

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is dated as of the 14th day of November, 2023, and is made by and between the CITY OF SOUTH GATE, a municipal corporation, ("the City"), and ROBERT HOUSTON ("Employee"). City and Employee are sometimes hereinafter individually referred to as a "Party" and collectively as "Parties." Parties to this Agreement do hereby enter into the terms, conditions, covenants, duties and responsibilities as follows:

RECITALS

WHEREAS, the City is a municipal corporation providing a wide range of public services to the community as a general law city;

WHEREAS, the City Manager in South Gate is responsible for day-to-day operations, while the City Council is the policy making body of the City;

WHEREAS, for the City to ensure that its responsibilities to the health and safety of the public are met at all times, the City must attract and retain in its employment a City Manager who exhibits the knowledge, experience, technical ability, professionalism and qualities of leadership necessary to meet the City's objectives;

WHEREAS, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment, and set working conditions for the position of City Manager;

WHEREAS, it is the desire of the City Council to: (1) retain the services of Employee and to provide inducement for him to remain in such employment; (2) establish a clear and mutually understood system of compensating Employee; (3) provide a just means for terminating the services of Employee at such time as he may be unable to discharge fully his duties due to disability or retirement or when the City Council may desire to otherwise terminate his employment; and

WHEREAS, in contemplation of, and subject to the approval of the City Council, Employee agrees to commence providing services to the City as of December 1, 2023.

NOW, THEREFOR, in consideration of the mutual covenants herein contained and as authorized by the South Gate Municipal Code, the applicable Personnel Rules and Regulations, all Resolutions previously adopted by the City, and the provisions of the California Government Code, Parties hereto agree as follows:

Section 1. Duties and Term.

A. Effective December 1, 2023, the City hereby hires Employee as City Manager to perform the duties and functions as specified in state law and the South Gate Municipal Code, to perform

such other legally permissible duties as defined in the City's Job Classification specifications and as the City Council shall from time-to-time assign.

B. Employee shall be subject to the powers, terms and conditions of the South Gate Municipal Code relating to the position of City Manager. In addition to the duties and responsibilities defined herein, during the term of this Agreement, and any extensions thereto, Employee shall also serve as the Executive Director of: (1) the South Gate Public Financing Authority ("SGPFA"), (2) Successor Agency to the Community Development Commission ("SA"), (3) the South Gate Housing Authority ("HA"), and (4) the South Gate Utility Authority ("SGUA"), and any such future municipal corporations as may be established by the City. The SGPFA, SA, HA and the SGUA are collectively added within the definition of "City" herein, unless otherwise indicated.

C. The Employee and City Council shall mutually establish performance goals and objectives to be met by the Employee for each year of this Agreement. Said objectives shall be established as part of an annual evaluation process. Within 90 days of the effective date of this Agreement, Parties shall work together to establish the initial performance goals to be achieved by Employee during the period as may be mutually agreed. Thereafter, the Employee and City Council shall mutually establish annual performance goals and objectives to be met by the Employee within thirty (30) days after the proceeding annual performance evaluation.

D. The Employee shall organize and develop a Strategic Planning program for City Council and Executive Team to mutually undertake within 180 days of the effective date of this Agreement.

E. The term of this Agreement shall be for a period of four-years ending on November 30, 2027, unless mutually extended by Parties but may be terminated upon ninety (90) days notice, subject to Section 3.B, below.

F. Employee agrees that he shall not engage in outside employment by any other entity or organization, nor shall he undertake consulting services in which compensation is received by him without first obtaining the approval of the City. The City reserves the right to revoke any such approval if it deems to be affecting the ability of the Employee to fulfill his duties under this agreement.

G. An employee serving as City Manager is considered to be an "exempt" employee within the definition of the Fair Labor Standards Act ("FLSA") and shall not receive overtime compensation for time worked outside the regular work schedule. In addition, the City Manager position is excluded from the City's Civil Service Rules and Regulations pursuant to Section 1.24.105 of the South Gate Municipal Code.

Section 2. Compensation and Review.

A. Employee's salary during the term of this Agreement shall be **Two Hundred Ninety Thousand Dollars (\$290,000)**. Employee's salary is to be adjusted as needed to maintain such salary at not less than the amount of One Thousand Dollars (\$1,000) above the next highest

regular salary paid to any other management employees. City reserves the right to adjust Employee's salary consistent with any general reduction affecting other executive management employees, collectively.

B. The City shall conduct an annual performance evaluation of Employee using such criteria as City may establish with the input from the Employee in its sole discretion after receiving the same. Said evaluation shall be completed not later than thirty (30) days prior to the annual anniversary of Employee's effective date of this Agreement.

C. Whenever a cost-of-living adjustment or other non-merit-based salary increase is provided to other management employees, the City Council shall consider whether it is reasonable and appropriate to grant a similar increase to the City Manager's Base Salary upon the written request of the Employee.

D. The City Manager's Base Salary increases approved by the City Council from time to time, pursuant to this Agreement, shall not require an amendment to this Agreement to be effective. Such may be set forth in an annual salary resolution or minute action approved by the City Council and ratified by resolution.

E. If the City reduces the Base Salary or any other financial benefit of the Employee in a percentage that is greater than the average reduction of all executive managers, such action shall constitute a termination of this Agreement without Cause under Section 3.C. of this Agreement, and Employee shall be entitled to Severance.

Section 3. Schedule and Severance.

A. The Employee's schedule of work each day and week shall vary in accordance with the work required to be performed. It is recognized that Employee must devote a great deal of his time outside of normal office hours to business of the City and, to that end, will be allowed to take compensatory time off as he shall deem appropriate during said normal office hours.

B. Employee shall not be removed from his position during the period of ninety (90) days preceding any City election for membership on the City Council, and the South Gate Municipal Code Section 1.06.120 shall guide rules for removal after any City Election or Councilmember appointment or (ii) on the basis of a "for cause" termination based on: (1) a conviction of a felony; (2) continued abuse of non-prescription drugs or alcohol that materially affects the performance of the City Manager's duties; or (3) repeated and protracted unexcused absences from the City Manager's office and duties.

C. In the event Employee is terminated without cause by the City Council, he shall be entitled to severance pay equal to his total compensation (in an amount equal to his base salary and benefits) for nine (9) months. In exchange for payment of this amount, Employee shall sign a full release, releasing the City from liability for any employment claim or other claim arising from his employment relationship, and agrees that he will not file, initiate, or cause to be filed or initiated any action in any federal or state court for wrongful termination or other employment

causes of action such as, but not limited to, age discrimination. This section is not intended to waive Employee's rights to seek Workers' Compensation benefits.

D. In the event the City terminates Employee, the City and Employee agree that neither Party shall make any written or oral statements to members of the public or the press concerning Employee's termination except in the form of a joint press release which is mutually agreeable to both Parties. The joint press release shall not contain any text or information that would be disparaging to either Party and either Party may verbally repeat the substance of any such press release in response to inquiries by members of the press or public.

E. 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. He 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.

F. In the event 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, other than sick leave, as permitted by City policy and in a manner similar to retirement or separation benefits provided to the City's executive management employees.

Section 4. Allowances.

A. During the term of this Agreement, Employee shall be provided an automobile by the City for Employee's exclusive and unrestricted use. The City shall be responsible for paying for liability, property damage, and comprehensive liability insurance and for the purchase, operation, maintenance, repair, and regular replacement of said automobile. At the Employee's discretion, in lieu of electing to utilizing a City-owned vehicle, the Employee may elect to receive a monthly car allowance of Five Hundred Forty-Two Dollars (\$542). In such an election, the City shall not be responsible for paying for liability, property damage, and comprehensive liability insurance and for the purchase, operation, maintenance, repair, and regular replacement of the Employee's private vehicle. The Employee shall annually produce proof of automobile insurance coverage. No matter which election the Employee chooses in this section, the Employee shall maintain a Class C California Driver's License and be subject to the California Department of Motor Vehicles Pull Notice system which the City participates in.

B. During the term of this Agreement, Employee shall be provided a monthly technology allowance of One Hundred Twenty Dollars (\$120) for use toward cellular phone expenses, or other electronic-related expenses.

C. Employee will be eligible to receive the same education pay for holding a master's degree as the Executive Management Group.

Section 5. Other Benefits.

A. Employee shall be entitled to observe holidays on the same basis as other City management employees. Employee shall be credited with an opening balance of one hundred

(100) hours of paid vacation leave, shall earn vacation leave at a rate of one hundred sixty (160) hours annually (6.154 hours per pay period), shall be allowed to accrue unused vacation leave with a maximum of three hundred (300) hours, and the full value of any such unused vacation leave shall be paid to Employee upon termination, resignation, or retirement. In addition, Employee may elect to cash out vacation up to forty (40) hours annually during any single fiscal year at Employee's full hourly rate. Employee shall be credited with an opening balance of forty (40) hours of paid sick leave, shall earn sick leave at 3.07 hours per pay period or ninety-six (96) hours annually. Employee shall be allowed to accrue unused sick leave which shall not be paid to Employee upon termination, resignation, or retirement. Use of sick leave shall be consistent with the City's then existing policies, including the use of sick leave in accordance with CalPERS retirement regulations. Employee may not cash out unused sick leave. Employee shall receive an annual allowance of sixty (60) hours of administrative leave accrued at 2.30 hours per pay period, subject to a cap of one hundred (100) hours. Upon reaching such maximum accumulation, Employee shall cease earning additional administrative leave hours or may choose to cash out up to 40 hours at Employee's full hourly rate upon the anniversary date of Employee.

B. City shall procure and maintain in force a policy of life insurance for the benefit of Employee's survivors in the amount equal to the same benefit provided to other executive management employees.

C. City shall pay the Employer contribution and Employee shall pay the Employee contribution on behalf of Employee for his membership in the California Public Employees Retirement System ("CalPERS") as established by state law. As the Employee is considered by CalPERS to be a "Classic member," accordingly, Employee will be covered by the City's agreement with CalPERS, as codified in Government Code Section 21354, which provides for a "2.7% at 55" Full Formula benefit; Government Code Section 21574, which provides for a "Fourth Level 1959 Survivor Benefits" allowance; and Government Code Section 20042, which provides for a "One Year Final Compensation" election. Employee shall pay eight percent (8%) representing Employee's share of his CalPERS pension, and one percent (1%) representing the Employer's share of said benefit.

D. City shall pay the full premium for health, vision, and dental insurance coverage for Employee and his spouse and qualified dependent family members, and the Employee shall be eligible for the balance of executive management employees benefits provided similarly to other executive management employees not otherwise expressly covered by this Agreement.

E. Deferred Compensation. Employee is eligible to participate in the City's 457 Deferred Compensation Plan per Article II, Section 2.01, of the 457 Governmental Plan and Trust ("the Plan") based on his employment status. Employee's participation in the Plan is at his own discretion; however, the City shall pay the maximum allowed by the Internal Revenue Service ("IRS") regulations for a Section 457 catch up program permitted for employees over the age of 50, excluding Special 457 three-year catch-up program contributions permitted by the City's plan under IRS regulations, for each payroll period.

F. Reimbursable Expenses. Employee shall be entitled to be reimbursed for ordinary and customary expenses incurred by Employee in his capacity as City Manager, including out-of-

town travel, conferences fees, accommodations, meals and the like, subject to Employee providing receipts or statements evidencing such expenses as required of other City employees per City policies. This shall include membership and participation in events for groups including International City/County Management Association (ICMA), League of California Cities (Cal-Cities), and the California City Management Foundation (CCMF).

G. Leave and Employee Assistance Program. Employee shall also be entitled to holidays, leave without pay, and bereavement leave, and access to the City's Employee Assistance Program at no cost on the same basis as executive management employees and any future change to the holiday or leave benefits provided to City's executive management employees. The City Council shall consider whether it is reasonable and appropriate to grant a similar change to the Employee upon the written request of the Employee.

H. Moving Expense Contribution. Employee shall be issued a one-time amount of \$5,000 to assist in his establishment of a residence within or in the general vicinity of the City of South Gate.

Section 6. General Terms and Conditions

A. 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 in the performance of Employee's duties as defined in this Agreement. City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon for Employee's activities performed within the course and scope of his employment.

B. Entire Agreement. The text of this Agreement shall constitute the entire and exclusive agreement between Parties. All prior oral or written communications, understandings, or agreements between Parties not set forth herein shall be superseded in total by this Agreement. No amendment or modification to this Agreement may be made, except by a written agreement signed by the Employee and the Mayor and approved as to form by the City Attorney.

C. Assignment. This Agreement is not assignable by either the City or Employee.

D. Severability. In the event any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over Parties, the remainder of this Agreement shall remain in full force and effect unless the parts found to be illegal or void are wholly inseparable from the remaining portions of this Agreement.

E. Effect of Waiver. The failure of either Party to insist on strict compliance with any of the terms, covenants, or conditions in 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 time or times.

F. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution. Any action to interpret or enforce the terms of this Agreement shall be held exclusively in a state court in Los Angeles County, California. Employee expressly waives any right to remove any such action from Los Angeles County

Section 7. Bonding.

City shall bear the full costs of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 8. Modifications.

Any modification to this Agreement must be in writing and signed by both Parties executing this Agreement to be effective.

Section 9. 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.

[The remainder of this page left blank for signature formatting purposes.]

Section 10. Entire Agreement.

A. Each of the Recitals stated above are incorporated by reference and fully set forth herein.

B. Each Party agrees that this Agreement is valid and shall be binding upon said Party. In the event of Employee's death prior to the expiration of this Agreement or any extension thereof, the heirs at law and executors of Employee shall be entitled to accrued benefits as prescribed in Section 5 and earned and unpaid salary to which Employee would have been entitled. Each Party to this Agreement acknowledges that no representation, inducements, promises or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which is not embodied herein, and that no other agreement, statement or promise not contained or referenced in this Agreement shall be valid or binding on either Party. Employee has ten (10) days, following approval by the City, to review and execute this Agreement.

IN WITNESS WHEREOF, the City of South Gate has caused this Agreement to be signed and executed on its behalf by the Mayor and duly attested by the City Clerk, and Employee has signed and executed three (3) copies of this Agreement.

"CITY"

Dated: November 14, 2023

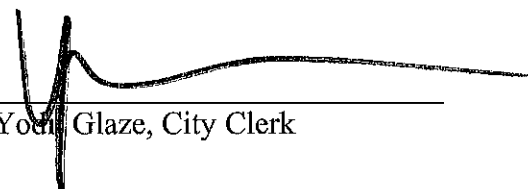
By: 
Maria del Pilar Avalos, Mayor

"EMPLOYEE"

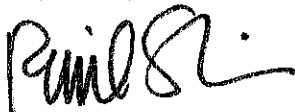
Dated: November _____, 2023

By: 
Robert Houston

ATTEST:

By: 
Yoon Glaze, City Clerk

APPROVED AS TO FORM:

By: 
Raul F. Salinas, City Attorney