

MEET AND CONFER AGREEMENT
BETWEEN
CITY OF LUFKIN
AND
LUFKIN POLICE ASSOCIATION

October 1, 2009

through

September 30, 2010

ARTICLE 1

PREAMBLE

Section 1. Date of Agreement.

This Agreement made, entered into, and first effective this 1st day of October A.D. 2009, (unless specific provisions or Exhibit terms set forth a later effective date) by and between the City of Lufkin, Texas, hereinafter referred to as the "CITY", and the Lufkin Police Association, hereinafter referred to as the "ASSOCIATION," and its terms shall be effective only through September 30, 2010.

Section 2. Purpose of Agreement

WHEREAS, the CITY has granted recognition of the ASSOCIATION as the sole and exclusive bargaining agent for all the police officers employed by the municipality, excluding the head of the law enforcement agency for the municipality and excluding the exempt employees; and

WHEREAS, the ASSOCIATION has pledged to support the service and mission of the Lufkin Police Department and to abide by the statutorily imposed no strike or work slow down obligations placed upon it; and

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

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

ARTICLE 2

DEFINITIONS

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

1. "ASSOCIATION" means the Lufkin Police Association, and its Officers and agents authorized to act on its behalf.
2. "Authorized ASSOCIATION Representative" means a representative of the ASSOCIATION authorized by the ASSOCIATION's executive board to conduct business on behalf of the ASSOCIATION.
3. "Chapter 143" means Chapter 143 of the Texas Local Government Code.
4. "Chief" means the Chief of Police of the Lufkin Police Department or his designee.
5. "CLEAT" means the Combined Law Enforcement Associations of Texas.
6. "Employer" or "CITY" means the City of Lufkin, Texas, the Lufkin Police Department and its Officers, agents, managers, and others authorized to act on the CITY's behalf.
7. "HRD" means the City of Lufkin's Human Resources Department.
8. "Meet and Confer Statute" means Subchapter B of Chapter 142 of the Texas Local Government Code, Sections 142.051 -142.068.
9. "Officer" means, all Police Officers, as the term is currently defined in Texas Local Government Code, Section 143.003 (5), except the Head of the Department and, unless otherwise specified, Assistant Department Heads in the rank or classification immediately below that of the Department Head. The term also excludes civilian employees, Retirees, and any other employees specifically exempted by the terms of this Agreement.
10. "Police Civil Service Commission" means the three (3) member Civil Service Commission appointed by the City Manager, pursuant to Section 143.006 of the Texas Local Government Code.
11. "Preemption" This Agreement preempts, during the term of the Agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission, as authorized by Section 142.067 of the Texas Local Government Code.

12. "Retiree" means a former Officer who is receiving recurring payments under TMRS based on his or her service as an employee. The term includes a person receiving recurring payments under TMRS as a current spouse, former spouse, or child of a former Officer.

13. "TMRS" means the Texas Municipal Retirement System.

ARTICLE 3

RECOGNITION

The CITY recognizes the ASSOCIATION as the sole and exclusive bargaining agent for all covered Police Officers, pursuant to Section 142.058 et seq. of Chapter 142, excluding the Police Chief, the Assistant Police Chiefs, and all civilian employees of the Police Department.

ARTICLE 4

MANAGEMENT RIGHTS

Section 1. Retained Rights – General

The CITY retains all inherent rights to manage the Police Department and its work force that it presently enjoys, subject to applicable federal and state statutes and local ordinances, resolutions, and rules. These rights include, but are not limited to; direction of the work force, including but not limited to, the right to hire; the right to discipline or discharge; the right to decide job qualifications for hiring; the right to lay-off or abolish positions; the right to make rules and regulations governing conduct and safety; the right to determine schedules of work together with the right to determine the methods, processes and manner of performing work; the determination of the size of the work force, and the assignment of work to Officers within the department, including the right to transfer Officers; the determination of policy affecting the selection of new Officers; the right to establish the services and programs provided by the department, including the nature and level of such services and programs, as well as the type and quantity of resources allocated; and the right to implement programs to increase the cost effectiveness of departmental operations.

Section 2. Retained Right of Independent Investigation.

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

ARTICLE 5

NON-DISCRIMINATION

Section 1. Discrimination Prohibited.

Neither the CITY nor the ASSOCIATION shall discriminate with regard to the implementation of any term or condition of this contract, against any Officer covered by this Agreement in a manner which discrimination would violate any applicable federal or state law or any CITY ordinances on the basis of race, creed, color, national origin, age, sex, sexual orientation, or disability.

Section 2. Association Membership or Activity.

Neither the CITY nor the ASSOCIATION shall interfere with the right of Officers covered by this Agreement to become or not become members of the ASSOCIATION, and there shall be no discrimination against such Officers because of lawful ASSOCIATION membership or non-membership activity or status.

Section 3. Association Fair Representation.

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

ARTICLE 6

CLEAT DUES, CHECK OFF AND INDEMNIFICATION

Section 1. Dues Check Off.

Upon receipt of a signed authorization from an Officer on a form supplied by the CITY, CLEAT dues shall be deducted from such Officer's pay. Officers who are already having dues deducted as of the execution date of this Agreement are not required to submit a new dues deduction form. The dues deductions shall be remitted promptly to CLEAT. The ASSOCIATION agrees to defray the actual cost of making such deductions, not to exceed the per deduction amount paid by other City of Lufkin employees for other payroll deductions. The ASSOCIATION may change the amount of the deduction for those employees who have authorized payroll deductions by providing the CITY with a letter, at least thirty (30) days in advance of the change, from the ASSOCIATION President advising the CITY that the amount has changed pursuant to the requirements of the ASSOCIATION's Constitution and Bylaws. Additional assessments may be deducted by mutual agreement of the parties.

The CITY agrees that it will not authorize payroll deduction of dues or fees for any organization that purports to represent Lufkin Police Officers in employment matters, which is not currently authorized to have payroll deduction of dues. This requirement shall not apply to organizations that enjoyed dues check off as of the date the Lufkin City Council recognized the Lufkin Police Association as the sole and exclusive bargaining representative of Officers in the Department, including the Lufkin Police Association and the Combined Law Enforcement Association of Texas.

Section 2. Indemnification.

The ASSOCIATION shall jointly defend the provisions of this Agreement on behalf of both parties, and shall indemnify the CITY and any departments of the CITY and hold it harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any actions taken by the CITY or any department of the CITY for any purpose of complying with provisions of this Agreement. The ASSOCIATION shall be entitled to select and direct counsel for such defense, but shall reasonably cooperate with counsel designated by the City Attorney to participate.

ARTICLE 7

ASSOCIATION COMMUNICATION

The ASSOCIATION'S access to CITY facilities and equipment to communicate with its membership shall include the use of a bulletin board(s) installed at a location in the Police Department agreed to by the ASSOCIATION and the Chief. The design and installation of the bulletin boards shall be approved in advance by the Chief or his designee.

Section 1. 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.

ARTICLE 8

TERMS OF AGREEMENT

This Agreement shall continue in effect under the following terms and conditions:

1. For Fiscal Year 2009/2010 (beginning October 1, 2009), base wages paid to Police Officers shall remain at rates in effect as of the effective date of this Agreement, unless the CITY increases compensation for all classifications of non-civil service employees. In such event, base wages paid to Police Officers shall be increased by the amount equal to compensation adjustments for non-civil service employees.
2. For Fiscal Year 2009/2010 (beginning October 1, 2009), the ASSOCIATION agrees not to request, demand, or otherwise institute Salary Survey adjustments to base wages paid to Police Officers. The ASSOCIATION further agrees that it will not, during the term of this Agreement, support a petition, authorized under section 141.034 of the Texas Local Government Code, to increase salaries.
3. The City Manager shall disclose to the President of the ASSOCIATION within thirty (30) calendar days of the adoption of the CITY budget by the City Council, whether set asides exist for compensation adjustments for non-civil service employees and, if so, the terms of the set asides.
4. The CITY agrees to provide all Officers and Retirees pension benefits through TMRS according to plan provisions in place as of October 1, 2008, including;
 - a. Employee deposit rate: 7.0%,
 - b. Matching ratio (CITY to Officer): 2 to 1,
 - c. Years required for vesting: 5
 - d. Service retirement eligibility (expressed as age/years of service): 60/5, 0/20
 - e. Updated Service Credit: 100% Repeating, Transfers
 - f. Annuity Increase (to Retirees): 70% of Consumer Price Index Repeating,
 - g. Supplemental Death Benefits: Officers and Retirees.
5. The CITY agrees to fund, at a minimum, the actuarially determined contribution rates for the retirement benefits and Supplemental Death Benefits of all Officers and Retirees, based upon plan provisions in effect as of October 1, 2008, in accordance with the actuarial assumptions and methods adopted by the TMRS Board.
6. The CITY shall provide full disclosure regarding any changes to Officers' health insurance benefits to the President of the ASSOCIATION within thirty (30) calendar days of a proposal by the CITY to consider changes to Officers' health insurance benefits..

7. The CITY and the ASSOCIATION agree to Meet and Confer again prior to the creation and adoption of a CITY budget for fiscal year 2010/2011. Such Meet and Confer session shall occur prior to April 1, 2010, unless otherwise agreed to by the parties to the Agreement.
8. The parties may mutually agree to corrections or clarifications by Memorandum of Agreement, with the authority of the Board of Directors of the ASSOCIATION and the City Manager for the CITY.

ARTICLE 9

TERMINATION OF AGREEMENT

Section 1. Effect of Termination of Agreement.

In the event that a successor Agreement has not been ratified by October 1, 2010, all the provisions of this Agreement, both economic and non-economic, shall expire and no longer be in full force and effect, except for:

Any provision of this Agreement expressly set forth within this Agreement to expire at a date later than October 1, 2010, including, but not limited to;

- Provisions related to the providing of and funding of pension benefits through TMRS for all Officers and Retirees shall remain in effect through the end of Fiscal Year 2010/2011 (beginning October 1, 2010).

Section 2. Funding Obligations.

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

ARTICLE 10

ENTIRE AGREEMENT

Section 1. Obligation During Term of Agreement.

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to raise issues and make proposals with respect to any subject or matter not removed by law from the meet and confer process, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the CITY and the ASSOCIATION, for the duration of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated, to meet and confer with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement, except as provided for single issue negotiation above. This Agreement may be amended during its term by the parties, by written mutual agreement ratified in accordance with the provisions of the Meet and Confer Statute.

In the event that the Texas Legislature amends any provision of Texas Local Government Code Chapters 141, 142 and 143 that changes wages or benefits for City of Lufkin Police Officers during the term of this Agreement, any such amendment shall be applicable to the Officers covered by this Agreement. Examples of wages and benefits include, but are not limited to, base salary, longevity, assignment pay, sick leave, vacation, retirement, and health insurance.

ARTICLE 11

SAVINGS CLAUSES

Section 1. Effect of Illegal Provision.

If any provision of this Agreement is subsequently declared by legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, and the parties shall meet as soon as possible to agree on a substitute provision. However, if the parties are unable to agree within thirty (30) days following commencement of the initial meeting, then the matter shall be postponed until meet and confer negotiations are resumed.

Section 2. Preemption of Local Government Code and Other Provisions.

The provisions of this Agreement shall supersede the provisions of any statute, Executive Order, local ordinance, or rule, which are in conflict herewith, including for example and not by way of limitation, the contrary provisions of Chapter 143; Ordinances of the City of Lufkin, Texas; and Rules and Regulations of the Police Officers' Civil Service Commission for the City of Lufkin, Texas. This preemption provision is authorized by Section 142.067 of the Texas Local Government Code, and the parties have expressly agreed that each and every provision involving or creating such a conflict shall have the effect of superseding the statutory standard or result which would otherwise obtain, in the absence of this Agreement. This provision is of the essence to the bargain and agreement which has been reached.

Section 3. Preemption of Public Safety Officers' Employer-Employee Cooperation Act

It is the intent of the parties that any statute or act, including, but not limited to, the Public Safety Officers' Employer-Employee Cooperation Act of 2009, not in effect on the day before the execution date of this Agreement, shall not be construed to invalidate the provisions of this Agreement once this Agreement has been issued, approved, or ratified by both parties.

Section 4. Change in Authorized Representative.

During the term of this Agreement, if there is a withdrawal of recognition of the LPA pursuant to Section 142.056 of the Texas Local Government Code, then it will be the CITY's option to continue the terms of this Agreement or to cancel the contract and engage in negotiations with the successor organization, if any.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED TO HAVE THIS AGREEMENT
TO BE SIGNED BY THEIR DULY AUTHORIZED REPRESENTATIVES ON THIS
_____ DAY OF _____ A.D. 20_____.

Paul Parker, City Manager,
City of Lufkin, Texas

J.B. Smith, President,
Lufkin Police Association