

MEMORANDUM OF UNDERSTANDING BETWEEN

THE CITY OF BANNING,

AND

THE CITY OF BANNING POLICE MANAGEMENT ASSOCIATION

July 1, 2022 – June 30, 2024

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ARTICLE 1 PREAMBLE.

1.1 Introduction. This Memorandum of Understanding (hereinafter referred to as the "MOU") is entered into between the City of Banning, a California municipal corporation (hereinafter referred to as the "City") and the authorized representatives of the Banning Police Management Association (hereinafter referred to as the "BPMA"), a California unincorporated nonprofit labor association, as the exclusively recognized employee organization for the Police Management Unit (hereinafter referred to as the "Unit") relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500 - 3511 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act (hereinafter referred to as the "MMBA").

1.2 Recognition. The City hereby formally recognizes the BPMA as the only recognized employee organization representing Unit employees presently or hereafter employed by the City and eligible for inclusion in the Unit. It is understood that this MOU shall constitute a bar to any petition or request for recognition of any employee organization to represent any other employee bargaining unit which includes classifications of employees covered by this MOU or such petitions to represent such employees at any time during the term hereof except for express "window periods" set forth in the City's Employer-Employee Relations Resolution. This provision shall not preclude employees from otherwise exercising their rights as may be provided by the MMBA or the City's Employer-Employee Relations Resolution.

1.3 Term. The term of the successor shall be effective July 1, 2019 through June 30, 2022. Except as otherwise provided herein, the successor MOU between the City and the BPMA relative to wages, hours, and other terms and conditions of employment shall remain in force until its term expires at close of business on June 30, 2022.

1.4 Represented Classifications. This MOU covers Unit employees in the classifications of Police Lieutenant and Police Captain.

ARTICLE 2 CONTINUATION OF RULES & POLICIES.

2.1 Other Written Policies. Subject to the terms of this MOU, all City ordinances, resolutions, rules and regulations, including the City's Employer-Employee Relations Resolution (currently Resolution No. 2010-45), the City's Employees Handbook covering the Rules and Regulations of the Personnel System, the City's Administrative Policies, and the Banning Police Department Policy Manual shall continue to apply during the term of this MOU.

2.2 Meet and Confer. The City and the BPMA agree to meet and confer during the term of this MOU over the adoption, amendment or revision, including repeal, of all City ordinances, resolutions, rules and regulations, including the City's Employer-Employee Relations Resolution (currently Resolution No. 2010-45), the City's Employees Handbook covering the Rules and Regulations of the Personnel System, the City's Administrative Policies, and the Banning Police Department Policy Manual, to the extent that such documents contain mandatory subjects of bargaining pursuant to the MMBA.

Should an impasse be reached following such meet and confer sessions, the provisions of the Employer- Employee Relations Resolution (Resolution 2010-45) shall apply to resolve the impasse.

2.3 Past Practice. For purposes of this MOU, a "past practice" shall be defined as an unwritten policy, procedure or work rule, whether or not it affects a mandatory subject of bargaining, and upon which the City, the BPMA and the Unit employees may have relied through a course of conduct. As of the effective date of this MOU, all past practices are void, and of no further force or effect.

ARTICLE 3 EMPLOYEE RIGHTS.

3.1 Non-Discrimination. The provisions of this MOU shall apply to Unit employees without illegal discrimination based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including pregnancy, childbirth and related medical condition), sexual orientation, age, 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 non-membership in the BPMA, or because of any activities or refraining from activities on behalf of the BPMA.

3.2 BPMA Membership. The BPMA will accept into membership all eligible persons who are members of the Unit without regard to, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including pregnancy, childbirth and related medical condition), sexual orientation, age, or any other basis protected by applicable law.

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

ARTICLE 4 MANAGEMENT RIGHTS.

The BPMA 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 and to establish and change work schedules and assignments and to determine the days and hours when the employees shall work; take all necessary actions to carry out its mission in

emergencies; and, exercise complete control and discretion over its organization and work performance technology.

ARTICLE 5 DUES DEDUCTION.

5.1 Dues Deduction. The City shall deduct one month's current and periodic BPMA dues from the wages and/or leave benefits of each Unit employee who voluntarily executes and delivers to the City a payroll deduction authorization form.

5.2 Sufficient Earnings. The Unit 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 a Unit 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 Non-Pay Status. In the case of a Unit 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 BPMA dues.

5.4 Cancellation. A Unit 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 BPMA. A Unit employee's deduction authorization shall automatically be canceled if the employee leaves the employ of the City or is transferred out of the Unit.

5.5 Funds Transmission. The aggregate amount of such deductions by the City shall be transmitted monthly to the BPMA President or his or her designee. The City shall provide the BPMA President or his or her designee with a list each month indicating the dues deducted from the pay of any represented Unit employee and those Unit employees for whom no deduction was made pursuant to the provisions of Sections 5.2 and 5.3. The BPMA shall notify the City of the names of its President and other officers and designees each year following election of the board and appointment of members to committees to which the BPMA is entitled to appoint members under this MOU.

5.6 Indemnification. The BPMA shall indemnify, defend, and hold the City harmless against any and all claims made, and against any suit instituted against, the City arising from or otherwise in any way involving deduction of employee organization dues. In addition, the BPMA shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

ARTICLE 6 BPMA REPRESENTATIVES.

Two (2) employees selected by the BPMA 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 twenty-four (24) hour notice to the Department Head. 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 Authorized Postings. The City will furnish adequate bulletin board space where currently available. The Department Head shall designate the bulletin boards to be used for posting notices. Bulletin boards may be used for the following notices:

- (a) Scheduled BPMA Meetings, Agenda and Minutes.
- (b) Information on BPMA Elections and the Results.
- (c) Posting of BPMA special, recreational, and related bulletins.
- (d) Reports of Official Business of BPMA, 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 Department Head upon request of the BPMA.

7.2 Posted Notices. 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 BPMA. The BPMA may give notices to Unit employees through the use of the City mail system and/or the City computer e-mail system.

ARTICLE 8 MEMORANDUM OF UNDERSTANDING COPIES.

The City shall provide the BPMA with one (1) original and one (1) copy of this MOU after it has been fully executed by the parties. The City shall also provide a copy of the executed MOU to any Unit employee hired or promoted into the Unit after the effective date of the MOU. The City may charge for any additional copies. The BPMA shall be responsible for providing copies of this MOU to represented employees at BPMA expense.

ARTICLE 9 MEETINGS.

9.1 Items of Mutual Concern. Upon mutual agreement of both the City and the BPMA, the parties may meet to discuss and consult on 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 Use of City Facilities. The BPMA may be granted permission to use City facilities for the purpose of meeting with employees to conduct BPMA business provided space for such meetings can be made available without interfering with City needs. The

BPMA shall be held fully responsible for any damages to and security of any facility that is used by the BPMA.

ARTICLE 10 HOURS OF WORK.

10.1 Schedules. Unless modified by the Department Head as set forth in section 10.2 and 10.4 below, Unit employees shall have a work schedule as assigned by the Department Head.

10.2 Department Head Discretion. Unit employees may be assigned to a work schedule consisting of the days and hours as determined by the Department Head.

10.3 Schedule Changes. The Department Head in the exercise of his or her discretion may change the work schedule and/or work period of Unit employees. Accordingly, work schedule and work period changes are not subject to meet and confer requirements. The Department Head shall notify the BPMA regarding any change in work schedule and/or work period no later than thirty (30) days before the date the change is implemented.

10.4 Outside Employment. Prior to any Unit employee accepting outside employment, he or she shall request and receive authorization from the Department Head. Authorization for outside employment shall be made according to the policies and procedures in place at the time of request.

ARTICLE 11 SALARIES, PERFORMANCE EVALUATIONS, & PROBATIONARY PERIOD.

11.1 Salaries – All BPMA represented Unit members shall receive a salary increase of three and one-half percent (3.5%) of base pay effective July 1, 2022, three and one-half percent (3.5%) effective July 1, 2023.

- (a) No Unit employee shall be granted a step increase unless and until such employee has obtained an overall meets requirements evaluation rating consistent with the applicable administrative policies of City.
- (b) A first denial of a step increase shall not be an allowable subject of the exercise of employee rights under any grievance procedure afforded by the City or this MOU.
- (c) A Unit employee denied a step increase for failing to achieve an overall meets requirements performance rating shall be entitled to be re-evaluated in six (6) months from the date of the performance evaluation which led to the denial of the step increase. If the employee's overall performance is rated meets requirements, then the employee shall be granted the appropriate step increase effective the first pay period following the six month re-evaluation period. Such step increase shall not be retroactive.

- (d) If the employee's performance continues to fail to achieve an overall meets requirements performance rating after the six (6) month re-evaluation period, then the employee shall be given a final denial of a step increase for the remainder of the regular evaluation period. Denial of a step increase under this subsection may, at the employee's option, be subject to the non-binding grievance procedure provided for in this MOU.

11.2 Longevity Pay. Employees shall receive additional compensation, effective on the employee's employment anniversary date, for Longevity as follows:

- (a) Upon completion of ten (10) years of continuous service employees will receive additional pay of one percent (1%) of base salary;
- (b) Upon completion of fifteen (15) years of continuous service employees will receive additional pay of one and one-half percent (1.5%) of base salary;
- (c) Upon completion of twenty (20) years of continuous service employees will receive additional pay of two percent (2.0%) of base salary;

11.3 Salary Survey. The parties deem satisfied and completed the required salary surveys and classification study for positions covered by this MOU, the parties will use as comparison cities the following ten (10) cities: Beaumont, Blythe, Cathedral City, Colton, Desert Hot Springs, Hemet, Indio, Montclair, Palm Springs, and Rialto.

11.4 Probation Period. All employees appointed to a position represented by the BPMA shall serve a twelve (12) month probationary period. The probationary period shall be considered a part of the examination and selection process and shall not include any time served under any limited service or provisional appointment but shall date from the time of appointment to a regular position. After serving six (6) months in the probationary period, the Unit employee shall be eligible for a six (6) month merit increase based upon a satisfactory performance evaluation. This will be the employee's new anniversary date for future performance evaluations/merit increases. Unit employees will also receive a probationary review at the completion of their probationary period. City employees who have previously successfully completed a probationary period and who are subsequently promoted into or within the Unit, shall serve a six (6) month probationary period in the new position. Any BPMA Unit employee promoted from the Banning Police Officers Association (BPOA) unit, who fails to pass probation, may return to the position previously held, with BPOA approval.

ARTICLE 12 OVERTIME.

12.1 Overtime-Exempt Status. All Unit employees covered by this MOU are qualified exempt management employees under the FLSA and as such are not eligible for overtime pay, except as authorized by City Policy A-32. When overtime is funded by revenue sources outside the City (i.e. grants and/or contracts for services by other law enforcement agencies) the overtime rate will be one and one-half times (1.5) the member's base hourly rate of pay. Any assigned hours which are not worked shall be accounted through a reduction in accrued leave. Accruals, and reductions in accruals, are based on an eighty (80) hour pay period.

12.2 – Overtime-Unanticipated Patrol Shortages/Critical Incidents – Overtime for unanticipated patrol shortages and critical incidents during a period of staff shortage, and when pre-approved by the Police Chief or Captain, Lieutenants may be authorized to provide such coverage and receive overtime at a rate of one times the member's base hourly rate of pay (straight time). Lieutenants may opt to receive overtime compensation as compensatory time with a maximum accumulation of one-hundred-sixty (160) hours. Compensatory time may be cashed out annually in June.

12.3 Overtime-Hours Worked. "Hours worked" means time spent in required court appearances as set forth in Article 14, and time paid for vacation, holidays, personal leave and administrative leave for officer involved shooting or other non-disciplinary leave.

ARTICLE 13 ACTING PAY AND PROMOTION PAY.

13.1 A Unit 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.

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

13.3 Unit employees assigned to 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 the BPMA in writing.

ARTICLE 14 PAY FOR JURY DUTY: COURT APPEARANCES, "ON CALL" DUTY.

Any Unit employee who shall be summoned for attendance to any court for jury duty during his or 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 or 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 or 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 or her shall be paid into the City treasury. An employee absent from work due to being a witness, plaintiff or defendant in a non-work related matter shall not be entitled to be paid during such absence, except that he or she may, use Vacation Leave, Holiday Leave and Personal Leave for such absence. In no event shall an employee be compensated for time in court as a defendant in a criminal case.

ARTICLE 15 EQUIPMENT & UNIFORM ALLOWANCE.

15.1 The City will provide Unit employees safety equipment in accordance with California State law. Said safety devices and safeguards shall remain the property of the City and their use may be required and regulated by the Department Head or his or her designee.

15.2 The City agrees to pay a uniform allowance of two hundred dollars (\$200.00) per month to Unit employees. Payment of the uniform allowance will be paid equally between the first two pay periods each month. Such money shall be used for the purpose of purchasing and maintaining uniforms in order that employees who wear regulation uniforms may maintain a professional appearance.

15.3 The City shall reimburse Unit employees the reasonable replacement value of personal property, not including uniforms for which the above uniform allowance is paid, which is destroyed in the course and scope of their employment. The employee shall make application for reimbursement by presenting to the Department Head 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. Replacement for watches is limited to \$50. Sums paid hereunder shall be secondary to any applicable insurance. If an individual pays a sum of money to the City pursuant to a court order as restitution for damaging the uniform of a Unit employee, then the City will reimburse that amount to the Unit employee.

15.4 The Department Head or his designee may, at his or her discretion authorize Unit employees to carry optional weapons. Nothing in this MOU shall require the Chief of Police to approve the use of any specific weapon or ammunition.

ARTICLE 16 MILEAGE, MEALS AND OTHER TRAVEL REIMBURSEMENT.

16.1 The City will reimburse expenses for meals, lodging and tuition when a Unit employee attends a City directed educational program. Reimbursement shall be equal to, but not exceed, the amount permitted under applicable P.O.S.T. standards. If the Unit employee's meals and lodging expenses exceed reimbursement provided by P.O.S.T., then the Unit employee may be required to demonstrate that such expenses are reasonable by providing receipts for all expenses and written justification. Only reasonable expenses

will be reimbursed. Reimbursement for meals, lodging or travel are subject to IRS rules for reporting compensation through payroll or reimbursement through accounts payable.

16.2 Accommodation arrangements for attendance at a City directed educational program shall be made by the Unit employee. The City agrees to provide any accompanying information concerning available lodging arrangements for the program to the Unit employee as soon as it becomes available to the City.

16.3 Upon request, a Unit employee attending a City directed educational program shall receive an advance up to the P.O.S.T. established limits established for the particular educational program.

16.4 At the conclusion of the educational program, the Unit employee shall show by certificate awarded or some other manner that the program was attended and completed.

16.5 Except as otherwise set forth in this MOU, the scheduling of training/educational programs shall be done in accordance with Departmental procedures.

ARTICLE 17 TUITION AND BOOKS REIMBURSEMENT & TRAINING

17.1 Tuition Reimbursement. Tuition actually paid reimbursements shall be limited to four-thousand dollars (\$4,000) per fiscal year and will be reimbursed to all permanent Unit employees, including for professional and technical courses approved by the Department Director and taken in an accredited educational institution, up to and including a Master's Degree, 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 their last evaluation report.
- (c) The employee has furnished evidence that the course has been completed with at least a "C" or "pass" grade.
- (d) 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).
- (e) Reimbursements will be made only after proof of completion of course with 'C' average or "pass" and satisfactory receipts of payment for tuition are approved by the Human Resources Department.

17.2 Training. The City agrees to pay, as outlined herein, the travel and subsistence expenses of Unit 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, and such national, regional, state and local governmental groups provided it is budgeted in the annual operations budget and approved by the Department Head. Time spent in City required and approved training or conferences, including travel time, shall be included as time worked. The City shall not pay for the costs incurred to meet minimum job requirements.

ARTICLE 18 EDUCATION INCENTIVE PAY.

18.1 Education Incentive Pay. Educational incentive pay for Unit employees shall be earned as follows:

- (a) Possession of an Intermediate POST Certificate entitles the employee to \$200 a month; and possession of a Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, entitles the employee to \$300 a month.
- (b) Possession of an Associate of Arts/Science Degree in any academic field entitles the employee to \$75 per month.
- (c) Possession of a Bachelors of Arts/Science Degree in any academic field entitles the employee to \$150 per month.
- (d) Possession of a Masters of Arts/Science Degree in any academic field entitles the employee to \$225 per month.
- (e) Possession of a Ph.D. in any academic field entitles the employee to \$300 per month.
- (f) Possession of an Intermediate POST Certificate and an Associate of Arts/Science Degree in any academic field entitles the employee to \$275 per month. P
- (g) Possession of an Intermediate POST Certificate and a Bachelors of Arts/Science Degree in any academic field entitles the employee to \$350 per month.
- (h) Possession of an Intermediate POST Certificate and a Masters of Arts/Science Degree in any academic field entitles the employee to \$425 per month.
- (i) Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate and an Associate

of Arts/Science Degree in any academic field entitles the employee to \$375 per month.

- (j) Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, and a Bachelors of Arts/Science Degree in any academic field entitles the employee to \$450 per month.
- (k) Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, and a Masters of Arts/Science Degree in any academic field entitles the employee to \$525 per month.
- (l) Employees who have successfully completed either the California POST Command College, PERF-SMIP, Northwestern Police Staff and Command, Drucker California Chief's Association or the FBI National Academy are entitled to incentive pay of two and one-half percent (2.5%) of base salary per month.
- (m) Employees who have successfully completed the California POST Field Training Program Management Course are entitled to incentive pay of two and one-half percent (2.5%) of base salary per month.
- (n) For all Police Management Unit members who are employed with the City at the time of the execution of this MOU, possession of 60 semester units from an accredited college with a minimum of 39 units being in an occupationally related field (i.e. Police Science, Social Science, Political Science, Public Administration, etc.) shall entitle the employee to receive pay of \$100 per month. Determination as to whether courses are occupationally related will be made by the Department Head with right of appeal to the City Manager.
- (o) The amounts in this article shall not be pyramided except as set forth above.

ARTICLE 19 SICK AND BEREAVEMENT LEAVE.

19.1 Sick Leave Accrual. Unit employees shall accrue ninety-six (96) hours of Sick Leave per fiscal year, which shall be accrued pro-rata per pay period in amounts of three and sixty-nine hundredth (3.69) hours until the ninety-six hours are met. Sick Leave shall accrue up to a cap of three hundred-twenty (320) hours. Excess leave balances account may be used for time off or cashed out per MOU or City policy.

19.2 Sick Leave Use. Sick Leave, shall be granted only where consistent with the City's Sick Leave and Family Leave policy (currently AP-1 and AP-02).

19.3 Sick Leave Cash Out. All sick leave shall accrue in a “Bank.” Any Unit employee may cash out hours from any sick bank leave he or she has accrued into up 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 below forty (40) hours. Any sick leave cash out request must be made no later than November 1st of each year and the payment shall be made in the last check issued in November of each year while employed.

19.4 Sick Leave Conversion to Deferred Compensation. Any Unit member may convert to Deferred Compensation hours from the any “bank” sick leave has accrued into up to a maximum of ninety-six (96) hours, at straight time at the current rate of pay, but will not be allowed to convert out of the “Bank” below forty (40) hours. Beginning with the eleventh (11th) year of City service, Unit members may convert fifty (50%) percent of the value of the total amount of their accrued sick leave bank, but will not be allowed to convert out of the bank below forty (40) hours, to either Deferred Compensation, or the Retiree Health Savings, if available.

19.5 Sick Leave Payment Upon Separation. Upon separation, service retirement, disability retirement, or termination, a Unit member 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. In addition, beginning the tenth (10) year of continuous City service, all hours accrued in the “Bank” shall be eligible for conversion to cash in an amount equivalent to thirty percent (30%) of such unused sick leave upon separation. Beginning with the 11th year of City service, Unit members may convert fifty (50%) percent of the value of the total amount of their sick leave bank upon separation, to either Deferred Compensation, or the Retiree Health Savings, if available. Any cash payments made in accordance with this section shall be computed based upon the employees' final compensation rate and shall be paid within one payroll period of the effective date of separation. Public Safety employees are currently eligible for Sick Leave conversion up to 90% of the sick leave bank to CalPERS credit as members of CalPERS safety pool.

19.6 Use of Other Leave. Unit employees who have exhausted all accumulated Sick Leave while on Sick Leave may utilize accrued Vacation, Holiday or Personal leave.

19.7 Bereavement Leave. All Unit employees are granted bereavement leave. In the event of the death of a member of their family, including spouse, domestic partner, mother, father, brother, sister, child, stepchild, grandchild, or grandparent of the employee or any one of the same relatives of the employee's spouse or domestic partner, 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 domestic partner or multiple family deaths occurring within a twenty-four (24) hour period, the employee shall be allowed forty (40) hours of bereavement leave.

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, domestic partner or multiple family deaths. If the employee has insufficient accumulated

sick leave to exercise this option, the employee may utilize accrued vacation, or personal leave for the additional bereavement leave.

ARTICLE 20 VACATION, HOLIDAY AND PERSONAL LEAVE.

20.1 Vacation Leave Accrual. Unit employees shall accrue Vacation Leave 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

20.2 Vacation Leave Maximum Accrual. Vacation Leave may be accrued to a maximum of three-hundred twenty (320) hours for Unit employees. 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 which does not accrue as a result of the caps set forth in this Article.

20.3 Vacation Leave Approval Required. Vacation leave may be taken with approval of the Unit 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 a six (6) month probationary period for lateral hires. No probationary period will be required for internally promoted Unit employees. 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.

20.4 Vacation Leave Payment Upon Termination. Any Unit employee whose employment is terminated and who has accrued, earned and vested vacation leave shall be paid for such vacation leave within one payroll period of the effective date of such termination. Any Unit member may elect to have the remaining balance of any hours accrued as vacation converted to Deferred Compensation at the member's current rate of pay.

20.5 Vacation Leave Excess Hours Payment. 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.

20.6 Holiday Leave. If, during the term of this MOU, the City Council recognizes an additional holiday for City employees, the accrual rate for Unit employees shall be adjusted accordingly. 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. City recognized Holidays are as follows:

New Year's Day
Martin Luther King Day
President's Day
Memorial Day
Juneteenth
Fourth of July
Labor Day
Veteran's Day
Thanksgiving
Day after Thanksgiving
Christmas
Christmas Eve
New Year's Eve

20.7 Holiday Leave Accrual. Unit employees shall accrue Holiday leave at the rate of four (4.00) hours per pay period. Holiday leave may be accrued to a maximum of one-hundred-four (104) hours per unit member. Accrued Holiday leave may be cashed out annually on the second pay period in June.

20.8 Holiday Leave Approval Required. Holiday Leave must be approved a minimum of fourteen (14) days in advance of the first day of such Holiday leave by the Department Head or his or her designee. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the City by the Department Head.

20.9 Holiday Leave Payment Upon Termination. Any Unit 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 within one payroll period of the effective date of such termination at the employee's then current rate of pay.

20.10 Personal Leave Time. Effective the first pay period after the adoption of the BPMA 2017-2019 MOU, Unit members shall no longer accrue or receive paid personal leave time, which was previously accrued at a rate of three and seventy-seven hundredths (3.77) hours per pay period, nor shall any Unit member have the option to cash out any Personal Leave Time remaining in the leave bank.

20.11 Promotional Pay Outs of Leave. Prior to implementation of a promotion to a different bargaining unit, the City shall be entitled to cash out at the employee's current

pay rate all vacation, holiday and personal leave banks in excess of one hundred (100) hours per each leave bank.

ARTICLE 21 MEDICAL AND DENTAL INSURANCE.

21.1 Cafeteria Plan City Contributions. The City agrees to the following contribution to each Unit member's cafeteria account: Effective July 1, 2022, increase monthly cafeteria plan by \$1,500 per month or \$18,300 annually; this will not constitute changes to existing medical and dental plans until the next open enrollment period. The cafeteria increase will be effective the month following adoption by City Council. Unit members shall be paid the retroactive amount due, based on the effective month and their date of hire. .

Said cafeteria 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 Resources Department. The balance may be used for any of the following or any combination thereof:

- (a) Health insurance for employee's spouse and/or dependents.
- (b) Dental Plan for employee, spouse and/or dependents.
- (c) Eye care plan for employee, spouse and/or dependents.
- (d) Term life insurance on employee's life.
- (e) Deferred compensation programs.
- (f) Supplemental insurance options.

21.2 Cash In Lieu. Unit employees may elect to receive ninety-two and five-tenth percent (92.5%) of the balance of the Cafeteria Plan in cash as CalPERS non-includable taxable income.

21.3 Flexible Spending Account. 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 the City's disability insurance premiums.

21.4 Eye Wear Reimbursement. The City will reimburse Unit employee and/or employee's dependents a maximum of \$250 for eyewear every two (2) years.

21.5 California Law Enforcement Association Reimbursement – Unit members will receive up to \$24.00 per month towards the California Law Enforcement Association ("CLEA") disability policy.

21.6 Fraternal Order of Police Legal Protection – The City will pay three-hundred dollars (\$300.00) annually for Fraternal Order of Police Legal Protection for Unit members.

ARTICLE 22 RETIREMENT AND MEDICARE.

22.1 Contributions to CalPERS.

- (a) All CalPERS Classic employees are responsible for paying their contributions for their respective retirement plans to CalPERS at 5% and the City of Banning is responsible for paying their contributions for their respective retirement plans at 4%, to total the required 9% employee contribution.
- (b) Per the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), all Unit employees hired by the City on or after January 1, 2013 and not determined by CalPERS to be "Classic" members will also be subject to paying at least fifty percent (50%) of the City's normal costs for their respective Public Safety Retirement Plan as described more fully below.
- (d) Per the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), the parties agree to meet and confer on the impacts of implementing equal sharing of "normal costs". To the extent PEPRA imposes any other changes, the City and BPMA agree to meet and confer over such changes.

22.2 CalPERS Formulas.

- (a) The City agrees to continue to pay the employer's portion of the "Three Percent at Fifty" (3% @ 50) Public Safety CalPERS Retirement for Public Safety (sworn personnel) employees, including the "single highest year" benefit, for all Unit employees hired on or before December 20, 2012.
- (b) City Council adopted and implemented resolutions providing for two tired retirement for Unit employees hired on or after December 20, 2012, providing for the retirement plan known as 2% @ 50 retirement formula. All new employees hired after December 20, 2012, and determined by CalPERS to be "Classic" members shall receive the 2% @ 50 retirement formula. All Unit employees hired by the City on or before December 20, 2012, shall remain at the current existing 3% @ 50 retirement formula.
- (c) Per PEPRA, new employees hired by the City on or after January 1, 2013 and not determined by CalPERS to be "Classic" members shall receive the

retirement plan known as “The Safety Option Plan Two Formula” (2% @ 57).

- (d) All new employees hired by the City on or after January 1, 2013, shall also be required to have their final compensation defined as the highest average annual final compensation during a consecutive 36 month period, subject to the statutory cap imposed by PEPRA. Current employees hired before December 20, 2012, will maintain the “single highest year” benefit.
- (e) CalPERS shall determine which retirement plan the new employees are eligible to receive based on CalPERS regulations. For instance, a BPOA employee that is in the 3% @ 50 retirement formula plan will continue in that plan if promoted to the BPMA. Likewise, CalPERS shall determine which retirement plan the new employees are eligible whether for the previously implemented “Two Percent at Fifty” (2% @ 50) retirement formula with final compensation defined as the highest average annual final compensation during a consecutive thirty-six (36) month period or shall only be eligible for the newly created retirement plan known as “The Safety Option Plan Two Formula” (2.7% @ 57) with final compensation defined as the highest average annual final compensation during a consecutive thirty-six (36) month period.

22.3 F.I.C.A. Unit employees shall pay the employee portion of FICA and the City shall be responsible for payment of the employer’s portion.

ARTICLE 23 MISCELLANEOUS BENEFITS.

23.1 Life Insurance. The City will pay for life insurance in the amount of \$150,000 and Unit employees will pay the taxes on the portion of the premium attributable to coverage above \$50,000.

23.2 Direct Deposit. All Unit 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 and such employees will be required to pay a \$10 administration fee per payroll. It shall be the responsibility of the employee to establish and maintain such account.

23.3 Utility Allowance. The City shall pay \$150 per month per Unit member household as a discount against the cost of electric and water service during the period of such residency. In no event shall the City pay more than \$150 per household.

23.4 Deferred Compensation Plan. The City has established a deferred compensation plan under Section 457 of the IRS code. Unit employees may participate in this plan at their own expense and at their option. Employees may opt to deposit into their established deferred compensation account any funds paid to them under any leave pay out provisions in this MOU. Deposits into deferred compensation accounts shall be subject to IRS rules and regulations.

23.5 Gun Loan. The City has established a loan program for those public safety members approved by the Chief of Police who wish to purchase a weapon. Repayment of the loan shall be through payroll deduction. Proof of registration of the gun with the State of California will be provided to Human Resources within three (3) months of purchase. The complete policy is established in Resolution 2005-66.

23.6 Tools/Equipment. The City hereby agrees to finance at no interest the purchase of any job-related tools or equipment, including personal computers, that serve the professional development of any Unit employee over the term of this MOU. Such tools and equipment shall be approved in advance by the Department Director. Repayment to the City by the Unit employee shall be made by payroll deductions until the amount loaned is completely repaid. The maximum period for repayment shall be two years.

23.7 City Cell Phone. Unit Members are in essential management positions within the Banning Police Department. It is imperative they have the ability to immediately communicate with on-duty employees of the Department 24/7. Subsequently, the City issues a cell phone (smart phone or tablet device) to each member to accomplish this necessity. The BPMA has requested permission to use their City issued devices for personal use in order to eliminate the need for Unit employees to carry two cell phones, one for City business and one for personal use, as they conduct their daily activities both on and off-duty. Unit employees shall elect in writing at the beginning of each fiscal year whether they want to be allowed to use their City issued cell phone for personal use. In return, each Unit employee who voluntarily participates in this program will be authorized to use their City issued devices for both business and personal use and waive any right or expectation of privacy for such personal use. Unit employees who elect to participate in this program shall be required to pay twenty (\$20) dollars each month towards a City cell phone plan that will cover both business and personal use of the City issued cell phone. Payment shall be made through a payroll deduction. Should a Unit employee not want to participate in this program, his/her use of the City provided cell phone/device will continue to be governed by the appropriate City and/or departmental policies and procedures. Understanding that City issued cell phones are the property of the City, each Unit employee participating in this program understands and agrees that the City shall retain the right to audit all City owned cell phones at any given time without notice, including text messages, and that all City issued cell phone records may be subject to public disclosure regardless of public or personal use thereof. All other rules and regulations shall apply, except that personal use shall be permitted. Review of the phone records shall be coordinated with the Chief of Police to ensure records related to confidential investigations remain protected. Unit employees shall always conduct themselves professionally when using the City provided cell phone, so as not to embarrass themselves or the City of Banning. Unit members may elect to keep the phone number upon separation from the City and will pay any porting costs prior to separation.

23.8 City Vehicle. The City shall issue a City “emergency” vehicle as defined by the California Vehicle Code to Unit employees to use in their official duties subject to the City vehicle assignment policy. Unit members shall have unrestricted use of take home cars during “on-call” hours. In the event the City vehicle is unavailable or its use is

restricted from take home use, then Unit employees shall receive a vehicle allowance of \$250.00 per month as compensation for the loss of the take home vehicle.

ARTICLE 24 LAYOFFS AND RE-EMPLOYMENT.

24.1 Layoff Provision Statement of Purpose. The purpose of this Article is to provide a fair and equitable basis for the reduction in force of permanent employees due to insufficient work or lack of funds.

24.2 Layoff Reasons. The City of Banning 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 a level of service acceptable to the City. Lack of funds means that the City in its sole discretion has determined that it cannot sustain operations at the current level of employment within the funding available. For the purpose of this subsection, the determination of the City shall be binding.

24.3 Layoff Notice. Any layoff initiated under the provisions of this MOU can take place at any time during the year. The City shall notify the affected Unit employees in writing at least twenty (20) working days prior to the employee's last day of work. The City reserves the right to pay the employee for such twenty (20) 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 BPMA representative. Any notice of layoff shall specify the reason for the layoff and the effective date. The form, timing and procedure of any such notice shall be subject to the established grievance procedure for due process purposes, provided however, the City's decision to layoff is not subject to the grievance procedure except to the extent of any alleged illegal basis. The date of the layoff shall not be delayed by the pendency of a grievance.

24.4 Layoff Order. Any layoff shall be effective within the job classification or job classifications selected by the City. Once the City has determined which classification or classifications will be affected by the layoff, the order of layoff shall be based on seniority among employees in the classification with "satisfactory job performance", except where layoff is for economic reasons which shall follow the seniority rule. "Satisfactory job performance" as used in this section shall be established when an employee has no more than two (2) overall less than satisfactory evaluations within the past five (5) years. For purposes of this Article, seniority is defined as the length of uninterrupted service within the classification of employees to be laid off as measured from the date of the layoff notice.

24.5 Reduction of Class. Any Unit employee who has been designated to be laid off may choose to be reduced in class and compensation to a lower class or position within the Unit, but only if the employee has greater seniority in that lower class or position than those employees currently in the lower class or position. In the event a reduction in class occurs, the Unit employee will be placed at the top step of the range established in the lower classification in the job series that the employee has previously held. In the event the classification is covered by the BPOA MOU, then the designated employee will be subject to the provisions outlined in the BPOA MOU. Seniority for purposes of layoff shall be

determined by the total continuous time served by an employee in his/her current position in addition to any time served by the employee in a position in the same job series. If an employee leaves the service of the City for any period of time, the employee's prior service shall not be considered as service for the purpose of calculating the employee's seniority.

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

24.7 Reemployment Rights. Laid off employees will be eligible for reemployment under the provisions of the Personnel Rules.

24.8 Reduction in Workweek. The Personnel Rules authorize the City Council to change or alter the work week by resolution.

ARTICLE 25 GRIEVANCE AND DISCIPLINE APPEALS PROCEDURE.

25.1 Procedure. Subject to the provisions of this MOU, any permanent Unit employee who has a grievance, or has been disciplined, as defined below, shall be entitled to have the matter reviewed through the procedures outlined in this Article. This Article shall also include and satisfy all rights which a permanent Unit employee may have under California Government Code Section 3304(b).

25.2 Definitions:

- (a) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "grievance" is defined as a dispute between an employee and the City, or the BPMA and the City, over the interpretation or application of this MOU, or the second denial of a step increase to an employee or a contested layoff where the employee contends that due process was not followed or some MOU provision or law has been violated in reaching the layoff decision. The decision to layoff remains within the sole discretion of the City and is not subject to meet and confer. The term "grievance" does not include "discipline" as defined herein.
- (b) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "discipline" is limited to any action taken by the City against a permanent Unit member which is punishment or recognized discipline of the employee and which includes, but is not limited to, (i) an involuntary termination from City employment (ii) involuntary suspension from employment without pay or reduction in pay, (iii) involuntary move from one job classification to another job classification where the second job classification has a lower rate of pay at the top step than the top step of the job classification from which the employee was moved, or (iv) involuntary reduction in step within a job classification.

25.3 Informal Step. An attempt shall be made to ascertain all facts and adjust any grievance on an informal basis between the employee and, if he or she desires, the

employee's representative, on the one hand, and the Police Chief, on the other hand. Presentation of such grievance shall be in writing and made within fourteen (14) calendar days of the incident causing the grievance, or the date on which the employee first became aware of it.

25.4 Step One. If a grievance or discipline dispute is not adjusted to the satisfaction of the employee and the BPMA under the procedures set forth immediately above, the employee or his/her representative may submit written notice to the City Manager of his/her intent to submit the matter to mediation. Such written notice must be delivered to the City Manager within fourteen (14) calendar days after the date of the Chief of Police's written decision on discipline or oral response to written grievances. The BPMA agrees that submission of any matter to mediation must be by mutual agreement of the BPMA and the City, with each party to bear their own costs. If the parties mutually agree to mediation, the following procedures apply:

- (a) Within seven (7) calendar days of receipt of the written notice from the BPMA requesting mediation, the BPMA and the City shall request a list of seven (7) local mediators from the Federal Mediation and Conciliation Service.
- (b) Within fourteen (14) calendar days of receipt of the list of local mediators, the City and the BPMA shall attempt to agree on a mediator to preside at the mediation. If the parties do not agree on a mediator, the City and the BPMA shall take turns striking the names of mediators from the FMCS list until one (1) name remains. The BPMA shall strike the first name.
- (c) The parties shall contact the mediator to arrange for a mutually convenient time and date for the mediation.
- (d) The parties shall split equally the costs of the mediation.

25.5 Grievances Related to MOU Interpretation. On grievances pertaining to the interpretation or administration of this MOU, the BPMA agrees that after mediation, if the parties have not reached a successful resolution, then the matter is referred to the City Manager for final decision after a hearing and the City Manager's decision shall be final. On disputes related to discipline, the procedure set forth below shall apply.

25.6 Grievances Related to Discipline. On grievances related to discipline, the written notice in Step One above shall set forth in detail the employee's and/or BPMA's view of the basis for the disciplinary dispute and shall separately set forth the issue or issues to be submitted to an advisory arbitrator, instead of a mediator. The procedures set forth below shall then be followed thereafter.

- (a) Within seven (7) calendar days of receipt of the written notice of appeal of discipline, the City and the BPMA shall request a list of seven (7) local 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 BPMA shall attempt to agree on an arbitrator to preside at the advisory arbitration hearing. If the parties do not agree on an arbitrator, the BPMA and the City shall take turns striking the names of arbitrators from the FMCS list until one (1) name remains. The BPMA 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 City shall pay for the costs of the advisory arbitrator.

25.7 Step Two. Within seven (7) calendar days after the BPMA and City receive the advisory arbitrator's recommendation on the dispute related to discipline, either the BPMA or the Police Chief may submit written argument to the City Manager as to 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 BPMA and the Police Chief whether the City Manager is accepting, rejecting, or modifying the advisory arbitrator's recommended decision. The decision of the City Manager shall be final and binding.

25.8 Modification of Time Limits. The above time limits may be modified by mutual agreement of the City and the employee and/or the BPMA.

ARTICLE 26 SEVERABILITY CLAUSE.

If any of the provisions contained in this MOU are determined to be unlawful, then only such provision(s) shall be deleted from this MOU with the remainder of this MOU remaining in force and effect. Upon the issuance of a decision by a court of competent jurisdiction declaring any section of this MOU 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.

27.1 Entire Agreement. This MOU is the entire agreement between the parties, terminating all prior agreements, whether written or oral, arrangements and practices, and, except as otherwise provided herein, shall conclude all meetings and conferences during the term of this MOU.

27.2 Items Not Covered. All terms and conditions of employment not covered by this MOU shall continue to be subject to the City's direction and control.

ARTICLE 28 INVESTIGATION DOCUMENTS AND MATERIALS.

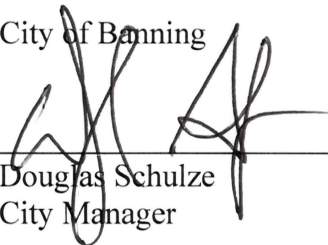
The City shall continue to maintain investigation documents and material in accordance with the City's Records Management Program as set forth in Administrative Policy No. A-28, which was adopted by Resolution No. 2013-24.

RATIFICATION AND EXECUTION.

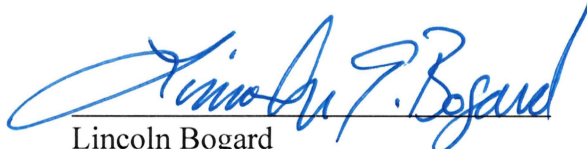
This MOU has been developed as a result of meet and confer sessions between authorized representatives of the City and the BPMA regarding issues related to wages, hours and other terms and conditions of employment. The City's representatives and the BPMA have reached an understanding as to certain recommendations to be made to the City Council for the City of Banning and have agreed that the parties hereto will jointly urge said Council to adopt a new wage and benefit resolution which will provide for the changes contained in said joint recommendation. The parties hereto acknowledge that this MOU shall not be in full force and effect until adoption by the Banning City Council.

In witness whereof, the parties have caused their signatures to be affixed this 23rd day of August, 2022.

City of Banning




Douglas Schulze
City Manager




Lincoln Bogard
Finance Director

Banning Police Management Association



Captain Jeff Horn
Lead Negotiator



Vincent Avila
Negotiator