

**AGREEMENT FOR INTERIM CITY MANAGER
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
RAJEEV BATRA**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation ("City") and Rajeev Batra, an individual, ("Manager"). City and Manager may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

The following recitals are a substantive portion of this Agreement (the "Agreement"):

- A. City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";
- B. Manager represents that he has the professional qualifications, expertise and desire to provide required services of the quality and type which meet objectives and requirements of City;
- C. City desires to employ the services of the Manager as the Interim City Manager of the City of Santa Clara, pursuant to the terms, conditions and provisions of this Agreement;
- D. Manager has agreed to accept employment as the Interim City Manager of the City of Santa Clara, subject to and on the terms, conditions, and provisions agreed to and set forth in this Agreement;
- E. For the purposes of this Agreement the Manager is considered an employee and PERS annuitant and not an independent contractor; and
- F. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between City and Manager shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Hourly Rate and Limitations

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

2. TERM OF AGREEMENT

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on April 6, 2022 and terminate on January 31, 2023. The Manager shall report for work, and the duties and employment of the Manager shall commence on April 6, 2022 (the “Commencement Date”) and conclude on January 31, 2023.

Manager shall perform those Services specified in Exhibit A. Time is of the essence in the performance of this Agreement.

3. QUALIFICATIONS OF MANAGER - STANDARD OF CARE

Manager represents and maintains that he has the professional qualifications necessary to perform the tasks set forth in the Scope of Services (the “Services”), and the duties and obligations, expressed and implied, contained therein, and City expressly relies upon Manager’s representations regarding his skills and knowledge. Manager shall perform such Services and duties in conformance to and consistent with the professional standards of a Manager in the same discipline in the State of California.

4. COMPENSATION AND PAYMENT

In consideration for Interim City Manager’s complete performance of Services, City shall pay Interim City Manager for all Services rendered by Interim City Manager in accordance with Exhibit B, entitled “SCHEDULE OF FEES.” The maximum compensation of this Agreement is found at Exhibit B, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses required to provide the Services. All work performed in excess of the maximum compensation shall be at Manager’s expense. Manager shall not be entitled to any payment above the maximum compensation under any circumstance. In the event that work under this Agreement continues until January 31, 2023 Manager shall receive the COLA that is provided to Unit 9, for the period that it is applicable to other Unit 9 members.

5. TERMINATION

- A. Termination for Convenience by City. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than fourteen (14) days' prior written notice to Manager.
- B. Termination for Convenience by Manager. Manager shall have the right to terminate this Agreement, without cause or penalty, by giving not less than fourteen (14) days' prior written notice to City.
- C. Termination for Default. If Manager fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Manager.
- D. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than fourteen (14) days after the notice of termination, City Manager will deliver to City all City information or material that Manager has in its possession.

6. ASSIGNMENT AND SUBCONTRACTING

City and Manager bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Manager shall not hire subcontractors to perform Manager duties without express written permission from City.

7. NO THIRD-PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

8. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Manager and all other written information submitted to Manager in connection with the performance of this Agreement shall be held confidential by Manager and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to any person or entity not connected with performance of the Services. Nothing furnished to Manager which is a public record or becomes generally known to the public shall be deemed confidential.

9. OWNERSHIP OF MATERIAL

All material, which shall include, but not be limited to, data, reports, minutes, City records, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City. City shall not be limited in any way or at any time in its use of said material. However, Manager shall not be responsible for damages resulting from the use of said material for work after the term of this Agreement, including, but not limited to, the release of this material to third parties.

10. RIGHT OF CITY TO INSPECT RECORDS OF INTERIM CITY MANAGER

Manager agrees to maintain sufficient records to establish the correctness of all charges submitted to City via timesheet.

Manager shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Manager agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Interim City Manager's Services hereunder.

11. HOLD HARMLESS/INDEMNIFICATION

To the fullest extent permitted by law City shall defend, save harmless and indemnify Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Manager's duties. In this regard, City and/or its liability insurer(s) shall have the right, in its or their discretion, to compromise and settle any such claim or suit on behalf of the City and the Manager without the consent of Manager; the City and/or its insurer(s) shall pay the amount of any settlement or judgment rendered by reason of any such suit or claim; provided that this section shall not be construed as creating any right, cause of action, or claim of waiver or estoppel for the benefit of or on behalf of any third party, nor shall it be construed as a waiver or modification of the defense of governmental immunity or any other legal defense available to either City or the Manager as to any claim brought by or on behalf of any third party; provided further that nothing herein shall be construed to require the City to indemnify or hold harmless the Manager from and with respect to any claim or liability wherein the Manager is found by the courts to have been grossly negligent or engaged in intentionally willful conduct. The provisions of this indemnification section shall extend beyond and survive the termination of employment and the expiration of this Agreement.

12. WAIVER

Manager agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other

condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

13. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara
Attention: City Attorney's Office
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at * [\[REDACTED\]@santaclaraca.gov](mailto:[REDACTED]@santaclaraca.gov)

And to Interim City Manager addressed as follows:

Rajeev Batra
Address and email address on file with City

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

14. COMPLIANCE WITH LAWS

Manager shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Municipal Code of the City of Santa Clara, California" ("SCCC"). In particular, Manager's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), as such Chapters or Sections may be amended from time to time or renumbered. Additionally, Manager has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

15. CONFLICTS OF INTEREST

Manager certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Manager and that no person associated with Manager has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Manager is familiar with the provisions of California Government Code section 87100 and

following, and certifies that it does not know of any facts which would violate these code provisions. Manager will advise City if a conflict arises.

16. FAIR EMPLOYMENT

Manager shall not discriminate against any employee or applicant for City employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

17. GOVERNING LAW AND VENUE

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara.

18. SEVERABILITY CLAUSE

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity and enforceability of the other provisions, which shall remain in full force and effect.

19. AMENDMENTS

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

//

//

//

20. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA

a chartered California municipal corporation

Approved as to Form:

Dated: April __, 2022

Gary M. Baum Outside Counsel o/b/o
Office of the City Attorney
City of Santa Clara

Lisa Gillmor
Mayor City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-22101

"CITY"

RAJEEV BATRA, INTERIM CITY MANAGER

Dated: _____
By (Signature): _____
Name: Rajeev Batra
Title: Interim City Manager
Principal Place of
Business Address: On File with City
Email Address: On File with City
Telephone: On File with City

EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Manager under this Agreement are set forth below.

City Manager services as required by the City Council, including, but not limited to all duties and responsibilities for the City Manager as set forth in the City Charter and City Code. Manager shall serve as Interim Contract Administrator for the Sports & Open Space Authority, Interim Executive Director for the Housing Authority, Interim Executive Director for the Stadium Authority, Interim Staff Chair for the Economic Development Team, Interim Executive Director for the Bayshore North Project Enhancement Authority and Interim Executive Director for the Successor Agency to the Redevelopment Agency and all other Council appointed roles for Interim City Manager.

EXHIBIT B

SCHEDULE OF FEES

Manager will be retained as a PERS Annuitant and paid at a rate of \$214.06 per hour. The total not to exceed payment under this Agreement shall not exceed \$36,051.86 for every two consecutive pay periods (consisting of a total of 4 consecutive weeks). Manager shall not be entitled to any benefits.

City shall reimburse Manager for reasonable, actual costs for attending conferences normally attended by the Santa Clara City Manager. These reimbursements shall follow the usual City reimbursement policies for conference attendance and shall not be counted against the not to exceed limit of this Agreement.

Manager shall be responsible for ensuring that he complies with all requirements of a PERS annuitant, including, but not limited to the 960 hour per fiscal year maximum hours worked.

City agrees to reimburse the Manager for vehicle use for work-related travel. This reimbursement at the IRS rate for business mileage will be for personal vehicle use if a City vehicle is unavailable. Manager shall not be compensated for commute time or mileage between home and the Manager shall not be permitted to use a City vehicle for commuting, except in case of emergency.

Manager is permitted to work remotely, but shall return to work when the majority of City employees return to City Hall.