

## AGREEMENT

THIS AGREEMENT is made and entered into this day, July 18, 2018, by and between the City of Baldwin Park, a general law city (hereinafter "City") and Sam Gutiérrez (hereinafter "Employee").

### **Section 1. Duties**

- a. City agrees to employ Employee as Public Works Director with the responsibility to perform all of the usual and customary duties of management and operation of the Public Works Department. Employee shall also work on such other legally permissible and proper duties and functions the Chief Executive Officer and/or City Council may from time to time assign (collectively, the "Employment Duties").
- b. Employee shall satisfactorily perform the Employment Duties with a high degree of professionalism and shall work the schedule needed to ensure accomplishment of that performance.
- c. The Chief Executive Officer shall establish performance goals and objectives to be met by the Employee as Public Works Director for each year of this agreement. Said objectives shall be established as part of the evaluation process. The Chief Executive Officer agrees to conduct a performance evaluation after twelve (12) months from the date of employment, and also upon each annual anniversary date of employment. The evaluation shall be conducted in accordance with specific criteria jointly developed and finalized by the Chief Executive Officer and Employee. The Chief Executive Officer, based upon said evaluation, may award a salary step increase to Employee.
- d. Nothing contained in this Agreement shall prevent Employee's occasional teaching or related activities, subject to the prior approval of the Chief Executive Office or City Council which approval will not be unreasonably withheld and only if such activity does not affect Employee's performance of any of the Employment Duties. Employee shall not do any consulting or conduct business activity during regular City business hours and shall not do any consulting with other Cities directly adjacent to Baldwin Park.
- e. If approved, Employee shall not do any such occasional activities during regular City business hours.
- f. The Employee hereby agrees to perform faithfully and to the best of his abilities all the duties pertaining to said office as may be required by the laws of the City or the State of California.

### **Section 2. Compensation/Benefits**

- a. Notwithstanding anything to the contrary in the presently effective City Salary Resolution, for satisfactory performance of all the Employment Duties, Employee's base annual salary shall be \$12,390.24 per month. Employee's base annual salary may hereafter be modified, from time to time as approved by the parties by formal written amendment to this Agreement. Any such modification shall be based on the City Council's evaluation of Employee's performance, in

consultation with the Chief Executive Officer. The evaluation shall be based on reasonable criteria determined by City.

- b. Employee is requested to obtain a California Professional Engineers License and upon receiving such License, Employee's salary shall be increased two (2) salary steps or 10%.
- c. City shall provide to Employee all fringe benefits as are now, or as may hereafter be given to all department heads of City, as detailed in the attached "Executive Employee Benefit Matrix"(Matrix), as may be amended from time to time. Employee shall be paid \$100 per month bilingual pay unless otherwise amended by the Matrix.

### **Section 3. Employee is an "AT WILL" Employee**

- a. Employee is an "AT WILL" employee and shall serve at the pleasure of the City Council and nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of Employee for any reason, or no reason at all, with or without cause, at any time, subject only to the provisions set forth in Section 4 of this Agreement.
- b. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from his position with City with no notice required.

### **Section 4. Termination, Waiver and Severance Pay**


- a. In the event the Chief Executive Officer terminates Employee's employment as Public Works Director, pursuant to this Agreement, and if Employee is not otherwise in breach of the terms of this Agreement, and if Employee executes a written waiver of any and all claims the Employee may have against the City, including but not limited to, a Civil Code Section 1542 waiver, then and only then the City shall pay a lump sum cash payment equal to three (3) months base salary only, with no benefits included in the severance calculation ("Severance Pay") to Employee. Only base salary will be used to calculate the three months severance. However, the City shall be relieved of its obligation to pay Severance Pay if Employee is terminated for malfeasance in carrying out the duties obligated under this Agreement or if the Employee is convicted of any illegal act involving moral turpitude or personal gain or if Employee refuses to sign a complete waiver releasing the City of any and all claims the Employee may have against the City.

### **Section 5. General Provisions**

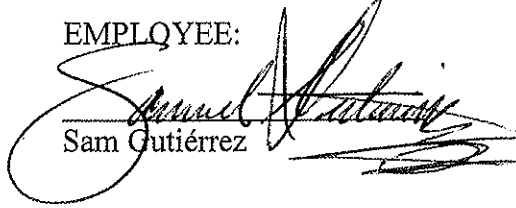
- a. This Agreement shall constitute the entire agreement between the parties regarding Employee's employment as Director of Public Works.
- b. The Agreement can only be modified in writing and only if signed by Employee and the Mayor of Baldwin Park.

c. This Agreement shall be effective as of June 20, 2018.

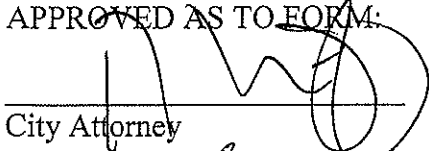
CITY OF BALDWIN PARK:

  
\_\_\_\_\_  
Mayor Manuel Lozano


EMPLOYEE:

  
\_\_\_\_\_  
Sam Gutiérrez

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk