

BILL NO.: 4812

ORDINANCE NO.: _____

Introduced by: City Manager Debra M. Irvin

AN ORDINANCE OF THE CITY OF BERKELEY, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE THE ATTACHED MEMORANDUM OF UNDERSTANDING (MOU) FOR CORPORALS AND SERGEANTS BETWEEN THE CITY OF BERKELEY AND THE EASTERN MISSOURI COALITION OF POLICE, FRATERNAL ORDER OF POLICE, LODGE 15

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

- Section 1.** The Mayor is hereby authorized to execute the attached Memorandum of Understanding (MOU) for Corporals and Sergeants between the City of Berkeley and the Eastern Missouri Coalition of Police, Fraternal Order of Police, Lodge 15.
- Section 2.** The attached agreement is hereby incorporated herein and made a part of this ordinance, as if fully set out herein.
- Section 3.** This Ordinance shall be in full force and effect from and after the date of its passage.

1st Reading, this 02nd day of November 2020

2nd Reading this _____ day of _____ 2020

3rd Reading, PASSED and APPROVED, this day of 2020

ATTEST:

Babatunde Deinbo, Mayor

Deanna L. Jones, City Clerk

Final Roll Call:

Councilwoman Mitchell	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Greene	Aye ___	Nay ___	Absent ___	Abstain ___
Mayor Deinbo	Aye ___	Nay ___	Absent ___	Abstain ___

Approved As To Form:
Donnell Smith, City Attorney

MEMORANDUM OF UNDERSTANDING (MOU)

Between

CITY OF BERKELEY, MO

And

**EASTERN MISSOURI COALITION OF POLICE,
FRATERNAL ORDER OF POLICE, LODGE 15**

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**ARTICLE 1
RECOGNITION**

The City of Berkeley (hereinafter the "Employer" or "City") recognizes the Eastern Missouri Coalition of Police, Missouri Fraternal Order of Police, Lodge 15 (hereinafter the "Union") as the sole and exclusive bargaining representative for the following employees employed by the City of Berkeley Police Department.

Included: All non-probationary sworn full-time and part time commissioned police officers with the rank of corporal or sergeant.

Excluded: All other police officers of the City of Berkeley.

This Memorandum of Understanding ("Agreement") is made up of policies and procedures that shall apply exclusively to the corporals and sergeants of the Employer.

**ARTICLE 2
UNION STEWARDS**

Section 1: Steward Appointment

The Lodge shall appoint Stewards/Representatives.

Section 2: Grievance Representation

Union Stewards shall be permitted reasonable time while on duty for the purpose of assisting and representing corporals or sergeants in the processing of grievances or exercising other rights set forth in this Agreement and such reasonable time shall be without loss of pay and shall only be with the prior approval of the Chief of Police and only if such time does not interfere with the employment duties of the stewards and corporals or sergeants, nor cause overtime.

**ARTICLE 3
DUES DEDUCTIONS**

The City will not deduct any dues from the corporals' or sergeants' payroll. It is the sole responsibility of the officer to pay their dues.

**ARTICLE 4
LABOR MANAGEMENT**

Section 1: Union Representative Attendance

When absence from work is required to attend Labor Management Conferences, corporals or sergeants shall, before leaving their workstation, give reasonable verbal or written notice to and receive approval from their supervisor. The Chief of Police and City Manager shall approve the absence. Officers attending such conferences shall be limited to one (1) officer.

Section 2: Lodge Business

Bargaining Unit Members, not to exceed four (4) in number designated by the Lodge President annually and in writing, may be entitled to draw upon a bank of eighty (80) hours of paid time per year for the purpose of conducting Lodge business at the City of Berkeley. The specific use of Lodge business leave must in each instance be requested in writing by the Lodge President and approved in advance in writing by the Chief or his designee. The Chief will approve the use of Lodge business leave only if there is or will be sufficient staff

on duty within the Department to meet operational needs at the time of the proposed use and if departmental operations will not otherwise be adversely affected. Leave scheduled within the Department shall not be affected by the Bargaining Unit Member's Lodge business leave time. Lodge business leave may not be used when the Bargaining Unit Member is in another paid leave or unpaid status. The Police Department shall provide a tally of time used per payroll period.

ARTICLE 5 CITY OF BERKELEY RIGHTS

Section 1: Management Rights

The union recognizes that the Police Department of the City of Berkeley, Chief of Police, and City Manager maintain its exclusive management rights. Such rights and responsibilities shall include, but are not limited to:

- 1) Determining the overall mission and goals and the budget of the police department of the City of Berkeley.
- 2) Maintaining and improving the efficiency of the police department.
- 3) Determining the services to be rendered, the operations to be performed, the technology to be utilized.
- 4) Determining the overall methods, processes, means, job classifications, or personnel by which the operations of the police department is to be conducted.
- 5) Directing, supervising, and/or hiring officers.
- 6) Promoting, suspending, disciplining, discharging, transferring, assigning, scheduling, retaining, and/or laying off officers consistent with this agreement.
- 7) Adopting rules, regulations, educational programs, safety programs, conducting evaluations, and any other programs necessary to effectuate the efficient and effective operation of the police department.

Section 2: Civil and Public Emergency Conditions

If at any time it is determined that civil or public health emergency conditions exist, including but not limited to civil disorder, strikes, tornado conditions, floods, infectious disease outbreaks, or other similar catastrophes it will be at the discretion of the City Manager and the Chief of Police to suspend the provisions of this Agreement. The Employer shall make all reasonable efforts to return to normal operations as soon as possible after the civil emergency or public health emergency is declared to be over by the City of Berkeley and or state or federal government.

ARTICLE 6 UNION ACTIVITY

Section 1: The Employer agrees not to discriminate, intimidate and/or retaliate against any corporals or sergeants for their activity on behalf of, or membership in the Union. There shall be no discrimination, interference, restraint, or coercion by the Employer against any corporal or sergeant for activity or inactivity, on behalf of or membership in the Union.

Section 2: Right of Representation

Bargaining Unit Members shall have the right to be collectively represented by the Lodge with the City in the determination of their terms and conditions of employment, and in the administration of grievances filed under this Agreement.

ARTICLE 7 PROBATIONARY PERIOD

The probationary period is six months. Extending the initial review period requires approval by the Chief of Police. At any time during the initial review period, the patrol officer may be dismissed without the right of grievance, appeal, or hearing concerning such dismissal.

ARTICLE 8 BULLETIN BOARDS

The Employer shall provide space for the Union to have a bulletin board upon which the Union may post notices and other approved items pertaining to the Union. All approved items posted are the responsibility and property of the Union and no items shall consist of any material that is political, crude, offensive, vulgar or discriminatory. The Union agrees to indemnify and hold harmless the Employer from any claims, lawsuits or actions involving information on their bulletin boards. Approval will not be unreasonably withheld by the Employer and an explanation will be provided as to the reason for disapproval.

ARTICLE 9 UNIFORMS AND EQUIPMENT

Section 1:

Upon employment the Employer agrees to furnish an initial issue of uniforms and related items to each patrol officer at no cost to the patrol officer. The initial issue of uniforms shall include the following:

Four (4) long sleeve and short sleeve shirts

Four (4) trousers

One (1) all season type coat

One (1) duty type sweater (optional)

One (1) rain coat

One (1) ballistic vest

One (1) Semi-automatic Pistol with three (3) high capacity magazines. The Chief of Police will decide the manufacturer, caliber and style of firearm to be issued.

One (1) duty belt

One (1) duty holster

One (1) high capacity double magazine pouch

One (1) handcuff case

One (1) set of handcuffs

One (1) mace/oleo capsicum case

One (1) can of mace or oleo capsicum (pepper spray)

One (1) expandable baton with carrier

Four (4) belt keepers

One (1) round hat

One (1) whistle and chain

The uniform dress code shall be established by Employer rules and regulations.

The City shall pay for the replacement of Department issued items, when no longer serviceable except due to negligence or abuse.

The City agrees to provide operable equipment as listed above.

Section 2:

The City will provide corporals or sergeants with a semiannual \$300 voucher for uniforms and equipment.

The City also agrees that it shall pay for the replacement or repair of personal items or equipment, that enhance the Bargaining Unit Member's abilities to perform their duties, purchased by the Bargaining Unit Member, when they become damaged or destroyed on duty. This provision includes, but is not limited to eye glasses and professional attire (i.e. suits, sport coats, dress shirts, slacks, dress, etc.) that the Bargaining Unit Member is required to maintain due to their assigned position. The City will only be responsible for cell phone damage up to \$150. The City shall have sole discretion to repair or replace the item. Bargaining Unit Members shall be required to furnish receipts prior to payment by the City.

**ARTICLE 10
OVERTIME AND PAY PROVISIONS**

Section 1: All Call Back & Overtime

Any hours worked in excess of 80 hours during a single pay period will be paid at one and one half (1.5) times their hourly rate of pay. Actual working hours shall be defined as the hours worked. Funeral leave, annual leave and sick leave shall not be factored into the calculation of hours required to achieve overtime status. Annual leave in the form of preapproved vacation time shall count as actual hours worked.

Members who are called back for unscheduled duty with less than twenty-four (24) hours' notice will receive pay for two (2) hours or for actual hours worked, whichever is greater, at a rate of one and one half (1.5) times their regular hourly rate of pay. Hours worked which coincide with a Member's regularly scheduled tour of duty shall not apply to this provision.

Section 2: Separation Pay

Upon separation from City employment, a corporal or sergeant that voluntarily separates as an employee should give at least two weeks' notice prior to their separation. A corporal or sergeant will be paid for any hours worked. Corporals and sergeants will receive payment of accrued vacation time. The City will not pay for any accrued sick time upon separation.

Section 3: Overtime

A. Distribution of Overtime

Overtime opportunities will be distributed as equitably as possible among officers working in the appropriate classification. It shall be the responsibility of the Sergeant or other appropriate supervisory personnel to find appropriate coverage for overtime assignments and not the responsibility of the officer.

B. Court Time - if any corporal or sergeant is required to attend court outside of their scheduled workday during hours which are not contiguous to their scheduled hours then they shall be paid for a minimum of two (2) hours of work at one and one half (1.5) times their regular hourly rate of pay. For a corporal or sergeant to be eligible to receive any pay for court attendance under this Section, the officer must obtain the prior approval from his immediate supervisor. The officer is to be furnished a copy of a "Notice to Appear" or subpoena upon request. In the event an officer is paid by the City pursuant to the provisions of this Article the officer shall endorse over to the City any witness fees and mileage the officer receives pursuant to a subpoena or other payment for appearance in court.

Should the officer's payment for appearance at court exceed the amount of compensation from the City, the officer agrees to choose either the compensation from the City or the payment for their appearance in court, but not both. If a member receives less than twenty-four (24) hours' notice from the City that they are required to appear in an upcoming court hearing in the City, they shall receive one and one half (1.5) times their hourly rate for a minimum of four (4) hours plus the actual time they are required to be present.

- C. **Mandatory Meetings:** Any meetings called by the Chief of Police or their designee that are mandatory attendance by corporals or sergeants covered by this Agreement shall be compensated at the required rate of pay.
- D. **Mandatory Overtime:** A corporal or sergeant ordered to perform mandatory overtime shall be notified by their supervisor.

Section 4. Holiday Pay

Corporals and sergeants shall receive pay for the 10 holidays recognized by the City. If an officer works the holiday that person will receive 8 hours of holiday pay in addition to pay for hours worked. The holiday pay shall be paid for the pay period in which the holiday occurred.

Section 5: Payroll

The City utilizes an electronic payroll system. All officers have access to their payroll records which includes time and attendance, gross and net pay, hours worked, vacation and sick time accrual and use and all deductions. Officer's paychecks are direct deposited into their banking institution.

ARTICLE 11 ATTENDANCE

Section 1: Hours of Work

Shall be as established by departmental policies and procedures.

Section 2: Workday

All Members assigned to uniform patrol shall be assigned their respective shifts and district assignments annually by the Chief of Police by using a shift bid system based on seniority. Members will bid for assignments once a year. Shift bid shall be opened on November 1st and shall close November 15th of every year. Shift assignments will be announced by December 1st and shall take effect January 15th of the following year. All members who fail to provide a timely shift bid request in the allotted time will be placed on a shift at the discretion of the Chief of Police. Shift assignments may be changed temporarily by order of the Chief for exigent or emergency needs of the Department. Prior approval of the Lodge shall be obtained in advance of the change. Such approval shall not be unreasonably withheld.

Section 3: Absence/Tardiness

When a corporal or sergeant is late for work or absent, it is their responsibility to notify their supervisor at least one (1) hour before their scheduled start time and abide by departmental policies and procedures. Corporals and sergeants assigned to Day Shift will make notification no less than one (1) hour prior to the start of their shift. If an officer is unable to reach their immediate supervisor, a message should be left on the supervisor's voicemail. Corporals and sergeants will also contact the "On Duty" Dispatcher to make notification.

Section 4: Rest/Meal Periods

The nature and schedule of rest periods shall be at the discretion of the Supervisor. Due to the nature of law enforcement work there may be occasion when a commissioned officer must abandon their meal or break period. In the event an officer has to abandon their meal or break period they will be allowed to take their meal or break at a later time during their shift hours if the workload allows. Corporals and sergeants will be given a rest period of no less than eight (8) hours between shifts. Corporals and sergeants may not work more than 16 hours of combined regular duty and secondary employment within any 24-hour period. Additionally, corporals and sergeants must have a consecutive eight-hour rest period between scheduled shifts.

In the event of a catastrophic event, manmade or natural disaster, or a serious or extreme law enforcement situation exists in which all available personnel are needed, then eight hours rest may not be applicable.

**ARTICLE 12
GRIEVANCE PROCEDURE
UNION REPRESENTED**

Section 1: PURPOSE

The purpose of this policy is to provide a prompt, equitable, and efficient procedure to review and resolve disputes or differences between the Employer and the Union or a corporal or sergeant with respect to the meaning, interpretation or application of the collective bargaining agreement and all discipline excluding termination. Any employee in the classified service who shall be suspended, discharged or reduced in rank shall within ten (10) days thereafter be presented with written reasons for such suspension, discharge, reduction, suspension without pay in excess of ten (10) days or forfeiture in excess of twenty percent (20%) of the employee's annual vacation pay. Such employee shall, within ten (10) days after receipt of such written notice, have the privilege of a public hearing before the Civil Service Board. The Board, after such hearing, shall make final disposition of the case. City employees who are members of currently recognized bargaining units by the City may appeal to the Civil Service Board or may choose to substitute the bargaining units' grievance procedure, as detailed herein, but may not use both procedures.

Section 2: SCOPE

Bargaining eligible corporals or sergeants in the City of Berkeley, Missouri Police Department.

Section 3: GENERAL PROVISIONS

All bargaining eligible corporals or sergeants are able to file a grievance under this policy through the union.

The Chief of Police is responsible for the administration of the grievance process within the Department. These responsibilities include the following:

1. Provide the necessary administrative support and liaison with the City Manager as may be necessary to facilitate the process.
2. Act as the coordinator of the grievance process and ensure each step of the process has been properly documented.
3. Maintain a record and copies of all grievances in a secure manner. Originals are forwarded to the Assistant City Manager for storage.

4. All grievances shall be submitted in writing to the appropriate person.

Section 4: Grievance Process

Following is a step-by-step process for filing a grievance.

A. Level I – Preliminary Oral/Written Grievance Discussion with Immediate Supervisor

A corporal or sergeant will meet with and/or discuss the issue with their immediate supervisor within five (5) business days of the date the action was taken by the Supervisor. Within five (5) business days of the discussion/meeting, the supervisor will inform the corporal or sergeant of their decision in writing. If the corporal or sergeant is not satisfied with the supervisor's decision, they may submit a formal written grievance using the Grievance Form.

B. Level II – Written Grievance Discussion with Supervisor: Police Lieutenant or Captain

The deadline to submit a formal written grievance to his platoon Police Captain is within five (5) business days of the receipt of the immediate supervisor's decision. The Police Captain shall hold a meeting to discuss the grievance and reply in writing to the grievant within five (5) business days after the meeting. If grievance is not satisfied it will be forwarded to the Chief of Police.

C. Level III – Written Grievance forwarded to Department Head: Chief of Police

The deadline to submit a formal written grievance to his or her Department Head is within five (5) business days of the receipt of the Police Captain's decision. The Chief of Police shall hold a meeting to discuss the grievance and reply in writing to the grievant within five (5) business days after the meeting.

D. Level IV – Written Grievance to the Assistant City Manager.

If the grievant is not satisfied with the Department Head's written response, the grievance may be submitted for Level IV consideration. The deadline to submit a formal written grievance to the Assistant City Manager is within five (5) business days of the Level III reply. The Assistant City Manager shall hold a meeting to discuss grievance and reply in writing to the grievant within five (5) business days after the meeting.

E. Level V – City Manager:

If the grievant is not satisfied with the Assistant City Manager's written response, the grievance may be submitted for Level V consideration. The deadline to submit a formal written grievance to the City Manager is within five (5) business days of the Level IV reply. The City Manager shall hold a meeting to discuss the grievance and reply in writing to the grievant within five (5) business days after the meeting.

Section 5: Grievance Form

The Labor Agreement Grievance Review Request must be completely filled out by the grievant and/or Union and signed by the corporal or sergeant and the Union representative. Once reduced to writing beginning at Level I, the text of the grievance shall remain unaltered as the grievance processes through any additional steps.

Section 6: Miscellaneous

- A. Grievances may be withdrawn at any step of the grievance procedure.
- B. The Union shall be given a copy of the final disposition of all grievances. A copy of the decision of the Employer at each step shall be provided to the grievant and to the Union representative involved.

- C. Grievance resolutions or decisions at the Preliminary Step or Level I shall not constitute a precedent in any other proceeding.

ARTICLE 13 DISCIPLINARY ACTION

Section 1: Discipline

The corporals and sergeants agree to adhere to the principles of corrective and punitive discipline. Keeping in mind there may be occasions where the offense alleged is so egregious it may require immediate termination. Discipline will be applied equitably and fairly among all officers.

All officers are expected to meet the City's standards of officer performance. Officer performance encompasses many factors, including attendance, punctuality, personal conduct, job proficiency, conduct, on or off duty (if it brings discredit to the City) and general compliance with the City's policies and procedures.

If a corporal or sergeant does not meet these standards, the Supervisor initiates a disciplinary process.

The disciplinary process may result in a verbal or written reprimand, disciplinary probation, suspension, demotion or dismissal.

The City Manager must approve a dismissal of an officer.

The Chief of Police may temporarily remove an officer from duty and send them home. Only the Chief of Police or Command Staff with the rank of Captain or above, in the absence of the Chief of Police, will have the authority to remove an officer from duty. The supervisor will make a full written account of his actions and the actions of the officer that led up to the officer being relieved of duty. This written account will be completed as soon as possible and furnished to the Chief of Police or appropriate Command Staff.

Section 2: Time Constraints

Absent unusual circumstances discipline imposed as result of other than an Internal Affairs Investigation, or Shooting Team Investigation, shall be imposed within five (5) business days after the incident giving rise to the discipline occurs or becomes known to a command staff officer or it shall be considered dropped. If unusual circumstances arise the Lodge shall be notified in writing immediately.

Section 3: Just Cause

Members, excluding probationary Members, shall be disciplined or discharged only for just cause. Discipline for just cause shall include, but not be limited to, specific violation of City Ordinances, Personnel Policies and Procedures, Departmental Rules and Regulations, General or Special Orders, and State and Federal Law.

Section 4: Suspensions and Administrative Leave

Suspensions will be based on hours worked, and only implemented upon Just Cause. Any Member under investigation for any act must be notified by the Department in writing within forty-eight (48) hours of the complaint being received if said Member is unable to perform his/her duties due to the act that is being investigated, they shall be placed on paid administrative leave during the duration of the investigation.

Section 5: Disciplinary Steps

Disciplinary actions are taken when a corporal or sergeant exhibits unacceptable work habits or attitudes. There are five forms of punitive discipline employed by the Department.

1. **Oral Reprimand** – Issued to an officer by a police officer of superior rank or position. The offending officer’s supervisor documents oral reprimands. Documentation of oral reprimands are retained for twelve months. If no further disciplinary action is taken it shall be removed.
2. **Written Reprimand** – Issued by a higher-ranking police officer. Written reprimands are produced in duplicate with a copy given to the offending officer. The original document is signed by the offending officer and his supervisor. The original is given to the Chief for his/her review. Following the Chief’s review, the original documentation is transferred and stored in the offending officer’s personnel file with human resources for twelve months. If no further disciplinary action is taken it shall be removed.

Written reprimands are used to:

- a. Correct violations of policy and procedures
 - b. Correct repeated procedural errors
 - c. Correct violation of other written directives
3. **Suspension** – Suspensions are temporary separations from the City service for disciplinary purposes. An officer may be suspended by his department head without pay for the length of time determined appropriate not to exceed twenty-four (24) hours in any twelve-month (12) period. Additional suspensions or suspensions for a longer period of time may be imposed by the department head with the approval of the City Manager. The City Manager shall be furnished with a written statement specifying the reasons for such suspension.

The Chief of Police holds the authority to suspend an officer. Sergeants may make a recommendation of 1-day suspension without pay. Command staff may make a recommendation of suspension not to exceed three (3) days. The Chief of Police is authorized to suspend an officer up to ten (10) days. Suspension is appropriate when:

- a. Earlier, documented efforts to discipline have failed.
 - b. The offense is so serious that retaining the officer in an on-duty status would pose a threat to public safety, or the good order and discipline of the Department.
4. **Demotion** – A corporal or sergeant may be suspended, demoted, or dismissed if the officer:
 - a. Has been indicted for a felony or a misdemeanor involving moral turpitude.
 - b. Willfully, wantonly, unreasonably, unnecessarily, or through culpable negligence has been guilty of brutality or cruelty to an inmate or prisoner of a City institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self-defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody
 - c. Violates any of the provisions or regulations of this Manual.
 - d. Is offensive in his conduct or language in public, or toward the public.
 - e. Violates any lawful official regulations or order or fails to obey any proper direction made and given by a Supervisor (insubordination).

- f. Uses or is under the influence of illegal drugs or intoxicants while on duty.
 - g. Is incompetent or inefficient in the performance of the duties of his position.
 - h. Is careless or negligent with the monies or other property of the City or takes any property of the City for his own personal uses or for sale or gift to others.
 - i. Fails to pay or make reasonable provisions for future payment of his just and legal debts or to provide for proper family support.
 - j. Has used, threatened to use, or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of pay rate, or other conditions related to his work.
 - k. Induces or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful or official regulation or order.
 - l. Takes for his personal use from any person, any fee, gift, or other valuable in the course of his work or in connection with it, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons, accepts any bribe, gift, token, monies or other things of value intended as an action of extortion, or other means of obtaining money or other things of value through his position in the service of the City.
 - m. Speaks disrespectfully, publicly criticizes, or with malicious intent ridicules any official or employee of any Department of the City, Judge, Justices, or any other officer or any court.
 - n. Divulges or discusses any confidential City business not having previously been released or made public, discloses official information to any person unless directed to do so by his Department Head or gives out interviews or makes public speeches concerning information not previously released or made public.
 - o. Violates the sexual harassment policy.
 - p. Abuses sick leave.
 - q. Habitually, excessively tardy.
 - r. Engages in activities which tend to subvert the good order of the organization and its effectiveness.
 - s. A corporal or sergeant may be reduced in rank or reduced in status from Permanent to Probationary if previous disciplinary efforts have failed to correct the officer's misconduct and the misconduct warrants immediate action initiated at this level.
5. **Dismissal** – Dismissal is termination of employment. The Chief of Police may dismiss any corporal or sergeant at any time. The officer shall receive a written notice of dismissal within three (3) days subsequent to the effective date of the action. The written notice must include the reason for dismissal and effective date of dismissal.

ARTICLE 14

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OFFICER BENEFITS

Section 1: Holidays

The City recognizes paid holidays for its full-time corporals or sergeants as established by the City Council. City Hall shall be closed on the following named holidays. If any of the holidays listed below fall on Saturday, the holiday will be recognized the Friday prior to the holiday. If any such holiday fall on a Sunday, the following Monday will be recognized as a paid holiday. However, in the event the legal holiday falls on the weekend and the corporal or sergeant is assigned to work on the legal holiday and the City-observed holiday, the officer will receive holiday pay for only the legal holiday, and not for both days.

The following are paid holidays for full-time City officers:

- New Year's Day
- Martin Luther King, Jr. Day
- Memorial Day
- July 4 — Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving and (The Friday following Thanksgiving)
- Christmas Day
- Corporal or Sergeant's Birthday (Floating holiday)

Section 2: Vacation leave

Vacation Leave accrual begins the first day of employment with the City but cannot be taken until the employee successfully completes his/her probationary period of 6 months according to the following schedules.

<u>Seniority</u>	<u>Yearly accrual</u>	<u>Monthly accrual</u>
0-5 years	80 hours	6.67 hours
6-15 years	120 hours	10 hours
16-20 years	160 hours	13.34 hours
21 years and over	200 hours	16.67 hours

All vacation shall be taken at least one week at a time with the exception of 3 (12 hour) days which may be taken on nonconsecutive days as approved by the Police Chief.

All annual leave earned within the year must be taken by the end of following calendar year or be forfeited. The maximum accrual will be the yearly accrual. The Council, in its discretion, may make an exception to the use of the policy set out here in.

Vacation will be granted based on seniority.

Section 3: Insurance

- a. Medical Insurance — Full-time corporals and sergeants, their spouses and dependents are currently covered under a plan with a portion of premium cost paid by the City.
- b. Dental Insurance — Full-time corporals and sergeants, their spouses and dependents are currently covered under a plan with a portion of premium cost paid by the City.

- c. Vision Care Insurance – Full time corporals and sergeants, their spouses and dependents are currently covered under a plan with a portion of premium cost paid by the City.
- d. Life Insurance — Corporals and Sergeants are insured for one time their annual compensation (base salary or hourly wage). The full cost of the premium is to be paid by the City.
- e. The employer agrees to maintain all insurance coverage for corporals and sergeants covered by this Agreement that are the same as or substantially similar to those provided to other City police officers.

Section 4: Retirement

A corporal or sergeant, who retires at age 55, will be offered the opportunity to stay with the group dental, vision and medical insurance program under COBRA guideline at the retired officers' expense.

Section 5: Sick Leave

Full-time corporals or sergeants will accumulate sick leave at the rate equal to one workday or shift day per month. Corporals and sergeants are permitted to accrue sick leave to a maximum of 100 days. Corporals and sergeants that may have over 100 days due to their seniority, sick leave will not be reduced, however they will not accrue more sick leave until it drops below 100 days. Sick days must be used for actual illness or injury preventing an officer from being able to work. Corporals or Sergeants absent in excess of three consecutive days must present a physician's statement or report upon request by their immediate supervisor. The Employer shall be entitled to request and receive physician's update upon request. A sick day will be paid at the normal rate of pay and normal shift hours that constitute a normal work day. If an officer terminates their employment with the City for whatever reason, the City will not compensate the officer for any accrued sick time.

Section 6: Funeral Leave

Funeral leave will be granted with pay in the event of a death of a member of a corporal or sergeant's immediate family. The immediate family consists of the spouse, children, mother, father, brother, sister, and grandparents. Funeral leave shall not exceed three (3) working days.

Section 7: Jury Duty

A corporal or sergeant shall be granted an approved leave of absence from work when such leave is required to attend jury duty. It is expected that the officer provides the City with prior written notice of jury duty as far in advance as is possible. Corporals or sergeants required to serve on jury duty will be paid their normal rate of pay.

Corporals or sergeants shall be granted leave with pay when required to be absent from work for jury duty or as a trial witness. The City does not reimburse mileage.

Section 8: Training Leave

All required job related training will be paid for by the City.

Each corporal or sergeant is required to complete mandatory training requirements established by the Missouri Peace Officer Standards and Training Program (POST).

Corporals and Sergeants will be paid their base rate for each class hour of training completed. The Chief must receive a certificate of completion. Corporals and sergeants will not be compensated for travel time or mileage but may be allowed to utilize a police department vehicle for transportation to and from the training location. A request to attend a particular training session may be denied if the officer's attendance of the session will create an overtime situation in the department or will lead to a shortage in staffing.

Section 9: Military Leave

With regard to the military leave, the City shall adhere to federal and state law, including the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Section 10: Light Duty

Work Related Injury. In the event a corporal or sergeant is injured on duty, that may not allow them to perform their normal duties, and at the request of the City's Worker Compensation Insurer, the Employer may grant said officer Light Duty until such time as the officer is able to return to Full Duty.

For work related Light Duty status, the corporal or sergeant shall receive their normal compensation. Corporals or sergeants placed on Light Duty may perform duties that are related to their job qualifications and functions and are within their assigned department or may be assigned to other areas dependent upon the physical capabilities or limitation of the officer.

Return to Full Duty. The corporal or sergeant may return to Full Duty upon release from the treating medical care professional.

Section 11: Voluntary Deferred Compensation

Members shall be afforded the option to enroll into a secondary retirement program governed by the Internal Revenue Code 457. A company with an established program shall administer the deferred compensation program. Payments to said program shall be made through payroll deduction.

**ARTICLE 15
ADDITIONAL PROVISIONS**

Section 1: Union Access to Work Site

In the event a designated Steward is unable to handle or assist a corporal or sergeant with a particular issue, then an authorized representative of the Union shall be permitted to visit the Department during working hours to talk with the effected officer or the Steward and/or representatives of the Employer concerning matters covered by this Agreement.

Section 2: Union Access to Records

The Union or a representative shall have the right to examine any open records pertaining to the computation of compensation of any corporal or sergeant whose pay is in dispute or any other records open of the officer pertaining to a specific grievance, at reasonable times with the officer's written consent.

Section 3: Seniority

Seniority shall be defined as the length of continuous service of the corporal or sergeant with the city beginning with their latest date of hire, except that officers rehired within one year of the date of separation will be given credit for the entire length of service.

Section 4: Layoffs

Probationary patrol officers and temporary and part-time patrol officers shall be laid off before any full-time patrol officers, corporals, or sergeants. Patrol officers, corporals, or sergeants should receive notice in writing of the layoff not less than thirty (30) days prior to the effective date of such layoff.

Section 5: Promotional Procedures

EVALUATING THE PROMOTIONAL POTENTIAL

- A. The Chief of Police is responsible for evaluating each applicant's initial eligibility for promotion upon receipt of a memorandum of interest. This evaluation process includes reviewing each applicant's qualifications to ensure they meet minimum education and experience requirements.
 - 1. It is the candidate's responsibility to ensure that the Chief of Police has all the necessary documentation for educational requirements.
 - 2. An unsatisfactory performance review or disciplinary action(s) involving suspensions or more serious action within two years preceding the close of applications, shall be cause for elimination from the promotional process.

- B. Eligibility for promotion will vary with the rank of the position being tested for and the candidate's length of service in his respective classification. The testing process for the ranks of Corporal and Sergeant is a three (3) phase process consisting of a written test, oral interview, and City Manager or designee evaluation.
 - 1. Corporal – For this position, patrol officers must have a minimum three (3) years of service after their probationary period by the date the promotion becomes effective to be eligible to participate in the promotional process.
 - 2. Sergeant - For this position, officers and corporals will be eligible to participate in the promotional process. Patrol officers with a minimum of six (6) years' experience beyond the probationary period will be eligible to participate in the promotional process. Corporals with three (3) years of service after their probationary period in their respective classification by the date the promotion becomes effective can participate in the process.

WRITTEN TESTS

When a written examination is included in the process, it will be administered to applicants who meet the minimum qualifications for promotion. The Office of the Chief of Police will notify the candidate(s) of the written test date and time. The written test may be obtained from an outside vendor, using bibliography sources provided by the Department to derive questions for the test and/or the Chief of Police may use a written test comprised of questions developed within the Department. The written test will constitute 30% of the total grade.

At minimum, a passing grade of 70% is required on the test. Candidates who do not reach the minimum grade will not go forward in the promotion process.

ASSESSMENT CENTERS

The Berkeley Police Department may utilize an Assessment Center for sworn promotions that is designed to measure dimensions, attributes, characteristics, qualities, skills, abilities, or knowledge, specified in the

written job analysis. In the event an Assessment Center is used, The City of Berkeley takes an active part in the Assessment Center process, to include, at a minimum, input on the design and scoring criteria of the exercises utilized in the promotion process and the training of assessors.

ORAL INTERVIEWS

- A. Each eligible candidate will be afforded the opportunity to continue in the process and be interviewed by a board consisting of the Chief of Police, Patrol Commander and Sergeant who will rate the candidates. Each candidate will be rated in five (5) general areas. Those areas will include:
1. General Appearance
 2. Communication Skills
 3. Professional Knowledge
 4. Leadership
 5. Relationships

The oral interview will constitute 35% of the total grade.

- B. The Chief of Police will make a recommendation for promotion in writing to the City Manager who will evaluate the candidate. The City Manager's evaluation will constitute 35% of the total grade.

REVIEW AND APPEAL

- A. The City Manager is vested with the authority to select the most qualified candidate. Recommendations for appointment will generally be made in score order (highest Rating Point Value to lowest).
- B. Promotional policies and procedures established and administered by the City of Berkeley provide for the review of the results of each element of the process by promotional applicants. Applicants are encouraged to take advantage of the review processes and the feedback provided on test performance.
- C. Applicants who disagree with testing procedures and outcomes may appeal in writing to the Chief of Police and the Assistant City Manager within 15 calendar days of the completion of the process.
1. Each appeal will be handled on a case-by-case basis, as the action will depend upon the part of the process being appealed.
 2. In all cases, appeals will be handled fairly and objectively and will be based upon professional standards relating to testing and promotional processes.

REAPPLYING

Promotion eligibility lists will be in effect for twelve (12) months. During this time, eligible candidates will be considered for promotion without retesting.

LATERAL PROMOTIONS

Lateral promotions must adhere to the promotional evaluation process as outlined in the previous section. Eligibility for lateral promotion of Detective requires all candidates have a minimum of three (3) years of

service from the end of their probationary period with no less than 30 hours of coursework from an accredited college or university.

PROMOTIONAL MATERIALS

Assistant City Manager shall secure storage of test materials and tests completed by candidates.

Section 6: Secondary Employment

For all permanent full-time corporals or sergeants of the City, their job with the City shall be their primary employment. No officer of the City shall work at another position outside of the City employment which reflects unfavorably on the City. No officer shall use his position with the City to gain such additional employment, nor in any way permit such additional employment to interfere with or influence their obligations and duties to the City. When working with any other public or private organizations, no officer shall wear uniforms or clothing of any kind purchased by the City or identified with City employment.

All permanent full-time corporals or sergeants seeking to hold outside occupations are required to submit a written report to the Chief of Police prior to accepting such a position. This written report shall include the name of the company or public agency by whom the individual will be employed. This will also include a brief description of the job and duties to be performed, plus all pertinent information regarding insurance, pension plans, other fringe benefits, hours worked per day, and per week, and other work scheduling information.

Corporals and Sergeants may not perform secondary employment which conflicts with or in any way negatively affects their ability to satisfactorily perform the job-related requirements of their City employment. The Chief of Police shall be notified and give written approval prior to performing any secondary employment. If the secondary employment requires a security license then the officer must furnish proof of a valid applicable license prior to approval by the Chief of Police.

Section 7: Minimum Staffing

The City agrees to take all necessary steps to fill vacancies within a reasonable amount of time.

**ARTICLE 16
MISCELLANEOUS PROVISIONS**

Section 1: Off-Duty Responsibility

The City recognizes that all corporals and sergeants are presumed to be subject to duty twenty-four (24) hours per day. Any legal action taken by an officer on his/her time off, which would have been taken by an officer on duty, if present or available, shall be considered police action, and officers shall have all the rights and benefits concerning such action as if they were on active duty.

Section 2: General Orders

The Department will make accessible to each Member a notebook in print or electronic media that contains the City Policies, Procedures, General or Special Orders of the Department, and this Agreement. Members will further receive training in each and every item for which they will be expected to abide.

**ARTICLE 17
LEGAL REPRESENTATION**

If in the performance of their duty a civil action is filed against a corporal or sergeant, the City will represent.

ARTICLE 18
ENTIRE MEMORANDUM OF UNDERSTANDING

If a conflict exists between this Agreement and the Personnel Policies and Procedures, this Agreement will prevail; however, if there is no conflict, the Personnel Policies and procedures will prevail. Waiver or any breach of this Agreement by either party shall not constitute a waiver of any further breach of this Agreement.

ARTICLE 19
INTERNAL INVESTIGATIONS TIME LIMITS

Section 1: Investigation Time Limits

- A. The Internal Affairs Unit shall only conduct administrative investigations when authorized by the Chief of Police. The Internal Affairs Unit will not conduct criminal investigations.
- B. Serious complaints are referred to Internal Affairs for complete investigation depending on the nature of the allegation. "Serious complaints" include but are not limited to complaints of criminal conduct or corruption, excessive force, sexual harassment, moral turpitude, and breaches of civil rights. Allegations requiring investigation that are extremely lengthy, time consuming, involve multiple division/sections, or when other investigative resources are unavailable will be investigated by the Internal Affairs Unit. Any member interviewed for an Internal Affairs investigation will be allowed to have legal representation and/or Union representation present. Notice shall be given to allow the member to obtain representation prior to the interview. If no notice is given, the member shall have up to two (2) hours for representation to arrive.
- C. Supervisors assigned a case are to forward their findings to Internal Affairs for review within twenty (20) working days, unless extended by the Chief of Police. Internal Affairs will review the report for sufficiency of investigation and then return the report for review by the member's entire chain of command.
- D. The Chief of Police should try to render a conclusion to complaints investigated by supervisors within twenty (20) working days of original receipt of the complaint.
- E. Cases investigated by Internal Affairs should be completed and forwarded to the designated Chain of Command for review within thirty (30) working days unless a time extension is granted by the Chief of Police. The Chief of Police reserves the right to designate a Chain of Command other than the affected member's for the review.
- F. The Chief of Police should render a conclusion to complaints investigated by Internal Affairs within sixty (60) working days of the original receipt of the complaint.
- G. For purposes of this Article, working days shall be Monday through Friday excluding any holidays.

Section 2: Statement of Allegations/Rights

When a corporal or sergeant is to be notified he/she has become the subject of an administrative investigation assigned to Internal Affairs, the subject member will immediately receive a written statement of the allegations and the member's rights and responsibilities related to the investigation or as soon as reasonably possible.

Section 3: Bargaining Unit Member Involved Shooting Investigations

- A. No Bargaining Unit Member who has discharged his or her weapon shall be treated as a suspect unless there is probable cause to believe a crime has been committed.

- B. The scenes from shooting situations are to be considered and handled as any other major crime scene, per the appropriate General Order. The on-scene supervisor will be in charge until, the Chief or his/her designee authorizes the release.
- C. A Member who is involved in a shooting incident shall have the right to have legal counsel and/or a Lodge representative present immediately at the scene and during any subsequent Internal Affairs Unit interview. No interview by the Internal Affairs Unit of the Bargaining Unit Member involved in a shooting incident shall be conducted within forty-eight (48) hours of the incident.
- D. Bargaining Unit Member(s) involved in shooting incidents resulting in any personal injury or fatality will be relieved of duty and placed on paid Administrative Leave by the appropriate Division Commander. They will retain their badge and identification card, but not their weapon. This shall be removed and retained pending the investigation. A replacement weapon will be made available to any Member placed on Administrative Leave and whose weapon has been removed. The officer may be ordered to submit to a urinalysis and/or blood test. This shall be at the Department's expense. Member(s) will receive formal notification of their Administrative Leave through a Notice of Administrative Assignment.
- E. The Member(s) will remain on paid administrative leave until the incident has been disposed of through the County Prosecutor's Office, or Grand Jury, and completion of the internal investigation. Once a ruling has been received from the County Prosecutor's Office, or Grand Jury, that no criminal charges will result from the injury/fatal shooting incident, and that the Internal Affairs Unit investigation has been favorably resolved, the Bargaining Unit Member will be returned to full duty status by the Chief. If criminal charges are filed, the leave will become unpaid from the time of filing. If the charges are subsequently dropped, or if the Bargaining Unit Member is acquitted on the charges, he or she will also be returned to full duty status with all back pay, unless the Department independently determines to impose disciplinary action against the Member. In that event, all other procedural safeguards of this Agreement and the City's personnel rules shall apply to that disciplinary action. The disciplined Member will be paid back-pay for the difference between the level of discipline and the duration of the unpaid administrative suspension. For example, if a Member is on administrative leave for sixty (60) days and receives a thirty (30) day disciplinary suspension, the Member shall be paid back-pay for thirty (30) days. The Member(s) will receive formal notification through a personnel action form of their return to active status.
- F. Member(s) involved in shooting incidents resulting in any personal injury or fatality shall be required to be evaluated by a mental health professional to determine if the Member is emotionally fit before they may return to active duty. This shall be at the expense of the Department.
- G. The City will pay the costs and expenses for initial counseling for any Member involved in a critical incident. If continued counseling beyond that is requested or recommended by a mental health professional, the City shall pay all costs associated with such extended counseling, for a reasonable period of time.

**ARTICLE 20
SAVINGS CLAUSE**

If any provisions of this Agreement, or the application of such provisions in this Agreement, should be determined to be declared to be invalid by appropriate court action, or are determined to be inconsistent with the Federal and/or State Law, the remaining parts or portions of this Agreement shall remain in full force and effect.

Any proposed change in City Policy that may have an effect on corporals or sergeants will be provided to the Union 60 days in advance before implementation.

During the term of this Agreement, if the Missouri General Assembly enacts new legislation that changes this agreement, the City will implement such changes.

**ARTICLE 21
WAGES**

All increases and monetary benefits will be discussed with the Police Chief and the Union prior to the Police Department submitting their annual budget to the City of Berkeley for approval.

**ARTICLE 22
DURATION**

This Memorandum of Understanding will remain in effect for three (3) years from the date the Agreement is signed by both parties.

One hundred and eighty (180) days prior to the expiration of this MOU, parties may begin negotiations. During the negotiation period this Agreement shall continue in full force and effect until a new Memorandum is signed.

IN WITNESS WHEREOF, the parties have signed and executed this and several copies.

FOR THE EMPLOYER:

FOR THE UNION:

The City of Berkeley

Eastern Missouri Coalition of Police,
Fraternal Order of Police, Lodge 15

Mayor, Babatunde Deinbo



President, Donald Van

Date: _____

Date: 10-1-2020