

MEMORANDUM OF UNDERSTANDING BETWEEN

THE CITY OF BANNING

AND

THE SAN BERNARDINO PUBLIC EMPLOYEES ASSOCIATION

JULY 1, 2010 – JUNE 30, 2011

ARTICLE 1 - PREAMBLE

1.1 - This Memorandum of Understanding ("MOU" or "Agreement") is entered into between The City of Banning, a Municipal Corporation ("the City" or "City") and the San Bernardino Public Employees Association ("Association"), a California nonprofit Mutual Benefit Corporation and the recognized employee organization for the mid-management and professional unit of representation (the "Unit"), relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500 - 3510 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act.

1.2 - The City continues to formally recognize the Association as the Exclusive Recognized Employee Organization representing employees in the Unit presently or hereafter employed by the City and eligible for inclusion in the Association. It is understood that this Agreement shall constitute a bar to any petition or request for recognition of any unit which includes classifications of employees covered by this Agreement or such petitions to represent such employees at any time during the term hereof. This provision shall not preclude employees from exercising their rights as may be provided by the Meyers-Milias-Brown Act or the Employer-Employee Relations Resolution of the City.

1.3 - Except as otherwise provided herein, this Agreement between the City and the Association relative to wages, hours, and other terms and conditions of employment, shall be effective as of July 1, 2010 and shall remain in full force and effect until June 30, 2011 and thereafter shall remain in full force and effect and continue year-by-year unless one (1) of the parties notifies the other no later than March 1, 2011 of its request to modify, amend or terminate this MOU or no later than March 1st of any year after 2011. Upon receipt of such written notice, the parties agree that negotiations shall begin no later than March 15th unless otherwise mutually agreed by the parties or until a new agreement has been executed by the parties or the City Council acts in accordance with the terms of the City's Employer-Employee Resolution.

1.4 - This Agreement covers employees in the following Unit classifications:

Assistant Civil Engineer	Parks/Streets Maintenance Manager
Assistant Planner	Planning Engineer
Assistant Director Water/Wastewater	Power Resource and Revenue Administrator
Associate Civil Engineer	Principal Civil Engineer
Associate Electrical Engineer	Public Works Superintendent
Associate Planner	Purchasing Manager
City Engineer	Recreation Manager
Customer Services Manager	Redevelopment Manager
Development Service Manager CBO	Risk Management Analyst
Electric Operations Manager	Senior Planner
Fleet Maintenance Manager	Senior Civil Engineer
Information Technology Manager	Water/Wastewater Superintendent

The classification of Electric Systems Engineer is an approved classification in the City's Classification Plan. At such time as the City determines to conduct a recruitment to fill the position, the City agrees to only meet and confer with the Association prior to recruitment regarding the appropriateness of adding the classification to the Unit.

ARTICLE 2 - CONTINUATION OF RULES & POLICIES

2.1 - Subject to the terms of this Agreement, all City Ordinances, Policies, Resolutions, Rules and Regulations, including the Personnel Rules and Regulations of the City of Banning, the Employer-Employee Relations Resolution; and the Administrative Policies of the City of Banning, or successor rules, shall remain in effect during the course of this Agreement.

2.2 - Association and City agree to meet and confer during the term of this Memorandum over the adoption or revision of City Ordinances, Policies, Rules, Regulations, Administrative and/or Personnel Policies regarding mandatory subjects of negotiation pursuant to the Meyers-Milias-Brown Act.

2.3 - The Association recognizes the right of the City to adopt new or revised departmental rules and regulations which are not in conflict with this MOU and which are not regarding mandatory subjects of negotiation. In adopting such new or revised departmental rules and regulations, the City shall receive and consider input, if any, submitted by unit employees. The process of making such input shall not delay the timely implementation of such rule. Such input shall generally be solicited as follows:

- (a) The City shall provide a draft of the proposed change to the Association's designated business representative or his/her designee. At the time of providing the draft, a time shall be set to meet and confer on the proposed change. Such date shall be no less than twenty-five (25) and no more than thirty-five (35) calendar days following date of presentation of the draft.
- (b) Within twenty (20) days following date of presentation, the Association shall provide copies of its comments to the Human Resource Director in writing. Failure to provide written comments within the twenty (20) day time period shall be deemed to be acceptance of the proposal as presented and termination of the requirement for further meet and confer.
- (c) If agreement is not reached on the proposal at the first meeting, a second meeting shall be held within fifteen (15) days thereafter. If an agreement is not reached at the second meeting as to a matter which is not a mandatory subject of meet and confer, the City may proceed with the adoption of the policy without further meetings.
- (d) The time limits set forth herein may be modified by the written agreement of the parties.

ARTICLE 3 - EMPLOYEE RIGHTS

3.1 - The provisions of this MOU shall apply to all persons covered by this MOU without discrimination on account of race, sexual orientation, color, age, ancestry, sex

(including pregnancy, childbirth and related medical conditions), national origin, religion, creed, marital status, physical or mental disability, medical condition, citizenship status or any other basis protected by applicable law, nor will there be any discrimination with respect to hiring, retention or any condition of employment because of membership or activities on behalf of the Association.

3.2 - The Association will accept into membership all eligible persons of the bargaining unit without regard to race, sexual orientation, color, age, ancestry, sex (including pregnancy, childbirth and related medical conditions) national origin, religion, creed, marital status, physical or mental disability, medical condition, citizenship status, or any other basis protected by applicable law.

3.3 - Except as otherwise provided in this MOU, the employees covered by this Agreement shall have all rights which may be exercised in accordance with State Law, and applicable ordinances, resolutions, rules and regulations. However, employees covered by this Agreement shall not have the right to file a grievance for violation of any such law, ordinance, or resolution, except as specifically set forth herein.

3.4 - Employees shall also have:

- (a) The right to form, join, and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.
- (b) The right to refuse, join, or participate in the activities of employee organizations.
- (c) The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal by other employees, employee organizations, management or supervisors, as a result of their exercise of rights indicated in (a) and (b) above.

ARTICLE 4 - MANAGEMENT RIGHTS

4.1 - The Association recognizes and agrees that the City and its representatives have the responsibility and the authority to manage and direct all operations and activities of the City including, but not limited to the exclusive right to determine the mission of its constituent departments, commissions and boards and the processes and the materials to be employed; the right to subcontract any work or operation; to expand or diminish services; to determine the procedures and standards of selection for employment and promotion; determine classifications; direct its employees; take disciplinary action; relieve its employees of duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted and to assign work to employees; take all necessary actions to carry out its mission in emergencies; and, exercise complete control and discretion over its organization and work performance technology.

4.2 - When the decision to make the change is non-negotiable, but the effects of the decision are negotiable, the duty to provide notice and an opportunity to bargain arises at the time the decision is made and prior to taking action to implement the decision.

ARTICLE 5 - DUES DEDUCTION

5.1 - The City shall deduct one (1) month's current and periodic Association dues from the wages and/or Sick Leave benefits of each employee who voluntarily executes and delivers to the City a payroll deduction authorization form.

5.2 - The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues deduction authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings.

5.3 - In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Association dues.

5.4 - An employee's authorization for deduction of dues may be canceled at any time by written notice from the employee to the City, with a copy to the Association. An employee's deduction authorization shall automatically be canceled if the employee leaves the employ of the City or is transferred out of the representation Unit.

5.5 - The aggregate amount of such deductions by the City shall be transmitted monthly to the Association. The City shall provide the Association with a list each month indicating the dues deducted from the pay of any represented unit employee and those employees for whom no deduction was made pursuant to the provisions of Sections 5.2, 5.3 and 5.4.

5.6 - The Association shall indemnify, defend, and hold the City harmless against any claims made, and against any suit instituted against the City on account of deduction of employee organization dues. In addition, the Association shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

ARTICLE 6 - ASSOCIATION REPRESENTATIVES

6.1 - Three (3) employees selected by the Association may attend scheduled meetings with City management during regular hours without loss of pay, provided that such employees shall not leave their work station or assignment without first providing adequate notice to their supervisor and the City Manager. Additional employees who are not on duty may participate at no additional cost to the City. Such meetings shall be scheduled in a manner consistent with the City's operating requirements and work schedules. Nothing herein shall be deemed to preclude the scheduling of such meetings at hours other than such employee's regular working hours, in which event attendance shall be without pay.

ARTICLE 7 - BULLETIN BOARDS

7.1 - The City will furnish adequate bulletin board space where currently available. Only areas designated by the Human Resource Department may be used for posting notices. Bulletin boards may be used for the following notices:

- (a) Scheduled Association Meetings, Agenda and Minutes.
- (b) Information on Association Elections and the Results.
- (c) Information Regarding Association Special, Credit Association, Recreational, and Related Bulletins.
- (d) Reports of Official Business of Association Including Reports of Committees or the Board of Directors.
- (e) MOU, Pay Scales, Job Announcements, Promotion Lists, Etc.
- (f) Such other items as may be approved by the Human Resource Director upon request of the Association.

7.2 - Posted notices shall not be defamatory or violate any of the City's policies, nor shall they advocate election or defeat of candidates for public office. All notices to be posted may be dated and signed by an authorized representative of the Association. Association may give notices to the represented employees through the use of the City mail system and/or the City computer e-mail system.

ARTICLE 8 - MEMORANDUM OF UNDERSTANDING COPIES

8.1 - After it has been executed by the parties, the City shall provide the Association with twenty-three (23) executed copies of this MOU. Association shall be responsible for providing copies of this MOU to represented employees at Association's expense. City shall also provide a copy of the executed MOU to any represented employee hired or promoted into the represented unit after the effective date of the MOU. City may charge for any additional copies.

ARTICLE 9 - MEETINGS

9.1 - Upon mutual agreement of both the City and the Association, the parties may meet to discuss items of mutual concern. A meeting conducted under this section shall not constitute a meet and confer or hearing under any grievance procedure.

9.2 - The Association may be granted permission to use City facilities for the purpose of meeting with employees to conduct its internal affairs provided space for such meetings can be made available without interfering with City needs. Permission to use facilities must be obtained by the Association from the City Manager. The Association shall be held fully responsible for any damages to and security of any facility that is used by the Association.

9.3 - The City agrees to the creation of a Budget Oversight Committee, with the Association entitled to appoint one (1) member. Said Committee shall have an equal number of members appointed by the City's recognized Employee Associations and the City. Said Committee shall be advisory only to the City Manager. City shall determine the necessity of meetings.

9.4 - The City shall notify the Association's designated business representative of its intention to subcontract work performed by employees covered by this Agreement no later than the date bids are requested for said contract work. Association may comment on the proposed subcontracting and may request a meeting under Article 9 to discuss it or if applicable may ask for a meet and confer on the effects.

ARTICLE 10 - HOURS OF WORK

10.1 - Each unit member shall work a forty (40) hour workweek under a 4/10 work week plan. This will be accomplished by the City closing for business every Friday. All other work days (Monday through Thursday) will be ten (10) hour workdays. Working hours will be 7:00 am to 6:00 pm or as set by the Department head.

ARTICLE 11 - REGULATION OF FLSA ISSUES

11.1 - Association and the City shall endeavor and resolve to meet and confer on a case by case basis as may arise during the term of this Agreement on issues related to employee's current and past status under the FLSA.

ARTICLE 12 - SALARIES, PERFORMANCE EVALUATIONS, RETIREMENT BENEFITS, AND EDUCATION INCENTIVE

12.1 -

- (a) In November 2010, the City will initiate a salary survey of the agreed upon cities and counties for all appropriate Unit classifications to determine whether the salary schedules for all unit classifications should be increased. No later than October 1, 2010, the City and Association will meet to determine appropriate agencies to be surveyed and benchmarking standards. No salary ranges for any classification will be lowered as a result of the survey. The City is required to complete this study by March 1, 2011 and initiate meet and confer with the Association regarding applicable salary range changes in conjunction with the MOU negotiations, in accordance with Article 1.3. The City agrees that the methodology for the salary survey will be used for all represented classifications.
- (b) The City will obtain the salary ranges from each of the agreed upon entities for the classifications that are comparable with each Unit classification. If an entity does not have a comparable classification for a specific classification, the City shall enter a N/A next to that city/county. The City will provide the Association a detailed description of the methodology used to calculate new salary ranges for a proposed change to any Unit classification and provide unedited source data for all surveyed cities and counties no later than April 14, 2011.

- (c) Effective July 1, 2010 represented classifications are assigned to salary ranges, as set forth below in accordance with the City's adopted Salary Table. Employees will be able to progress through the salary range as set forth in section 12.2.

Unit Classification	New Salary Range
Assistant Director Water/Wastewater	81
City Engineer	81
Electric Operations & Maintenance Manager	81
Development Services Manager (Building Official)	80
Power Resource & Revenue Administrator	81
Redevelopment Manager	81
Senior Civil Engineer	78
Water/Wastewater Superintendent	77
Public Works Superintendent	77
Senior Planner	75
Information Technology Manager	73
Purchasing Manager	73
Planning Engineer	72
Associate Civil Engineer	72
Associate Electrical Engineer	72
Fleet Maintenance Manager	71
Customer Services Manager	67
Streets/Parks Maintenance Manager	66
Assistant Civil Engineer	64
Associate Planner	64
Risk Management Analyst	60
Assistant Planner	59
Recreation Manager	58
Principal Civil Engineer	N/A

The City and the Association agree to meet and confer regarding the job description and salary range for the classification of Principal Civil Engineer at such time as the City desires to fund a position in that classification. The City reserves the right to fill the position with the current incumbent in the classification of Career Part-Time Associate Civil Engineer, or with any other qualified applicant, whichever best meets its needs at that time.

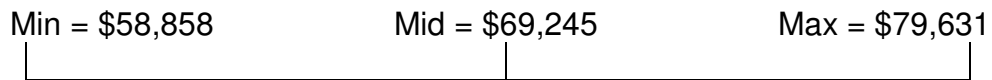
12.2 - PAY FOR PERFORMANCE

- (a) Salary increases are to be based upon performance, rather than market increases. All Unit employees shall have their performance evaluated annually on the City's Achievement Evaluation Forms in accordance with their salary anniversary date. Employees may only receive increases in accordance with Sections (b) through (f) below.
- (b) Effective July 1, 2006, whenever Unit classifications are allocated to higher salary ranges, based upon the City's biennial salary survey or otherwise, subsequent salary increases for incumbents in the represented classifications shall be calculated according to the following methodology.

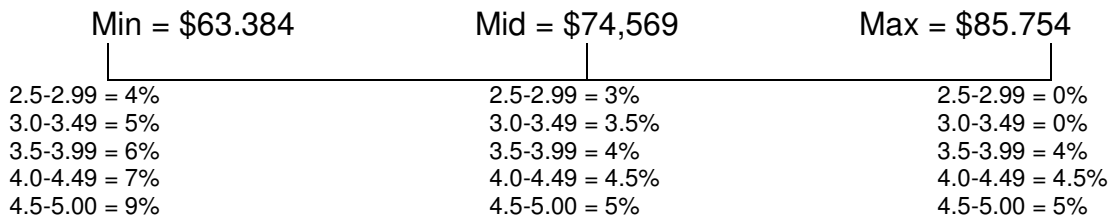
The prior range maximum amount shall be deducted from the new range maximum amount and that portion of the new salary range represented by such difference shall only be available to the incumbent employee upon achievement of a performance rating of 3.5 or above.

In other words, the prior range maximum amount, i.e. the highlighted area in the example graph below, shall serve as a performance based control point on the amount of the new salary range which is available to the incumbent.

Current Salary Range = 70



Recommended Salary Range = 73



An exception to this method shall occur whenever the midpoint of the new range is **above** the maximum of the old range in that there shall be no constraint on the incumbent's ability to achieve any portion of the available salary range, i.e., any performance rating which equates with a salary increase in accordance with Section (c), (d) and (e), below.

- (c) Pursuant to the Levels of Achievement on their annual performance evaluation, employees who have not reached within two (2) percent of the mid point of their salary range would receive the following salary percentage increase corresponding with their Achievement Evaluation Form rating. Once an employee reaches within two (2) percent of the mid point of their

salary range, then these employees would receive increases up to the maximum of their range as set forth in paragraph d, below:

2.50 - 2.99 = 4% salary increase
3.00 - 3.49 = 5% salary increase
3.50 - 3.99 = 6% salary increase
4.00 - 4.49 = 7% salary increase
4.50 - 5.00 = 9% salary increase

- (d) Pursuant to the Levels of Achievement on their Achievement Evaluation Form, employees who have reached within two (2) percent or above the mid point, but less than the control point defined in paragraph (b) shall receive the following salary percentage increase corresponding with their annual achievement Evaluation Form rating, up to the maximum of their range.:

Achievement Rating of 2.50 – 2.99 = 3% salary increase
Achievement Rating of 3.00 – 3.49 = 3.5% salary increase
Achievement Rating of 3.50 – 3.99 = 4% salary increase
Achievement Rating of 4.00 – 4.49 = 4.5% salary increase
Achievement Rating of 4.50 – 5.00 = 5% salary increase

If any percentage increase set forth above, causes an employee's base salary to exceed the maximum of their salary range as shown, only the percentage increase up to the maximum of their salary range will be applied to their base salary and the remaining percentage increase will be paid as a one time bonus.

- (e) Employees who have attained the maximum of their respective salary ranges may continue to receive performance pay in the form of a one-time annual bonus, which is PERS reportable income. These bonuses do not become part of the employee's base salary.

Achievement Rating of 3.50 – 4.49 = 2% one-time annual bonus
Achievement Rating of 4.50 – 5.00 = 3% one-time annual bonus

- (f) Effective July 1, 2008, an Achievement Evaluation Review Committee was established to review all annual ratings of 4.00, or above, and to review employee complaints of inappropriate ratings, which are 2.00 or below. The Human Resource Director, non evaluating Department Head (or City Manager) and a representative serves as the Achievement Evaluation Review Committee. Employees who have reached the maximum of their salary range are not entitled to request a review.

- i. The purpose of the review of all overall ratings of 4.00 or above is to ensure that the varying departmental cultures are reconciled, that consistency and fairness occurs throughout the organization, and to make sure that organizational values are promoted through the evaluation process. Before an employee is authorized to receive a pay increase as a result of an overall rating of 4.00 or above, the

Achievement Evaluation Review Committee must review and approve the rating in the Achievement Evaluation Form. The review and response of the Achievement Evaluation Review Committee must be done within fifteen (15) business days of receipt of the Achievement Evaluation Form from the evaluating department to the Department of Human Resources. The Achievement Evaluation Review Committee's decision on the overall rating will be the final decision.

- ii. Employees have fifteen (15) business days after receiving their Achievement Evaluation Form with an overall rating of 2.49 or below to request a review with the Achievement Evaluation Review Committee. An employee shall not be given an overall performance rating of less than 2.50 or below, unless they have received some form of written communication during the previous twelve (12) month evaluation period outlining the supervisor's expectations for performance improvement. The employee's signature is not required to trigger the fifteen (15) business day period and if the employee refuses to sign the document, the Department Head will note and date the employee's refusal to sign. The employee must submit a written request to the Human Resources Director which details their position and must state the specific reasons for disagreement on all sections on the Achievement Evaluation Form that the employee believes are inaccurate and attach all documents that it contends the Achievement Evaluation Review Committee should consider. An employee's failure to timely submit such a written request to the Human Resources Director waives the employee's right to a review. Within fifteen (15) business days of receipt of the employee's written request, the Achievement Evaluation Review Committee will meet with the employee and provide the employee the opportunity to discuss any and all items set forth in the employee's written request for the review. The review request may be processed longer than fifteen (15) business days provided there is mutual agreement between the employee and the Achievement Evaluation Review Committee and that the Association representative who serves on Achievement Evaluation Review Committee can coordinate a date that is acceptable to all members and the employee. The Achievement Evaluation Review Committee only has the authority to increase any rating identified by the employee in the review request or affirm the rating in the evaluation, but it has no authority to decrease any rating. The Achievement Evaluation Review Committee will, among other things, review the evaluation, the employee's position on the evaluation, and whether the employee received formal written and/or oral counseling from the evaluator during the previous twelve (12) month evaluation period. The Achievement Evaluation Review Committee shall notify the employee in writing of its decision within fifteen (15) business days of its meeting with the employee and its decision shall be final.

- iii. If during the course of administering Pay for Performance, there is mutual agreement by Association and the City that meet and confer is necessary, Association and the City shall commence the meet and confer process, pursuant to the identified Pay for Performance deficiencies.

12.3 - PERS

- (a) Effective July 5, 2004, the City shall pay eight percent (8%) of the miscellaneous employees' regular and special compensation as defined by PERS as of the date of this Agreement as employee's contribution to PERS. The amount paid under this section shall be treated as employee contributions pursuant to Section 141(h)(2) of the Internal Revenue Code or successor Section.
- (b) The City agrees to pay the employer's portion of the One (1) Year Final Compensation and Full Formula PERS plus Social Security Retirement Plan for represented miscellaneous employees.
- (c) The City shall continue to provide the One (1) Year Final Compensation and Full Formula PERS plus Social Security retirement plan for members of the bargaining unit designated as miscellaneous employees by PERS.
- (d) The 2% Management Incentive Pay under Article 22.1 shall be considered as salary for the purpose of PERS contribution.

12.4 - F.I.C.A. – Unit members shall pay the employee's portion of FICA and the City shall be responsible for payment of the employer's portion.

12.5 - DISABILITY – Each employee shall pay the cost of membership in the State Disability Insurance or other long term disability insurance selected by the City.

12.6 - DIRECT DEPOSIT – All employees shall be paid by direct deposit of their payroll check into an account of their choice, except those employees who either do not hold an account with a financial institution that offers direct deposit or who do not hold an account of any type. It shall be the responsibility of the employee to establish and maintain such account. When separation from the City is caused by death, payment of all outstanding compensation, including Salary and all remaining Sick Leave, Vacation, Comp Time or Holiday Time accruals shall be paid into the employee's direct deposit account the same as regular payroll.

12.7 - RESIDENCY CREDIT. – All employees who reside within City limits shall receive \$150 per month as a discount against the cost of electric and water service during the period of such residence.

12.8 - EDUCATION INCENTIVE. – Effective July 1, 2008, represented employees whose job specification does not require a bachelor's degree as a minimum requirement shall receive additional compensation of \$200.00 per month for a Bachelor's Degree; employees who possess a Bachelor's Degree and a job related

certificate shall receive \$225.00 per month; employees who possess a Bachelor's Degree and a certification through a professional designation of official competency after taking a test or meeting established criteria by a universally recognized authority or association will receive \$250.00 per month; employees who possess a Master's Degree will receive \$275.00 per month; those employees who possess a Master's Degree and a certification through a professional designation of official competency after taking a test or meeting criteria established by a universally recognized authority of association shall receive \$300.00 per month.

ARTICLE 13 - COMPENSATORY TIME, OVERTIME AND ON-CALL PAY

13.1 - EXEMPT UNIT EMPLOYEES:

(a) Except as outlined in Article 13.7, the following listed represented Unit classifications shall not receive overtime pay:

- Assistant Director Water/Wastewater
- Associate Civil Engineer
- Associate Electrical Engineer
- City Engineer
- Customer Services Manager
- Development Services Manager (Building Official)
- Electric Operations & Maintenance Manager
- Fleet Maintenance Manager
- Information Technology Manager
- Parks/Streets Maintenance Manager
- Planning Engineer
- Public Works Superintendent
- Power Resource & Revenue Administrator
- Principal Civil Engineer
- Public Works Superintendent
- Purchasing Manager
- Recreation Manager
- Redevelopment Manager
- Risk Management Analyst
- Senior Civil Engineer
- Senior Planner
- Water/Wastewater Superintendent

13.2 - NON-EXEMPT UNIT EMPLOYEES:

(a) The following represented Unit employees are entitled to receive overtime pay:

- Assistant Planner
- Associate Planner
- Assistant Civil Engineer

13.3 - Compensated time off for Non-Exempt employees listed in Article 13.2:

- (a) Non-Exempt employees shall be paid for all overtime at the rate of time and one-half (1-1/2) for each hour worked, or they shall accrue compensatory time off hours at the rate of one and one-half hour (1-1/2) for each hour worked up to a maximum of two-hundred forty (240) hours.
- (b) Employees may exercise the option to cash out a maximum of sixty (60) hours of compensatory time off per fiscal year.

13.4 - For purposes of overtime calculation, "hours worked" for non-exempt unit members shall include time spent in required court appearances as set forth in Article 15. All other hours paid for but not worked, including, but not limited to vacation, holiday, sick leave, on call time and compensatory time off shall not be counted as hours worked for overtime calculation.

13.5 - All work performed by represented employees listed in Article 13.2 in excess of forty (40) hours per week shall be paid at the rate of one and one half times (1-1/2) the employee's regular hourly base rate of pay, except for employees who choose to be compensated in additional compensatory time as outlined in Article 13.2. All overtime worked shall be authorized by a supervisor in advance of working overtime hours, if possible. Otherwise, the claim for overtime shall be subject to review by the Human Resource Director.

13.6 - Only the employees listed in Article 13.2, the non-FLSA exempt members of the Association, shall be entitled to additional compensation for on call status. Employees required to remain in an on call status shall, at employee's option, receive an additional eight (8) hours of compensatory time or pay at his/her regular rate for each week for such duty plus and additional one (1) hour for any week in which a holiday occurs. Employees shall be entitled to receive the pro rata equivalent for any partial week.

- (a) When required to respond, such employee shall receive, at employee's option, a minimum of two (2) hours of compensatory time or pay at his/her regular rate for any time worked during the first one (1) hour and compensatory time or pay at time and one-half (1-1/2) for each hour worked thereafter.
- (b) For purposes of this Article, an employee shall be deemed to be in on call status only when all of the following conditions are met:
 - (1) The appropriate Director has placed the employee in on call status by a notice in writing;
 - (2) The employee is required to respond to the City Yard or other designated location within a specified time not to exceed thirty (30) minutes; and,
 - (3) While on call the employee is prohibited from engaging in any activity which may interfere with the employee's ability to respond

to an emergency call and immediately commence the required job performance.

13.7 - CTO CASH OUT:

- (a) In the event an employee terminates his or her employment the City shall "cash out" the employee's accrued compensatory time. The employee shall be compensated for all such compensatory time at his/her then current, straight time rate of pay.

13.8 - CONTRACT OVERTIME FOR NON-EXEMPT EMPLOYEES. In assessing costs against such other agency for work performed by these employees, the City shall assess compensation for such employee at the rate of one and one-half (1-1/2) times the regular rate of compensation. Represented employees shall receive in compensation the greater of that received from the third party agency for the employee's services or such compensation as he/she shall be otherwise entitled to under law and this MOU.

13.9 - PERSONAL LEAVE The employees listed in Article 13.1 ("Exempt Employees") shall receive ninety-eight (98) hours of personal leave per year which shall be credited July 1 of each year, to compensate for time spent in excess of normal working hours in completing their responsibilities.

- (a) Personal Leave may be accrued without limit and used under the same rules as vacation leave. In the event an employee terminates his or her employment with the City, the employee shall be compensated for all accrued personal leave at his or her then current rate of pay.
- (b) Employees may exercise the option to cash out a maximum of sixty (60) personal leave hours per fiscal year.

ARTICLE 14 - ACTING PAY AND PROMOTION PAY

14.1 - A represented employee temporarily assigned by management to fill a vacancy in a higher classification, when the vacancy is created by a departure, or when the incumbent is absent in excess of twenty (20) work days, shall be compensated from the first day working such assignment, and consecutive days worked thereafter, at the lowest pay range of the incumbent which is at least five percent (5%) above the acting employee's normal rate of compensation while working in the higher classification. The conditions of this subsection are a prerequisite to the receipt of any higher acting pay. At such time as an employee is no longer performing work out of his permanent classification, he/she shall be compensated at his/her regular rate of pay for his/her permanent classification.

14.2 - Represented employees promoted to work in a higher classification shall be paid five percent (5%) more than the employee received in the lower classification.

14.3 - Temporary assignments to perform work out of an employee's permanent classification shall be limited in duration to six (6) months in any one (1) year. A time

extension to the temporary assignment beyond the initial six months may be made with the concurrence of Association in writing.

ARTICLE 15 - PAY FOR JURY DUTY & COURT APPEARANCES

15.1 - Any employee who shall be summoned for attendance to any court for jury duty during his/her normal working hours shall be deemed to be on duty and there shall be no loss of salary, but any jury fees received by him/her shall be paid into the City treasury. Any employee, who shall be called as a witness arising out of and in the course of his/her City employment, shall be deemed to be on duty and there shall be no loss of salary, but any witness fees received by him/her shall be paid into the City treasury. An employee absent as a witness in a private matter shall not be entitled to be paid during such absence, but he/she may, however, use vacation leave, holiday leave, personal leave or compensatory leave for such absence.

ARTICLE 16 - SAFETY, EQUIPMENT, AND TRAINING

16.1 - The City will provide covered employees safety equipment in accordance with California State Law. Effective the first full pay period in January 2009 and annually thereafter, the City shall provide a yearly boot/safety shoe allowance of \$200 to each employee who is required, by nature of his/her work to wear a specific type/style of shoe or boot. An approved shoe/boot is one which meets the minimum standards as determined by the Department Head. Departmental standards shall not be less than those which may be required by CAL/OSHA. Employees shall wear approved shoes/boots during working hours where required by work conditions.

16.2 - The City shall reimburse represented employees the reasonable replacement value of personal property destroyed in the course and scope of their employment. The employee shall make application for reimbursement by presenting to the appropriate supervisor the damaged or destroyed article. Personal property subject to this provision consists of personal property necessary to fulfill the employee's job duties and that is approved in advance for use on the job. Replacement for prescription eyewear is limited to \$200 per pair per year. Replacement for watches is limited to \$100 per year. Replacement of items will be secondary to any applicable insurance.

16.3 - A Joint Safety and Training Committee shall be continued.

(a) Joint Safety and Training Committee. The Committee shall consist of an equal number of members appointed by the City and the Association. The Committee shall be advisory only. The Committee shall meet on a regular basis, but not less than once (1) per quarter. The Association and City may agree to meet more frequently on a regular or special basis. The Committee may review work practices, training, procedures and rules and may recommend changes in the interest of health and safety. The Committee may review all serious accidents, injuries or fatalities, and include recommendations resulting from its review in the Committee's minutes.

(b) Reporting. Minutes of all Committee meetings shall be posted on Association bulletin boards, with copies to the Human Resource Director and to the President of the Association, within five (5) working days after the Committee

meeting. Specific questions submitted either to the Committees or by the Committees to Management will be responded to within a reasonable time and the answers posted on Association bulletin boards.

- (c) Proceedings of the Committee shall be completely independent of any disciplinary action and the Committee's findings shall not be entered into the record of any such disciplinary proceedings.

ARTICLE 17 - MILEAGE, MEALS AND OTHER REIMBURSEMENTS

17.1 - Effective July 1, 2008, the following listed classifications, shall be provided with a \$250 per month vehicle allowance under this section. The City will also provide employees with mileage reimbursements as provided in the Administrative Policy E-1 dated September 1, 2001, except that AP E-1 item C.4 is amended as follows: mileage for trips exceeding forty (40) miles round trip shall be reimbursable at the current IRS rate for total trip mileage that exceeds forty (40) miles, an employee may only request reimbursement for expenses equal to or greater than \$20.00 and an employee must keep record of the mileage or aggregate from multiple trips to establish the \$20.00 minimum.

Associate Civil Engineer
Associate Electrical Engineer
Associate Planner
Assistant Civil Engineer
Assistant Planner
Customer Services Manager
Information Technology Manager
Planning Engineer
Power Resource & Revenue Administrator
Principal Civil Engineer
Purchasing Manager
Recreation Manager
Redevelopment Manager
Risk Management Analyst
Senior Planner
Senior Civil Engineer

17.2 - The following listed classifications shall be provided with a City Vehicle for performing City business and travel to and from work:

Assistant Director Water/Wastewater
City Engineer
Development Services Manager (CBO)
Fleet Maintenance Manager
Public Works Superintendent
Streets/Parks Maintenance Manager
Electric Operations & Maintenance Manager
Public Utilities Superintendent

In the event the City vehicle is unavailable, the employee shall receive a vehicle allowance or mileage, consistent with City policy.

17.3 - All employees receiving such vehicle allowance shall name the City as an additional named insured on any policy of insurance providing coverage for the vehicle used by the employee for the purposes set forth herein. Proof of current insurance shall be maintained on file with the City.

17.4 - Employees not receiving compensation pursuant to Section 17.1, 17.2 or 17.3 above shall be reimbursed for use of their own vehicle for authorized City business at the rate set by the Internal Revenue Service.

17.5 - Employees shall be reimbursed for meals as per the administrative policies of the City.

17.6 - The City shall bear the full cost of any fidelity or other bonds required of the represented employee under any law or ordinance.

17.7 - Members who are certified under the State of California Department of Motor Vehicles Employer Testing Program to train and test for Class "A" driver's license (truck portion) will receive a \$50.00 stipend each time such training is done. Payment will be authorized by the Human Resources Department only upon receipt of proper documentation that the City remains in compliance with the Employer Testing Program.

ARTICLE 18 - TUITION, BOOK REIMBURSEMENT AND PROFESSIONAL TRAINING AND TRAVEL

18.1 - QUALIFICATIONS - Tuition reimbursement is limited to \$3,500 per year and cost of books actually paid will be reimbursed to all permanent employees for professional and technical courses approved by the Human Resource Director and taken in an accredited educational institution provided that:

- (a) The subject matter of the course relates directly to and contributes toward the employee's position with the City.
- (b) The employee has received at least a competent proficiency rating on the last evaluation report.
- (c) The employee has furnished evidence that the course has been completed with at least a 'C' grade.
- (d) Textbooks paid for by the City shall be returned to the City upon request and shall become the property of the City.
- (e) However, for employees who are enrolled in an approved Master Degree Program as of September 14, 2004, the City will provide payment of tuition in an amount equivalent to the cost of obtaining the education at a California State University or University of California. All other provisions will apply to such employees, except the \$3,500 cap on tuition reimbursement. Unit members who are subject to this provision will only continue to receive this

benefit provided they do not have an absence in their enrollment beyond one eighty (180) days.

18.2 - REIMBURSEMENT

- (a) Requests for reimbursement must be completed and returned to the Human Resources Department within three (3) weeks after receipt of course completion documentation. (No reimbursement will be made without bona fide receipts or documentation).
- (b) Reimbursement for textbooks will be approved only if the textbooks were not made available at no cost to the employee by the City
- (c) Reimbursements will be made only after proof of completion of course with 'C' average or better and satisfactory receipts of payment for books and tuition are approved by the Human Resources Department.

18.3 - TRAINING - Employer hereby agrees to pay, as outlined in Article 17, the travel and subsistence expenses of represented employees for professional and official travel, meetings, and occasions required to continue the professional development of Employee and to adequately pursue necessary official and other functions of Employer, including but not limited to annual state conference of the California League of Cities, and such other national, regional, state and local governmental groups provided it is budgeted in the annual operations budget. Time spent in City required and approved training or conferences, including travel time shall be included as time worked in accordance with FLSA standards. The City shall not pay for the costs incurred to meet minimum job requirements.

18.4 - TOOLS - The City hereby agrees to finance at no interest the purchase of any job-related tools or equipment that serve the professional development of any represented employee over the term of this Memorandum of Understanding. Such tools and equipment shall be approved in advance by the Human Resource Director. Repayment to the City by the represented employee shall be made by payroll deductions until the amount loaned is completely repaid. The maximum period for repayment shall be two (2) years).

ARTICLE 19 - SICK LEAVE

19.1 - Represented employees shall accrue three and sixty-nine hundredth (3.69) hours of sick leave per pay period. Sick leave shall accrue without limit.

19.2 - Sick leave shall be granted only where consistent with the City's sick leave policy (currently AP-1), except as otherwise provided in the Family Medical Leave Act and Pregnancy Leave policies of the City (currently AP-02).

19.3 - All sick leave shall hereafter accrue in a "Bank". Any employee may cash in the "Bank", to a maximum of ninety-six (96) hours, at straight time at the current rate of pay, but will not be allowed to cash out the "Bank" below forty (40) hours. This request must be made no later than Nov. 1st of each year and the payment shall be made in the last check issued in November of each year.

- (a) Upon separation, service retirement, disability retirement, or termination, an employee shall be eligible to receive a cash payment for accrued sick leave in the "Bank" in an amount equivalent to straight time, to a maximum of ninety-six (96) hours.
- (b) After ten (10) years of continuous City service, all hours accrued in the "Bank" less the total hours cashed out in 19.3 A, shall be eligible for conversion to cash in an amount equivalent to thirty percent (30%) of such unused sick Leave. Such reimbursement to be computed based upon the employees' final compensation rate. (See AP-01). Beginning with the eleventh (11) year of City service, unit members may convert the value of the total amount of their sick leave bank minus forty (40) hours to either Deferred Compensation or the Retiree Health Savings. Thereafter, the unit member may contribute one hundred percent (100%) of the value of unused sick leave minus forty (40) hours for such purposes.

19.4 - All Employees covered by this Agreement who have passed their probation are granted bereavement leave. In the event of the death of a member of their family, including mother, father, brother, sister, child, grandchild, or grandparent of the employee or any one of the same relatives of the employee's spouse, the employee shall be allowed twenty-four (24) hours of bereavement leave for each death of a family member. In the event of the death of a spouse or multiple family deaths occurring within a twenty-four (24) hour period, the employee shall be allowed forty (40) hours of bereavement leave.

19.5 - In addition to the foregoing bereavement leave, the employee may also utilize up to sixteen (16) hours from accrued sick leave, if there is a death of a family member and up to forty (40) hours from accrued sick leave in the event of the death of a spouse or multiple family deaths. If the employee has insufficient accumulated sick leave to exercise this option, the employee may utilize accrued vacation, or compensated time off for the additional bereavement leave.

ARTICLE 20 - VACATION AND HOLIDAY LEAVE

20.1 - For members of the Association effective July 5, 2004, vacation leave shall accrue in accordance with the following schedules:

- (a) One (1) through four (4) years service:
Ten (10) eight (8) hour days per year = three and eight hundredth (3.08) hours per pay period
- (b) Beginning the fifth (5th) year through the ninth (9th) year:
fifteen (15) eight (8) hour days per year = four and sixty-two hundredth (4.62) hours per pay period
- (c) Beginning the tenth (10th) year & thereafter:
twenty (20) eight (8) hour days per year = six and fifteen hundredth (6.15) hours per pay period

Vacation leave may be accrued to a maximum of three-hundred twenty (320) hours. If an employee has accumulated the maximum allowed under this Article, said employee will receive no further vacation leave accruals until said employees uses a portion of his/her vacation leave and his/her vacation leave accruals have been reduced below the maximum. There shall be no retroactive receipt of any vacation leave lost as a result of this Article.

20.2 - Vacation leave may be taken with approval of the employee's supervisor, and as otherwise consistent with the policies of the City. Vacation leave may be taken at any time following the completion of the six (6) month probationary period. Vacation leave taken shall not be in excess of that actually accrued at the time such vacation leave is taken. Vacation leave must be approved a minimum of fourteen (14) days in advance of the first (1st) day of such vacation. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the employee's supervisor.

20.3 - Any employee, who has been in continuous full-time service of the City for a period of six (6) months or more, who is about to terminate his or her employment, and has earned vacation leave to his/her credit, shall be paid for such vacation leave on the effective date of such termination at the current rate of pay.

20.4 - Employees with greater than two hundred fifty (250) hours of accrued vacation time may request a one-time cash out of fifty percent (50%) of the total available hours to be paid at their current pay rate. Unused vacation accrual in excess of eighty (80) hours may be paid off at the option of the employee up to a maximum of eighty (80) hours per fiscal year.

20.5 - Holiday time off shall accrue for members of the bargaining unit at the rate of three and sixty-nine hundredth (3.69) hours per pay period.

20.6 - Holiday leave other than City recognized holidays (City Hall closed) must be approved a minimum of fourteen (14) days in advance of the first day of such leave. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the employee's supervisor.

20.7 - Any employee, who is about to terminate his/her employment, and has earned Holiday leave to his/her credit, shall be paid for such holiday leave on the effective date of such termination at the employee's then current rate of pay.

20.8 - If, during the term of this MOU, the City Council recognizes an additional Holiday for City employees the accrual rate shall be adjusted accordingly.

ARTICLE 21 - CAFETERIA PLAN

21.1 - For the period July 1, 2010 through June 30, 2011, the City shall contribute \$947.00 per month to each represented employee for the cafeteria benefits plan detailed in this section.

- (a) Said contribution shall first be used to provide for health insurance for the employee. Employee shall be covered by health insurance with a City approved health plan unless the employee provides proof to the City that

employee is covered by another acceptable health plan as determined by the City's Human Resource Director.

(b) The balance may be used for any of the following or any combination thereof:

1. Health insurance for employee's spouse and/or dependents.
2. Dental Plan for employee, spouse and/or dependents.
3. Eye care plan for employee, spouse and/or dependents
4. Term life insurance on employee's life.
5. Deferred compensation programs.

(c) Employee may elect to receive ninety-two and five-tenth percent (92.5%) of the balance in cash as PERS non-includable taxable income.

(d) The City will pay for life insurance in the amount of \$150,000 and the employee will pay the taxes on the portion of the premium attributable to coverage above \$50,000.

21.2 - During the term of this Agreement, the City shall maintain an Internal Revenue Section 125 program which will allow employees to allocate specified amounts of monthly pre-tax salary or wages for the reimbursement of medical care expenses or dependent care expenses or both, as well as health and welfare insurance premiums, with the exception of disability insurance premiums.

21.3 - Effective July 1, 2005, the City will reimburse employee and employee's dependents a maximum of \$250 for eyewear every two (2) years.

ARTICLE 22 - MANAGEMENT INCENTIVE PAY

22.1 - The City agrees to pay an amount equal to two percent (2%) of employee's annual salary as management incentive due to the unique nature of the job. The Management Incentive Pay will be reported as special compensation every pay period and will be for duties performed during normal business hours.

ARTICLE 23 - LAYOFFS AND RE-EMPLOYMENT

23.1 - PURPOSE. The purpose of this Article is to provide a fair and equitable basis for the reduction of full-time classified personnel due to insufficient work or funds.

23.2 - REASONS FOR LAYOFF. The City retains the right to determine when a lack of work or lack of funds condition exists. Lack of work means that a category of work effort within the City can be fulfilled with fewer employees at an acceptable level of service. Lack of funds means that the City cannot sustain operations at the current level of employment within the funding available.

23.3 - NOTICE OF LAYOFF Any layoff initiated under the provisions of this document can take place at any time during the year. The City shall notify the affected employees in writing at least sixty (60) calendar days prior to the employee's last day of work. The City reserves the right to pay the employee for such sixty (60) day period or any remaining portion thereof, and to require the employee to immediately vacate City property. A copy of any notice will be forwarded to the appropriate bargaining unit representative. Any notice of layoff shall specify the reason for the layoff and effective date. The form and timing of such notice shall be subject to the established Grievance Procedure provided however, that the City's decision to layoff is not subject to the grievance procedure. The date of layoff shall not be delayed by the pendency of a grievance.

23.4 - ORDER OF LAYOFF. Any layoff shall be effective within classes determined by the City. The order of layoff shall be based on the City Manager's evaluation of critical position function and seniority measured as the length of uninterrupted service within the class as measured to the date of the layoff notice.

23.5 - EQUAL SENIORITY. If two (2) or more employees subject to layoff have equal class seniority, then the determination as to who has seniority shall be based upon total length of uninterrupted service with the City

23.6 - RE-EMPLOYMENT RIGHTS.

Any Association member who has been given a written notice of layoff may compete for any open position for which he or she is qualified. The City will make reasonable efforts to notify the affected employee of any position that is open or any future position that is opening for the Association member's consideration. The Human Resource Manager shall receive and date the resume/application and set up testing for the member who is qualified for that position. The Association member shall compete with any other laid off employee who also qualifies for that position. An Association employee that has been laid off and is qualified shall compete for the position that has opened or that is opening prior to it being open to present employees or to the public.

(a) Employees who have been laid off or reduced in classification under the provisions of this Article shall be placed upon reemployment lists for a period of two (2) years, or until they are re-employed with the City, whichever occurs first. For purposes of this section, "reemployment" means any full-time employment with the City. Employees on a reemployment list shall have hiring preference for vacancies in their original classifications in order of their respective seniorities within those classifications, with the most senior employees having first preference. Employees on such reemployment lists shall also have preference over new hires in applying for vacancies in bargaining unit classifications other than those from which they were laid off, and according to the City's usual and customary hiring practices.

(b) This article shall be implemented consistent with the provisions of Administrative Policy AP-10.

ARTICLE 24 - GRIEVANCE PROCEDURE

24.1 - As to all employees listed in Section 1.4, no discipline may be imposed except as consistent with FLSA rules for the applicable class of exempt employee.

24.2 - Any permanent employee in the bargaining unit who has a grievance based upon his/her demotion, dismissal, reduction in pay, improper treatment, violation of the personnel ordinance or salary resolution, shall be entitled to have the matter reviewed through the following grievance procedure outlined in this article. This right shall not extend to complaints concerning Achievement Evaluation Forms.

24.3 - Informal Step. An attempt shall be made to ascertain all facts and adjust such grievance on an informal basis between the employee and, if he/she desires, his/her representative, and the immediate supervisor. Presentation of such grievance shall be made within fourteen (14) calendar days of the incident causing the grievance, or the date on which the employee first became aware of it.

24.4 - Step One. If the grievance is not adjusted to the satisfaction of the employee under the procedures set forth in Sections 24.3 above, the employee or his/her representative may submit the grievance, in writing, to the City Manager, within fourteen (14) calendar days after the completion of the last step under Section 24.3 above. The City Manager shall meet with the employee, and his/her representative if applicable, within fourteen (14) calendar days of receipt of such written grievance, and shall deliver his decision in writing, to the employee, along with the reasons for such decision, within fourteen (14) calendar days after the meeting.

24.5 - Step Two. If the grievance is not adjusted to the satisfaction of the employee under the procedures set forth in Sections 24.3 and 24.4 above, the employee or his/her steward or business representative, as appropriate, may submit the grievance, in writing, to the Human Resource Director, within fourteen (14) calendar days after the last step under Section 24.4, above. The Human Resource Director shall meet with the employee, and his/her steward or business representative, as appropriate, within fourteen (14) calendar days of receipt of such written grievance, and within the next fourteen (14) calendar days after such meeting shall deliver his/her decision in writing, to the employee, along with the reasons for such decision.

24.6 - Step Three. If the grievance is not adjusted to the satisfaction of the employee under the procedure set forth in Section 24.5 above, the employee or his/her representative may submit written notice to the City Manager within fourteen (14) calendar days after the completion of the last step under Section 24.5 above of his/her intent to submit the matter to advisory arbitration. The procedures set forth below shall be followed.

(a) Within seven (7) calendar days of receipt of the written notice, the parties shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and the Association shall attempt to reach an agreement on an arbitrator.

Failing to agree on an arbitrator, the Association and the City shall take turns striking the names or arbitrators from the FMCS list until one (1) name remains. The Association shall strike the first name.

- (c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the advisory arbitration hearing.
- (d) The cost of the arbitrator shall be split equally by the City and the Association.
- (e) All arbitration proceedings shall be recorded. The arbitrator shall be required to provide both parties with a decision and with written findings of fact in support of the decision. The arbitrator's decision shall be consistent with and supported by the substantive law.

24.7 - Step Four. Within seven (7) calendar days after the Association and City receive the advisory arbitrator's recommendation, either party may submit written argument whether the arbitrator's opinion should be accepted, rejected or modified. Within fourteen (14) calendar days after the seven (7) day period above has expired, the City Manager shall advise the Association and the Department Head whether the City Manager is accepting, rejecting, or modifying the recommended decision. The decision of the City Manager shall be final and binding.

24.8 - The above time limits may be changed by mutual agreement.

ARTICLE 25 - MISCELLANEOUS

Effective July 1, 2008 Association agrees that the probationary period for newly hired represented employees will be one year. The probationary period for promotions will remain at six (6) months.

The City agrees that as soon as practicable, job specifications will be reviewed to determine any necessary changes in minimum education requirements.

ARTICLE 26 - SAVINGS CLAUSE

If any of the provisions contained in this Memorandum of Understanding are determined to be unlawful, then only such provision(s) shall be deleted from this Memorandum of Understanding with the remainder of this Memorandum of Understanding remaining in full force and effect. Upon the issuance of a decision by a Court of Competent Jurisdiction declaring any section of this Memorandum to be unlawful, unenforceable, unconstitutional, or not applicable, the parties agree to meet and confer as soon as possible concerning only those sections.

ARTICLE 27 - COMPLETE AGREEMENT

Anything contained herein to the contrary notwithstanding, during the meeting and conferring resulting in this Memorandum of Understanding, the City and the Association each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter as to which the Meyers-Milias-Brown Act imposes an obligation to meet and confer. Except as specifically set forth elsewhere in this

Memorandum of Understanding, the City expressly waives its right to require the Association meet and confer, and the Association expressly waives its right to require the City to meet and confer, over all matters as to which the Meyers-Milias-Brown Act imposes an obligation to meet and confer, whether or not: (a) such matters are specifically referred to in this Memorandum of Understanding; (b) such matters were discussed between the City and the Association during the negotiations which resulted in this Memorandum of Understanding; (c) such matters were within the contemplation of or knowledge of the City or the Association at the time this Memorandum of Understanding was negotiated and executed. This Memorandum of Understanding contains the entire understanding, undertaking, and agreement of the City and the Association, after exercise of the right and opportunity referred to in the first sentence of this Article, and finally determines all matters of meeting and conferring for its term. Changes in this Memorandum of Understanding, whether by addition, waiver, deletion, amendment, or modification, must be reduced to writing and executed by both the City and the Association.

This Memorandum of Understanding has been jointly prepared after meet and confer sessions between the authorized representatives of the City and the Association and represents a joint recommendation to the City Council for determination and adoption pursuant to Government Code Section 3505.1. The parties hereto acknowledge that they have the authority to make this joint recommendation and that this Memorandum of Understanding shall not be in full force and effect until adoption by the City Council of the City.

SUBJECT TO THE FOREGOING, THIS MEMORANDUM OF UNDERSTANDING IS EXECUTED BY THE AUTHORIZED REPRESENTATIVES OF THE CITY AND THE ASSOCIATION. IN WITNESS WHEREOF THE PARTIES HAVE CAUSED THEIR SIGNATURES TO BE AFFIXED THIS _____ DAY OF _____ 2010

FOR THE CITY OF BANNING

FOR THE SAN BERNARDINO
PUBLIC EMPLOYEES
ASSOCIATION

Andrew J. Takata, City Manager

By: _____
Print Name
Its: _____
Print Official Title

Colin J. Tanner, Lead Negotiator

By: _____
Print Name
Its: _____
Print Official Title

By: Stacey Cue
SBPEA Business Representative

By: Chuck Thurman
Unit Representative/Negotiator

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