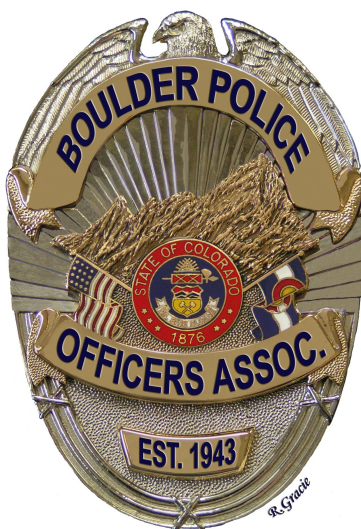




**City of Boulder
and
Boulder Police
Officers Association**



2010/2011 Collective Bargaining Agreement

Boulder Police Officers Association
2010/2011 Agreement

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Boulder Police Officers Association 2010/2011 Agreement

The following Agreement by and between the City of Boulder, herein referred to as the City, and the Boulder Police Officers Association, herein referred to as the BPOA, is designed to promote and maintain a harmonious relationship between the City and such of its employees who are within its provisions in order that more efficient and progressive service may be rendered.

ARTICLE 1. Term of Agreement

- A. The **non-economic** terms of this Agreement, excluding only those portions which have either direct or indirect cost to the City, shall be in effect beginning the first pay period of 2010 and shall continue through the last pay period of 2011, and from year-to-year thereafter, unless during February of 2011 or of any given year thereafter either the City or BPOA shall serve to the other written notice of a desire to modify this Agreement, in which event good faith negotiations concerning the modifications shall commence no later than May 15, 2011.
- B. The **economic** terms of this Agreement, including only those that have either a direct or indirect cost to the City, shall be in effect beginning the first pay period of 2010, and shall continue through the last pay period of 2011, and from year-to-year thereafter, unless during February of 2011 either the City or BPOA shall serve to the other written notice of a desire to modify this Agreement, in which event good faith negotiations concerning the modification shall commence no later than May 15, 2011.
- C. If any provision of this Agreement is found to be in conflict with any State, Federal, or Municipal statute, court ruling, or administrative authority, it shall be declared null and void and no longer in effect. Such language shall then be subject to good faith renegotiation by the City and the Bargaining Unit. Should negotiations produce an increase in direct or indirect costs to the City, such costs shall automatically be included as a part of the economic settlement of the next regularly scheduled contract negotiations. All other provisions of the Agreement shall remain in full force and effect for the duration of the Agreement.

ARTICLE 2. Recognition

- A. The City recognizes the BPOA as the exclusive bargaining agent with respect to wages, hours of work, fringe benefits, and grievance procedure on behalf of commissioned police officers below the rank of commander.
- B. This recognition clause shall be construed to apply to employees and not to work. It shall not limit the City's right to contract out work or to transfer work to other employees not included within the above described unit when the nature or amount of work changes; it shall not be construed to mean that any employee or classification of employees has any exclusive right to work. No contracting out or transfer of work, however, shall be undertaken until the City has sought and considered bargaining unit input on such contracting or transfer. The specific terms of this agreement shall be the source of any grievances that may be filed by BPOA or employees against the City.

ARTICLE 3. Waiver

The parties acknowledge that during the negotiations, which resulted in the Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining and that all such subjects have been discussed and negotiated upon and the agreements contained in this Agreement were arrived at after the free exercise of such rights and opportunities. Therefore, the City and BPOA, 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 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 of the parties at the time they negotiated or signed this Agreement. However, negotiations may be reopened at any time, if both the City and BPOA so agree.

ARTICLE 4. Agency Shop

- A. All employees covered by this Agreement, who decline membership in the BPOA shall at the end of thirty (30) days following the date of their hire, begin a monthly payment of money equal to the amount of dues paid by BPOA members, as declared in the Article 33, "Check-Off".

A special fund entitled Boulder Police Officers Association Surviving Spouse and Children's Fund shall be established by the BPOA and all money contributed, as indicated above, shall be placed in this Fund and used for no other purposes than the Surviving Spouse and Children's Fund, which may include a death benefit and educational assistance to dependents of BPOA members killed or injured in the line of duty.

A record of all money paid to and from this Fund shall be maintained by the BPOA and any employee contributing money to this Fund shall have the right to periodically view its financial record.

- B. It shall be a condition of employment that all employees covered by this Agreement shall either become members of the Boulder Police Officers Association or contribute to the Surviving Spouse and Children's Fund, as described in section A of this article.
- C. Upon submission of proper proof of bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member, the Human Resources Director (HR Director) shall declare the employee exempt from becoming a member of the BPOA. Such employee shall pay an amount of money equivalent to regular BPOA dues and assessments to the BPOA treasurer. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The BPOA shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The BPOA shall submit proof of contribution to the HR Director.
- D. Employees otherwise eligible for inclusion in the bargaining unit, as outlined in this Agreement, shall be free to join, or refrain from joining BPOA and shall not be coerced by either party to this Agreement.

ARTICLE 5. BPOA Affairs

- A. Time Away from Duty

1. Members of the bargaining unit shall be allowed time away from duty, as approved by their commander or their immediate supervisor if the commander is not on duty, in order to conduct BPOA business.

2. For purposes of this article, appropriate union business shall include, but not be limited to, the adjustment of grievances, as well as the preparation for and attendance of negotiation sessions.
3. The approval or disapproval of time away from duty for BPOA business shall not be a matter subject to the grievance procedure but shall be resolved by the Police Chief.

B. Bulletin Boards

1. The Police Department shall provide two (2) bulletin boards for the use of BPOA, one (1) board to be located in an appropriate location on each floor of the Department.

The boards shall be used only for the following notices:

- a. Recreational or social affairs of the BPOA;
- b. BPOA meetings and agendas;
- c. BPOA elections;
- d. Reports of BPOA committees;
- e. Rulings or policies of the BPOA, or the City.

Notices of announcements shall not contain comments reflecting on the administration or politics of the City, nor upon any employee.

Notices may be posted only by members of the BPOA Executive Board and must be signed by the official making the posting.

- C. In order for the BPOA President to be readily accessible to consult with the Administration, she/he will, at all times, be assigned to work during Monday through Friday of the normal day shift of his/her division.

ARTICLE 6. Non-Discrimination

- A. No employee or individual being considered for employment, assignment, transfer, promotion, or layoff due to lack of work shall be favored or subject to discrimination by Management or by the BPOA because of religion, race, creed, color, sex, national origin, age, or political activities other than those prohibited by this Agreement.
- B. Management and the BPOA agree that there shall be no discrimination of employees by virtue of participation or non-participation in BPOA affairs.
- C. No employee subject to this Agreement shall be regularly assigned to directly supervise or be supervised by any of the following: spouse (including common law or partners) and those in an intimate/romantic relationship, children and their spouses, parents (including in-laws), grandparents, grandchildren, sister/brother (including in-laws), cousins, aunts, uncles, nieces or nephews, except as may occur in emergency situations.
- D. Neither the City nor the union will discriminate against any applicant or employee who has a physical disability that with reasonable accommodation, will not preclude such person from performing the essential functions of his or her duties as a commissioned Police Officer or other collateral duties with the Police Department.

ARTICLE 7. Political Activity

- A. An employee in the service of the City shall not continue in her/his position after being elected to the Boulder City Council, or the position of Sheriff or District Attorney.

- B. Employees shall be permitted to take leave of absence without pay for a maximum of six (6) weeks prior to running in an election for Boulder City Council or for the position of Boulder County Sheriff or District Attorney of the Twentieth Judicial District. Employees will be required to take a leave of absence immediately after declaring candidacy for City Council or for the position of Boulder County Sheriff or District Attorney for the Twentieth Judicial District.

Should employees choose to become candidates for the above offices more than six (6) weeks prior to an election, they shall resign their position.

Should an employee seek election to an office other than described above, such action shall have no effect on the employee's position.

- C. Individually or together with other City employees, an employee may not identify her/his position or title or use his/her uniform while campaigning for or in support of any candidate for any elected position or knowingly permit him/herself to be so used.

ARTICLE 8. Strikes and Lockouts

The City agrees that so long as this Agreement is in effect, there shall be no lockouts. The closing down of City operations or any part thereof or curtailing any operations shall not be construed to be a lockout.

BPOA, its officers, agents, members, and employees covered by this Agreement agree that so long as this Agreement is in effect, there shall be no strikes, sitdowns, slowdowns, stoppages of work, boycotts, or any unlawful acts that interfere with the City's operations. BPOA shall exercise due diligence to end any strike that may occur in violation of this article.

ARTICLE 9. Layoff and Recall Procedures

A. Layoff Procedure

1. The City shall at its sole discretion determine when the layoff of employees is required. When layoffs are required, individual employee performance and seniority shall be the primary considerations in determining those employees to be displaced.
2. In the event layoff becomes necessary, the Police Chief shall determine those employees whose performance has been substandard, as reflected by the employee evaluation and rating system, over the past two (2) consecutive evaluation periods and those employees shall be the first to be displaced according to a priority established by the Police Chief.
3. In the event there are no employees or an insufficient number of employees laid off in the above manner, the displacement shall continue according to relative seniority beginning with the most recently hired employee.

B. Recall Procedure

1. Recall from layoff shall be in reverse order of layoff with the last employee displaced to be the first recalled back to work.
2. Notice of recall from layoff shall be by return receipt requested mail. An employee so notified or contacted by phone shall have three (3) days to report back to work unless a reason, satisfactory to the City, is given during the three (3) day period. However, it is understood that an employee who is working for another employer at the time of recall shall

be allowed to work out a fourteen (14) calendar day notice provided she/he notified the City within the three (3) day period specified above.

- a. In the event a laid off employee, who has been employed outside the City, is unable to return to work within the prescribed period, she/he may upon reasonable proof of such difficulty decline recall at that time.
- b. An employee who declines recall, as indicated above, will retain his/her relative seniority position and may be recalled, as necessary, in the future.
- c. An employee may so decline recall on only one (1) occasion.
- d. When an employee declines recall, the City will proceed to the next individual scheduled for recall and notify him/her of the opportunity to return to work.
- e. Should all laid off employees decline their opportunity for recall, the City will proceed through the recall list until it reaches the most junior employees necessary to fill recall needs; these employees will be required to return to work or give up all further rights to re-employment with the City.
- f. This process will continue back through the recall list until all recall needs are met.
- g. If contact, as defined in subsection 2 above, is not made within five (5) calendar days, the City may contact the next senior laid off employee to fill the available opening. An employee bypassed in this manner shall become the senior employee next eligible for recall.
- h. If a laid off employee refuses recall or fails to report as agreed, she/he will thereby waive all further consideration for reinstatement.
- i. Employees rehired under these provisions shall not be required to meet additional minimum requirements for employment greater than those in existence at their initial date of hiring.
- j. Employees re-employed under these provisions shall begin accruing benefits at the level they had attained prior to displacement. Rehired employees shall also be credited prior service time for the purpose of determining pension eligibility.

C. Supervisory Displacement

Should supervisory employees be returned to the bargaining unit, they shall assume a position among patrol officers according to their continuous, uninterrupted service in the Department.

D. Maintenance of Benefits

If allowed by the insurance carrier, employees laid off from the City may retain whatever group insurance programs they had at the time of layoff by converting to a private plan and by assuming the total cost of each benefit.

ARTICLE 10. Management Rights and Responsibilities

- A. All employer rights, functions, responsibilities, and authority not specifically and expressly limited by this Agreement are retained by the City.

- B. In matters not specifically covered by language within this Agreement, the City shall have the clear right to make unlimited decisions in such areas, except as provided in section C of this article, and such decisions shall not be subject to the grievance procedure.
- C. The City shall seek, consider, and respond to recommendations from the Executive Staff of the BPOA when establishing, changing, or abolishing departmental rules, practices, policy and procedures, or directives proposed during the term of this agreement.

ARTICLE 11. Discipline and Discharge

A. General

1. Employees may be disciplined, if reasonable under the circumstances, in any of the following manners: verbal warning, written reprimand, suspension, demotion, transfer, and/or termination, or in any other manner agreeable to the employee and to the department. If reasonable under the circumstances, the department may also require remedial training or professional counseling.
2. Employees should review the terms of this Agreement, all departmental rules, policies and procedures, and directives, as well as civil and criminal law for an understanding of some actions that may bring about the imposition of discipline.
3. The definition of "Administrative Investigation" shall be understood to mean: Any time the City initiates an investigation to determine the possibility of, or to establish a basis for disciplinary action, whether such investigation or interrogation is initiated by an internal, external, formal, or informal complaint.
4. Disciplinary action is intended to be corrective rather than punitive, and as such, is intended normally to progress from less to more severe. This shall not be interpreted to limit the City's authority to impose whatever discipline is warranted by the circumstances under consideration.

B. Disciplinary action shall be divided into two (2) categories: (a) non-serious, and (b) serious.

- a. Non-serious disciplinary action shall be defined as any verbal warning or written reprimand.
 - b. Serious disciplinary action shall be defined as a suspension, demotion, transfer or termination for disciplinary reasons.
2. **Employees who receive non-serious disciplinary penalties may use Steps 1 through 5** of the Grievance Procedure as described in Article 12, "Grievance Procedure", paragraph B. If the grievance is not resolved, it may not be processed to Step 6, Arbitration, and the HR Director's decision will be final, binding, and subject to no further appeal.

Employees who receive serious discipline may use the grievance procedure to process their appeal through to arbitration according to "Step 6", Article 12, "Grievance Procedure", of this Agreement.

1. In the event an employee is suspended without pay as a disciplinary action, there shall be no suspension of employee benefits, to include seniority, other than direct wages, for the period the employee is absent from duty. At the time relieved from duty on suspension without pay, the employee shall be informed of the specific duration of such suspension.

C. Disciplinary Investigations

At any time the City determines that it is necessary to examine or investigate events or circumstances that may lead to disciplinary action, at the outset, the employee shall be presumed innocent and the investigation shall be conducted in a fair and impartial manner in accordance with the general guidelines in sections 1 and 2 below.

If it is deemed to be in the best interest of the community, department, or employee, the Police Chief may place the employee on administrative leave or reassign the employee during the investigation.

No employee shall be placed on administrative leave without pay, without due process.

The City shall initiate any investigation within fourteen (14) calendar days of the time it has knowledge of such event with the exercise of reasonable diligence.

1. Initial/Informal Investigations

Supervisory personnel may at any time require written reports or meetings with employees to review events, circumstances, or employee's conduct. If the meeting or report is to review a specific allegation against the employee, he/she will be so notified at the outset of the meeting or at the time the report is requested. Until such time that disciplinary action is the likely outcome of such meetings or reports, employee representation is not necessary. The employee(s) involved will be provided a copy of any written report or recommendation made as a result of this initial review.

2. If after this informal investigation (described in (C)(1) of this article) the City determines that further investigation is warranted, it shall be conducted according to the following general guidelines.

- a. Employees shall be given specific notice of any charges that have been/will be filed against him/her and/or of the specific nature of the investigation. Questions will be specifically directed and related to the alleged violation.
- b. Employees shall be given reasonable notice prior to being required to attend any meetings or hearings held as a part of such investigation.
- c. Employees shall assist the investigation and shall furnish information and/or give statements, as requested.
- d. Employees may be represented by BPOA or by legal counsel at any interview or meeting held as a part of such investigation.
- e. The employee (and representative) shall have the opportunity to review all evidence produced during the investigation upon reasonable notice and as such information becomes available.
- f. All interviews in regards to allegations of serious misconduct shall be electronically recorded and all questions shall be "on-the-record".

D. Willful misrepresentation of any information presented during interviews conducted under section C of this article may bring about the imposition of discipline.

E. Dismissal or acquittal of criminal charges shall not preclude disciplinary action.

- F. Submission to polygraph examination or Computer Voice Stress Analysis (CVSA) shall not be mandatory. Refusal to submit to such examination shall not be grounds for any disciplinary action. Should the member voluntarily agree to submit to such examination, the location and firm conducting the examination shall be mutually agreed to. In the event the complainant(s) have taken an examination, the subject member(s) shall utilize a different firm. Upon request, the member shall be provided an exact copy of all reports and/or graphs compiled.
- G. A member's electronically recorded interview(s) may not be subject to CVSA without the member's consent.

ARTICLE 12 Grievance Procedure

- A. In the event of any controversy concerning the meaning or application of any provision of this Agreement, any department rules, policies and procedures, directives, or City policy, which affects members of the Police Department, there shall be no suspension of work but such controversy shall be treated as a grievance and be settled in accordance with established grievance proceedings.

Grievances within the meaning of the Grievance Procedure shall include the transactions involving employees of transfer, promotion procedures, demotion, layoff, discharge, discipline, or of matters concerning the interpretation or application of the particular clauses of this Agreement and about alleged violations of this Agreement. This language shall not be construed to limit the City's authority to develop and apply policies as described in Article 10, "Management Rights and Responsibilities".

1. Employees may appeal directly to the Police Chief the promotion of an employee who does not have the minimum qualifications of a position as it was posted or an involuntary transfer as defined in Article 15, "Transfer Procedure", section D, or the eligibility of an employee for a non-line assignment. If the grievance is not resolved at this Step of the grievance procedure, it may not be appealed to arbitration but may be appealed to the HR Director who shall make final determination of the matter.
2. Employees may appeal directly to the Police Chief an evaluation of "Competent" or "Needs Improvement." The Police Chief's decision shall be the final determination and the matter may not be appealed any further.
3. Any employee who wishes to file a grievance must do so individually and all such grievances shall be processed individually. However, the BPOA and the City may upon mutual written agreement combine groups of like grievances or allow the BPOA to file a grievance on behalf of a group of employees regarding a specific issue.
4. Grievances may only be filed for specific cause and as a result of specific actions of management.
5. At any step of this grievance procedure, BPOA shall have final authority to decline representation to an employee if, in the judgment of BPOA, his/her grievance lacks merit or justification under the terms of this Agreement, or has been adjusted or settled to the satisfaction of the BPOA. At the request of either the member or the BPOA Executive Board, the BPOA Grievance Committee may investigate the grievance.

- B. Informal Resolution

As a matter of good labor-management relations, the parties encourage members who believe that they have bona fide grievances to discuss and attempt to resolve it with their immediate supervisor, or the supervisor who initiated the action.

1. The complaint shall be taken by the employee to the employee's immediate supervisor and/or the supervisor who initiated the action causing the complaint within thirty (30) days.
2. If the above informal discussion is held and does not resolve the grievance, the member may file a formal grievance in accordance with Article 12(C).

C. Formal Grievance Resolution

Should a grievance not be settled through "informal resolution", the aggrieved shall reduce the grievance to writing and complete a grievance cover sheet provided by the BPOA, within 30 calendar days from the date of occurrence. The grievance shall be signed by the member and the BPOA shall retain a copy of the grievance. Once a grievance has been reduced to writing it may not be amended in any manner, except for additions or deletions which are in support of and not in addition to the original grievance. The BPOA shall, upon request, receive a copy of the disposition(s) as it progresses through the process. The following formal steps will be followed. Steps 1-3, below, may be by-passed upon written agreement of both parties.

1. Step 1. The written grievance shall be presented to the member's immediate supervisor or the supervisor who initiated the action, which caused the complaint. The supervisor shall return a disposition, in writing, which shall specify the reason(s) for the disposition within ten (10) working days, excluding absences, after receipt of the grievance.
2. Step 2. The supervisor's decision may be appealed to the member's Commander, in writing, which shall specify the reason(s) why the decision of the supervisor is unsatisfactory within ten (10) working days, excluding absences. The BPOA will forward a summary notice of the grievance complaint to the Police Chief and the HR Director. The Commander shall render a decision, in writing, which shall specify the reason(s) for the disposition to the member, within ten (10) working days, excluding absences, of the receipt of the grievance.
3. Step 3. The Commander's decision may be appealed to the member's Deputy Chief, in writing, and signed by the employee within ten (10) working days, excluding absences. The written appeal must specify the reason(s) the Commander's decision is unsatisfactory. The Deputy Chief shall render a decision, in writing, which shall specify the reason(s) for the disposition to the member, within ten (10) working days, excluding absences, of receipt of the grievance.
4. Step 4. The Deputy Chief's decision may be appealed to the Police chief, in writing, within ten (10) working days, excluding absences, after receipt of the Deputy Chief's decision. The written appeal must specify the reason(s) why the Deputy Chief's decision is unsatisfactory. The Police Chief shall render a decision, in writing, which shall specify the reason(s) for the decision to the member within ten (10) working days, excluding absences, or receipt of the grievance.
5. Step 5. An appeal of the decision of the Police Chief or appeal of any disciplinary action may be made, in writing, to the HR Director by the aggrieved member, or BPOA within ten (10) working days, excluding absences, after receipt of the Police Chief's decision. The written appeal must specify the reason(s) why the Police Chief's decision is unsatisfactory.

Appeals to the HR Director on disciplinary matters may only be made on the basis of whether the investigative process was fair and complete, and on whether the discipline was appropriate, given the findings. If an administrative hearing is held, it is only for the purpose of hearing from the employee and his/her representative and the Police Chief

(or designate) and his/her representative on the grounds why the Police Chief's decision is unsatisfactory.

The HR Director shall review the matter, including any statements made during the administrative hearing. The HR Director's decision, or the decision of his/her designate, shall be rendered, in writing, which shall specify the reason(s) for the disposition to the employee within ten (10) working days, excluding absences, following the date the appeal was received or any hearing was held.

If the HR Director is unable to review the grievance, a mutually acceptable designate may be named. That designate will normally be a Deputy City Manager or a City Department Head and will have full authority, equivalent to that of the HR Director, for this step of the grievance.

6. Step 6. In the event of the failure of the parties to settle a grievance at the 5th Step of the grievance procedure, such grievances, excluding those pertaining to the appeal of non-serious disciplinary action as defined in Article 11, "Discipline and Discharge", section B., of this Agreement, may be appealed to arbitration. The executive board of the BPOA shall have the exclusive right to determine whether or not the employee's grievance shall be submitted to arbitration. A written notice of such appeal shall be given to the HR Director by the BPOA President, his/her designate, or the individual involved. The written notice of appeal must specify the reason(s) the decision of the HR Director or designate is unsatisfactory. Cases not appealed to arbitration within ten (10) working days, excluding absences, from the date of the final answer given at Step 5, shall be considered settled on the basis of said answer.

D. Arbitration

The parties shall select a mutually satisfactory arbitrator from the panel of five (5) possible arbitrators submitted by the American Arbitration Association. Upon receipt of such panel, representatives of the City and BPOA shall strike in alternate turn, with the City striking first, one of the names of the panel until four (4) names have been so struck, whereupon the arbitrator whose name remains shall be deemed the arbitrator selected by mutual agreement of the parties.

1. The arbitrator shall have the right to arbitrate grievances concerning the interpretation and application of this Agreement.
2. The arbitrator shall have no power to add to or subtract from or modify any of the terms of this Agreement or any agreements made supplementary hereto, nor any other matter not specifically provided for within the Agreement. The parties shall endeavor, whenever possible, to stipulate to the facts included in the case prior to the opening of the arbitration hearing.
3. The decision of the arbitrator shall be final and binding upon the Bargaining Unit and the City.
4. All costs of the arbitrator and the arbitration procedure shall be shared equally by both parties.
5. Upon the acceptance of an answer from the City in any step of the Grievance Procedure, the issue will be considered resolved and not subject to any further appeal. Acceptance shall be in writing.

6. Items settled through the grievance procedure may be admitted as evidence during arbitration in order to attempt to establish precedents; however, the arbitrator shall be free to determine the applicability of such settlements and shall not be bound to similar rulings except as she/he sees fit.

E. Time Limits

1. Should the supervisor or the supervisor who initiated the action, Commander, Deputy Chief, Chief or HR Director fail to follow each step of this procedure or adhere to the time limits as described in each step (except as mutually agreed upon by both parties), the grievance shall automatically proceed to the next step.
 2. Should the grievant fail to adhere to the time limits as described (except as mutually agreed upon), the grievance shall be considered resolved as of the last step completed. This shall not apply in cases concerning serious discipline as defined by this agreement.
 3. The fact that such a decision or action has a long-term or continuing impact will not in any way extend, or modify this ten (10) day time limit in which a grievance must be filed.
 4. Regardless of absences, time limits will not exceed twenty (20) working days at any step of the process, unless extended by mutual written agreement.
 5. For purposes of meeting time limits, employee notification shall include personally served written notification to the employee, and/or employee's BPOA representative, and/or a member of the BPOA Grievance Committee, and/or a member of the BPOA executive board.
- F. In reviewing a grievance, the reviewing authority may either affirm the last previous decision or render a decision more favorable or less severe to the grievant.

However, nothing contained herein shall preclude a compromise settlement acceptable to both parties.

The issue of whether or not a decision is less favorable or more severe than a previous decision may not itself become the subject of a grievance but may mean that the original grievance is appealed to the next step of the Procedure.

- G. Grievance decisions shall not be interpreted to change the meaning of this Agreement.
- H. All costs of a court stenographer or other transcription fees shall be paid by the party desiring such service. Upon mutual agreement the costs shall be shared equally by the parties.
- I. Employees may be represented by a Bargaining Unit official and/or legal counsel at any step of this grievance procedure.
- J. Grievances may also be filed by Management or BPOA with the other party for, but not limited to, the following reasons:
1. Matters concerning the interpretation or application of the particular clauses of this Agreement.
 2. Abuse of the collective bargaining process and understanding of the contract.

ARTICLE 13. Probationary Period

- A. All newly appointed, commissioned employees of the Police Department shall be subject to a probationary period during which time the employee is subject to review of his/her competence to carry out the assignments of the position. The probationary period is deemed to start as of the official date of hire and shall end following six months of continuous and uninterrupted service after the employee has completed his/her field training program. During this probationary period, the employee shall receive a written evaluation of his/her job performance at least every two (2) months by his/her immediate supervisor.
- B. The newly appointed employee shall be subject to final probationary evaluation made by his/her immediate supervisor, which shall be submitted to the Police Chief for review. If the probationary evaluation, or any specific documented problems indicate the probationary employee cannot fulfill the requirements of the position, the Police Chief may terminate the probationary employee. The Police Chief may extend the probationary period for up to an additional six (6) months by informing the employee and the Human Resources Department of intent.
- C. All promotions of employees within the Police Department shall be subject to a probationary period of twelve (12) months of continuous and uninterrupted service. During this twelve (12) month probationary period, the employee shall receive a written evaluation of his/her performance by his/her immediate supervisor every six (6) months. The Police Chief may extend the probationary period, for cause, for up to one (1) additional six (6) month period by informing the employee of intent prior to the expiration of the original twelve (12) month period. Employees on probation following promotion will be returned to their former rank and seniority without prejudice, if they fail probation.
- D. Upon the affected employee's request, the BPOA may investigate the failure of the probationary period. The BPOA Grievance Committee shall submit recommendations to the Police Chief and the HR Director.
- E. Prior to any termination of an employee on probation, who has completed the department training program, or the return of an employee following promotion, a due process hearing shall be held in front of the Police Chief to determine just cause.
- F. The termination of a new department employee on probation shall not be subject to the grievance procedure. The return of an employee following promotion shall be subject to a limited grievance procedure. Any such grievance shall commence at Step 4, appeal to the Police Chief, and may only progress through Step 5, appeal to the HR Director.

ARTICLE 14. Seniority

- A. The City recognizes seniority for members under the rank of Sergeant, as the date the employee was hired as a Police Officer with the City Police Department. Seniority shall be defined as continuous, uninterrupted service as a commissioned Police Officer with the City. Unpaid FMLA or Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) leave shall not be considered an interruption for purposes of accrual of seniority, and a member on unpaid FMLA or USERRA leave will continue to accrue seniority the same as an employee on paid leave.
 - 1. Employees commissioned for any reason other than full-time assignments to Police functions shall not accrue seniority until assigned and working in a full-time capacity.
 - 2. Employees who terminate and are subsequently rehired shall have no seniority except that accrued from the most recent date of employment.

3. BPOA Seniority

- a. In the instance of simultaneous hiring, seniority among individuals so hired shall be determined by the BPOA according to the following:
 1. Newly hired employees with a current State of Colorado P.O.S.T. Certificate or the ability to successfully pass the written test for the State of Colorado P.O.S.T. Certificate and prior law enforcement experience shall be assigned seniority in direct relation to their prior experience.
 2. Following assignments based on Section 3(a)(1) above, newly hired employees with a current State of Colorado P.O.S.T. Certificate, but no prior law enforcement experience, shall be determined by random lot drawing conducted by the BPOA.
 3. Following assignments based on Sections 3(a)(1) and 3(a)(2) above, newly hired employees with prior law enforcement experience, but no, current State of Colorado P.O.S.T. Certificate, shall be assigned seniority in direct relation to their prior experience.
 4. Newly hired employees without any prior experience, and no current State of Colorado P.O.S.T. Certificate, will have seniority determined by random lot drawing conducted by the BPOA.

Prior law enforcement experience for "Article 14 Seniority" will be defined as: a) Full time employment as a sworn, non-military law enforcement officer assigned to patrol or investigative functions with authority to make arrests, enforce, and investigate Federal or State or Local laws; and b) Statutory authority to carry a firearm for employment.

- b. The BPOA seniority list shall establish seniority among BPOA members as the date of hire.
 - c. The BPOA's seniority decisions shall not be grounds for a grievance.
- B. Seniority for Sergeants shall begin as of the date of their promotion. In the instance of simultaneous promotions, seniority among individuals so promoted shall be determined according to relative seniority prior to promotion.

Establishment of seniority in this manner shall apply only to those simultaneously promoted and shall not make them more senior than previously promoted Sergeants.

ARTICLE 15. Transfer Procedure

A. Definitions

1. A line assignment shall be defined as those Officer or Sergeant positions assigned to the Patrol Section, Watch 1, 2, or 3 and subject to the annual patrol shift bid process.
2. Non-line assignment shall be defined as any Officer or Sergeant position exempt from the annual patrol shift bid process and subject to the selection process as outlined below in this article.
3. A Qualified applicant shall be defined as an employee who will meet the eligibility requirements set forth in this article and Article 6(C) at the time the non-line transfer is to occur.

4. For purposes of this Agreement, the General Investigations Unit of the Detective Section includes all Officers assigned to the Detective Section, excluding those Officers assigned to the Narcotics Unit.

B. Transfer Procedure

The following procedure will provide the opportunity for increased training and facilitate lateral mobility for officers or Sergeants within the department.

1. Non-Line Assignment Eligibility

The BPOA recognizes the need for Officers new to the department and newly promoted Sergeants to have sufficient line assignment experience prior to being selected for a non-line assignment.

- a. Unless noted otherwise below, Officers who meet the following requirements may apply for non-line assignments:
 1. Successful completion of the department's training program; AND
 2. Since the most recent date of hire, and after completion of #1 immediately above, assigned to a line assignment for no less than one (1) year. Due to the nature of a non-line assignment, more than one (1) year in a line assignment may be required. If such additional experience is required, the non-line assignment posting must clearly state as such; AND
 3. Non-probationary
- b. For the purpose of specialized investigations requiring officers who may be less known to the public, any non probationary officer with two (2) or more years of law enforcement experience (as defined in Article 14, Seniority), is qualified to apply for a position as a Narcotics Officer in the Detective Section. Members shall not choose an assignment which would be in violation of Article 6(C).
- c. Any non-probationary Sergeant is qualified to apply for a non-line assignment.
- d. All newly appointed, probationary Sergeants shall first serve in a line assignment.
- e. All non-probationary line and non-line Sergeants, excluding the incumbent, are qualified to apply for the Major Crimes Unit Sergeant within the Detective Section.
- f. Absent a re-posting under Article 15(C)(4)(a), incumbents are not eligible to apply for their current position.

2. Systematic Transfer

- a. Except as provided in specific circumstances outlined in the language of this article, the duration of an Officer's or Sergeant's tenure in a non-line assignment shall be a maximum of five (5) years.
 1. This five year maximum shall not apply to officers assigned to the general investigations unit of the Detective Section or to officers assigned to the Traffic Unit.

2. Employees may be retained in their non-line assignment for an ongoing investigation by the Police Chief at his/her discretion, for a period not to exceed one (1) year, or for a mutually agreed upon time period.
 3. The duration of the Major Crime Unit Sergeant's tenure shall be seven (7) years and starts at the time of the appointment to the Major Crimes Unit.
 4. The duration of the tenure of the Officers assigned to the K-9 Unit shall be the maximum working life of the assigned dog. Should the assigned dog be lost or retired during the first three (3) years of duty, the Officer will be allowed to continue their tenure with a new dog.
- b. In recognition for the need for adequate time to post and select non-line positions, officers who are currently serving in non-line assignments as described in this article, shall give notice by October 15 that they intend to return to a line assignment. Notice given by October 15 shall preserve the member's right to participate in the next annual shift bid process.
 - c. In order to ensure the opportunity for officers throughout the Department to transfer to general investigation positions within the Detective Section and in the Traffic Unit, there will be a minimum of two (2) non-line assignments in each of those work groups opened for transfer at the annual shift change time.

If, by October 15th of any given year, such expected openings have not occurred through other means, the Police Chief shall select up to two (2) officers who have been assigned to the Detective Section and up to two (2) officers who have been assigned to the Traffic Unit for three (3) or more years in their respective units and return them to a line assignment at the next yearly shift change. Subsequent to such reassignment, but prior to the next annual shift change, should additional openings become available in the Detective Section or Traffic Unit, the Police Chief shall cancel the scheduled reassignment of the affected Officers.

If in the previous year there were more than two (2) openings in either the Detective Section or the Traffic Unit, the balance over (2) will be applied to meet the transfer requirements for the next contiguous year in those respective work groups.

- d. Employees in non-line assignments shall be notified by their Commanders no later than November 1 of a given year if they are to be assigned to a line assignment in January of the following year. Notice shall be in writing with copies forwarded to the respective employee's personnel and working files, as well as the "systematic transfer file" kept in Staff Services.
- e. Employees assigned to the narcotics unit of the Detective Section may be returned to a line assignment at any time if the employee requests and the Detective Section Commander approves; or the Detective Commander believes that it is in the best interest of the detective or the unit.
- f. Specific assignments within the Detective Section or Traffic Unit shall be made by supervisory personnel.

C. Non-Line Assignment Selection Process

1. When possible, available openings for non-line assignments shall be posted no later than November 1 of a given year. Employees selected to fill those positions shall be notified prior to the inception of the bidding process for the Patrol Section line positions.

2. New or open positions shall be posted for a minimum of ten (10) days.
3. Employees who are qualified as described in Article 15(B)(1) and wish to apply, shall make written application within the ten (10) day posting period.

Prior to interviews, the BPOA and the Police Chief or designate will meet to determine that all applicants are qualified to apply for the assignment.

Qualified applicants shall be granted interviews with the Section Commander or designate to provide the applicants an opportunity to state their qualifications for the position.

4. The Police Chief, or his/her designate, shall have the discretion to make a selection from qualified applicants.
5. If there are three (3) or fewer applicants over and above the number of available positions, the Police Chief may:
 - a. Re-post the position for five (5) days open to qualified employees as described in Article 15(B)(1); or
 - b. Extend the maximum time allowed in a non-line assignment for one (1) more year for the employee currently holding the position; or
 - c. Select from those employees who are qualified as described in Article 15(B)(1) and with the least seniority as defined in Article 14 Seniority to be transferred for up to one (1) year, or until the next shift bid process.
6. Should a non-line position be filled by an employee currently in a non-line assignment, that employee's maximum non-line time starts anew.
7. Normally, non-line positions are filled immediately or at the next annual shift change.
 - a. If a circumstance such as a staffing shortage causes a delay in the transfer, the transfer may be delayed up to six (6) months following the annual shift change. This six (6) month delay may be extended upon mutual agreement between the Police Chief and the affected member.
 - b. If the transfer is not expected to occur at shift change, the affected member shall be allowed to participate in any upcoming annual patrol shift bid as described in Article 16(F)(1).

D. Involuntary Transfers

1. Except as proved in Article 15(B)(2)(c), should the Police Chief determine that an Officer or Sergeant is not performing the duties of a particular position or assignment at an appropriate level, she/he may transfer that employee to another position or assignment within the department according to the following procedure:
 - a. Meet and discuss the problem with the employee and his/her immediate supervisor.
 - b. Present a written statement of reasons to the employee.
 - c. Allow a reasonable amount of time for the employee to correct the problem prior to involuntarily transferring the employee.

- d. Employees returned to a line assignment shall be allowed to select from available shifts and days off, under provisions of Article 16, "Workweek", Section F, of this agreement.
2. Should the Police Chief determine that an employee is not capable of performing the duties of a particular assignment due to injury, illness, or other disabling condition, she/he may transfer that employee to any position in the Police Department, until such time as the employee is capable of returning to full duty in his/her former position.

Such assignment, or the continuation of such assignment, shall be contingent upon available work and shall be made at the discretion of the Police Chief.

3. In order to meet Department or employee needs, the Police Chief may, at his/her discretion, transfer an employee on a temporary basis for the balance of the annual shift bid, but not to exceed six (6) months, or for a mutually agreed period of time, to any departmental function. Following this temporary transfer, the employee will be returned to the position he/she last filled.
4. Notwithstanding the limitations of (D)(3), the Police Chief may, at his/her discretion, transfer an employee for a period not to exceed twelve (12) months, or for a mutually agreed upon time, for purposes of an ongoing criminal investigation. Following this temporary transfer, the employee will be returned to the position he/she last filled or the position he/she would have filled based on the annual shift bid.

E. Additional Applications to All Non-Line Assignments

1. Employees may voluntarily transfer from a non-line assignment to a line assignment. However, the Police Chief may require an employee to remain in his/her current position for a period of time sufficient to select and train a replacement or to complete ongoing work or assignment.
2. The Department shall maintain a "systematic transfer file", which shall include the names of all employees working in non-line assignments and the date such employees began their current assignments.

F. Work Unit Reduction

1. If the Police Chief determines a need to transfer employees from non-line assignments to line assignments to reduce the size any unit or work group, he/she shall then meet with the BPOA to discuss possible transfers. The Police Chief shall first request volunteers to meet transfer requirements. If there is an insufficient number of employees willing to transfer voluntarily, transfers shall be made on the basis of seniority as defined in Article 14, "Seniority" of this agreement, with the least senior being the one transferred.
2. Employees who are transferred as described above shall select from available shift assignments and days off, according to their seniority within the group of transferred employees, until the next shift assignment bid process is held.
3. Employees who are transferred out of non-line assignments according to these provisions will have the first right of refusal should a position open up from the work group or unit they were transferred out of within a one year period of time.
4. Should an employee return to his/her previous work group or unit after less than one year, the time spent previously in the non-line assignment shall be included in the employee's total

time in a non-line assignment.

5. Any work unit reduction does not alleviate the required transfers that are described in Article 15(B)(2)(c).

ARTICLE 16. Workweek

- A. The normal workweek for members is forty (40) hours. This shall not be interpreted as a guarantee of the maximum number of hours per week under conditions which, in the judgment of Management, are necessary for the operation of the Department and the preservation of public safety.
- B. Members shall be paid one and one-half times their regular hourly rate of pay for all overtime hours in excess of the normal workday/workweek, which are authorized by a supervisor.
- C. Members eligible for overtime payment may elect to receive compensatory time equal to one and one-half the hours of overtime worked. Accrual of compensatory time shall not exceed one hundred twenty (120) hours for commissioned members. The Police Chief may allow an employee to carry in excess of one hundred-twenty (120) hours in specific instances.
 1. Upon termination of employment, the amount of accrued and unused compensatory time shall be paid to the member at his/her regular rate of pay averaged over the last three (3) years or at his/her current regular rate of pay, whichever is higher.
 2. Upon the death of an employee, a benefit equal to the amount of accrued and unused compensatory time shall be paid at his/her regular rate of pay averaged over the last three (3) years or at his/her current regular rate of pay, whichever is higher, to the beneficiary of the deceased.
 3. Any member desiring to use accrued compensatory time may do so unless, in the opinion of the employee's supervisor, such absence would be disruptive to the Department.
- D. All overtime work must be authorized by a supervisor. Overtime work shall granted to all those desiring such work on as equitable basis as possible. Refusal on the part of the member to accept compensatory time in lieu of pay shall not influence the distribution of overtime.
 1. Employees shall be required to work overtime, when necessary, for the fulfillment of departmental operations.
 2. Attendance for off-duty training shall not be required unless employees have received a minimum of seventy-two (72) hours notice of the training schedule.
- E. **Employees who are required to work on New Year's Day, Thanksgiving Day, or Christmas Day shall be additionally compensated by receiving the employee's option of either compensatory time off or pay equal to one-half the number of regular, straight-time hours they actually work on these three (3) holidays.**

Equal time off shall be granted to employees for all special or additional holidays, granted to other City employees, as authorized by proclamation.
- F. Shift Bid Process

1. **Line**

Annual choice of permanent shift assignment and choice of days off shall be based on seniority, as defined in Article 14, "Seniority", of this Agreement, whenever practical, but allocation and scheduling of the work force shall rest with the Police Chief in accordance with departmental operations and policies. Members shall not choose an assignment which would be in violation of Article 6(C).

Line employees who are unable to assume their full duties by April 1 will not participate in the annual shift bid process.

Upon their return to full duty, reasonable effort and accommodation will be made by the Police Chief as to their shift assignment and days off, dependent upon their seniority and departmental needs at the time.

Upon return from active military duty, these employees shall be given "special consideration" for their relative seniority by the Police Chief on their assigned shift and days off.

2. Non-Line

Annual choice of permanent shift assignment and choice of days off shall be based on seniority, as defined in Article 14, "Seniority", of this Agreement, whenever practical, but the allocation and scheduling of the work force shall rest with the Police Chief in accordance with departmental operations and policies. Each non-line section may, at the Police Chief's or designee's discretion, designate work units within the section and allot shift assignment and choice of days off for the unit in the section. Bidding will then commence based upon departmental seniority within each unit. Members shall not choose an assignment which would be in violation of Article 6(C).

Non-line employees who are unable to assume their full duties by April 1 will not participate in the annual shift bid process.

Upon their return to full duty, reasonable effort and accommodation will be made by the Police Chief as to their shift assignment and days off, dependent upon their seniority and departmental needs at the time.

Upon return from active military duty, these employees shall be given "special consideration" for their relative seniority by the Police Chief on their assigned shift and days off.

G. Court Appearances

Job related court appearances which cause a member to work in excess of the normal workday/workweek are compensated as follows:

1. The actual time in court is compensated to the nearest quarter hour. Employees shall be compensated, in accordance with Sections B and C of this Article, for a minimum of one (1) hour court time.
2. One (1) hour of travel time is compensated, in accordance with Sections B and C of this Article, unless the appearance coincides with a normal shift.
3. Any witness fees paid to a member are endorsed to the Department if the member wants overtime compensation for the appearance.
4. Court appearances during normal shift are not eligible for additional compensation.

H. Emergency Call-Back

1. BPOA employees called back from scheduled vacation or compensatory time off shall be paid their time and one half rate for the first shift they work.
2. BPOA employees called back to work outside their normal work day/work week shall, in addition to time actually worked, be compensated for one (1) hour of travel time, in accordance with Sections B and C of this Article.

I. Emergency City Closures

In the event of emergency city closures, BPOA employees shall be considered essential personnel.

ARTICLE 17. Wages

Section 1. Salary Schedule

1. 2010 Salary Schedule

The following shall be the salary schedule in 2010 and shall be paid, if the normal workweek is worked or fulfilled as paid leave, subject to appropriation. The salary schedule in effect pay period 26 of 2009 will remain in effect through pay period 13 of 2010. Effective pay period 14 of 2010 the following salary schedule shall be in effect.

Boulder Police Officers Association			
1.0% Increase Effective Pay Period #14, 2010			
(Note: Hourly rates are rounded to the decimal place that the personnel data system is utilizing at the time of print)			
		Officer	Sergeant
MINIMUM	Hourly	\$22.5138	\$31.9253
	Pay Period	\$1,801.10	\$2,554.02
	Monthly	\$3,902.39	\$5,533.72
	Annual	\$46,828.72	\$66,404.61
MAXIMUM	Hourly	\$33.3561	\$42.2090
	Pay Period	\$2,668.48	\$3,376.72
	Monthly	\$5,781.72	\$7,316.23
	Annual	\$69,380.60	\$87,794.74

2. 2011 Salary Schedule

Effective pay period #1, 2011 the salary schedule for the bargaining unit shall reflect a 3.5% increase over the salary schedule in effect in the 26th pay period of 2010

Boulder Police Officers Association			
3.5% Increase Effective Pay Period #1, 2011			
(Note: Hourly rates are rounded to the decimal place that the personnel data system is utilizing at the time of print)			
		Officer	Sergeant

MINIMUM	Hourly	23.3018	\$33.0427
	Pay Period	\$1,864.14	\$2,643.41
	Monthly	\$4,038.98	\$5,727.40
	Annual	\$48,467.71	\$68,728.79
MAXIMUM	Hourly	\$34.5236	\$43.6863
	Pay Period	\$2,761.89	\$3,494.91
	Monthly	\$5,984.08	\$7,572.29
	Annual	\$71,809.01	\$90,867.54

Section 2. Patrol and Detective Officer Salaries

All officers shall move through the salary range according to the following procedures:

1. The starting salary for all positions will be the minimum of a salary range, according to job classification, except as provided for in section 4., "Lateral Entry," of this article. After twelve (12) months of continuous and uninterrupted service, employees shall become eligible for a merit increase.
2. Upon review and evaluation of individual performance by division supervisors and with approval of the Police Chief, employees shall be eligible for a merit increase. Employees whose performance is rated "needs improvement", as determined by the employee evaluation and rating system, will not receive a merit increase; employees whose performance is rated "competent" or above shall receive six percent (6%).

Annual review and merit increases shall continue until an employee reaches the maximum of the salary range.

When granted, merit increases shall not be for less than six percent (6%), except when that amount exceeds the difference between an employee's current salary and the maximum of that employee's salary range. In such cases and when an increase is appropriate, it shall be for the full amount necessary to bring the employee to the maximum of his/her salary range.

3. In no event shall a rate be paid that is less than or exceeds the range to which the classification is allocated.
4. Absences without pay in excess of one (1) calendar month shall extend entitlement to the merit increase by the amount of such leave.

Section 3. Sergeant's Salaries

All Sergeants shall move through the salary range according to the following procedure:

1. The starting salary for all positions will be the minimum of a salary range, according to job classification, except as provided for in section (3)(3) and section 4, "Lateral Entry", of this article. After twelve (12) months of continuous and uninterrupted service, employees shall become eligible for a merit increase, unless probation has been extended for performance or disciplinary reasons. Once removed from probation, the employee shall receive a 6%

increase. The end of such probation establishes a new merit date but does not affect the promotion/seniority date.

2. Upon review and evaluation of individual performance by section supervisors and with approval of the Police Chief, employees shall be eligible for a merit increase. Employees whose performance is rated "needs improvement", as determined by the employee evaluation and rating system, will not receive a merit increase; employees whose performance is rated "competent" or above shall receive six percent (6%).

Annual review and merit increases shall continue until an employee reaches the maximum of the salary range.

When granted, merit increases shall not be for less than six percent (6%), except when that amount exceeds the difference between an employee's current salary and the maximum of that employee's salary range. In such cases and when an increase is appropriate, it shall be for the full amount necessary to bring the employee to the maximum of his/her salary range.

3. Employees promoted to Sergeant shall receive the minimum salary of the new grade or a five percent (5%) increase above their present salary, whichever is greater. A new evaluation date is established by a promotion.
4. Upon demotion, the employee shall receive a five percent (5%) decrease in salary or the maximum of the new grade, whichever is the lesser. A new evaluation date is established by a demotion.
5. In no event shall a rate be paid that is less than or exceeds the range to which the classification is allocated.
6. Absences without pay in excess of one (1) calendar month shall extend entitlement to the merit increase by the amount of such leave.

Section 4. Lateral Entry

In order to attract and recruit qualified and experienced applicants, new employees with prior law enforcement may be paid at a level above the normal starting salary.

- A. The level at which new employees enter the salary schedule shall be determined by the Police Chief and the HR Director.
- B. New employees shall not receive any consideration for seniority, except as outlined in Article 14, "Seniority", of this Agreement.

Section 5. Performance Evaluation

- A. All employees covered by this Agreement shall be evaluated, on the employee's evaluation date (date of employment or date of promotion) and/or merit date. An employee shall be eligible for a merit increase based on each evaluation until the employee has attained the maximum of his/her range. Thereafter, the employee will be evaluated annually.
- B. The above described evaluations represent the minimum number of evaluations which must take place each year; however, any employee or employees may be evaluated more frequently or regularly, if deemed appropriate by the Police Chief. Salary increases shall not accompany these additional evaluations.

Section 6. Acting Pay

Any employee covered by this Agreement who serves out of rank in an acting capacity shall receive additional compensation in the form of one (1) hour of compensatory time for each full shift so employed.

Section 7. Premium Pay

A. Explosives Technician

1. Any employee covered by this Agreement who serves as an explosives technician shall receive a salary adjustment of five percent (5%) per pay period.
2. All terms of the explosives technician, including the duties and responsibilities of the position, shall be established by the Police Chief and not subject to negotiations, however, shall be established in accordance with Article 10., "Management Rights and Responsibilities", section B., of this Agreement.
3. The Police Chief shall appoint employees to the position of explosives technician. The appointment, or failure to appoint any individual to the position, shall not be subject to the grievance procedure. The removal of an employee from the position shall not, of itself, be considered disciplinary action and shall not be subject to the grievance procedure.

B. Pager Pay

1. In order to fulfill the objectives of the Department and to properly complete crime scene investigations in a timely manner, it is necessary that members of the Detective Section be available by telephone and/or pager on a rotating basis.
2. Detectives Assigned to General Investigations

To compensate such employees required to periodically carry a pager, employees assigned to General Investigations within the Detective Section shall receive a salary adjustment of two percent (2%) per pay period.
3. Sergeants Assigned to the Detective and Traffic Sections

To compensate such employees required to periodically carry a pager, any employee who is assigned as a Sergeant in the Detective or Traffic Sections shall receive a salary adjustment of four percent (4%) per pay period.
4. The terms of the pager program shall be established by the Police Chief and not subject to negotiations, however, shall be established in accordance with Article 10, "Management Rights and Responsibilities", section B. of this Agreement.

Section 8. Master Police Officer (MPO) Program

The terms and conditions of the MPO Program shall be established by the department, based on recommendations from the MPO Committee. The expectation is that the BPOA will be represented on this committee.

Compensation shall be in the form of a bonus paid to qualified members each year that they participate in the program. Monies paid to members for the MPO Program are not part of base salary. This program will be funded from interest earned from the Asset Forfeiture Program of the Police Department.

Participation in the MPO Program for BPOA members is not subject to the grievance procedure.

Section 9. Pay Grades

Pay grades of new jobs and classifications shall be allocated by the HR Director with approval of the City Manager or his/her designate. The HR Director will seek and consider input from the Bargaining Unit prior to finalizing any new salary grade.

Section 10. Police Training Officer (PTO)

Any employee who is assigned by the Chief or his designee as a Training Officer in the department's training program shall be paid additional compensation of five percent (5%) of the employee's base pay for the period of participation. Assignment in the Training Officer Program is solely at the discretion of the Police Chief or his designee and is not subject to the grievance procedures.

ARTICLE 18. Personal Leave

Section 1. Personal Leave Eligibility, Termination, and Scheduling

- A. All employees who have been on active payroll continuously for six (6) months shall be eligible to take personal leave.
- B. Termination
 - 1. Upon termination of employment, a benefit equal to the amount of accrued and unused leave shall be paid to the terminated employee in a single, lump sum amount.
 - 2. Upon the death of an employee, a benefit equal to the amount of accrued and unused leave will be paid to the estate of the deceased.
- C. Scheduling
 - 1. Choice of leave dates, based on seniority, shall be granted whenever practical, but scheduling of leave shall rest with the Police Chief in accordance with departmental operations and policies.
 - 2. Employees who are receiving injury pay shall not be eligible to take personal leave at the same time.

Section 2. Personal Leave Accrual

- A. Personal leave shall be accrued by employees being continuously employed for the following periods of time.

YEARS OF CONTINUOUS SERVICE COMPLETED		LEAVE ACCRUAL RATE	
At Least	Less Than	Hours/80 Hour Pay Period	Length of Personal Leave in Hours
0.0	3.0	6.85	178
3.0	7.0	7.77	202
7.0	10.0	8.70	226
10.0	12.0	9.31	242
12.0	13.0	9.93	258

13.0	14.0	10.54	274
14.0	---	11.16	290

B. Absence from the job shall be counted as "continuous service" for all paid leave, and for authorized leave without pay not to exceed one (1) calendar month during any calendar year.

C. Carry Over and Accrual Limits

To encourage employees to take leave annually, carry over from one payroll year to the next shall not exceed four hundred and ninety (490) hours. Personal leave accrual shall not exceed five hundred and seventy (570) hours except at the discretion of the Police Chief.

D. Buy Back

1. At the end of each calendar year, employees who have used less than forty (40) hours of sick leave and have completed thirty-six (36) months of continuous service at the time of conversion shall have the option of converting forty (40) hours of accrued personal leave for forty (40) hours of pay at his/her regular, straight-time hourly rate at any time during the first three (3) months of the following year. There will be an exception to the limit on less than forty (40) hours of sick leave use for those days when a BPOA employee uses sick leave for three (3) consecutive working days or more with medical verification. These consecutive days will not count towards the forty (40) hour limit.
2. Employees who are eligible for the leave conversion to pay as described in paragraph 1 above, and who do not request such a conversion during the first three (3) months of a given year, may request a conversion during the remainder of that year. However, such a conversion will be subject to the approval of the Police Chief, or his/her designee, and may be denied. Under no circumstances will an employee be allowed to convert leave to pay more than once in a calendar year.
3. Employees on scheduled personal leave who are called back to work and, because of the call back would otherwise forfeit personal leave hours due to the carry over cap in paragraph C of this article, and are unable to reschedule the personal leave to comply with the carry over cap, shall be allowed to sell back such scheduled personal leave hours in excess of the four hundred and ninety (490) hours at his/her regular, straight time rate.

ARTICLE 19. Sick Leave

A. Accumulation

Sick leave is to be accumulated by employees according to the following schedule:

Employees Hired Before January 1, 2001	Hours per Pay Period
All Employees	4.62
Employees Hired After December 31, 2000	Hours per Pay Period
Employees with zero (0) to forty-eight (48) months of continuous service	3.85
Employees with more than forty-eight (48) months of continuous service	4.62

Sick leave shall not be earned during leave without pay. All sick leave shall be accumulated without limit.

B. Use of Sick Leave

1. Personal Time: Sick leave shall be used when employees are incapacitated by sickness or injury (other than injury incurred in the performance of duty), for medical treatment or exposure to contagious disease (when the attendance of duty jeopardizes the health of others).
2. Family Time:
 - a. Sick leave may also be used for attendance to the serious illness of a member of the employee's immediate family, as defined in Article 21, Emergency Leave.
 - b. Sick leave may also be used to attend to the "routine" illness or custodial care of an employee's spouse/domestic partner, children, and parents.
3. The following procedure shall be used for sick leave:
 - a. Notify the supervisor; and
 - b. If absent from work for over three (3) consecutive workdays, medical verification of absence must be provided to the supervisor, if so requested.
4. Sick leave shall not exceed the total amount credited to an employee at the time of his/her absence, except in specific instances, as authorized by the HR Director. Upon approval of the Police Chief, vacation leave credits may be used for sick leave when sick leave credits have been exhausted.

C. Incentives - Old Hire Pension BPOA Employees (**employees hired before April 8, 1978**)

1. **Accrual of Sick Leave with a Cash and Conversion Value:** Old Hire Pension BPOA employees will continue to accrue sick leave with a cash/conversion value (no change from the 1997 BPOA contract).
2. **Conversion to Vacation Leave:** Old Hire Pension BPOA employees may convert their bank of sick leave hours to vacation hours as follows:
 - a. Once every six (6) months, an Old Hire Pension BPOA employee who has not used any sick leave for six (6) continuous months, and has accumulated in excess of two hundred forty (240) hours of sick leave, may convert sick hours in excess of that amount, up to but not to exceed one hundred (100) hours, to personal leave hours at the rate of two (2) sick hours for one (1) personal leave hour. However, the employee's personal leave balance resulting from such conversion may not exceed four hundred ninety (490) hours.
 - b. When an Old Hire Pension BPOA employee has accumulated six hundred forty (640) hours of sick leave, she/he may convert sick hours beyond this point to personal leave hours at the rate of two (2) sick hours for one (1) personal leave hour. However, the employee's personal leave balance resulting from such conversion may not exceed four hundred ninety (490) hours.
 - c. At the end of November of each calendar year, Old Hire BPOA employees who have used less than forty (40) hours of sick leave shall have the option of converting all remaining sick leave accrued during that year to personal leave at the rate of two (2) sick hours for one (1) personal leave hour. However, the employee's resulting personal leave balance may not exceed four hundred (490) hours.

- d. An Old Hire BPOA Pension employee may convert personal leave to direct pay as described in Article 18, "Personal Leave Accrual", section (3)(D), "Buy Back".
 - e. For the purpose of this article, conversion of sick or personal leave shall not constitute use.
3. **Cash Conversion upon Termination:** Upon termination, Old Hire Pension BPOA employees who have accrued at least four hundred eighty (480) hours of sick leave may convert all such sick leave to a lump sum payment equal to one half the per hour cash equivalent at their regular straight-time hourly rate with the following limitation: Conversion to cash upon termination shall be limited to the sum of the sick leave hours the individual employee had accrued by December 20, 1993, plus nine hundred (900) hours.
- D. Incentives - New Hire Pension BPOA Employees (**employees hired after April 8, 1978**)

1. **Freeze of Sick Leave with a Cash and Conversion Value:** The 1998 BPOA contract will freeze the cash conversion rates and the number of convertible sick leave hours for all New Hire Pension BPOA contract members as of the end of the 1997 BPOA contract year (the end of pay period 26, 1997) according to the following terms:

- a. Less than 120 Months of Service: For those New Hire Pension BPOA employees who have less than one hundred and twenty (120) months of service as of the end of the 1997 BPOA contract year, the initial number of sick leave hours with cash/conversion value in their sick leave bank will equal any hours exceeding six hundred and forty (640) as of the end of the 1997 BPOA contract year.
- b. 120 Months or More of Service: For those New Hire Pension BPOA employees who have one hundred and twenty (120) or more months of service and who have accrued at least four hundred eighty (480) hours of sick leave as of the end of the 1997 BPOA contract year, the initial number of sick leave hours with cash/conversion value in their sick leave bank will equal their full sick leave balance as of the end of the 1997 BPOA contract year.

New Hire Pension BPOA contract members who are not already eligible for the sick leave cash conversion benefit as of the end of the 1997 BPOA contract year (the end of pay period 26, 1997) will never be eligible for this benefit.

Use of Sick Leave Hours with a Cash/Conversion Value: Commencing pay period 1, 1998, any sick leave time a New Hire Pension BPOA employee takes shall be deducted from his/her bank of sick leave hours with no cash/conversion value first, reducing his/her initial bank of sick leave hours with a cash/conversion value only after the bank of sick leave hours with no cash/conversion value is exhausted. Once reduced, New Hire Pension BPOA employees will not be able to replenish the bank of sick leave hours with a cash/conversion value they had accrued as of the end of the 1997 BPOA contract year (the end of pay period 26, 1997).

2. **Conversion to Vacation Leave:** New Hire BPOA employees who are eligible for the sick leave cash conversion benefit upon termination or retirement at the end of the 1997 BPOA contract year (the end of pay period 26, 1997) may convert the bank of sick leave hours with a cash/conversion value which they had as of the end of the 1997 BPOA contract year (the end of pay period 26, 1997) to vacation hours as follows below (paragraphs a-e). The initial bank of sick leave hours with a cash/conversion value which eligible New Hire BPOA employees had as of the end of the 1997 BPOA contract year (the end of pay period 26, 1997) will be reduced proportionally, depending on the number of sick leave hours converted to vacation hours.

- a. Once every six (6) months, a New Hire Pension BPOA employee who has not used any sick leave for six (6) continuous months, and has accumulated in excess of two hundred forty (240) hours of sick leave, may convert sick hours in excess of that amount, up to but not to exceed the lesser of one hundred (100) hours or the employee's bank of sick leave with a cash/conversion value, to personal leave hours at the rate of two (2) sick hours for one (1) personal leave hour. However, the employee's personal leave balance resulting from such conversion may not exceed four hundred ninety (490) hours.
 - b. When a New Hire Pension BPOA employee has accumulated six hundred forty (640) hours of sick leave, she/he may convert sick hours beyond this point, not to exceed the employee's bank of sick leave with a cash/conversion value, to personal leave hours at the rate of two (2) sick hours for one (1) personal leave hour. However, the employee's personal leave balance resulting from such conversion may not exceed four hundred ninety (490) hours.
 - c. At the end of November of each calendar year, New Hire Pension BPOA employees who have used less than forty (40) hours of sick leave shall have the option of converting all remaining sick leave accrued during that year, not to exceed the employee's bank of sick leave with a cash/conversion value, to personal leave at the rate of two (2) sick hours for one (1) personal leave hour. However, the employee's resulting personal leave balance may not exceed four hundred (490) hours.
 - d. A New Hire Pension BPOA employee may convert personal leave to direct pay as described in Article 18, "Personal Leave Accrual", section (3)(D), "Buy Back".
 - e. For the purpose of this article, conversion of sick or personal leave shall not constitute use.
3. **Cash Conversion upon Termination:** Upon termination, New Hire Pension BPOA employees can convert their remaining bank of sick leave hours with cash/conversion value to a lump sum payment equal to one half the per hour cash equivalent at their regular straight-time hourly rate according to the following terms:
- a. Less than 120 Months of Service: Upon termination, New Hire Pension BPOA employees who have served for less than one hundred and twenty (120) months may convert any sick hours over six hundred and forty (640), not to exceed their remaining bank of sick leave hours with a cash/conversion value.
 - b. 120 Months or More of Service: Upon termination, New Hire Pension BPOA employees who have served for one hundred and twenty (120) months or more and who have a final sick leave balance of at least four hundred eighty (480) hours may convert all remaining sick leave hours with a cash/conversion value in their sick leave bank.

E. Frequent Usage

If an employee is frequently absent, she/he may be required to submit a written doctor's statement acceptable to the City justifying sick leave usage.

The Police Chief may require such employee to undergo an additional medical examination to determine fitness for duty. In such cases, the City shall select a physician and shall pay all expenses.

ARTICLE 20: Injury Leave

- A. Injury leave shall be granted to employees who sustain an injury or contract an illness, compensable under the Worker's Compensation Act of Colorado and arising out of, or in the actual course of the employee's regular job duties. Injury Leave is considered temporary and is not intended to serve as any type of disability benefit as contemplated under the Statewide Death and Disability Plan administered by the Fire and Police Pension Association.
- B. Injury Leave is compensated at the employee's regular hourly rate, exclusive of overtime. An employee may not receive injury leave simultaneously with State Compensation Insurance payments. All such payments, except those for permanent partial or total disability, will be made directly to the City for the employee's entire injury leave period.
- C. An employee on injury leave shall accrue all benefits associated with regular time worked. However, time spent on injury leave will not count as time worked for the purpose of completing a probationary period.
- D. Use of injury leave for the purpose of engaging in other employment without the written approval of the Police Chief constitutes grounds for termination from employment with the City.
- E. An employee not reporting for work at the end of injury leave, when not excused by the provisions of this Article, shall be considered to have voluntarily resigned.
- F. An employee who qualifies for injury leave may be required to perform other duties in the Department. These duties will fall within medically determined restrictions related to the employee's injury/illness. Such duties will be identified and scheduled by the Police Chief or Police Chief's designee.
- G. If it is not clear whether the injury/illness meets the criteria described in paragraph A. above, the City shall advance injury leave for the lesser of the following time periods: 1) thirty (30) working days; or 2) until a medical report, provided at the City's expense, clearly demonstrates the employee is able to return to work.

Should the injury or illness be subsequently deemed non-compensable under the Worker's Compensation Act of Colorado, the employee shall reimburse the City for all advanced injury leave time. The employee must first use current sick, vacation, and/or compensatory leave to reimburse the City. If total reimbursement cannot be made from the employee's current leave balances, payment will then be made from earned sick, vacation and compensatory leave credits as they are accrued until reimbursement is complete. If the employee is terminated for any reason prior to full reimbursement, the value of the remaining balance shall be deducted from the final paycheck. The employee shall remain liable for any additional unpaid balance.

- H. Anytime after Injury Leave is granted, the Police Chief may require the employee to undergo one or more medical examinations at the City's expense to determine if the employee can return to work. Any doctor performing such examination(s) shall submit a report of the findings to the Police Chief and a copy shall be provided to the employee.
 - 1. If the medical examination determines that the employee can return to work, no further Injury Leave will be granted. The employee shall return to work on their next regularly scheduled shift.
 - 2. If such medical examination determines that the employee will not be able to return to full duty within one year, the employee may be required by the Police Chief to apply for disability retirement with the Fire and Police Pension Association (FPPA). If the employee fails to apply to the FPPA for a disability pension within seven (7) calendar days of the request, the employee shall be terminated as of the seventh (7th) day.

3. If the employee has any medical opinion in conflict with returning the employee to work, the employee must notify the Police Chief no later than the start of their next regularly scheduled shift.

An employee who gives such notice will have seven (7) calendar days to submit such medical evidence to the Police Chief and also file a claim for disability with the FPPA. If the employee fails to produce conflicting medical opinion, fails to file for disability, fails to return to work, or fails to fully comply with the FPPA disability process, the employee may be terminated at the end of the seven (7) day period.

If the employee provides such conflicting medical opinion and files for disability within the time limits described above, injury leave will be reinstated until the employee's claim for disability has been decided upon by the FPPA.

4. If the employee refuses such examination(s), eligibility for injury leave shall cease immediately and the employee shall have seven (7) calendar days to file a claim with FPPA for a disability determination. If the employee fails to file such a claim within seven (7) calendar days, the employee shall be considered terminated as of the seventh day. If the employee does file such claim, the employee will be considered on leave without pay until the FPPA makes a determination. If the FPPA finds the employee ineligible for a disability pension, the employee shall return to work their next regularly scheduled shift or be immediately terminated.
5. At any time the FPPA denies a disability pension application, the employee shall return to work on their next regularly scheduled shift or be terminated.
6. The final decision on disability will be made by FPPA and will be binding on both the City and the employee.

ARTICLE 21. Emergency Leave

- A. In the event of the death of a member of the immediate family of any employee covered by this Agreement, the immediate family being mother, father, in loco parentis, sister, brother, spouse, child, step-child, father-in-law, mother-in-law, sister-in-law, brother-in-law, grandparent, or intimate/romantic relationship, said employee shall be granted Emergency Leave up to forty (40) hours per incident.
- B. In addition to the time granted in Article 21(A) or in the event of a death not listed in Article 21 (A), the Police Chief may authorize use of Personal Leave and/or compensatory time off.
- C. Emergency Leave may be granted for other situations at the discretion of the Police Chief.
- D. Employees shall be paid the regular, straight-time rate for any such days of excused absence which occur during the normal workweek.
- E. Problems or issues arising out of emergency leave shall be subject to the grievance procedure but may not be submitted to arbitration.

ARTICLE 22. Military Leave

- A. Employees shall be governed by applicable federal and Colorado law. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), permits an employee who is a member of the uniformed services, including the Military, National Guard, Reserves, Public Health Service, and some civilians under National Disaster Services to unpaid leave and reemployment after such leave. Implementation of military leave provisions not specified in this contract shall

follow federal and Colorado law governing employer employee responsibilities in regard to an employee's membership or potential membership in the uniformed services. If any language in the contract is found to be in conflict, federal and Colorado law will prevail.

- B. Upon honorable discharge from such service, she/he shall be restored to her/his regular or equivalent job at its then current status in accordance with applicable law. Unless impossible or unreasonable through no fault of the employee, service over 180 days requires an application for re-employment within 90 days. If service was over 30 days and less than 181 days, the application for re-employment must be made within 14 days. Service of less than 31 days requires the employee to return to work no later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completed service and allowing for eight hours of safe transportation time.
- C. In the event an employee becomes disabled while serving military duty, and she/he is physically unfit to perform the work connected with her/his regular job, the City will endeavor to place him/her in a job she/he is capable of doing satisfactorily.
- D. All military leave time spent shall be counted as continuous service and an employee returning from such military service shall be eligible to begin accrual of benefits as though her/his service had been uninterrupted.

Section D of this article shall not apply to within grade advancement governed by actual on-the-job performance. Merit increases will be granted based on the employee's last performance rating prior to military leave.

E. Paid Military Leave

1. Paid military leave shall be limited to fifteen (15) normally scheduled work days in any calendar year. Paid military leave shall commence the first working day the employee is on military leave from her/his job and terminate on the last calendar day she/he is on paid military leave, as evidenced by the copy of the military order covering the leave period. No person shall be denied benefits or compensation to which otherwise entitled as an employee by virtue of attendance at training.

2. Employees will sustain no interruption in earnings or benefits during the fifteen (15) day military leave described in paragraph (E)(1) above.

- F. Employees shall provide notification to their immediate supervisors as soon as possible prior to deployment/activation, unless the giving of such notice is precluded by military necessity, or under all of the relevant circumstances, is otherwise impossible or unreasonable.

ARTICLE 23. Voting Time and Jury Duty

- A. Any employee lawfully entitled to vote in any public election shall be afforded a sufficient amount of time not to exceed two (2) hours off from duty without loss of pay to cast his/her ballot at the required location. Employees shall vote either prior to or subsequent to normal duty hours where such is reasonably possible. Any leave so taken shall be subject to authorization by the employee's immediate supervisor.
- B. An employee who is required to report for jury duty or jury service on a normal work day shall be permitted to be absent from his/her duties without loss of pay and without charge against any leave. Pay received for jury service on a normal work day shall be surrendered to the City.

ARTICLE 24. Leave of Absence Without Pay

- A. All requests for a leave of absence without pay for up to ten (10) workdays require a written application to the Police Chief. The application shall contain the specific reason for the leave, the date leave would begin, and the probable date of return. The application shall be submitted prior to the first effective day of the leave.
- B. A leave of absence without pay beyond ten (10) workdays requires approval from the Police Chief and the HR Director. The application shall contain the specific reasons for the leave over ten (10) days, the date leave would begin, and the probable date of return. A written application signed by the Police Chief shall be submitted to the HR Director two (2) weeks prior to the first effective day of the leave, except for emergency situations.
- C. An employee on a leave of absence without pay may engage in other employment under the following conditions:
 - 1. having secured the Police Chief's prior approval; and
 - 2. having secured the Police Chief's approval of the specific type of employment prior to beginning work.

To engage in other employment while on a leave of absence without pay, except as herein defined, automatically constitutes termination of employment with the City.

- D. An employee who is on a leave of absence without pay does not accumulate vacation and sick leave as though she/he were being paid. An employee on leave beyond one (1) month, must bear full cost of all benefits.
- E. The failure of an employee on a leave of absence without pay to report back to work at the end of his/her leave, or to secure the approval of the Police Chief or the HR Director to extend the leave will be considered a voluntary resignation by the employee.
- F. Employees returning from leave of absence prior to their agreed upon date shall be returned to their former positions as soon as practicable.

Employees on leave of absence shall be reinstated to their former positions at the agreed upon end of their leave, unless mutually agreed by the Police Chief and the employee.

An employee on leave of absence without pay shall not accumulate seniority during his/her absence, and upon his/her return to duty an employee's seniority shall be adjusted according to the length of his/her absence

- G. Leave of Absence for Medical Condition
 - 1. An employee who develops a medical condition that causes his/her absence from work, may, upon a physician's certification (acceptable to the City) of inability to work, begin the use of accrued sick leave or request a medical leave of absence for up to ninety (90) calendar days.
 - 2. To be eligible for this leave of absence, an employee must have been employed by the City, as a regular employee in good standing with continuous and uninterrupted service, for no less than one (1) full year prior to commencing such leave.
 - 3. Such a leave of absence may be granted not to exceed ninety (90) calendar days.

ARTICLE 25. Unauthorized Absence

- A. When a member is going to be absent from duty for any reason she/he must notify his/her Division supervisor as far in advance as is reasonably possible. A member who is not able to anticipate the absence and provide advance notice, shall report the absence as soon as is reasonably possible. In the usual case, notice shall be provided no later than one (1) hour

before the start of the member's duty shift. The member shall follow the notification process as outlined in Department policy.

- B. When a member is absent, without notice, for four (4) consecutive duty shifts, she/he shall be placed upon leave without pay. Once a member is placed upon leave without pay, the member's Commander/Manager shall attempt to contact the member to determine his/her status. Upon contact the member shall be informed of a hearing date wherein the member may explain his/her absence. The hearing shall be held before the Police Chief, no sooner than seven (7) calendar days after notification. At the completion of the hearing the Police Chief shall determine if the member has voluntarily resigned or should be returned to duty. Should contact with the member not be made, the member shall remain on leave without pay for a period of fourteen (14) days. At the end of this period the member shall be deemed to have voluntarily resigned without recourse.

ARTICLE 26. Group Insurances

A. Group Hospital and Medical Plan

- 1. 2010 Contribution levels
 - a. The City and BPOA agree that the City contribution toward the health insurance premium for BPOA members will be based on an 80%/20% split of the premium of the most expensive plan offered by the City; the City shall contribute 80% of the most expensive plan premium for family, two person, and single coverage, as applicable, and the employee shall contribute 20%.
 - b. The City shall pay an amount up to the equivalent dollar amount of the above maximum insurance contribution levels for any employee who chooses to enroll in any other medical program recognized by the City.
- 2. 2011 Contribution levels
 - a. The City and BPOA agree that the City will contribute 100% of the health insurance premium for the highest deductible plan. This plan will have an annual individual deductible no greater than \$1,500.
 - b. The City will contribute 80% of the health insurance premium for all other plans offered for family, two person, and single coverage, as applicable, and the employee shall contribute 20%.
- 3. For all new employees, coverage begins the date of enrollment.
- 4. Employees must work, or be on status of paid leave, for at least sixteen (16) days of each month to receive payment for that month, except as provided in Article 24, "Leave of Absence", section F.
- 5. The City's group hospital and medical plan is subject to the terms of the insurance carrier and should benefits or conditions of the insurance change during the life of this agreement, such changes shall be considered binding on both the City and the Boulder Police Officers Association.
- 6. The City shall make no material changes in the level of benefit in effect on January 1, 2010, without seeking and considering input from the BPOA.
- 7. Should the insurance carrier increase its premium between January 1 and December 31 of any given year, the City agrees to pay the increased costs.

B. Group Dental Plan

1. Contribution levels

Every full time employee covered by this agreement shall be eligible to participate in the City's group dental insurance plan.

For the years 2010 and 2011, the City and BPOA agree that the City contribution toward the monthly dental insurance premium for BPOA members will be based on an 90%/10% split of the premium of the most expensive dental plan offered by the City; the City shall contribute 90% of that premium for family, two person, and single coverage, as applicable, and the employee shall contribute 10%.

2. For all new employees, coverage begins the date of enrollment.
3. Employees must work, or be on status of paid leave, for at least sixteen (16) days of each month to receive payment for that month, except as provided in Article 24, "Leave of Absence", section F.
4. The City's group dental plan is subject to the terms of the insurance carrier and should benefits or conditions of the insurance change during the life of this agreement, such changes shall be considered binding on both the City and the BPOA
5. The City shall make no material changes in the level of benefit in effect on January 1, 2010, without seeking and considering input from the BPOA.
6. Should the insurance carrier increase its premium between January 1 and December 31 of any given year, the City agrees to pay the increased costs.

ARTICLE 27. Voluntary Employee Benefit Association (VEBA)

- A. Employees are entitled to participate in group life insurance offered by the Boulder Police Voluntary Benefit Association (VEBA). The VEBA shall provide coverage to all active employees and to employees who retire on or after January 1, 1989.
- B. Once each month, the City shall forward \$30.00 per active employee to the VEBA
- C. The VEBA shall maintain conformance with all applicable I.R.S. regulations. The City may review the status of the VEBA prior to forwarding monthly installments.
- D. At any time in the future, should the BPOA want to return to the City's insurance programs, it will be considered only for the entire group, only at the start of a new year, and only for the complete set of benefits. Coverage for individual employees will be subject to the terms of the insurance carrier.

ARTICLE 28. Fire and Police Pension Association Disability Insurance

- A. Employees Hired on or After January 1, 1997

For all employees hired on or after January 1, 1997 who are eligible for the death and disability coverage provided under § 31-31-811(4), *et seq.*, C.R.S., the City shall make the required contribution to the death and disability fund.

ARTICLE 29. Uniforms

Patrol officers and Sergeants shall be furnished all required equipment with the exception of regular uniform shoes or boots, and undergarments. Regular replacement articles shall be provided, as necessary, for wear or damage or loss occurring while in the performance of duties. Upon approval by the Police Chief, personal, conforming equipment may be used by individual employees, if desired, in lieu of use of City property.

ARTICLE 30. Retirement

A. Appreciation Bonus

Employees with 10 or more years of continuous service as of December 28, 1997 (last day of Pay Period 26, 1997)

An employee who retires or voluntarily terminates with two weeks notice and who has twenty (20) years of service as of December 28, 1997 (last day of Pay Period 26, 1997) shall receive an appreciation bonus of two (2) months salary. An employee who retires or voluntarily terminates with two weeks notice and who has ten (10) years of service as of December 28, 1997 (last day of Pay Period 26, 1997) shall receive a prorated fraction of the twenty (20) year retirement bonus based on total full years of service completed as of December 28, 1997 (last day of Pay Period 26, 1997). The two week notice requirement will be waived in the event of the employee's death.

Employees with less than 10 years of continuous service as of December 28, 1997 (last day of Pay Period 26, 1997)

An employee who has not completed 10 or more years of continuous service as of December 28, 1997 (last day of Pay Period 26, 1997) shall not receive an appreciation bonus upon termination or retirement and will never be eligible for the above mentioned appreciation bonus upon termination or retirement, with the following two exceptions:

- 1) Employees with 9 years of service but less than ten years of service as of the end of the 1997 BPOA contract year (the end of pay period 26, 1997) will be eligible to qualify for the appreciation bonus benefit when and if they achieve the ten year service level during the 1998 BPOA contract year (by the end of pay period 26, 1998). However, the appreciation bonus level for those employees qualifying for the appreciation bonus benefit during the 1998 BPOA contract year will freeze at the ten year service level.
- 2) Old Hire Pension employees who are below twenty years of service will be eligible to earn the full appreciation bonus benefit according to the appreciation bonus benefit provisions in the 1997 BPOA contract.

B. Contribution Levels

1. Employees Hired on or After April 8, 1978 (New Hire)

Under the Plan, the City will contribute thirteen and eight tenths percent (13.8%) of each participating employee's base salary per pay period. Each participating employee shall contribute six and two tenths percent (6.2%) of his or her base salary per pay period to the Plan, which amount shall be picked up each pay period by the City on behalf of each participating employee. It is understood that this amount shall be paid by the City to the Plan in lieu of such contribution being paid directly by each participating employee. No participating employee shall have the option of choosing to have the City pay him or her

directly his or her contribution of six and two tenths percent (6.2%) of base salary instead of having such contribution picked up and paid over to the Plan by the City. Although each participating employee's contribution of six and two tenths percent (6.2%) of his or her base salary to the Plan is otherwise designated as the contribution of such employee, it is intended that such contribution shall be treated, for federal income tax purposes, as an employer contribution under the Internal Revenue Code of 1954, as amended, as provided under Section 414(h)(2). For purposes of determining the amount of the above percentage contributions, the base salary of a participating employee shall be based on his or her applicable salary schedule as set forth in Article 17 "Wages", hereof. However, for federal income tax purposes, the amount of a participating employee's taxable income and of his or her wages for withholding tax purposes shall not include such participating employee's required contribution picked up by the City. The contributions required hereinbefore in this paragraph B. are intended to be in conformance with the mandates of the applicable laws of the State of Colorado relating to police pensions.

2. Employees Hired Before April 8, 1978 (Old Hire)

The City shall contribute 2.0% of base salary per participant per pay period to the Police Pension Fund. Each participating employee shall contribute 2.0% of base salary per pay period to the Police Pension Fund, which amount shall be picked up each pay period by the City on behalf of each participating employee. It is understood that this amount shall be paid by the City to the Police Pension Fund in lieu of such contribution being paid directly by each participating employee. No participating employee shall have the option of choosing to have the City pay him or her directly his or her contribution of 2.0% of base salary instead of having such contribution picked up and paid over to the Police Pension Fund by the City. Although each participating employee's contribution of 2.0% of his or her base salary to the Police Pension Fund is otherwise designated as the contribution of such employee, it is intended that such contribution shall be treated for federal income tax purposes, as an employer contribution under the Internal Revenue Code of 1954, as amended, as provided under Section 414(h)(2). For purposes of determining the amount of the above percentage contributions, the base salary of a participating employee shall be based on his or her applicable salary schedule as set forth in Article 17 "Wages", hereof. However, for federal income tax purposes, the amount of a participating employee's taxable income and of his or her wages for withholding tax purposes shall not include such participating employee's required contribution picked up by the City. The contributions required hereinbefore in this paragraph B. are intended to be in conformance with the mandates of the applicable laws of the State of Colorado relating to police pensions.

ARTICLE 31. Indemnification

The City shall indemnify all employees within the scope of this Agreement, to the extent and within the limits mandated by C.R.S., 1973, 29-5-111, as amended, except as set forth in this article. In addition to indemnification pursuant to C.R.S., 1973, 29-5-111, as amended, the City shall consult all employees named as defendants in any civil action prior to an out-of-court settlement.

Further, indemnification shall be afforded to all employees named in any civil action, even should the plaintiff fail to give the notice required by C.R.S., 1973, 29-5-111, as amended, or the Colorado Governmental Immunity Act, C.R.S., 1973, 24-10-101, et. seq., as amended. Nothing in this article shall be construed as a waiver by the City or its employees of the notice requirements set forth by C.R.S., 1973, 29-5-111, as amended, or the Colorado Governmental Immunity Act, C.R.S., 1973, 24-10-101, et. seq., as amended.

ARTICLE 32. Personnel Files

A. Department or City Personnel Files

A member shall have the right to examine his/her own personnel file or files. At the time any material is placed in the member's personnel file or files by the City or any supervisor, a copy shall be forwarded to the member, unless originated by the member.

B. Supervisory "Working Files"

Supervisory "working" files are kept primarily for the purpose of assessing employee performance. Supervisors shall inform employees of any deficiencies in performance or of general problems in a timely fashion with the intent of providing the employee an opportunity to improve his/her performance. "Working" files shall be purged of documented deficiencies in performance which are older than twenty-four (24) months. Deficiencies in performance documented in an evaluation shall not be carried over into another rating period.

ARTICLE 33. Check-Off

- A. During the life of this Agreement, the City agrees to deduct flat-rate membership dues each pay period levied by BPOA in accordance with the Constitution and By-Laws of BPOA from the pay of each employee who executes or has executed an "Authorization for Check-Off of Dues" form.
- B. The City shall not be liable to BPOA by reason of the requirements of this article for the remittance of payment of any sum other than that constituting actual deductions made from employee wages earned.

ARTICLE 34. Line of Duty Death

A. Definitions:

- 1. "Line of duty" means any action which an officer is obligated or authorized by law, rule, or regulation to perform for which the officer is compensated by the City.
- 2. "Killed in the line of duty" means a law enforcement officer has died as a direct and proximate result of injury sustained in the line of duty. This includes victim law enforcement officers who, while in an off-duty capacity, act in response to a violation of the law.

B. Funeral/Burial Expenses

In the event a member is killed in the line of duty, the City shall pay the cost of reasonable funeral/burial expenses up to a maximum of \$10,000.00, which shall be offset by any donated funeral/burial related services.

- C. The City will pay the full cost of health and dental insurance for dependents covered by the City at the time of death of an employee killed while acting as a police officer. Eligibility shall remain consistent with the current plan. Payment will be made for up to a maximum of five (5) years after the death of the employee.

ARTICLE 35. Return-To-Duty

Employees who are otherwise eligible to return-to-duty after being on unpaid leave (including military leave) for twelve (12) or more consecutive months shall be required to undergo a return-to-duty physical qualification test from an authorized City medical provider who uses guidelines established by the Police Department.

Signatures

City and Boulder Police Officers Association 2010/2011 Agreement

Signed this _____ day of _____, 2009.

Jane S. Brautigam
City Manager

Rich Denig
BPOA President

Appendices

APPENDIX A

SECTION 1. EMPLOYEES HIRED PRIOR TO APRIL 8, 1978 (OLD HIRE)

See City "Old Hire" Police defined benefit plan for retirement benefits.

SECTION 2. EMPLOYEES HIRED ON OR AFTER APRIL 8, 1978 (NEW HIRE)

A. Retirement Benefit Levels

The Fire and Police Money Purchase Pension Plan and Trust Agreement of the City (the "Plan") has been established to provide retirement and supplemental death and disability benefits for the employees of the Boulder Police and Fire Departments who are hired on or after April 8, 1978. The Plan is a defined contribution plan.

Individual accounts will be established and maintained for each participating employee as of the date a contribution is first made to the Plan's Trust Fund on his/her behalf. An Employer Contributions Account will be established and maintained for each employee to record his/her share of City contributions and forfeitures. An Employee Contributions Account will be established and maintained for each employee to record his/her interest in the Trust Fund attributable to his/her employee contributions and rollovers (if any).

The amount of benefit to be received at normal retirement by a participating employee is determined by the total value of both his/her Employer Contributions Account and Employee Contributions Account as of the Valuation Date preceding such participating employee's termination of employment.

B. Normal Retirement Age and Vesting Schedule

1. Normal retirement age under the Plan for employees hired on or after April 8, 1978, shall be fifty (50) years of age.
2. Any employee who terminates employment shall be reimbursed all money contributed by him/her, plus all earnings allocable thereto.

In addition to the employee's contribution, an employee who terminates employment shall be reimbursed a percentage of the City's contribution plus all earnings allocable thereto, in accordance with the following schedule of years of service:

less than 2 years.....	0%
2 - 3 years.....	20%
3 - 4 years.....	30%
4 - 5 years.....	40%
5 - 6 years.....	50%
6 - 7 years.....	60%
7 - 8 years.....	70%
8 - 9 years.....	80%
9 - 10 years.....	90%
more than 10.....	100%

3. The balance of any City contribution not refunded to a terminating employee as outlined above shall be deemed a "forfeiture". All forfeitures shall be used to reduce the City's current and subsequent contributions.
4. In the event of the death or disability (as determined under Colorado Revised Statutes, 1973, 31-30-1007, which relates to disability) of any participating employee, such employee shall be deemed to be one hundred percent (100%) vested in the pension program, and such employee or his/her beneficiary shall, therefore, be entitled to the entire amounts in his/her Employer and Employee Contributions Accounts.

C. Withheld Monies

All monies withheld from participants covered by the Plan as punishment for any breach of discipline, misconduct, or violation of rules and regulations shall be paid into the Plan and shall be applied to the cost of administering the Plan.

D. Administration

The Plan shall be administered by the Board of Trustees, composed of two (2) participating members of the Boulder Police Department, and two (2) participating members of the Boulder Fire Department, and one (1) member elected by such other four (4) members who is neither a member of the Boulder Police Department nor a member of the Boulder Fire Department, but who has investment and/or business experience in the local community. Representatives of the Police and Fire Departments shall be elected by participating members of their respective departments. The Board of Trustees shall, except as limited by law, have full and unrestricted discretionary power and authority to invest and re-invest such portions of the fund and shall be granted reasonable time away from work to perform their duties as members of the Board of Trustees.

- E. Employee contributions to the plan are "picked up" by the City pursuant to IRS Code, Section 414(h) (2) and, therefore, are excluded from income taxation at the time contributed to the Plan. The City shall, therefore, treat both employee and employer contributions as pre-tax dollars and exclude same from income for income tax purposes.

SECTION 3. PRE-RETIREMENT DEATH AND DISABILITY

The following summary of the pre-retirement death and disability provisions shall apply to all members covered by this Agreement regardless of date of hire and are governed by the applicable provisions of Colorado Revised Statutes, 1973, as amended, Title 31, Article 30, Part 10, in particular 31-30-1007 and 31-30-1008.

A. Retirement for Disability

1. Any member who becomes totally disabled shall be retired from active service and shall receive a monthly disability benefit equal to forty percent (40%) of the annual base salary paid to such member immediately preceding retirement.
2. Any member who becomes occupationally disabled shall be retired from active service for such time as said occupational disability continues and shall receive a monthly disability benefit equal to thirty percent (30%) of the annual base salary paid to the member immediately preceding retirement.

3. The above disability benefits shall be increased as follows:
 - a. Ten percent (10%) of said annual base salary if such member had a spouse at the time of becoming totally or occupationally disabled, (as the case may be) for so long as such spouse survives and is married to such member or legally entitled to maintenance from such member.
 - b. Ten percent (10%) of said annual base salary if such member has any dependent children.
4. Members should review Section 31-30-1007, C.R.S., 1973 as amended, for rules regarding reduction of benefits and other conditions and limitations of disability retirement. New Section 31-30-1007 (f), added during 1983, now requires that the actuarial equivalent of the new hire money purchase pension plan disability benefit (i.e., 100% of the employer and employee accounts) offset and reduce the state disability benefit under C.R.S., 31-30-1007.

B. Pre-Retirement Death Benefit

If a member dies while in active service with the City and leaves a surviving spouse or dependent children, or both, one of the following survivor benefits shall be paid.

1. When there is a surviving spouse and no dependent children, the monthly benefit shall be twenty-five percent (25%) of the monthly base salary paid to such member immediately preceding death plus one-half of one percent ($\frac{1}{2}\%$) of such salary for each year of the member's active service in excess of twenty-five (25) years, but such benefit shall not exceed thirty-five percent (35%) of such salary.
2. When there is no surviving spouse and one dependent child, the monthly benefit shall be twenty-five percent (25%) of the monthly base salary paid to the member immediately preceding death.
3. When there is a surviving spouse and one dependent child, or when there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent (40%) of the monthly base salary paid to the member immediately preceding death.
4. When there is a surviving spouse and two or more dependent children, or when there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent (50%) of the monthly base salary paid to the member immediately preceding death.
5. Any benefit provided in accordance with this section shall be terminated or appropriately reduced upon the death or re-marriage of the surviving spouse and upon the death, marriage, or termination of dependency of any dependent child.
6. New Section 31-30-1008 (3), added during 1983, provides for similar offset reduction to state pre-retirement death benefits under C.R.S., 31-30-1008 for actuarial equivalence of money purchase pension plan death benefit.

APPENDIX B

Letter of Agreement

The City and BPOA agreed to freeze the sick time balance and appreciation bonus for their employees as described above. In exchange for the changes in these long standing benefits, the City agreed to contribute an additional two percent to the retirement plan for New Hire Pension members of BPOA (an increase from 11.8 percent to 13.8 percent).

(on file from prior agreement)
John L. Tayer
Director of Policy Development

(on file from prior agreement)
Greg G. Perry
BPOA President

APPENDIX C

Impasse Resolution Procedure

It is intended that Appendix C is included as part of this Agreement as a source of employee information only and that Impasse Resolution Procedure is not a negotiable matter, but is subject only to legislative change, as defined by City Charter.

Impasse Resolution Procedure

March 18, 2003

Impasse Resolution Procedure

The attached policy shall be observed in resolving all negotiation impasses, of either an economic or non economic nature, arising between the City Administration and employee Bargaining Units.

1. Definitions

1. Economic issues shall be defined as any item concerning direct wages or fringe benefits.
2. Non-economic issues include all items not covered by "1" above.
3. Bargaining Units shall be defined as Local #900 of the International Association of Fire Fighters, the Boulder Police Benefit Association, and the Boulder Municipal Employees' Association.
4. City Administration shall be defined as any duly appointed representative of the City Manager and City Council.
5. Parties shall be defined as the Bargaining Unit(s) and the City Administration.

2. Economic Arbitration

1. Initiation of Arbitration. At least thirty (30) days after bargaining begins, but no later than June 15, should the parties remain unable to reach agreement on wage and/or fringe benefits, either party may initiate the Arbitration Procedure by notifying the other on the record at a meeting or in writing.
2. Last-Best-Offers. Within thirty-six (36) hours of receipt of the notice initiating arbitration, the parties shall meet to exchange and discuss "last-best-offers." Within seventy-two (72) hours of receipt of the notice, the parties shall meet a second time to review final "last-best offers." At the conclusion of this meeting, "last-best-offers" shall be exchanged and shall not be changed in any way before being submitted to the finder arbitrator.
3. Arbitration Procedure. Thereupon, the following procedure shall be followed:

Optional Council Appointment of Arbitrator. After the implementation of the referral and selection process set forth below, upon agreement of the Bargaining Unit and the City Administration (with non-agreement to be reasonably shielded from the arbitrator, the Council and the voters), the City Council has the option to appoint the selected arbitrator to hear arguments and review entire, final economic settlement offers.

Such appointment shall occur at a public hearing in accordance with this procedure. Upon such appointment, the arbitration shall become binding in accordance with Paragraphs II (18) and (19). Otherwise, the arbitration shall be advisory to the City Council.
4. Referral and Selection Process. Within twenty-four (24) hours of exchange of final "last best-offers," the parties shall request the name of five (5) potential arbitrators from the American Arbitration Association (AAA) or another organization of arbitrators acceptable to the City and the Bargaining Unit. Within three (3) business days of receiving such names, representatives of

the City and the Bargaining Unit shall strike in turn one (1) of the names from the panel until four (4) names have been so struck stricken; whereupon, the person whose name remains shall be deemed to have been selected by mutual agreement of the parties. The City shall be the first to strike a name from the list.

Within twenty-four (24) hours of completing the arbitrator selection process, both parties, jointly, may request that the City Council at its next scheduled meeting appoint the arbitrator to act on its behalf.

5. Effect of Noncompliance. In the event that either the City Administration or the Bargaining Unit fails to comply with prescribed timetables after the procedure has begun, it shall be so noted for the record and shall be appropriately considered by the arbitrator.
6. Sharing of Costs. Each party shall share equally all costs of the arbitration process, except for their own attorneys' fees and costs, which shall be borne by the parties.
7. Exchange of Information. Supporting information to be presented to the arbitrator shall be exchanged by the parties no later than forty-eight (48) hours prior to the convening of the first hearing.
8. Presentation of "Last-Best-Offers." Both the City and the Bargaining Unit shall present in writing to the arbitrator their final "last-best-offers," at the time that the arbitrator convenes the first hearing.
9. Deadlines. Except as otherwise specified in this impasse resolution procedure, the hearing shall be conducted under the AAA procedures for labor disputes or other procedures acceptable to both the City and the Bargaining Unit. The hearing shall be concluded within seven (7) days of the time of commencement. Within five (5) days following the conclusion of the hearing, the parties may, if they deem necessary, submit written briefs to the arbitrator. Within fifteen (15) days of the receipt of such briefs or the conclusion of the hearing, whichever is applicable, and in any event, prior to August 1, unless the arbitration has been made binding by City Council appointment of the arbitrator under Paragraph 11(3), in which case the deadline shall be extended to August 31, the arbitrator shall make written findings and recommend whether the total final "last-best-offer" of the City or the total final "last best-offer" of the Bargaining Unit should be implemented. A copy of the arbitrator's findings and decision shall be delivered to the Bargaining Unit and the City Manager. Delivery may be made by hand delivery, by fax, or by electronic mail.
10. City Council Action. The City Council shall review and act upon the report of the arbitrator no later than at the time of its next regularly-scheduled meeting or study session, at least forty-eight (48) hours after the issuance of the report. After reviewing the arbitrator's report, the City Council will select either of the two (2) "last-best-offers" as the one it intends to implement as a solution to the impasse; provided, however, that the City Council hereby expressly reserves its full legislative power.

If the arbitration has been made binding by City Council appointment of the arbitrator under Paragraph 11(3), the Council referral shall be for information rather than for action.

11. Cooperation to Assure Expedited Review. Unless the arbitration has been made binding by City Council appointment of the arbitrator under Paragraph II(3), both the City Administration and the Bargaining Unit shall take all steps necessary to ensure that the City Council will have an opportunity to act on the arbitrator's report no later than the first City Council meeting or study

session after receipt of the arbitrator's report so that, if necessary, the matter may be scheduled for public resolution at the November election in that year.

12. Request for Election. Unless the arbitration has been made binding by City Council appointment of the arbitrator under Paragraph 11(3), if the Bargaining Unit is dissatisfied with the proposal approved by the City Council it may within forty-eight (48) hours of such approval make a written request to the City Manager to have the matter resolved by the people. In the event of such a request, the City Council will schedule the matter as a part of a regularly scheduled general election at the cost of the City, provided, however, that the City Council hereby expressly reserves its full legislative power.
13. Ballot Issue. If an election is held, the format of the question will generally be framed according to the following example comparing the Bargaining Unit's final "last-best-offer" to the salary and benefit program approved by the City Council; provided, however, that the City Council hereby expressly reserves its full legislative power:

Question on Increasing City Employee Wage and Benefit Package

The measure contains a proposal to increase the _____ salary and benefit program approved by City Council for _____ Bargaining Unit employees.

The measure consists of the first column of the following schedule, to be substituted for the salary and benefit program approved by the City Council, which appears in the second column of the following schedule:

	THE MEASURE: Changes in Current Salary and Benefits Proposed by Bargaining Unit for _____	Changes in Current Salary and Benefits Approved by City Council for ____ Bargaining Unit for _____
(1) Across the board salary increase	\$ (____%)	\$ (____%)
(2) Additional leave	\$ (____ days)	\$ (____ days)
(3) Additional payment for health insurance	\$ (____%)	\$ (____%)
(4) Additional payment for dental insurance	\$ (____%)	\$ (____%)
(5) Bonus for longevity	\$ (____%)	\$ (____%)
(6) Uniform allowance	\$ (____%)	\$ (____%)
(7) Estimated Total Cost	\$	\$

A VOTE FOR THE MEASURE IS A VOTE FOR THE BARGAINING UNIT PROPOSAL. A VOTE AGAINST THE MEASURE IS A VOTE FOR THE CITY COUNCIL-APPROVED INCREASE.

FOR THE MEASURE _____ AGAINST THE MEASURE _____

14. No Ex-Parte Communications. No information shall be presented to the arbitrator nor shall the arbitrator discuss the case unless representatives of both parties are present.
15. Record of Hearings, Transcripts. The hearings conducted by the arbitrator shall be recorded. Any party may request an official transcript of the testimony at the hearing. The parties shall share equally the cost of preparing the transcript.
16. Standards for Decision. The following factors shall be considered by the arbitrator in arriving at a recommendation:
 - (a) The interest and welfare of the public, and all factors normally a part of sound fiscal policy, including, without limitation, the cost of living and the financial ability of the City to bear the costs involved;
 - (b) The lawful authority of the City;
 - (c) Stipulations of the parties;
 - (d) Comparison of the terms or conditions of employment of the employees involved with other employees performing similar services in public employment in comparable Colorado communities, including, without limitation, overall compensation received in the form of direct wages, paid leave, insurance benefits, retirement contributions, the continuity and stability of employment, and all other benefits received.
17. Waiver of Time Limits. The time limits for conducting the hearing and for any action by the arbitrator may be waived by mutual consent of the parties as long as Council receives a decision of the arbitrator by August 1, unless the arbitration has been made binding by City Council appointment of the arbitrator under Paragraph 11(3), in which case the deadline shall be extended to August 31.
18. Finality of the Arbitrator's Decision.
 - (a) If the arbitration has been made binding by City Council appointment of the arbitrator under Paragraph II(3), except as provided in this Paragraph 11(18), the decision of the arbitrator shall be final and binding on the Bargaining Unit and the City.
 - (b) The arbitrator's decision shall be subject to court review pursuant to the terms of this paragraph. Any party desiring court review must file suit in the District Court no later than thirty (30) days after the date of the arbitrator's decision. Failure of either party to file suit within thirty (30) days shall be a waiver of that party's right to appeal the decision. The District Court shall affirm the arbitrator's award unless it determines that:
 - (i) The award was procured by corruption, fraud, or other undue means;
 - (ii) The decision is arbitrary, capricious, or unreasonable because there is no competent evidence in the record to support the decision; or
 - (iii) The decision was reached without considering the factors listed in Paragraph 11(16) or by considering other factors not set forth therein.

- (c) If the court determines that the award was procured by corruption, fraud, or other undue means, the entire award shall be vacated and the matter shall be remanded back to be heard by a different arbitrator selected pursuant to the terms of Paragraph 11(6). If the court determines that the arbitrator's decision otherwise violates Paragraph II(18)(b), above, the court shall remand the issue to the arbitrator with instructions to take new evidence if necessary and to issue a decision in conformity with the provisions of this paragraph.
 - (d) Each party shall be responsible for its own costs and fees in connection with any appeal to the District Court.
19. Collective Bargaining Agreement. At the conclusion of the process set forth above and the process set forth below with respect to non-economic items, there shall be a collective bargaining agreement which will consist of any and all terms to which the City and the Bargaining Unit have voluntarily agreed in writing, and the terms adopted by the City Council after an arbitration; or, in the alternative, the terms adopted by the voters pursuant to an election, if such election takes place pursuant to Paragraphs 11(12) and (13); or, in the alternative, the decision of the arbitrator if the arbitration has been made binding by City Council appointment of the arbitrator under Paragraph II(3). The agreement shall be in full force and effect regardless of whether it is ratified by the Bargaining Unit. The City Council shall act as necessary to effectuate the agreement.

3. Advisory Non-Economic-Arbitration

1. Initiation of Arbitration. At least thirty (30) days after bargaining begins, but no later than June 15, should the parties remain unable to reach agreement on any non-economic issue not previously covered by any departmental rule, regulation, procedure, policy, or directive, either party may initiate the Arbitration Procedure by notifying the other on the record at a meeting or in writing.
2. Last-Best-Offers. Within thirty-six (36) hours of receipt of request for arbitration, the parties shall meet to exchange and discuss "last-best-offers." Within seventy-two (72) hours of receipt of request for arbitration, the parties shall meet a second time to review final "last best-offers." At the conclusion of this meeting, "last-best-offers" shall be exchanged and shall not be changed in any way before being submitted to the arbitrator.
3. Arbitration Procedure. Thereupon, the following procedure shall be followed:
 - (a) Parties' Appointment of Arbitrator. The parties shall appoint a mutually agreeable arbitrator to hear arguments and review final non-economic settlement offers.
 - (b) Referral. Striking and Selection, Process. Within twenty-four (24) hours of exchange of final "last-best-offers," as described above, the parties shall request the names of five (5) potential arbitrators from the American Arbitration Association or another organization acceptable to the City and the Bargaining Unit. Within three (3) business days of receiving such names, representatives of the City and the Bargaining Unit shall strike in alternate turn one (1) of the names from the panel until four (4) names have been so struck stricken; whereupon, the arbitrator whose name remains shall be deemed to have been selected by mutual agreement of the parties. The City shall be first to strike a name from the list.

Alternatively, the parties may agree to use the arbitrator selected pursuant to Paragraph 11(6), above, for this purpose as well.

4. Effect of Noncompliance. In the event either the City Administration or the Bargaining Unit fails to comply with the prescribed timetable after the procedure has begun, it shall be so noted for the record and shall be appropriately considered by the arbitrator.
5. Sharing of Costs. Each party shall share equally all other costs of the fact finding arbitration process, except for their own attorneys' fees and costs, which shall be borne by the parties.
6. Exchange of Information. Supportive information to be presented to the arbitrator shall be exchanged by the parties no later than forty-eight (48) hours prior to convening of the first hearing.
7. Presentation of "Last-Best-Offers." Both the City and the Bargaining Unit shall present in writing to the arbitrator their final "last-best-offers," at the time that the arbitrator convenes the first hearing.
8. Deadlines. Except as otherwise specified in this impasse resolution procedure, the hearing shall be conducted under the AAA procedures for labor disputes or other procedures acceptable to both the City and the Bargaining Unit. The hearing shall be concluded within seven (7) days of the time of commencement. Within five (5) days following the conclusion of the hearing, the parties may, if they deem necessary, submit written briefs to the arbitrator. Within fifteen (15) days of the receipt of such briefs or the conclusion of the hearing, whichever is applicable, and in any event, prior to August 31, the arbitrator shall make written findings and decide whether the final "last-best-offer" of the City, the final "last-best-offer" of the Bargaining Unit or some compromise solution should be recommended. A copy of the arbitrator's findings and decision shall be mailed or otherwise delivered to the Bargaining Unit and the City Manager.
9. No Ex-Parte Communications. No information shall be presented to the arbitrator nor shall the arbitrator discuss the case unless representatives of both parties are present.
10. Record of Hearings, Transcripts. The hearings conducted by the arbitrator shall be recorded. Any party may request an official stenographic record of the testimony at the hearing. The parties shall share equally the cost of making the stenographic record.
11. Standards for Decision. The following factors shall be considered by the arbitrator in arriving at a decision:
 - (a) The interest and welfare of the public, and all factors normally a part of sound administrative and labor relations policy, including, without limitation, the financial ability of the City to bear the costs involved;
 - (b) The lawful authority of the City;
 - (c) Stipulations of the parties;
 - (d) Comparison of the overall terms or conditions of employment of the employees involved with other employees performing similar services in public employment in comparable Colorado communities;
 - (e) Effectiveness of City operations and impact on services to the public.

12. Waiver of Time Limits. The time limits for conducting the hearing and for any action by the arbitrator may be waived by mutual consent of the parties as long as the arbitrator's report is submitted no later than August 31.
13. Compromise Permitted. The arbitrator shall review "last-best-offers" submitted by parties and may endorse either one or the other as the impasse resolution. However, the arbitrator shall also be free to suggest any compromise supported by the facts as an alternative solution.
14. Council Action. After a fifteen-day period for the parties to consider accepting the report, unless both parties have accepted the report, the City Council shall review and act upon the report of the arbitrator no later than at the time of its next regularly-scheduled meeting. After reviewing the report, City Council may choose to accept or modify the arbitrator's report in establishing a final position on all issues in dispute.