EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF BRAWLEY
AND
JIMMY M. DURAN

This Employment Agreement (hereinafter "Agreement") is made this 11th day of December, 2020, by and between the City of Brawley, a municipal corporation (hereinafter "Employer"), and Jimmy M. Duran (hereinafter "Employee").

WITNESSETH

WHEREAS, the City of Brawley desires to appoint Jimmy M. Duran to the office of Police Chief and to establish the terms and conditions of his employment; and

WHEREAS, Employer and Employee have negotiated the terms and conditions of employment; and

WHEREAS, Employee accepts such employment on the terms and conditions set forth herein; and

WHEREAS, the parties wish to execute an agreement covering terms and conditions of employment.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Position and Duties.
   Employee shall serve as the Police Chief for the City of Brawley commencing December 21, 2020, and ending December 30, 2024.

2. Compensation.
   As payment and consideration for Employee's services, Employee shall be compensated at one hundred and thirty thousand dollars ($130,000) for the first year; one hundred thirty-one thousand six hundred and sixty-six dollars and sixty-seven cents ($131,666.67) for the second year; one hundred and thirty-three thousand three hundred and thirty-three dollars and thirty-three cents ($133,333.33) for the third year; and one hundred and thirty-five thousand dollars ($135,000) for the fourth year.

   Business expenses reasonably incurred in performing the duties of the Police Chief shall be reimbursed by the Employer in accordance with Employer's duly adopted travel policy. Employer shall also pay for Employee's annual dues for memberships in: International Association of Police Chiefs (IAPC); National Association of Police Chiefs, California Police Chiefs Association; and other memberships as related to employment, such as Brawley-based civic clubs. Expenses not specifically budgeted require prior approval of the City Manager.

3. Annual Review.
   Periodic and/or annual performance evaluations shall be based on execution of Police Chief duties and an approved work plan. Any change to compensation shall be at the discretion of the City Manager.

4. Automobile.
Inasmuch as the Employee is expected to be able to respond to emergencies at any time, day or night, Employee shall be provided a City vehicle.

5. Residence.
Employee agrees to reside within a thirty-minute response time to the Police Station.

6. Cell Phone Allowance.
Employer agrees to pay Employee a cell phone allowance of $75 per month.

7. Medical/Life Insurance.
Group Health Plan. Employee shall be eligible for the Employer's comprehensive major medical, dental, life and vision care insurance program that is provided to other City management team employees.

8. Retirement.
Employer shall maintain Employee in the PERS 3%@50 for Local Safety Members, One Year Final Compensation Plan. Employee will continue to contribute to the Public Employees' Retirement System (PERS) the Employee portion which is currently at 9% of the base pay plus the uniform allowance. Employee further agrees that retirement from CalPERS will correspond simultaneously with retirement from Imperial County Employees' Retirement System (ICERS).

9. At-Will Employment Status and Exemption from City's Personnel System.
Employee's employment is at-will and Employee is exempt from the City's Personnel System and has no property rights in his employment. It is further understood and agreed by and between the parties that Employee serves at the will and pleasure of the City Manager.

10. Leave.
Paid leave is provided to Employee for the purpose of rest and relaxation from duties and for attending to medical situations and personal business. Such leave includes time commonly referred to as administrative leave.

Vacation Leave
Each year Employee shall accrue three weeks of vacation per year. In addition, forty hours will be credited to his vacation leave bank as of date of hire; an additional twenty hours of vacation leave will be banked for years two and three. It is further noted that these additional eighty hours of vacation leave shall not be eligible for consideration of the annual Vacation Leave Buyback Program.

Sick leave and administrative leave shall accrue in the same manner as other City management team employees. The City has agreed to credit the employee forty hours of sick leave as of the date of hire. An additional twenty hours of sick leave will be added to the sick leave bank in year two and year three.

a. Scheduling. Employee's requests to take leave must have prior approval of Employer. Such approval shall not be unreasonably withheld.

b. Payment of Annual Leave at Termination. Upon termination of employment, Employee shall be paid for any accrued leave in the same manner as other City management team employees.

11. Holidays.
Employee shall receive those holidays provided to City management team employees.

12. Full-Time Commitment.
During the term of this Agreement, Employee shall dedicate his full time to fulfilling his responsibilities hereunder. Employee shall not be involved in any outside activity that conflicts with the performance of his duties as Police Chief for the City of Brawley.

13. Uniform Allowance.
Employer agrees to pay Employee a yearly stipend of $1,400 for the purchase of uniforms, cleaning of work attire, and other related uniform expenses.

14. Education Allowance.
Employee shall be eligible for tuition reimbursement as provided to other City management team employees.

15. Termination/Severance Pay.
In the event Employer wishes to terminate Employee for other than willful misconduct, the Employer shall give Employee thirty days written notice. In the absence of any further action by the City Manager, Employee shall receive a severance in an amount equal to ninety (90) days salary at the end of the notice period.

16. Severability.
If any of the provisions of this Agreement are held to be illegal, invalid or unenforceable in any respect, the remainder of the agreement and all other provisions hereunder shall not be affected thereby, and such provision shall be deemed to be modified to the extent necessary to permit its enforcement to the maximum extent permitted by applicable law.

17. Assignment.
This agreement shall be binding upon and insure to the benefit of Employer, its successors and assigns and to the benefit of Employee, his heirs, and legal representatives, except that Employee's duties to perform future services and the right to receive payment therefore are hereby expressly agreed to be nonassignable and nontransferable.

18. Governing Law.
This agreement shall be governed by the laws of the State of California, and any litigation concerning this Agreement shall be filed and maintained in the State of California.

19. Complete Agreement.
This document between the parties constitutes the complete agreement and supersedes all previous agreements and understandings.

20. Indemnification.
Employer acknowledges its legal obligation imposed by California Government Code Section 995 to provide for the defense of any civil action or proceeding brought against

the Employee, in his official or individual capacity or both, on account of an act or omission in the scope of Employee's employment with Employer. Employer acknowledges that its duty to provide a defense survives regardless of whether or not Employee remains in the employ of Employer, provided that the act complained of occurred within the course and scope of Employee's employment and Employee requests that the City provide a defense.

Further Employer acknowledges its legal obligation pursuant to California Government Code Section 825 to pay any judgment or settlement had against the Employee in the event that the Employer provides the Employee's defense pursuant to California Government Code 995.

21. Notices.
Any notice to be given Employee hereunder shall be sufficiently served if given to him personally, or if deposited in the United States mail, registered or certified, addressed to him at the address on file, or at such other address as Employee may hereafter specify for the service of notices. Any notice to be given to the Employer hereunder shall be addressed to the City Manager of the City of Brawley and delivered to the City Clerk at City Hall, 383 Main Street, Brawley, California 92227.

22. Attorney's Fees and Costs.
If any action of law or in equity is necessary to enforce or interpret the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief, which such party may be entitled. As used in this provision, a party shall be deemed to prevail only if they recover an amount in excess of an offer and compromise filed in the action pursuant to the provisions of Section 998 of the California Code of Civil Procedure. Any award of attorney's fees pursuant to this provision shall be based on only the amount recovered in excess of the offer and compromise.

IN WITNESS WHEREOF the said parties have executed this agreement as of this _____ day of December 2020.

EMPLOYER

By _____
Tyler Salcido, City Manager

EMPLOYEE

By _____
Jimmy M. Duran

APPROVED AS TO FORM:

By _____
William Smerdon, City Attorney

ATTEST:

By _____

Alma Benavides, City Clerk

The City Council unanimously ratified the Employment Agreement between the City of Brawley and Jimmy M. Duran on December 11, 2020. m/s/c Wharton/Nava 5-0