

EMPLOYMENT AGREEMENT (CITY MANAGER)

This City Manager Employment Agreement (“Agreement”) is made and entered into this 8 day of March, 2018 (“Execution Date”), by and between the City of Glendale, a California charter city and municipal corporation (hereinafter referred to as the “City”), and Yasmin K. Beers (hereinafter referred to as “City Manager” or “Beers”). City and City Manager are sometimes referred to herein as the “Parties.”

WHEREAS, on February 20, 2018, City, acting through its City Council, appointed Beers as its City Manager to perform the duties and responsibilities of City Manager as described in the Glendale City Charter, Glendale Municipal Code and ordinances and resolutions of the City; and

WHEREAS, Beers desires to be employed as the City Manager; and

WHEREAS, City and Beers desire to enter into this Agreement to establish the terms of Beers’ employment relationship with City.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. **Effective Date.** The terms of this Agreement are effective as of, and retroactive to, February 20, 2018 (“Effective Date”).

2. **Employment.** The City hereby agrees to employ Beers as the City Manager of the City of Glendale in an at-will capacity, subject to the terms of this Agreement, to perform the functions and duties specified in the City Charter, the Glendale Municipal Code, the Ordinances, Resolutions, and Motions of the City Council, the policies of the City of Glendale, and to perform such other legally permissible duties and function as the City Council shall assign from time to time.

3. **Term.**

a. **Initial Term:** The Initial Term of this Agreement shall commence on February 20, 2018, and end on February 19, 2023 (“Initial Term”), unless terminated sooner in accordance with Section 10 hereof.

b. **Extension of Term.** Not less than eighteen (18) months prior to the expiration of the Initial Term (no later than August 20, 2021), the City Council shall provide notice to Beers in writing as to whether it intends to negotiate an extension of the Term by way of future amendment of this Agreement (“Extension Negotiation Notice”). If the City Council provides such Extension Negotiation Notice, the Parties shall negotiate an amendment to this Agreement, in good faith and at their own cost that extends the Term of this Agreement at terms mutually agreeable to the Parties. If

the Parties fail to agree to an amendment to the Term of this Agreement on mutually agreeable terms within ninety (90) days of the date of the Extension Negotiation Notice, then the Parties will cease negotiations. If, for any reason, the City declines to issue the Extension Negotiation Notice or the Parties fail to agree to an amendment to the Term of this Agreement on mutually acceptable terms within ninety (90) days of the date of the Extension Negotiation Notice, then this Agreement shall expire as of the end of the Initial Term. If this Agreement expires at the end of the Initial Term, then City Manager shall not be entitled to any severance, pay-out, cash out or any other compensation, other than vacation and other amounts accruing hereunder or under City policies that may be cashed out in accordance with City policies applicable to Executives.

4. Salary

a. Commencing on, and retroactive to, the Effective Date, the City Manager's base salary shall be Two Hundred Seventy-Eight Thousand Dollars (\$278,000) per year (or \$23,166.67 per month). The City Manager's salary shall be subject to withholding and other applicable taxes, and shall be payable to City Manager at the same time as other employees of the City are paid.

b. Commencing on February 20, 2019, City shall increase City Manager's base salary by five percent (5%).

c. On or before August 20, 2021, City Council will – in connection with a performance evaluation - give reasonable, good faith consideration to a salary increase in an amount set by Council in its discretion. In the event the City Council agrees to grant a salary increase in accordance with this paragraph, the City agrees it will conduct a salary survey of comparable cities used by the City for salary comparison purposes for the purpose of informing its decision, provided that the amount of salary adjustment, if any, shall be left to the reasonable, good faith discretion of the Council. By way of example but not limitation, as of the Execution Date of this Agreement, the comparison cities used to survey the City Manager's salary are: Anaheim, Burbank, Garden Grove, Huntington Beach, Inglewood, Long Beach, Pasadena, Santa Ana, Santa Monica, and Torrance.

d. Any other cost of living, merit and/or other salary adjustments provided to Beers may be made in the discretion of the Glendale City Council.

5. Retirement. The City is a member of the Public Employees Retirement System (PERS). Beers is a "classic" employee for purposes of the California Public Employees' Pension Reform Act of 2013 ("PEPRA") and the City Manager's retirement formula shall be "2.5% at 55." By way of reference, as of the date of this Agreement, "classic" miscellaneous employees in the City (those hired before January 1, 2011 and in a public retirement system prior to January 1, 2013) pay the employee's share equal to eight percent (8%) of the employee's gross salary and the portion of the employer's share equal to four percent (4%) of gross salary.

6. Automobile Allowance. City shall pay City Manager an automobile allowance in accordance with the auto allowance program for City Executives.

7. Benefits. City Manager shall receive all benefits, including but not limited to medical, dental, vision, vacation, sick leave, life insurance, and executive leave, all in accordance with City ordinances, resolutions policies and programs applicable to Executives.

8. Duties and Powers of City Manager; Roles of Council and City Manager. City Manager shall have, and shall carry out, the powers and duties of the City Manager as set forth in the Glendale City Charter, Glendale Municipal Code, and all ordinances, resolutions, motions, and administrative policies enacted thereunder.

a. Recruitment and Appointment of Executives. City Manager shall, subject to the Charter and applicable civil service rules, engage in the recruitment and selection of appointed Executives (except City Attorney and City Manager) to fill a vacancy in a position caused by termination, resignation, retirement or for any other reason. Other than to comply with applicable law (e.g. appropriating funds for an executive search firm) that would require Council approval of a specific action, the authority to recruit and select Executives shall lie with the City Manager, subject only to the City Council's authority - under the City Charter - to either approve or reject the Assistant City Manager or Department Heads as those terms are defined in the City Charter.

b. Evaluation of Department Heads and Executives. The City Manager shall conduct annual evaluations of the performance of appointed executives (other than the City Attorney and City Manager). The City Council will not perform, or participate in the evaluations, but will hold the City Manager accountable for performing the evaluations and for ensuring that the executives are meeting the goals, policies and expectations of the City Council and the City Manager.

c. Adjustment of Salaries for Executives. The City Manager may, without advice, recommendation or objection from the City Council determine and provide pay adjustments anywhere within the salary ranges established for Executive employees (except the City Manager, City Attorney, City Clerk and City Treasurer) pursuant to the classification and compensation resolution then in effect for Executives.

d. Council Interference with City Manager Duties. Neither the City Council nor any of its members shall interfere with the execution of the powers and duties of the City Manager as provided in the City Charter, Glendale Municipal Code, or this Agreement. The provisions set forth in this Section 8 are set forth herein for the purpose of further defining the roles, duties and limitations of the City Council and City Manager under the City Charter, Glendale Municipal Code, applicable City policy and this Agreement, with respect to the matters referenced in this Section 8. A violation of any provision of this Section 8 shall not constitute a breach of this Agreement and shall

not give rise to any cause of action for declaratory, injunctive relief or any other form of judicial relief, or to any a claim or suit for damages; provided, however, the City Council's disapproval or rejection of the City Manager's selection of Assistant City Manager or Department Heads will trigger the severance provisions as described and limited in Section 11 of this Agreement. Nothing herein shall be construed as altering the at-will nature of the City Manager position, or limit the City's ability to terminate City Manager's employment, with or without cause, subject only to the limitations in the Charter, Glendale Municipal Code, and the provisions of Sections 10 and 11 hereof.

9. Performance Evaluations of City Manager

- a. Annual performance evaluations are an important way for the City Council and City Manager to ensure effective communications about expectations and performance.
- b. The City Council recognizes that for the City Manager to respond to its needs and to grow in the performance of the City Manager's job, City Manager needs to know how the City Council Members evaluate the City Manager's performance.
- c. To assure that the City Manager gets this feedback, the City Council shall conduct an evaluation of City Manager's performance at least once each year. The City and the City Manager agree that performance evaluations, for the purpose of providing additional input and feedback, may occur quarterly or several times during each calendar year. The Parties may use an outside facilitator paid by City funds to assist them in conducting this evaluation, upon the mutual agreement of the City Council and the City Manager, to be paid by the City.
- d. The annual evaluation shall occur between July 1 and mid-September of each year, to coincide with the completion of the City's budget adoption process. During the annual evaluation process, the City Manager and the City Council will create goals or other outcome measures that will provide the basis for assessing the next year's performance.
- e. The annual review and evaluation shall be in accordance with specific criteria developed jointly by the City Council and the City Manager. Such criteria may be added to or deleted as the City Council may from time to time determine in consultation with the City Manager.
- f. The City Council and the City Manager shall define such goals and performance objectives as they mutually determine are necessary for the proper operation of the City for the attainment of the City Council's policy objectives, and the City Council and City Manager shall further establish a relative priority among those goals and performance objectives.

10. Termination of Agreement:

a. Voluntary Resignation by City Manager: City Manager may voluntarily resign her position as City Manager, after giving City at least forty-five (45) days written notice prior to the effective date of such resignation, unless such notice is waived in whole or in part by the City Council. In the event the City Manager resigns from her employment, other than the provisions of this Agreement that are intended to survive termination, this Agreement shall terminate and City Manager shall not be entitled to any Severance, which is authorized under Section 11 hereof for involuntary terminations only.

b. At Will Employment; Termination by Council: The position of City Manager is an at-will position. This Agreement does not grant the City Manager any property interest in continued employment with the City. The City Council may, by majority vote of the Council, remove the City Manager and terminate this agreement at any time, with or without cause. Notice of termination shall be provided to the City Manager in writing, provided adoption of a motion, certified by the City Clerk, shall constitute a sufficient writing. Notwithstanding the foregoing, pursuant to Article IX, Section 1 of the City Charter, the Council shall not remove, suspend or ask for the resignation of the City Manager within one hundred thirty-five (135) days after a council election except by unanimous vote of the entire Council.

11. Severance Terms: Notwithstanding Section 10(b), should the City Manager's employment be involuntarily terminated by the City at any time, for any reason other than the reasons set forth in subsection 11c. below, City shall pay City Manager severance benefits as follows:

a. City shall pay City Manager a lump sum payment equal to twelve (12) months of City Manager's then monthly salary ("Severance Lump Sum Payment").

b. In addition, the City shall extend to the City Manager the right to continue health insurance as may be required by and pursuant to the terms and conditions of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). The City agrees to pay Beers' COBRA coverage for the same number of months (12) for which the City Manager is entitled to lump sum payment above, or until Beers either secures full-time employment or obtains other health insurance, whichever of these three events first occurs ("COBRA payments"). The Severance Lump Sum Payment and the COBRA payments shall together be referred to herein as the "Severance." Beers shall notify the City within five days of securing new full-time employment or insurance.

c. Notwithstanding subsections b. and c., in the event the Council terminates this Agreement and removes City Manager, City Manager shall not be entitled to payment of the Severance, or any portion thereof, if the City Manager:

i. Is convicted of a felony or convicted of any crime, felony or

misdemeanor, involving moral turpitude or illegal personal gain to City Manager; or

- ii. Is determined by a court of competent jurisdiction or the State of California Fair Political Practices Commission in which she had a conflict of interest as defined in Government Code Section 87100, *et seq.* or Government Code Section 1090 *et seq.*; or
- iii. Engages in the continued abuse of drugs or alcohol that materially affects the performance of the City Manager's duties; or
- iv. Has repeated and protracted unexcused absences from the City Manager's office and duties.

d. City's obligation to pay the Severance is subject to and will not be paid until the City Manager executes a waiver and release agreement substantially similar to that one set forth as Exhibit "A" to this Agreement, attached hereto and incorporated herein by this reference.

e. For purposes of this Section 11 only, involuntary termination requiring payment of the Severance shall include:

- i. A vote by a majority of Council to remove or terminate the City Manager or ask for her resignation at any time, with or without cause, other than for the reasons set forth in subsection c. above; or

- ii. At the City Manager's election, a decision of the Council to disapprove or reject (which includes failure to approve in timely manner) of the City Manager's selection of Assistant City Manager or a Department Head (as those terms are defined in the Charter); provided, however, City Manager must (x) notify the City Council within one (1) week of her decision to treat the Council's rejection, disapproval or failure to approve as an involuntary termination, and (y) participate in good faith in a mediation or facilitation with the City Council (mediator/facilitator to be paid by the City and selected mutually by Council and City Manager) over the disagreement between the Council and the City Manager regarding the City Manager's selection of Assistant City Manager or Department Head and the Council's subsequent rejection of said candidate.

f. Repayment of Severance in the Event of Conviction of Abuse of Office. As required by Government Code Section 53243.3 (or any successor provision), in the event the City has paid the Severance and City Manager is subsequently convicted of a crime involving the abuse of her office or position as City Manager of Glendale, then City Manager shall full reimburse the City for all cash payments made under the Severance provisions of this Agreement. As used herein, "abuse of office or position" shall have the meaning ascribed to it under Government Code Section 53243.4 (as may be amended or under any successor provision), which currently means either "an abuse of public authority, including but not limited to, waste, fraud, and violation of the law under color of authority", or "a crime against public justice, including but not limited to a crime in Title 5 (commence with Section 67), Title 6 (commencing with Section 85),

or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.”

12. Indemnification. City shall defend and indemnify City Manager and pay any costs, legal fees, and judgments assessed against City Manager arising out of an act or omission occurring in the course and scope of City Manager’s performance of her duties under this Agreement. Notwithstanding the foregoing, however, City shall not be required to defend or indemnify City Manager for claims, actions, damages, fees or actions when defense or indemnity is prohibited, restricted or limited by law, including without limitation California Government Code Sections 825 and 995.2 through 995.8.

13. Abuse of Office or Position. Pursuant to Government Code Sections 53243, 53243.1 and 53432, which became effective on January 1, 2012, if City Manager is convicted of a crime involving an abuse of her office or position, all of the following shall apply: (1) if City Manager is provided with administrative leave pay pending any investigation, City Manager shall be required to fully reimburse City such amounts paid; (2) if City pays for the criminal legal defense of City Manager (which would be in City’s sole discretion, as it is generally not obligated to pay for a criminal defense), City Manager shall be required to fully reimburse City such amounts paid; and (3) if this Agreement is terminated, any Severance payments related to the termination that City Manager may receive from City shall be fully reimbursed to City or void if not yet paid to City Manager. For purposes of this Section 13, “abuse of office or position” means either: (1) an abuse of public authority, including but not limited to, waste, fraud, and violation of the law under color of authority, or a crime against public justice, including but not limited to a crime in Title 5 (commence with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

14. Memberships, Conferences, Teaching and Speaking (Professional Development): City shall pay for City Manager’s membership in traditional organizations of benefit to a City Manager and the City, including the League of California Cities (“LCC”) and International City Managers’ Association (“ICMA”), and other organizations as determined necessary and appropriate by Beers for the professional enrichment of the City Manager and benefit to the City, subject to the Management Services Department budget. City shall pay for registration, travel, accommodations, meals, etc. for LCC and ICMA conferences and other conferences, as deemed reasonably necessary by the City Manager and subject to the departmental budget. City further agrees to pay for membership dues or other related costs associated with Glendale-related service or civic organizations to which City Manager joins and that benefit Glendale, to the extent within the Management Services budget and consistent with the City’s expense reimbursement policy. To the extent consistent with her duties and time commitments as City Manager, City Manager may teach and/or speak occasionally in academic or training programs within her area of substantive expertise.

15. Integration of Agreement. This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning City Manager's employment with the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, that are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

16. Amendments. Amendments to this Agreement are effective only upon City Council and City Manager's express written approval.

17. Notices. All notices pertaining to this Agreement shall be sent to:

BEERS: Yasmin Beers
At the most recent address on file in Beers'
Personnel file held by the City.

CITY: City Clerk
City of Glendale
613 East Broadway, Suite 100
Glendale, California 91206

COPY TO: City Attorney
City of Glendale
613 East Broadway, Suite 220
Glendale, California 91206

Such notice shall be deemed made when personally delivered, transmitted by facsimile, or when mailed, 48 hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

18. Survival Provisions. Many sections of this Agreement are intended by their terms to survive the City Manager's termination of employment with the City, such as Sections 11, 12 and 13. These sections, and the others so intended, shall survive termination of employment and termination of this Agreement.

19. Severability and Interpretation of Contract Terms. It is the intent of the parties that the sentences, paragraphs and provisions of this Agreement are severable. Should one or more sentences, paragraphs or provisions of this Employment Agreement be found to be unenforceable, the unenforceable sentences, paragraphs or provisions shall be severed and the remaining sentences, paragraphs or provisions shall be given full force and effect. This Agreement shall be interpreted and construed

pursuant to and in accordance with the local laws of the State of California and all applicable City Codes, Ordinances and Resolutions.

[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, City and City Manager have caused this City Manager Employment Agreement to be executed this _____ day of March, 2018.

“City”

City of Glendale, a charter city and municipal corporation

Dated: 03/08/2018

By: Vartan Gharpetian
Vartan Gharpetian
Mayor

“City Manager”
Yasmin K. Beers

Dated: 3/7/18

By: Yasmin K. Beers
Yasmin K. Beers

APPROVED AS TO FORM

Michael J. Garcia
CITY ATTORNEY
DATE 3/7/18

EXHIBIT "A"

FORM OF WAIVER AND RELEASE

I, the undersigned, do hereby acknowledge and attest that I have read and understood section 10 of my City Manager Employment Agreement with the City of Glendale and hereby agree that by accepting twelve (12) months lump sum of current salary (\$_____ [12 x current monthly base salary] along with up to twelve (12) months of COBRA payments as described in said Amended and Restated Employment Agreement (together, the "Severance"), I agree to waive all rights to further claims, remedies, or legal action against the City, its officers and employees.

In exchange for receipt of the Severance, I and my representatives, heirs, successors, and assigns do hereby completely release and forever discharge the city of Glendale and its related entities and their present and former officers, directors, council members, agents, employees, attorneys, and successors (collectively, "Released Parties") from all claims, rights, demands, actions, obligations, liabilities, and causes of action of every kind and character, known or unknown, mature or unmatured, which I may have now or in the future arising from any act or omission or condition occurring on or prior to the date this waiver is signed whether based on tort, contract (express or implied), or any federal, state, or local law, statute, or regulation (collectively, the "Released Claims"). Released Claims shall also include, but not be limited to, claims for wages or other compensation due, severance pay, bonuses, sick leave, vacation pay, life or health insurance, or any other fringe benefit.

Employee knowingly and voluntarily waives any and all rights or benefits that she may now have, or in the future may have, under the terms of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HER SETTLEMENT WITH THE DEBTOR.

By initialing below, the Employee acknowledges that she has read and understands this waiver and voluntarily and knowingly is waiving her right under Section 1542 to pursue unknown or unanticipated claims, rights, demands, actions, obligations, liabilities and causes of action of any kind.

Initials of Employee

Employee shall not file any claim, sue or initiate against any Released Party, any

compliance review, action, or proceeding or participate in the same, individually or as a member of a class, under any contract (express or implied), or any federal, state, or local law, statute, or regulation pertaining in any manner to the Released Claims.

Yasmin K. Beers