursuant to
17 this Section but who is not available for the assignment.

18
19 (b) A significant schedule change caused, less than twenty-eight (28) days prior to
20 the Special Event (twenty-one (21) days prior to the 2016 South by Southwest Event), by an
21 unforeseen change in the schedule or scope of the Special Event.

22
23 **f) Reserve Police Officers**

24
25 To enhance the Department's ability to staff Special Events and to lessen workforce
26 disruption caused by short-term significant schedule changes, the CITY and the ASSOCIATION
27 agree that the Department may employ Reserve Officers, as defined in this AGREEMENT, under
28 the following circumstances:

29
30 (1) Reserve Officers shall be temporary employees.

31
32 (2) Employment and assignment of Reserve Officers shall be limited to performing
33 duties at Special Events. Subject to the discretion of the Chief, Reserve Officers may perform any
34 and all duties of a commissioned peace officer while working such assignments only.

35
36 (3) Reserve Officers may be required to attend and complete training as determined by
37 the Chief.

38
39 (4) Reserve Officers shall not be approved by the Department for any secondary
40 employment that is conditioned on the actual or potential use of law enforcement powers by the
41 Reserve Officer, or for elective Department overtime.

42
43 **g) Conflict Preemption**

44
45 To the extent of any conflict between this Section and portions of any state statute, local
46 ordinance, City or Department policy, the provisions of this Section shall preempt such statute,
47 local ordinance, City or Department policy only to the extent of such conflict.

1
2
3
4
5 **ARTICLE 20**
6 **AGREEMENT GRIEVANCE PROCEDURE**
7

8 **Section 1. Goals and Objectives**
9

10 The parties agree that they share the interest of resolving disputes with minimum
11 confrontation. To this end, the parties will attempt to insure that disputes are identified and
12 resolved through a process committed to mutual respect, open communication, and joint problem
13 solving, and to informally resolve grievances where possible both prior to their filing and prior to
14 arbitration.
15

16
17 **Section 2. Nature of Grievances**
18

19 As used in this Article, a “grievance” is defined as any dispute, claim, or complaint involving
20 the interpretation, application, or alleged violation of any provision of this AGREEMENT. A
21 grievance may be filed under this procedure by the ASSOCIATION or by any individual Officer
22 to whom this AGREEMENT applies. A grievance which does not relate to the application
23 and/or interpretation of any provision of this AGREEMENT shall be processed in accordance
24 with a procedure to be established in writing by the Chief of Police. Grievances pending as of
25 the effective date of this AGREEMENT shall be processed under procedures in effect prior to
26 the AGREEMENT. Pending shall mean that the written grievance has been filed.
27

28 **Section 3. Timelines**
29

30 Any timeline or deadline provided in this Article may be extended by mutual written
31 agreement of the parties involved at the particular step of the process where the timeline applies.
32 If any timeline or deadline for a decision is missed by the CITY, the grievance automatically
33 proceeds to the next step in the process. If any timeline or deadline for a decision is missed by
34 the ASSOCIATION, the grievance is considered to be resolved and dismissed.
35

36 **Section 4. Steps of Grievance Procedure**
37

38 The steps of this grievance procedure are as follows:
39

40 **Step 1**
41

42 a) Filing of Grievance
43

44 The ASSOCIATION President or an aggrieved Officer who desires to file a grievance
45 under this procedure must file his/her grievance with the Association Grievance Committee
46 within thirty (30) business days after the ASSOCIATION President or the Officer knew of or

1 should have known of the facts or event(s) giving rise to the grievance. A copy of the grievance
2 shall be forwarded to the Chief of Police, or designee, by the Association Grievance Committee
3 within three (3) business days after receipt of the grievance.
4

5 b) Response by Association Grievance Committee
6

7 Within fifteen (15) business days after its receipt of a grievance filed by an individual
8 Officer or filed on behalf of the ASSOCIATION under this procedure, the Association
9 Grievance Committee shall determine, in its sole discretion, if a valid grievance exists. If the
10 Association Grievance Committee determines that the grievance is valid, the grievance shall
11 proceed to Step 2 of this procedure. If the Association Grievance Committee determines that the
12 grievance is not valid, the ASSOCIATION President will notify the Chief that no further
13 proceedings are necessary.
14

15 **Step 2**
16

17 Any grievance found to be valid by the Association Grievance Committee shall be submitted
18 to the Chief of Police within fifteen (15) business days of the Step 1 ruling. Each grievance shall
19 be submitted on a form agreed to by the parties and must include:
20

- 21 (1) A brief statement of the grievance and the facts or events upon which it is based;
- 22
- 23 (2) The section(s) of the AGREEMENT alleged to have been violated;
- 24
- 25 (3) The steps taken, if any, by the grievant to resolve the issue; and
- 26
- 27 (4) A proposed resolution of the grievance.
28

29 A grievance submitted in substantial compliance with this section shall not be denied on the
30 basis of form. Within fifteen (15) business days after receipt of the Step 2 grievance, the Chief
31 of Police shall submit a written response to the Association Grievance Committee.
32

33 **Step 3**
34

35 If a grievance is not resolved at Step 2 , the ASSOCIATION may within fifteen (15) business
36 days after receipt of the Chief's Step 2 response, submit the grievance to arbitration in
37 accordance with the provisions of this AGREEMENT. The grievance arbitration procedure shall
38 be implemented by the ASSOCIATION notifying the Chief of Police in writing of its intent to
39 submit the grievance to arbitration.
40

41 **Step 4**
42

43 The arbitration hearing will be scheduled by agreement at the earliest date possible,
44 preferably within thirty (30) business days after submitting the grievance to arbitration. The
45 arbitrator will be selected as agreed or under the AAA process.
46

1 The hearing shall be held at a location which is convenient for all parties and the arbitrator
2 and shall be conducted informally, without strict evidentiary or procedural rules. Unless
3 otherwise mutually agreed, the submission to the arbitrator shall be based on the written
4 grievance statement submitted by the Association Grievance Committee at Step 2. The arbitrator
5 shall consider and decide only the issue(s) in the grievance statement or submitted in writing by
6 agreement of the parties. The hearing shall be concluded as expeditiously as possible and the
7 arbitrator's written decision shall be provided to both parties within thirty (30) calendar days
8 after close of the hearing, unless the parties mutually agree otherwise.

9
10 The parties specifically agree that the arbitrator's authority shall be strictly limited to
11 interpreting and applying the explicit provisions of this AGREEMENT. The arbitrator shall not
12 have authority to modify the AGREEMENT or create additional provisions not included in the
13 AGREEMENT. The parties agree that neither the CITY nor the ASSOCIATION shall have *ex*
14 *parte* communications with the arbitrator concerning any matter involved in the grievance
15 submitted to the arbitrator.

16
17 Each party shall be responsible for its own expenses in preparing for and representing itself
18 at arbitration. The fees of the arbitrator shall be borne by the losing party. In the event of a
19 composite decision, the arbitrator shall determine the portion of such cost to be borne by each
20 party. The written decision of the arbitrator may be appealed only on the grounds that the
21 arbitrator was without jurisdiction or exceeded his jurisdiction; that the decision was procured by
22 fraud, collusion, or other unlawful means; or that the arbitrator's decision is based upon a clear
23 and manifest error of law.

24 25 **Section 5. Election of Remedies**

26
27 It is specifically and expressly understood that filing a grievance under this Article, which
28 has as its last step final and binding arbitration, constitutes an election of remedies.

29 30 **Section 6. Statutory Appeals and Hearings**

31
32 Except as specifically provided in this AGREEMENT, all statutory rights of appeal to the
33 Civil Service Commission or Hearing Examiner, including disciplinary matters, promotional
34 bypasses, and demotions will be governed by Chapter 143 and are not subject to this contract
35 grievance procedure.

36 37 38 39 **ARTICLE 21** 40 **TERM OF AGREEMENT**

41 42 **Section 1. Term of Agreement**

43
44 a) This AGREEMENT shall be effective as of the date it is ratified by the City Council,
45 except as to any provisions herein specifically made effective on any other date. It shall remain
46 in full force and effect, subject to the provisions of this Article, until September 30, 2017.

1
2 b) Any Amendment to this AGREEMENT shall be effective as of the date it is ratified by the
3 City Council, except as to any provisions in the AMENDMENT specifically made effective on
4 any other date. Any Amendment to this AGREEMENT shall remain in full force and effect,
5 subject to the provisions of this Article, until September 30, 2017.
6

7 c) The provisions of this AGREEMENT, as amended do not apply to any Officer who
8 separates from CITY employment before the effective date of this AGREEMENT or before the
9 effective date of any specific provisions hereof.
10

11 **Section 2. Continuing Relationship**

12 a) The parties acknowledge their longstanding history of successful Meet & Confer
13 negotiations and their joint efforts to continue to build on the framework of each
14 previous agreement. This AGREEMENT is the product of that relationship and negotiation
15 history. This includes agreements on the issues which may require a contractual modification
16 of existing civil service law (access to the 143.089(g) file, and release of defined reports
17 from Independent Investigations and the CRP), agreements to outline the broad concepts of
18 citizen oversight, and agreements which clarify rights which exist with or without the
19 AGREEMENT. Other aspects of the CITY's implementation of citizen oversight are its
20 prerogatives under Texas law and the City Charter, and do not require contractual provisions.
21 Both parties recognize that without the continued ability of the CITY to carry out citizen
22 oversight, this agreement would not have been reached, either as to the economic issues
23 or the additional provisions for the procedural protections of Officer's rights.
24

25 b) In the event of any court order, judgment, Texas Attorney General's opinion or
26 arbitration decision brought or caused by Officers or the APA which substantially impairs
27 oversight access to the 143.089(g) file, prevents release of the defined portions of reports of
28 Independent Investigation and the CRP, invalidates the 180 tolling provision in Article 16, or
29 impairs the CITY's right to expedited arbitration as contemplated herein, the CITY may reopen
30 negotiations to resolve and correct the issue or provide an alternate resolution. If a negotiated
31 resolution of the issue is not achieved, the CITY may terminate this AGREEMENT after ninety
32 (90) days written notice, and the parties may resume negotiations toward a successor agreement
33 under the provisions Section 143.301 et. seq., of the Texas Local Government Code.
34

35 c) In the event of any court order, judgment, Texas Attorney General's opinion or
36 arbitration decision brought or caused by the City of Austin or other party with standing under
37 this AGREEMENT substantially impairs the provisions of Article 17 pertaining to Officer's
38 rights, or which would allow full access to investigative evidence of Officer misconduct in the
39 absence of a disciplinary decision imposed by the Chief, the APA may reopen negotiations to
40 resolve and correct the issue or provide an alternate resolution. If a negotiated resolution of the
41 issue is not achieved, the CITY may terminate this AGREEMENT after ninety (90) days written
42 notice, and the parties may resume negotiations toward a successor agreement under the
43 provisions Section 143.301 et. seq., of the Texas Local Government Code.
44

45 **Section 3. Notice and Renegotiation**

46 If either the CITY or the ASSOCIATION desires to engage in negotiation for a
47

1 successor Agreement, then either or both shall give the other party written notice of its desire
2 to negotiate for a new Agreement no less than 120 days before the expiration of the present
3 AGREEMENT. In the event that notice of intent to renegotiate is given by either party, and
4 the parties agree, the parties will begin negotiations for a new Agreement not later than sixty
5 (60) days after notice is given, unless the parties agree otherwise.

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4 **Section 4. Continuation during Negotiations**
5

6 If the parties are engaged in negotiations for a successor Agreement at the time this
7 AGREEMENT expires, the ASSOCIATION's and the CITY's negotiating teams shall have the
8 authority to extend this AGREEMENT in thirty (30) calendar day increments by mutual written
9 agreement, during any period of good faith negotiations after such termination date, not to
10 exceed a total of six (6) months.
11

12 **Section 5. Effect of Termination**
13

14 a) In the event that a successor Agreement has not been ratified before the expiration date of
15 this AGREEMENT (the expiration date of September 30, 2017, or any extended expiration date
16 under Section 4 above), all provisions of this AGREEMENT, both economic and non-economic,
17 shall expire and no longer be in full force and effect, except as to specific Articles or Sections
18 hereof which provide that some or all of their terms will continue beyond expiration of this
19 AGREEMENT.
20

21 b) After expiration/termination of this AGREEMENT, it is expressly understood that the
22 wages and compensation specified in this AGREEMENT may then be placed at a level
23 determined by the City Manager, as funds are authorized by the City Council, and this does not
24 preclude wages and compensation being rolled back to pre-contract levels, as they existed on the
25 day prior to the effective date of this AGREEMENT.
26

27 **Section 6. Funding Obligations**
28

29 The CITY presently intends to continue this AGREEMENT each fiscal year through its term,
30 to pay all payments due, and to fully and promptly perform all of the obligations of the CITY
31 under this AGREEMENT. All obligations of the CITY shall be paid only out of current
32 revenues or any other funds lawfully available therefore and appropriated for such purpose by
33 the City Council, in compliance with the Texas Constitution, Article XI, Sections 5 and 7. In the
34 event that the City of Austin cannot meet its funding obligations, as provided in the State
35 Constitution, this entire AGREEMENT becomes null and void.
36
37
38

39 **ARTICLE 22**
40 **NOTICES**
41

42 **Section 1. Association Notices**
43

44 Notices the ASSOCIATION is required to provide to the CITY under this AGREEMENT or
45 Chapter 143, unless specifically noted otherwise, will be provided in writing to the office of the
46 Chief of Police, the Labor Relations Office and the designated lawyer in the City Attorney's

1 Office.

2
3 **Section 2. City Notices**

4
5 Notices the CITY is required to provide to the ASSOCIATION under this AGREEMENT or
6 Chapter 143, unless specifically noted otherwise, will be provided in writing to the
7 ASSOCIATION President’s office and the ASSOCIATION’s designated attorney.
8

9 **Section 3. Designation of Notice Recipients**

10
11 Within 10 calendar days after the effective date of this AGREEMENT, both parties will
12 provide the other written notice of the correct mailing and e-mail addresses of its designated
13 recipients.
14

15 **Section 4. Timeliness of Mail Notice**

16
17 A notice provided by mail will be deemed timely if addressed to the two correct mailing
18 addresses for the CITY or the ASSOCIATION and postmarked no later than the date such notice
19 is due.
20

21 **Section 5. Adequacy of Email Notice**

22
23 Use of email communications under this paragraph shall be preceded by confirmed
24 exchanges at the outset of the AGREEMENT, from the sending to receiving servers, prior to
25 using the email option for notices under this Section. Each party agrees to provide notice of any
26 change in email addresses of any designated recipient following the initial exchange of emails.
27 In recognition of the fact that email systems are dependent on a number of technical factors, the
28 parties agree to confirm the receipt of email notices by sending a “read receipt” to the other party
29 or sending a brief acknowledgment of receipt. A notice sent by e-mail will be deemed timely if
30 addressed to the two correct e-mail addresses for the CITY or the ASSOCIATION and sent by
31 4:59 p.m. on the due date.
32

33 **Section 6. Notice of Address Changes**

34
35 The parties agree to provide written notice of any changes of physical address or e-mail
36 address to the other party within 7 calendar days of the change.
37
38

39 **ARTICLE 23**
40 **ENTIRE AGREEMENT**

41
42 **Section 1. Subjects and Issues**

43
44 The parties acknowledge that during the negotiations which resulted in this AGREEMENT,
45 each had the unlimited right and opportunity to raise issues and make proposals with respect to
46 any subject or matter not removed by law from the meet and confer process, and that the

1 understandings and agreements arrived at by the parties after the exercise of that right and
2 opportunity are set forth in this AGREEMENT. Therefore, the CITY and the ASSOCIATION,
3 for the duration of this AGREEMENT, each voluntarily and unqualifiedly waive the right, and
4 each agrees that the other shall not be obligated, to meet and confer with respect to any subject or
5 matter referred to, or covered in this AGREEMENT, or with respect to any subject or matter not
6 specifically referred to or covered in this AGREEMENT, even though such subjects or matters
7 may not have been within the knowledge or contemplation of either or both of the parties at the
8 time they negotiated or signed this AGREEMENT, except as provided for single issue
9 negotiation above.

10
11 **Section 2. Amendment of the Agreement**

12
13 a) Except as explicitly provided for in this AGREEMENT, this AGREEMENT may be
14 amended during its term by the parties only by written mutual agreement ratified in
15 accordance with the provisions of Chapter 143.

16
17 b) The parties may mutually agree to corrections or clarifications by Memorandum of
18 Agreement with the authority of the Board of Directors of the ASSOCIATION and the City
19 Manager for the CITY.

20
21 **Section 3. Benefit of the Bargain**

22
23 a) In the event that the Texas Legislature amends any provision of Texas Local Government
24 Code Chapters 141, 142 or 143, which changes wages or benefits for City of Austin Police
25 Officers during the term of this AGREEMENT, any such amendment shall not be applicable to
26 the Officers covered by this AGREEMENT, unless the City Council adopts such amendment by
27 Ordinance. Examples of wages and benefits include, but are not limited to, base salary,
28 longevity, assignment pay, sick leave, vacation, health insurance, and weapon provision
29 mandates.

30
31 b) During the negotiation of this AGREEMENT, the CITY and the ASSOCIATION have
32 agreed on the stated enhancements to employee compensation and benefits, in reliance on the
33 cost of those enhancements. Both parties acknowledge that this AGREEMENT would not have
34 been reached, as reflected in this document, if the cost to the CITY had been higher. In the event
35 of any proceeding in which the ASSOCIATION asserts the right to additional compensation or
36 pay enhancements based on the provisions of this AGREEMENT, the decision-maker shall
37 consider the cost of the contractual pay and benefits enhancements as part of the mutual
38 agreement and meeting of the minds that resulted in approval of this AGREEMENT by both
39 parties.

40
41
42
43 **Article 24**
44 **SAVINGS CLAUSE/PREEMPTION**

45
46 **Section 1. Effect of Illegal Provision**

1
2 If any provision of this AGREEMENT is subsequently declared by legislative or judicial
3 authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other
4 provisions of this AGREEMENT shall remain in full force and effect for the duration of this
5 AGREEMENT, and the parties shall meet as soon as possible to agree on a substitute provision.
6

7 **Section 2. Preemption of Local Government Code & Other Provisions**
8

9 a) “**Conflict preemption**” intended unless otherwise specified. Texas Local Gov’t Code
10 §143.307 authorizes the parties to preempt “any contrary statute, executive order, local
11 ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a
12 personnel board, a civil service commission, or a home-rule municipality” through a labor
13 agreement. To the full extent authorized by §143.307, the parties agree that the provisions of
14 this AGREEMENT shall preempt those portions of any state statute, executive order, local
15 ordinance, or rule with which they specifically conflict only to the extent of such conflict;
16 remaining portions of such provisions will continue to govern the parties’ actions.
17

18 b) “**Total preemption**” only where specified. However, to the extent allowed by §143.307,
19 the parties may totally preempt a state statute, executive order, local ordinance, or rule, by
20 placing a provision in this AGREEMENT that: (1) specifically states it is intended to “totally
21 preempt” the law in question, and (2) specifically identifies the law(s) being totally preempted.
22

23 **Section 3. Change in Authorized Representative**
24

25 During the term of this AGREEMENT, if there is a lawful withdrawal of recognition of the
26 Austin Police Association pursuant to Section 143.304 of the Texas Local Government Code,
27 then it will be the CITY’s option to continue the terms of this AGREEMENT or to cancel the
28 contract and engage in negotiations with the successor organization, if any.
29
30
31

32 **ARTICLE 25**
33 **CONSOLIDATION OF PUBLIC SAFETY OFFICERS INTO APD**
34

35 **Section 1. Definitions**
36

37 The following definitions apply to terms used in this Article and this AGREEMENT, unless
38 a different definition is required by the context in which the term is used:
39

40 a) “PSEM” refers to the City of Austin Public Safety and Emergency Management
41 Department, which was dissolved as a result of the consolidation of certain PSEM law
42 enforcement officers into the Austin Police Department.
43

44 b) “PSEM law enforcement officer(s)” refers to individuals who, on September 30, 2008
45 were:

- 46 (1) PSEM employees and

1
2 (2) Were commissioned by TCLEOSE as peace officers.
3

4 c) "Transition Completion Date" refers to the date that the last PSEM law enforcement
5 officer successfully completed the modified cadet training program designed by APD
6 specifically for the transition process.
7

8 **Section 2. Completion of Transition and Civil Service Status**
9

10 a) The parties acknowledge that the consolidation of former PSEM law enforcement
11 officers into APD has been fully accomplished. All former PSEM law enforcement officers who
12 successfully completed the modified cadet training program, as determined by the Chief, are
13 Civil Service employees, subject to the provisions of this AGREEMENT.
14

15 b) The parties hereby ratify the initial placement of PSEM law enforcement officers into the
16 APD Civil Service Rank of Police Officer, regardless of their previous positions or rank in
17 PSEM. Any change in rank resulting from the consolidation transition shall not be construed as
18 a demotion under either Civil Service law or the City's Personnel Policies. A former PSEM law
19 enforcement officer whose rank changed as a result of the consolidation transition may not file a
20 grievance regarding that change in rank under the grievance process set out in this
21 AGREEMENT or under the City's Personnel Policies.
22

23 **Section 3. Wages and Benefits**
24

25 a) The parties hereby ratify the initial placement of PSEM law enforcement officers into the
26 APD Base Salary Schedule. The parties agree that after initial placement, former PSEM officers
27 will advance through the step pay program in sequence based on the Officer's initial placement
28 without regard to the Officer's years of service with APD or PSEM prior to October 1, 2008.
29

30 b) Each former PSEM law enforcement officer will receive longevity pay as provided in
31 Article 7 of this AGREEMENT based on the Officer's cumulative years of service with both
32 PSEM and APD.
33

34 c) Any change in compensation resulting from the consolidation transition shall not be
35 construed as a demotion or promotion under Civil Service law, this AGREEMENT, or the
36 CITY's Personnel Policies. A former PSEM law enforcement officer whose compensation
37 changed as a result of the consolidation transition may not file a grievance regarding that change
38 in compensation under the grievance process set out in this AGREEMENT or under the CITY's
39 Personnel Policies.
40

41 **Section 4. Transfer of Special Vacation Balances**
42

43 a) Special vacation balances of former PSEM law enforcement officers due to settlement of
44 claims regarding vacation accrual rates have been transferred to APD and shall remain subject to
45 the terms of the applicable settlement agreement.
46

1 **Section 5. Payment of Accrued Sick Leave**

2
3 Accrued sick leave will be paid to former PSEM law enforcement officers under the
4 following conditions:

5
6 a) An Officer who retires under both the City of Austin Employees Retirement System and
7 the Austin Police Retirement System, will be paid for all accrued sick leave in accordance with
8 the provisions of Article 9, except that the 12-year service requirement shall not apply.

9
10 b) An Officer who was hired by the City of Austin prior to October 1, 1986, who separates
11 from the CITY for any reason other than retirement will be paid for a maximum of 720 hours of
12 accrued sick leave.

13
14 c) An Officer who was hired after October 1, 1986, who separates from the CITY after the
15 effective date of this Article for any reason other than retirement will be paid for accrued sick
16 leave in accordance with Article 9 of this Agreement, but years of service with PSEM will not be
17 counted as years of service with APD for purposes of the 12-year service requirement.

18
19 **Section 6. Promotional Eligibility**

20
21 A PSEM law enforcement officer who successfully completes the transition and becomes an
22 APD Officer shall be eligible to take the promotional examination for the rank immediately
23 above Police Officer upon completion of five (5) years of service. For purposes of calculating
24 the required five (5) years of service, all service with APD after the Transition Completion Date
25 plus up to three (3) years of continuous service in PSEM immediately prior to the effective date
26 of this Article shall be counted toward the requirement.

27
28 **Section 7. Conditions Precedent**

29
30 Approximately six (6) years after the System began participating in the Proportionate
31 Retirement Program, the System's actuary must conduct a five-year experience study to
32 determine whether the CITY's contribution rate should be increased or decreased based on
33 utilization of the Proportionate Retirement Program during that period.