

**CITY OF POMONA**  
**CITY MANAGER EMPLOYMENT AGREEMENT**

This City Manager Employment Agreement (Agreement) is entered into by and between the CITY OF POMONA, a municipal Corporation (City) and ANITA GUTIERREZ (Manager) as of February 5, 2024.

**1. Employment:**

Under this Agreement, the City offers, and Manager accepts, employment as City Manager of the City, effective February 6, 2024.

**2. Duties:**

Manager shall perform those duties and have those responsibilities that are commonly assigned to a city manager of a city in California, and as may be further set forth in the City's Charter or Municipal Code and the City's Personnel Rules, Regulations and Procedures. Manager shall also serve as Executive Director of the Successor Agency to the Pomona Redevelopment Agency, and the Executive Director of the Pomona Housing Authority and Pomona Public Finance Authority; and shall perform such other legally permissible and proper duties and functions consistent with the office of City Manager, as the City Council shall from time to time assign.

**3. Devotion to City Business:**

Manager's position is full-time. Manager shall not engage in any business, educational, professional, charitable, or other activities that would conflict or materially interfere with performance of her City Manager duties, except for the Manager's 2024 completion of a Doctoral Degree or as may be specifically authorized by the City Council.

**4. Term:**

Manager's employment will commence February 6, 2024, and shall continue for a period of two (2) years, or until February 6, 2026, unless the date of earlier termination in accordance with provisions in this Agreement. On February 6, 2026, and on each succeeding February 6th while this Agreement is in effect, subject to an overall satisfactory performance evaluation subject to Section 7 below, this Agreement shall be automatically extended for two (2) additional years, unless terminated in accordance with the terms of this Agreement.

**5. City Council and City Manager Form of Government:**

The City Council expressly acknowledges and understands the importance and scope of Article VI of the City Charter of the City of Pomona which sets forth the powers and duties of the City Manager (Section 603) and sets forth separation of powers (601(d)). The City Council agrees to conduct city business with the Manager in accordance with the City Charter and all other applicable employment laws.

**6. Termination of Employment and this Agreement; General Release; Severance:**

A. If City terminates this Agreement (thereby terminating Manager's employment) without Cause, as determined by the affirmative votes of a majority of the members of the City Council at a Regular Meeting of the City Council, and if Manager signs, delivers to the City Council, and does not revoke, a General Release Agreement ("Release Agreement"), City shall pay Manager a lump sum benefit equal to twelve (12) months of her then Base Salary, and shall provide twelve (12) months of health (medical, dental, and vision) benefits continuing under the benefit plans in which Manager and her dependents are then enrolled (the cash payment and continuing benefits, collectively "Severance").

B. If City terminates this Agreement (thereby terminating Manager's employment) with Cause, as determined by the affirmative votes of a majority of the members of the City Council at a Regular Meeting of the City Council, Manager shall not be entitled to any additional compensation or payment, including Severance, but shall be

entitled only to accrued Base Salary and vacation pay, and any other accrued and unused benefit allowances according to their terms ("Accrued Salary and Benefits"). As used in this Agreement, Cause shall only mean any of the following:

1. Conviction of, or plea of guilty or nolo contendere to, any crime or offense (other than minor traffic violations or similar offenses) which is likely to have a material adverse impact on the City or on the Manager's reputation;
2. Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4;
3. Repeated failure to carry out a directive or directives of the City Council made by the City Council as a body at a Brown Act-compliant meeting; and
4. Any grossly negligent action or inaction by Manager that materially and adversely: (a) impedes or disrupts the operations of City or its organizational units; (b) is detrimental to employees or public safety; or (c) violates City's properly-established rules or procedures.

C. In no event may Manager be terminated within a period of six (6) months before or after any municipal election for the selection or recall of one or more of the members of the City Council, except for "good cause" as defined in this Section 6.

D. If, during the Term or any extended Term, Manager dies, Manager's estate shall receive Accrued Salary and Benefits, but shall not be entitled to any additional compensation or payment, including Severance.

E. In the event Manager is permanently disabled or is otherwise unable to perform their duties because of sickness, accident, injury, or mental incapacity for a period of three consecutive months beyond any provided sick leave, the City may terminate Manager's employment and this Agreement.

F. Manager may resign from her employment at any time, upon giving sixty (60) days written notice to the City Council.

**7. Compensation and Annual Evaluation:**

A. Manager's initial annual Base Salary shall be Two Hundred Ninety-Five Thousand Dollars (\$295,000.00). Said amount shall be payable in bi-weekly installments at the same time and in the same manner as other employees of the City are paid. Increases in Manager's Base Salary may be effective at any time in the sole discretion of the City Council.

B. After completion of the first year as Manager and after a satisfactory or above rating on her annual performance evaluation, the annual salary shall increase by 5%.

C. Effective the first pay period of February 2026, and subject to a satisfactory performance evaluation, the Manager shall receive a 4% increase in annual salary.

D. The City Council, and Manager may set mutually agreed upon performance objectives for each year under this Agreement. The City Council shall evaluate Manager's performance at least once a year during the months of November or December ("Annual Evaluation").

E. City Manager shall be deemed to have received an overall satisfactory performance evaluation, unless the City Council either provides City Manager 1) a written evaluation describing areas requiring improved performance or 2) provides notice of termination within 30 days of her annual performance evaluation.

F. Except for salary increases and as specifically otherwise provided in this Agreement, the Manager's employment benefits shall be subject to and governed by the Compensation Plan for Executive Management Group A and B Employees of the City of Pomona approved by the City Council on December 11, 2023, (2023 A-B Plan), or as subsequently modified by the City Council during the term, or any extended term, of this Agreement and Manager shall be entitled to receive the same CalPERS benefits contracted for on behalf of the Executive Management Group A-1 employees.

G. Manager's Base Salary percentage increases provided for in Sections 7.B and 7.C shall not require an amendment to this Agreement to be effective. Such increases may be set forth in an annual salary resolution or minute action approved by the City Council and ratified by resolution.

H. If the City reduces the Base Salary or any other financial benefit of the Manager in a percentage that is greater than the average reduction of all executive

managers, such action shall constitute a termination of this Agreement without Cause under Section 6.A. of this Agreement, and Manager shall be entitled to Severance.

I. As Manager demonstrated her commitment to the City and qualifications for the position of City Manager while serving as the City's Acting City Manager, for several months without additional pay or benefits, within 60 days of the effective date of this Agreement, the City shall pay Manager a signing incentive of \$6,000.

**8. Health and Medical Benefits Insurance:**

City shall provide Manager with the same health plans (medical, dental, and vision) which are provided to other City employees, and shall pay that portion of the employee and dependent rate or premium as is determined by the City Council for all management employees.

**9. Executive Coach:**

During the first year from the effective date of this Agreement and subsequent years at the discretion of Council, the Manager may, pursuant to the city manager purchasing authority, contract for the services of a professional executive coach who can provide professional advice, mentorship, guidance, and training to the Manger and further enhance her skills and abilities. All costs of the executive coach shall be budgeted and paid by the City. If the costs exceed the city manager purchasing authority, the additional costs shall be approved by the City Council.

**10. Car Allowance:**

Manager's duties require her to be available and to respond to the demands of City business at all times and outside of regular business hours, including weekends. City shall pay Manager five hundred dollars (\$500.00) monthly in compensation for the use and maintenance of her personal vehicle to conduct City business.

**11. Equipment:**

City shall provide a "smart phone" for Manager's use. City shall also provide Manger with a City-owned laptop computer, tablet, or iPad with access to the City's computer system and the Internet, for use at off-site primarily for conducting City

business; provided, however, that it is expressly understood that the equipment may be subject to personal use by Manager, so long as it does not interfere with its primary use.

**12. Business and Professional Expenses:**

A. City recognizes that Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to Manager's service to City. City agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to City's normal expense reimbursement procedures or such other procedure as may be designated by the City Council. 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.

B. City agrees to pay the professional dues and subscriptions on behalf of Manager which are necessary for Manager's continuation or full participation in international, national, regional, state, or local associations and organizations necessary and desirable for Manager's continued professional participation, growth and advancement, or for the good of the City. Furthermore, the City shall budget and pay for the professional dues and subscriptions to such additional organizations as may be approved by the City Council.

C. City agrees to pay Manager's travel and subsistence expenses for official travel, meetings, and occasions reasonably necessary to continue Manager's professional development, and for Manager's reasonable participation in necessary official and other functions for the City; including, but not limited to, national, regional, state, and local conferences, and governmental groups and committees on which Manager serves as a member. Notwithstanding the above, the number of conferences or meetings City will pay for each year, and attendance at out-of-state conferences and meetings, shall be at the discretion of the City Council as set forth in the City's budget.

**13. Vacation, Executive and Sick Leave:**

A. Manager shall accrue vacation leave at the rate of two hundred and forty hours (240) hours each year, in addition to recognized City holidays. Manager shall be authorized to elect to sell back a maximum of one hundred and fifty (150) hours of vacation per year in accordance with the procedures and requirement of the Group A and

B Plan. Upon termination or resignation from employment or the non-renewal of this Agreement, Manager shall be paid for all accrued and unused vacation time.

B. Manager shall accrue sick leave in accordance with the procedures and requirement of the Group A and B Plan. In the event of termination or resignation from employment or the non-renewal of this Agreement, Manager shall be entitled to compensation for fifty percent (50%) of the accumulated but unused sick leave, or may convert the equivalent amount of sick leave to retirement credit in accordance with PERS rules and regulations.

C. Manager shall accrue executive leave at the same rate designated in the Group A and B Plan for Group A employees hired after July 1, 2011 and shall be authorized to elect to sell back a maximum of eight-five (85) hours of executive leave per year in accordance with the procedures and requirements of the Group A and B Plan that apply to selling back accrued vacation, except that no minimum executive leave bank is required to carry-out the sell back. Upon separation from service, Manager shall be compensated for fifty percent (50%) of all accrued executive leave, regardless of years of service.

**14. Abuse of Office or Position:**

If Manager is convicted of a crime involving an abuse of their office or position, all of the following shall apply: (a) if Manager is provided with administrative leave pay pending an investigation, Manager shall be required to fully reimburse City such amounts paid; (b) if City pays for the criminal legal defense of Manager (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Manager shall be required to fully reimburse City such amounts paid; and (c) if this Agreement is terminated, any Severance Pay and Severance Benefits related to the termination that Manager may receive from City shall be fully reimbursed to City or shall be void if not yet paid to Manager. For purposes of this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (2) a crime against public justice.

**15. Enforcement of this Agreement:**

The prevailing party in any action brought to enforce this Agreement or to resolve

any dispute or controversy arising under its terms and conditions, shall be entitled to payment of his/her/its reasonable attorneys' fees and costs.

**16. Communications Upon Manager's Separation:**

In the event the City terminates the Manager for any reason or no reason, the City and the Manager agree that no member of the City Council, the City Management staff, nor the Manager, shall make any written, oral or electronic statement to any member of the public, the press, or any city employee concerning the Manager's termination except in the form of a joint press release or statement, the content of which is mutually agreeable to the City and the Manager. The joint press release or statement shall not contain any text or information that is disparaging to either party. Either party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

**17. Indemnification:**

Consistent with the California Government Code, City shall defend, hold harmless, and indemnify Manager using legal counsel of City's choosing, against expense or legal liability for acts or omissions by Manager occurring within the course and scope of Manager's employment under this Agreement. Legal representation, provided by City for City Manager, shall extend until a final determination of the issues including any and all losses, damages, judgments, interest, settlements, fines, court costs, and the reasonable costs and expenses of legal proceedings, including appeals, and including attorneys' fees, and expert witness fees and all other trial and appellate costs, and other liabilities incurred, imposed upon, or suffered by Manager in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened. In the event there is a conflict of interest between City and Manager such that independent counsel is required for Manager, Manager may engage her own legal counsel, in which event City shall indemnify Manager, including direct payment of all such reasonable costs related thereto.

**18. Notices:**

Any notices to be given hereunder by either party to the other in writing may be effected either by personal delivery, mail, or email. Mailed notices shall be addressed to the parties as set forth below, but each party may change his/her/its address by written



notice given in accordance with this Section. Notices delivered personally or by email will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of three (3) calendar days following the date of mailing.

CITY: City of Pomona  
Attention: Mayor  
505 S. Garey Avenue  
Pomona, CA 91766

MANAGER: Anita Gutierrez  
Home Address on File

**19. Entire Agreement:**

This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Manager by City, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein, and that no other employment agreement, statement, or promise not contained in this Agreement shall be valid or binding upon either party.

**20. Modifications:**

Any modifications to this Agreement shall be effective only if in writing and signed by both of the parties hereto.

**21. Effect of Waiver:**

The failure of either party to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any

right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

**22. Partial Invalidity:**

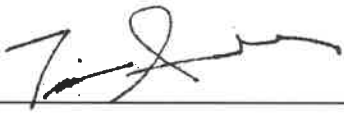
If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

**23. Governing Law:**

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

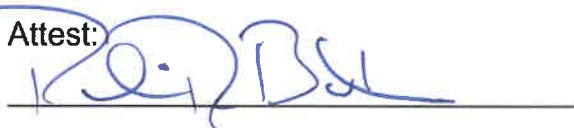
This Agreement is entered into this 5<sup>th</sup> day of February, 2024.

CITY OF POMONA

By:   
\_\_\_\_\_  
Tim Sandoval, Mayor

  
\_\_\_\_\_  
Anita D. Gutierrez, Manager

Attest:

  
\_\_\_\_\_  
Rosalia A. Butler, MMC, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Sonia Carvalho, City Attorney