

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into this 20TH day of AUGUST, 2012, by and between the City of Albuquerque, New Mexico, a municipal corporation (hereafter referred to as the "City"), and Robin Hammer, J.D., whose address is 4004 Ivy Lawn Ct Albuquerque, New Mexico 87107 (hereinafter referred to as the "Employee").

RECITALS

WHEREAS, the City has selected the Employee to serve as Independent Review Officer for the City and the Employee is willing to act and serve in such official capacity; and

WHEREAS, the City intends that the Employee will be given autonomy and shall perform all duties under the direction of the Police Oversight Commission (the "POC"); and

WHEREAS, the parties wish to set out the terms of this employment.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. **Employment.** The City employs the Employee to personally serve as the Independent Review Office ("IRO"), reporting directly to the POC pursuant to the Police Oversight Ordinance, §9-4-1-I et seq. ROA 1994, (the "Ordinance") as now enacted or hereafter amended. For purposes of the City's Merit System Ordinance, the Employee will be a full-time unclassified employee.

2. **Duties.** As IRO, the Employee shall perform all duties incident to the position, including, but not limited to:

A. Establish and manage the day-to-day operations of the Independent Review Office (the "Office").

1. Employ and supervise the Office staff, including, but not limited to, four full-time unclassified City employees, which employees shall be selected by the IRO and paid by the City. Neither the City Council nor any of its members, nor the Mayor shall in any manner dictate the appointment or removal of any such employee of the Independent Review Office.

2. Establish additional staffing needs of the Office as needed, subject to budget limitations.

3. Prescribe the duties of the Office staff after consultation with the members of the POC.

4. Provide staff assistance to the POC and coordinate and provide Technical support for all scheduled POC hearings.

B. Receive all citizen complaints directed against the Albuquerque Police Department ("APD") and any of its officers, and monitor all claims of excessive force and police shootings.

C. Act as lead investigator of all citizen complaints against police officers, including but not limited to, review and assign complaints for investigation; supervise all investigations of citizen complaints against police officers' and audit complaints and reports of police shooting. The Employee shall ensure that all investigations are conducted expeditiously and in a thorough, objective, fair, impartial and politically unbiased manner.

D. Refer appropriate cases to an impartial system of mediation.

E. Establish a uniform system to oversee, audit, track, monitor and review all such complaints and investigations.

F. Make findings for each investigation, and forward findings related to citizen complaints to the POC and the Chief of Police, and to forward findings for all other cases to the Chief of Police.

G. Make recommendations and give advice regarding APD policies and procedures to the Chief of Police, the POC, City Council, and the Mayor as appropriate.

H. Participate in creation of a mandatory cooperation agreement for all police personnel involved in the complaint process and enforce said agreement to the extent possible.

I. Be aware of all settlements of claims of police misconduct in excess of \$25,000 and serve as an ex-officio member of the Claims Review Board.

J. Prepare and submit regular quarterly reports relating to the number, kind and status of all complaints to the POC, the City Council, and the Mayor. Reports must contain a comprehensive statistical analysis that includes the number of complaints related to the description and categories of complaints; findings and disciplinary action for every complaint as well as information on the race and/or ethnicity, gender, and national origin of the complainant and officers. This information is to be provided on a city-wide basis, as well as by the City Council district and police command areas.

K. Conduct an annual analysis to identify patterns, problems and issues using the statistical information gathered on all citizen complaints.

L. Make annual recommendations to APD on specific training, changes in policy or duty manuals, and follow-up and monitor all recommendations to verify their adoption and implementation.

M. Play an active role in the community and whenever possible provide appropriate outreach to the community.

N. Publicize the citizen complaint process, and identify locations within the community that are suitable for citizens to file complaints in a non-police environment.

O. Assist the POC, the City Council and the Mayor with an evaluation of the City's police oversight system required by the Ordinance.

3. **Term of Employment.** The term of this Agreement shall be for a period of two years commencing immediately upon approval of the City Council, beginning on August 20, 2012 through August 20, 2014. Thereafter, the Mayor with the approval of the City Council shall have the option of renewing or extending the contract every two years. Should the contract not be renewed or extended, in order to avoid a lapse between IROs, the Employee shall continue to serve as IRO under the terms of this contract until a new IRO is nominated by the Mayor and approved by the City Council.

4. **Compensation.** The City shall pay the Employee, as full payment for Employee's services under this Agreement, compensation at the rate of Ninety-Five Thousand (\$95,000) per year, payable every two weeks during the initial two year term of this Agreement. In addition, the City shall reimburse the Employee for mileage and per diem in accordance with City travel regulations as required to provide the services under this Agreement. The Employee shall maintain detailed time records, which set forth each service rendered in each matter, the time expended in rendering such service and the date such service was rendered.

5. **Other Employment.** The Employee shall devote a minimum of eighty hours (80) per pay period to the duties of the IRO. The Employee agrees there is no direct or indirect interest or secondary work, and shall not acquire any direct or indirect interest or secondary work, which conflicts in any manner or degree with the performance of the services required to be performed under this Agreement or might pose a conflict of interest in violation of the Rules of Professional Conduct. Any requests for secondary work shall be subject to approval by the Chief Administrative Officer and the City Attorney. In addition, the Employee agrees to generally limit non-City work to avoid areas of practice that might interfere with independent judgment. The Employee further agrees that no person having any such conflict of interest will be employed to perform related services.

6. **Attorney-Client Privilege.** The Independent Review Officer shall **not** maintain an attorney-client privilege with any City departments or personnel.

7. **Signature Authority.** As director of the Office, the IRO shall have purchase and signature authority to contract with interpreters and investigators and similar professionals up to Fifteen Thousand Dollars (\$15,000), subject to budget limitations.

8. **Vacation and Benefits.** The Employee shall be entitled to the rights and benefits as provided in the City's Merit System Ordinance and Personnel Rules and

Regulations, except the Employee shall be entitled to vacation leave accruing at 1 day (8 hours) per pay period (24 vacation days per year), and sick leave accruing at 4 hours per pay period (12 sick leave days per year).

9. **Indemnification of Employee.** In the event the Employee is named as defendant in any lawsuit in connection with legal advice given or actions taken under the Agreement, the City will indemnify, provide representation, including outside counsel, if appropriate, and hold the IRO harmless for any liability or claim which is or may be asserted in the capacity of IRO arising out of the Agreement and while acting on behalf of and in service to the City in an official capacity. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing all of the Services required under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the City.

10. **Establishment and Maintenance of Records.** The records of the Office shall be maintained by the Employee in accordance with applicable law and requirements, which may be prescribed by the POC with respect to all matters covered by this Agreement. Employee shall be the records custodian for the Police Oversight Commission. Except as otherwise authorized by the POC, all such records shall be maintained for a period of three (3) years after termination of the Agreement.

11. **Modification of Agreement.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party.

12. **Publication, Reproduction and Use of Material.** No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country.

13. **Compliance With Laws.** In performing the Services required hereunder, the Employee shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments.

14. **Assignment.** The Employee shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without the prior written consent of the Chief Administrative Officer thereto.

15. **Termination.**

A. This Agreement may be terminated by the Employee on thirty (30) days' written notice to the City.

B. In the event of any violation by the Employee of any of the terms of this Agreement, this Agreement may be terminated by the City following a recommendation to terminate by the POC made at a meeting at which the Employee has had an opportunity to

appear and respond. In such case, fifteen (15) days' written notice of termination shall be provided to the Employee by the City and the Employee shall be entitled to compensation only to the date of such termination.

C. It is further agreed that any breach or evasion of any of the terms of this Agreement by either party will result in immediate and irreparable injury to the other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

16. **Construction and Severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

17. **Complete Agreement.** This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants, and understandings have been merged into this written Agreement; No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written Agreement.

18. **Attorney Fees.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Albuquerque.

19. **Applicable Law.** This Agreement shall not become effective, or binding until approved by the City's Chief Administrative Officer.

20. **Approval Required.** This Agreement shall not become effective, or binding until approved by the City's Chief Administrative Officer.

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IN WITNESS WHEREOF, the City and the Employee have executed this Agreement as of the date first above written.

CITY OF ALBUQUERQUE

Approved By:



Robert J. Perry
Chief Administrative Officer

EMPLOYEE:



Robin Hammer, J.D.

Date: 8-31-12