



## STAFF REPORT

**Report To:** Board of Supervisors                      **Meeting Date:** May 4, 2023

**Staff Contact:** Nancy Paulson, City Manager

**Agenda Title:** For Possible Action: Discussion and possible action regarding a proposed settlement concerning an arbitration award issued in favor of the Carson City Deputy Sheriff's Association ("Association") arising out of a dispute under the terms of the collective bargaining agreement ("CBA") between the Association on behalf of the deputy sheriffs and the City on behalf of the Carson City Sheriff's Office ("CCSO"), pursuant to which a deputy sheriff will be promoted to the rank of sergeant without a probationary period but the award will not be interpreted by the parties as requiring the City to waive any such probationary period for any other employee in future disputes. (Nancy Paulson, npaulson@carson.org)

**Staff Summary:** The Association filed a grievance pursuant to the CBA asserting various claims generally relating to the promotional opportunity of a deputy sheriff. The parties arbitrated the matter, and the arbitrator issued an award in favor of the Association.

**Agenda Action:** Formal Action / Motion                      **Time Requested:** 5 Minutes

### **Proposed Motion**

I move to approve the settlement as discussed and authorize the District Attorney's Office to take all necessary steps to effectuate the settlement.

### **Board's Strategic Goal**

Organizational Culture

### **Previous Action**

March 16, 2023 (Item 17A) – The Board of Supervisors authorized the District Attorney's Office to take all necessary legal action to appeal an arbitration award issued in favor of the Association.

### **Background/Issues & Analysis**

The rights, duties and obligations of the Association and CCSO are set forth in the parties' current CBA, executed on June 21, 2021, and effective through June 30, 2026. Under the grievance process contained in the CBA, the Association filed a grievance which ostensibly stemmed from the decision of CCSO not to promote a deputy sheriff (the "grievant") to the position of sergeant. The grievance did not identify the non-promotion itself as an issue; rather, the grievance claimed contract violations concerning CCSO's promotional testing process, the confidentiality of specific candidate rankings and the non-release of scoring data on testing criteria.

Attempts at resolution before binding arbitration were unsuccessful and the parties proceeded to two days of arbitration hearings which were conducted on October 25 and 26, 2022. The Arbitrator issued an award on February 7, 2023, denying certain grievance issues raised by the Association but ultimately finding that CCSO violated the contract by not promoting the grievant to the position of sergeant. In accordance with that finding, the award also requires retroactive promotion, to be effective on March 25, 2022, along with backpay, seniority and benefits. In post-award discussions for the implementation of the award, the Association asserted that the

12-month probationary period normally required for a newly promoted sergeant - as established under a separate collective bargaining agreement defining the terms of employment between CCSO and the sergeants - is inapplicable to the grievant. Upon seeking clarification from the Arbitrator, the Arbitrator reiterated that the award also requires retroactive promotion, to be effective on March 25, 2022, along with backpay, seniority and benefits, including any probationary period.

In consultation with CCSO, the Sheriff and the Association have tentatively agreed to a resolution, subject to the Board of Supervisors approval, whereby the grievant will be promoted without a probationary period, but that the arbitration award does not create a waiver of probation for promoted employees and does not preclude the City from requiring a deputy (or other employee) to be under probation upon promotion.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS Chapter 38

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** General Fund Sheriff's Office

**Is it currently budgeted?** No

**Explanation of Fiscal Impact:** The City has been ordered by an arbitrator to promote a deputy sheriff to the rank of sergeant with backpay, seniority and benefits. A retroactive payment will be made in the amount of \$10,646.82 and a PERS correction in the amount of \$4,543.86. If necessary, a budget augmentation will be done in June 2023 to transfer funding from General Fund contingency to the Sheriff's Office budget.

**Alternatives**

Do not accept the settlement and/or provide alternative direction to staff.

**Attachments:**

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

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(Vote Recorded By)