



ARTICLES OF AGREEMENT

BETWEEN

THE SHERIFF OF EL PASO COUNTY, TEXAS

AND THE

EL PASO COUNTY SHERIFF'S OFFICERS'

ASSOCIATION, INC.

2009 – 2012



TABLE OF CONTENTS

TITLE	PAGE
PREAMBLE	3
ARTICLE ONE – DEFINITIONS.....	4
ARTICLE TWO - RECOGNITION, REPRESENTATION and NON-DISCRIMINATION.....	6
ARTICLE THREE - MANAGEMENT RIGHTS	7
ARTICLE FOUR - ASSOCIATION RIGHTS.....	8
ARTICLE FIVE - TRAINING PROVISIONS.....	9
ARTICLE SIX – SENIORITY	10
ARTICLE SEVEN - ADVISORY COMMITTEE ON DEPARTMENT RELATIONS	11
ARTICLE EIGHT - INTERNAL AFFAIRS INVESTIGATIONS.....	12
ARTICLE NINE – DISCIPLINE	14
ARTICLE TEN - GRIEVANCE PROCEDURE.....	18
ARTICLE ELEVEN – PROMOTIONS	21
ARTICLE TWELVE - RULES AND REGULATIONS.....	28
ARTICLE THIRTEEN - POLITICAL ACTIVITIES	29
ARTICLE FOURTEEN - NO STRIKE, NO LOCK-OUT	30
ARTICLE FIFTEEN - TIME OFF FOR ASSOCIATION BUSINESS	31
ARTICLE SIXTEEN - TEMPORARY ASSIGNMENT	33
ARTICLE SEVENTEEN – MISCELLANEOUS	34
ARTICLE EIGHTEEN - CLOSING STATEMENTS	36
ARTICLE NINETEEN - DURATION OF AGREEMENT.....	37

PREAMBLE

The following Agreement by and between the Sheriff of El Paso County, Texas, hereinafter referred to as the Sheriff, and the El Paso County Sheriff's Officers' Association, Inc., hereinafter referred to as the Association, is recorded in accordance with the collective bargaining provisions of the Fire and Police Employee Relations Act of the State of Texas. The Sheriff and the Association agree that the efficient and uninterrupted performance of the county law enforcement function is a primary purpose of this Agreement, as well as the establishment of fair and reasonable compensation and working conditions for the Sheriff's officers of the County. Therefore, this Agreement is intended to be in all respects in the public interest.

ARTICLE ONE
DEFINITIONS

As used in this Agreement, the following words and phrases have the meaning hereinafter defined:

"ASSOCIATION" means El Paso County Sheriff's Officers' Association, Inc.

"ASSOCIATION ATTORNEY" mean one or more attorneys, duly licensed by the State of Texas retained to represent the Association.

"ASSOCIATION BUSINESS LEAVE" means time spent: (a) representing members at disciplinary hearings or grievance meetings; (b) preparing for and attending negotiating sessions with the County or Sheriff; (c) administering the terms of the Agreement with the Sheriff and County; (d) attending meetings of the Association's Board; (e) attending regular business meetings of the Association; or (f) attending other Association meetings, training programs, seminars, workshops or conferences.

"ASSOCIATION MEMBER" or "MEMBER" means a deputy or detention officer, excluding the Sheriff, who is in good standing with the Association.

"ASSOCIATION REPRESENTATIVE" means the designated individual or alternate individual to represent the Association in the administration of this Agreement.

"CIVIL SERVICE COMMISSION" means the governing body of El Paso County Sheriff's Department Civil Service Commission.

"CONTINUOUS SERVICE" will be an accumulation of time as a sworn, certified or licensed, full-time, paid officer that is actually worked in the department.

"COUNTY" means the County of El Paso, Texas.

"COUNTY ATTORNEY" means the duly elected or appointed County Attorney of the County.

"COUNTY COMMISSIONER" or "COMMISSIONER" means the duly elected or appointed Commissioner for each of the various precincts in the County.

"DAYS" means calendar days unless otherwise specified herein. If a deadline falls on a Saturday, Sunday or holiday, the deadline will be the next business day.

"DEPUTY" or "DEPUTIES" means each sworn licensed full-time paid appointed deputy, whether male or female, who regularly serves in a professional law enforcement capacity in the Sheriff's Department of the County of El Paso, Texas.

"DETENTION OFFICERS" means each (or each and every) sworn, certified, full-time, paid detention officer, who regularly serves in a detention officer capacity in the Sheriff's Department.

"MEMBER OF THE BARGAINING UNIT" means a deputy or detention officer, excluding the Sheriff and the rank of Commander and above, employed by the Sheriff's Department of the County of El Paso.

"OFFICER" means a deputy or detention officer, employed by the Sheriff's Department of the County of El Paso.

"SENIORITY," as referred to in this contract, is time in grade.

"SHERIFF" means the duly elected or appointed Sheriff of the County of El Paso, Texas. Unless the context plainly requires otherwise, the use of the term also refers to a designee of the Sheriff.

"SHERIFF'S DEPARTMENT" or "DEPARTMENT" means the department and/or division of the County which is directed by the Sheriff and whose officers and employees are under his jurisdiction.

ARTICLE TWO
RECOGNITION, REPRESENTATION, AND NON-DISCRIMINATION

The Sheriff recognizes the Association as the sole and exclusive representative for all officers who are licensed full-time paid officers who regularly serve in a professional law enforcement capacity, except for officers in the rank of Commander and above.

The Sheriff and Association agree they shall not discriminate nor harass any officer because of membership or non-membership in the Association or the performance of their lawful activities on behalf of the Association. All agree there shall not be discrimination because of race, creed, religion, sex, age, color, national origin, sexual orientation or gender identification.

ARTICLE THREE
MANAGEMENT RIGHTS

The Constitution and Statutes of the State of Texas and this Agreement confer certain rights, privileges, liabilities and duties on the Sheriff; therefore the management of the Department and the direction of the officers, including but not limited to the right to plan, direct and control operations of the officers wherever assigned, to schedule the working hours, to appoint, to revoke the appointment, to promote, to demote, to transfer, to suspend, to discipline, to relieve for lack of work, to introduce new and improved methods or facilities or to change the existing methods or facilities and/or to make and enforce reasonable rules and regulations, not inconsistent with the provisions of this Agreement are vested exclusively in the Sheriff.

ARTICLE FOUR
ASSOCIATION RIGHTS

The Association shall be allowed at its expense to place a bulletin board at the Department and any substation after consulting with the Sheriff and receiving his authorization as to the location and the size of the bulletin board, for its exclusive official use to inform the officers of Association meetings, elections, recreational events and social affairs. The Association may request the Sheriff to provide a designated portion of a Department bulletin board be set aside for the same purposes.

The Association shall have the right to appoint or reappoint and to designate or re-designate an association representative. The Association Representative shall have the right to visit the department for the purpose of administering the Agreement with the Sheriff and/or County; but if said individuals are officers on a work shift they shall not absent themselves from their place of work to visit other places of work without the permission of the Sheriff or their supervisor; nor shall they neglect their duties as a result of administering this Agreement.

ARTICLE FIVE
TRAINING PROVISIONS

Section 1. The Sheriff shall make a reasonable effort to give every officer the opportunity to attend at least forty (40) hours of in-service training every year. The Sheriff retains the right to require any officer to attend in-service training.

Section 2. The Sheriff shall provide the facilities for and ensure the attendance of all deputies and armed detention officers at semi-annual firearms qualifications, and shall provide ammunition to deputies and armed detention officers for such firearms qualification, provided that the County allocates funds necessary for the acquisition of the same.

ARTICLE SIX
SENIORITY/PROBATION

Section 1. Seniority, as referred to in this contract, is time in grade.

Section 2. An officer starting with the Department, whether a new hire or rehire, shall work under the provisions of this Agreement but shall be considered a probationary officer for the first one hundred and eighty (180) days of continuous service with the department. Probationary officers shall not have seniority and may be subject to lay-off, discharge or termination, and such action shall not be subject to any grievance procedure. Upon completion of the probationary period, the seniority date shall relate back to the officer's date of hire or re-hire.

Section 3. Candidates for selection to deputy sheriff shall be considered a probationary employee for the first one hundred eighty (180) days after their appointment as deputy sheriff. Probationary deputies shall be subject to lay-off, discharge or termination, and such action shall not be subject to any grievance procedure of this Agreement.

Section 4. Officers promoted to their new rank shall be on probationary status for a period of 180 days. Failure to complete the probationary period within the new rank shall not be subject to grievance procedures under this agreement.

Section 5. Seniority shall be lost in the following instances:

- (a) Resignation,
- (b) Termination.

ARTICLE SEVEN
ADVISORY COMMITTEE ON DEPARTMENT RELATIONS

An Advisory Committee shall be formed to enable the Sheriff and the County to receive input from the Committee regarding day-to-day working conditions in the Department with the objective of receiving ideas which may contribute to the continuing development of sound management principles.

The Committee shall be comprised of the Sheriff or his designee and the Sheriff's Legal Advisor and the Association President or his designee and the Association Attorney. The Committee shall select its chairman from among the members of the Committee. The Committee shall meet once each month at a designated time and place set by the Chairman. The Committee shall discuss any and all matters which may be pertinent to harmonious relations in the Department. The Secretary of the Committee appointed by the Sheriff shall take minutes of each meeting and a copy of said minutes shall be sent to the Sheriff and the Association, and a copy shall be posted on the bulletin board of the Department.

This Committee is solely advisory in nature and the Sheriff may or may not reply or act on the Committee's recommendations. The Committee shall not discuss nor take any action on any matters which are subject to the grievance procedure or part of an Internal Affairs investigation.

ARTICLE EIGHT
INTERNAL AFFAIRS INVESTIGATIONS

Section 1. In the course of an Internal Affairs investigation, interviews conducted by the Internal Affairs Division of each officer who is the object of an investigation shall be conducted in accordance with the following rules:

A. The interview of any officer shall be at reasonable hours, preferably when the officer is on duty.

B. The interview shall take place at a location designated by the investigating officer.

C. The officer shall be informed of the identity of all persons present during the interview. If an officer is directed to leave his post and report for an interview to another command, his command shall be promptly notified of his whereabouts.

D. The officer shall be informed of the nature of the investigation before any interview commences. Sufficient information to reasonably apprise the officer of the allegations shall be provided and if a Personnel Incident Report (PIR) exists it shall be given to the officer. If it is known that the officer is being interviewed as a witness only, he shall be so informed.

E. During the interview, time shall be provided for personal necessities, meals, telephone calls and rest periods as are reasonably necessary.

F. No officer shall be subjected to any offensive language, nor shall he be threatened with transfer, dismissal or other disciplinary punishment. No promise of reward shall be made as an inducement to answering questions. Nothing in this Article is to be construed so as to prohibit the investigating deputy from informing the officer that his conduct is under investigation and could become the subject of disciplinary action.

G. In all cases where an officer is to be interviewed concerning an alleged act which, if proven, may result in his being disciplined by the Department, he shall be afforded a period not less than four (4) hours after personal notification to the officer that a statement will be required to contact and consult privately with an attorney of his own choosing and/or a representative of the Association before being interviewed, which interview shall not be thereafter interrupted, except as otherwise provided herein.

H. The officer shall be given an exact copy of any written statement he may execute.

I. The refusal by the officer to answer questions during the interview may result in disciplinary action.

J. Upon request of either the officer being interviewed or the investigating deputy conducting the interview, the Sheriff shall tape record the interview. The tape recording shall commence immediately at the beginning of the interview. The officer shall have the right to a copy of the tape recording at his expense.

K. The Sheriff may order an officer to take a polygraph examination. No officer shall be compelled to take a polygraph examination unless the complaining party, exclusive of a member of the Sheriff's Department, shall have first submitted to and taken a polygraph examination which indicated no deception or was inconclusive, unless the complaining party is, in the opinion of the examiner, not susceptible to testing, as in the case of a young child. The results of a polygraph examination taken pursuant to this section may be used as evidence in any hearing held pursuant to the provisions of this Agreement.

Section 2. If, during any investigation covered thereby, the investigating deputy fails to substantially comply with the provisions of this Article, no statement which the officer may have given during such interview, or any reproduction thereof, may be introduced or alluded to by the Sheriff in a disciplinary appeal hearing.

**ARTICLE NINE
DISCIPLINE**

Section 1. Grievances involving demotions, suspensions, and terminations of officers by the Sheriff shall be settled in the following manner:

A. The Sheriff shall have the authority to demote, reprimand, suspend without pay not to exceed thirty (30) days or terminate any officer for the causes set forth in the rules and regulations, policies, general and special orders, and directives of the El Paso County Sheriff's Department. Officers shall not have the right to appeal reprimands, but may submit a written response to the letter of reprimand within thirty (30) days from the receipt thereof for inclusion in their personnel file. Notice of disciplinary action shall be by personal service on the officer, or by certified mail to the officer's address on file with the Department, and shall consist of a written statement of the charges and specifications. The written statement shall point out the particular rule or rules alleged to have been violated by the officer and the specific act or acts alleged to be in violation. Said statement shall inform the officer that he has fourteen (14) days after receipt thereof to file a written appeal with the Sheriff.

B. Notice of appeal shall be in writing and shall include a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of such charges, a statement alleging that the action taken is excessive in light of the alleged offense, or any combination of the statements. The officer shall state in his notice of appeal that he requests a hearing before the Civil Service Commission or an arbitrator pursuant to the provisions outlined in this Agreement. If the officer requests arbitration in said appeal, then the officer shall specifically state that he or she waives the right to appeal to the Commission.

C. The Officer's notice of appeal will be addressed to the Civil Service Commission, and the officer will forward a copy of the notice of appeal to the Sheriff. The Civil Service or arbitration hearing shall be public unless the officer specifies not less than seven (7) days prior to the hearing that he desires a closed hearing. All decisions of the Civil Service Commission or arbitrator shall be made public and shall be final and binding on all parties. The officer shall be entitled to representation by any person of his choice; cross-examination of witnesses; presentation of evidence; authority to compel the production of required papers, documents, evidence and the attendance of employees of the Department, which production and attendance shall be commanded by the Sheriff on behalf of the officer; and any other procedures needed to ensure a fair and impartial hearing.

The officer may not compel the production of documents, evidence, or the attendance of witnesses which would jeopardize an ongoing investigation or create a substantial security risk to the operations of the Department. If the officer requests the production of documents, evidence or witnesses which will, in the opinion of the Sheriff, jeopardize an ongoing investigation or

create a substantial security risk to the operation of the Department, the Civil Service Commission, or arbitrator, as the case may be, shall be so informed by the Sheriff or his designee. Upon being advised by the Sheriff or his designee, the Civil Service Commission or arbitrator shall recess the proceedings and the question of admissibility will be decided by the County Attorney, except in arbitrations in which case it shall be the arbitrator, *in camera* who will consider and review the requested documents, evidence, or interview the witnesses *in camera* to determine if the production of the same would jeopardize an ongoing investigation or create a substantial security risk to the operation of the Department. If a determination is made that the said production would jeopardize an ongoing investigation or create a substantial security risk to the operation of the Department, the officer's request for the production of said items shall be denied and set forth in writing with the specific reasons for denying such requests. The closed session reviewing the said items and the reasons for denying the officer's request shall be part of the record of the proceedings but shall be sealed until such time as the security risk is abated or the ongoing investigation is completed. In the event that the County Attorney or arbitrator shall find in favor of the officer and be of the opinion that the production would not jeopardize the Department in the manners hereinabove set forth, the County Attorney or arbitrator shall direct the Sheriff to produce the requested document, evidence or attendance of the witness, and the Sheriff shall comply with his directive within seven (7) days of the said directive or shall dismiss the disciplinary action and reinstate the officer. If the Sheriff dismisses the charges and reinstates the officer, the charges are to be dismissed with prejudice and cannot be re-filed.

Section 2. The Department shall maintain a personnel file on each officer, which may be used for evidentiary purposes in hearings under this Article. The personnel file shall not contain any information relating to alleged misconduct by the officer if the final resolution of the matter is "not sustained" and/or "unfounded." An officer is entitled to a copy of any document in their personnel file. The department may charge the officer a reasonable fee, not to exceed the actual cost, for any copies provided.

Section 3. Arbitration of disciplinary action taken by the Sheriff shall be conducted in the following manner:

A. All appeals shall be heard by an arbitrator on a rotating basis from a panel of five or more individuals. The arbitrator shall have the same rights and powers as the Civil Service Commission. The decision of the arbitrator shall be final and binding upon the officer and the Sheriff, subject to any rights of appeal to a court of law as permitted by law. During the appeal to an arbitrator the parties shall have the right to have a representative of their choosing sit at the counsel table.

B. The arbitration panel shall have not less than five (5) qualified members appointed by the Sheriff and Association. The members on the panel shall serve a one-year term

and be subject to re-appointment by mutual agreement of the Sheriff and the Association. Subject thereto, the Sheriff and the Association may, at any time remove and/or add agreed-upon members. If there is a vacancy, such as by resignation, death, or agreed-upon removal, the Sheriff and the Association shall act promptly to select enough new members to ensure that the panel contains not less than five (5) active members. On or before February 15, 2009 and January 1st of each subsequent year the parties shall meet and confer in regards to re-appointment or replacement of the hearing examiner panel.

C. Upon request of either party addressed to the opposing party, at least fourteen (14) days prior to the date of hearing, the parties shall exchange the names of witnesses expected to be called at the hearing as well as any statements of witnesses expected to be called not coming within the attorney's work product privilege. Failure of a party to timely provide the name of a witness or a copy of the witness' non-privileged statement shall preclude the party from calling the individual as a witness, unless the arbitrator finds good cause for such failure.

D. The arbitrator shall, when mutually requested by the legal counsel for the Sheriff and the officer, be required to issue a bench award at the conclusion of the hearing and in such event, no briefs are allowed.

E. The following procedures additionally apply to all disciplinary appeals to be heard by the arbitrator. Within thirty (30) days after the date the arbitrator has been assigned to hear the appeal, the legal counsel for both the Sheriff and the aggrieved officer shall meet with the arbitrator for a pre-hearing conference. At such pre-hearing conference, the arbitrator shall address such preliminary matters as the arbitrator determines to be appropriate and shall establish a time line for conducting the hearing and the date for the final hearing on the appeal. The arbitrator may grant a continuance upon a showing of good cause or upon mutual agreement by both the legal counsel for the Sheriff and the aggrieved officer.

F. The parties agree to the following schedule of payment for the arbitrator:

(1) For suspensions of less than fifteen (15) days, the Association shall pay 100% of the costs of the arbitrator. If the officer is not a member of the Association, the officer shall pay 100% of the costs of the arbitrator. Nothing herein prevents the arbitrator from requiring an officer to prepay the costs in advance.

(2) For suspensions of fifteen (15) days or more, terminations and demotions, the Sheriff and Association shall equally divide the costs of the arbitrator. If the officer is not a member of the Association, the officer and the Sheriff shall equally divide the costs of the arbitrator. Nothing herein prevents the arbitrator from requiring an officer to prepay the costs in advance.

Section 4. Officers arrested, charged or indicted for a felony or a criminal misdemeanor involving moral turpitude or an act of violence may be suspended without pay pending the disposition of the criminal charge. This section does not limit the Sheriff's right to revoke an officer's deputation pursuant to Section 85.003 of the Texas Local Government Code.

Section 5. Notwithstanding any provision of this article or of the collective bargaining agreement, the Sheriff shall have the authority to temporarily suspend an officer for not more than ninety (90) days where the officer agrees to the suspension in writing. The officer shall not have a right to appeal such agreed suspension and no administrative or judicial body shall have the power to review such suspension or alter the terms of the agreement. The officer shall accept such disciplinary action of his own free will without duress or coercion, and the officer shall have the right to consult with an attorney and/or the Association Representative.

Section 6. Suspensions of Five (5) Days or Less

The parties agree that when an officer is suspended without pay by the Sheriff for five (5) days or less, the officer may elect to proceed as follows:

a. Suspensions that may not be appealed. At the time of receipt of the statement of suspension, the officer may forfeit vacation or holiday time equal to the length of the suspension, or forfeit for any number of full days combined with the remaining period to remain suspended without pay, to serve the suspension with no break in service for purposes of seniority or promotion. The forfeited vacation or holiday time will not constitute hours worked. In the event an officer has received a disciplinary suspension within the preceding 24-month period, the officer may only forfeit vacation or holiday time with the Sheriff's permission. The officer must agree that there is neither right to appeal the suspension nor a right of review before any administrative body or judicial body if this method of suspension is chosen and the officer must sign a waiver of appeal and agree to the suspension.

b. Suspensions that may be appealed. If the officer does not elect to proceed under (a) above, the officer may either serve the suspension or appeal the suspension as set forth in this Article.

ARTICLE TEN
GRIEVANCE PROCEDURE

Section 1. The Sheriff and the Association agree that disputes involving the interpretation, application or enforcement of a provision of this Agreement shall constitute a grievance under this Agreement.

Section 2. Grievances involving interpretation, application or enforcement of a provision of this Agreement shall be resolved in the following manner:

A. Time Limits.

The parties shall adhere to the time limits as set forth in this procedure. In the event the officer or Association fails to meet the time limits at any step of the procedure, the grievance shall be considered resolved and no further action shall be taken. Such time limits may be waived, however, by mutual consent of the parties in writing.

B. Steps.

Step 1. Within fourteen (14) days of when the aggrieved officer or officers knew or should have known of the incident or circumstances giving rise to the grievance, an officer shall submit such grievance in writing to the Association Grievance Committee with a copy to the Sheriff. The written description of the grievance must contain 1) a statement of the facts upon which the grievance is based; 2) the Article or provision of the Agreement that is alleged to have been violated, 3) the remedy sought and 4) signature of the individual requesting the resolution. A determination of whether a grievance exists shall be made by the Association Grievance Committee appointed by the Association. The committee shall meet and render its decision in writing within thirty (30) days of the receipt of the written dispute by the officer. In the event the committee decides a grievance exists, the Association shall prepare a formal written grievance on behalf of the aggrieved officer or officers and proceed to Step 2. Nothing herein shall prohibit the Sheriff from challenging whether a grievance is timely. The Association may file a class action grievance on behalf of two or more similarly situated officers.

Nothing herein shall prevent the Association from meeting and conferring with the Sheriff or his designees in an attempt to resolve the alleged grievance before the time limits in Step 1 expire.

Step 2. The Association's written grievance shall be delivered to the office of the Sheriff by any method that can be confirmed, such as hand delivery, certified mail, return receipt requested, facsimile, or e-mail with reply confirmation. The Sheriff shall have thirty (30) days to act on the grievance and render a decision in writing.

Step 3. If the grievance is not resolved at Step 2, the Association's written grievance shall be submitted to arbitration pursuant to Section 3.

Section 3. Arbitration procedures for grievances under this Article shall be conducted as follows:

Step 1: Upon receiving a request for arbitration under this Section of this Article, the Sheriff and the Association shall attempt to mutually agree upon an arbitrator. If the parties fail to agree on an arbitrator within fourteen (14) days after the Sheriff renders or should have rendered a decision, the party requesting the arbitration shall immediately request a list of seven (7) qualified neutrals from the American Arbitration Association (AAA), provided further, however that the fourteen (14) day period allowed for the agreed selection of an arbitrator may be extended by Agreement of the parties. The parties may mutually agree on one (1) of the seven (7) neutrals. If they do not so agree, the parties shall, alternately, strike the names on the list within seven (7) days after receipt of the list, and the remaining name shall be the arbitrator. A coin toss shall determine the party entitled to the first strike. All parties shall act to complete the selection at the earliest possible date. The arbitrator shall be immediately notified of his selection.

Step 2. The hearing shall be commenced within thirty (30) days except for delays caused by unavoidable conflicts with the arbitrator's schedule, or by mutual Agreement of the parties and for no other reason. If the arbitrator selected cannot commence the hearing within sixty (60) days from his selection and the parties fail to agree to postpone the arbitration further or shall fail to agree upon a substitute within seven (7) days of the conclusion of the sixty (60) day period herein referenced, another arbitrator shall be selected from a new list of seven (7) names immediately requested from the AAA according to the procedure hereinabove set forth. The hearing shall be scheduled so that it can be completed in consecutive calendar days, exclusive of weekends and holidays. The arbitrator shall make an award within thirty (30) days of the close of evidence in standard arbitration hearings, and within seven (7) days of the close of evidence in expedited arbitration hearings, provided however that this time limitation shall not commence until the submission of the last brief of the parties in the event the arbitrator shall request briefs and stipulate the dates upon which they shall be due at the close of evidence. If a stenographic transcription of the proceedings is made, it shall be made by a certified court reporter and shall be the only transcript submitted or used by the arbitrator unless mutually agreed to do otherwise prior to the commencement of the hearing.

Section 4. The following rules shall govern the conduct of arbitration hearings under this Article, and of certain preliminary matters:

A. Upon request of either party addressed to the opposing party at least seven (7) days prior to the date of the hearing, the parties shall exchange the names of witnesses expected to be called at the hearing. In the absence of good or excusable cause, the arbitrator may exclude the testimony of a witness upon the failure of a party to disclose such a witness.

B. Subject to the provisions of Article Nine, the arbitrator shall require the production of any evidence or witness requested by either party prior to the hearing. The Sheriff shall compel compliance with the arbitrator's requirement so far as he has jurisdiction of any employee or documents so required to be produced.

C. In all hearings under this section, the party having the burden of proof shall prove its case by a preponderance of the evidence. In grievance appeals, the grievant shall have the burden of proof; in disciplinary appeals, the Sheriff shall have the burden of proof.

D. The parties, in writing, may request discovery from each other concerning the case. Should the other party not agree to provide the requested information within fourteen (14) days of the request; the request shall be deemed denied. The requesting party may then appeal to the arbitrator, who shall order such discovery as is appropriate to the nature of the case. In considering the application, the arbitrator shall consider the burden and expense of producing the information, the need of the requesting party, the amount of time available prior to the hearing, and such other matters as he may deem material. In no event shall discovery be requested within seven (7) days of the hearing.

E. All grievance hearings shall be public, unless it is expressly agreed, in writing, by the parties that the hearing shall be closed to the public, except as otherwise provided for in this Agreement or State law.

F. Unless otherwise provided in this Agreement, the conduct of the hearing shall be governed by the rules of the AAA.

G. The arbitrator's award is final and binding, except that the arbitrator shall not have the power to add to, modify, amend or delete any terms or provisions of this Agreement.

H. The Association and the Sheriff shall bear the expense of any arbitrator equally for arbitrations involving grievances pursuant to Article Ten.

ARTICLE ELEVEN PROMOTIONS

A promotional list is valid until twelve (12) months after its promulgation or until fewer than three (3) names remain thereon at the Sheriff's discretion. In those instances for which no valid promotional list exists, in either the law enforcement ranks of Detective, Sergeant and Lieutenant or the detention ranks of Floor Control Officer, Sergeant and Lieutenant, the vacancy shall be filled as outlined below. The examination for promotions shall be written, composed, or selected by the Sheriff. The Sheriff is responsible for the fairness of the promotional process, and no person eligible for promotion shall ever be given information or assistance that compromises the fairness of the promotional process.

Section 1. ADMINISTRATOR

The written promotional examination shall be administered by the Sheriff or his designee, but at no time shall the administrator of the examination be a member of the Sheriff's Department eligible for that particular promotional examination. If anyone other than the Sheriff administers the examination, a different examination shall be given if that person ever participates in a promotional examination for that classification.

Section 2. EXAM

As required by this Agreement, the Sheriff shall initiate the announcement for the promotional exam.

A. Announcement Contents

The notice shall contain the following information:

1. the description of the vacancy;
2. the date, time and place of the written test for promotion; and
3. a bibliography of all study material to be used on the written examination. The bibliography shall indicate which items shall be furnished by the Sheriff and which items shall be obtained by the officers.

- a. The Sheriff will make reference copies of all study materials on the bibliography contained that are published by the State of Texas or any political subdivisions thereof readily available. These reference copies may not be removed from the department in order that all candidates will have access to the materials. These materials may be made available for purchase by the candidate.

b. The officers shall be responsible to obtain any other study sources contained in the bibliography. All items required to be obtained by the officers shall be readily available locally or from the publisher.

B. Eligibility Requirements

Except as otherwise provided herein, eligibility for all examinations administered pursuant to this Article shall be continuous service inclusive of the written examination date. Any officer who has received final disposition, including award after appeal, on a suspension of five (5) days or more within the preceding one hundred eighty (180) days before the day of the written examination shall be ineligible to compete in the promotional examination process.

1. Eligibility for the LAW ENFORCEMENT classification of:

a. DETECTIVE (Deputy Sheriff) - shall be open to any deputy with two (2) years continuous service as a deputy with the department;

b. SERGEANT (Deputy Sheriff) - shall be open to any Deputy with at least three (3) years continuous service with the Department as a sworn deputy;

c. LIEUTENANT (Deputy Sheriff) - shall be open to any deputy in the classification of Sergeant (Deputy Sheriff) with at least four (4) years continuous service with the Department as a Sheriff's Sergeant (Deputy Sheriff).

2. Eligibility for the DETENTION classification of:

a. FLOOR CONTROL OFFICER (Detention) - shall be open to any detention officer with at least two (2) years continuous service with the Department as a Detention Officer.

b. SERGEANT (Detention) - Shall be open to any Floor Control Officer with at least three (3) years continuous service with the Department as a Floor Control Officer.

c. LIEUTENANT (Detention) - Shall be open to any Sergeant (Detention) with at least four (4) years continuous service with the Department as a Sergeant (Detention).

C. Posting

The Sheriff shall post the written notice of the vacancy on the Sheriff's Department Bulletin Boards for at least forty-five (45) days prior to the written examination. This notice must be displayed in a prominent place. A copy of the notice shall be sent to the Association President at the same time.

D. Administration

The written examination shall be given to all eligible candidates at the same time and place, and will be graded by the Sheriff or his designee in the presence of a non-competing Association representative immediately upon completion of the examination.

1. Candidates scheduled to be on duty at the designated time of any testing procedure shall be permitted time off for the examination without loss of pay or benefits.

2. No make-up examination shall ever be permitted.

3. The Sheriff shall make every reasonable effort to see that all candidates for promotional examinations are not given assignments that are likely to cause them to miss the examination.

E. Protest Period

Any examinee may challenge an examination question or the examination process during a protest period. Any protest period for written promotional examinations will be limited to two-hour period(s) to be scheduled during the five (5) consecutive working days following the administration of the written examination. Each individual will be allowed to attend only one session. The time(s) will be announced prior to or at the time of the written examination.

Process:

1. The officer may see and make notes about his marked answer sheet with the number of correct and incorrect responses for the initial 15 minutes of the two (2) hour period.

2. During the subsequent one (1) hour and 45 minutes and after handing in his marked answer sheet, the following materials will be available to examinees:

- a. unmarked test booklet
- b. correct answers to questions
- c. reference material
- d. protest forms

3. At the end of the two (2) hours all protests must be turned in to the examiner or his designee. Protest on additional items will not be accepted after this time. Any individual attending such session may write down the number(s) of the test question(s) protested and remove such written notations from the testing room. No other notes or papers shall be carried out by any individual attending such a session.

4. Protested questions will be reviewed in the manner hereinafter set forth. The correct answer shall be determined by the appropriate source in the bibliography.

5. Dispositions on protests will be final. The disposition of protested questions will be posted as soon as possible after the close of the protest process. This list will contain only the number of the protested question and action taken. For example:

#85 protest allowed; question deleted

#95 protest disallowed

6. The employee's appeal is to a three (3) member panel comprised of the Sheriff or his designee, the Association President or his designee neither of whom may be a candidate for the examination, and a third party designated by the County's Human Resources Director. The panel shall have the authority to make final and binding decisions on all promotional examination challenges. The panel shall review all challenges that are submitted to it in writing, and hear testimony if they so desire, within ten (10) working days after the protest period has expired.

Section 3. ASSESSMENT CENTER

Each officer with a score of seventy percent (70%) or more on the written test shall be interviewed by the Assessment Center as part of the promotional process.

A. The Assessment Center Panel shall be comprised of three (3) individuals selected by the Sheriff.

B. Each Assessor shall grade the candidates in a fair and impartial manner in an effort to reflect candidates according to their qualification. The Assessment Panel may use any number of assessment techniques, so long as each candidate is tested in a similar manner. Videotaping of the candidates may be done at the Assessors' request. The videotape will be used solely by the Assessors and candidate may purchase a copy of their own assessment.

C. Assessors shall not divulge their scores of candidates to each other during the assessment process, but shall submit the scores at the conclusion to the Sheriff and Association Representative.

D. Scores shall be added together and divided by the number of assessors participating, and the resulting quotient shall be the Assessment Center score.

Section 4. SENIORITY POINTS

Each candidate shall receive one-half point for each six months of continuous service with the El Paso County Sheriff's Department in the position noted under Section 5 for each exam. Service is inclusive of the date of the written examination up to a maximum of ten (10) points. Seniority points will be added to the candidate's raw score, as defined in Section 5 below.

Section 5. PROMOTIONAL LIST COMPOSITION

The final promotional list shall be formulated as follows:

A. Each candidate's written examination and assessment score shall carry a maximum score of one hundred percent (100%).

B. Evaluation reports will not be considered for any purpose in computing the final score of any candidate.

C. On promotional examinations for the LAW ENFORCEMENT rank of:

1. DETECTIVE - the written examination shall weigh one hundred percent (100%). Seniority points will be calculated by time in grade as a deputy sheriff.

2. SERGEANT -the written examination shall weigh sixty percent (60%) the assessment score shall weigh forty percent (40%) of the raw score. Seniority points will be calculated by time in grade as a deputy sheriff.

3. LIEUTENANT - the written examination shall weigh fifty percent (50%) and the assessment score shall weigh fifty percent (50%) of the raw score. Seniority points will be calculated as time in grade as a Sergeant (deputy sheriff).

D. On promotional examinations for the DETENTION rank of:

1. FLOOR CONTROL OFFICER - the written examination shall weigh one hundred percent (100%). Seniority points will be calculated as time in grade as a permanent detention officer.

2. SERGEANT - the written examination shall weigh sixty percent (60%) and the assessment score shall weigh forty percent (40%) of the raw score. Seniority points will be calculated as time in grade as a Floor Control Officer.

3. LIEUTENANT - the written examination shall weigh fifty percent (50%) and the assessment score shall weigh fifty percent (50%) of the raw score. Seniority points will be calculated as time in grade as a Detention Sergeant.

E. The candidates shall be listed in order of highest cumulative score for a maximum of one hundred and ten points.

1. If more than one candidate has the same final score, the tie will be broken by listing first the officer with most seniority (time in grade and position with the department) as identified under Section 4 above.

2. If more than one candidate has the same final score and equal seniority (time in grade and position with the department), the tie will be broken by listing the officer first with the most time of continuous service with the department.

3. If more than one candidate has the same final score, equal seniority (time in grade and position with the department) and time of continuous service with the Department, the tie will be broken by listing the officer with the highest score on the written test first.

4. If the tie still remains unbroken, it shall be resolved by the toss of a coin.

Section 6. RULE OF THREE

The Sheriff shall promote, on the occasion of the filling of each vacancy from the appropriate eligible list, one of the top three (3) individuals on the list. Any candidate who is passed over for promotion by the Sheriff's exercise of the rule of three as set out in Section 6 of this Article shall have the right, upon the occasion of the third pass over for the same tested position, to appeal the propriety of the pass over to the Promotional Review Committee.

A. Promotional Review Committee - This Committee shall be constituted as hereinafter set forth, provided further that if a Committee shall have before it certain appeals that it shall not have disposed of prior to the conclusion of its term it shall remain constituted until it has disposed of the same at which time it shall dissolve.

B. Composition of Promotional Review Committee:

Not later than the 15th day after the execution of this Agreement and thereafter, not later than the 5th of January of each year, the Association and the Sheriff shall appoint a representative to serve on the Committee. The appointee of the Association shall be a sergeant and the appointee of the Sheriff shall be a lieutenant or above. The third member of the Committee shall be the County Human Resources Director who shall serve as chairperson. Any member of the Committee who becomes a candidate for promotion during his tenure on the Committee shall be deemed to have vacated his seat.

C. Promotional Review Committee Authority - It shall have the authority to sustain the Sheriff's exercise of the Rule of Three or may reverse his exercise of the same and direct that the appealing officer be promoted. The action of the Committee shall be binding on the Sheriff. The filling of the vacancy which is the subject of the appeal shall be stayed until the decision of the Committee has been made.

Section 7. MISCELLANEOUS

A. The promotional procedure shall not apply to the rank of Commander or above. The Sheriff shall retain the authority to appoint the rank of Commander and above, who thereafter serve at the Sheriff's pleasure.

B. The Sheriff and the Association may amend the promotional process by mutual written amendment to this Agreement.

ARTICLE TWELVE
RULES AND REGULATIONS

The Sheriff recognizes his responsibility to a consistent interpretation and application of Departmental rules and regulations, special directives and administrative orders which govern the conduct of employees on the job.

ARTICLE THIRTEEN
POLITICAL ACTIVITIES

Section 1. Officers shall not be permitted to take an active part in any political campaign if they are in uniform, or on duty, or on County Property, not open to the public.

Section 2. Officers are not required to contribute to any political fund or render any political service to any person or party whatsoever; no officer shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so or because he desires so to do.

Section 3. Officers retain their inalienable right to support the candidate or measure of their choice. No officer shall be removed, reduced in classification or salary, or otherwise prejudiced for supporting or refusing to support any candidate or measure.

ARTICLE FOURTEEN
NO STRIKE, NO LOCK-OUT

Section 1. The Association agrees, that, during the term of this Agreement, it will not authorize, ratify, encourage, or otherwise support any strike, slow-downs, unlawful picketing, or any other form of work stoppage or interference with the business of the Department and will cooperate with the Sheriff in preventing and/or halting any such action. The Sheriff agrees that he will not authorize, ratify, encourage, or otherwise support any lock-out during the term of this Agreement.

Section 2. The Sheriff may discipline and/or discharge any officer who instigates, participates, or gives leadership to any act or conduct prohibited by this Article. The Department may invoke any remedies authorized by V.T.C.A. Local Government Code 174.204 and 174.205, in the event of any strike, work stoppage, or slow-down.

ARTICLE FIFTEEN
TIME OFF FOR ASSOCIATION BUSINESS

Section 1. Prior to the commencement of collective bargaining negotiations, the Association shall designate not more than six (6) officers who shall constitute its bargaining team. Promptly upon the conclusion of each bargaining session, the officers aforesaid shall report to work at their respective, current assignment or as directed by the Sheriff. The Association shall report on the appropriate form the amount of time to be deducted from the Association business leave pool.

Section 2. Up to eight (8) members of the Association shall be permitted by the Sheriff to conduct elections related to Association Business provided the Association shall give to the Sheriff 72-hours notice of the time and place for such elections and the names of the said members who will be conducting the election. The Sheriff will not grant more than eight (8) hours leave for this purpose for each member so designated. The Association shall report on the appropriate form the amount of time to be deducted from the Association business leave pool.

Section 3. The Association, within fourteen (14) days of the execution of this Agreement, shall designate in writing to the Sheriff the names of its Board members and, thereafter, of any changes in the composition of the Board within fourteen (14) days of the change. The maximum number of Board members shall not exceed ten (10) during the term of this Agreement. The Sheriff will grant time off to those designated officers who are scheduled to work during the monthly Association membership meetings and the monthly Board meetings. Such Association Business Leave time for Board and membership meetings shall not exceed four (4) hours. Upon the adjournment of each meeting covered by this Section, the officers so attending shall report to work at their respective current assignment or as directed by the Sheriff. The Sheriff may grant the Association's request for additional time from the Association business leave pool for special or emergency board and/or general meetings. The Association shall report on the appropriate form the amount of time to be deducted from the Association business leave pool.

Section 4. The Sheriff will authorize time off under the provisions of this Article for each designated Board member not to exceed fourteen (14) working days per calendar year for other Association business to a maximum of eight (8) hours per day granted. Notwithstanding the provisions of this Section, the Sheriff will authorize time off for the President of the Association without limitation for the purpose of conducting Association business. The Association shall report on the appropriate form the amount of time to be deducted from the Association business leave pool.

Section 5. The Sheriff will authorize time off under the provisions of this Article for each of the three Association members serving on the Political Action Committee (PAC) not to exceed fourteen (14) working days per calendar year to a maximum of eight (8) hours per day granted. The Sheriff may grant the Association's request for additional time from the Association business leave pool for PAC activities. The Association shall report on the appropriate form the amount of time to be deducted from the Association business leave pool.

Section 6. The Sheriff will issue such orders necessary to give effect to the provisions of Article Twenty-Six, Section 1 of the Articles of Agreement between the County and the Association, or to such similar provisions that may be contained in any amendment or successor agreement, subject to his review thereof. Otherwise, the Sheriff expressly retains his rights and prerogatives as set forth in Article Three of this Agreement and the provisions of this Article. The Sheriff may suspend the provisions of this Article at any time during the term of this Agreement in the event of extraordinary circumstances affecting the operational needs of the Department.

ARTICLE SIXTEEN
TEMPORARY ASSIGNMENT

Section 1. Temporary assignment of an officer shall not be considered a promotion.

Section 2. The Sheriff shall promote an officer to the position of sergeant or lieutenant where the vacancy shall have been created by demotion or termination, unless such demotion or termination is appealed to the Sheriff's Civil Service Commission or an arbitrator and a final decision has not been rendered.

ARTICLE SEVENTEEN
MISCELLANEOUS

Section 1. Consistent with the provisions of the Texas Open Records Act, the Sheriff shall maintain a file at the Department and any substations of all published and written Rules, Regulations, General Orders, Special Orders and Policies of the Department.

Section 2. Notwithstanding any provision of this Agreement, it is the specific intent of the parties that whenever a provision of this Agreement shall be in conflict with any statute of the State of Texas, the specific provision will not void the contract, except where the language of the statute may not be waived by the Sheriff.

Section 3. It is declared to be the intent of the parties hereto that this Agreement and the Agreement between the County and the Association as it presently exists or may hereafter be amended shall, so far as possible, be construed together as a single agreement, except that such construction shall always be consistent with the provisions of Article Three of this Agreement, provided further that whenever there shall be an irreconcilable conflict between the two, the provisions of this Agreement shall control with respect to the construction and interpretation hereof.

Section 4. The failure of any party to this Agreement to perform any administrative act necessary to give operation to the agreement between the Association and the County shall constitute a grievance under the provisions of Article Eleven of this Agreement except to the extent such requirement would be an infringement upon the rights of the Sheriff under Article Three of this Agreement.

Section 5. No limitation shall be imposed upon any officer with respect to the number of consecutive days of annual leave he shall be permitted to take at any approved time provided the shall have accumulated the number of days set forth in his leave request. Approval of annual leave will be based on seniority (time in grade) with the department. The Sheriff may suspend leave privileges during emergencies or where insufficient personnel are available to maintain mandated staffing levels.

Section 6. The headings of articles in this Agreement are intended only to identify the subject matter covered by the same and are not to be used in interpreting or construing this Agreement. As used herein, the masculine, feminine and neuter and the singular and plural shall each be deemed to include the other except when the context plainly requires otherwise.

Section 7. The Sheriff may conduct probationary, annual and unscheduled personnel evaluations of all officers. An officer shall have the right to appeal any regular or unscheduled evaluation of the Sheriff as a grievance to the Sheriff's Civil Service Commission.

Section 8. To the extent permitted by budget constraints, the Sheriff shall maintain all Department vehicles in a reasonably safe condition. If an officer believes that a vehicle or an item of equipment assigned to him is not in a reasonably safe condition, he may inform his supervisor of the unsafe condition or equipment. The supervisor shall make a decision as to the safety of the vehicle or equipment. In the event the officer disagrees with the supervisor's decision, the officer may note his objection in writing to the supervisor. The supervisor shall acknowledge the officer's objection in writing.

**ARTICLE EIGHTEEN
CLOSING STATEMENTS**

Section 1. No agreement, understanding, alteration or variation of this Agreement, terms or provisions herein contained, shall bind the parties unless made and executed in writing by the parties hereto. The failure of the Sheriff or officers to insist in any one or more instance, upon performance of any terms or conditions of this Agreement shall not be considered as a waiver or relinquishment of the right of the Sheriff or the officers to future performance of any such term or condition, and the obligations of the Sheriff, and the officers to such future performance shall continue in full force and effect.

Section 2. Should any provision of this Agreement be rendered or declared invalid by reason of any applicable existing or subsequently enacted legislation or regulation or by reason of the decree of a court of competent jurisdiction, such invalidation of part or parts of this Agreement, shall not validate the remaining portions hereof, and said remaining portions shall remain in full force and effect for the duration of this Agreement.

Section 3. The parties agree the take home car policy is in the best interest of the parties and shall remain in effect for the duration of the Agreement, subject to availability of vehicles and relevant market factors.

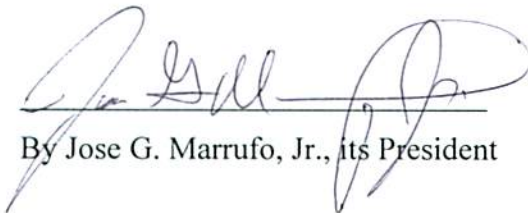
ARTICLE NINETEEN
DURATION OF THE AGREEMENT

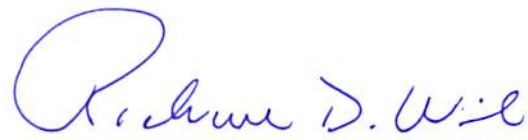
This Agreement shall be effective and shall remain in full force and effect until the 31st day of December, 2012 or until such time as it is superseded by a new contract between the parties, whichever occurs later.

EXECUTED this 29th day of January, 2009.

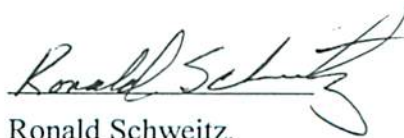
EL PASO COUNTY SHERIFF'S
OFFICER'S ASSOCIATION, INC.

EL PASO COUNTY SHERIFF


By Jose G. Marrufo, Jr., its President


Richard Wiles, Sheriff

ATTEST:


Ronald Schweitz,
Secretary