



CITY OF HUNTINGTON PARK

City Manager's Office
City Council Agenda Report

January 16, 2018

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL OF APPOINTMENT FOR THE POSITION OF DIRECTOR OF FINANCE

IT IS RECOMMENDED THAT THE CITY COUNCIL;

1. Approve the Interim City Manager's recommendation of candidate to serve in the position of Finance Director; and
2. Authorize the Interim City Manager to execute an employment agreement for Finance Director.

BACKGROUND

With former Interim Finance Director transitioning into retirement, the Interim City Manager conducted a select number of interviews to identify a candidate to fill the Finance Director position, which has been vacated by Interim Finance Director, John Ornelas, in late December.

FISCAL IMPACT/FINANCING

The incoming Finance Director will be retained through a similar agreement as the employment agreement executed for the Interim Finance Director position. Therefore, hiring of a new Finance Director will have a neutral financial impact.

The agreement will be for a period of five years terminating no later than February 14, 2023.

**CONSIDERATION AND APPROVAL OF APPOINTMENT FOR THE POSITION OF
DIRECTOR OF FINANCE**

January 16, 2018

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CONCLUSION

Upon Council approval, the Interim City Manager will execute the employment agreement for services as Finance Director.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Ricardo Reyes', with a stylized flourish at the end.

RICARDO REYES
Interim City Manager

ATTACHMENT(S)

A. Draft Employment Agreement

ATTACHMENT "A"

[CITY LOGO]

2017

EMPLOYMENT AGREEMENT

(Engagement: Director of Finance)

(Parties: City of Huntington Park and XXXX)

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into this XX day of January, 2018, by and between the CITY OF HUNTINGTON PARK ("CITY"), a California municipal corporation, and XXXX ("DIRECTOR" and sometimes referred to herein as "Employee" or "XXXX"), an individual. For the purposes of this Agreement CITY and DIRECTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or DIRECTOR interchangeably. This Agreement sets forth all terms and conditions of employment concerning the employment of XXXX to the position of Director of Finance for the City of Huntington Park, California.

RECITALS

WHEREAS, CITY desires to employ the services of XXXX as Director of Finance ("DIRECTOR") of CITY and subject to the terms, conditions, and benefits set forth in this Agreement; and

WHEREAS, the City Council of the City of Huntington Park (the "Council") and DIRECTOR believe that an agreement negotiated between the City Council, on behalf of the City, and DIRECTOR can be mutually beneficial to the City, DIRECTOR, and the community they serve; and

WHEREAS, the Council and DIRECTOR believe an agreement will enhance the excellence and continuity of the management of the City's Department of Finance for the benefit of its residents; and

WHEREAS, the City now desires to employ the services of DIRECTOR pursuant to the terms, conditions and provisions of this Agreement; and

WHEREAS, DIRECTOR has agreed to accept employment with the City, subject to the terms, conditions and provisions of this Agreement; and

WHEREAS, in accordance with the City of Huntington Park Municipal Code, both parties now desire to set forth the terms, conditions, and provisions of the employment relationship between City and DIRECTOR.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and DIRECTOR agree as follows:

OPERATIVE PROVISIONS

1. Position, Duties and Term.

1.1 Position. DIRECTOR accepts employment with CITY as its Director of Finance and shall perform all functions, duties and services set forth in Section 1.4 [Duties] of this Agreement.

1.2 Period of Employment/Commencement Date. DIRECTOR's employment with CITY shall be "at-will" pursuant to the provisions of Government Code section 36506. DIRECTOR's employment shall be subject to the provisions of this Agreement and provisions applicable to the office contained in the CITY's Municipal Code and the City's personnel rules, policies, regulations and procedures, as it may be amended from time to time. The Date for DIRECTOR's commencement to serve as Director of Finance shall be February 13, 2018.

1.3 At-Will. DIRECTOR acknowledges that he/she is an at-will employee of CITY who shall serve at the pleasure of the City Manager at all times during the period of his/her service hereunder. To the extent they conflict with his at-will status, the terms of the CITY's personnel rules, policies, regulations, procedures, ordinances, and resolutions including, without limitation, CITY's Personnel Policies, as they may be amended or supplemented from time to time, shall apply to DIRECTOR, and nothing in this Agreement is intended to, or does, confer upon DIRECTOR any right to any property interest in continued employment, or any due process right to a hearing before or after a decision by the City Manager to terminate his employment, except as is expressly provided in Section 4 [Termination] of this Agreement. Nothing contained in this Agreement shall in any way prevent, limit or otherwise interfere with the right of CITY to terminate the services of DIRECTOR as provided in Section 4 [Termination]. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of DIRECTOR to resign at any time from this position with CITY, subject only to the provisions set forth in Section 4 [Termination] of this Agreement.

1.4 Duties. DIRECTOR shall serve as the Director of Finance and shall be vested with the powers, duties and responsibilities as set forth in the job description attached to this Agreement and as defined by the City Manager, the terms of which are incorporated herein by reference, as may be amended from time to time. DIRECTOR shall provide service at the direction and under the supervision of the City Manager and City Council. It is the intent of the Parties that the Director of Finance shall keep the City Manager and City Council fully apprised of all significant ongoing operations of CITY. To that end, DIRECTOR shall report directly to the City Manager and will periodically, or as may be otherwise specifically requested by the City Council, provide oral or written status

reports to the City Council on his or her activities and those of CITY.

DIRECTOR's duties as Director of Finance shall include, but are not limited to:

- a. Attending all meetings of the City Council, including regular and special meetings, unless excused by the City Manager. The Director of Finance shall receive notice of all regular and special meetings of the City Council, and accept requests for occasional meetings with City Council member(s);
- b. Prepare agenda documents and staff reports for any regular or special meetings of the City Council pertaining to his Department;
- c. Directing the work of all Finance Department employees and endeavor to implement changes that the Director of Finance believes will result in greater efficiency, economy, or improved public service in the provision of CITY services;
- d. Recommending to the City Council from time to time the adoption of such measures as the Director of Finance may deem necessary or expedient for the health, safety, or welfare of the community or the improvement of administrative services;
- e. Conducting research in administrative practices for the Department of Finance in order to bring about greater efficiency and economy in CITY government and develop and recommend to the City Council long range plans to improve CITY operations and prepare for future CITY growth and development;
- f. Providing management training and developing leadership qualities among staff as necessary to foster a team that can plan for and meet future challenges and changes;
- g. Providing support of CITY government in emergencies as authorized by the CITY's Municipal Code and California law; and
- h. Participating in and involvement with local, regional, and statewide professional organizations beneficial to the CITY.

It is the intent of the City Council that the Director of Finance will function as the Director of the CITY's Department of Finance. DIRECTOR shall provide such other services as are customary and appropriate to the position of Director of Finance, together with such additional services assigned from time to time by the City Council or City Manager as may be consistent with California law and the CITY's Municipal Code and policies. DIRECTOR shall devote his best efforts and attention to the performance of these duties.

Notwithstanding DIRECTOR's duties as Director of Finance, nothing in this Agreement shall be construed to prohibit direct communications between the City Council and employees of the CITY in a manner consistent with the CITY's personnel rules, administrative policies and City Council policies.

1.5 Hours of Work. DIRECTOR shall devote the time necessary to adequately perform his or her duties as Director of Finance during the term of employment. DIRECTOR shall make himself or herself available by telephone at all times to the City Manager, City Council, CITY staff and members of the community. The position of Director of Finance shall be deemed an exempt position under state and federal wage and hour laws. DIRECTOR shall not be entitled to any compensation for overtime.

1.6 Other Activity. In accordance with Government Code section 1126, during the period of his employment, DIRECTOR shall not accept, without the express prior written consent of the City Council, any other employment or engage, directly or indirectly, in any other business, commercial, or professional activity, whether or not for pecuniary advantage, that is or may be competitive with CITY, that might cause a conflict-of-interest with CITY, or that otherwise might interfere with the business or operation of CITY or the satisfactory performance of DIRECTOR's duties as Director of Finance.

1.7 Term. DIRECTOR's term of employment as Director of Finance shall commence on February 13, 2018 and expire on February 14, 2023 (referred hereinafter as the "Term") and the City Council reserves the sole discretion under this Agreement to extend the Term for an additional period of time as determined by the City Council.

2. Compensation and Benefits.

Effective for the duration the time periods covered by this agreement, City agrees to compensate DIRECTOR at an annual salary of \$166,000.00. DIRECTOR will not be entitled to any additional compensation including overtime compensation. However, DIRECTOR shall receive all benefits afforded to Department Heads in current City service; including without limitation vacation time, sick leave or other leave time, and any post-employment benefits to which the DIRECTOR shall be eligible. Furthermore, DIRECTOR shall receive annual increases in benefits to the same rate/amount as received by other Department Heads. (Or as stated in the Non-Represented Employees Compensation and Benefit Plan).

In addition to the above-stated salary, DIRECTOR shall receive the following benefits:

- a. The City shall provide a cellular telephone for official use only during DIRECTOR's tenure under this Agreement.

- b. The City shall provide DIRECTOR with his/her choice of medical, dental, vision, long term disability and life insurance plans as provided to all other City employees. The City is to provide DIRECTOR with the Public Employees Retirement System (CalPERS) benefit to the corresponding formula designated by CalPERS.
- c. DIRECTOR shall be entitled to receive forty (40) hours per year of administrative leave. However, DIRECTOR may not use administrative leave hours until DIRECTOR has completed four months of employment with CITY. If this Agreement is extended to an additional year(s), any remaining administrative leave shall not carry forward to the following year(s).
- d. DIRECTOR shall be entitled to eight (8) hours of sick leave for every month of employment. In the last pay period of each fiscal year, one-half (50%) of the employee's unused accrued sick leave from that fiscal year (48 hours maximum), shall be cashed out by the City at the employee's regular rate of pay in effect on June 30th.

3. Taxes.

Employee DIRECTOR shall be responsible for his or her federal, state, local or other taxes resulting from any compensation or benefits provided to him or her by the City under this Agreement. The City may withhold all federal, state, local or other taxes as may be required pursuant to law or governmental regulation or ruling from any compensation or benefits provided under this Agreement. The City shall not be liable (except in cases of City's errors or omissions) for any state or federal tax consequences to Employee, to any designated beneficiary hereunder, and/or to the heirs, administrators, executors, successors, and assigns of Employee. Employee shall assume sole liability for any state or federal tax consequences of this Agreement or any related agreement and agrees to indemnify and hold the City harmless from such tax consequences.

4. Termination

4.1 Termination by City for Convenience.

(a) Except as otherwise provided under Subsection (b) of this Section below, CITY may terminate DIRECTOR at any time for convenience and without cause, by providing DIRECTOR thirty (30) days prior written notice thereof together with the applicable "severance payment" provided for below. In lieu of providing thirty (30) days prior written notice of termination, CITY may place DIRECTOR on paid administrative leave status during the thirty (30) day notice period or any portion thereof. CITY may dismiss DIRECTOR notwithstanding anything to the contrary contained in or arising from any Employment Policies or past CITY practices relating to the employment, discipline, or termination of its employees. The "severance payment shall be an amount equal to six (6) months base

salary or for the remainder of this agreement whichever is less, less any and all applicable or legally required deductions. DIRECTOR shall also receive all applicable accrued vacation and/or sick leave and administrative/personal leave as provided herein together with any extension of benefits required under California law. The foregoing notwithstanding, in no event shall the "severance payment" include the payment of any sums prohibited pursuant to Government Code Section 53260 and any such sums shall be deducted from the "severance payment."

- (b) Within ninety (90) calendar days of the swearing-in of a newly elected or appointed City Councilmember, CITY may not act to terminate DIRECTOR for convenience as authorized under Subsection (a) of this Section, above. The foregoing notwithstanding, nothing in this Subsection (b), shall preclude CITY from terminating DIRECTOR's employment for cause at any time as provided elsewhere under Section 4 of this Agreement.

4.2 Termination by Employee. DIRECTOR may terminate his employment for any reason, and at any time, with or without cause, by providing CITY with no less than thirty (30) days prior written notice. In such event, CITY shall have the option, in its complete discretion, to make DIRECTOR's termination effective upon any date preceding the 30-day notice period, provided CITY pays DIRECTOR all compensation due and owing him or her through the last day actually worked, plus an amount equal to the Base Salary DIRECTOR would have earned through the balance of the thirty (30) day notice period. DIRECTOR shall not receive a "severance payment" in the event he or she terminates his or her employment with CITY pursuant to this Section 4.

4.3 Termination for Cause by City. CITY may immediately terminate DIRECTOR's employment with CITY and this Agreement at any time by providing DIRECTOR written notice of his termination for cause. No "severance payment" shall be paid in the event DIRECTOR's employment is terminated for cause, except that CITY shall pay DIRECTOR for his accrued and unused vacation, sick and administrative leave, as provided for in this Agreement. For purposes of this Agreement, cause for termination shall include, but not be limited to, the following: (i) theft or attempted theft; (ii) material dishonesty; (iii) willful or persistent material breach of duties; (iv) engaging in unlawful discrimination or harassment of employees or any third party while on CITY premises or on CITY time; (v) conviction of either a felony, a criminal offense involving moral turpitude, or a felony or misdemeanor under the Political Reform Act or Government Code section 1090; and/or (vi) unauthorized absences. DIRECTOR expressly waives any right to any pre-termination or post-termination disciplinary, review or appeal proceedings set forth under CITY's Employment Policies. DIRECTOR also expressly waives any right to any pre-termination or post-termination disciplinary, review or appeal proceedings set forth under the laws of the State of California or federal law, except to the extent that the contractual waiver contemplated herein is prohibited by applicable law.

4.4 Termination Obligation. DIRECTOR agrees that all property, including without limitation, all equipment, tangible, Proprietary Information (as defined below),

documents, records, notes, contracts, and computer-generated materials furnished to or prepared by him incident to his employment are the property of CITY and shall be returned promptly to CITY upon termination of DIRECTOR'S employment. DIRECTOR 's obligations under this subsection shall survive the termination of his employment and the expiration or early termination of this Agreement.

4.5 Benefits Upon Termination. All benefits to which DIRECTOR is entitled under this Agreement shall cease upon DIRECTOR's termination in accordance with this Section 4 (Termination), unless expressly continued under this Agreement, under any specific written policy or benefit plan applicable to DIRECTOR, or unless otherwise required by law.

4.6 Cessation of Work Due to Non-Permanent Illness or Injury. In addition to any right of termination set forth under Sections 4.1, above, CITY reserves the right to terminate DIRECTOR's employment along with this Agreement if DIRECTOR ceases to work as a result of illness or injury: (i) which does not arise out of the course of employment; (ii) which does not limit a major life activity within the meaning of California's Fair Employment and Housing Act; and (iii) where the cessation of work continues beyond a period of twenty (20) consecutive days beyond a period of thirty (30) consecutive days of incapacity due to the illness or injury.

4.7 Disability. In addition to any right of termination set forth under Section 4.1, above, CITY reserves the right to terminate DIRECTOR's employment along with this Agreement after DIRECTOR suffers any physical or mental disability that does not arise out of the course of employment and that prevents the performance of DIRECTOR's essential job duties, unless reasonable accommodation can be made to allow DIRECTOR to continue working. The foregoing notwithstanding, CITY may terminate DIRECTOR if the disability poses a direct threat to CITY, DIRECTOR or any other employees working for CITY and any reasonable accommodation attempted by CITY would not mitigate or eliminate such a threat.

4.8 Illness, Injury or Disability Arising Out of the Course of Employment. In the event DIRECTOR suffers a physical or mental disability arising out of the course of employment, CITY's ability to terminate DIRECTOR solely and exclusively on the basis of the illness, injury or disability shall be subject to applicable workers' compensation laws for the State of California, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and the California Fair Employment and Housing Act. Further, DIRECTOR 's exclusive remedy or remedies against CITY for such illness, injury or disability shall be those legally required under the workers' compensation laws of the State of California.

4.9 Medical Examination. DIRECTOR agrees to submit to a medical and/or psychological examination by a qualified physician or psychiatrist selected by the CITY, in the event a decision must be made under Sections 4.6 through 4.8. CITY and DIRECTOR shall receive a copy of all medical reports related to the examination.

4.10 Death of Employee. This Agreement along with DIRECTOR 's employment shall terminate automatically upon DI RECTOR 's death.

5. Annual Evaluation.

At a time agreed upon by the City Manager and DIRECTOR, the City Manager will annually review and evaluate the performance of DIRECTOR as Finance and may use an experienced professional outside facilitator mutually agreed upon by the City Council and DIRECTOR to do so. The purpose of the review shall be to provide DIRECTOR with feedback on his or her performance, including the performance of the duties set forth in Section 1.4 above, progress in meeting, achieving, or exceeding City Council defined goals, objectives, priorities, activities, and programs, and to identify areas requiring improvement and how such improvement may be accomplished. In conducting the performance evaluation and considering adjustments to DIRECTOR's compensation, the City Council may consider, among other things, DIRECTOR's:

- a. overall performance as Director of Finance, including leadership and management skills;
- b. professional ethics;
- c. progress in meeting, achieving, or exceeding City Council defined goals, objectives, priorities, activities, and programs;
- d. involvement in local, regional, and statewide organizations beneficial to the CITY;
- e. the financial feasibility or desirability of authorizing any proposed adjustment to compensation in light of current and/or projected economic conditions, including whether the CITY is operating with a balanced budget;
- f. prevailing job market conditions and compensation trends; and
- g. such other factors as the City Manager may find relevant.

The City Council shall at all times retain discretion to agree to or deny any proposed increase to DIRECTOR's compensation terms, notwithstanding the findings or determinations of any performance review. Failure of CITY to provide a performance evaluation shall not limit CITY's ability to terminate this Agreement pursuant to Section 4 [Termination].

6. Business Expenses.

The CITY shall reimburse DIRECTOR for all reasonable CITY related business expenses incurred by him/her in accordance with submittal, processing, and payment policies of the CITY.

7. Professional Membership and Training Expenses.

Upon obtaining prior consent from the City Council, CITY shall reimburse DIRECTOR for reasonable expenses associated with DIRECTOR's membership, training, and travel to participate in local, regional, and statewide organizations beneficial to the CITY.

8. Business Related Equipment

(a) CITY CELL PHONE AND IPAD. CITY shall provide DIRECTOR with a CITY-owned cellular phone, laptop or Apple iPad and requisite service plan for both, at no cost to DIRECTOR, in so far as such CITY-provided equipment is necessary for the performance of CITY related business and is, in fact, used exclusively for CITY business. DIRECTOR shall return the cellular phone and the laptop or iPad to the CITY upon the expiration or termination of this Agreement or upon request by the City Council. CITY shall have the right to inspect all equipment usage bills and demand compensation for any charges incurred in violation of this Agreement.

(b) PERSONAL CELLULAR PHONE. DIRECTOR acknowledges that, as of the Effective Date, he or she possesses a personal cellular phone and plan for his personal use and shall maintain such personal cellular phone and plan for the duration of this Agreement to ensure that usage of the CITY-provided cellular phone is strictly for CITY-related business.

(c) CELLULAR PHONE AND IPAD USE. DIRECTOR shall at all times follow applicable state or federal laws or regulations regarding the use of the CITY provided laptop or iPad and cellular telephone and will be subject to the CITY's usage policies for such equipment.

(d) PRIVACY. All the documents and information contained in, or transmitted from the CITY-provided cellular phone and laptop or iPad, including but not limited to text messages, voicemail messages, electronic mail messages and electronically stored documents, are the property of the CITY and may be accessed by the CITY at any time without notice to DIRECTOR. DIRECTOR understands and acknowledges that he or she has no right to privacy when using the CITY provided cellular phone or iPad.

9. Proprietary Information.

"Proprietary Information" means all information and any idea pertaining in any manner to the business of CITY and its respective officials, officers, employees, clients, consultants, or business associates, which was produced by any employee or agent of CITY in the course of his or her employment or otherwise produced or acquired by or on behalf of CITY. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formula, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, forecasts and customer lists. All Proprietary Information not generally known

outside of CITY's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." During his employment by CITY, DIRECTOR shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of CITY and as is or may be necessary to perform his job responsibilities under this Agreement. Following termination, DIRECTOR shall not use any Proprietary Information and shall not disclose any Confidential Information, except with the express written consent of CITY. DIRECTOR obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

10. Conflict of Interest.

DIRECTOR shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of CITY, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without prior approval of the City Manager. DIRECTOR shall also be subject to the conflict of interest provisions of the Government Code of the State of California, the City's Municipal Code, and any other conflict of interest regulations applicable to DIRECTOR employment with the City. For and during the Term of this Agreement and any extension term, DIRECTOR further agrees that except for a personal residence or residential property acquired or held for future use as his personal residence, DIRECTOR will not invest in any other real estate or property improvements within the corporate limits of CITY without the prior consent of the City Manager.

GENERAL PROVISIONS

11. Notices .

All notices, requests, demands and other communications under this Agreement shall be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to CITY at the address below, and or at the last known address maintained in DIRECTOR personnel file. DIRECTOR agrees to notify CITY in writing of any change in his address during his employment with CITY. Notice of change of address shall be effective only when accomplished in accordance with this Section.

CITY's Notice Address:

City of Huntington Park
6550 Miles Avenue
Huntington Park, California 90255
Attn: Mayor and City Clerk

Director of Finance's Address: [Deliver to last updated address in personnel file]

12. Indemnification.

Subject to, in accordance with, and to the extent provided by the California Tort Claims Act (Government Code Section 810 et seq.) CITY will indemnify, defend, and hold DIRECTOR harmless from and against any action, demand, suit, monetary judgment or other legal or administrative proceeding, and any liability, injury, loss or other damages, arising out of any negligent act or omission occurring during the Term of this Agreement or any extension term. The City shall have the discretion to compromise or settle any such claim, demand or action and pay the amount of any settlement or judgment rendered thereon. Notwithstanding the foregoing, the City shall have no duty to indemnify, defend, or hold DIRECTOR harmless from any criminal proceeding, or with regard to any civil, criminal or administrative proceeding initiated by him.

13. Bonding.

CITY shall bear the full cost of any fidelity or other bonds required of the Director of Finance under any laws or ordinance.

14. Entire Agreement.

This Agreement is intended to be the final, complete, and exclusive statement of the terms of DIRECTOR employment by CITY. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of DIRECTOR, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of CITY, now or in the future, apply to DIRECTOR and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control. However, as noted in Section 2.8 above, DIRECTOR shall be eligible to participate in any other CITY programs/employment benefits to the extent they are offered to non-represented CITY employees.

15. Amendments.

This Agreement may not be amended except in a written document signed by DIRECTOR, approved by CITY and signed by City Attorney.

16. Waiver.

Failure to exercise any right under this Agreement shall not constitute a waiver of such right.

17. Assignment.

DIRECTOR shall not assign any rights or obligations under this Agreement. CITY may, upon prior written notice to DIRECTOR, assign its rights and obligations hereunder.

18. Severability. If any court of competent jurisdiction holds any provision of this

Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

19. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the Parties agree that venue shall be in Los Angeles County, California.

20. Interpretation.

This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended or modified only by an instrument in writing; executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest, or assert that this Agreement was modified, cancelled superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

21. Acknowledgment.

DIRECTOR acknowledges that he or she has had the opportunity to consult legal counsel in regard to this Agreement, that he or she has read and understands this Agreement, that he or she is fully aware of its legal effect, and that he or she has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

SIGNATURE PAGE TO FOLLOW

REMAINDER OF PAGE BLANK INTENTIONALLY

IN WITNESS WHEREOF, CITY has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested to by its City Clerk, and DIRECTOR has signed and executed this Agreement, as of the date first indicated above.

CITY OF HUNTINGTON PARK

EMPLOYEE/DIRECTOR

CITY OF HUNTINGTON PARK

DRAFT