

Memorandum of Understanding

Between The

City of Delano

And The

Management Employees Group
(MEG Association)

2021-2024

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Article 1. Preamble

The City of Delano, hereinafter referred to as the City, and the Delano Management Employees Group, hereinafter referred to as the Association, enter into this Memorandum of Understanding. This Memorandum of Understanding is subject to Sections 3500-3510 of the Government Code of the State of California, otherwise known as the Meyers-Milias-Brown Act, and the Employer-Employee Relations Policy of the City of Delano.

Article 2. Recognition

The City hereby recognizes the Management Employee Group Association as the exclusive representative of employees as defined in Article 2.A of this agreement. The City reserves the right to amend or to clarify the appropriate positions within the representational unit after meeting and consulting with the Association.

A. Definition of Employees. Pursuant to Section 3500-3510 of the Government Code, the City certifies the Management Employees Group as the recognized employee organization for a unit including the classifications of:

- ✦ Accounting Manager
- ✦ City Clerk – Non-Certified
- ✦ City Clerk - Certified
- ✦ Building Official/Senior Building Inspector
- ✦ Police Commander
- ✦ Senior Planner
- ✦ Superintendent, Operations
- ✦ Superintendent, Water Production and Distribution (Grade IV)
- ✦ Superintendent, Water Production and Distribution (Grade V)
- ✦ Superintendent, WWTP (Grade IV Operator)
- ✦ Superintendent, WWTP (Grade V Operator)
- ✦ Transportation Manager
- ✦ Recreation Manager
- ✦ Human Resources Manager (Confidential)

B. The City may designate other job classifications to be covered by the Management Employees Group Association.

- C. Except as otherwise provided for, in this agreement, the provisions set forth in this Memorandum of Understanding shall only apply to unit employees as defined in Sub-Section A above, who serve during the term of this agreement.

Article 3. No Discrimination and Americans with Disabilities Act

- A. Discrimination Prohibited. Neither the City nor the Association shall discriminate against any employee covered by this agreement in a manner, which would violate any applicable laws because of race, color, national origin, age, sex, marital status, or disability.
- B. Association Membership, or Activity. Neither the City nor the Association shall interfere with the right of employees covered by this agreement to become or not become members of the Association, and there shall be no discrimination against any such employee because of lawful Association membership or non-membership, activity or status.
- C. The parties recognize that the City may be required to make accommodations in order to carry out its obligations under the Americans with Disabilities Act (ADA). Some of these accommodations may require actions, which are contrary to the language or intent of existing provisions of this agreement. In such cases, the parties agree that such accommodation shall not constitute a “past practice” or waiver by either party of its right to fully enforce such provisions in the future with regard to persons not subject to the protections of the ADA.
- D. The parties recognize that circumstances surrounding ADA compliance in individual cases may involve matters that are personal and require the utmost confidentiality. The City may not divulge specifics of an individual case. However the City, when the release of information is either authorized or will not violate confidentiality, will notify the Association when an accommodation has been made that affects other employees in the workplace.
- E. Accommodations made by the City under this provision shall not be subject to the Grievance Procedure by an employee who is a non-recipient of the accommodation.

Article 4. Rights of the Parties

A. City Rights

- 1. “At Will” Status. Employees holding Department Head positions in this representational unit are at-will employees and therefore shall serve at the will and pleasure of the City Manager. “At will” employees acquire no property interests in their positions and have no guarantees; either implied or expressed, regarding continued employment, nor any right

to appeal termination of such employment or any disciplinary action. Nothing herein shall abrogate the at-will status of these employees. However, public safety officers included in this representational unit, entitled to protection under the Public Safety Officers Procedural Bill of Rights Act, shall be afforded the procedural rights included in that Act. "At will" status shall not apply to unit employees holding Department Head positions on an acting or interim basis.

2. No Abrogation of Rights. This Memorandum of Understanding does not modify any City Council rights.

B. Association Rights

1. Classified Status. Except as otherwise provided for, in Article 4. A, of this agreement, unit employees are categorized as "classified" employees who are covered by the provisions of the City of Delano Manual of Personnel Rules and Regulations.

2. Representation Rights

a) The Association has the exclusive right to represent employees in the representational unit as specified by state law & pursuant to the City Employer- Employee Relations Policy. The Association will notify the City and maintain such notice during the term of this agreement of its elected officers and directors as well as its staff employees.

b) The Association acknowledges that the City has the right to contract with Association employees holding Department Head positions. The Association agrees that once a unit employee signs a contract with the City as a Department Head, they shall be removed from representational rights under this agreement.

c) The Association may select up to two (2) persons to act as official representatives and will notify the City as to those individuals so selected. Official representatives shall represent the Association in jointly scheduled meetings with the City to address matters of mutual concern.

d) The Association representatives who are City employees may utilize time during normal working hours for meeting and conferring with authorized representatives of the City to address matters of mutual concern.

3. Access Rights

a) Authorized Association representatives shall have reasonable access to work locations in which employees covered hereby are employed for the purpose of transmitting information or representation purposes. Routine contacts not involving the investigation of grievance/disciplinary matters shall take place during

non-working hours. Authorized Association representatives desiring such access shall first request permission from the appropriate management representative, at which time the authorized Association representative shall inform said management representative, of the purpose of the visit. Said management representative may deny access to the work location if in his/her judgment, it is deemed that a visit at that time will interfere with the operations of the department or facility thereof, in which event said management representative will offer an alternative time and/or location for the visit. In cases where management denies access to a work location and the issue, which gives rise to the request for access, is one of employee health or safety, the department shall provide controlled or escorted access.

b) The Association shall give to the City Manager, a written list of the names of all authorized Association representatives, which list shall be kept current by the Association. Access to work locations shall only be granted to the Association representatives on the current list.

Article 5. Compensation

A. Compensation.

1. Effective the first full pay period following either (1) July 1, 2021, or (2) ratification and city council adoption (whichever is later), 3% wage increase and a one-time \$2,500 lump sum premium pay for COVID-19 front-line essential workers in the amount of \$2,500;
2. Effective the first full pay period following July 1, 2022, 3% wage increase; and
3. Effective the first full pay period following July 1, 2023, 3% wage increase.

B. The City shall continue to provide a voluntary Deferred Compensation Plan for employees of the Association.

C. Retirement Contribution.

1. Effective June 1, 2013 all unit members hired prior to January 1, 2013 will contribute 3% of the employee's cost of the existing Retirement Plan.
2. Any new employee to the City's pension plan on or after January 1, 2013 will contribute 9% or 50% of normal cost, whichever is greater, and be in compliance with the new California Public Employee's Pension Reform Act PEPRRA.
3. The City agrees to amend the City Retirement Program/Employee Pension Plan to change the normal retirement age from 62 to 60 for active participants who are not safety employees.

4. The City agrees to a Pension Plan Amendment that will give a five (5) year guarantee for any of the survivor benefit options and allow a "Pop up Option" from a Survivor Benefit to a Life Annuity in the event the retiree outlives the named survivor, effective July 1, 2023 or when the plan amendment is adopted by City Counsel whichever is sooner with the assumption that no legal statute prohibits the amendment. This plan benefit will not be retroactive and will benefit employees who start their retirement benefit on or after the adoption of the plan amendment.
 5. The City agrees to pay for retiree health premiums (medical, dental, vision) for employee and spouse who at the time of retirement meet the parameters set forth in the most recently adopted city resolution for said benefits and will continue until retiree turns 70 years old or becomes deceased as long as retiree and spouse follow all requirements.
- D. Longevity Pay. Within thirty (30) days of completion of an employee's eighth, fifteenth, twentieth and twenty-fifth years of continuous employment, the City shall pay additional monthly salary of \$50, \$70, \$100 and \$125 respectively. Sworn police personnel covered by this agreement shall receive the same.
- E. Bilingual Pay. Subject to City assignment and City Manager approval, those unit employees assigned to use a second language as a part of their function and upon passing a City administered proficiency test shall be compensated at a rate of \$100.00 per month.
- F. POST Incentive Pay
- POST incentive pay is intended to reward sworn police officers for extraordinary contributions to the safety and security of the community of Delano. The combination of all POST incentive pay shall not exceed six and one-half percent (6.5%) of the officer's base monthly salary, based on the following:
- POST Supervisor Certificate: Five percent (5%) of the officer's base monthly salary.
 - POST Management Certificate: One and a half percent (1.5%) of the officer's base monthly salary.
- G. Education Incentive
1. Sworn police officers may receive the following education incentive pay, the cumulative total of which shall not exceed five percent (5%) of the officer's base monthly salary.

- 1.5% per month - 30 semester units (or 45 quarter units) from an accredited institution, for collegiate coursework closely related to police skills with an average G.P.A. of 2.5 or better. [Employees can receive credit for work in the following areas: required general education courses that meet or exceed courses required for a degree program, including but not limited to, math, science, health, English, writing, speech, interviewing, criminology, public administration, sociology, anthropology, administration of justice, paralegal studies, computer science; any course beyond those listed can be considered if the course work is related to police skills with the approval of the Chief of Police].
- 2.5% per month – 60 semester units (or 90 quarter units) from an accredited institution, for collegiate coursework closely related to police skills with an average G.P.A. of 2.5 or better. [Employees can receive credit for work in the following areas: required general education courses that meet or exceed courses required for a degree program, including but not limited to, math, science, health, English, writing, speech, interviewing, criminology, public administration, sociology, anthropology, administration of justice, paralegal studies, computer science; any course beyond those listed can be considered if the course work is related to police skills with the approval of the Chief of Police] or, upon earning an AA or AS degree from an accredited institution.
- 1% per month – 120 semester units (or 180 quarter units) from an accredited institution, for collegiate coursework closely related to police skills with an average G.P.A. of 2.5 or better. [Employees can receive credit for work in the following areas: required general education courses that meet or exceed courses required for a degree program, including but not limited to, math, science, health, English, writing, speech, interviewing, criminology, public administration, sociology, anthropology, administration of justice, paralegal studies, computer science; any course beyond those listed can be considered if the course work is related to police skills with the approval of the Chief of Police] or, upon earning a BA or BS degree from an accredited institution.

Certification of course completion for compensation under this section requires submission of official college transcripts. Unofficial/copies of transcripts are not acceptable for certification of course completion.

H. Certification Pay

All non-sworn positions requiring testing and current continuous (annual or periodic) certification (or re-certification) as a minimum employment standard by any State or Federal agency (e.g. WWTP Operator, Mechanic, Building Inspector etc.) shall be eligible to receive certification pay.

- Non-sworn unit members assigned to such positions shall have all certification and testing costs borne by the City and upon successful achievement/re-certification of required certifications, shall receive certification pay in the amount of \$50 per month.
- Certification pay for Waste Water and Water Treatment: Each bargaining unit employee in the Waste Water Treatment Plant Department or the Water Plant Department who holds a valid certificate from the State of California in his/her specialty above those required for continued employment in his class shall receive \$50.00 per month in addition to his normal pay for each such certificate held as approved by the City Manager.

The following certificates have been designated as eligible by the City Manager for the appropriate classifications:

1. Wastewater Treatment and
Water Plant Operator Certificate – Grade II
2. Wastewater Treatment and
Water Plant Operator Certificate – Grade III
3. Wastewater Treatment and
Water Plant Operator Certificate – Grade IV

(SEE SIDE LETTER AGREEMENT NO. 2021-33)

~~I. The City shall provide \$165.00 per month to those unit employees who do not elect dependent health benefit coverage.~~

J. Technology Pay

The City shall pay \$40 per month to those unit members who are identified by their department head as requiring the use of cell phone in order to perform their work duties and the employee elects to utilize their personal cell phone for City business in lieu of receiving a City issued cell phone. Unit members shall adhere to the City's IT policy and have on file with the Human Resources a signed acknowledgement to the City's IT policy.

Article 6. Insurance Provisions

A. Group Health Insurance.

During the term of this agreement, the City shall continue to offer all eligible employees and eligible dependents of employees, health benefits under the existing medical plan.

1. Effective July 1, 2013 the City shall pay the cost of medical, dental, and vision premiums for all unit members up to a cap of \$1,700 per month.
2. No in-lieu payments of contributions shall be made to any employee who does not use the entire \$1,700 per month allowance.
3. Effective Date of Coverage. New employees shall be eligible to participate in the City sponsored medical plan on their date of hire.

4. **NEW (SEE SIDE LETTER AGREEMENT NO. 2021-33)**

B. Other Insurance and Health Benefits.

1. Life Insurance. The City shall provide life insurance for each bargaining unit employee equal to their annual base salary or Fifty Thousand Dollars (\$50,000), whichever is greater.
2. Employee Assistance Program. During the term of this agreement, the City shall continue to provide an Employee Assistance Program substantially similar to the one currently in effect. The City shall pay the full cost of this coverage for the term of the agreement.
3. Continuance of Coverage and Premiums. During the term of this agreement, the City shall continue health insurance coverage and premiums for a period of three months for unit employees who are granted an approved leave of absence without pay, as a result of personal illness, injury or disability. The City Manager may, at his discretion, extend the continuance of coverage and Employee Only premiums for an additional three months.

Article 7. Vacation Leave

- A. Employees shall be entitled to annual vacation leave with pay except those serving their original probationary period in City service. Vacation credits for the probationary time shall be granted to each employee who later receives a regular appointment. All eligible employees working a forty-hour workweek shall earn vacation credits based on the following schedule.

Years of Service	Vacation Annual Schedule	Vacation Biweekly Accrual
1 – 5 years	12 days-96 hours	3.69 hours
6 years	13 days-104 hours	4.00 hours
7 years	14 days-112 hours	4.31 hours
8 years	15 days-120 hours	4.62 hours
9 years	16 days-128 hours	4.92 hours
10 years	17 days-136 hours	5.23 hours
11 years	18 days-144 hours	5.54 hours
12 years	19 days-152 hours	5.85 hours
13 years	20 days-160 hours	6.15 hours
14 years	21 days-168 hours	6.46 hours
15 years	22 days- 176 hours	6.77 hours
Over 15 years	22 days-176 hours	6.77 hours

- B. **Deferred Vacation.** Unit employees, with the consent of the Department Head and City Manager, may defer forty-eight (48) working days of his/her annual vacation to the succeeding calendar year. A written report of each deferred vacation signed by the Department Head and City Manager shall be maintained on file with the Personnel Officer. Vacation accrual shall not be more than 384 hours (48 days) on January 1st of each year, unless an extension is granted by the City Manager. Should the employee’s vacation balance exceed 384 hours on January 1st, the employee shall no longer accrue vacation, until the employee’s vacation balance drops below 384 hours.
- C. Unit employees who have completed their probationary period and who have exhausted their accrued sick leave may use accrued vacation leave for personal or family illness in accordance with the City’s sick leave use policies.
- D. **Terminated Employees.** Unit employees who have completed their probationary period and terminate employment shall be paid in a lump sum for all accrued vacation leave earned prior to the effective date of separation.
- E. **Death of Employee.** In the event of death of a unit employee during employment, all earned unpaid vacation shall be paid to the employee’s survivor(s) or estate.
- F. If the requirements of the service are such that an employee cannot take part or all of earned annual vacation in a particular calendar year, such vacation either shall be taken during the following calendar year or paid for at the discretion of the appointing power. Payments in lieu of vacation may not exceed 80 hours per fiscal year and must be approved by the City Manager.

Article 8. Sick Leave

- A. Each unit employee shall be entitled to sick leave with pay at the rate of eight hours per month for each month of service, (96 hours per year; 3.69 hours biweekly accrual). Unused sick leave may be accumulated up to a maximum of one hundred and fifty workdays or 1,200 hours. The City reserves all rights necessary to assure that sick leave is used for bona fide illness or injury only.
- B. Sick leave Payoff. The City shall provide fifty percent (50%) cash payment for all sick leave in excess of ninety (90) days upon termination. Upon normal retirement or death, the City shall provide full cash payment for all sick leave accumulation in excess of seventy-five (75) days.
- C. Early Sick Leave Conversion. Each year during the month of January only, an employee may request in writing for the conversion of sick leave to vacation leave according to the following schedule. It is the employee’s responsibility to make this request.

If Employee has accumulated Sick Leave Balance of at least	And in the last year, employee earned at least this many days after deducting all sick leave taken during the year	Then employee is eligible to convert all of the year’s earned days over the amount in the column to the left, which could be up to:
20 days (160 hrs)	11 days (88 hrs)	1 day (8 hrs)
40 days (320 hrs)	10 days (80 hrs)	2 days (16 hrs)
60 days (480 hrs)	9 days (72 hrs)	3 days (24 hrs)

Article 9. FLSA Exemption and Administrative Leave

- A. The City has determined that employees covered by this agreement are salaried and are therefore, exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Unit employees shall not be eligible for cash payment nor compensation time off for overtime hours worked in the performance of their duties.
- B. Unit employees shall be granted eight (8) hours of administrative leave per month for each month of service, (96 hours per year, 3.69 hours biweekly accrual). Said leave may be used only after it is accrued. Unit employees may carry over a maximum of twenty-four (24) hours earned administrative leave to the next fiscal year. Administrative leave shall not be converted to monetary compensation.

Article 10. Holidays (SEE SIDE LETTER AGREEMENT NO. 2021-33)

A. ~~Declared Holidays. Eleven (total of 110 hours) holidays per fiscal year shall be observed during the term of this agreement. Those holidays are as follows:~~

- ~~1. Labor Day~~
- ~~2. Veteran's Day _____~~
- ~~3. Thanksgiving Day~~
- ~~4. Christmas Eve _____~~
- ~~5. Christmas Day~~
- ~~6. New Year's Eve _____~~
- ~~7. New Year's Day~~
- ~~8. Martin Luther King, Jr., Day~~
- ~~9. Presidents Day~~
- ~~10. Memorial Day~~
- ~~11. Independence Day _____~~

B. No work on the Holiday. An eligible employee who is not required to work on the day observed as a holiday shall receive ten (10) hours pay at his/her straight-time rate of pay.

C. Friday, Saturday and Sunday Holidays. Whenever a holiday falls on a Friday or Saturday, the prior Thursday shall be observed as the holiday. Whenever a declared holiday falls on a Sunday, the following Monday shall be observed as the holiday.

D. Holidays on Day off. Whenever an observed City holiday falls on an employee's regular day off, the employee shall be credited with ten (10) hours holiday pay or provided with another day off of his/her choice in lieu of the holiday, subject to normal scheduling restraints.

E. Holidays Not Taken. Unused holidays shall not be carried over from one fiscal year to the next.

F. Holiday during a Vacation Period. If a holiday occurs during the scheduled vacation of an eligible employee, the employee shall be paid pursuant to sub-section B of this Article, and the day observed, as a holiday shall not be subtracted from the employee's vacation entitlement.

G. Winter Recess. New Year's Eve, New Year's Day, Christmas Eve, and Christmas Day shall be observed during the winter recess as follows:

FY 2021/22:
December 27th – December 30th

FY 2022/23:
December 26th – December 29th

FY 2023/24:

December 25th – January 1st

December 28, 2023 will be a Winter Recess (WR) day paid by the City and not considered a holiday. WR days granted will not entitle employees to additional days off in lieu of.

The City and Association understand that when more than four days are needed to bridge the winter recess the City will pay the additional days as (WR) pay and if less than four days are needed the employees will not be entitled to additional holidays.

(SEE SIDE LETTER AGREEMENT NO. 2021-33)

~~H. Changes in work schedule: If the City decides to revert City offices to a five/eight work schedule, the City agrees to revert to 108 holiday hours at eight hours per day to include Friday after Thanksgiving, Cesar Chavez Day (March 31st), and Good Friday (4 hours only).~~

Article 11. Work Schedules.

A. City departments that are on a 4/10 schedule will continue to be on a 4/10 schedule during the term of the agreement. The 4/10 schedule can be changed due to operational need with 30 days advance notice, so long as the union is provided notice and an opportunity to meet and confer.

Article 12. Out of Classification Assignment.

A. Conditions of Eligibility

1. A unit employee may be temporarily advanced to a higher rate of pay in circumstances where the department head and/or the City Manager assigns the employee to perform a majority of duties, normally assigned to a classification carrying a higher maximum rate of pay. Such assignments are for the purpose of performing work required due to an extended absence of the regular incumbent or due to a vacancy, and must receive the prior approval of the City Manager.
2. Work at a higher level must be performed on a continuous basis for a period in excess of two (2) consecutive work-weeks in order to be eligible for additional compensation.
3. The City Manager has the discretion to reduce the two-consecutive work week eligibility period, as may be appropriate.

B. Compensation

1. Compensation for such temporary assignments shall commence with the first workday following the end of the two-week eligibility period. Unit employees who qualify under the eligibility conditions above shall be compensated within the salary range for which the assignment is made, but in no case less than five percent (5%), nor greater than twenty percent (20%) above the employee's normal pay rate. Compensation under this provision need not equal the rate of pay of the regular incumbent.
2. The City Manager has the discretion to authorize commencement of out-of classification compensation earlier than the completion of the two-consecutive work week eligibility period, as may be appropriate.

- C. The grievance procedure shall not be utilized by unit members in any conflict, and the City Manager's assignment or non-assignment is final and binding upon all parties.

Article 13. Miscellaneous Items

- A. Classification Studies. Employees shall have a right to request a study of their current position to determine if they are properly classified. Employees shall submit their request in writing to their Department Head. The Personnel Officer shall decide whether such a study will be conducted, provided, however, that the Personnel Officer's decision to not conduct such study shall not be arbitrary, capricious or discriminatory. Should such study not be undertaken, the employee who filed the request and the Association will be informed in writing by the Personnel Officer within thirty (30) days of the written request for such study as to the precise reasons for the City's decision to not undertake such study. Should such study be undertaken and result in no change or downward change in classification, the employee who filed the request will be informed as to the precise reasons therefore by the Personnel Officer.

B. Uniform Allowance (**SEE SIDE LETTER AGREEMENT NO. 2021-33**)

- ~~1. All employees covered by this Agreement will be paid a uniform allowance of \$90.00 per month from which they are required to maintain and replace uniforms in accordance with regulations promulgated by the Police Chief.~~
2. Clothing and Equipment Replacement. Upon approval of the City Manager, employee clothing and/or equipment that is lost or damaged in the line of duty shall be replaced by the City.

C. Tuition Reimbursement.

Subject to City Manager approval, the City shall reimburse employees up to twelve hundred dollars (\$1,200) annually for tuition, textbooks or related expenses for courses that will enable the employee to gain additional skills or knowledge in his/her area of responsibility. This does not include travel allowance. The employee must maintain at least a C in every class. If the course is credit/no-credit or pass/fail, the employee must receive credit or must pass every course. The employee will be reimbursed after proper proof of completion of class is submitted by providing a transcript. Reimbursement must be requested no longer than one year after completion of the course/class.

D. Travel Procedure

1. All unit employees required to use their personal vehicle, in lieu of a City vehicle, for travel on City business that is outside the City limits shall be reimbursed by the City in accordance with the City's travel policy and procedure.
2. Prior to the use of personal vehicle for City business use, the employee shall first obtain public liability and property damage insurance for his/her personal vehicle(s) with a carrier acceptable to the City, providing public liability and property damage coverage in the amount adopted by the City Council.
3. Prior to use of said vehicle(s), the employee shall provide proof of insurance to the City.

E. Telework

The City Manager shall designate and authorize specific times in which a Telecommuting Agreement ("ETA" or "Agreement") shall apply. An ETA is subject to the terms and conditions set forth in addendum "A".

Article 14. Grievance Procedure

The Grievance Procedure shall be the sole and exclusive procedure for resolving grievances filed by employees covered by this agreement.

- A. Definition. A grievance is a claimed violation, misapplication or misinterpretation of a specific provision of this agreement, which adversely affects the grievant.
- B. Procedure. A grievance shall be processed in the following manner.
 1. Informal discussion with Employee's Supervisor

Within ten (10) days from the event giving rise to a grievance or from the date the employee could reasonably have been expected to

have knowledge of such event, the grievant shall attempt to work out a satisfactory solution and shall orally discuss the grievance with his/her immediate supervisor. The supervisor shall give his/her answer with five (5) business days after such presentation.

2. Formal Level Procedure

(a) Level 1. Formal written grievance to the Department Head

If the grievant is not satisfied with the written answer from the Supervisor, the grievant may, within five (5) business days from the receipt of such answer, file a written appeal to the Department Head. Within fifteen (15) business days of receipt of the written appeal, the Department Head or his designee, shall investigate the grievance which may include a meeting with the concerned parties and thereafter give a written answer to the grievant within five (5) business days.

b) Level 2. Grievance to Personnel Officer

If the grievant is not satisfied with the written answer from the Department Head, the grievant may, within five (5) business days from the receipt of such answer, file a written appeal to the Personnel Officer. With fifteen (15) business days of receipt of the written appeal, the Personnel Officer or his designee, shall investigate the grievance which may include a meeting with the concerned parties and thereafter give a written answer to the grievant within five (5) business days.

C. Advisory Arbitration Procedure

1. Eligibility: Grievances which are not settled pursuant to the grievance procedure above and which either party desires to contest further, may be submitted to this Advisory Arbitration Procedure.

Only those grievances, which directly concern or involve the interpretation or application of the specific terms and provisions of this Memorandum of Understanding, are arbitrable.

2. Appointment of Arbitrator

As soon as possible and in any event not later than ten (10) business days after either party receives written notice from the other of the desire to submit the issue to Arbitration, the parties shall meet and attempt to agree on the appointment of an arbitrator.

If no agreement is reached within ten (10) business days, an arbitrator shall be selected from a list of five (5) persons submitted by the California State Mediation and Conciliation Service by

alternate striking of names until one name remains. The party who strikes the first name from the panel shall be determined by lot. The Arbitrator selected through the State Mediation and Conciliation Service shall serve as the Arbitrator.

3. **Conduct of Hearing**
The Arbitrator shall preside at the hearing and shall conduct the proceedings in accordance with acceptable arbitration procedures and codes. Either the City or the Association may call any employee as a witness, and the City agrees to release said witness from work at no loss of pay with adequate prior notification to the City.
4. **Timeliness of Decision**
The decision of the Arbitrator shall be rendered within forty-five (45) days of the close of the hearing. Such decision shall be set forth in writing and signed by the Arbitrator.
5. **Effect of Decision**
The decision of the Arbitrator shall be binding on both parties unless the City Council overrules the decision of the Arbitrator within thirty (30) days from the date of the decision. In order for the City Council to overrule the decision, it is required that at least four (4) Council members (if five members are present) or three (3) Council members (if three or four are present) must vote in favor of the motion to overrule. The Council's decision shall be final and binding.
6. **Extension of Time Limits**
The parties may extend any of the time limits by mutual agreement.
7. **Copies of Proceedings**
All parties to the proceedings shall receive a copy of all documents, rulings and decision at their own expense.
8. **Fees and Expenses**
All fees and expenses of the hearing shall be shared equally by the City and the Association, providing that each party shall be responsible for the fees of its own counsel.
9. **Single Grievance**
The Arbitrator may hear and determine only one grievance at a time without the expressed agreement of the City and the Association.
10. **Limitation on Arbitrator's Authority**
The Arbitrator shall have no power to alter, amend, change, add to, or subtract from or interpret any of the terms of this agreement. This procedure constitutes a contract between the parties and by the Arbitrator in the same manner as any other contract.

Article 15. Lay-Off Procedure

- A. General. The City shall have the sole right to determine which class (es) shall be subject to lay-off. Whenever, in the judgment of the City, one or more positions are to be eliminated for reasons of lack of work, lack of funds, reorganization, or other reasons of economy or efficiency, an employee filling such a position may be laid off or demoted.

- B. Notice. Ten working days before the effective day of lay-off, the Personnel Officer shall notify the employee in writing of the intended action indicating reasons, and a statement certifying whether or not employee’s services have been satisfactory. A copy of such notice shall be given to the Department Head and employee affected. If certified as having given satisfactory service, the name of the employee laid off shall be placed on an appropriate reemployment list as provided by these Rules. Such non-disciplinary action shall not be subject to appeal.

If not certified as having given satisfactory service, the employee laid off may interpret the action as a discharge and request a hearing as provided by the Personnel Ordinance and these Rules. Lay-off must conform in principle with the seniority provisions in the City’s Personnel Rules and Regulations.

- C. Bumping. An employee subject to lay-off may first displace employees of lower seniority in any comparable classification, as determined by the City Manager. As a second alternative to lay-off, employees subject to lay-off may take a voluntary demotion to any lower classification within the same department in which the employee had prior permanent status provided a vacancy exists or the demotee has higher seniority than an employee working in that classification. As a third alternative, an employee subject to lay-off may take a voluntary demotion to a vacant position in a lower classification provided the employee can, through a competitive examination, establish proof to the satisfaction of the appointing authority that he/she is capable of performing the job.

This process, known as “bumping” will give the employee with greater seniority the right to replace an employee with less seniority on another job in which the former has had previous City experience and ability.

Dispute over previous experience and ability will be subject to the Grievance Procedure. Under this provision, a lay-off can only take place when the affected employee has no job available to which employee can be downgraded or transferred.

- D. Order of Lay-Off. The order of lay-off of employees within a class or classes subject to lay-off shall be:

1. Provisional or temporary employees.
 2. Part-time employees.
 3. Probationary employees.
 4. Permanent employees.
- E. Within each of the first three- (3) categories, the order of lay-off shall be at the discretion of the appointing authority. Order of lay-off of probationary and permanent employees shall be according to seniority with the employee(s) having lowest seniority to be laid off first. Among employees with equal seniority, the order of lay-off shall be determined by the appointing authority.
- F. Re - employment. Employees laid off or demoted in lieu of lay-off shall have a priority right of return to their prior class or to any lower class in the same or comparable classification series. This right shall remain effective for one (1) year from the date of demotion or separation from the City service.

Article 16. Maintenance of Benefits

The articles included in this agreement constitute a full and complete agreement with the City and the Association on all matters within the scope of representation for the period stated in Article 20. All present resolutions, ordinances, rules and regulations, practices and policies covering matters within the scope of representation will continue in force and effect during said period without change, except to conform to the terms of this agreement, subject to meet and confer. Notice of any matter proposed to be changed will be provided the Association on a timely fashion.

Article 17. Maintenance of Operations

- A. The Association agrees that during the term of this agreement and for the period of time necessary for the meet and confer process to conclude a successor agreement, neither the Association, nor any representative acting on its behalf, will cause, authorize, engage in, condone or sanction a strike, sick-out, work stoppage, slow down, picketing (other than informational picketing on the employee's own time), concerted or individual failure to report for duty, unauthorized absence, including compliance with a request of another unit's labor organization to engage in or honor such activities against the City, or any activity by any other euphemism known which results in less than the full and faithful performance of any duties of employment.

- B. If the City determines that the employee has engaged in any activity which violated Sub-section (A) above, the employee may be subject to disciplinary action up to and including discharge from City service.

Article 18. Personnel Rules and Regulations

- A. This Memorandum of Understanding sets forth certain benefits and working conditions for employees in the Association. Other rules, regulations policies and general working conditions governing employment for employees covered by this agreement are set forth in the Personnel Rules and Regulations of the City.
- B. If during the term of this agreement the City desires to amend the Personnel Rules and Regulations, the City shall give notice to the Association of the proposed changes. Representatives of the City and the Association shall meet in a timely manner.
- C. Hours, wages and general working conditions contained in the Personnel Rules and Regulations are the proper subject of the grievance procedure.

Article 19, Prevailing M.O.U.

In the event of a conflict between a specific provision of this agreement and a written rule, regulation, or resolution shall be physically amended to conform to the specific provisions of this M.O.U.

Article 20. Savings Clause

If any article or section of this agreement should be found invalid, unlawful or unenforceable by reason of any existing or subsequent enacted legislation or by judicial authority, all other articles and sections of this agreement shall remain in full force and effect for the duration of the agreement. In the event of invalidation of any article or section, the City and the Association agree to meet within 30 days for the purpose of meeting and conferring upon said article or section.

Article 21. Term of Agreement

The term of this agreement is from July 1, 2021 to and inclusive of June 30, 2024, except as otherwise provided. Either party may serve notice to commence negotiations on a successor agreement. If notice is served by either party, negotiations shall begin no later than May 1, 2024, or on a later date by mutual agreement. An extension of the term of this agreement on a month-to-month basis may be made by mutual agreement of the parties.

This agreement constitutes a full and complete agreement between the parties on all matters within the scope of representation.

CITY OF DELANO

MANAGEMENT EMPLOYEES GROUP

Maribel Reyna, City Manager

Jerry Nicholson, MEG Representative

Bryan Osorio, Mayor

Ricardo Chavez, MEG Representative

Attest:

Approved as to form:

Ricardo Chavez, City Clerk

Rachel H. Richman, City Attorney