

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF MOORPARK AND TROY BROWN**

This Employment Agreement ("Agreement") is made and entered into as of February 7, 2018, by and between the City of Moorpark, a California municipal corporation ("City" or "Employer"), and Troy Brown, an individual ("Employee").

RECITALS

A. The City has recently conducted a formal recruitment and selection process to fill a vacancy in the office of City Manager.

B. City desires to appoint Employee to the at-will position of City Manager and Employee desires to accept appointment as City Manager, effective Saturday, March 3, 2018.

C. Employee represents that he has the requisite specialized skills, training, certifications, licenses, and authorizations and is otherwise qualified to serve as City Manager.

D. City and Employee wish to enter into an Employment Agreement that sets forth the rights and obligations of the parties and that will supersede all prior negotiations, discussions or agreements.

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

1. **TERM.** Unless sooner terminated, as provided in this Agreement, the term of this Agreement shall be for three (3) years from Employee's start date of March 3, 2018 ("Effective Date") through March 2, 2021. Provided, however, this Agreement will not become effective unless Employee actually assumes the duties of City Manager on the Effective Date and is, on that date, willing and able to report for duty on the first regularly scheduled work day on or after the Effective Date. The Parties may mutually agree in writing to change the Effective Date.

2. **DUTIES AND AUTHORITY.** Employer agrees to employ Employee as City Manager. Employee shall exercise the full powers and perform the duties of the position of City Manager as set forth in the Moorpark Municipal Code, including Chapter 2.12, and all applicable rules, regulations, procedures, job description(s) and state and federal laws, as each of them currently or may in the future exist. At the option of Employer, Employee shall also serve as Executive Director of (or in a similar capacity for) any authority or agency created by or staffed by Employer. Employee shall exercise such other powers and perform such other duties not inconsistent with this Agreement as the City Council may assign.

3. **EMPLOYEE'S OBLIGATIONS.** Employee shall devote his full energies, interest, abilities and productive time to the performance of this Agreement, and utilize his best efforts to promote City's interests. Employee shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which is actually or potentially in conflict with or inimical to, or which materially interferes with his duties and responsibilities to City. Employee shall obtain prior authorization from the City Council for any outside employment, consulting, teaching or enterprise. Employee also agrees to comply with the "Inconsistent Activities and Outside Employment" terms of the City Council adopted Management Benefits Resolution, currently contained in Section 15 of that resolution, including the certification and waiver requirements. The City Council will substitute for the City Manager as the reviewing authority, with approval or denial in its sole and absolute discretion.

4. **SALARY AND BENEFITS.**

A. **Base Salary.** From the Effective Date of this Agreement, City shall pay Employee an approximate annual salary of \$206,336, subject to legally permissible or required deductions and withholding, prorated and paid on City's normal pay days. Employee's salary is set at Range 100, Step G of the City's Salary Plan covering City Manager's position, with an established hourly rate of \$99.20 and a weekly salary of \$3,968.00. Employee shall be compensated according to the City's biweekly pay schedule. Identification of an hourly rate herein is to account for absences from work of less than eight (8) hours per work day or forty (40) hours per work week, consistent with the Fair Labor Standards Act and the City's practices. Employee's salary is compensation for all hours worked. Employee shall be exempt from the overtime pay provisions of California law (if any) and federal law.

B. **Employment Benefits.**

(1) **Fringe Benefit Package.** In addition to base salary and except as expressly provided in this Agreement, Employee shall receive the fringe benefits (retirement, deferred compensation, medical insurance, dental insurance, vision insurance, life insurance and annual physical) provided in the City Council adopted Management Benefits Resolution as applicable to the City Manager position, and as such Resolution may be amended from time to time. Such fringe benefits are subject to the terms and conditions of the applicable plan, policy or other controlling documents, including laws and regulations, where applicable. Other terms of the Management Benefits Resolution notwithstanding, Employee shall participate in the Medical Insurance Cafeteria Plan as a Department Head employed prior to July 1, 2010.

(2) **Annual Leave.** Employee shall initially accrue annual leave at a rate of 9.24 hours per pay period and thereafter consistent with the City Council adopted Management Benefits Resolution as applicable to the City Manager position, and as such Resolution may be amended from time to time. Upon actually reporting for duty on or after the Effective Date, Employee will be granted an initial annual leave balance of forty (40) hours.

(3) Vacation and Sick Leave. Employee is not eligible for vacation or sick leave. The annual leave benefit is provided in lieu of vacation and sick leave benefits.

(4) Administrative Leave. Employee shall accrue administrative leave consistent with the City Council adopted Management Benefits Resolution as applicable to the City Manager position, and as such Resolution may be amended from time to time. As of the Effective Date, administrative leave is granted at the rate of approximately ninety-six (96) hours per year, accrued at the rate of 3.69 hours per pay period, with administrative leave pro-rated for partial years.

(5) Other Leaves and Holidays. Employee shall be entitled to other leaves and to holidays as provided in the City Council adopted Management Benefits Resolution or as otherwise applicable to the City Manager position, as such Resolution or other acts of the City Council may be amended from time to time. As a salaried, overtime exempt employee, Employee's base salary includes compensation for work performed on any holidays.

(6) Scheduling of Leave. Employee may schedule and use general, administrative and other leave time at his discretion, with due regard for the demands of his position and the needs of the City. Notwithstanding, any general, administrative and other paid leaves of more than three (3) consecutive work days that is susceptible to advance scheduling shall be approved in advance by the Mayor or in the Mayor's discretion by the City Council.

(7) Professional Development. City shall pay for Employee's annual dues for membership in professional organizations, as provided for in the annual budget, as may be amended, and, if applicable, City policy.

(8) Expenses. City recognizes that Employee may incur certain expenses of a non-personal and job related nature. City agrees to reimburse or to pay such business expenses, which are incurred and submitted according to City's normal expense reimbursement procedures and City Council adopted policies. To be eligible for reimbursement, all expenses must be supported by documentation meeting City's normal requirements and must be submitted within time limits established by City.

(9) Car Allowance. Employee's duties require that he have available exclusive and unrestricted use of an automobile for business purposes and Employee agrees to have a personal vehicle available for such use. In consideration of this, Employer agrees to pay to Employee, during the term of this Agreement and in addition to other salary and benefits, a car allowance consistent with the City Council adopted Management Benefits Resolution as applicable to the City Manager position, as such Resolution may be amended from time to time. As of the Effective Date, the amount of the car allowance is \$515.00 per month. The car allowance includes reimbursement for an appropriate allocation of vehicle insurance and all other expenses of vehicle ownership, maintenance and operation.

(10) Cell Phone. Employer will provide a monthly cell phone allowance consistent with the City Council adopted Management Benefits Resolution as applicable to the City Manager position, as such Resolution may be amended from time to time. As of the Effective Date, the amount of the cell phone allowance is \$70.00 per month. Employee agrees to use a cell phone number with the local area code of 805 for work purposes. In the event Employee is unable to secure a phone number with the 805 area code, use of the 820 area code is a permissible substitute.

(11) Relocation/Temporary Housing/Travel Expenses. Employer will reimburse Employee for the actual and reasonable cost, not to exceed \$20,000.00, of: (i) travel expenses incurred following full execution of this Agreement to visit Moorpark for Employee to prepare for and commence employment and for Employee to investigate housing options; (ii) moving Employee (including his family) and personal property from Northern California to a location within the corporate limits of the City of Moorpark and (iii) temporary housing for Employee and his family within the corporate limits of the City of Moorpark. Moving expenses include packing, moving, temporary storage costs (if necessary), travel, unpacking and insurance charges. To be eligible for reimbursement, expenses must be incurred and submitted within six (6) months of the Effective Date and supported by documentation meeting Employer's normal requirements. Reimbursable temporary housing expenses will not include utilities or refundable deposits. In addition to other requirements, all reimbursement requests must be made within sixty (60) days of the close of the month in which they are incurred.

(12) Bonding. City shall bear the full costs of fidelity or other bonds required of Employee (if any) under any law or ordinance by virtue of his employment as City Manager.

5. EVALUATIONS. Employee shall report to and may be evaluated by the City Council. Employee's performance will be reviewed approximately six (6) months after the Effective Date of this Agreement and within approximately thirty (30) days of the annual anniversary of this Agreement, thereafter. Employee will request and schedule such reviews, as appropriate pursuant to City Council agenda procedures or as otherwise directed by City Council. Nothing in this paragraph is intended to limit additional interim evaluations or review or to limit the normal communications process between the City Council and Employee.

6. INDEMNIFICATION. Except as otherwise permitted, provided, limited or required by law, including without limitation California Government Code Sections 825, 995, and 995.2 through 995.8, the City will defend and pay any costs and judgments assessed against Employee arising out of an act or omission by Employee occurring in the course and scope of Employee's performance of his duties under this Agreement. However, in the event City provides funds for legal criminal defense pursuant to this section and terms of the Government Code, Employee shall reimburse the City for such legal criminal defense funds if Employee is convicted of a crime involving an abuse of office or position, as provided by Government Code Sections 53243 – 53243.4.

7. AT-WILL EMPLOYMENT RELATIONSHIP.

A. Consistent with the Moorpark Municipal Code Section 2.12.010 and California Government Code Section 36506, Employee is appointed by and serves at the pleasure of the City Council. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employer to terminate this Agreement and the employment of Employee, with or without cause. Employer shall pay Employee for all services through the effective date of termination and Employee shall have no right to any additional compensation or payment, except as provided under Section 8 (Severance), below.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign from his employment with Employer, subject only to Employee providing sixty (60) calendar days prior written notice to Employer. The City Council may agree to waive some or all of the notice period.

8. SEVERANCE.

A. If Employer terminates this Agreement (thereby terminating Employee's Employment), without cause, Employer shall pay Employee a lump sum severance benefit in accord with the following schedule:

(1) An amount equal to three (3) months of his then applicable base salary if terminated without cause within one (1) year of the Effective Date, through and including March 2, 2019.

(2) An amount equal to six (6) months of his then applicable base salary if terminated without cause from and following the one (1) year anniversary of the Effective Date (March 3, 2019), and during which this Agreement remains in effect.

B. If Employer terminates this Agreement (thereby terminating Employee's Employment), with cause, Employee shall not be entitled to any severance. As used in this Agreement, cause shall mean termination due to:

(1) A conviction or a plea bargain, judgment or adverse determination by any court, the State Attorney General, a grand jury, or the California Fair Political Practices Commission for any felony, intentional tort, crime of moral turpitude or violation of any statute or law constituting forfeiture of office, misconduct in office, misuse of public funds or conflict of interest;

(2) A conviction of a misdemeanor arising out of Employee's duties under this Agreement and involving a willful or intentional violation of law;

(3) A continued willful abandonment of duties;

(4) A pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted policy decisions of the City Council made by

the City Council as a body, or persistent and willful violation of properly established rules and procedures;

(5) Employee is found to have committed an unethical act involving personal gain resulting in expulsion from the International City/County Management Association; and

(6) Any other action or inaction by Employee that materially and substantially impedes or disrupts the performance of City or its organizational units, or is detrimental to employee safety or public safety.

C. If Employee terminates this Agreement (thereby terminating Employee's Employment), Employee shall not be entitled to any severance.

D. Upon any separation from employment, Employee will be compensated for all accrued but unused annual leave and administrative leave.

E. Any other term of this Agreement notwithstanding, the maximum severance that Employee may receive under this Agreement shall not exceed the limitations provided in Government Code Sections 53260 – 53264, or other applicable law. Further, in the event Employee is convicted of a crime involving an abuse of office or position, Employee shall reimburse the City for any paid leave or cash settlement (including severance), as provided by Government Code Sections 53243 – 53243.4.

9. PROPRIETARY AND CONFIDENTIAL INFORMATION. "Proprietary Information" is all information and any idea pertaining in any manner to the business of City (or City affiliate), its employees, clients, consultants, or business associates, which was produced by any other employee of City in the course of his/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, formulae, 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, Employee 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 of employment, Employee shall not use any Proprietary Information and shall not disclose any Confidential Information without the express written consent of City, except where such information is properly obtained by means available to the public and not as a result of employment, or where such information is legally mandated. Employee agrees to not make use, either directly or indirectly, of City's Confidential Information for his personal benefit or for the benefit of any other person, firm, corporation, agency or other entity. Employee further agrees to not disclose such Confidential Information in any form or medium and will not reveal, disclose, identify, or otherwise provide City's Confidential Information to any other person, firm, corporation, or other agency or entity, including the general public, directly or indirectly. Employee's obligations under this Section shall survive the termination

of his employment and the expiration of this Agreement. Consent for use or disclosure, when required, is at the discretion of the City Council or a City Official to which the City Council has delegated authority.

10. INTEGRATION OF AGREEMENT. This Agreement is intended to be the final, complete, and exclusive statement of the terms of Employee's employment by Employer. This Agreement contains the entire agreement between Employer and Employee regarding the subject matter hereof, and supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of Employee, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. The foregoing notwithstanding, Employee acknowledges that, except as expressly provided in this Agreement, his employment is subject to City's generally applicable rules and policies pertaining to employment matters, such as those addressing equal employment opportunity, sexual harassment and violence in the workplace.

11. METHOD OF AMENDMENT. No amendments to this Agreement may be made except in writing, signed and dated by City and Employee.

12. NOTICES. Any notice to City under this Agreement shall be given in writing to City, either by personal service or by registered or certified mail, postage prepaid, addressed to the City Clerk at the City's then principal place of business. A courtesy copy shall be given to the City Attorney in a like manner. Any such notice to Employee shall be given in a like manner and, if mailed, shall be addressed to Employee at his home address then shown in City's files. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of delivery, if served personally on the party to whom notice is to be given, or (b) on the third calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this section. Actual notice will be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

13. GENERAL PROVISIONS.

A. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

B. This Agreement shall be governed by and construed in accordance with the laws of the State of California, and any action filed in any court for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Ventura County, California.

C. Employee acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Employee acknowledges that he has made an independent judgment upon the financial and legal

effects of this Agreement and has not relied upon any representation of City, its officers, agents or employees other than those expressly set forth in this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed personally or on its behalf by its duly authorized representative on the date first listed above.

EMPLOYEE:



Troy Brown

CITY OF MOORPARK:


Janice S. Parvin, Mayor

ATTEST:


Maureen Benson, City Clerk