

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT is made and entered into this 21st day of November 2017 ("Effective Date") by and between the City of Commerce, California, a Municipal Corporation (hereinafter "the City") located at 2535 Commerce Way, Commerce, CA 90040 and _____, an individual (hereinafter "Employee"). From time to time City and Employee are referred to as "Party" or "Parties."

RECITALS

WHEREAS, the City desires to employ the services of Employee as the City Administrator for the City of Commerce; and

WHEREAS, Employee desires to accept employment from the City as the City Administrator for the City of Commerce; and

WHEREAS, the City and Employee have agreed upon the language of an agreement that properly reflects the terms and conditions for Employee's employment as the City Administrator.

NOW, THEREFORE, IN CONSIDERATION OF THESE MUTUAL COVENANTS, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Duties:

The City hereby agrees to employ Employee in the position of City Administrator. Employee shall perform the function and duties specified in the City Administrator Job Description, as well as in the City of Commerce Municipal Code, the applicable Ordinances of the City of Commerce and other legally permissible and proper duties and functions as the City Council shall from time to time assign.

- A. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject to the provisions set forth on Section 5 of this agreement.
- B. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in this agreement.
- C. Employee agrees to remain in the exclusive employ of Employer as the City Administrator throughout the existence of this agreement and neither to accept other employment nor to become employed by any other employer until this agreement is terminated pursuant to the terms set forth herein.

Section 2. Start Date:

Employee shall report to work on November 22, 2017 (hereinafter the "Start Date").

Section 3. Term:

Employee agrees to remain in the exclusive employ of Employer from November ____, 2017 until November ____, 2021 (the "Termination Date") and neither to accept other employment nor to become employed by any other employer until the Termination Date, unless either Party exercises its right to terminate the agreement prior to the Termination Date consistent with the terms set forth in Section 5 of this agreement.

Section 4. Suspension:

The City may suspend the Employee with full pay and benefits at any time during the term of this agreement pending further proceedings pursuant to disciplinary action, but only if a majority of the Council votes to suspend Employee for cause.

Section 5. Termination and Severance Pay:

- A. In the event Employee is terminated because of his conviction by a competent tribunal of any illegal act constituting a misdemeanor involving a breach of the public trust, or a felony, then, in that event, the City shall have no obligation to pay Employee a severance payment that Employee may otherwise be entitled to in the event the City terminates this agreement prior to the Termination Date.
- B. In the event that the City terminates this agreement or Employee for any reason other than one of the reasons set forth in paragraph A above, Employee shall be entitled to the following:
 - 1. If the City terminates this agreement or Employee within the first twelve (12) months following the Effective Date, Employee shall be entitled to a severance payment equal to _____ months of Employee's salary.
 - 2. If the City terminates this agreement or Employee twelve (12) months after the Effective Date, Employee shall be entitled to a severance payment equal to _____ months of Employee's salary.
- C. In the event Employee voluntarily resigns his position with City, then, Employee shall give the City one month notice in advance, unless the Parties agree otherwise in writing.
- D. Pursuant to the provisions of Section 2.04.060 of the Commerce Municipal Code, Employee shall not be removed from office during or within a period

of ninety (90) days next succeeding any general municipal election held in the City at which election a member of the City Council is elected.

Section 6. Disability:

If Employee is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, as determined by a qualified health care professional, for a period of four successive weeks, or for twenty working days over a thirty working day period beyond any accrued leave, Employer shall have the option to terminate this agreement, subject to the severance pay requirements of Section 5. However, Employee shall be compensated for any accrued administrative leave, vacation, holidays, compensatory time and other accrued benefits.

Section 7. Compensation:

- A. Salary and Benefits. The City agrees to pay Employee for his services rendered pursuant hereto an annual base salary of _____, payable in bi-weekly installments at the same time as other employees of the City are paid.
- B. Benefits. Employee shall also be entitled to all of the benefits, including benefits under the California Public Employee Retirement System, provided by the City to the City's Executive Group Employees/Department Heads, unless otherwise provide herein. If there is a discrepancy between the benefits set forth in this agreement and the benefits provided to the City's Executive Group Employees/Department Heads, the benefits set forth in this agreement shall apply.
- C. Automobile Allowance and Vehicle Use. The City agrees to provide Employee with the option of a car allowance of _____ per month throughout this agreement or the use of a City vehicle. If Employee chooses to use a City vehicle, the City agrees that such use will include any personal travel within the Southern California area and that the City will pay for all maintenance and operating costs for such vehicle.
- D. Deferred Compensation Contribution. The City shall pay, for Employee's benefit, the maximum annual contribution (\$18,000, currently at 2017 levels) under the City's Internal Revenue Code § 457 Deferred Compensation Plan.
- E. Electronic Media Allowance. The shall provide Employee with a monthly allowance for electronic media of _____ as full compensation for the cost associated with the purchase and use of electronic media to be used for City related business, which allowance shall be paid to Employee through payroll, with any applicable taxes and other

payroll-liability cost deducted. Employee understands that any applicable taxes are Employee's responsibility to pay and not covered by the City.

Section 8. Performance Reviews/Increases:

- A. The City shall provide Employee with bi-annual performance reviews throughout the first year after the Start Date. Thereafter, the City shall provide Employee with annual performance reviews. The City may provide Employee with performance increases, at its discretion beginning twelve months from the Effective Date.
- B. The performance review by the City Council shall be in accordance with the specific criteria developed jointly by the City. Said criteria may be added to or deleted as the Council may from time to time determine, in consultation with the Employee.
- C. The City Council shall annually define such general goals and performance objectives which they determine necessary for the proper operation of the City and in the attainment of the Council's policy objectives and shall further establish a relative priority amount those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

Section 9. Vacation, Sick and Management Leave:

Subject to vacation, personal and sick leave accruals as outlined in the City of Commerce Personnel Policies and Procedures handbook, Employee shall accrue leave as follows: Vacation at the rate of 120 hours per year; Sick leave at a rate of 96 hours per year; Management leave at a rate of 80 hours per year.

Section 10. Life Insurance:

The City shall provide Employee with term life insurance in the amount of _____ throughout the existence of this agreement. Employee shall be entitled to designate whomever he chooses as the beneficiary of such life insurance policy.

Section 11. Expenses/Professional Development:

- A. Employee shall be reimbursed by the City for all expenses reasonably and necessary incurred by him in the furtherance of his duties and the business of the City, not exceeding the amount budgeted therefore each year in the appropriate City Administrator account.

- B. The City agrees that Employee shall be allowed to pursue professional development opportunities related to his employment and effectiveness as the City Administrator. Employee shall specify the conferences/seminars that he prefers to attend on an annual basis and shall be allowed to attend such seminars and any others that the City Council agrees, in the exercise of good faith, are beneficial to his professional development and performance as the City Administrator.
- C. The City hereby agrees to budget and pay a reasonable amount for travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for City, not exceeding the amount budgeted therefore each year in the appropriate City Administrator's account.
- D. The City also agrees to budget and to pay for the travel and subsistence expenses of Employee for short courses, institutes and seminars that are necessary for his professional development and for the good of City.

Section 12. Dues, Memberships and Subscriptions:

The City agrees to budget and to pay a reasonable amount for the professional dues, memberships, and subscriptions of Employee necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

Section 13. Limitation on Retirement Health Care Payments:

The City shall not be required to pay health benefits upon Employee's retirement if he voluntarily leaves his employment with the City within eighteen months (18) months from the Start Date. Thereafter, Employee is entitled to receive all benefits provided other employees upon retirement from the City.

Section 14. Indemnification:

The City shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise arising out of an alleged act or omission occurring within the scope of Employee's duties as City Administrator. The City or its insurance carrier, may, without personal cost to Employee, compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

Section 15. Notices:

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid addressed as follows:

(1) The City: Mayor
City of Commerce
2535 Commerce Way
City of Commerce, California 90040-1410

(2) Employee: _____
Employee's Contact information is on file with the
Human Resources Department

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 16. General Provisions:

- A. The text herein shall constitute the entire agreement between the Parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- D. Governing Law: This agreement shall be governed by and construed in accordance with the laws of the State of California, which are full force and effect as of the date of execution.
- E. Independent Legal Advice: City and Employee represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this agreement and, City and Employee further represent and warrant that each has carefully reviewed this entire agreement and that each and every term thereof is understood and that the terms of this agreement are contractual and not a mere recital. This agreement shall not be construed against the Party or its representatives who drafted it or what drafted any portion thereof.

IN WITNESS WHEREOF that parties hereto have each executed or caused to be executed this Agreement as of the Effective Date.

CITY OF COMMERCE

DATED: _____, 2017

By: _____
Oralia Rebollo, Mayor

ATTEST:

Lena Shumway, City Clerk

EMPLOYEE

DATED: November _____, 2017

By: _____

APPROVED AS TO FORM

By: City Attorney