

**CITY MANAGER EMPLOYMENT AGREEMENT NO. 21 - \_\_\_\_\_**

This City Manager Employment Agreement No. 21-\_\_\_\_\_ (the "Agreement") is made by and between the City of Industry, State of California, a municipal corporation and charter city (hereinafter, the "City") and Joshua Nelson, an individual, (hereinafter, "Nelson"). City and Nelson are hereinafter collectively referred to as the "Parties" and individually as "Party."

**RECITALS**

The City desires to employ the services of Nelson in the capacity of City Manager and further desires to assure the service of Nelson by establishing herein certain salary and limited benefits, and other terms and conditions of his employment. The City also desires to have Nelson serve as the Transition Manager during the term of June 1, 2021, through and including August 2, 2021, working with the current City Manager.

Nelson accepted employment as Transition Manager effective on June 1, 2021, through and including August 2, 2021, and desires to accept employment as City Manager effective on August 3, 2021, under the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the mutual covenants, promises, and representations hereinafter set forth, the parties hereto do now agree as follows:

**SECTION I**  
**DUTIES**

- A.** Since June 1, 2021, Nelson has served as Transition Manager at the same rate of pay and benefits as set forth below. He shall work with the current City Manager in effectuating a smooth transition for the assumption of the overall responsibility for management and administration of the City as set forth in the Industry Charter and the Industry Municipal Code (collectively, the "Code") and to perform such other legally permissible and proper duties and functions as the Industry City Council ("City Council") may from time-to-time assign.
- B.** Effective on August 3, 2021, the City hereby agrees to employ Nelson as City Manager conferring upon and delegating to Nelson the overall responsibility for management and administration of the City as set forth in the Code and to perform such other legally permissible and proper duties and functions as the City Council may from time-to-time assign.
- C.** Nelson accepts employment as City Manager and agrees to serve as such commencing on August 3, 2021. Nelson shall serve as an officer of the City pursuant to the authority set forth in applicable State law and the Code. Nelson shall be responsible for attending all regular, adjourned regular and special City Council and Successor Agency meetings or other meetings of City agencies and commissions, which are generally held on the second and fourth Thursdays of each month, all City Council agenda meetings, Department Head meetings, First District Consolidated Oversight Board meetings and provide regularly scheduled office hours at City Hall.

D. Nelson shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession. He shall comply with and carry out the City's rules and regulations and he shall obey the laws of the State of California and the United States of America as they apply to the performance of his duties.

E. Nelson shall devote his full energies, interest, abilities, and productive time to the performance of this Agreement and shall not, without the City's prior written consent, render services of any kind to others for compensation or engage in any other activity more than four (4) hours per week which would materially interfere with the performance of his duties under this Agreement.

F. Nelson shall not engage in any activity which is or may become a conflict of interest with his obligations to the City or which might create an incompatibility of office as defined under California law. He shall also complete and file financial disclosure statements immediately upon entry into his employment and annually thereafter pursuant to California law.

## SECTION II TERM

A. The term of this Employment Agreement shall become effective on August 3, 2021 and will remain in full force and effect until August 2, 2024, unless otherwise terminated as set forth herein.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of Nelson at any time, subject only to the provisions set forth in Section IV of this Agreement.

C. The parties recognize and affirm that: 1) Nelson is an "at will" employee whose employment may be terminated by the City without cause; 2) there is no express or implied promise made to Nelson for any form of continued employment; and 3) this Agreement is the sole and exclusive basis for an employment relationship between Nelson and the City.

D. Nelson agrees to remain in the exclusive employ of the City during the term of this Agreement. This Agreement shall not be construed to preclude incidental and occasional teaching, writing, or consulting performed by Nelson. Furthermore, this Agreement shall not be construed to preclude volunteer work performed by Nelson, so long as the provisions set forth in Section I, paragraphs (E) and (F) of this Agreement are not violated.

## SECTION III COMPENSATION

A. Effective as of June 1, 2021, the City agrees to pay Nelson for his services rendered hereunder at an annual rate of Two Hundred Sixty Thousand 00/100 Dollars (\$260,000.00), which sum shall be considered the base salary and shall be payable in installments at the same times as the City's other employees are paid, and subject to customary withholdings.

**B.** The City agrees to that Nelson's base salary shall be adjusted should any future cost of living increases be awarded to regular full-time employees and may consider adjusting said base salary and other benefits of Nelson, in the City's sole discretion, subject to the performance evaluation process described in this Agreement or any applicable City Council policy, which shall be merit based.

**SECTION IV**  
**TERMINATION AND SEVERANCE PAY**

**A.** The City Council may terminate this Agreement for convenience in its absolute discretion at any time with or without notice to Nelson, except as set forth in the applicable provisions of the Code. If Nelson is terminated by the City Council for (1) refusing or failing to carry out the duties of the City Manager as set forth in the Government Code, the Code or herein; (2) conviction of a felony; (3) conviction of any illegal act involving moral turpitude or personal gain; or (4) a plea of nolo contendere to any felony or illegal act involving moral turpitude or personal gain, the City shall have no obligation to provide any notice to Nelson and Nelson shall not be entitled to severance pay as set forth herein. Nelson may terminate this Agreement at any time with or without cause, provided he gives the City Council no less than 14 days advance written notice prior to the effective date of termination, unless a shorter period is acceptable to the City Council. Voluntary resignation by Nelson shall result in a loss of any and all severance pay to him by the City.

**B.** In the event Nelson is terminated by the City Council and Nelson is willing and able to perform the duties of City Manager, the City shall pay Nelson a lump sum cash payment, or payment in equal installments over a twelve (12) month period, at the option of Nelson, equal to the Nelson's then twelve months' base salary. Such severance, as set forth herein, is contingent upon Nelson signing and delivering a general release and waiver of all claims against the City (including and without limitation to its former and current elected officials, employees, officers and agents). Such severance shall be payable on the tenth (10<sup>th</sup>) day after the general release and waiver is fully executed by the City and Nelson. Any severance amount paid pursuant to this Agreement shall be subject to the restrictions set forth in Government Code Sections 53260 and 53261 or any successor statutory restrictions.

**SECTION V**  
**EVALUATION OF PERFORMANCE**

**A.** The City Council shall review and evaluate the performance of Nelson as set forth in applicable City Council policies and/or at least annually but not later than June 15 of each year of this Agreement or at other times chosen by the City Council in its sole discretion. Said review and evaluation shall be in accordance with specific criteria developed by the City Council with consultation from Nelson. Said criteria may be added to or deleted from as the City Council may from time to time determine, in consultation with Nelson. Further, the City Council shall provide Nelson with a summary written statement of the findings of the City Council and provide an adequate opportunity for Nelson to discuss his evaluation with the City Council.

**B.** The City Council and Nelson shall periodically define such goals and performance objectives which they determine necessary for the proper operations of the City and in the

attainment of the City Council policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be reasonably attainable within the time limitations as specified in the annual operating and capital budgets and appropriations provided.

**SECTION VI**  
**AUTOMOBILE**

During the term of this Agreement, the City shall pay Nelson \$300.00 every two weeks as an automobile allowance. Nelson shall be eligible for the monthly automobile allowance only if he possesses a valid California driver's license and maintains all legally required insurance coverage established by the State of California and, on an annual basis, provides proof of his valid license and insurance coverage to the City Clerk.

**SECTION VII**  
**VACATION, SICK AND OTHER SUPPLEMENTAL BENEFITS**

- A.** Except as modified herein, during the term of this Agreement, the City shall provide Nelson with vacation, sick and holiday pay in the same manner as provided to all other City employees.
- B.** Nelson shall accrue vacation at the rate of 6.5 hours every two weeks of service with no limits on the number of hours accrued. Nelson shall accrue sick leave at the rate of 5 hours every two weeks, with no limits on the number of hours accrued. At Nelson's option, Nelson may receive a cash payment for any unused vacation and sick leave hours as set forth in the City's then in effect Employee Handbook. The cash payment shall be at the Nelson's then current rate of pay. In addition, Nelson, upon execution of this Agreement, shall receive a one-time accrual of 144 hours of vacation.
- C.** During the term of this Agreement, as permitted under law, the City shall pay for Nelson's and the City's contributions to membership in the California Public Employees Retirement System ("CalPERS").
- D.** Nelson may elect to participate in a 457 Deferred Compensation Retirement Plan. The City, on an annual basis, but no later than November 1, of each year of this Agreement, shall make a contribution of not less than the Internal Revenue Service maximum amount for which Nelson is eligible on Nelson's behalf to his account with the 457 Deferred Compensation Retirement Plan of Nelson's choice.
- E.** The City shall provide Nelson other benefits as mandated by law.
- F.** Upon the effective date of this Agreement, Nelson shall be eligible for 36 hours of management leave which may be used at Nelson's discretion and upon prior written notice to the City Council. Nelson's unused management leave shall not carry forward to the next year, nor is it eligible for cash payment at any time during Nelson's tenure.
- G.** During the term of this Agreement, the City shall pay the monthly premiums for medical insurance and dental/optical coverage for Nelson and his eligible dependents. City

shall also pay the monthly premiums for life insurance to cover Nelson. Life insurance coverage shall be equal to three (3x) times of Nelson's annual salary. As permitted by law, the Nelson shall name the beneficiary of the life insurance policy. Except as set forth herein, insurance coverage(s) shall be provided in the same manner as offered to all other employees of the City, as of August 3, 2021.

**SECTION VIII**  
**OUT OF POCKET EXPENSES**

The City shall reimburse Nelson for reasonable out-of-pocket expenses incurred in connection with the City's business, including travel, food and lodging while away from home, subject to such policies as the City may from time to time establish for its employees. The City also shall provide Nelson a monthly mobile telephone allowance of \$75.00 every two weeks for use of his personal mobile technology in carrying out his duties as set forth herein and in the Code. Nelson may attend, at the City's expense, the League of California Cities Annual Conference ("LOCC"), the LOCC's City Manager's Conference, the Annual California Contract Cities Association Seminar, and, if he is a member, the International City/County Management Association ("ICMA") Annual Conference and any other conferences provided funding has been approved in the City's Fiscal Year budget.

**SECTION IX**  
**OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

A. The City Council may from time to time fix other terms and conditions of employment relating to the performance of Nelson provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Code or other applicable law.

B. The provisions of the Code and any Industry personnel resolution(s) shall apply to Nelson except where the specific provisions conflict with this Agreement, in which event the terms and conditions of this Agreement shall prevail.

**SECTION X**  
**CONFIDENTIAL INFORMATION**

Employment with the City creates a relationship of confidence and trust between Nelson and the City, with respect to all Confidential Information of City. "Confidential Information" includes but is not limited to trade secrets, confidential information, client lists, knowledge, or data of the City or any of its constituent entities or members that Nelson may produce, obtain, or otherwise acquire or have access to during the course of Nelson's employment with the City, including but not limited to personnel information, passwords, and computer security systems. Nelson agrees that during and after Nelson's employment with the City, Nelson (i) shall keep all Confidential Information confidential and shall not directly or indirectly use, divulge, publish or otherwise disclose or allow to be disclosed any aspect of Confidential Information without prior written consent of the City; and (ii) shall refrain from any action or conduct which might reasonably or foreseeably be expected to compromise the confidentiality or proprietary nature of the Confidential Information. Upon termination of employment for any reason, Nelson agrees to return promptly to the City all

writings and other tangible things in Nelson's possession that contain Confidential Information.

**SECTION XI**  
**WARRANTIES**

Nelson warrants that, as of the commencement of the employment term, he will be able to immediately begin performance of his duties and that, by entering into this Agreement, he will not be in violation of any other contract or agreement related to his employment, or his eligibility or availability for employment that could subject him or the City to any claims or liability

**SECTION XII**  
**INDEMNIFICATION AND BONDS**

A. The City agrees to defend, hold harmless and indemnify Nelson, subject to the provisions and limitations set forth in Government Code Section 825\_ *et seq.*, against any and all claims, liabilities, expenses or damages of any nature, including reasonable attorney's fees, arising out of or in connection with Nelson's performance of the course and scope of this Agreement. The City may decline to defend Nelson as permitted in the Government Code. At its sole discretion, the City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom.

B. The City shall bear the full cost of any fidelity or other bonds which may be required in the performance of Nelson's services under this Agreement.

**SECTION XIII**  
**GENERAL PROVISIONS**

A. This Agreement is the final expression of the complete Agreement of the parties with respect to the matters specified herein and supersedes all prior oral or written understandings. Except as prescribed herein, this Agreement cannot be modified except by written mutual agreement signed by the parties.

B. This Agreement is not assignable by either the City or Nelson.

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

D. This Agreement may be signed in any one or more counterparts all of which taken together shall be but one and the same Agreement. Any signed copy of this Agreement or of any other document or agreement referred to herein, or copy or counterpart thereof, delivered by facsimile transmission, shall for all purposes be treated as if it were delivered containing an original manual signature of the party whose signature appears in the facsimile and shall be binding upon such party in the same manner as though an original signed copy had been delivered.

E. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

F. Each of the parties acknowledges that she or it has been represented by independent legal counsel of its own choosing, or if not, has been advised to obtain independent legal counsel and has freely and voluntarily waived and relinquished the right to legal counsel. Further, each party who has not obtained independent legal counsel acknowledges that the failure to have independent legal counsel will not excuse such party's failure to perform under this Agreement or any agreement referred to in this Agreement.

G. This Agreement shall be interpreted and construed according to the laws of the State of California, and venue shall be in the County of Los Angeles.

H. All notices shall be personally delivered or mailed to the addresses listed below:

Joshua Nelson  
At most recent address on file in Nelson's personnel file

Mayor  
City of Industry  
15625 Mayor Dave Way, Suite 100  
City of Industry, CA 91744

Courtesy copy to:  
James M. Casso  
Casso & Sparks, LLP  
13300 Crossroads Parkway North  
Suite 410  
City of Industry, CA 91746

**[SIGNATURES NEXT PAGE]**

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures as of the date and year first above written.

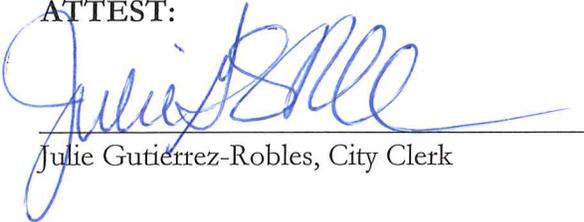
NELSON

  
\_\_\_\_\_  
Joshua Nelson

CITY OF INDUSTRY

  
\_\_\_\_\_  
Cory C. Moss, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie Gutiérrez-Robles, City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
James M. Casso, City Attorney