



**ARTICLES OF AGREEMENT
BETWEEN**

**THE CITY OF BROWNSVILLE, TEXAS
AND**

**FRATERNAL ORDER OF BROWNSVILLE POLICE OFFICERS, INC.
DOING BUSINESS AS THE**

**BROWNSVILLE POLICE OFFICERS' ASSOCIATION
CHARTER NO. 290577**

**FOR FY 2022-2023
THROUGH FY 2025-2026**



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**LABOR AGREEMENT BETWEEN
THE CITY OF BROWNSVILLE, TEXAS, &
THE BROWNSVILLE POLICE OFFICERS ASSOCIATION
FISCAL YEARS 2022-2023 TO 2025-2026**

ARTICLE 1. PURPOSE OF AGREEMENT

Section 1. This Agreement is between the CITY OF BROWNSVILLE, TEXAS (hereafter “City”) and the Brownsville Police Officers’ Association, Charter 290577-01 (hereafter “the Association” or “BPOA”).

Section 2. This Agreement is recorded in written form as required by FPERA.

Section 3. The intent of this Agreement is to comply with the requirement that the City provide compensation and conditions of employment in accordance with the FPERA.

Section 4. This Agreement is also intended to provide for an equitable and harmonious procedures for the resolution of differences in accordance with the grievance procedures specified herein.

ARTICLE 2. RECOGNITION & AUTHORITY CLAUSE

Section 1. The City recognizes the Association as the sole and exclusive bargaining agent for the City’s Police Officers.

Section 2. The Association recognizes the City Manager or his designated representative or representatives as the sole representative of the City for the purpose of collective bargaining.

Section 3. The Association and the City agree to bargain in good faith in all matters presented by either party for collective bargaining.

ARTICLE 3. DURATION - EVERGREEN CLAUSE

Section 1. The “Initial Term” of this Agreement shall be from the date of its ratification by both parties through September 30, 2026.

Section 2. Either party desiring to modify this Agreement at the end of its Initial Term may give notice of its desire to do so. Such notice must be received by the other party no later than June 1, 2026. If such notice is given, negotiations on a successor Agreement shall commence no later than July 1, 2026.

Section 3. If neither party requests negotiations by June 1, 2026, this Agreement shall remain in effect until September 30, 2027 (the 1ST Evergreen Year). Either party desiring to modify the Agreement at the end of the 1ST Evergreen Year may give notice of its desire to do so. Such notice must be received by the other party no later than June 1, 2027. If such notice is given, negotiations on a successor Agreement shall commence no later than July 1, 2027. If no

such notice is given, this Agreement shall remain in effect an additional fiscal year until September 30, 2028 (the “2nd Evergreen Year”).

Section 4. If either party gives the notice specified by Section 2 and/or Section 3, and negotiations have failed to produce a successor agreement before September 30, 2028, this Agreement shall remain in effect until a mutually accepted successor agreement is executed by both parties, or until September 30, 2028, whichever is earlier.

ARTICLE 4. SAVINGS CLAUSE

If any provision of this Agreement should be declared illegal by any court of competent jurisdiction, or rendered illegal by any subsequently enacted legislation, the remaining 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 negotiate a successor to the illegal provision that cures the illegality. Such negotiations will be limited to the provision determined to be illegal, and shall not involve any other provisions of the Agreement absent mutual agreement of the parties.

ARTICLE 5. COMPLETE AGREEMENT & WAIVER

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, 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 life of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to or covered in this Agreement or with respect to any subject matter not specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both parties at the time that they negotiated or signed this Agreement.

ARTICLE 6. NO STRIKE, NO LOCK-OUT

Section 1. Neither the Association, its officers or agents, nor any Employee covered by this Agreement, will engage in, encourage, sanction, support or suggest any strikes, slow-downs, mass resignations, mass absenteeism, the willful absence from one’s position, stoppage of work or the absence in whole or in part of the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing or coercing change in the conditions or compensation or the rights, privileges or obligations of employment.

Section 2. Neither the City, nor its official or agents, shall engage in a lock-out of Employees.

Section 3. In the event that an employee or agent of the City violates this Article, the Association President or City Manager shall immediately notify any such employee or agent of the City in writing to cease and desist from such action and shall instruct them to immediately return to their normal duties. Any employee who violates any of the provisions of this Article

may, in appropriate circumstances, be subject to discharge or discipline in accordance with the “just cause” standard after being afforded the procedures in Articles 43-45 of this Agreement.

Section 4. The City and the Association reserve the right to pursue any and all legal remedies available in the event of a violation of this Article.

ARTICLE 7. STATUTORY OVERRIDE PROVISIONS; CIVIL SERVICE RULES

Section 1. The provisions of this Agreement preempt all contrary local ordinances, executive orders, legislation, or rules adopted by the state or by a political subdivision or agent of the state, including a personnel board, civil service commission, or home-rule municipality only to the extent authorized by §§174.005 – 174.006 of the FPERA.

Section 2. The Parties understand and agree that state or local civil service provisions prevail over this Agreement unless the Agreement specifically provides otherwise. Any provision of this Agreement that is intended to totally preempt a civil service or other provision must specifically state that total preemption is intended and identify the statutory provision(s) the Parties intend to totally preempt. Otherwise, any provision of this Agreement that provides for a procedure, standard, or practice that differs from what is provided for in the TLGC Chapters 141 through 143 overrides the applicable statutory provision only to the extent of the inconsistency between the two.

ARTICLE 8. RELATIONSHIP TO OTHER LAWS, RULES & POLICIES

Section 1. Other Laws. Nothing in this Agreement is intended to detract from any rights, privileges, duties that an individual bargaining unit member may have under civil rights or anti-discrimination laws, unless specifically modified herein.

Section 2. Other Rules & Regulations. The duly adopted Civil Service Rules & Regulations, Police Department Standard Operating Rules, Procedures and General Orders, shall continue to apply and be enforced by management, except as otherwise specifically provided for in this Labor Agreement. See §174.006(a), TLGC.

ARTICLE 9. MANAGEMENT RIGHTS

Section 1. Except as otherwise specifically provided in this Agreement, or by law not overridden by this Agreement, the Association recognizes that the City has the sole and exclusive right to exercise all the rights or functions of management. The term “rights or functions of management” shall include but not be limited to:

- A. Direct the work of its employees to include the scheduling and assignment of overtime work;
- B. Hire, promote, demote, transfer, assign and retain employees in positions within the City, subject to applicable Civil Service regulations;
- C. Suspend or discharge employees for just cause;
- D. Maintain the efficiency of governmental operations;
- E. Relieve employees from duties because of lack of work or other reasons subject to Civil Service regulations;

- F. Utilize the Police Department in emergency situations to protect life and property;
- G. Determine the methods, processes, means, and personnel by which operations are to be carried out;
- H. The determination of safety, health and property protection measures for the Police Department;
- I. The selection, promotion, or transfer of police officers to supervisory or other managerial positions subject to the provisions of the Civil Service Act;
- J. The determination of policy affecting the selection or training of police officers;
- K. The establishment, modification, and enforcement of police department rules, regulations and orders;
- L. The transfer of work from one position to another within the Classified Service of the Police Department subject to the provisions of the Civil Service Act.
- M. The transfer of police officers from one house, district, or subdivision to another.
- N. The scheduling of operations and the determination of the number and duration of hours of assigned duty per week.

Section 2. Management rights as herein referred to shall not be exercised in an arbitrary or capricious manner.

ARTICLE 10. MAINTENANCE OF STANDARDS

Section 1. All standards, privileges and working conditions enjoyed by the City of Brownsville police officers at the present time which are not included in the Agreement shall remain unchanged for the duration of the Agreement, so long as those standards, privileges and working conditions do not substantially and materially interfere with the operation of the department. If the Association files a grievance alleging violation of this provision, the Association bears the burden of proof, by a preponderance of the evidence, of the existence of the standard, privilege and/or working condition. However, if the City defends the grievance by claiming substantial and material interference with Department operations, the City will bear the burden of proof, by a preponderance of the evidence, as to that issue only.

Section 2. The Employer has the right to create and implement departmental rules and regulations. Employees shall receive copies of such rules and regulations upon publication. The Association may be called upon by the Police Chief to seek from the LRC information and advice concerning the Police Chief's decision-making process regarding such rules and regulations. Such rules and regulations are to be provided within a reasonable time. A copy of any rule change shall be posted in the common area at least 15 days prior to the effectiveness of the rule change. A copy of any rule change shall also be delivered to the President of the Association.

Section 3. The City agrees that it will not diminish the strength of the Police Department during the term of this Agreement.

ARTICLE 11. PROFESSIONAL STANDARDS & PRODUCTIVITY

The Association agrees that the employees should individually and collectively perform loyal efficient service. To promote that goal, the Association will reasonably work with the City to promote high standards of professionalism and safety practices; help to minimize absenteeism, tardiness, carelessness, and any other conditions which adversely affect or hamper the efficiency of City operations; and cooperate in promoting and advancing the morale of Employees and the welfare of the City and its citizens.

ARTICLE 12. ASSOCIATION ACTIVITY

Section 1. Neither the Association, its officers, agents, nor representatives will intimidate, interfere with, or coerce police officers because of their membership or non-membership in the Association.

Section 2. The City will not discharge, discipline, or discriminate against any Employee because of activity on behalf of the Association that does not interfere with the discharge of the Employee's duties or assignments, or violate any provision of this Agreement.

Section 3. The Association will attempt to conduct its business in a manner that minimizes the conduct of Association activity or Association business during working hours or on City property without express permission in advance from the Chief of Police. This provision will be reasonably applied by both parties. Violation of this section by any police officer shall be just cause for disciplinary action. Failure of the City to enforce any of the provisions of this section in any one or more instances shall not be considered a waiver of any of the provisions of this section.

Section 4. To the greatest extent reasonable, the Association shall endeavor to conduct all Association business during the non-working time of the greatest number of police officers involved.

Section 5. The City & Chief may permit duly appointed Association representatives, including its officers, stewards and bargaining team members, to speak at shift roll-call meetings about Association business for a period not to exceed five minutes. However, the appropriate supervisor may deny such permission in situations where the supervisor believes it will disrupt the day's operations.

Section 6. Up to eight officers of the Association (President, Vice-Presidents, Secretary, Sergeant at Arms, and Treasurer) shall be granted leave from duty with pay for all Executive Board and membership meetings of the Association when such meetings take place at a time during which such officers are scheduled to be on duty, provided that such absences shall not interfere with the operation of the Department. The leave with pay shall be limited to two meetings per month not to exceed two (2) hours per meeting

Section 7. The four elected delegates (Association President and three additional members) of the Association negotiating committee shall be assigned to the day shift on any bargaining meeting dates and shall be granted leave from duty with full pay for all meetings between the City and the Association for the purpose of negotiating the terms of an agreement. Negotiation meeting time shall encompass an hour ahead and an hour behind a regularly scheduled meeting.

Section 8. The elected delegates, officers or members of the Association shall be granted leave from duty with full pay to attend Association activities, including parent organization conventions and training seminars. Such leave with pay shall not exceed a total of two hundred fifty (250) days during the term of this Agreement. All such requests shall be directed to the Police Chief or his designee by the BPOA President.

Section 9. Upon request by the Association, the Police Chief will assign the BPOA President to the day shift. Should the President become incapacitated, or otherwise be unable to perform his/her duties for any period longer than three consecutive weeks, the Chief will, at the Association's request, assign to the Day Shift the employee chosen by the Association to temporarily perform the President's duties.

Section 10. The Association, as the legally recognized bargaining agent for Brownsville police officers shall have the sole and exclusive right to conduct the following activities:

- A. Sole and exclusive right to maintain a union bulletin board at the Police Department;
- B. Sole and exclusive right to payroll deduction of dues as set out in that Article;
- C. Sole and exclusive right to make presentation to new recruits of up to one (1) hour in length during the first and last week of academic instruction; and which right shall include the use of Department/City equipment;
- D. Sole and exclusive right to conduct a one (1) hour class of instruction to new cadets regarding the contract and labor relation issues.
- E. Sole and exclusive right to use police facilities to conduct meetings; and
- F. Sole and exclusive right to use City or department email for the purposes stated in, and subject to the restrictions contained in, Section 14 below.

Section 11. No other organization that purports to represent police officers in employment matters shall be permitted to engage in any of the above activities on City property or, if a City employee, while on duty. However, such organizations are not prohibited from using other, non-police facilities under the same conditions that any other organization would be allowed to use such facilities.

Section 12. The City shall permit the Association reasonable space for bulletin boards in each of the respective police stations at the Association's cost. The City shall not grant approval of a bulletin board to any employee organization eligible to be the bargaining agent for Brownsville police officers without the express written permission of the Association.

Section 13. The Association will only post notices of Association meetings, Association recreational and social affairs, notices of Association elections and appointments and results of Association elections, or educational material, all of which pertain to the Association, provided that such notices are first approved by the Chief of the Department. Any postings of an inflammatory nature are expressly prohibited. There shall be no posting regarding any political candidate or candidates nor of any political matter as per the authority of §143.071 and §143.086, TLGC.

Section 14. The Association shall indemnify, defend and hold the City harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or as a result from any conduct taken by the City for the purpose of complying with this Article.

ARTICLE 13. PAYROLL DEDUCTION OF DUES

Section 1. The City shall deduct on a regular basis dues from the pay of all police officers who hereafter voluntarily authorize such deduction in writing on a form provided for this purpose by the Association:

- A. The amount of Union dues will be uniformly assessed against all police officers who are Association members;
- B. Each authorization given under this section shall state that it is irrevocable for a period of one (1) year or until the termination date of this Agreement, whichever occurs sooner, and is automatically renewable for another year unless written revocation of check-off authorization is given to the City during the Thirty (30) day period immediately preceding the end of the period of irrevocability;
- C. The Association initially notifies the City as to the amount of dues to be deducted. Such notification will be certified by the City in writing over the signature of the authorized officer or officers of the Association.

Section 2. The Association shall indemnify, defend and hold the City harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or as a result from any conduct taken by the City for the purpose of complying with Section 1 of this Article.

Section 3. It is understood by the City and the Association that payroll deduction of dues described above shall be only for the period of the existence of an executed Agreement between the City and the Association. The City shall not grant payroll deduction to any employee organization that is eligible to be the bargaining agent for Brownsville police officers without the expressed written consent of the Association.

Section 4. The Association shall be entitled to specify two additional payroll deductions which shall be the same for all employees who exercise this option.

Section 5. The City is committed to compliance with this Article to the fullest extent allowable under 141.008, TLGC, so long as the City preserves any rights allowed to it under the statute.

ARTICLE 14. LABOR RELATIONS COMMITTEE

Section 1. There shall be a Labor Relations Committee made up of three representatives of the Association, one of whom shall be the Association President, and three designees of the City, including the Police Chief, or his designee. This Committee shall meet at mutually agreeable times and places; provided, however, at least three (3) meetings per year will be held.

Section 2. The purpose of these meetings shall not be to engage in collective bargaining or grievance handling but to improve communications between the Association, the Department, and the City. The meetings held under this provision shall not be public and shall not be used for the purpose of abusing or attacking any person.

Section 3. Upon request by either party, the Labor Relations Committee may meet as needed to discuss any action by the Chief that significantly affects Employees. Examples of such actions include, but are not limited to, additions to or amendments of Police Department orders, rules and regulations.

ARTICLE 15. CLASSIFICATIONS & POSITIONS

Section 1. Wages and salary shall be implemented in accordance with the provisions of this Article and the City Ordinance implemented by the City Council to accept and ratify this Agreement.

Section 2. In the event that the City creates new rank classifications, they shall be implemented in compliance with Chapter 143 of the TLGC and the Parties to this Agreement shall re-open the contract for the sole purpose of negotiating compensation, hours and other conditions of employment for the new rank classifications. In the event that the City eliminates a rank classification, such elimination shall comply with all provisions of Chapter 143 of the TLGC.

Section 3. The current rank structure and salary classification is that set out in the Wages & Salaries Article of this labor Agreement.

ARTICLE 16. COMMANDER POSITIONS

Section 1. The Police Chief may appoint each person occupying an authorized position in the classification immediately below that of the Police Chief. The total number of persons appointed to the classification immediately below the Police Chief may not exceed three (3). A person appointed to such position must:

- A. Be employed by the municipality's police department as a sworn police officer;
- B. Have at least ten (10) years continuous service in that department as a sworn police officer;
- C. Be certified by the Texas Commission on Law Enforcement (TCOLE) at the Master Peace Officer level;
- D. Have attended an accredited leadership academy, or be able, within 36 months of appointment, to attend such academy;
- E. Must have been serving for at least two (2) years in the highest existing civil service rank below that of the Chief immediately prior to the time of appointment; and
- F. Must have a Bachelor's Degree from an accredited college or university within 48 months of appointment.

Section 2. A person appointed under this section serves at the pleasure of the Police Chief and, notwithstanding any other provision of this Agreement, all wages, hours, benefits and other conditions of employment regarding Commanders shall be subject to change or creation by the Police Chief in his sole unfettered discretion, except that the Association shall be entitled, upon request, to information concerning the salary and benefits paid to Commanders.

Section 3. A person removed from the position by the Police Chief shall be reinstated in the Department and placed in the same classification, or its equivalent, that the person held before appointment. The person retains all rights of seniority in the Department.

Section 4. If a person appointed under this section is charged with an offense in violation of civil service rules and suspended or indefinitely suspended, the person has the same administrative appeal rights as any other classified employee. If the commission, a hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded, the person shall immediately be restored to the same classification, or its equivalent, that the person held before appointment as a Commander.

Section 5. **After-Acquired Education Requirement for Lieutenants Appointed as Commanders.** Lieutenants appointed as Commanders who do not have a bachelor's degree from an accredited college or university shall be required to obtain a bachelor's degree from an accredited college or university within forty-eight (48) calendar months after their appointment. This section does not apply to employees assigned to Commander prior to September 30, 2019. An employee who fails to timely obtain the required bachelor's degree shall be reassigned to Lieutenant without right of appeal.

ARTICLE 17. PROMOTIONS

Section 1. **Applicability of TLGC Chapter 143 Promotional Procedures.** Except as modified herein, the provisions of Chapter 143 apply to all promotions in the Department.

Section 2. **Posting and Administration of Promotional Examinations.** A listing of materials from which promotional examination questions are taken shall be posted (90) calendar days prior to examination. The City shall post the notice of the actual date of the examination no less than thirty (30) calendar days in advance. Study materials will be available at least ninety (90) calendar days prior to an examination. With respect to vacancies in the ranks of Sergeants and Lieutenants. where no current eligibility roster exists, the City shall have ninety (90) calendar days from the date of vacancy to complete the administration of written and Assessment Center examinations, post an eligibility roster, and fill the vacancy.

Section 3. **Demotion Period for Sergeants and Lieutenants.** Employees promoted to the rank of Sergeants or Lieutenant may be demoted, with just cause, during the three hundred and sixty-five (365) calendar day period subsequent to being so promoted. The Chief desiring to demote an employee will utilize the demotion procedure specified in TLGC §143.054, and the final decision concerning demotion will be made by the Commission, or at the employee's option, an Independent Hearing Examiner.

Section 4. **Eligibility for Promotion.** The following rank, service, and educational or certification levels shall be required of all officers participating in the promotional procedure as set forth in this Agreement.

Current Rank	Rank Sought	Service Requirements	Testing Requirements
Police Officer	Police Sergeant	5 years in the Department prior to exam and possess either an Intermediate certificate or 60 hours of credit from an accredited college/university.	Promotional Exam & Assessment Center
Police Sergeant	Police Lieutenant	2 years service in rank as Sergeant immediately prior to exam and possess either an Advanced Certificate or 60 hours of credit from an accredited college/university.	Promotional Exam & Assessment Center

Section 5. **Promotional Procedures – Sergeants & Lieutenants.** The promotional examination procedure for the classification of Sergeant and Lieutenant shall consist of two (2) parts as follows:

A. Written Examination

- 1) The written examination shall consist of questions relating to the specific duties of the position to be filled. The City will engage an independent consultant firm to professionally develop the written examination questions after consultation with the Human Resources Department. Such firm shall deliver the examination questions in a sealed and secured manner confidentially to the Human Resources Department, which will maintain them confidential in a safe and secure manner. Under no circumstances shall the examination questions be taken out from under the confidential supervision and control of the Human Resources Department.
- 2) After the written examinations have been graded, and the initial test scores posted, Officers will be provided the opportunity to appeal written test questions as authorized by Chapter 143. After any appeals are heard, Officers who score a minimum of 70% on the written exam will be ranked from high to low score. If more than fifteen (15) candidates remain on the list, only the highest fifteen (15) scorers from the Sergeant's written examination shall be allowed to participate in the Assessment Center. If more than ten (10) candidates remain on the list, only the highest ten (10) scorers from the Lieutenant's written examination shall be allowed to participate in the Assessment Center. If any of the eligible fifteen (15) candidates for Sergeants or the eligible ten (10) candidates for Lieutenant has

an indefinite suspension on appeal the City may add an additional candidate for each such pending appeal to the Assessment Candidate Pool.

B. Assessment Center Examination

- 1) The Assessors shall be Six (6) certified police officers from outside the Police Department holding comparable or higher positions in a Police Department operating in a city of 100,000 or more population. Assessors initially will be chosen by the Association and must have received authorization to participate by their respective Departments. One of the six (6) assessors may be chosen from out of state. The Association President or Designee who develops the initial assessor list must not be a candidate for the promotional exam for which the list of assessors has been developed. The Chief shall have the right to review the list of assessors and may strike no more than three (3) names from the list. If the Chief exercises the right to strike, he or she must provide a replacement(s) within five (5) calendar days of reviewing the list. The identification of the assessors shall be keep confidential.
- 2) The assessment center examination date(s) will be posted on the same day the written test announcement is posted. On the day or days of the promotional assessment center the candidates may participate in the assessment process in lieu of their regular duty assignments. Assessors shall be trained in the methods to be used in administering the test for a minimum of eight (8) hours. All candidates will be given the opportunity to attend a classroom orientation period concerning the assessment center process. The orientation will include general information concerning the exercises they will be taking during the assessment process. The independent consultant shall develop at least three (3) exercises which he/she determines adequately assess measurable dimensions of the job analysis. Feedback shall be provided to each candidate in a feedback session conducted by the Assessors. The purpose of this session will be to provide each candidate with his/her score, what areas he/she excelled in, what areas he/she did poorly in, and what he/she might do to improve his/her performance in the future. The scores of the assessment center shall count sixty percent (60%) of the combined score and the written examination scores shall count forty percent (40%) of the combined scores to determine the final ranking when one (1) point for each year of service is added up to a total of ten (10) points maximum.
- 3) The results of the Assessment Center shall be binding for three hundred and sixty-five (365) calendar days and with the exception of fraud. shall not be appealable.

Section 6. **Final Eligibility List.** Within forty-eight (48) hours of the completion, excluding weekends and holidays, of the Assessment Center Examination, an eligibility list shall

be prepared and posted in with the respective ranking of all applicants based on the following weights:

(1) Written Examination	40%
(2) Assessment Center Examination	60%
TOTAL	100%

Points on Sergeant's Examination

I point for each year of service as a commissioned officer with the department up to a maximum of 10 points	10 points
	110 Maximum Points

Points on Lieutenant's Examination

1 point for each year in rank up to a maximum of 10 points	10 Points
	110 Maximum points

Section 7. **Contract Training for Sergeants and Lieutenants.** As part of the New Sergeant/Lieutenant Training Program, employees newly-promoted to the rank of Sergeant or Lieutenant will be required to attend one four-hour contract training session relating to specific provisions of the current Collective Bargaining Agreement between the City of Brownsville and the Brownsville Police Officers Association. The training session will be sponsored by the Association and will be held at a place designated by the Association.

Section 8. **No Application to Current Promotional Lists.** The changes made by this Article apply only to promotional lists created after the effective date of this Agreement. Promotional lists created prior to the effective date of this Agreement will remain in effect and continue to be used until their stated expiration dates.

ARTICLE 18. PHYSICAL REQUIREMENTS, TRAINING, TESTING, ASSESSMENT AND REMEDIATION

Except as provided in this Article, the current policy governing physical training in the Department shall remain in effect during the life of this Agreement. The Police Chief may submit to the Labor Relations Committee a proposal for changing current physical requirements, training, testing, assessment and/or remediation for Employees. If such proposal is submitted, the Labor Relations Committee will meet for the purpose of reaching an agreement on the proposal by majority vote. The Labor Relations Committee will submit any tentatively agreed proposal to the Association membership for ratification. If the proposal is ratified by majority

vote of the Association's membership, it shall become a part of this Agreement for the remainder of the Agreement's term.

ARTICLE 19. ADDITIONAL PROMOTIONAL STANDARDS

Section 1. Except as specifically modified by this Article, and by Article 18 (if applicable), the promotional eligibility requirements and procedures mandated by the CSA continue to govern promotions in the Department.

Section 2. The parties agree that a police officer must have been a Brownsville police officer for a period of five (5) years immediately preceding the written test in order to be eligible to compete in the promotional procedure for the position of sergeant.

Section 3. Lieutenant Promotion Procedures.

- A. Applicants for promotion to Lieutenant must achieve a minimum score of 70, without consideration of seniority points, in order to pass the exam and continue with the promotional process.
- B. Those applicants who pass the written exam for promotion to Lieutenant will have added to their test scores one seniority point, to a maximum of ten points, for each year of service as a Sergeant in the Department. Seniority points will not be added for total years of service in the Department.

ARTICLE 20. PROBATIONARY PERIODS & PRECEDENCE

Section 1. Persons receiving appointment to the Police Department shall serve a probationary period that begins on the date of hire with the City, and ends on the date which falls twelve (12) consecutive months, after the date on which the officer is sworn in.

Section 2. During such probationary period, the officer may be dismissed by the Police Chief for any reason and without appeal.

Section 3. Upon completion of the probationary period, as established in this Article, continuous service for purpose of calculating seniority in the department shall start from the date of the initial employment with the City, provided that the officer successfully completes his or her probationary period.

Section 4. Upon the completion of the probationary period, as established in this Article, the officer will at that time be eligible for a longevity increase as specified by §141.032, Texas Local Government Code.

Section 5. At the completion of the probationary period specified above, the police officer will officially become a fully vested Civil Service employee.

Section 6. Further, the provisions of this Article shall override any contrary statutory provisions contained in Chapter 143, TLGC pursuant to the statutory authority provided for in §174.006, TLGC.

ARTICLE 21. SALARY & WAGES

Section 1. Base Pays

Ranks & Patrol Grades	Base pay as of Contract Ratification	FY 2022-2023	FY 2023-2024	FY 2024-2025	FY 2024-2025
		4.0%	4.0%	3.0%	3.0%
Commander (appointed)	(Chief's Discretion)	(Chief's Discretion)	(Chief's Discretion)	(Chief's Discretion)	(Chief's Discretion)
Lieutenant	\$88,512.27	\$92,052.76	\$95,734.87	\$98,606.92	\$101,565.13
Sergeant	\$77,490.45	\$80,590.07	\$83,813.67	\$86,328.08	\$88,917.92
Patrol IV (4 yrs & up)	\$69,104.77	\$71,868.96	\$74,743.72	\$76,986.03	\$79,295.61
Patrol III (3 to 4 yrs)	\$65,623.69	\$68,248.64	\$70,978.59	\$73,107.95	\$75,301.19
Patrol II (2 to 3 yrs)	\$58,156.99	\$60,483.27	\$62,902.60	\$64,789.68	\$66,733.37
Patrol I (1 to 2 yrs)	\$47,772.16	\$49,683.05	\$51,670.37	\$53,220.48	\$54,817.09
Entry Level (0 to 1 yr)	\$35,645.94	\$37,071.78	\$38,554.65	\$39,711.29	\$40,902.63

- A. FY 2022 – 4% to base pay to all classified ranks
 - 1) Additionally, upon the ratification of the contract, each member shall receive a one-time contract signing bonus of three hundred (\$300.00) dollars.
- B. FY 2023 – 4% to base pays to all classified ranks
- C. FY 2024 – 3% to base pays to all classified ranks
- D. FY 2025 – 3% to base pays to all classified ranks
- E. FY 2026 – 1st Evergreen Year (if any) – 0% to base pay.
- F. FY 2027 – 2nd Evergreen Year (if any) – 0% to base pay.

Section 2. Longevity Pay

- A. Calculated pursuant to § 141.032, TLGC

Section 3. Seniority Pay

- A. The seniority pays shall continue in accordance with the following table; provided, however, that seniority pays shall be paid on a pro-rata basis:

Seniority Years Of Service	Seniority Pays Per Year (Pro-Rated)
6 Years	\$1,200
8 Years	\$3,000
12 Years	\$4,040
16 Years	\$5,080
20 Years	\$6,120

Section 4. Certification Pay

- A. Master Peace Officer: The City shall pay each member of the classified service of the Police Department holding a master peace officer certificate granted by the Texas Commission on Law Enforcement Officer Standards and Education the sum of \$225.00 per month.
- B. Advanced Certificate: The City shall pay each member of the classified service of the Police Department holding an advanced certificate granted by the Texas Commission on Law Enforcement Officers Standards and Education the sum of \$175.00 per month.
- C. Intermediate Certificate: The City shall pay each member of the classified service of the Police Department holding an intermediate certificate granted by the Texas Commission on Law Enforcement Officers Standards and Education, the sum of \$120.00 per month.

Section 5. Assignment Pays (various types):

- A. Investigative duties. Employees assigned to investigative duties, specifically identified as SIU, Training, Internal Affairs, Property/ Evidence, Jail, Communications, CID and officers assigned to a Motorcycle as part of their regular duties shall be paid an additional \$1.00 (one dollar) per hour assignment pay while in those assignments. Assignment pay under this Section shall not apply to employees who may be temporarily assigned to these duties solely for the convenience of the employee for purposes of recuperation from injury or illness, etc.
- B. Tactical Team.
 - 1) Employees assigned to the Tactical Team shall be paid an additional \$25.00 per pay period as special service pay.
 - 2) In addition, work conditions permitting, members of the Tactical Team will be allowed to engage in physical training at the station while on duty under the following conditions:

- a. Team members working a five-day workweek will be allowed to exercise 1-1/2 hours per day, three days per week.
- b. Team members working a four-day workweek will be allowed to exercise 1-1/2 hours per day, two days per week.
- c. Team members who utilize leave during a workweek will forfeit their right to engage in such training during the balance of that work week.
- d. Supervisors retain the authority to discontinue physical training on any workday where workload, call volume and/or minimum staffing issues make excusing team members to engage in such training a hardship.

C. Any Other Existing Assignment Pay for Field Training Officers.

Employees assigned as Field Training Officers (FTO's), during each day they are actively assigned a recruit, will be paid an additional two hours pay at their overtime rate. FTO Supervisors, during each day they are supervising an FTO and recruit, will also be paid an additional two hours pay at their overtime rate. At their option, FTO's and FTO supervisors may receive this additional pay as compensatory time rather than overtime pay

Section 6. Shift Differential Pay

Officers shall be paid an additional \$1.00 (one dollar) per hour shift differential for all hours actually worked between 9:00PM and 7:00AM.

Section 7. Educational Incentive Pay. Officers attaining educational degrees from accredited colleges or universities will receive educational incentive pay in the following amounts for the below-listed degrees:

- Associates Degree (or 60 accredited hours) \$ 30.00 per month
- Bachelors Degree \$ 90.00 per month
- Masters Degree \$120.00 per month
- Doctorate Degree \$150.00 per month

Entitlement to Educational Incentive Pay will commence the first full pay period after the Officer provides documentation establishing receipt of the required degree (or college hours). An Officer is entitled to receive EIP only at the highest educational degree level obtained.

Section 8. Payroll Issues.

- A. Base pay and all pay supplements will be separately delineated on the Officers' pay stubs to enable them to assure correct payment of pay supplements to which they are entitled.
- B. An Officer suspecting mis-payment of amounts due may request a meeting with the City's fiscal department for an explanation. At the Officer's request, an Association representative may also attend such meeting

ARTICLE 22. PAID TIME OFF - SICK LEAVE

Section 1. Sick leave for persons covered by this Agreement shall accrue only as specified under §143.045, TLGC.

Section 2. Sick leave is a privilege that is to be used for the sole purpose of providing wage continuation when an employee:

- 1) is incapacitated due to a bona fide illness or injury,
- 2) seeks medical treatment, including routine physicals,
- 3) is exposed to a contagious disease when the employee’s presence and duties may jeopardize the health of others,
- 4) needs to care for an immediate family member (father, mother, spouse, son or daughter) who are sick or injured, or
- 5) needs to be absent from work for any other reason that would qualify for leave under the FMLA.

Section 3. Sick leave may not be used for any purpose other than stated in this Article. Example of this would be sick leave used in conjunction with any other vacation or leave of absence. The Chief may require that employees report by telephone or other means prior to scheduled work shift if they are ill and cannot be physically present for work. Failure to report will result in the employee being on an “unauthorized absence” and may result in disciplinary action.

Section 4. The Chief may not deny sick leave payment if an employee is in compliance with Section 2. above, but may require that a doctor’s statement be presented by any employee absent for over a consecutive 48-hour period, whether duty or off-duty hours, and reserves the right of verification to ascertain whether a bona fide illness exists as specified in Section 143.045, TLGC.

Section 5. An employee is found to have used sick leave in violation of this Article may, if reasonably warranted by the circumstances, be disciplined by the Chief.

Section 6. Administrative disputes over abuse of sick leave privileges may be administratively appealed to the Civil Service Commission, whose decision shall be final. However, any administration of discipline for alleged abuse of sick leave is subject to appeal as is any other disciplinary offense.

Section 7. Sick leave will not be paid or accrued for any period of absence if an employee becomes incapacitated due to the use of illegal drugs or narcotics or the excessive use of drugs or alcohol.

Section 8. Accumulate sick leave will be paid to terminating personnel based on the following:

<u>Years of Service</u>	<u>Days Paid</u>
1-5	15

6-10	30
11-15	60
16-19	100
20-21	130
22-23	160
24	200
25+	240

Section 9. Employees will be allowed to convert unused vacation time to sick leave subject to the following restrictions:

- A. Employees will be notified on or about August 1 of each year of any unused vacation time subject to conversion to sick leave. Employees may schedule such time off through the following January 1.
- B. If an employee is unable to schedule such time off, an additional ninety (90) day period will be allowed for use of such time. Employees who are denied use of the unused vacation time during the extended period may agree with the Police Chief to have the unused vacation time paid in cash in lieu of conversion to sick leave.

Section 10. Any Officer who completes a calendar year and does not use any sick time shall be credited with two (2) additional vacation days.

Section 11. After the effective date of this labor agreement, no employee shall accrue sick leave beyond 240 days; provided, however, that any employee who has at the time this contract an accrual in excess of 240 days shall retain those accrued days, but shall not continue to accrue any additional days unless and until the number of accrued days should fall below 240 days, at which time the employee shall be subject to the maximum accrual contained in this labor agreement.

ARTICLE 23. SICK LEAVE DONATION

Section 1. The City hereby gives a member of the bargaining unit the authority to donate his or her accrued sick leave time for the benefit of another bargaining unit member upon written request of a donating member to the Chief of Police.

Section 2. It is agreed by the parties that the purpose of this Article is to provide additional sick leave benefits to a member in the event of a serious health condition as defined by FMLA.

Section 3. The donating member who elects to donate accrued sick leave to another member, recognizes and agrees that the donated leave shall be deducted from his/her accrued sick leave account and shall not be refunded. Donations shall be in increments of no less than one hour.

Section 4. The Association represents and agrees that it has the authority, as the duly recognized bargaining agent, to bind individual members of the bargaining unit to the terms of this Article. It further agrees to indemnify and otherwise hold the City harmless from any

administrative, judicial, or contractual complaints that may be raised by individual members in connection with this provision.

ARTICLE 24. PAID TIME OFF – ANNUAL LEAVE

Section 1. Annual leave shall accrue according to the following schedule:

<u>Years of Service</u>	<u>Accrual Rate</u>
1-7	15 per year
8-11	18 per year
12-15	20 per year
16+	21 per year

Section 2. Employees who terminate employment with the City for any reason shall be paid for annual leave at a maximum of fifteen (15) days accrued.

Section 3. Floating Holidays

The City will provide each current and newly hired full-time employee with two (2) paid floating holiday on an annual basis, to be used for religious or cultural holidays, birthdays, funerals, and other personal activities or family matters.

A request to take a floating holiday must be made to your supervisor in advance. Every effort will be made to grant your request to take a floating holiday when you want it, however, requests are handled on a first come - first serve basis and are otherwise subject to the needs of the City, which includes always having an adequate staff.

Any unused floating holidays will not be carried over to the next calendar year and will not be paid out if unused at year end. Unused floating holidays will also not be paid out upon separation of employment.

ARTICLE 25. HOLIDAYS & HOLIDAY PAY

Section 1. The following days shall be treated as holidays for purposes of this Agreement:

- 1) New Year’s Day – (January 1st);
- 2) Martin Luther King Day;
- 3) Good Friday;
- 4) Memorial Day;
- 5) Independence Day (July 4th);
- 6) Labor Day;

- 7) Veteran's Day;
- 8) Thanksgiving Day;
- 9) Christmas Day (December 25th); and
- 10) New Year's Eve (December 31st).

Section 2. No other holidays that the City may choose to recognize during a given fiscal year shall be paid to bargaining unit members nor shall they be treated as a holiday for purposes of this Agreement.

Section 3. In addition to their regular rate of pay, Employees assigned to a four-day-per-week schedule shall be paid at the rate of time and a half (1-1/2) for the holidays listed above, regardless of whether the Employee actually works on the holiday listed above. Employees assigned to a five-day-per-week schedule shall receive an additional 16 hours of holiday pay at the rate of time and a half (1-1/2).

Section 4. Payment of holiday pay shall be deferred to the first business day in December.

- A. Provided, however, that holidays already paid at the implementation of this Agreement shall not be paid again; and,
- B. Provided further that holiday pay shall include payment for only those holidays that have occurred prior to the payment date, with the exception of the Christmas and New Years Eve holidays for that year, which shall be paid in advance.

Section 5. The City and the Association agree that funds representing holiday pay may be deposited by the City in a special escrow account with a banking institution prior to date of disbursement.

Section 6. In the event that an officer calls in sick on a holiday and has not called in sick the workday before or after the holiday, that officer must submit a U.S. doctor's certificate as a condition to being paid the holiday pay for the holiday. This Section does not diminish the Chief's rights under the Article related to Sick Leave contained in this Agreement.

Section 7. Officers who are on Worker's Compensation and/or Injury Leave under the CSA, will be paid Holiday Pay per this Article. Nothing in this Section is intended to lessen the rights of Officers under 143.073 TLGC, which remains in full force and effect.

ARTICLE 26. ACTING PAY

Section 1. Whenever a police officer is required to serve as an acting supervisor (sergeant or above) for a minimum of four (4) full consecutive days, the officer shall be compensated at the rate for that position or rank while so acting. The higher pay will be authorized, along with the officers' normal longevity pay, upon the completion of the fourth full working day in the acting rank and shall be retroactive to the first day in which the acting rank was authorized and assumed.

Section 2. All acting assignments will be offered on the basis of qualifications and requirements for such assignment in the judgment of the Chief or his designated representative.

ARTICLE 27. CIVIC DUTIES; PAID TIME FOR VOTING

Pursuant to the provisions of federal, state and local laws, an employee whom the Chief determines does not have sufficient time outside his working hours within which to vote shall be given time off with pay to vote in any federal, state or local election. Such time off taken shall not exceed two (2) hours and shall be taken at hours specified by the Chief.

ARTICLE 28. CIVIL EMERGENCY

Section 1. In event that a warning is issued by the weather bureau of a pending natural disaster (hurricane, flood, and tornado), or a health emergency is declared by appropriate City, County, State or Federal authorities shall become the duty of every officer to comply with applicable rules including contact, via telephone or in person, to the commander in charge or the shift commander to find out what shift he or she is assigned to. It is presumed that the officers are aware of news and pending weather that affect our City and is no defense that they were not aware of the pending dangers.

Section 2. The City shall, in the event that officers are assigned to work through a natural disaster and in the ensuing time of havoc, take reasonable measures under the circumstances to provide food, water and sanitary facilities to these officers on duty.

Section 3. Negotiated Pay. Work performed during an emergency as declared by the City Manager and the Police Chief shall be paid a negotiated rate of time and a half, regardless of whether an overtime rate is required by state or federal law, provided such time occurs during a period officially declared by appropriate state and federal authorities as a recognized disaster.

ARTICLE 29. HEALTH CARE BENEFITS

Section 1. Medical Care Benefits. Members of the active police bargaining shall be afforded the same health care benefits as are afforded to the City's civilian personnel at any given time.

Section 2. Dental Care Benefits. Members of the active police bargaining shall be afforded the same dental care benefits as are afforded to the City's civilian personnel at any given time.

Section 3. The City will provide for (1) one member of the Association or alternate, chosen at the discretion of the Association, to take part in the City's Health Insurance Risk Committee to advise on the City's Health Insurance Plan.

Section 4. **Retiree Benefits.** The benefits for both current retirees and employees who retire during the term of the contract will be as follows for the term of the contract:

A. **Basic Plan.** The basic plan will be the City's Preferred Provider Organization (PPO) that provides an 80%/20% employer-employee split for in-network providers, and a 60%/40% split for out-of-network providers.

B. **Deductibles.** The deductibles charged for coverage to current retirees and those who retire during the term of the contract will be as follows for the term of the contract:

1) In-network deductibles are as follows:

- Individual \$1000 per year
 - Family \$1250 per year
- 2) Out-of-network deductibles are as follows:
- Individual \$1000 per year
 - Family \$1750 per year
- C. **Out-of-Pocket Costs.** After satisfaction of the applicable deductibles, the maximum amount out-of-pocket cost for coverage to the current retiree and the employee who retires during the term of the contract will be as follows for the term of the contract:
- 1) In-network out-of-pocket maximums:
- Individual \$1500 per year
 - Family \$2500 per year
- 2) Out-of-network out-of-pocket maximums:
- Individual \$3000 per year
 - Family \$6000 per year
- D. **Office Visit Co-Pays.** The amount charged to the retiree for both primary care and specialist office visits will be \$20 per visit. The co-pay amount covers injections, in-network lab work, and X-rays, but does not include out-of-network lab work.
- E. **Emergency Room Co-Pays.** The co-pay for Emergency Room visits is \$50 per visit. This co-pay is waived if the patient is admitted from the Emergency Room to the hospital.
- F. **Prescription Drug Co-Pays.** A list describing the categories and amounts for prescription drugs will be maintained by the City on its website. Retirees will pay the below-listed co-pays for prescribed medications:
- 1) Generic Drugs: \$0 / \$5 / \$10
 - 2) Preferred Brands: \$20 / \$20 / \$30
 - 3) Non-Preferred Brands: \$40 / \$40 / \$40
 - 4) Biosimilar & Generic Specialty: \$50
 - 5) Specialty: \$50
 - 6) Cost Share: \$50

Section 5. **Plan Premiums.** The retiring employee must notify the City at least 30 days prior to retiring of their intention to continue to be a participant in the group health insurance program. The City of Brownsville may subsidize the costs of coverage for the qualified retiree and that retirees at their expense may continue to cover dependents enrolled in coverage at time of retirement.

Section 6. The retiree shall continue to participate in the plan for the term of the contract and in accordance with this Article, contingent upon payment of the full premium. The

requirement that the officer has obtained 20 years of service and 50 years of age applies to this and all sections of this Article.

Section 7. Effective October 1, 2026 all retirees to include those already retired and those who retire after October 1, 2026, from the police bargaining unit shall be afforded the same medical care benefits as are afforded to the City's civilian personnel at any given time.

- A. Payment Premiums. The options available to police retirees regarding payment of premiums shall be same as those available to civilian retirees at any given time.

ARTICLE 30. LIFE INSURANCE

The City shall provide a Fifty Thousand Dollar (\$50,000.00) term life insurance policy for the protection of every full-time permanent member of the classified service.

ARTICLE 31. TUITION REIMBURSEMENT

Section 1. An employee who provides a copy of a degree plan with the Department, that employee shall be reimbursed by the City for books required in the course and tuition for each class successfully completed from an accredited college or university.

Section 2. The employee must submit verification of successful completion with a grade of C or better in order to receive the reimbursement. The City may cap the total amount paid out per calendar year at \$20,000.00.

Section 3. Reimbursement shall be paid for each calendar year in January of the following year for all approved requests. In the event that such requests exceed the annual cap, payment shall be made on a pro-rata basis.

ARTICLE 32. FUNERAL LEAVE

Section 1. Forty work hours of special leave of absence with pay shall be granted to all members of the department immediately following a death within his immediate family. The term immediate family shall include only: father or stepfather, mother or stepmother, sister or stepsister, brother or stepbrother, wife, husband, mother or father-in-law, son or stepson, daughter or stepdaughter, son-in-law, daughter-in-law, and grandparents or grandchild of either the employee or his spouse.

Section 2. In case the employee is on annual or sick leave at the time of death, special leave with pay shall be granted as provided in Section 1, and usage of annual or sick leave shall be reduced accordingly.

Section 3. All leaves under this clause shall be approved by the Chief or his designate representatives. The Chief may approve and additional two (2) days of funeral leave in special circumstances.

ARTICLE 33. PENSION & RETIREMENT

Section 1. The City agrees to continue its retirement plan of one hundred percent (100%) of service credits for all active employees in the classified service of the municipality as mutually agreed upon in the 1976 contract of agreement between the City and the Association.

Section 2. The City agrees to adopt, after execution of the Agreement, relevant Texas Municipal Retirement System (TMRS) provisions which will allow bargaining unit members, if otherwise eligible, to contribute monies to the TMRS system to purchase credit for prior military service to the extent authorized under applicable TMRS provision. This provision shall be limited by, and to, the requirements of TMRS law or rule. Provided, however, in no event will the City's entire costs of complying with this "military buy-back" provision exceed \$9,000.00.

Section 3. The City may, in its discretion, create an early retirement program.

ARTICLE 34. EQUIPMENT; GEAR, ETC.

Section 1. The City shall furnish (without cost) all police officers' gear necessary to perform their duties. Police officers' gear shall include:

- A. Service Pistol;
- B. Sam Brown Belt or Sally Brown Belt;
- C. Ammo carrier;
- D. Handcuffs;
- E. Chemical mace and mace pouch;
- F. Night stick and holder;
- G. Belt keepers;
- H. Pistol holder;
- I. Holster and ammo pouch for detectives; and
- J. Ballistic Vest (NIJ Level IIIA or better).

Section 2. If they desire to use personal equipment that meets or exceeds the equipment standards established by the Department, police officers shall have the right to use their own equipment; however, the City is not obligated to furnish such equipment to police officers electing to use their own equipment.

Section 3. It is understood by both parties that equipment furnished by the City remains the City's property and is to be relinquished to the City upon termination of the employment for any reason. If any police officer shall lose or damage such equipment through negligence or misuse, the police officer assumes full responsibility for the replacement thereof.

Section 4. The City shall maintain at all times a portable radio (e.g., walkie-talkie) in those uniform and detective police vehicles necessary under normal shift requirements. The City will also maintain an additional two portable radios in the Sergeants' Office to supplement those maintained in the uniform and detective police vehicles. Such additional radios will be assigned to officers as determined necessary by the on-duty Sergeants.

ARTICLE 35. CLOTHING ALLOWANCE

Section 1. Uniforms

- A. Standard Uniforms. Members of the uniformed force shall be authorized issuance of five (5) year-round uniforms.
- B. Summer Uniforms. As finances permit, the City will issue Members of the uniformed force two (2) summer uniforms, made of lighter weight fabrics, to be worn during hot weather.
- C. It shall be the responsibility of each uniformed police officer to maintain these uniforms in a good condition at all times. The City shall make every reasonable effort to maintain the current quality of uniform clothing provided employees.

Section 2. Police personnel in the detective division shall receive the amount of \$66.66 per month (or \$200.00 quarterly). Said clothing allowance shall be discontinued upon the officer's reassignment to the uniformed services.

Section 3. The City will designate one or more preferred cleaning contractors and will cover the cost of cleaning uniforms for uniformed officers, and civilian clothing for non-uniformed officers, provided that the Officers use the designated cleaner(s).

Section 4. The City will replace outer uniform clothing damaged or worn out through fair wear and tear in the line of duty. Damaged or worn out uniform clothing shall be turned in at the time a replacement purchase is made. Replacement of outer uniform clothing is limited to the following:

- A. Uniform trousers, shirts, and cap;
- B. Uniform black leather belt;
- C. Police jacket;
- D. Raincoat;
- E. Police Windbreaker; and,
- F. Traffic Vest.

Section 5. At the request of the individual employee assigned to the detective division, the City will agree to provide one (1) uniform cap, one (1) uniform shirt, and one (1) pair of uniform trousers. The individual detective division employee shall agree to have the clothing allowance mentioned in Section 2 above, reduced accordingly to off-set the total cost of the above mentioned uniform items.

Section 6. The parties shall designate and provide a service pin or ribbon recognizing continuous service in five (5) year increments.

Section 7. The City shall create the designation of Senior Police Officer within the Classification of Police Officer for 10 years or longer shall be designated a Senior Police Officer. The designation shall be non-supervisory and will not have any rank insignia; however the Chief and Association shall agree upon a pin to be worn on the uniform designating such employees as Senior Police Office.

Section 8. Shoe Allowance. All Officers will be entitled to a shoe allowance of no more than \$100.00 per year. Officers desiring to use this allowance may order boots or shoes through the Department, and will reimburse the Department for any amount in excess of the \$100.00 allowance.

ARTICLE 36. HOURS OF WORK; OVERTIME PAY

Section 1. All productive hours in excess of 40 hours in a work period, defined as seven (7) days, shall be paid at the rate of time and one-half of the employee's regular straight-time hourly rate of pay including all specialty pay, incentive pay, shift differential pay, assignment pay or any other additional pay, except for the clothing allowance.

Section 2. For purposes of this Article, productive hours shall be defined as:

- A. Actual hours worked;
- B. Vacation leave;
- C. Comp time leave;
- D. Paid military leave;
- E. Paid funeral leave;
- F. Paid Association leave time as defined in this agreement;
- G. Lunch periods and break periods that are paid as of the effective date of this agreement.
- H. Any other paid authorized leave other than sick leave and stand-by status.

Section 3. Sick leave utilization shall not be counted as productive hours for the purposes of calculating whether an employee has worked more than forty hours in a work period.

Section 4. An employee required to work at any time other than his/her regularly scheduled shift shall be paid a minimum of two hours at the overtime rate of pay, and thereafter, shall be paid at his/her regular rate of pay until such time that the employee shall have exceeded forty productive hours in the work period.

- A. This provision does not apply when an employee is called in within two hours of the beginning of his/her regularly scheduled shift. In that event, such employee shall be paid at the overtime rate for the actual hours worked prior to the beginning of his/her regularly scheduled shift.

Section 5. If an employee is called or subpoenaed to give testimony in connection with duties performed within the course and scope of his or her city employment, the employee shall be paid a minimum of two hours at the overtime rate of pay, and thereafter, shall be paid at his/her regular rate of pay until such time that the employee shall have exceeded forty productive hours in the work period.

- A. Stand-by status shall not be counted as productive time for purposes of this Section.

Section 6. If an employee on sick leave, vacation leave or compensatory time leave is called or subpoenaed to give testimony in connection with duties performed within the course and scope of his or her city employment, the employee shall be deemed to be at work (with a minimum of two hours work at the overtime rate of pay) and the time so spent shall not be charged to the employee's accumulated leave.

Section 7. The City will endeavor to distribute overtime equally among employees insofar as practicable during the period of this Agreement. If there are concerns with the equitable

distribution of overtime, upon request by the Association, the Chief will convene an LRC meeting to address Employee concerns with the distribution of overtime.

Section 8. Overtime shall be authorized by the Chief or his designated representative. The discretion is hereby given to the employee to elect between receiving cash compensation or accruing compensatory time for overtime worked under these conditions to the extent allowable under applicable state or federal law.

Section 9. The granting of compensatory time off shall be at the discretion of the Chief of the department or his designated representative. In the event compensatory time off is refused, the officer requesting the time off shall have the right to apply for and receive cash payment in lieu of compensatory time on a following paycheck.

ARTICLE 37. EXCHANGING TOURS OF DUTY

Section 1. The Police Chief or his designated representative may grant the request for any two (2) members of the Police Department to exchange tours of equally qualified and of equal rank and that such a trade will not disrupt normal police department operations.

Section 2. Under no circumstances will overtime or working out of classification pay be demanded by an employee for time worked during the “trade off time.”

ARTICLE 38. PERSONNEL FILES & DISCIPLINE RECORDS

Section 1. The Police Chief shall be the custodian of personnel files and will comply with the requirements of applicable law.

Section 2. Upon written request by an employee, made to the Police Chief, the employee’s disciplinary record will be purged in accordance with applicable law and the terms of this Labor Agreement:

- A. Written evidence of counseling, warnings and reprimands will be removed from personnel files following twelve (12) consecutive months of discipline-free service.
- B. Evidence of suspensions will be purged as follows:
 - 1) suspensions of 1-15 days after three years discipline-free service; and,
 - 2) suspensions of 16-30 days after five years discipline-free service,
 - 3) provided however, that up to two (2) written counseling, warnings or reprimands which occur before one year from the 3-year or 5-year expiration date of any suspension purging period shall not operate to prevent purging of the employee’s personnel file.

Section 3. For purposes of this Article, the removal or “purging” of files shall be only from the civil service personnel file (the (a) file) to the departmental file (the (g) file). No actual destruction of records shall occur that is not specifically authorized by law.

ARTICLE 39. DRUG AND ALCOHOL TESTING

Section 1. Any testing performed under this Article and the “City of Brownsville Alcohol and Controlled Substance Abuse Workplace Policy” shall be performed by a certified testing laboratory and the sample taken shall be a “split” and a second test performed in the event of a positive result on the first test. Any changes to the Policy during the life of this Agreement will preserve existing due process protection of Employees subjected to testing.

- A. The City may require an officer to submit to urine testing for substance abuse for just cause.
- B. Under the directions of the Chief of Police, random tests may be conducted. Any random test called by the Chief shall be mandatory. Random selection shall be determined by a qualified outside service provider per City policy. These random drawings shall be conducted on random dates. The Association President will be notified prior to any random selection process, and upon request, an Association official will be allowed to observe the process.
- C. In the event that a person whose number is drawn is not available within four hours, the Chief may require testing of that person at the Chief’s discretion within 30 days.

Section 2. Only an officer who tests positive on both samples of the drug testing may be disciplined.

Section 3. The cost for testing under this Article shall be paid by the City.

Section 4. Any officer who is disciplined as a result of testing under this Article is entitled to all appeals that he/she is entitled to for any other disciplinary offense.

ARTICLE 40. LEGAL DEFENSE SERVICE

The City hereby acknowledges its statutory obligations to provide a civil legal defense pursuant to the provisions, and under the conditions set forth in §180.002, TLGC or any successor provisions.

ARTICLE 41. OFF-DUTY EMPLOYMENT

Section 1. Employees providing any police-related duties for employers other than the City of Brownsville shall execute a waiver of liability form provided by the City.

Section 2. When a City owned facility is leased or rented after the execution of this Agreement, for a function at which security is required as determined by the Chief of Police or his designee, the lessee shall be required to hire a minimum of 2 Brownsville Police Officers for security. The Chief may require that more than 2 officers be hired if he determines it necessary for security and/ or safety of the officers or the public.

Section 3. This requirement shall be a part of any lease agreement required by the City and the lessee may be directed to the Association President for the purpose of obtaining officers names who might work the event on an extra-job basis with a pay rate of forty-five dollars

(\$45.00) per hour, except for Christmas Eve and New Year's Eve when the rate will be sixty-five dollars (\$65.00) per hour.

Section 4. The Chief will not unreasonably deny Officer requests to engage in security-related off-duty employment. The Association may raise concerns with the Chief's denial of off-duty employment to Officers through the LRC.

ARTICLE 42. GRIEVANCE PROCEDURES

Section 1. **"Grievance" defined.** A grievance is defined as a dispute, claim or complaint concerning the interpretation, application, or alleged violation of the terms of this Agreement.

Section 2. **Exclusion of Disciplinary Actions.** This grievance procedure does not apply to Police Officer appeals of discharges, disciplinary suspensions, demotions, promotional bypasses, and promotional examination appeals, which shall be governed by the procedures set forth in the Civil Service Act as modified by this Agreement, and are not subject to this contract grievance procedure.

Section 3. **Informal Resolution Attempt.** In order for the City to have notice and an opportunity to correct any unintentional violations of this Agreement, an aggrieved Employee (or his/her representative) should, where appropriate, seek to informally resolve a grievance with the appropriate supervisor, up to and including the Police Chief. However, an Employee's failure to attempt informal resolution shall not be a basis for denial of the Employee's right to present a formal grievance to the Association Grievance Committee.

Section 4. **Initiation of Formal Grievance Procedure.** After informal resolution attempts, if any, an Employee, group of Employees, or the Association may initiate the formal grievance procedure by presenting a written grievance to the Association Grievance Committee.

- A. **Time Limit.** The written grievance must be presented to the Association Grievance Committee within twenty (20) business days after the Employee knew, or in the exercise of diligence, should have known, of the facts giving rise to the grievance. A member of the Association Grievance Committee shall note the date the grievance was delivered by the Employee.
- B. **Required Information.** Only the Association has standing to initiate a grievance under the terms of this Agreement, after consideration of alleged grievance by a bargaining unit member or a member of the Association Grievance Committee. Each grievance shall be submitted on a form similar to the one attached to this Agreement as Appendix A, and must include, at minimum, the following information:
 - A brief statement of the grievance, including a description of the facts or events upon which it is based;
 - The section(s) of the Agreement alleged to have been violated;
 - The remedy or adjustment sought;

- The bargaining unit member's signature or, if filed by the Association, the signature of the Grievance Committee chairman or Association President.

Section 5. **Grievance Procedure.** Grievances regarding interpretations of this labor agreement shall proceed along the following Steps

- A. **Step 1 – Consideration by Association Grievance Committee.** Within fifteen (15) business days after its receipt of the grievance, the Association Grievance Committee will determine whether a valid grievance exists. If the Committee determines no valid grievance exists, the grievance procedure is ended. If the Committee determines a valid grievance exists, the grievance will proceed to Step 2.
- B. **Step 2 – Consideration by the Police Chief.** Any grievance that the Association Grievance Committee determines has merit shall be formally submitted to the Police Chief within five (5) business days of the Step 1 decision of the Association Grievance Committee. After receipt of the grievance, the Police Chief shall evaluate the grievance and shall within ten (10) business days submit his response in writing to the Association Grievance Committee. The Police Chief or his designee may, at his discretion, conduct a conference to further explore the merits of the grievance and to explore resolution options. If the Police Chief does not render a decision in this matter within ten (10) business days, the grievance shall be treated as having been denied on the 10th day.
- C. **Step 3 – Consideration by the City Manager.** If the grievance is not resolved at Step 2, the Association Grievance Committee may advance or appeal the grievance in writing to the City Manager or his designee within ten (10) business days from receipt of the Step 2 decision by the Police Chief. The City Manager, or his designated representative, shall review the matter and render a decision in writing to the Association Grievance Committee within ten (10) business days of the receipt of the grievance. The City Manager or his designee may, at his discretion, conduct a conference to further explore the merits of the grievance and to explore resolution options. If the City Manager does not render a decision in this matter within ten (10) business days, the grievance shall be treated as having been denied on the 10th day.
- D. **Step 4 - Arbitration.**
 - 1) If the grievance is not resolved at Step 3, the ASSOCIATION shall have ten (10) business days from the date of the City Manager's decision to invoke arbitration. Notice of an intent to arbitrate shall be submitted to the City Manager and the Police Chief.
 - 2) If the Association invokes arbitration, the City shall, within five (5) business days, request a list of seven (7) neutral arbitrators from the American Arbitration Association (AAA) or the Federal Mediation and Conciliation Service (FMCS). Should the City fail to timely request a list, the Association may do so. Within 10 calendar days following receipt of the list of arbitrators, the parties shall select an arbitrator by alternately

striking names from the list. The party required to strike first will be determined by coin flip. When only one name remains, that person shall serve as the arbitrator. The parties will promptly notify the AAA or FMCS of the arbitrator's selection. The chosen arbitrator, together with the parties' representatives, will select a time, place and date for an arbitration hearing. The arbitrator will conduct the hearing in accordance with Article 45 of this Agreement, and render a written decision within thirty (30) days following the close of hearing or submission of post-hearing briefs. The parties will share equally the arbitrator's fees and expenses, but otherwise will bear their own hearing costs.

Section 6. Enforcement of Grievance/Arbitration Procedure Time Limits.

- A. For the purpose of this Article only, if the due date for any response or notice falls on a Saturday, Sunday, or City-observed holiday, then the due date will extend to the next day that is not a Saturday, Sunday or City-observed holiday.
- B. All time limits set forth in this Article must be strictly observed unless extended by mutual consent. Failure of the grievant or Association to comply with the time limits set forth, absent legitimate excuse, will constitute abandonment of the grievance, and no further action may be taken. Failure of the City to respond within the time limits, absent good cause, will constitute a denial of the grievance effective the last date of the response period, and the Association may proceed to the next step of the grievance procedure. Decisions regarding the timeliness of a grievance will be made by the Arbitrator.

Section 7. Arbitrator's Ruling Binding; Election of Remedies.

- A. The arbitrator's decision as to matters properly grievable under this Article is final and binding on the parties. Any appeal of an arbitrator's decision shall be strictly and solely limited to the following grounds:
 - 1) that the arbitrator exceeded his/her authority as provided under this Agreement;
 - 2) that the arbitrator's decision was procured by fraud, collusion or other unlawful means; or
 - 3) that the arbitrator's decision represents a clear and manifest error of law.

ARTICLE 43. INTERNAL INVESTIGATIVE PROCEDURES AND POLICE OFFICER BILL OF RIGHTS

Section 1. The parties understand and agree that the Chief of Police retains the sole authority and discretion to determine whether an alleged violation of disciplinary civil service rules (hereinafter "rules") should be further investigated.

Section 2. In connection with any investigation into possible rule violations involving or implicating any member of the bargaining unit, the procedural requirements contained in this Article shall apply, as well as all other rights given to police officers under Chapter 143, TLGC, and Chapter 614, Subchapter B, Texas Gov't Code.

Section 3. Order to Give Sworn Statement. If the Police Chief determines that an officer who is the subject of an alleged rules violation should be required to give a sworn statement in connection with an allegation, then an Order to give a statement must meet the following guidelines and criteria:

- A. The Order to give a statement, if any, must be signed and issued by the Police Chief, or his designee and must provide the following minimum information:
 - 1) A factual statement that fairly and adequately alerts the officer about the factual incident or incidents that is the subject of the investigation and which provides the officers a reasonable opportunity to provide a meaningful response;
 - 2) A listing of the possible or potential rule and policy violations implicated by the underlying factual statement to put a reasonable officer on notice of what rules and regulations are implicated in the investigation;
 - 3) A Garrity Warning statement to assure that any statement provided is limited to use in the administrative proceeding;
 - 4) A time, place and date for provision of the statement in accordance with other requirements in this Article;
 - 5) The right to have Association or legal representation present while giving a statement; provided, however that the Association or legal representative may not interfere or interrupt the statement process in any way.
- B. The Order to give a statement, if any, must be issued and served with no less than three (3) days' notice to the officer in question.
- C. The Order shall set the taking of the statement during normal business hours, unless extenuating circumstances require otherwise. Modifications to time, place, and date may be handled by agreement. A copy of the statement shall be provided to the officer once transcribed.
- D. A statement shall be taken by one of the Professional Standards Division officers and/or other sworn personnel appointed by the Chief of Police. The officer shall respond truthfully to all questions asked by the examining officer, but the witness shall not be subjected to offensive language or threatened with transfer, removal or disciplinary action during the interview; provided, however, that any admonishments about the consequences of untruthful statements contained in the Order to give a statement shall not be considered a violation of this Article.

Section 4. Absent exceptional circumstances, Officers will not be placed on administrative leave during an investigation on allegations of non-criminal misconduct. If the Chief feels exceptional circumstances necessitate placing the officer on administrative leave for non-criminal misconduct, the Chief will state such circumstances in the administrative leave letter.

Section 5. Pre-Disciplinary Due Process Hearing. As a condition precedent to any disciplinary action, as defined by Chapter 143 TLGC, imposed by the Police Chief, a police officer is entitled to receive a Pre-Disciplinary Due Process Hearing in accordance with the provisions of this Article.

Section 6. The Notice of Pre-Disciplinary Due Process Hearing shall contain the following minimum information:

- A. The pertinent contents of the internal investigative file shall be disclosed or shared with the officer as part of the Notice of Pre-Disciplinary Due Process hearing.
- B. The contents of the investigative file shall be disclosed or shared with the officer and/or his representative no less than 48 hours in advance of the Pre-Disciplinary Due Process hearing.
- C. The officer shall be entitled to review the existing contents of the investigative file and to receive, upon request, a copy of his / her own statements and reports.
- D. In addition, the Notice shall list all the possible rules violations implicated by the factual summary, and which may serve as the basis of disciplinary action, if any.

Section 7. The Notice of Pre-Disciplinary Due Process Hearing shall be provided with no less than three days' notice to the police officer. The Due Process hearing shall be scheduled during normal business hours, unless extenuating circumstances dictate otherwise.

Section 8. Disciplinary Action. If the Police Chief imposes formal disciplinary action, as defined under Chapter 143, TLGC, both as to substantive, as well as procedural matters, then all the statutory requirements for such action shall continue to apply. The Police Chief's decision shall be based only on the contents of the internal investigative file developed under his direction.

Section 9. The Notice of Disciplinary action shall contain the following information:

- A. The factual basis of the underlying disciplinary action, including date, time, place and incident;
- B. The rules and regulations violations upon which the disciplinary action is based; and,
- C. The officer's right to appeal and appellate procedures.

Section 10. To appeal from a disciplinary action, the officer must properly invoke the appeal process by filing a letter addressed to the Civil Service Director within ten (10) business days of personal receipt of the Notice of Disciplinary Action.

- A. For Discipline imposed by the Chief of Police between one (1) to three (3) days may only be appealed to the Brownsville Fire and Police Civil Service Commission, and not to an arbitrator.
- B. The appeal notice must identify the disciplinary action from which the appeal is taken and must specify one or more of the statutory bases for the appeal listed in TLGC §143.010(b).
- C. The appeal notice must further specify whether the appeal is being taken to the Civil Service Commission or whether the provisions for a 3rd party hearing examiner under Section 143.057, TLGC are being invoked.

Section 11. In addition, the Chief of Police is authorized to allow the officer to satisfy a disciplinary suspension of up to FORTY (40) work hours by substituting accrued paid time off that the officer may have as accrued comp time or vacation time. This option is allowed only if

the officer accepts responsibility for the misconduct alleged in a duly filed charging instrument and waives his/her right to appeal the discipline imposed.

Section 12. If the Police Chief elects to conclude an investigation into an alleged rules violation prior to the statutory deadline for action recognized under Section 143.052, TLGC, then the subject matter of that particular allegation shall be deemed to have been closed and concluded.

Section 13. Any complaints related to alleged breaches or non-compliance with this Article may be raised only in the context of a disciplinary appeal, if any. Allegations that a provision of this Article have been violated may not, and shall not, be grounds for a grievance or arbitration brought under those Articles relating to the enforcement of the contractual provisions of this Agreement. However, the Civil Service Commission or the hearing examiner before whom any disciplinary appeal is pending may give such weight to claims of breach of this Article as that adjudicative body finds appropriate and may impose an appropriate remedy based on a totality of the facts and circumstances.

Section 14. If a negative letter, memorandum, document, or other notation of negative impact is included in an officer's personnel files, the civil service director or the director's designee shall, within 30 days after the date of the inclusion, notify the affected officer, and upon request, provide the officer with a copy. The officer may, on or before the 15th day after the date of receipt of the notification, file a written response to the negative letter, memorandum, document, or other notation. Such rebuttal will be placed with the negative letter in the personnel file.

Section 15. The provisions contained in this Article shall override and control any contrary statutory provision contained in Chapter 143, TLGC, only to the extent of the conflict, as allowed by Section 174.006, TLGC.

ARTICLE 44. DISCIPLINARY PROCEDURES

Section 1. Disciplinary matters are exempt from the grievance procedure set out in Article 42 of this Agreement and instead are subject to appeal as provided in the CSA, as modified by this Article and Article 45 of this Agreement.

Section 2. If an Employee suffers discipline and chooses to appeal that disciplinary action, the Employee shall give written notice to the Civil Service Director or designee of his/her intent to appeal the disciplinary action. The notice of appeal shall be filed no later than fifteen (15) business days of receiving written notice after the disciplinary action. The appeal letter must contain one or more of the bases for appeal stated in TLGC §143.010(b), must identify whether the appeal is to the CSC or a hearing examiner, and must request a hearing. If the Employee appeals to a hearing examiner, the Civil Service Director shall request a list of seven neutrals qualified to hear disciplinary appeals in the manner specified in TLGC §143.057(d). Upon receipt of the list, the Civil Service Director will immediately share it with the Employee and/or his/her representative.

Section 3. The parties shall meet as soon as possible after the Civil Service Director receives the list of seven neutral arbitrators from the AAA or FMCS. If the parties are unable to agree upon a name from the list, they shall flip a coin to determine who shall make the first strike from the list. The parties will then alternately strike names until the list is reduced to a single hearing examiner.

Section 4. The cost of the hearing examiner shall be shared by the parties. Any other costs related to this Step shall be assumed by the party incurring such costs.

Section 5. The hearing examiner shall have the same duties and powers as the civil service commission created under Chapter 143, TLGC, including the right to issue subpoenas.

Section 6. A Hearing Examiner's award in a disciplinary case may be appealed only upon the grounds for appeal stated in §143.057(j) of the CSA.

ARTICLE 45. RULES OF PROCEDURE FOR HEARINGS

Section 1. The following procedures are hereby established for the conduct of hearings relating to grievances and appeals of disciplinary matters.

Section 2. The Employee and Employer shall have the following rights:

- A. To exchange, no less than seven days prior to the hearing, the names of witnesses to be called and documents the parties anticipate using as exhibits. This requirement does not pertain to rebuttal witnesses or exhibits that a party could not reasonably anticipate using at the hearing. Any question as to the admissibility of witness testimony or documents not timely identified will be determined by the Hearing Examiner, whose decision will be final;
- B. To require the arbitrator or hearing examiner to subpoena witnesses. Copies of subpoenas shall be served upon the other party, who may move to quash a subpoena, in which case the arbitrator/Hearing Examiner shall conduct a hearing to decide whether the subpoena should issue;
- C. To be represented by legal counsel or other representative of the party's choice;
- D. To present testimony and evidence, and to argue the evidence;
- E. To confront and cross-examine adverse witnesses (subject to the reasonable discretion of the arbitrator or hearing examiner to control the hearing); and
- F. Upon application of a party, the arbitrator or hearing examiner may order the exchange of standard information relating to the grievance or disciplinary hearing.

Section 3. Judicial rules of evidence need not be strictly followed. However, the decision must be based solely on relevant and competent evidence. In arbitration hearings, the party filing the grievance shall bear the burden of proof by a preponderance of the evidence. In disciplinary cases, the City shall bear the burden of proof by a preponderance of the evidence.

Section 4. Witnesses may be placed under oath.

Section 5. All hearing shall be public.

Section 6. Proceedings may be continued or recessed by the arbitrator or hearing examiner in the interest of justice or for the convenience of the parties involved. However, absent agreement of the parties, any such extension will not extend beyond the 30 day limit for rendering a decision.

Section 7. An arbitrator or hearing examiner shall excuse himself or herself from hearing a case in which the subject matter or circumstances are such as to seriously impede his/her ability to render an impartial decision.

Section 8. In disciplinary cases, the hearing examiner shall render a decision in accordance with the requirements specified under Chapter 143, TLGC.

Section 9. In contract cases, the hearing examiner shall render a written decision stating whether a violation of the cited provisions of the Agreement occurred as alleged, and what, if any, relief is appropriate.

Section 10. Conclusions reached by the arbitrator or hearing examiner shall be based solely on evidence adduced at the hearing. The arbitrator or hearing examiner shall not communicate with parties or witnesses relating to the facts or subject matter of the case without the consent of both parties.

ARTICLE 46. IMPASSE PROCEDURES

Section 1. Mediation. The parties will make a meaningful effort to settle matters arising for negotiations through the bargaining process and will only resort to subsequent third party neutral proceedings after they exhausted all avenues of mutual agreement available to them. If an impasse in negotiations results after full and complete negotiations, either party or both parties may request the services of a mediator from the Federal Mediation and Conciliation Service.

Section 2. The mediator shall have no authority other than to attempt to help the parties to arrive at a mutually agreeable settlement. The mediator shall be responsible for determining whether or not the parties have indeed arrived at an impasse in bargaining. If the mediator has any reason to believe the parties are not at a true impasse in bargaining, he or she shall have the responsibility to remand the parties to further negotiations in an attempt to resolve the differences between them. If the mediator is convinced that the parties have arrived at a bona fide impasse in negotiations, he shall certify such fact to these parties who then have the following options open to them.

Section 3. Fact-finding. If after mediation, settlement has not been reached between the parties concerning negotiable issues which were subject to mediation, then either party may by written notification to the other request the remaining unresolved matters be submitted to a fact-finding panel.

Section 4. The fact-finding panel shall only be presented with unresolved issues which were subject to the mediation process. Within five (5) days of receipt of the written request for fact-finding, the parties shall request a list of seven (7) qualified neutrals who shall be active members of the National Academy of Arbitrators from the Federal Mediation and Conciliation Service. Each party shall alternately strike three (3) names from the list. The parties shall determine who shall strike first by a coin toss. The remaining individuals shall be designated the fact-finder. The Employer shall be responsible for appointing an additional fact-finder to represent its interests and the Association shall be responsible for appointing an additional fact-finder to represent its interests. The three fact-finders shall then constitute the fact-finding panel.

Section 5. The parties shall exchange written final offers on each remaining unresolved issue no later than ten (10) calendar days before the date of the fact-finding hearing. The fact-finding panel shall be served a written copy of each party's final offer on each outstanding unresolved bargaining matter within five (5) calendar days before the date of hearing.

Section 6. The fact-finding panel shall only have jurisdiction to consider issues involving mandatory items of negotiations.

Section 7. The fact-finders shall establish dates and places of hearings. The hearing shall be closed to the public. The fact-finders shall afford all parties full opportunity to examine and cross-examine all witnesses and to present evidence pertinent to the dispute including briefs in support of their respective cases.

Section 8. The fact-finders shall conduct the hearings and render their decision with the objective of achieving a prompt, peaceful and just settlement of disputes. The factors which must be given weight by the fact-finders in arriving at a recommended decision shall be:

- A. comparison of total compensation of police officers in cities of a comparable nature;
- B. relevant cost of living information;
- C. overall compensation and fringe benefits presently received by employees involved, and the interest and welfare of the public including financial liability;
- D. fiscal responsibility of the City; and economic and non-economic impact of the various offers upon present or future levels of service or programs provided by the City to its citizens and other City employees;
- E. the hazards of employment; physical, educational and mental qualifications; and job training and skills required of Brownsville police officers.

Section 9. The fact-finders shall consider each argument and all evidence presented by the parties and addresses them in well-reasoned, professionally written findings of fact and recommendations to resolve the dispute. The written decision shall be served on both parties not more than thirty (30) days from the conclusion of the hearings or submission of briefs whichever occurs later.

Section 10. Within fifteen (15) days after receipt of the findings of fact and recommendations, each party shall notify the other in writing whether they accept any of the recommendations of the fact-finders. If the parties do not accept the recommendations of the fact-finders, they shall attempt to settle the dispute. If no settlement has been reached after thirty (30) days from receipt of the notice by either party rejecting the recommendations, then the fact-finders' findings of fact and recommendations shall be published by either party.

Section 11. Within three (3) days after the findings of fact and recommendations are published, the party rejecting the recommendation shall publicize through a detailed written document each reason for rejecting the recommendation of the fact-finding panel.

Section 12. All costs of fact-finding shall be borne equally by the parties involved in the dispute, except costs for the parties' respective representatives and witnesses.

Section 13. If, within ten (10) days after the recommendations have been made public the parties have not agreed to a contract, unresolved issues shall, at the request of either party, be submitted to a referendum election according to the following procedures which shall be binding on the parties:

- A. the election shall be held on the first date permissible under state law;
- B. party rejecting fact-finders' recommendation shall pay three-fourths (3/4) of the cost of the referendum. If both parties reject any recommendations, each shall pay one-half (1/2) of the cost;

- C. each party shall be entitled to submit two and only two unsettled issues to the voters. The existing contract shall, therefore, be changed only by the outcome of the referendum issues and prior agreements reached by the parties.
- Section 14. Civil Service laws shall not be subject to the referenda;
- Section 15. Referenda will be conducted in a cost-efficient manner.
- Section 16. Citizen Voter Participation. Parties hereto agree that for the duration of this contract:
- A. No effort will be made by the Association to require the City to amend the City Charter to provide for citizen voter participation as a method of resolving collective bargaining impasses between the City and Association;
 - B. No referendum concerning police department manning levels will be conducted or processed; and,
- Section 17. No referendum for increased wages or benefits shall be conducted or processed under applicable provisions of the Texas Revised Civil Statutes Annotated.

ARTICLE 47. RESIDENCY REQUIREMENTS

Employees are required to reside in the Continental United States but are not required to live within the City of Brownsville city limits.

ARTICLE 48. PARKING

The City shall provide, without cost to employees on duty, adequate parking space, whether off-street, adjacent to or within a reasonable distance from Police Department facilities.

ARTICLE 49. OTHER PROVISIONS

- Section 1. **Copies of Agreement.** The City will give each employee, and to each new employee when hired, a printed copy of this Agreement.
- Section 2. **Effective Date of Agreement.** The parties understand and agree that the provisions of this Agreement shall be implemented prospectively only beginning on the date on which the Agreement is ratified by the Bargaining Unit and the City Commission.
- Section 3. **Tattoos.** Display of tattoos (body art) by Employees is allowed under the following conditions:
- A. Tattoos are not allowed on the Employee’s hands, face or neck or anywhere above the uniform collar area.
 - B. Display of tattoos that extend below the elbow are prohibited.
- Section 4. **Assignment Changes.** Except for normal shift rotations, the Department normally will provide seven days notice of job assignment changes to affected Employees. The notice requirement does not apply if waived by the affected Employees, or if exigent circumstances prevent advance notice.

Section 5. Work Schedule Changes

- A. The term “work schedule change,” as used in this Section, refers to a change in the scheduled working hours and days off of one or more units of Employees. For example, changing Employees in Patrol from a 5-day, 8 hours per day schedule to a 4-day, 10 hour per day shift would constitute a work schedule change governed by this Section.
- B. Except in emergencies, the Department shall provide the Labor Relations Committee at least 20 calendar days advanced notice of any proposed work schedule change. Upon request by one or more LRC members, the LRC will meet to allow LRC members to provide input and propose modifications concerning the proposed change. However, ultimate authority to change work schedules remains with the Police Chief.

Section 6. **Modified Duty Assignments.** Employees who suffer injury that prevents their performance of regularly assigned duties will, upon request by the Employee, be provided with modified duty assignments, if available, with preference being given to Employees injured in the line of duty.

Section 7. **Audio/Video Recordings.** Employees shall not surreptitiously audio- or video-record interviews of Employees. Employees in violation of this article will be subject to discipline up to and including termination.

ARTICLE 50. DEFINITIONS

For purposes of this Labor Agreement, the following definitions shall apply:

Agreement, CBA or Labor Agreement - refers to this Collective Bargaining Agreement, also referred to as the Labor Agreement, negotiated between the CITY OF BROWNSVILLE and the Association;

Association or BPOA – refers to the FRATERNAL ORDER OF BROWNSVILLE POLICE OFFICERS, INC., d/b/a the Brownsville Police Officers’ Association, which is the duly recognized bargaining agent for the City of Brownsville police officers;

Bargaining Agent - refers to the BPOA, which the City has recognized as the exclusive bargaining agent for its police officers;

Bargaining Unit - all full time police department employees, except the Police Chief, and any civilian employees;

Budget (Fiscal) Year- refers to the city’s fiscal year commencing on October 1 and ending on September 30 of the subsequent year.

Business Days – shall be defined as Monday through Friday during normal business hours of 8:00 o’clock am to 5:00 o’clock p.m. and shall not include Saturdays, Sundays, or holidays, except as otherwise specifically defined in this Agreement.

Calendar Year- refers to a year beginning on January 1 and ending on December 31 of that year.

Chapter 143, CSA or Civil Service Act - refers to the provisions of Chapter 143, Texas Local Government Code in effect at any given time, unless otherwise specified;

Chapter 174 or FPERA - refers to the provisions of Chapter 174, Texas Local Government Code in effect at any given time, unless otherwise specified;

Civilian Clothing – For purposes of Article 35 and the provision relating to dry-cleaning, civilian clothing for non-uniformed officers shall include a collared shirt, suit jacket, and pants (excluding denim).

Civil Service - refers to the classified civil service system organized pursuant to Chapter 143, the Texas Local Government Code;

Civil Service Commission or CSC – refers to the duly appointed body appointed under the provisions of Chapter 143, TLGC for the City of BROWNSVILLE;

Civil Service Statutes – shall refer to the civil service statutes contained in the Texas Local Government Code, specifically those codified in Chapters 141 through 143, TLGC;

City - refers to the home rule municipality organized under the laws of the State of Texas known as the CITY OF BROWNSVILLE, TEXAS;

City Manager - refers to the City Manager appointed under the City Charter or his or her designated representative;

City Management – refers to the administrative chain of authority within the City’s administrative structure starting within the Police Department and rising through to the City Manager and, if necessary, the City Commission;

Classified Service - refers to the civil service classifications, including all rights, obligations, privileges, procedures, and protocols established by Chapter 143;

Department or Police Department - unless otherwise specified, refers to the CITY OF BROWNSVILLE POLICE DEPARTMENT;

Disciplinary Action – shall encompass any personnel action or decision by the department head that is subject to appellate review under one or more provisions of Chapter 143, TLGC, or as otherwise specified in this labor agreement;

Employee(s) – unless otherwise specified, shall refer to law enforcement personnel who qualify as members of the bargaining unit;

FMLA - refers to the Family Medical Leave Act of 1993, as amended, and located at 29 U.S.C. §§2601 et seq.;

FLSA - refers to the Fair Labor Standards Act, as amended, and located at 29 U.S.C. §§201 et seq.;

Grievance - is defined as any dispute, claim, or complaint involving the interpretation, application or alleged violation of any provision(s) of the Agreement as raised by the Grievance procedures in this Agreement.

Holidays – refers to those holidays observed in accordance with the terms of this Labor Agreement.

Immediate Family Member - except as otherwise specifically provided for in this agreement, has the same meaning as contained in the Family Medical Leave Act.

Longevity Pay – refers to that statutorily required component of pay based on years of service as a police officer for the CITY OF BROWNSVILLE; compare Seniority Pay;

Member – refers to a police department employee who is a bargaining unit member as defined by Chapter 174, TLGC;

Overtime Pay, Negotiated – shall refer to overtime pay established and determined as a consequence of the negotiated terms of this Labor Agreement, which is contractual in nature and not imposed as a matter of state or federal law or statute.

Overtime Pay, Statutory – shall refer to overtime pay established and determined by reference to state and/or federal law.

Paid Time Off – refers to any time period for which an employee is entitled to receive pay without actually being at work for that time period.

Parties – refers to the City and the Association jointly.

Personnel file, Civil Service – refers to a police officer’s personnel file maintained by the Civil Service Director under §143.089(a), TLGC; Also referred to as the “(a) file”;

Personnel file, Departmental – refers to a police department file on a police officer’s maintained by the Chief of Police under the authority of §143.089(g), TLGC; Also referred to as the “(g) file”;

Police Administration – refers to Police Department personnel who have supervisory authority over other police officers, who are involved in the administration of the Department;

Police Chief - refers to the Police Chief appointed as the department head for the Police Department under §143.013 of the CSA, and includes any person designated as the Acting Police Chief in the Police Chief’s absence;

Police Officer(s) - refers to those paid employees of the City who are sworn, certified by the State of Texas, and full-time, and who regularly serve in a professional law enforcement capacity in the City’s police department. The term does not apply to the Police Chief;

Regular Rate of Pay – refers to that rate of pay required to be included in the calculation of a police officers’ overtime rate of pay for purposes of the FLSA;

Seniority Pay – refers to that component of pay based on years of service as a police officer for the City of Brownsville, which is negotiated by this Agreement; compare Longevity;

TLGC – shall refer to the “Texas Local Government Code” unless otherwise specified.

SIGNATURE PAGE

THE FOREGOING INSTRUMENT HAS BEEN DULY AND PROPERLY REVIEWED AND APPROVED BY EACH OF THE SIGNATORIES INDICATED BELOW (executed in duplicate originals):

THE CITY OF BROWNSVILLE, TEXAS

(Authorized by City of Brownsville City Commission on December 6, 2022)

By: _____
HON. TREY MENDEZ, MAYOR
CITY OF BROWNSVILLE, TEXAS

By: _____
HELEN RAMIREZ – INTERIM CITY MANAGER
CITY OF BROWNSVILLE, TEXAS

By: _____ Dated: _____
CITY SECRETARY - WITNESS

BROWNSVILLE POLICE OFFICER’S ASSOCIATION (BPOA)

(Approved by the BPOA Membership on November 22, 2022)

By: _____
FELIPE CEPEDA
PRESIDENT, BPOA, CLEAT

By: _____ Dated: _____
BPOA SECRETARY

EXHIBIT "A"

Grievance No. _____

CITY OF BROWNSVILLE, TEXAS
POLICE DEPARTMENT STANDARD GRIEVANCE FORM

Grievance Submittal

Employee must use this form, or one substantially like it, for filing grievances with the Association Grievance Committee and subsequent steps of the procedure.

Name Address City/State/Zip Phone

Division Title/Rank Station/Shift Phone

A. Factual Basis of the Grievance. Include date, time, place, and employees or individuals involved. If more space is needed, continue on a separate sheet of paper, and attach to this form.

B. Contract Articles, Terms, Etc. Believed to be Violated. Identify specific provisions of the Contract. Use supplement form if necessary.

C. Remedy or Adjustment Sought. Use supplement form if necessary.

Employee Signature

Date

Association Representative

Date

EXHIBIT "B"

Grievance No. _____

POLICE DEPARTMENT GRIEVANCE FORM
ASSOCIATION GRIEVANCE COMMITTEE FINDINGS AND SUBMITTAL

Grievance Committee's Submittal. Refer to Grievance cause number for employee's statement of facts.

Name address City/State Phone

Division Title/Rank Station/Shift Phone

Association Grievance Committee Statement

The Association Grievance Committee met and reviewed the above referenced grievance and reached the following Conclusion(s) on the Subject Grievance.

GRIEVANCE COMMITTEE RECOMMENDATION

Forward for Adjustment _____

Reject Grievance _____

Grievance Committee Representative

Date

Association Representative

Date