

**CITY OF LA HABRA
EMPLOYMENT AGREEMENT FOR THE OFFICE OF CITY MANAGER**

THIS AGREEMENT, made and entered into this 16th day of August, 2021 by and between the CITY OF LA HABRA, Orange County, State of California, a Municipal Corporation, hereinafter referred to as the "City" and JIM SADRO, hereinafter referred to as the "Employee."

RECITALS:

WHEREAS, the City desires to continue retaining the services of Employee as City Manager of the City of La Habra; and

WHEREAS, the City Council of the City of La Habra desires to provide certain pay and benefits, establish certain conditions of employment and to establish certain working conditions for Employee; and

WHEREAS, Employee desires to continue providing said services as City Manager to the City under the terms and conditions hereinafter set forth; and

WHEREAS, Employee represents that he is willing and qualified to continue providing such services to the City;

WHEREFORE, in consideration of the respective mutual covenants and promises hereinafter contained and made subject to all of the terms and conditions hereof, the parties hereto do hereby agree as follows:

1. DUTIES

The City hereby agrees to retain the services of Employee as City Manager to perform the functions and duties specified in Title 2, Chapter 2.16 of the La Habra Municipal Code and to perform other legally permissible, ethical and proper duties and functions as designated by the City Council from time to time.

2. TERMS OF AGREEMENT

- (a) The term of this Agreement shall commence on August 16, 2021 and will remain in effect unless amended or terminated by mutual written agreement of both parties, voluntarily terminated by the Employee, or terminated by City Council in accordance with Section 3 below.
- (b) This Agreement, in part or in its entirety, may be renegotiated at any time so long as City and Employee mutually agree to such terms in writing.
- (c) The City Council shall conduct an annual performance evaluation of Employee between August 1 and November 30 of each year during the term of this Agreement. The annual performance evaluation shall include setting

and reviewing goals set forth by the City Council, shall include any pay or benefit enhancements the City Council may feel is warranted, and shall include any renegotiation of this Agreement that the City Council may feel is warranted and that is agreed to by the Employee. Future annual performance evaluations shall be measured against Employee's achievement of the goals set forth in the previous year's annual performance evaluation.

- (d) Other than any potential part-time employment, subject to the prior approval of the City Council, Employee agrees to remain in the exclusive employment of the City and not to become otherwise employed while this Agreement is in effect. Employee agrees that any other City Council approved employment engaged in or by him shall not interfere with the performance of his duties under this Agreement.
- (e) The City Council specifically agrees that:
 - i. With the exception of the City's contract City Attorney and any City Council appointed Commissioners or Committee members, all City employees report to, are directed by, and are evaluated by the Employee or his designee(s).
 - ii. The City Council does not direct any subordinate of the Employee, to include all employees working for the City.
 - iii. The City Council criticism of any City employee is only communicated confidentially to the Employee.

3. TERMINATION

- (a) This Agreement may be terminated without cause by an affirmative vote of at least four of the five City Council members, or for good cause by an affirmative vote of at least three of the five City Council members.

After giving notice to Employee that this Agreement is terminated for good cause, the City shall have no obligation to continue the employment of Employee or to provide compensation or benefits.

- (b) For purposes of this Agreement the term "good cause" is defined solely as follows:
 - i. Failure to fulfill the City Manager's duties as described in Section 1 of this Agreement;
 - ii. Incompetence, inefficiency or habitual neglect of the Employee in the performance of the City Manager's duties as documented by written evaluations, supplemental memoranda, or other written communication from the City Council. The terms and conditions of this section shall not justify good cause unless the City Council has provided the Employee a

reasonable opportunity to remediate and correct any perceived incompetency, inefficiency or documented habitual neglect in the performance of his duties;

- iii. Insubordination or failure to comply with lawful, ethical and appropriate written City Council directives;
- iv. Knowingly and willfully failing to comply with applicable or governing laws and authorities in his capacity as City Manager;
- v. Continued and ongoing incapacity of Employee to perform the duties of employment as City Manager, unless said incapacity is protected by applicable State and Federal employment, labor or disability laws.

- (c) If Employee is terminated without good cause by an affirmative vote of at least four of the five City Council members, the Employee is entitled to severance pay and benefits for ten (10) months, which shall be increased by an additional one (1) month on July 1st of each year of this contract, to a maximum not to exceed twelve (12) months. For the term of the severance period, pay and benefits are to include:

- i. Continuation, or cash compensation, for the value of full pay, accrued benefits and accruable benefits;
- ii. Continuation of CalPERS retirement service credit accrual;
- iii. Continuation of City's contributions to Employee's 457b and/or 401(a) Deferred Compensation and Retiree Health Savings accounts.

In addition, Employee will be provided with a full payout of unused Vacation Leave and Sick Leave balances at his then hourly rate of pay such as provided to other City Executive Management employees. The Employee retains the right to have a portion or all of the cash value of these accrued leave balances transferred by the City, on a pre-tax basis, to the Employee's 457b or 401(a) Deferred Compensation Accounts and/or to his Retiree Health Savings account. The Employee also reserves the right to have his unused accrued Sick Leave be applied to CalPERS by the City on his behalf as additional service credit, provided this meets all applicable legal requirements.

- (d) In the event the City terminates the Employee, with or without good cause, the City and Employee agree that no member of the City Council, no employee of the City, or any contract or retained attorney working for the City, shall make any written, oral, or electronic statement to any member of the public, the press, or any City employee concerning the Employee's termination except in the form of a joint press release or statement, which is mutually agreeable to the City and the Employee. The joint press release or statement shall not contain any text or information that is disparaging to either the City or the Employee. Either the City or the Employee may verbally repeat the substance of the agreed upon joint press release or statement in response to any inquiry.

- (e) Pursuant to Municipal Code section 2.16.280 "Limitations on Removal", the City Manager shall not be removed from office, other than for misconduct in office, during or within a period of one hundred twenty days (120) next succeeding any general municipal election held in the City at which election a member of the City Council is elected or when a new Councilmember is appointed. The purpose of this provision is to allow any newly elected or appointed members of the City Council or a reorganized City Council to observe the actions and ability of the Employee in the performance of the powers and duties of his office. This one hundred and twenty-day (120) period may be increased, but not reduced, during the term of this agreement regardless of any change made to section 2.16.280 of the City's Municipal Code.
- (f) Employee retains the right to resign from his position with the City in lieu of termination, or may voluntarily terminate this Agreement any time upon thirty (30) days written notice to the City Council, and shall not be entitled to any severance pay upon such resignation or voluntary termination, unless otherwise negotiated and agreed to, in writing, by the City and Employee.
- (g) In the event the Employee resigns, separates or retires from the City he will be entitled to all pay and benefits, including the use and/or payout of unused leave balances, as permitted by City policy and in a manner similar to retirement or separation benefits provided to the City's Executive Management employees.

4. COMPENSATION

- (a) Effective on the commencement date of this agreement, employee shall receive, as salary for his performance of the duties of City Manager, the sum of \$250,000 per year.

Each year during the term of this agreement, as part of the annual budget process, the City's Human Resources Department shall conduct a salary survey of all City Managers/City Administrators then employed by cities in Orange County California, to determine the average annual salary of City Managers/City Administrators at that time. If the Employee's base salary is below County average pay for City Managers/City Administrators, the annual budget will include a proposed salary adjustment to increase the Employee's annual salary to County average for City Managers/City Administrators, subject to City Council review and approval.

- (b) Employee shall contribute eight percent (8%) of his salary, on a pre-tax basis, towards the City's CalPERS retirement plan employer cost.

- (c) Effective on the commencement date of this agreement, for each pay period the City shall contribute an amount that is five percent (5%) of Employee's salary for such pay period to his personal 457b Deferred Compensation Plan account; however, if the total combined amount contributed each calendar year by the City and/or Employee exceeds the maximum allowable annual contribution limit established in the Internal Revenue Code, the City shall contribute such excess amount to the City's 401(a) deferred compensation plan in an account established for the benefit of the Employee.
- (d) Effective on the commencement date of this agreement, for each pay period the City shall contribute an amount that is three (3%) percent of Employee's salary for such pay period to his personal Retiree Health Savings (RHS) account.

5. EMPLOYEE BENEFITS

- (a) Employee shall be entitled to, at a minimum, all of the same benefits as provided to other City Executive Management employees, including, but not limited to, sick leave accrual, health/dental/vision insurance benefits, other insurance coverages as provided by the City, long-term disability insurance, life insurance, one-time payments or pay adjustments, and enrollment in the City's CalPERS retirement plan.
- (b) Notwithstanding the above, the City shall pay for the full cost of premiums for all insurance coverages offered by the City and provided to the Employee, the Employee's spouse, and the Employee's dependents.
- (c) Employee shall accrue 200 hours of vacation leave annually. Employee retains the right to have up to 100 hours of vacation leave per calendar year converted to compensation and transferred by the City, on a pre-tax basis, to his personal 457b and/or 401(a) deferred compensation accounts, and/or to his personal Retiree Health Savings account.
- (d) Employee shall be credited with 64 hours of non-accruable administrative leave at the beginning of each fiscal year, which must be used by the end of that fiscal year or it will be forfeited by the Employee.
- (e) Employee's expenses for attendance at employment related conferences, seminars, training, meetings, or membership dues for employment related associations, or certification/re-certification fees related to such memberships, shall either be paid for in advance by the City or reimbursed by the City to the Employee.
- (f) Employee shall be subject to the City's Travel and Meeting Reimbursement Policy, including mileage reimbursement related to travel for official City business or to and from meetings, training and conferences.

- (g) Employee's prior years of service with City shall not be otherwise reduced or adversely impacted by the execution of this Agreement for purposes of, but not limited to, calculation, accrual or distribution of benefits.

6. INDEMNIFICATION

City shall defend, save harmless, and indemnify Employee against any claim for negligent tort or omissions, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged negligent act or omission occurring in the performance of his duties as Employee in accordance with the provisions of California Government Code Section 825. Said indemnification shall extend beyond termination of employment to provide full and complete protection to Employee by City for any acts undertaken or committed in his capacity as Employee, regardless of whether the notice of filing of a lawsuit for such tort, claim, demand, or other legal action occurs during or following employment with City. City shall provide, at the City's expense, personal legal counsel for Employee and shall consult with Employee as to the selection of such counsel, if it is mutually determined by City and the Employee that personal legal counsel is necessary.

7. NOTICES

Any notices to be given hereunder by either party to the other shall be in writing and may be transmitted by personal delivery or by mail, postage prepaid. Mailed notices shall be addressed to the parties as follows:

If sent by Employee to City:
City Clerk
City of La Habra
110 E. La Habra Blvd.
La Habra, CA 90631

If sent to Employee by City:
Jim Sadro
223 Winding Lane
Brea, CA 92821

Notices delivered personally shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated as of the date of postmark.

8. ATTORNEYS' FEES

In the event any legal proceeding is instituted to enforce any term or provision of the Agreement, the prevailing party in said legal proceeding shall be entitled to recover reasonable attorneys' fees and costs from the opposing party in an amount determined by the Court to be reasonable.

9. REIMBURSEMENT TO CITY REQUIRED

Notwithstanding the foregoing, the following provisions requiring reimbursement for certain compensation and/or indemnification provided to Employee by the City apply:

(a) Paid Leave:

Pursuant to Government Code section 53243, in the event that Employee is convicted of a crime involving the abuse of his office or position, as defined by Government Code section 53243.4, with the City, any paid leave salary provided by the City for the time period in which the Employee is under investigation for such crimes shall be fully reimbursed by Employee to the City.

(b) Legal Defense:

Pursuant to Government Code section 53243.1, in the event that Employee is convicted of a crime involving abuse of his office or position, as defined by Government Code section 53243.4, Employee shall fully reimburse the City for all the costs of his legal criminal defense.

(c) Severance:

Pursuant to Government Code section 53243.2, in the event that Employee is convicted of a crime involving abuse of his office or position, as defined by Government Code section 53243.4, Employee shall fully reimburse the City for any cash settlement, including but not limited to severance pay, paid to Employee related to his termination under this Agreement.

10. ENTIRE AGREEMENT

Effective on its commencement date, this Agreement shall supersede any and all other agreements whether oral or written, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter, and each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement or modification of this Agreement shall be effective only if executed in writing and signed by both City and Employee.

11. VALIDITY

The validity in whole or in part of any provision of this Agreement shall not void or affect the validity of any of the other provisions of this Agreement.

12. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

13. EFFECT OF WAIVER

The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective the date and year first above written.

CITY OF LA HABRA:

EMPLOYEE:

Rose Espinoza, Mayor

Jim Sadro, City Manager

ATTEST:

APPROVED AS TO FORM:

Laurie Swindell, CMC
City Clerk
City of La Habra
A Municipal Corporation of the State of California

Richard Jones
City Attorney