AMENDMENT TWO TO AGREEMENT
BETWEEN THE CITY OF TUCSON AND
COMMUNICATION WORKERS OF AMERICA/TUCSON
ASSOCIATION OF CITY EMPLOYEES
[City of Tucson Contract No. 0044-09]

The City of Tucson ("City") and the Communications Workers of America/ Tucson Association of City Employees ("CWA/TACE") agree to the following amendments to City of Tucson Contract No. 0044-09 ("Agreement"), approved by the Mayor and Council of the City of Tucson, adopted on July 8, 2008.

The City and CWA/TACE agree as follows:

I. Article II. #22 is amended to read as follows:

WORK IMPROVEMENT PLAN: A non-disciplinary tool used to improve the job performance of a **member**, that has a start date, an end date **(not more than 12 months after the start date), frequency of progress meetings** and specific quantifiable performance measures. At the end of the work improvement plan period, the **member** will receive written notice regarding his/her progress under the plan.

After issuance of a work improvement plan either the member or the union, on behalf of the member, may request a meeting with the department and an Employee Relations staff member from Human Resources to address questions, clarification of performance expectations and the terms of the work improvement plan. The meeting shall be scheduled within 10 calendar days of such request, and shall include the member and his/her union representative as well as the department representative and HR Employee Relations staff.

II. Article IV, Section 3 is amended to read as follows:

DISCIPLINE: Management is allowed to meet with, counsel, and speak with its employees regarding performance, completion of job duties, assignments, department operations and other personnel matters without the right of union representation. Management will **comply with** currently applicable City of Tucson, **Administrative Directives** when taking disciplinary action. **Management is encouraged, but not required, to utilize a Work Improvement Plan, as defined in Article II, Section 22 prior to taking disciplinary action for poor job performance.**

If the City, acting through its supervisors, has a meeting with a **member** covered under this Agreement, it shall inform the **member** in advance of the subject of the meeting **and whether the meeting could lead to discipline as defined in Article II.** In any meeting of a disciplinary nature, including investigatory interviews, the **member shall be**

permitted the presence of a union representative/steward. Once such a request has been made, the City will allow **at least 24 hours** for the affected union member to summon an available union representative/steward. The City will recess or delay the meeting until the union representative/steward is present.

The union representative/steward shall have the right to confer privately with the union member. It is understood that the union representative/steward shall be informed of the subject matter of the meeting, shall be allowed to speak, may ask clarifying questions, prohibit unnecessary intimidation and provide assistance during the interview.

The City will strive to complete an investigation within 30 days of the initiation of the investigation, except for wrongful conduct (per AD 2.02-4 Reporting Wrongful Conduct), discrimination/sexual harassment, and accident investigations. Requests for an extension beyond 30 days must be in writing and include the reason(s) for the extension request. Only the department director or deputy director may authorize an extension (no more than two extensions), each of which shall be copied to the union and become a part of the permanent investigative file.

Notice of proposed discipline shall be served upon **members** within **15** calendar days of the City having made a final determination as to the intended course of action. The City shall ensure that it adheres to the policy of providing a minimum of 48-hours written notice for disciplinary pre-action review to **members**.

The written notice served upon the **member** by the City advising them of proposed discipline shall contain language advising the **members** of their rights to union representation or appeal as appropriate under this agreement and City Polices.

Unless the City, through its officials, and the Union agree to an exception, discipline for **members** shall be limited to those listed in Article II definition of discipline or as provided by Tucson City Code. The Tucson Police Department (TPD) will follow the retention guidelines as outlined in the TPD discipline matrix.

All discipline will be based upon Just Cause as defined by Tucson City Charter and Tucson City Code.

III. Article V, Section 1 is amended to read as follows:

AUTHORITY: Nothing in this Agreement shall be construed as a delegation to others of authority conferred by Federal or State Law, City Charter, City Ordinance, Administrative Directives/City Policies, or Civil Service Rules and Regulations upon any City official, nor in any way abridge or reduce such authority, but shall be construed as requiring City officials and the union to follow the procedures, all provisions of the labor agreement including any related written agreements, and policies prescribed herein in the exercise of the authority conferred upon them by law. The rights of the City, through its management officials, shall include, but shall not be limited, to the following:

A. To determine the purpose of each of its departments;

B. To exercise control and discretion over the organization and efficiency of the operations of the City;

C. To set standards for services to be provided to the public;

D. To direct the employees of the City, including the right to assign work and overtime;

E. To hire, examine, classify, promote, train, transfer, assign, and schedule City employees;

F. To suspend, demote, discharge, or take other disciplinary action against employees for just cause;

G. To increase, reduce, change, modify, or alter the composition and size of the City work force, including the right to relieve employees from duties because of lack of work, funds, or material change in duties or organization of a department;

H. To determine the location, methods, means, and personnel by which operations are to be conducted, including the right to determine whether goods or services are to be made or purchased;

I. To establish, modify, combine, or abolish job classifications;

J. To change or eliminate existing methods, equipment or facilities;

Those inherent managerial functions, prerogatives, and policymaking rights, that the City has not expressly modified or restricted by a specific provision of this Agreement, are not in any way, directly or indirectly, subject to the grievance procedure contained herein, except as provided for in the Informal Problem Resolution Process, Article XII.

The written notice served upon the **member** by the City advising them of proposed discipline shall contain language advising the **members** of his/her rights to union representation of appeal as appropriate under this Agreement and City policy.

IV. Article VI, Section 5 is amended to read as follows:

ATTENDANCE AT CITY MEETINGS: The City Manager, or designee, shall approve two (2) **members** (provided the **members** are not employees of the same department) designated by the union to leave her/his job assignment, without loss of pay, to attend Civil Service Commission meetings or City Council meetings where matters directly affecting the union, member wages, hours, and/or conditions of employment are scheduled for discussion. Should simultaneous, but separate, meetings of the Civil Service Commission and the City Council occur in which union matters are presented, the union may ask to designate an additional **member** be allowed to attend without loss of pay. Authorization for attendance at such meetings shall not be withheld for arbitrary and/or capricious

More than one union representative may participate in the following authorized City meetings:

A. Representing **members** in the grievance process (up to 2)
B. Representing **members** in investigatory meetings and/or pre-disciplinary discharge review meetings (1 **member** representative/steward and/or 1 salaried union representative)
C. Participation at monthly labor-management meetings with Human Resources (up to 2)
D. Participation on the Citywide Safety Committee (up to 4)
E. Participation in meetings initiated by the City Manager, Human Resources Director or designee (up to 2)
F. Participation in other joint union/City meetings or activities (up to 2)
G. Representation of members in appeals hearings before the Civil Service Commission (up to 2 **member** representatives, in addition to any salaried union representative)

V. Article VI, Section 11 is amended to read as follows:

UNION DUES AND DEDUCTIONS: The City agrees to deduct Union dues in the amount certified to the City by the Secretary-Treasurer of the Communications Workers of America **(CWA)** and a deduction for the Committee On Political Education from the salaries of all union members covered by this Agreement, and to remit the same, bi-weekly to **CWA,** under rules agreed upon from time to time by the union and the City. Each deduction will be reported separately and remitted bi-weekly to CWA. No such deduction shall be made except upon written authorization of each employee. Such authorized deduction shall remain in effect until notice of termination is given in writing as prescribed in the paragraph below and on the deduction authorization card maintained by the Accounting Department of the City of Tucson.

Bi-weekly dues/deductions will be remitted to CWA along with the following information on current eligible dues-paying members as authorized by the employee on the deduction card:

[No other portions of Article VI, Section 11 are changed by this Amendment.]

VI. Article VIII, Section 2 is amended to read as follows:

BEREAVEMENT LEAVE: Subject to the terms of Tucson City Code Chapter 22, Article 5 as amended, upon the death of an immediate family member, an employee covered by this Agreement shall be entitled to be absent from work for up to three working days for a death occurring within the State of Arizona, or up to five working days for a death **where travel is required** outside of the State of Arizona. Up to three (3) days (based on the employee's regularly scheduled hours for those days) of this absence per fiscal year shall be allowed as paid bereavement leave. Sick leave, vacation leave, or compensatory time may be used for the balance of the absence, at the employee's discretion. For purposes of this Section, immediate family member is defined as a spouse, domestic partner, mother, father, mother-in-law/**domestic partner's mother**, father-in-law/**domestic partner's father**, stepparent, child, adopted child(ren), stepchild(ren), or child(ren) of a domestic partner, parent surrogate, brother, sister, grandparents, grandchild(ren) and grandparents-in-law/**domestic partner's grandparents**. . . .

[No other portions of Article VIII, Section 2 are changed by this Amendment.]

VII. Article VIII, Section 6 is amended to read as follows:

SICK LEAVE INCENTIVE DAY. Union-eligible employees who did not use any sick leave **or Leave Without Pay (LWOP)** in either the first, second or **third four-month period** of the fiscal year will accrue personal leave of eight (8) hours as of the first day of the pay period following the end of each respective **four-month** period, as follows:

A. The employee must have been union-eligible for at least **three** months of the previous **four** month period in order to qualify for the incentive day.

B. Only those employees who used no sick leave **and no Leave Without Pay (LWOP)** during the accrual period will accrue a personal leave day.

C. Personal leave does not carry forward from one **four-month** period to the next. A personal leave day earned in one four-month period must be used in the following **four-month** period or be forfeited by the employee.

D. Personal leave can be used in **2 hours** increments and must be approved and scheduled in advance.

E. Personal leave can be used in conjunction with any other leave.

F. Employees cannot retroactively change the use of sick leave to any other leave category for the purpose of accruing the personal leave day.

G. Personal leave must be used prior to an employee's separation from the City. Any unused personal leave time will be forfeited and unpaid at the time of an employee's separation.

H. The sick leave incentive day for permanent part-time employees eligible for leave benefits will be four (4) hours.

VIII. Article IX, Section 1 is amended to read as follows:

MEDICAL REVIEW: A **member** whose personal physician has determined a diagnosis and course of treatment which conflicts with those of the City physician, shall have the option to request a third party review. Such review will be performed by a medical specialist. The **member** will be given a list of certified medical providers from Risk Management. The **member**, with the input of his/her physician and Risk Management, will select a medical specialist. The City and the **member** will accept the decision of the medical specialist.

IX. Article XI, Section 3 & 4 is amended to read as follows:

SECTION 3. **EMPLOYEE RECORDS:**

A. An employee, or his/her designated representative with written authorization from the employee, may be allowed access to the employee's official personnel file maintained by the City of Tucson during normal working hours for appropriate business purposes, as set forth in City Administrative Directive 2.02-20. Employment Records. **Members** shall be provided copies of his/her own employment records at no cost. Requests for such access shall be directed to the Human Resources Department.

B. A **member** may petition his/her department director that written reprimands in his/her departmental personnel file more than **two (2)** years old will not be used in future disciplinary or promotional proceedings, provided that there has been no further disciplinary action for the same or related infraction against the **member** for a **two (2)** year period prior to the request. If the department director agrees, any copies of the written reprimand maintained by the department shall be returned to the member and will not be used in future disciplinary or promotional proceedings. The department director will notify the Human Resources Director in writing of this decision and will identify the reprimand in question. **The** written **request** shall be placed in and made a part of the **member's** official personnel record and the disciplinary action will not be available for any future grievance committee proceedings or for review for promotional purposes. If a department director denies such a **member** request, the union may request an additional review by the Human Resources Director.

C. For all other purposes, access to or copies of, employment records will be limited as specified in City Administrative Directive 2.02-20 or as otherwise required by law.

SECTION 4. **PERFORMANCE APPRAISALS**. The parties acknowledge the value and importance of timely and thorough performance appraisals. Performance appraisals are to prepared and issued as provided in City Administrative Directive 2.02-13 Employee Performance Appraisal.

A. **Written Rebuttal and Response**: A **member** who does not agree with his/her performance appraisal has the right to file a written rebuttal with the Department Head. The Department Head or designee shall respond within 30 days. The **member** may file a copy of the rebuttal with the Human Resources Department for inclusion in the employee's official personnel record.

B. **Director Response to Merit Denial**: If a **member** submits a written rebuttal to a performance appraisal that resulted in denial of a merit increase, the department director will respond in writing to the **member** within 30 days of submission of the rebuttal. Alternatively, the member or union may request a meeting with the department director instead of submitting a formal written rebuttal and requiring a written reply from the director. The department director will have the option to meet with the **member** and union representative or to decline to meet. If the meeting is held, a representative of Human Resources will facilitate the discussion.

X. Article XIII, Section 1 is amended to read as follows:

INTENT: The purpose of this Article is to provide **members** with a process for the review of certain **member** complaints, assure fair and equitable treatment of all **members**, supervisors, and managers; to promote harmonious relations among **members**, supervisors, and managers; to encourage the settlement of disagreements informally at the **member** supervisor level; to provide an orderly procedure to handle grievances through the various supervisory levels when necessary; to resolve grievances as quickly as possible; and to discourage the filing of unfounded grievances.

XI. Article XIII, Sections 2 and 5 are amended to read as follows:

SECTION 2. **GRIEVABLE ISSUES:** Any **member** or the union shall have the right to present a grievance arising out of issues, such as the following:

- Interpretation, application, operation, or alleged violation of Administrative Directive/City Policies, personnel policy, Department policy, etc.; relating to, among other things, hours, terms and conditions of employment, this Agreement and wage issues other than salary negotiations.

- Disciplinary action not appealable to the Civil Service Commission.

- Tucson Police Department (TPD) corrective actions.

SECTION 5. **GENERAL PROVISIONS:** Formal grievances must be submitted on the designated grievance form mutually agreed upon and must contain a statement of the date of the incident, members name,

department, union steward/representative name, violations and remedy sought.

A. Grievances shall advance within the given City department in accordance with that particular department's organizational structure.

B. The member/union must comply with the time limits set forth in these procedures. If the member/union fails to comply with the time limits, it will constitute an abandonment of the grievance unless both parties have mutually agreed to extend the time limits as put forth in this article. If the City does not comply with the time limits, the grievance can be moved to the next step of the grievance procedure.

C. Any grievance shall be considered resolved at the completion of any step if all parties are satisfied or if the member/union chooses not to present the matter to the next step of the procedure within the prescribed period of time.

D. In cases of a grievance regarding a disciplinary action, the level within a given department that issued the discipline must concur with any change to the discipline prior to it being closed subject to the time limits of the grievance procedure.

E. Once a grievance has been reviewed and denied, repeated filing of grievances on the same **incident** will not be permitted.

F. The grievant may designate union representatives/stewards at any step of the grievance process. The union does not have grievance rights for non-union employees or employees belonging to another bargaining unit.

G. The grievant who is the subject of a grievance shall have the right to determine whether or not they wish to proceed with the grievance procedure. The union may not pursue a grievance that the grievant wishes to end.

H. Not more than two (2) authorized union representatives/stewards may attend grievance meetings on City time.

I. Grievances will be handled during the regularly scheduled working days and hours of the parties involved to the extent possible.

J. Upon completion of the grievance process, department managers and supervisors shall ensure that the grievant does not experience any retaliation for having pursued the grievance. Direction from the City Manager, or designee, regarding the final resolution of the grievance will be implemented as quickly as possible.

K. Any individual member shall have the right to present grievances directly to the City using the City Grievance Procedure.

L. The City will not attempt to meet with the grievant about a current or past grievance without union representation.

XII. All terms and provisions of the Agreement not amended herein shall remain in effect as previously approved.

NOW THEREFORE, the Parties hereto have executed this amendment.
Dated:_____

CITY OF TUCSON

Mike Letcher, City Manager

Cindy Bezaury, Director

Curry C. Hale, Administrator

ATTEST:

By:_____
City Clerk

Dated:_____

APPROVED AS TO FORM:

By:_____
City Attorney 6-10-10

CWA/TACE

Linda Hatfield, President
CWA/TACE Local 7000

Cyndie Pyle, Vice-President
CWA/TACE Local 7000