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RESOLUTION NO. 2013-25

RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO ADOPTING TERMS AND CONDITIONS OF EMPLOYMENT FOR SAN BERNARDINO POLICE MANAGEMENT ASSOCIATION (SBPMA) UNIT EMPLOYEES.

WHEREAS, in meeting its commitments to the citizens of the City of San Bernardino to maintain a safe and secure community while providing access to cultural, recreational and governmental activities and institutions for all citizens, the City has employed a workforce; and

WHEREAS, most City employees are entitled to collectively bargain with the City regarding terms and conditions of employment; and

WHEREAS, as nearly two-thirds of the City's General Fund is tied directly to the salaries and benefits paid to City employees, the City's labor costs for the 2012-2013 Fiscal Year (FY) exceed the City's projected revenues; and

WHEREAS, despite cost savings measures previously taken by the City, the City's financial situation is dire with no available cash to meet on-going operating expenses, including payroll, and no revenue or other funding sources are available to balance the City's budget and address prior years' deficits; and

WHEREAS, on July 18, 2012, the Mayor and Common Council directed the filing of a Petition under Chapter 9 of the United States Bankruptcy Code following the adoption of a Declaration of a Fiscal Emergency in the City of San Bernardino. These actions were in response to findings that the financial state of the City is such that the health, safety, and well-being of the residents of the City will be jeopardized absent Chapter 9 bankruptcy protection; and

WHEREAS, on November 26, 2012, the Mayor and Common Council adopted the Pendency Plan, Resolution 2012-27, which included the Fiscal Year 2012/13 General Fund Budget which incorporated by reference the Pre-Pendency Plan including the 9-Point Adjustment Plan adopted on September 5, 2012, and the revised Fire Department adjustments adopted on October 1, 2012, and that contemplated the same pendency plan reductions for Fiscal Year 2013/14 budget; and

1 WHEREAS, since the filing of the Declaration of Fiscal Emergency on July 18,
2 2012 and the filing of the Petition under Chapter 9 of the United States Bankruptcy
3 Code, the City's negotiating team has met several times with the SBPMA and the City
4 and the SBPMA have exchanged bargaining proposals, financial and other
5 information in order to meet and negotiate in good faith concerning modifications to
6 the terms and conditions of employment consistent with the provisions in the
Pendency Plan; and

7 WHEREAS, the City must present a balanced financial plan, or Pendency
8 Plan, for the General Fund that allows the City to continue to provide effective
9 service, and the Pendency Plan constitutes an emergency within the meaning of the
Meyers-Milias-Brown Act, Government Code section 3504.5; and

10 WHEREAS, the City and the SBPMA have reached agreement on terms and
11 conditions as set forth below.

12 **NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON**
13 **COUNCIL OF THE CITY OF SAN BERNARDINO AS FOLLOWS:**

14 **SECTION 1.** The following terms and conditions of employment for the
15 SBPMA bargaining unit members are approved for implementation effective February
16 1, 2013:

- 17 1. CalPERS Retirement Formulas: For all bargaining unit employees
18 employed prior to 9/1/11, 3% @ 50; For all bargaining unit employees
19 hired after 9/1/11, 3% @ 55; For all bargaining unit employees hired on or
20 after 1/1/13 and who are also deemed "new members" within the meaning
21 of the Public Employees Pension Reform Act of 2013 (PEPRA). 2.7% @
22 57.
- 23 2. Cost Sharing of CalPERS Benefits: All bargaining unit employees
24 provided either the 3% @ 50 or 3% @ 55 shall contribute 13.989% to
25 CalPERS representing 50% of the normal cost of benefits as determined
26 by CalPERS for the 2013-2014 fiscal year. Employees provided the 2.7%
27 @ 57 retirement formula shall contribute 50% of the normal contributions
28 consistent with the provisions of the PEPRA. The provisions of Section
414(h)(2) of the Internal Revenue Code (IRC) as implemented by the

1 Common Council on September 22, 1999 by Resolution No. 1999-235,
2 are applicable to contributions designated above.

- 3 3. Elimination of the Employer Paid Member Contribution ("EPMC"):
4 Effective February 1, 2013, the City shall eliminate its nine percent (9%)
5 contribution to the employees for the CalPERS EPMC benefit.
- 6 4. Reimbursable Overtime for Working Contractual Events: Lieutenants and
7 Captains who are required to work special events where the City has
8 contracts with third parties to provide public safety services and where the
9 third parties pay for the cost of such labor services, shall be entitled to be
10 paid overtime, (either straight time or premium overtime) in accordance
11 with the contract between the City and the third party. The City and the
12 SBPMA acknowledge that this provision shall not result in any additional
13 cost to the City.
- 14 5. Post-Retirement Medical Benefits: Employees hired on or after 1/1/13
15 shall not be eligible to receive payments for retiree medical benefits. The
16 Mayor and Common Council on November 26, 2012 in its Pendency Plan,
17 established that the City's contribution to retiree medical benefits shall be
18 capped at \$ 112/month. The SBPMA and its active members and retirees
19 neither agree nor waive their rights, whatever those rights might be, with
20 regard to the Mayor and Council's actions and reserve their rights to
21 challenge any future unilateral modification to the retiree medical benefits.
22 The City shall reserve all rights, whatever those rights might be, to modify
23 retiree medical plans and the amount of contributions that are paid by the
24 City.
- 25 6. Education and Professional Development: Current reimbursement policy
26 shall be amended to include attendance at job related training, seminars,
27 conferences, classes, and membership in professional organizations
28 determined to be appropriate by the Chief of Police. Any reimbursement
for these activities shall be limited to membership dues, fees for
attendance and/or materials only and classes must be taken on the

1 employee's own time. Employees shall not be entitled to be reimbursed
2 for travel expenses. Eligibility for reimbursement shall be within the sole
3 discretion of the Chief of Police and shall be dependent on availability of
4 funding.

- 5 7. Deferral of Payments for Accrued Leaves: All payments for accrued
6 vacation and holiday leaves to which employees might be entitled prior to
7 separation from employment (sell-backs) shall remain deferred until June
8 30, 2014. All payments for cash-outs upon separation for accrued vacation
9 and holiday leave shall remain deferred until June 30, 2014.
- 10 8. Vacation Leave Accrual Caps: Effective July 1, 2013, a bargaining unit
11 employee may only accrue maximum vacation leave hours as follows: 1
12 through 5 years of service: up to 160 hours; 6 through the completion of
13 15 years of service: up to 240 hours; 16 through the completion of 20
14 years of service: up to 320; and, 21 or more years of service: up to 400
15 hours. Any hours in excess of these caps shall be cashed out on July 1,
16 2013. Once the cap has been reached, an employee may not accrue any
17 additional hours until the employee's accrued leave is below the cap.
- 18 9. Sick Leave Accrual Caps: Effective February 1, 2013, all bargaining unit
19 employees may only accrue a maximum of 1040 hours of sick leave. All
20 bargaining unit employees with accrued sick leave hours in excess of 900
21 hours on February 1, 2013, will have those excess hours converted to a
22 separate excess sick leave bank (ESL). Effective July 1, 2013, 24 hours
23 from the ESL shall be cashed out each quarter of the fiscal year. Fifty
24 percent (50%) of any remaining balances in the ESL at the time of
25 separation shall revert to a PEHP trust or a 401(a). Sick leave earned on
26 or after February 1, 2013, is subject to the 1040 cap. At the time of
27 separation, any employee having six (6) or more years of service, shall
28 convert unused sick leave to a PEHP or a 401(a) as follows: 288 hours or
less accrued = 0; 289-479 hours = 20% of accrued sick leave; 480-959
hours = 25%; 960 or more hours = 35%. The SBPMA may request an

1 adjustment of the amounts converted to a 401(a) or PEHP by notifying the
2 City of their request no less than sixty (60) days prior to the expiration of
3 any Memorandum of Understanding (MOU).

4 10. Family Sick Leave: SBPMA bargaining unit members may use unlimited
5 sick leave for the care of an immediate family member. Immediate family
6 member means husband, wife, grandmother, grandfather, mother, father,
7 sister, brother, son, daughter, mother-in-law, father-in-law, sister-in-law,
8 brother-in-law, daughter-in-law, son-in-law, or domestic partner.

9 11. Optional Cell Phone Allowance: Employees who are required to have cell
10 phones for conducting City and Department business may, in lieu of
11 receiving a City issued paid cell phone, elect to purchase and maintain a
12 personal cell phone for that purpose. Employees who select this option
13 are entitled to be reimbursed \$ 65.00 per month.

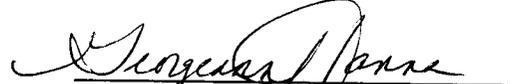
14 12. Items to Remain: The City and the SBPMA agree that there are no
15 proposed changes to the following provisions: Administrative Leave;
16 Special Certification Pay; Charter Section 186 Adjustments; City's
17 contribution to medical/dental/vision/life insurance benefits; long term
18 disability; and, uniform allowance. Further, with respect to the City's
19 monthly contribution for medical, dental, vision and life insurance, the
20 parties agree that the SBPMA members currently are entitled to receive
21 ten percent (10%) higher contribution than the sum of Kaiser Health South
22 (2-party) + Delta Dental High Option Plan (2-party) + \$ 100. The parties
23 agree that this provision shall be suspended through June 30, 2014 and
24 the City's current contribution shall be \$ 1091.81/month.

25 13. Term: These modifications to the current Memorandum of Understanding
26 (MOU) shall be in effect from February 1, 2013 through June 30, 2014.
27 The parties agree to reopen negotiations in February 2014 for a successor
28 agreement. During this period, the parties agree to continue informal
discussions concerning the provisions of a comprehensive Memorandum

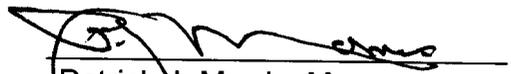
RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO ADOPTING TERMS AND CONDITIONS OF EMPLOYMENT FOR THE SAN BERNARDINO POLICE MANAGEMENT UNIT (SBPMA).

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and Common Council of the City of San Bernardino at a joint regular meeting thereof, held on the 4th day of February, 2013, by the following vote, to wit:

Council Members:	AYES	NAYS	ABSTAIN	ABSENT
MARQUEZ	<u>X</u>	_____	_____	_____
JENKINS	<u>X</u>	_____	_____	_____
VALDIVIA	_____	<u>X</u>	_____	_____
SHORETT	<u>X</u>	_____	_____	_____
KELLEY	<u>X</u>	_____	_____	_____
JOHNSON	<u>X</u>	_____	_____	_____
MCCAMMACK	<u>X</u>	_____	_____	_____


Georgeann Hanna, City Clerk

The foregoing Resolution is hereby approved this 4th day of February, 2013.


Patrick J. Morris, Mayor
City of San Bernardino

Approved as to form:
JAMES F. PENMAN,
City Attorney

By: 