

AGREEMENT BETWEEN

TOWN OF SILVER CITY

AND

THE FRATERNAL ORDER OF POLICE

SILVER CITY POLICE OFFICERS

ASSOCIATION

JULY 1, 2016 TO JUNE 30, 2018

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SECTION 1. AGREEMENT

This agreement is entered into by and between the Town of Silver City, a municipal corporation of the State of New Mexico, hereafter sometime referred to as "Town," and the Fraternal Order of Police, Silver City Police Officers Association, hereafter sometimes referred to as the "Association."

Whereas, the parties hereto have reached an Agreement on all matters which have been subject to negotiation and desire to reduce such Agreement in writing in order to avoid any misunderstanding on what, in fact has been agreed to:

Now, therefore, it is hereby agreed:

The Town recognizes the Association, as the exclusive collective bargaining representative for regular full time non-probationary sworn police officers through the rank of Sergeant.

The Town extends to the Association representing such units of employees the following rights:

- A. To represent the employees in negotiation and the settlement of grievances;
- B. To membership dues deduction, upon presentation of dues deduction authorization cards signed by individual employees;
- C. To unchallenged exclusive representation status during the term of this Agreement limited by the provisions of Chapter 30, Article II, Sections 38-22 to 38-35 of the Town's Code of Ordinance.
- D. The Town agrees that it will not recognize, negotiate, deal with or enter into any agreement, express or implied, written or oral, with any other association, organization, group, committee, or agency of employees, during the terms of the contract in respect to wages, powers and other terms and conditions of employment, affecting the bargaining unit;
- E. Neither the Town nor the Association shall discriminate against or coerce or intimidate any employee because of his membership or nonmembership in the Association. The Town and Association regard all personnel as public employees who are to be governed by high ideals of honor and integrity in the employee's contact with the public, so as to merit the trust and confidence of the general public and fellow employees;
- F. Membership or nonmembership in the Association shall be the free, independent choice of each eligible member of the police department. Association membership shall be defined as the tender of regular specified dues as required by the Association as a condition of acquiring and retaining membership. Each employee shall be freely entitled to withdraw from or acquire membership upon written notice to the Association;

- G. It is mutually understood by the parties hereto that police officers perform duties which are hazardous in nature, in that it is strenuous both mentally and physically and in many instances, involves physical, emotionally and psychological danger; and
- H. All benefits granted to the Silver City Police Department personnel by the Town of Silver City as is written in the Town of Silver City's Personnel Manual, shall remain the same except for the terms outlined in this Agreement.

SECTION 2. MANAGEMENT RIGHTS AND RESPONSIBILITIES

The Town government shall retain the right, in accordance with Town Council policies, to set standards; to exercise control and discretion over the Town government and its operations; to direct employees; to relieve employees from duties because of lack of work; to remove employees from duties because of other business related reasons; to maintain the efficiency of the operation entrusted to the Town government; to contract or subcontract as is determined desirably by the Town Council; to determine the methods, means and personnel by which the various operations of the Town government are to be conducted; to take whatever actions may be necessary to carry out the functions and means of the Town government; to maintain uninterrupted services to its citizens in normal and any emergency situations; and to exercise judgment on any and all issues not specifically prohibited by Ordinance No. 582 or this collective bargaining agreement.

SECTION 3. STRIKES AND WORK ACTIONS

- A. The Association and its members, as individuals or as a group, will not initiate, cause, permit, participate or join in any strike.
- B. The Association and its members, as individuals or as a group, while acting in the course of their employment, will not honor any picket line established by any other labor organization when called upon to cross such picket line while on duty.
- C. The Association and its members, as individuals or as a group, will not participate or join in a work stoppage, slowdown or other restriction of work during the term of this contract.
- D. During the interim period after said contracts, the Association and its members, as individuals or as a group will not participate or join in a picket in any form as described in the Silver City Code, Negotiations Procedures (Chapter 38, Article II, Section 38-33), Resolving Disputes.
- E. Any violation of Section 3 is considered just cause for termination of any employees subject to the grievance procedures, or decertification of the unit as per Section X, Ordinance 581.

SECTION 4. CHECK-OFF AUTHORIZATION

- A. The Town shall, for the duration of this Agreement, for any member who submits a valid authorization card, deduct from such member's pay for each pay period for each month Association dues in an amount specified.
- B. The Town shall pay the amount withheld to the Association's account at Washington Federal Bank
- C. The Association shall indemnify, defend and save the Town harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or as a result of any conduct taken by the Town for the purpose of complying with this section.

SECTION 5. BULLETIN BOARDS

Section 4.9 of current Ordinance No. 744 is hereby incorporated by reference.

SECTION 6. INFORMATION REQUESTS

- A. The Town shall provide to the Association President or designee documents such as agendas, minutes, and the Town Manager's final budget message upon reasonable written request. Access to any other record shall be governed by Municipal Ordinance and New Mexico State Statutes.
- B. An Association representative has the right to attend any open meeting. An Association representative may be permitted to attend a closed meeting, for the duration of the Association discussion only provided a majority of the Town Council authorizes such action.

SECTION 7. RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION

- A. Whenever a law enforcement officer employed by the Town of Silver City, Silver City Police Department, is under investigation and subject to interrogation by members of the Department for any reason which could lead to disciplinary action, demotion, or dismissal, such interrogation shall be conducted under the following conditions:
 - 1. The interrogation shall be conducted, by a Sergeant or higher of the Silver City Police Department, at a reasonable hour, preferably at a time when the law enforcement officer/Association member is on duty, unless the seriousness of the investigation is of such a degree that immediate action is taken.

2. The interrogation shall take place in the Silver City Police Department or in an appropriate facility.
3. The law enforcement officer/Association member under investigation shall be informed of the rank, name, and command officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the Association member under investigation shall be asked by and through one interrogator at any one time.
4. The Association member under investigation shall be informed of the nature of the investigation prior to any interrogation, and he shall be informed of the names of all complainants.
5. Interrogation sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.
6. The Association member under interrogation shall not be subjected to offensive language threatened with transfer, dismissal, or disciplinary action for the purpose of obtaining information. No promise or reward shall be made as an inducement to answer any question.
7. The formal interrogation of an Association member, excluding all recess periods (but they shall be noted on the tape), shall be recorded, and there shall be no unrecorded questions or statements.
8. If the Association member under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights prior to the commencement of the interrogation.
9. At the request of any Association member under investigation, he or she shall have the right at his or her expense, to be represented by no more than two representatives of his/her choice (only one will be designated a spokesperson, and thus, will be the only person to speak as representation), who shall be present at all times during such interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement service.
10. An employee shall not be obligated to give a second general statement concerning the same facts elicited in an original statement. This will not preclude subsequent statements from being taken for the purpose of clarifying specific points, or when additional information has come to light in the interim.
11. As indicated in State Statute 29-12-5, Polygraph Examinations will be included in its entirety.
 - a. A polygraph may only be required when the discipline may result in suspension, demotion or termination.

- b. In the event a polygraph is requested, it shall be required that all complaining party(ies) take the polygraph first and pass. If the complaining party(ies) fail the exam or show inconclusive, then the officer(s) will not be forced to submit to a polygraph examination.

12. All internal-administrative investigations will be completed within sixty (60) working days, with a one-time thirty (30) working day extension allowable due to extenuating circumstances, agreed upon by Union and Town officials.

- B. Notice of disciplinary action. No dismissal, demotion, transfer, reassignment, or other action which might result in loss of pay or benefits or which might otherwise be considered a punitive measure shall be taken against any Association member unless such Association member is notified of the action, and the reasons, and given the opportunity to follow the grievance procedure outlined in this Agreement, prior to the effective date of such action.
- C. Retaliation for Exercising Rights. No Association member shall be discharged, disciplined, demoted, denied promotion, transferred or reassigned, or otherwise discriminated against in regard to his or her employment, or be threatened with any such treatment by reason of his or her exercise of the rights granted in this part. This language is not to be used as a blanket immunity for misconduct or poor performance.

SECTION 8. LEGAL BENEFIT

In the event of notice of intent to file a law suit against an Association member is received, as a result of his or her employment with the Town of Silver City and while acting within the scope and course of his or her employment with the Town of Silver City, the matter shall be referred to the liability insurance carrier.

SECTION 9. MUNICIPAL COURT ATTORNEY

The Town agrees to provide, as appropriate, an attorney for officers involved in a Municipal Court hearing as the plaintiff, when the defendant has an attorney present, subject to the approval by the Town Manager.

SECTION 10. ASSOCIATION REPRESENTATIVE

- A. The Association President or his designee shall be allowed ten (10) hours annually, excluding grievance issues, to conduct Association business on duty and on Town premises with pay, provided such actions do not interfere with the work flow as determined by the supervisor. The Association shall maintain a log of time used, for what purpose, and submit it to management semi-annually.

- B. The Town agrees to recognize one Association Representative, to be known as the Association President, to represent the employees of the bargaining unit. The Association agrees to notify the Town in writing of the duly accredited representative of the Association immediately upon his or her election to office. In case of absence of the Association Representative, the Association can name an alternative during the interim.
- C. Subject to manpower requirements and subject to the approval of the Town Manager, one member of the Association who holds an elected position in the Association may be granted three (3) days with pay to attend state or national meetings of importance to the Association.

SECTION 11. DISCIPLINARY PROCEDURES

- A. Disciplinary action or measure shall include only the following: counseling, verbal warning, written reprimand, suspension, demotion or dismissal. Punitive discipline, generally, will be imposed in a progressive manner from minimum to maximum, but also, when appropriate, may be imposed to the maximum limit at any time for any incident. In lieu of suspension, and with the officer's concurrence and at the Chief's discretion, the officer may give up time equal to the suspension with hours of vacation or compensatory time. Disciplinary action shall be for just cause and will be subject to the grievance procedure. Verbal reprimands, unless documented, will not be used as the basis for subsequent disciplinary action. If the employer has reason to reprimand an officer, it shall be done in a manner that is least likely to embarrass the officer before other officers or the public.
- B. Disciplinary action will not be recommended nor administered by anyone directly involved in the investigation of the alleged misconduct.
- C. Investigations into Complaints of Police Misconduct: Chapter 5, Section 514 to and including 523 of the Silver City Police Department Rules and Regulations Manual (Personnel and Discipline), will be followed.
- D. All disciplinary action that is to be taken is subject to the grievance procedure as outlined in this Agreement.

SECTION 12. RATES OF PAY

ENTRY-LEVEL PAY

Entry-level pay for law enforcement hires will be increased one percent (1%) each July.

Effective July 1, 2016, Union members will receive a \$2 an hour increase. Effective January 1, 2017, Union members will receive a \$0.45 an hour increase.

ASSIGNMENT PAY

- A. The Chief of Police may, at his discretion, assign a member of the Association to serve as a temporary replacement for an absent supervisor (Lieutenant and above). If such assignment continues for a period of five (5) consecutive work days or more, the employee shall be paid five percent (5%) above the employee's current straight time rate for all work performed in the temporary position.
- B. Association members assigned to motorcycle duty shall be paid an additional \$.50/hr. above the Association member's regular hourly wage for hours scheduled and actually worked on motorcycle duty.
- C. Association members assigned to the SWAT team shall be paid \$.50/hr. above the Association member's regular hourly wage for hours spent responding to an actual situation.
- D. Instructor Pay: Effective July 1, 2012, all Certified Instructors and Field-training Officers shall be paid an additional \$1.00/hour during instruction only. These payments will not be considered when computing overtime pay, unless the instruction is performed during off shift. Certified Field-training Officers appointed prior to July 1, 2012 will be grandfathered and paid under the 2010-2012 Agreement.
- E. Bilingual Pay: officers recognized by the Police Department as being bilingual, defined as English and Spanish, shall be paid an additional \$1.00/hr. These payments will not be considered when computing overtime pay, unless the service is performed during off shift. Officers receiving this payment prior to July 1, 2012 are grandfathered.

WAGES

The Town of Silver City agrees to give all Association members a 4 percent salary increase, effective July 1, 2012.

SECTION 13. SHIFT DIFFERENTIAL PAY

Association members assigned to the evening shift shall be paid an additional \$.75/hr., and Association members assigned to the graveyard shift shall be paid an additional \$1.00/hr. Association members assigned to Detectives shall receive an additional \$50.00/per month.

SECTION 14. DUTY OFFICER TIME AND PAY

- A. The purpose of the investigator/duty officer is to ensure that the operations of the department and that felony criminal investigations are being properly investigated. This

will include, but is not limited to, the criminal investigation itself, collection of evidence, search warrants, criminal complaints, affidavits for arrest, etc.

- B. The duty officer policy is in effect for all investigative personnel as outlined. It shall be administered by the Chief of Police, or his designee, in conjunction with the current Town of Silver City Employees Manual.
- C. The week duty will be performed by all personnel within the Detective Division from Sergeant to Detective Investigators. The duty officer shall make himself/herself available to Central Dispatch at all times during the duty officer's tour of duty. Tours of duty will be for 7 days and start at 1600 hours on Monday and end at 0800 hours on Monday on a normal work week.

D. COMPENSATION FOR WEEK DUTY OFFICER:

- 1. Detective duty officer will be compensated 3.43 hours of accumulated time for every 24 hour period they are on call, including holiday periods, for a total of 24 hours every seven (7) day period. The employee may opt to be paid straight time for the time that the employee is on call, for a total of 24 hours for every seven (7) day work week. During holiday, the duty officer shall also be paid two (2) hours of straight time for every eight (8) hour period while they are on call for that holiday. Every attempt shall be made to keep the cap at 240 hours. If hours are beginning to accumulate above the cap of 240 hours, the officer will be asked to take time off to keep accumulated hours around 240.
- 2. The time spent as duty officer is not to be interpreted as overtime. If and when a duty officer is called out or determined it is necessary to go into service, then that officer will be paid overtime for the time worked.
- 3. Upon termination from this department, any weekend duty officer on-call time accumulated to a maximum of 160 hours is redeemable in cash. All other time accumulated will be lost.
- 4. See current Department Orders of the Silver City Police Department for duties and responsibilities.

SECTION 15. INJURY PAY

- A. An officer killed in the performance of his or her duties or injured in the performance of his or her duties so as to be totally disabled from performing his or her duties, and who, as a result of such death or injury, receives benefits under the Workmen's Compensation Act of New Mexico, shall be granted injury pay. This injury pay shall provide for payment to the injured and disabled officer of an amount equal to ten percent (10%) of the officer's monthly pay at the time of injury. In the case of injury and disability, injury

pay shall be granted concurrently with Workers' Compensation benefits, not to exceed twelve (12) months from the date of the injury.

- B. The right of an employee, or in the case of his or her death, of those entitled to receive payment for damages for injuries occasioned to him or her by the negligence or wrong of any person other than the Town or any other employee of the Town, including management or supervisory employee, shall not be affected by this Agreement, but he or she or they, as the case may be, shall not be allowed to receive payments or recover damages therefore and also claim injury pay from the Town, and in such case the receipt of injury pay from the Town shall operate as an assignment to the Town of any cause of action, to the extent of payment by the Town to the employee or his or her legal representative or others may have against any other part for the injuries or death. This assignment shall be in addition to the assignment of the Workmen's Compensation carrier as provided by law.
- C. An officer who is terminated from the Silver City Police Department for physical medical reasons which were brought about as a result of, and in the performance of, the officer's duties, will be eligible for reinstatement to the previous position held with the same rank and grade and step restored if, within twelve (12) months from date of termination, the medical conditions responsible for the termination have been completely corrected and the officer is otherwise fit to perform as a police officer, and if there is a vacancy in the department.

SECTION 16. ON CALL AND CALL BACKS

- A. ON CALL STATUS: an employee will not be required to remain at home for purposes of standby so long as he or she can assure his or her availability for duty within thirty (30) minutes.
- B. CALL BACK TIME: when an employee is called to work at a period other than his or her regularly scheduled working hours, he or she is guaranteed pay at the overtime rate for a minimum of one (1) hour.
- C. TIME WORKED shall be computed from the time of notification.
- D. COURT TIME: when an officer is subpoenaed to testify in court at a period other than his or her regular scheduled working hours, he or she is guaranteed pay at the overtime rate for a minimum of two (2) hours. If the officer dismisses or reduces the citation to a written warning prior to the Court Hearing, the officer will be paid overtime only that time spent at Court and not for two hours. If the officer is dismissed or the court is cancelled, the officer will receive no overtime pay. Time for court will include conference time with attorneys involved.
- E. DETECTIVE CALL-OUT: when a detective is called out to the scene, he/she is guaranteed pay at the overtime rate for a minimum of two (2) hours.

SECTION 17. OVERTIME

- A. Overtime worked during the current pay period will be included in the member's pay check.

- B. The normal work day shall be eight (8) hours and the normal work week shall be forty (40) hours.

- C. Holdover-time is defined as any continuous time beyond the employee's regular scheduled hours and is to be calculated as the actual time worked rounded up to the nearest 1/4 hour.

- D. Employees shall be entitled to overtime compensation at the rate of time and one-half (1-1/2) their regular time rates when they perform work in excess of eight (8) hours in any one work day.

- E. Any employee may decide, at his or her discretion, that the time he or she has worked over any eight (8) hour day be converted to compensatory time instead of overtime pay.

- F. This compensatory time will be given at the rate of two (2) hours of compensatory time for every hour worked beyond eight (8) hours in one work day.
 - 1. The work week shall consist of seven (7) consecutive days beginning at 0001 hours each Sunday, or the tour starting hour nearest to that time.

 - 2. The work day will be any regularly scheduled consecutive twenty-four (24) hour period beginning at the start of the employee's regularly assigned shift.

 - 3. For the purpose of this section, an employee who elects to change shifts will not be considered to have worked in excess of eight (8) hours on any one work day.

 - 4. Paid leave will not be considered as time worked in computing overtime.

SECTION 18. HOLIDAY PAY

- A. The Association shall observe the following holidays:

- New Year's Day
- Martin Luther King Day
- President's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day

Thanksgiving Day
The day after Thanksgiving Day
Christmas Eve Day
Christmas Day

Two personal leave holidays

Personal leave holidays shall be considered as earned during each calendar year (January 1 through December 31).

- B. Employees who are given the holiday off shall be paid at their regular rate of pay for a normal work shift. Employees who are scheduled to work on a holiday shall be paid at their normal rate for the actual hours worked plus holiday pay for the normal work shift. Holiday pay is an additional twelve (12) hours of regular pay. If an Association Member works for another Association Member during a normal shift on a holiday, the working Association Member shall be paid holiday pay.

If a holiday falls on the employee's day off, the employee shall receive the last work day prior to the day off, or the day following the day off as his or her holiday, whichever is closer, or shall receive regular pay for the holiday.

An unexcused absence before or after the holiday shall forfeit the holiday benefit. Any other days designated by the Town Council shall be observed.

SECTION 19. WORK SCHEDULES

- A. Work Schedules: the Division Captain or his designee will advise the employee of his work schedule and any required changes which have to be made from time to time. The department will establish its work schedules based on the kind of work involved. It is recognized that the primary purpose of the Police Department is to provide the best possible police services to the citizens of the Town of Silver City. To maintain the efficiency of the operations, Management shall retain the right to assign officers. However, bidding for shift assignments and days off shall be permitted, and shall be passed on rank and seniority. Shift bidding will occur every two (2) months. If no bids are received, shift assignments will remain the same.
- B. Shift Substitutions: allows for officers to trade shifts, or allow another officer to work for him or her, if approved by the Division Commander or his assistant.
1. The Sergeant can have another Sergeant or Corporal work for him.
 2. A Corporal can have a Sergeant, another Corporal or Patrolman work for him.
 3. A Patrolman may have a Corporal or another Patrolman work for him.

4. An officer may work two (2) or more sixteen (16) hour shifts with a minimum of eight (8) hours rest in between each sixteen (16) hour shift.
 5. An officer can collect hours owed to him or her at his or her discretion with no time limit on repayment of time.
- C. Changes: the supervisor shall be responsible for notifying the officer of a change in scheduling, one week prior to the change, whenever possible.
- D. Emergencies: in the event of any emergency situation, the Division Captain or his designee may change work schedules, upon notice to the employee, for the duration of the emergency situation only.
- E. Days off. Days off shall be determined by:
1. Rank
 2. Seniority (Length of Continuous Service)

SECTION 20. SENIORITY

- A. Seniority shall be defined as:
- First: Rank.
Second: Length of continuous service.
Third: Qualifications and ability of the employee to perform the work involved.
- B. In case of temporary layoffs and of re-employment, seniority shall be given consideration provided that seniority shall be determined on a departmental basis.
- C. In cases of layoffs and rehiring within the department, the principle of seniority shall prevail.
- D. No new employee shall be hired until those employees who have been previously laid off have been given an opportunity to return to work in accordance with their seniority rights as outlined in paragraph B.
- E. Any of the following factors shall be deemed to terminate the rights of seniority of any employee:
1. Where an employee has voluntarily terminated his employment with the Town.
 2. Where an employee has been involuntarily terminated from his employment with the Town for just cause.

- F. The term "continuous service" shall be interpreted to mean total service from the date of last hire as a sworn police officer.
- G. When cutbacks occur, they shall be made in such a way as to maximize the efficiency and effectiveness of the Police Department.
- H. Section 21, Layoffs and Cutbacks, will be determined by the Town Manager with the recommendation by the Chief of Police and Silver City Police Officer's Association.

SECTION 21. LAYOFF, RECALL, TRANSFER AND PROMOTION

In any layoff event, the Town shall make every reasonable effort to give advance notice to employees affected.

In recognition of the responsibility of the Town for the efficient operations of the department, it is understood and agreed that in all cases of decrease in work force or recalls after layoffs, the following factors as listed below shall be considered.

- A. Rank
- B. Length of continuous service
- C. Qualification and ability of the employee to perform the work involved.

Employees who have been laid off will be offered re-employment in the reverse order of layoffs when they are needed again. You will retain recall rights for the position at the time for a period of twelve (12) months.

Continuity of service will be broken and seniority shall be lost by failure to notify the Town of intention to report to work within three (3) working days after receipt of notice of recall by telegram or by registered letter to the most recent address shown on the Town's personnel records.

When a worker is offered employment of a substantially similar type and grade of work as that performed by him or her prior to layoffs and it is refused, the Town shall have no further obligation to offer employment to the employee at a future time.

When it is necessary to have a reduction in the workforce or a layoff, employees will be laid off in reverse order of seniority as provided for in this contract.

It is understood, however, that other things being equal, seniority shall prevail.

Probationary, certified patrolmen will be considered for promotion, if qualified, up to Corporal or equivalent (Detective). If an employee is qualified for transfer or promotion, he or she will be given ninety (90) working days to successfully perform the job requirements. At the end of the ninety (90) day period, his or her seniority shall be established in the department. However, he

or she may not bid for any other vacancies for a ninety (90) day period after the date of his or her transfer. These employees can only be removed for just cause.

Whenever an employee declines a promotion, it shall be properly noted on his or her personnel record, and the employee who receives the promotion shall be considered to have permanent classification seniority over the employee who declined it.

The Town shall use tests to assist in determining an employee's qualifications. If qualifications are equal, seniority shall prevail. The form, content and administration of such tests shall be at the sole discretion of the Town and can be reviewed by the Town Manager if problems or disputes arise in the testing. Testing is defined as uniform testing. Also, testing will be recorded and documented.

SECTION 22. VACATION

- A. Vacation eligibility is based on an employee's personal anniversary date of employment and continuous years of service with the Town.
- B. To be eligible for vacation, an employee must have completed twelve (12) months of continuous service with the Town.
- C. The vacation policy for employees is as follows:

CONTINUOUS SERVICE	ACCRUAL
1 - 5 years	10 days/yr.
6 - 10 years	15 days/yr.
11 + years	20 days/yr.

- D. In order to maintain a required number of trained employees on the job, it is necessary to schedule vacations. Those employees with the most seniority (continuous employment) will have a date priority.
- E. Vacations should normally be taken in increments of five (5) days, but can be taken in one (1) day increments, providing a five (5) day notice is given, except in emergencies. Earned vacation time in excess of two (2) weeks may be taken in one (1) day intervals, taking into account the staffing needs of the department. All vacation is subject to staffing requirements and the approval of the Chief of Police.
- F. An employee's vacation for each year must be taken in the next twelve (12) months period of his or her anniversary date.
- G. If a holiday observed by the Town occurs during an employee's vacation, a member shall be granted another day of vacation at another time consistent with the department's work schedule.

- H. A vacation day for paying purposes for employees shall consist of eight (8) hours.
- I. A vacation week for paying purposes for employees shall consist of forty (40) hours.
- J. When an employee terminates for any reason, he or she shall be paid for the vacation time accumulated since the last anniversary date and not used as of the date of termination.

SECTION 23. SICK LEAVE

- A. Sick leave may be used as outlined in E below. Abuse of sick leave is considered just cause for disciplinary action to include termination. Patterns of sick leave usage, such as taking sick leave the day before and/or the day after the employee's day off repeatedly is considered an abuse of sick leave.
- B. Employees shall accrue one day of sick leave for each month of continuous employment.
 - 1. A day of paid sick leave for regular, full-time employees is equal to eight (8) hours. (A full sick leave week is worth forty (40) hours.)
- C. Paid sick leave hours taken shall be subtracted from total accumulated (unused) paid sick leave eligibility.
- D. There is no limit on the number of sick leave hours that an employee can accumulate.
- E. As regular, full-time employees, regardless of date of hire:
 - 1. Paid sick leave shall be granted for personal illness or temporary disability: when an employee is ill or physically incapacitated; for care of members of the employee's immediate family; in the care of a spouse and newborn child after child birth; when the employee has been exposed to a contagious disease and may jeopardize the health of others; for medical, dental or optical appointments.
 - 2. For an absence taken as sick leave (with or without pay), the employee may be requested to submit a doctor's statement to verify the need for absence.
 - 3. In the case of prolonged sick leave (with or without pay) thirty (30) days or more, the Town reserves the right to request progress reports from the employee's doctor (or to have an evaluation made by a Town selected doctor), as to when the employee will be able to return to work.
 - 4. If an employee is on sick leave, temporary disability or prolonged sick leave, the employee is required to return to work as soon as medically feasible. Upon returning to work after such a leave, the employee may be requested to supply the Town with a doctor's statement certifying that he or she is able to return to normal duties.

5. In the case of an illness, or temporary disability, where the employee desires to keep working until some future date when medical assistance or surgery is available or timely, the Town reserves the right to request periodical statements from the employee's doctor (or to have such an evaluation made by a Town selected doctor) to certify that continued work will not have an adverse effect on the employee's health. If the employee continues to work during illness or temporary disability, he or she will be required to discontinue working at any time as so advised by his or her doctor or a doctor chosen by the Town.
6. If the employee returns to work after a prolonged sick leave or temporary disability leave, if the leave is reasonable (reasonable is usually considered not to exceed 12 weeks), the employee will be returned to his or her former position or to a position substantially equivalent in responsibility, pay and benefits, subject to the availability of a vacant position for which the employee is qualified.
7. Termination (voluntary or involuntary) will cancel the employee's sick leave eligibility. The paid sick leave plan is designed to protect employees from loss of income resulting from absence caused by illness or temporary disability. This benefit will be terminated upon separation from employment with the Town, and no cash settlement will be made on accumulated sick leave time.
8. No extra pay will be granted for a legal holiday that falls within the employee's approved sick leave (paid or unpaid).
9. All fringe benefits (including seniority) will be continued during an approved sick leave (up to twelve (12) weeks) under the same terms and conditions (of payment, etc.) as if the employee were at work. Leaves of more than two (2) months will be considered on an individual basis.
10. Falsification of medical or insurance reports to obtain benefits (including paid or unpaid sick leave benefits) will be considered in the same way as any other theft from the Town and will subject an employee to severe punishment up to and including termination of employment.
11. For purposes of computing paid sick leave eligibility and making the computations simpler, an employee's month of employment will be considered to begin on the first day of the month in which the employee is hired. Or, stated differently, if an employee is hired on any day of the month, the member will, for purposes of computing sick leave benefits, be considered to have been hired on the first day of the month.
12. The Town will pay to the designated beneficiary of a deceased police officer the total amount of sick leave accumulated as of the date of his or her death; provided, however, that the police officer is killed in the line of duty or dies of injuries sustained in the line of duty.

13. Upon completion of nine (9) years of service, the Town will pay the designated beneficiary of a deceased police officer accumulated sick leave, not to exceed 240 hours, whether or not the deceased police officer dies in the line of duty; provided however, that the death of the police officer is under honorable circumstances.
14. Upon retirement and provided an officer has completed ten (10) years of service with the Town and is eligible for retirement under PERA, the officer will have the option of converting up to a maximum of 240 hours of sick leave to leave with pay to be taken immediately prior to retirement, or to receive cash payment for a sick leave up to a maximum of 240 hours.

SECTION 24. CONVERTED SICK LEAVE

Due to the fact that a police officer's work is generally hazardous in nature; that it is strenuous, both physically and mentally, and in many instances involves physical danger, the Town will allow sick leave to be converted to leave (converted sick leave) as follows:

- A. When an employee has accumulated and maintains a total of 288 hours of sick leave, he or she may convert the sick leave accumulated over and above 240 hours to personal leave on the following completed years of continuous service:
 1. 3 – 4 years: 6 days of sick leave = 2 days of personal leave.
 2. 5 – 6 years: 6 days of sick leave = 3 days of personal leave.
 3. 7 – 8 years: 6 days of sick leave = 4 days of personal leave.
 4. 9+ years: 6 days of sick leave = 6 days of personal leave.

An employee may use this conversion privilege when the employee has reached the necessary sick leave designated above.

SECTION 25. FAMILY MEDICAL LEAVE

Section 6.4 of Ordinance No. 744 is hereby incorporated by reference. Additionally, the Town agrees to place a female police officer who has become pregnant on other duties within the Police Department. The officer's salary, rank and seniority will remain in effect until the officer returns to her normal duties and responsibilities. The Town of Silver City will abide by the Federal Family Medical Leave Act.

SECTION 26. BEAREAVEMENT LEAVE

Section 6.9 of current Ordinance No. 744 is hereby incorporated by reference.

SECTION 27. MILITARY LEAVE

Section 6.7 of current Ordinance No. 744 is hereby incorporated by reference.

SECTION 28. JURY DUTY

Section 6.4 of current Ordinance No. 744 is hereby incorporated by reference.

SECTION 29. VOTING TIME

State Law requires, under certain conditions, all employees who are registered voters be granted two (2) hours with pay between the opening and closing of the polls to vote on all election days. Departments will not, however, grant time off with pay to any employee whose normal work day begins more than two (2) hours after the opening of the polls, or ends more than three (3) hours prior to the closing of the polls. However, the employer may specify the hours during this period in which the voter may be absent. Time taken off for voting can be used for no other purpose. Department directors may require an employee to prove that he or she is a registered and eligible voter.

SECTION 30. PHYSICAL FITNESS TIME

- A. The fitness program standard will be set by the department. The current standard used in New Mexico is provided by the Cooper Institute and uses a percentile designation in 1.5 mile run, push-ups, sit-ups, and 300 meter spring. If the officer completes the given areas at a 40th percentile then the officer will receive four (4) hours compensation time. If the officer completes the given areas at a 60th percentile then the officer will receive eight (8) hours compensation time. Upon retirement, voluntary or involuntary termination of employment, accumulated physical fitness time will not be paid.
- B. The officer can only collect eight (8) hours per calendar year.
- C. The officer can test up to two (2) times in one calendar year to qualify for the compensation as outlined above.

For the purpose of tracking fitness time:

- A. Officers are required to participate in a fitness program where a tracking system can be obtained, i.e., a membership to a gym, etc. Gym membership dues will be reimbursed to employee, per Ordinance 744.
- B. The officers covered under contract will be required to test 1 time a year and pass at the physical fitness standard of the Cooper Institute as outlined in the contract. Officers will

receive 8 hours of compensation time if they pass this test. Alternatively, the officers can opt to successfully perform the two obstacle courses instead. If the officer successfully completes the two obstacle courses, then the officer will receive four hours of compensation time.

- C. Officers failing to complete either of the standards will be required to test every two months until the officer successfully completes the selected standards. No disciplinary action will be forthcoming because of any failure of this section.

SECTION 31. GRIEVANCE PROCEDURE

- A. Settlement of Employee Grievances. The Association and the Town recognize their mutual responsibility for the prompt and orderly disposition of grievances of employees that arise under this Agreement. To this end, the Association, the members, and the Town agree that the provisions of this Section shall provide the means of settlement of all grievances of employees.
- B. Employee representatives. Delegates appointed or elected by the Association from permanent sworn police officers through the rank of Sergeant shall be recognized by the Town as representatives of employees in their respective areas in the representation and settlement of their grievances.
- C. Procedural Steps. Any difference or dispute arising out of or under this Agreement, which cannot be adjusted informally between the aggrieved employee and/or the Association's representative and the employee's immediate supervisor, may be the subject of a grievance and shall be presented in writing within seven (7) days of the incident giving rise to the grievance, in the following manner:
 - 1. Any employee desiring to file a grievance shall do so by filling out the employee grievance form at each step of the procedure, and by following the procedure outlined herein.
 - 2. Method of processing a complaint or grievance:
 - a. If an employee has a complaint, he or she and/or the Association's representative, should file the employee grievance form as provided herein, and then discuss the matter with his or her immediate supervisor, who will give a written response within five (5) working days of that discussion; working days; Monday through Friday, 8:00 A.M. to 5:00 P.M., excluding holidays.
 - b. If the immediate supervisor's response is not satisfactory, an employee and/or the Association's representative, within seven (7) working days of receiving the response, may request a hearing (Loudermill) with the Chief of Police who will give a written response within seven (7) working days of that discussion.

- c. If the Chief of Police's response is not satisfactory, an employee and/or the Association's representative, within seven (7) working days of receiving the response, may submit the case in writing to the Grievance Board.
- D. Formal Grievance Board. The Formal Grievance Board shall consist of three (3) persons selected as follows: the grieving employee shall select one (1) person; the Department (Town) shall select one (1) person; the third person will be selected from a list mutually provided by the Department (Town) and the Association, by the Town and employee members.
 1. This Board will be put in place no later than seven (7) working days after the request for a Board Hearing, and the Board will hear the grievance within seven (7) working days of the appointment of the Board.
 2. The Grievance Board will issue a final decision in writing within seven (7) working days of the hearing.
 3. If the Grievance Board's response is not satisfactory, or the employee is still not satisfied, he or she, through the Association's representative, can file an appeal to the Town Manager.
- D. The Town Manager's decision will be rendered within seven (7) working days of receipt of the complaint. If the Town Manager's response is not satisfactory, an employee and/or the Association representative, may process the grievance through the arbitration procedure set in Section 32 of this Agreement, within seven (7) working days of receiving the response.
- E. Special Consideration. If the grievance involves any form of unlawful discrimination, an employee may dispense with the normal grievance procedure and request an immediate audience with the Town Manager.
- F. The parties may mutually agree in writing to extend the time of any step of the grievance procedure.
- G. Any grievance which the Town may have against the Association arising out of a breach of this Agreement, shall be reduced to writing and submitted to the Association President, who will promptly arrange a meeting at the department head level of the grievance procedure. If the matter is not satisfactorily settled at this meeting, or within five (5) days thereafter, the grievance may be processed through the arbitration and appeal procedure set forth in Section 32 of this Agreement.
- H. Class of Group Grievances. A grievance which allegedly affects a substantial number of class of employees may be represented as a group.

SECTION 32. ARBITRATION

- A. Appeal Procedure. Any grievance of the Town or the Association concerning the interpretation, application or alleged breach of any specific provision of this Agreement, that has been properly processed through the grievance procedure, as set forth in Section 31, and has not been settled at the conclusion thereof, may be appealed to arbitration by the Association or the Town by serving written notice on the other party within seven (7) working days after the final answer of said grievance procedure. If the Association or the Town fails to serve such notice of its intention to arbitrate within this time limitation, it shall be deemed to have waived the arbitration and the grievance shall be considered settled.
- B. Selection of Arbitrator. The Town and the Association shall, by mutual agreement, select an arbitrator within seven (7) calendar days after the Association's or Town's notice of appeal to arbitration. If the Association and the Town are unable to agree upon the selection of an arbitrator within such seven (7) calendar days, they shall jointly request the New Mexico Employment Security Commission to furnish a list of not less than five (5) arbitrators, one of whom may be designated by the parties to act as arbitrator of the grievance. If no agreement can be reached as to the arbitrator within seven (7) calendar days after receipt of said lists, the Association and the Town shall jointly petition the New Mexico Employment Security Commission to furnish a second list of not less than five (5) additional arbitrators, the parties shall meet to select an arbitrator from the panel in the following manner: as the names are drawn they shall be placed on a list in numerical order as drawn; each party shall have the right to strike only two persons from the panel; the party correctly calling the toss of a coin shall have the option of striking or accepting the first name from the list or of having the other party strike or accept the first name. Each name shall be considered in order on the list. The first name accepted shall be the designated arbitrator.
- C. Arbitrators Jurisdiction: The jurisdiction and authority of the arbitrator of the grievance, his opinion and award shall be confined exclusively to the specific provision or provisions of this Agreement at issue between the Association and the Town. He shall have no authority to add, to alter, amend or modify any provision of this Agreement. The arbitrator shall not hear or decide more than one grievance without the mutual consent of the Town and the Association. The award in writing of the arbitrator within his jurisdiction and authority as specified in this Agreement shall be final and binding upon both parties.
- D. Arbitration Expenses. The Association and the Town shall each bear its own expenses in these arbitration proceedings, except that they shall share equally the fee and other expenses of the arbitrator in connection with the grievance submitted to him. Any party which fails to pay its share of the arbitration cost within thirty (3) days, forfeits future rights to the process.

SECTION 33. COMPREHENSIVE HEALTH CARE PROGRAM

- A. The Town provides voluntary group medical and hospitalization insurance, life and AD&DE insurance, and disability for its employees. The group insurance plan is carried with a major insurance company. This is a comprehensive plan which provides protection to employee's spouses and children. The plan includes the following major areas of coverage: life insurance for employees and their dependents and accidental death and dismemberment insurance for employees. This plan also provides medical care for employees and their dependents. The group insurance package is very complete and gives employees a very comprehensive health insurance program. In addition to the basic health insurance, the plan also provides a major medical plan which provides excellent coverage for each participant. More specific details for eligibility and enrollment are contained in the separate group insurance booklet. The cost of this plan is shared by the employee and the Town. ***Effective January 1, 2017, the Town will pay 80 percent and the employee will pay 20 percent of the Blue Cross Blue Shield PPO premium coverage. Effective January 1, 2017, the Town will pay 100 percent of the Blue Cross Blue Shield HMO and the Presbyterian HMO premium coverage.*** The employee will be responsible for paying the entire cost of the disability coverage, per IRS regulations. If and when any change in the voluntary group medical and hospitalization insurance program is contemplated, the Town of Silver City agrees to form a user committee to include the Silver City Police Officers Association, before any action/changes are taken or plans are changed or implemented.
- B. Retirement Plan. As a municipal employee, an employee of the bargaining unit is a member of the statewide Public Employees Retirement Association. This participation is in addition to participation in the Federal Social Security Program.
- C. Worker's Compensation. The Town carries Worker's Compensation Insurance in compliance with State Law. This insurance provides compensation for lost time, medical expenses, surgical expenses, and loss of life or dismemberment for injury arising out of, or in the course of job assignment with the Town. In case of an injury or illness that is possibly work connected, the following applies:
1. An employee must report any disability as soon as possible to his or her immediate supervisor.
 2. If complications arise in connection with a disability while an employee is away from the organization, it must be reported to the employee's immediate supervisor by telephone.
- D. Social Security. Old age and survivor's insurance is provided for wage earners in the Social Security Act. The original act, passed by Congress in 1935, provided only for old age insurance. Amendments in 1939 enlarged the Old Age Insurance system to provide benefits for members of the wage earners family, after the wage earners retirement disability or death. Under the present Social Security legislation, a percentage of pay is deducted with a matching amount credited in payment by the Town.

- E. Unemployment Compensation. If an employee becomes unemployed or is laid-off through no fault of his or her own, the employee may be eligible to draw unemployment compensation. Contact the State Employment Security Department.

SECTION 34. RETIREE HEALTH CARE INSURANCE

The Town, upon notification by a member of the Silver City Police Department of intentions to retire, will ensure that "Retiree Health Care Insurance" is available to said employee, with the total cost of the plan to be borne by the employee. Coordination of the specific plan and the cost of such plan with the New Mexico Health Care Association is the responsibility of the employee.

SECTION 35. RETIREMENT P.E.R.A.

The Town shall contribute seventy-five percent (75%) of the Silver City Police Department employee's contribution to retirement on option five (5) of the Municipal Police Member Coverage Plan 5.

SECTION 36. CLOTHING ALLOWANCE

The Town agrees to pay all police officers in its employment a clothing allowance of \$200.00 per quarter. Detectives will receive an additional \$50 per quarter for a total of \$250 per quarter

These monies are to be used for cleaning and maintenance of uniforms, as well as purchase of items not provided by the Town.

This allowance shall be paid quarterly. This benefit is for officers on duty only and does not apply to officers in a terminal or early retirement status.

The Town agrees to provide all patrol officers in its employment with two (2) uniforms per year. The Town will purchase uniforms that will last longer, and uniforms that can be tailored for summer wear. Uniforms will no longer be purchased as a "blanket" purchase, it will be done based on need.

SECTION 37. EDUCATIONAL LEAVE

Section 6.10 of current Ordinance No. 744 is hereby incorporated by reference.

SECTION 38. TOWN DEPARTMENTAL POLICIES, RULES & REGULATIONS

- A. It is agreed and understood that the Town of Silver City and its Police Department currently have policies, rules and regulations governing employment. the Association agrees that such policies, rules and regulations shall be formulated, amended, revised and

implemented as appropriate by the Chief of Police and/or the Town Manager; provided, however, that said formulation, amendment, revision and implementation will be neither arbitrary nor capricious. In the event that a change is contemplated, a good faith effort shall be made by the Chief of Police and/or the Town Manager to seek input from the Association prior to implementation.

- B. In the event of a conflict between the Rules and this Agreement, the Agreement shall prevail.
- C. Nothing in this section shall be construed as a waiver of the Association's right to bargain over any rule change which has practical effect of substantially altering the terms and conditions of employment as established in this Agreement.

SECTION 39. OFF DUTY POLICE EMPLOYMENT

Section 4.5 of the current Ordinance No. 744 is hereby incorporated by reference.

SECTION 40. PERSONNEL RECORDS

- A. The Police Department shall maintain a personnel file for each employee. Such files shall be under the control of the Chief of Police and shall be centrally maintained in an appropriate location within the Police Department.
- B. The only personnel records that may be used as a basis for action are those which appear in the Town Personnel office file or in the employee's Police Department file and of which the employee has been notified.
- C. The Police Department's and/or Town's personnel files shall be purged as provided in this section. Upon request, by an employee to the Chief of Police and/or Town Manager, any disciplinary action or letter of reprimand or suspension shall be considered for purging provided the employee has had no disciplinary action or letters of reprimand or suspension during the two (2) years immediately preceding the request.
- D. The rights of an employee to inspect personnel files (as per Section 4.26 of Ordinance No. 744) and public information records of the Town shall NOT be abridged.
- E. Employees shall be permitted to submit a written rebuttal to any disciplinary action within five (5) calendar days after receipt of such action. Said rebuttal shall be included in the personnel file of the employee.

SECTION 41. INOCULATION AND IMMUNIZATION

If an officer, while carrying out his or her duties is in danger of being exposed to a contagious disease, the Town agrees to pay the expense for inoculation and immunization shots. Should an

officer be exposed to a contagious disease, the Town agrees to pay the expense for inoculation and immunization shots for members of the officer's immediate family. This is subject to the review and approval of the Chief of Police and the Town Manager on the basis of documentation and verification presented by the employee to the Chief of Police and Town Manager pursuant to the no-gain provision of the insurance company.

SECTION 42. DRUG TESTING POLICY

The Town and the Association will follow the guidelines of the current drug testing policy.

SECTION 43. INCENTIVE PAY

Effective July 1, 2009, the Town agrees to pay \$1,000.00 per year to each Association Member who has an Associate Degree from a recognized college/university, and \$1,500.00 per year to each Association Member who has a Bachelor Degree from a recognized college/university. The degrees recognized shall have a law enforcement or criminal justice basis.

SECTION 44. LONGEVITY PAY

Effective July 1, 2004, the Town will implement the following longevity pay plan:

<u># of yrs of service</u>	<u>Pmt per Quarter</u>	<u>Pmt per Year</u>
3 - 5 years completed	\$ 175.00	\$ 700.00
6 - 7 years completed	\$225.00	\$ 900.00
8 - 10 years completed	\$275.00	\$ 1,000.00
11 - 12 years completed	\$325.00	\$ 1,300.00
13 - 15 years completed	\$375.00	\$1,500.00
16 + years completed	\$425.00	\$1,700.00

SECTION 45. PERSONAL PROPERTY

The Town agrees to pay for prescription eye glasses and watches damaged or lost in the line of duty as verified by an accident report and the department head. These items will be repaired or replaced (up to \$150.00 for glasses and up to \$75.00 for watches) by the Town as verified by appropriate proof of purchase or repair of the replacement eye glasses.

SECTION 46. SAVING CLAUSE

Should any part of this Agreement or any provision contained herein be declared invalid by a court of competent jurisdiction, the validity of remaining portions shall not be affected.

SECTION 47. ENTIRE AGREEMENT

It is understood and agreed by and between the parties hereto that this Agreement is the only existing Agreement between the parties and replaces any and all previous Agreements.

SECTION 48. TERMS OF AGREEMENT

The terms and conditions of this Agreement shall continue in full force and effect commencing on **July 1, 2016** and terminating on **June 30, 2018**. Any of the rights, powers, functions or authority which the Town had prior to the signing of this Agreement, including those in respect to rates of pay, hours of employment, or conditions of work are retained by the Town, except as those rights, powers, functions or authorities that are specifically abridged or modified by this Agreement. Should either party to the Agreement request the opening of negotiations, this Agreement and the conditions herein will continue in effect until the new contract is negotiated. The Town and the Association will reopen negotiations for economic issues if the gross receipts tax revenues increase 2 percent over a 3-month period.

If either party requests negotiations for a new Agreement, and said negotiations extend beyond any expiration date mentioned, this Agreement will remain binding and in full force and effect until a new Agreement is signed between the parties.

In witness whereof, the parties hereto have set their hands and seals this 6th day of June, 2016.

TOWN OF SILVER CITY

_____/s/_____
Ken Ladner, Mayor

(Seal)

FRATERNAL ORDER OF POLICE
SILVER CITY POLICE OFFICERS
ASSOCIATION

_____/s/_____
President, Arthur Rascon

Attest:

_____/s/_____
Yolanda C. Holguin
Acting Town Clerk