



2018
CITY MANAGER EMPLOYMENT AGREEMENT
(EMPLOYEE: ALEXANDER HAMILTON)

THIS 2018 CITY MANAGER EMPLOYEMENT AGREEMENT ("Agreement") is dated as of this 31st day of January 2018 by and between the CITY OF EL MONTE, a municipal corporation and general law city ("CITY") and ALEXANDER HAMILTON, an individual ("HAMILTON"). The foregoing notwithstanding, this Agreement shall be deemed to take effect as of January 29, 2018 (hereinafter, the "Effective Date"). For purposes of this Agreement, the capitalized term "Parties" shall be a collective reference to both CITY and HAMILTON. The capitalized term "Party" may refer to either CITY or HAMILTON interchangeably as reasonably appropriate.

RECITALS

THIS AGREEMENT is made and entered into in consideration of the following:

WHEREAS, HAMILTON has served in the capacity of Assistant City Manager of the City of El Monte prior to and up to the Effective Date referenced, above; and

WHEREAS, the CITY wishes to employ HAMILTON in the capacity of City Manager commencing upon the Effective Date; and

WHEREAS, the City Council finds that HAMILTON possesses the education, training, experience and expertise necessary to perform the duties of City Manager; and

WHEREAS, the City Council approved substantive form of this Agreement at its Adjourned Regular Meeting of January 23, 2018 in open session as a non-consent item under Agenda Item No. 14.7 and ratified the same in a more finalized form at its Adjourned Regular Meeting of January 30, 2018 under Agenda Item No. 8.1 in compliance with Government Code Sections 53262, 54953(c), 54956(b) and 54957.6(a).

NOW, THEREFORE, for and in consideration of the mutual agreements contained herein, CITY and HAMILTON agree as follows:

SECTION 1. POSITION, TERM, DUTIES:

1.1 EMPLOYMENT AS CITY MANAGER. This Agreement establishes the terms and conditions of employment of HAMILTON as the City Manager of the City of El Monte (hereinafter, "City Manager"). By execution of this Agreement, the Parties, by mutual agreement, hereby agree as follows: (a) The Prior Agreement, as defined

herein, is hereby terminated, repealed and replaced by this Agreement; and (b) the Prior Agreement shall cease to be of any force or effect.

1.2 TERM. This Agreement shall have an initial term of two (2) years commencing as of the Effective Date (hereinafter, the "Initial Term"). Unless otherwise agreed to by the Parties in writing, CITY, in its sole and absolute discretion, may extend the Initial Term of the Agreement for an extension term not to exceed three (3) additional years, subject to the same terms and conditions set forth herein. The foregoing notwithstanding, nothing in this Section shall operate to prohibit, modify or otherwise restrict the City Council's ability to terminate HAMILTON's employment at any time for cause or for convenience and without cause, including during the extension term or at any time prior to the expiration of the Initial Term. Further, nothing in this Agreement shall prohibit or otherwise restrict the CITY, by action of the City Council, from approving an extension to this Agreement at any time during the Initial Term, provided such approval is made in compliance with applicable law.

1.3 DUTIES AND RESPONSIBILITIES.

A. HAMILTON shall perform the duties and functions of the City Manager as specified under the laws of the State of California, the El Monte Municipal Code, the ordinances and resolutions of the CITY and subsection (B) of this Section, below. HAMILTON shall also perform such other duties and functions as the City Council may assign from time to time.

B. HAMILTON shall serve as the City Manager and shall be vested with the powers, duties and responsibilities of the City Manager as set forth in Section 2.12 of the El Monte Municipal Code, as the same may be amended or modified from time-to-time by the City Council. HAMILTON's performance of his duties shall be subject to the direction and oversight of the City Council. It is the intent of the Parties that HAMILTON shall use all reasonable efforts to keep the City Council fully informed of all significant operations or major undertakings of the CITY. HAMILTON's duties and responsibilities shall include, but are not limited to, the following:

1. HAMILTON shall be the chief executive officer of the CITY and shall be responsible to the City Council for the proper administration of all the affairs of the CITY.
2. HAMILTON shall perform all the duties of the City Manager as set forth in the El Monte Municipal Code (the "Municipal Code"), the California Government Code, and CITY policies and procedures approved by the City Council, as may be provided from time to time. The City Manager shall also perform other legally permissible and proper duties and functions as the City Council may assign from time to time.
3. The City Council may also designate HAMILTON as the chief executive of other CITY-related legal entities. Such other legal entities could include financing authorities, joint powers authorities and the Successor Agency to the El Monte Community Redevelopment Agency.

4. HAMILTON shall administer and enforce policies established by the City Council and promulgate rules and regulations as necessary to implement such policies.
5. HAMILTON shall:
 - (i) Attend all meetings of the City Council, unless excused by the Mayor, and take part in the discussion of all matters before the City Council. HAMILTON shall receive notice of special meetings, emergency meetings, adjourned special meetings and/or adjourned regular meetings called by the Mayor or members of the City Council as provided under the Ralph M. Brown Act (Government Code section 54950 et seq.);
 - (ii) Review all agenda documents before preparing the agenda for any meeting of the City Council;
 - (iii) Direct, oversee and review the work of all CITY department directors and division managers and all CITY employees and independent contractors under their supervision, except those employees or independent contractors that are directly appointed by or report directly to the City Council. HAMILTON shall endeavor to implement changes that HAMILTON believes will result in greater efficiency, economy, or improved public service in the administration of CITY affairs;
 - (iv) Recommend to the City Council from time to time, adoption of such measures as HAMILTON may deem necessary or expedient to safeguard and enhance health, safety, or welfare of the community or for the improvement of the CITY's administrative functions;
 - (v) Conduct research in administrative practices in order to bring about greater efficiency and economy in CITY government, and develop and recommend to the City Council long-range plans to improve CITY operations and prepare for future CITY growth and development;
 - (vi) Provide management training and develop leadership qualities among the department directors, division managers and the employees and independent contractors under their supervision as necessary to build an informed and effective CITY management team that can plan for and meet all challenges that may come before the CITY; and
 - (vii) Exercise control of CITY government in emergencies as authorized by the Municipal Code and California law.

1.4 WORK HOURS.

A. The position of City Manager shall be deemed an exempt position under state and federal wage and hours laws. HAMILTON's compensation (whether salary or benefits or other allowances) is not based on hours worked and HAMILTON shall not be entitled to any compensation for overtime.

B. HAMILTON shall be allowed reasonable flexibility in setting his own office hours, provided: (i) HAMILTON maintains a reasonably substantial onsite presence at City Hall during normal CITY business hours; and (ii) HAMILTON is reasonably available to members of the City Council, CITY staff and members of the community during normal CITY business hours.

C. Consistent with subsection A, above, HAMILTON's work hours may generally conform to the four 10-hour days per week work schedule afforded department heads and directors, however, HAMILTON understands that the duties, demands and responsibilities of the office of City Manager may from time to time require that he work days and hours that do not strictly conform to that schedule generally afforded to other executive level staff and shall be available to discharge the duties and responsibilities of City Manager at all times reasonably necessary.

1.5 REGIONAL AND PROFESSIONAL ACTIVITIES. The City Council desires that HAMILTON be reasonably active in professional organizations that will promote the standing of CITY and advance the CITY's goals, interests and policy objectives while also providing HAMILTON with opportunities for the type of professional development that will enhance his ability to serve the CITY and perform his duties as City Manager. Toward this end, HAMILTON may, upon reasonable notice and approval by the City Council, join professional organizations and participate in the activities of such organization in so far as such participation promotes the interests of the CITY and does not unduly interfere with the performance of HAMILTON's duties as City Manager. These activities may include, without limitation, participation in the California Contract Cities Association, California League of Cities, Independent Cities Association, City Management Foundation, San Gabriel Valley City Manager's Association or other similar national, statewide, regional or professional organizations provided that such activities do not in any way interfere with or adversely affect HAMILTON's performance as City Manager. Subject to funding availability as determined by the City Council in its sole and absolute discretion, CITY may pay for the dues and subscriptions of the City Manager necessary for his participation in national, statewide, regional or professional organizations.

1.6 OUTSIDE EMPLOYMENT. During the Initial Term of this Agreement or any extension term, HAMILTON shall not take on or otherwise commence any other compensated or uncompensated full time outside employment with any third party where such employment would be in addition to and performed concurrent with HAMILTON's employment with the CITY or where such outside employment would otherwise create a financial conflict under, or other violation of, federal or state law. For purposes of this Agreement "full time outside employment" shall constitute any employment involving the performance of twenty (20) hours or more of work per week.

During the Initial Term of this Agreement or any extension term, HAMILTON shall not, without prior written notice to the City Council and without the City Council's prior written consent, take on or otherwise commence any compensated or uncompensated part-time outside employment with any third party that would be in addition to and performed concurrent with HAMILTON's employment with the CITY or which would otherwise create a financial conflict of interest or violate the laws of the State of California or the United States. For purposes of this Agreement "part-time outside employment" shall constitute any employment involving the performance of less than twenty (20) hours of work per week. The City Council, in its sole and absolute discretion, reserves the right to withhold consent in so far as any concurrent outside part-time employment would violate applicable law or would adversely impact HAMILTON's ability to effectively and competently perform his duties under this Agreement. The City Council further reserves the right to place conditions upon the granting of any permission to engage in part-time outside employment.

1.7 RESIDENCE. HAMILTON shall not be required to reside within the territorial boundaries of the City of El Monte. The foregoing notwithstanding, HAMILTON shall maintain a permanent residence within a reasonable distance to the City of El Monte so as to permit HAMILTON travel to the City of El Monte within sixty (60) minutes in the event of CITY emergencies.

1.8 CONFLICTS OF INTEREST. HAMILTON shall not, during the Initial Term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City of El Monte, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without prior approval of the City Council. HAMILTON shall further refrain from developing a financial stake in any commercial venture or partnership with any entity doing business with the CITY where such financial stake would create a violation of Government Code section 1090. For and during the Initial Term of this Agreement and any extension term, HAMILTON further agrees that, except for a personal residence or residential property acquired or held for future use as his personal residence, HAMILTON will not invest in any other real estate or property improvements within the corporate limits of the City of El Monte without the prior consent of the City Council and subject to the restrictions of all applicable financial conflict of interest laws.

1.9 PERFORMANCE EVALUATION. The City Council reserves the right to conduct a general job performance evaluation and review of HAMILTON once each fiscal year. The review shall be commenced no sooner than March 1st of each fiscal year. In conducting the review the Parties may, but shall not be required to, use the services of a professional consultant selected by the City Council. The job performance evaluation and review shall serve the following purposes and objectives: (i) to evaluate HAMILTON's overall job performance over the course of the fiscal year; (ii) to identify areas of notable progress and/or accomplishment and identify ways of sustaining and/or improving upon such progress and/or accomplishments; (iii) to identify areas requiring improvement and how such improvement might be accomplished; (iv) to measure HAMILTON's success in meeting, achieving and/or exceeding City Council-defined, goals, objectives, priorities, activities and programs over the fiscal year or since the last

performance evaluation and review; (v) to establish goals, objectives, priorities for the upcoming year; and (vi) to determine what, if any, adjustments or enhancements should be considered and approved to HAMILTON's compensation terms. The failure of CITY to undertake a performance evaluation shall not limit CITY's ability to terminate this Agreement pursuant to Section 5, below. Further, nothing in this Section shall be construed to restrict or otherwise limit the ability of the CITY to undertake any other review or investigation of HAMILTON during the course of a fiscal year which the City Council may deem necessary to address any allegation of inappropriate conduct or other wrongdoing.

SECTION 2. BASE COMPENSATION; BENEFITS AND REIMBURSEMENTS.

2.1 BASE SALARY. City shall pay HAMILTON an annual base salary of ONE HUNDRED AND NINETY-FIVE THOUSAND DOLLARS (\$195,000) per year (hereinafter, the "Base Salary"), subject to deductions for taxes, deferred compensation and other out-of-pocket benefits paid for by HAMILTON as a CITY executive management employee. CITY shall pay HAMILTON in bi-monthly installments at the same time as other employees of CITY are paid.

2.2 RETIREMENT/DEFERRED COMPENSATION.

A. IRS 457 Plan: CITY shall select and make available to HAMILTON a qualified deferred compensation plan under Internal Revenue Code Section 457 (hereinafter, the "IRS 457 Plan") and HAMILTON will be allowed to make his own voluntary contributions into said account over the course of each fiscal year up to the applicable contribution limits. CITY shall be under no obligation to make a contribution into the IRS 457 Plan.

B. CalPERS: CITY shall provide membership in the California Public Employees Retirement System ("CalPERS") to HAMILTON using the Two Percent (2%) at age 55 formula. CITY shall contribute the CITY's and HAMILTON's portion of the cost of membership in CalPERS during the Initial Term of this Agreement and any extension of the Term.

2.3 AUTOMOBILE ALLOWANCE. CITY recognizes that HAMILTON's duties as City Manager may require extensive use of an automobile in the ordinary course of performing his duties as City Manager. Accordingly, CITY shall provide HAMILTON with the use of City-owned automobile for HAMILTON's use. HAMILTON's use and operation of the City-owned vehicle shall be subject to any and all existing City-policies or State laws, as the same may be amended from time to time, restricting or otherwise regulating the use public property in general and City-owned automobiles in particular. The foregoing notwithstanding, CITY, at all times, reserves the right to establish such amended and/or additional terms, conditions and restrictions on HAMILTON's use of the City-owned vehicle. The foregoing notwithstanding, CITY further reserves the right to discontinue HAMILTON's use of a City-owned vehicle and substitute the same with an automobile allowance in the amount of Four Hundred Dollars (\$400) per month. In the event HAMILTON is later provided a car allowance in lieu of the use of a City-owned automobile, HAMILTON: (a) shall be responsible for maintaining and paying all auto

liability insurance as may be required by State law for the operation of such vehicle and such insurance shall be primary to any insurance maintained by City to the fullest extent permitted by law; and (b) shall be solely responsible for paying any and all fuel, operation, maintenance and repair costs of HAMILTON's vehicle.

2.4 MEDICAL, DENTAL AND VISION COVERAGE.

A. Medical. During the Initial Term of this Agreement and any extension term, CITY shall contribute an amount equivalent to the amount provided to City's upper-management Executive Team Members, as the same may be amended from time to time by the City Council, toward the cost of medical health coverage for HAMILTON, HAMILTON's spouse and dependent children, if any.

B. Dental. During the Initial Term of this Agreement and any extension term, CITY shall contribute an amount equivalent to the amount provided to CITY's upper-management Executive Team Members, as the same may be amended from time to time by the City Council, toward the cost of a Dental Services Plan for HAMILTON, HAMILTON's spouse and dependent children, if any.

C. Vision. During the Initial Term of this Agreement and any extension term, CITY shall contribute an amount equivalent to the amount provided to the upper-management City's Executive Team Members, as the same may be amended from time to time by the City Council, toward a vision health services plan for HAMILTON and HAMILTON's spouse and dependent children, if any.

D. Employer Contribution for Retiree Medical Subsidy. To the extent authorized under applicable law and in the manner prescribed by law, CITY shall contribute Seventeen Thousand, Five Hundred Dollars (\$17,500) each fiscal year toward a retiree health benefit annuity or similar product the proceeds of which are to be available post-retirement to assist with health expenses and costs for HAMILTON. If no such benefit is available during a particular fiscal year, CITY shall instead contribute the established amount of Seventeen Thousand, Five Hundred Dollars (\$17,500) toward a qualified deferred compensation plan under Internal Revenue Code Section 401(a) (hereinafter, the "IRS 401(a) Plan", subject to the availability of such a plan for that fiscal year and to the extent authorized under applicable law.

E. Types of Plans. In reference to the medical, dental and vision plans referenced under subsections (A) through (C) of this Section, above, HAMILTON shall be allowed to choose from the menu of coverage plans that are also made available to the CITY's upper-management Executive Team Members, as the same menu may be amended from time to time by resolution of the City Council and to the extent such plans continue to be available on the open market.

2.5 LONG TERM DISABILITY.

A. Long-Term Disability. HAMILTON shall be eligible for benefits at no cost to HAMILTON under the CITY's Long-Term Disability policy during the Initial Term of employment. Details of the Long Term Disability Benefit are outlined in the insurance

certificate, but feature a benefit of Sixty Percent (60%) of pre-disability benefits reduced by deductible income, as defined therein.

B. Long-Term Care. At HAMILTON's written election, CITY shall pay for the comprehensive long-term care program as offered by CalPERS with inflation protection for HAMILTON (Built-In Inflation Protection with maximum daily benefit amount) during the term of employment.

2.6 BUSINESS RELATED EQUIPMENT. CITY shall provide a cell phone and cover service costs and other personal data devices (e.g., computer, etc.) in so far as such items are necessary for the performance of CITY-related business and are in fact used for CITY business.

2.7 JURY DUTY. HAMILTON will receive full pay and benefits while responding to a jury summons or serving on a jury, up to a maximum of fourteen (14) business days. Any compensation for such jury duty (except travel pay) shall be remitted to CITY.

2.8 REIMBURSEMENT. CITY shall reimburse HAMILTON for reasonable and necessary travel, subsistence and other business expenses incurred by HAMILTON in the performance of his duties or in connection with HAMILTON's participation in those authorized activities referenced under Section 1.5, above. All reimbursements shall be subject to and in accordance with any limitations or restrictions set forth under the laws of the State of California or any CITY-adopted reimbursement policies.

2.9 TERM LIFE INSURANCE. During the Initial Term of this Agreement and any extension term, CITY, at its sole cost and expense, shall procure and provide HAMILTON, a policy of term life insurance. During the Initial Term of this Agreement, the death benefit payable on the life insurance policy shall be capped at the maximum sum of One Million Dollars (\$1,000,000). CITY's and HAMILTON's designated beneficiary shall each be named as beneficiaries for one half (1/2) of the death benefit payment and in the event of HAMILTON's death during the Initial Term of this Agreement, CITY shall receive one half of the death benefit payment and HAMILTON's designated beneficiary shall receive the other half of the death benefit payment. In the event CITY is unable to procure a single policy of \$1,000,000, as described, above, CITY in the alternative may procure two separate but concurrent policies of \$500,000 each, and CITY shall designate itself as beneficiary for one of the two policies and HAMILTON shall designate the beneficiary for the second of the two policies.

SECTION 3. VACATION AND OTHER LEAVE.

3.1 VACATION LEAVE.

A. Subject to the availability of a sufficient number of vacation leave hours in HAMILTON's vacation leave bank, HAMILTON shall be allowed to take up to ten (10) calendar days of paid vacation leave each fiscal year. The foregoing notwithstanding, HAMILTON shall provide the City Council with reasonable prior notice before taking any

vacation leave in which HAMILTON will be out of the country or otherwise unavailable for a period of five (5) or more consecutive calendar days.

B. The Parties acknowledge and agree that as of the Effective Date, HAMILTON has a balance of 216.84 hours of accrued but unused vacation leave as calculated by the El Monte Finance Department. Commencing upon the Effective Date, HAMILTON shall accrue a maximum of one hundred and sixty (160) hours of paid vacation leave per calendar year which shall accrue incrementally over the course of each calendar year and be added to HAMILTON's unused vacation leave bank in bi-monthly installments. The foregoing notwithstanding, at no time may HAMILTON's total aggregate unused or unsold vacation hours be allowed to exceed three hundred twenty (320) hours total. If HAMILTON's accrued but unused vacation leave reaches 320 hours total, HAMILTON will stop accruing additional vacation leave unless and until the accrued vacation leave falls below 320 hours. The foregoing notwithstanding, HAMILTON may sell back accrued but unused vacation leave hours once each fiscal year quarter, subject to a maximum sell-back cap of one hundred and twenty (120) hours per fiscal year. HAMILTON shall be paid the value of any accrued and unused vacation leave at the time of separation of employment for any reason.

3.2 ADMINISTRATIVE LEAVE. HAMILTON shall continue to be allocated a maximum of forty (40) hours of paid administrative leave on July 1st of each fiscal year. The maximum amount of paid administrative leave hours that HAMILTON may accrue at any given time may not exceed forty (40) total. Accrued but unused administrative leave hours may not be rolled-over to the next CITY fiscal year and may not be sold back to the CITY. HAMILTON shall not be paid the value of any accrued but unused administrative leave hours upon separation of employment for any reason. As of the Effective Date of this Agreement, the Parties acknowledge and agree that HAMILTON has 20 hours of accrued but unused administrative leave for the City's 2017-2018 fiscal year.

3.3 SICK LEAVE.

A. The Parties acknowledge and agree that as of the Effective Date, HAMILTON has a balance of 165.26 hours of accrued but unused sick leave as calculated by the El Monte Finance Department. Commencing upon the Effective Date, HAMILTON will accrue sick leave hours at a rate of eight (8) hours per month or prorated portion thereof up to a maximum of ninety-six (96) sick leave hours per fiscal year. Sick leave shall be used by HAMILTON only in cases of actual sickness or disability of HAMILTON or a member of HAMILTON's immediate family, including HAMILTON's dependents. HAMILTON may sell back accrued but unused sick leave hours once each fiscal year quarter, subject to a maximum sell-back cap of one hundred and twenty (120) hours per fiscal year.

B. In the event HAMILTON dies during the Initial Term of this Agreement or in the event HAMILTON, having reached age 55, applies for and is granted a service retirement from CalPERS, HAMILTON (or HAMILTON's heirs in the event of his death) shall receive a dollar sum equal to one half (1/2) of the dollar value of HAMILTON's total accrued but unused sick leave hours at time of death or service retirement, whichever

the case may be. In the event HAMILTON applies for and is granted a service retirement under CalPERS, HAMILTON may apply as much of his earned but unused sick leave hours toward retirement service credit to the extent allowed by CalPERS.

C. In the event HAMILTON separates from the CITY after being terminated for cause or prior to reaching 55 years of age and under circumstances that do not involve the application for or grant of a CalPERS service retirement, then HAMILTON shall not be entitled to the payment of any sums for any sick leave hours HAMILTON may have earned but are unused at the time of his separation from the CITY.

3.4 HOLIDAYS. HAMILTON shall receive those CITY-observed paid holidays that are also received by the CITY's upper-management Executive Team Members as the same may be modified or amended from time to time by resolution of the City Council in its sole and absolute discretion.

SECTION 4. ILLNESS OR INJURY; DISABILITY AND DEATH.

4.1 CESSATION OF WORK DUE TO NON-PERMANENT ILLNESS OR INJURY. In addition to any right of termination set forth under Section 5, below, CITY also reserves the right to terminate HAMILTON's employment along with this Agreement if HAMILTON ceases to work as a result of illness or injury: (i) which does not arise out of the course of employment; (ii) which does not limit a major life activity within the meaning of California's Fair Employment and Housing Act; and (iii) where the cessation of work continues beyond the longer of the following: a period of four successive weeks beyond HAMILTON's accrued sick leave; or a period of twenty (20) consecutive days beyond a period of thirty (30) consecutive days of incapacity due to illness or injury.

4.2 DISABILITY. In addition to any right of termination set forth under Section 5, below, CITY reserves the right to terminate HAMILTON's employment along with this Agreement after HAMILTON suffers any physical or mental disability that does not arise out of the course of employment and that prevents the performance of HAMILTON's essential job duties, unless reasonable accommodation can be made to allow HAMILTON to continue working. The foregoing notwithstanding, CITY may terminate HAMILTON if the disability poses a direct threat to CITY, HAMILTON, or any other employees working for CITY and any reasonable accommodation attempted by CITY would not mitigate or eliminate such a threat. The CITY will not provide a severance payment if HAMILTON is terminated under this Section of this Agreement.

4.3 ILLNESS, INJURY OR DISABILITY ARISING OUT OF THE COURSE OF EMPLOYMENT. In the event HAMILTON suffers a physical or mental disability arising out of the course of employment, CITY's ability to terminate HAMILTON solely and exclusively on the basis of the illness, injury or disability shall be subject to applicable workers' compensation laws for the State of California, the Americans with Disabilities Act (42 U.S.C. Section 12101 et. seq.) and the California Fair Employment and Housing Act. Further, HAMILTON's exclusive remedy or remedies against CITY for such illness, injury or disability shall be those legally required under the workers' compensation laws of the State of California.

4.4 MEDICAL EXAMINATION. HAMILTON agrees to submit to a medical and/or psychological examination by a qualified physician or psychiatrist selected by the CITY, in the event a decision must be made under Sections 4.1 through 4.3. CITY and HAMILTON shall receive a copy of all medical reports related to the examination.

4.5 DEATH OF EMPLOYEE. This Agreement along with HAMILTON's employment shall terminate automatically upon HAMILTON's death. In the event HAMILTON dies while employed by CITY under this Agreement, HAMILTON's beneficiaries or those entitled to HAMILTON's estate, shall be entitled to HAMILTON's earned salary and any in-lieu payments for accrued benefits, including compensation for the value of all accrued leave balances.

4.6 COMPENSATION UPON TERMINATION. Except as otherwise provided under this Agreement, if HAMILTON's employment is terminated pursuant to this Section 4, CITY shall provide HAMILTON with the same compensation and benefits provided in the event of termination pursuant to Section 5.2. If termination is caused by HAMILTON's death, CITY shall provide the compensation and benefits otherwise due HAMILTON to HAMILTON's executor, administrator, heirs, personal representatives, successors, and assigns. CITY will not provide for severance pay if HAMILTON is terminated under the provisions of this Section 4.

SECTION 5. EMPLOYMENT "AT-WILL"; SEPARATION FROM EMPLOYMENT

5.1 EMPLOYMENT WITH CITY "AT-WILL."

A. HAMILTON's employment status with CITY shall be at-will and HAMILTON shall serve at the pleasure of the City Council as provided under Government Code section 36506. CITY, through the City Council, may at any time terminate HAMILTON's employment with the CITY with or without cause by majority vote of its full membership. HAMILTON acknowledges, understands and agrees that HAMILTON may not avail himself of any procedures, provisions or protections set forth under the CITY's Employment Policies, as defined herein, in so far as such procedures, provisions or protections limit, restrict, modify, prohibit or regulate HAMILTON's status as an "at-will" employee of CITY or the ability of the City Council to terminate HAMILTON's employment at any time for cause or for convenience. For purposes of this Agreement, the capitalized term "Employment Policies" means and refers to any ordinance, resolution, regulation, rule or other written policy of the CITY as the same may be amended, modified or supplemented from time-to-time (including but not limited to Chapter 2.72 (Personnel System) of the El Monte Municipal Code and any written employment manual of the CITY) which governs, regulates or otherwise relates to employment with the CITY. The CITY's Employment Policies shall not apply to HAMILTON in so far as such Employment Policies limit, restrict, modify or regulate (or may be interpreted to limit, restrict, modify or regulate) HAMILTON's status as an "at-will" employee of CITY.

B. Except as otherwise provided under this Section 5, HAMILTON shall not be entitled to any pre-termination hearing or other similar proceeding or appeal

proceeding as a precondition to any decision or action by the City Council to terminate HAMILTON's employment whether for cause or for convenience.

C. Nothing in this Agreement shall confer upon HAMILTON any right to any property interest in continued employment with the CITY.

5.2 RESIGNATION/RETIREMENT.

A. HAMILTON may resign and/or retire from his employment with the CITY at any time for any reason, provided HAMILTON provides the City Council with written notice of his intent to so terminate his employment at least forty-five (45) calendar days prior to the effective date of separation.

B. The City Council in its sole and absolute discretion may waive or shorten the 45-day prior written notice requirement provided such waiver is made in writing. The failure to provide the prior written notice required under this Section shall constitute a material breach of this Agreement.

5.3 SEPARATION FOR CONVENIENCE AND WITHOUT CAUSE; SEVERANCE.

A. Except as provided for in section 5.3(B) below, in the event HAMILTON is terminated for convenience and without cause by the City Council prior to the expiration of the Initial Term or any extension term and while HAMILTON is willing and able to perform the City Manager's duties under this Agreement, then in that event the CITY agrees to pay HAMILTON a lump sum cash payment equal to the lesser of the following: (i) the cash value of eighteen (18) months' worth of HAMILTON's annual Base Salary at the time of separation [i.e., the prorated value of one months' worth of HAMILTON's annual Base Salary at the time of separation multiplied by twelve]; or (ii) the prorated value of one months' worth of HAMILTON's annual Base Salary at the time of separation multiplied by the number of months or portion thereof remaining on the Initial Term or any extension term.

B. The CITY shall extend to HAMILTON the right to continue health insurance as may be required by and pursuant to terms and conditions of this Consolidated Omnibus Reconciliation Act of 1986 ("COBRA"). The CITY agrees to pay HAMILTON's COBRA coverage for the same number of months for which HAMILTON is entitled to a lump sum cash payment under Section 5.3(A), or until HAMILTON either secures and begins full-time employment or obtains other health insurance, whichever of these three events occurs first. HAMILTON shall notify the CITY within five (5) calendar days of securing new full-time employment or insurance.

C. All payments required under Section 5.3(A) through 5.3(C), above, or any other cash settlement associated with the termination of this Agreement shall be subject to and shall be interpreted to comply with the limitations and restrictions set forth under Government Code section 53260 and 53261. Further, in the event HAMILTON is convicted of a crime involving an abuse of office or position, HAMILTON shall reimburse

the CITY for any paid leave or cash settlement (including severance), as provided by Government Code sections 53243 through 53243.4.

5.4 SEPARATION FOR CAUSE.

A. Notwithstanding the provisions of Section 5.3, above, HAMILTON may be terminated for cause. As used in this Section, "cause" shall mean only one or more of the following:

- (i) The Breach of this Agreement;
- (ii) Conviction (including a plea of no contest) of a felony or any misdemeanor under the Political Reform Act or Government Code Section 1090;
- (iii) Conviction (including a plea of no contest) of any offense constituting an "abuse of office or position" within the meaning of Government Code section 53243.4;
- (iv) Conviction (including a plea of no contest) of a misdemeanor involving a crime of moral turpitude or felony under California law;
- (v) Continued abuse of non-prescription drugs or alcohol that materially affects the performance of HAMILTON's duties;
- (vi) Repeated and protracted unexcused absences from HAMILTON's office and duties;
- (vii) Resume fraud;
- (viii) A finding by judicial proceeding that legally prohibited personal acts of sexual harassment against a CITY official or employee or legally prohibited personal acts of discrimination against a CITY official or employee has occurred;
- (ix) 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 willful violation of properly established rules and procedures; and
- (x) Any other action or inaction of HAMILTON that materially and substantially impedes or disrupts the performance of CITY or its organizational units or is detrimental to employee safety or public safety.

The City Council may, at its sole option, place HAMILTON on administrative leave with pay until resolution of allegations or charges, including but not limited to criminal charges, brought against HAMILTON, or until a final judicial or administrative decision

finding legally prohibited personal acts of sexual harassment against a CITY official or employee or legally prohibited personal acts of discrimination against a CITY official or employee. Prior to terminating this Agreement pursuant to this Section, the City Council shall give HAMILTON at least ten (10) calendar days' prior written notice of the charges. Within the ten-day period, but not earlier than five (5) calendar days after the notice has been given, the City Council shall meet with HAMILTON in closed session and give HAMILTON an opportunity to address the City Council regarding the charges. HAMILTON may have a representative at the closed session with the City Council. After hearing HAMILTON's response to the charges, the City Council shall make a decision as to whether to terminate this Agreement and shall inform HAMILTON in writing of its decision. Other than as provided in this subsection, HAMILTON expressly waives any other form of hearing or appeal of the Council's decision. Nothing in this subsection creates a property right in employment. Notwithstanding anything contained in this subsection, HAMILTON remains an at-will employee serving at the pleasure of the Council. The initiation of termination proceedings for cause shall not operate to prohibit or otherwise restrict the City Council from exercising its right to terminate HAMILTON without cause as provided under Section 5.3 of this Agreement.

B. In the event the City terminates HAMILTON for cause, then CITY may terminate this Agreement immediately, and HAMILTON shall be entitled to only the compensation accrued up to the date of termination, payments required under Sections 3 and subsection 5.5, and such other termination benefits and payments as may be required by law. In the event of termination for cause, HAMILTON shall not be entitled to any severance provided for under Section 5.3, above. The foregoing notwithstanding, CITY may deduct from such payments any reimbursement sums it is owed pursuant to Government Code sections 53243 through 53243.4.

5.5 PAYMENT FOR UNUSED LEAVE BALANCE. Upon separation from CITY employment, HAMILTON shall be paid for all unused accrued leave allowances set forth under Section 3 to the extent the payout for such leave is authorized under this Agreement or is otherwise required by applicable law.

5.6 RETURN OF CITY EQUIPMENT. HAMILTON agrees that all property including, without limitation, all equipment, tangible Proprietary Information (as defined below), documents, records, notes, contracts, and computer-generated materials, furnished to or prepared by him incident to his employment, are the property of CITY and shall be returned promptly to CITY upon termination of HAMILTON's employment. HAMILTON's obligations under this subsection shall survive the termination of his employment and the expiration or early termination of this Agreement.

SECTION 6. GENERAL PROVISIONS.

6.1 PROPRIETY INFORMATION. "Proprietary Information" means all information and any ideas pertaining in any manner to the business of the City Council, the CITY or the CITY's various, departments, divisions, committees and commissions, which was produced by HAMILTON in the course of his employment or otherwise produced to or acquired by HAMILTON in the course of his employment with the 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, HAMILTON 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, HAMILTON shall not use any Proprietary Information and shall not disclose any Confidential Information, except with the express written consent of CITY. HAMILTON's obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

6.2 NOTICES. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to CITY at the address below, and at the last known address maintained in HAMILTON's personnel file. HAMILTON agrees to notify CITY in writing of any change in his address during his employment with CITY. Notice of change of address shall be effective only when accomplished in accordance with this Section.

City's Notice Address:

City of El Monte
11333 Valley Boulevard
El Monte, California 91731
Attn: Mayor and City Council

City Manager's Address: [Deliver to last updated address in personnel file]

6.3 INDEMNIFICATION.

A. CITY shall defend, hold harmless and indemnify HAMILTON against any claim, demand, judgment or action of any type or kind arising within the course and scope of HAMILTON's employment to the extent required by Government Code sections 825 and 995.

B. Subsection (A) of this Section notwithstanding, CITY reserves all rights (including all rights to monetary reimbursement) afforded under Government Code sections 53243, 53243.1, 53243.2, 53243.3 and 53243.4 and nothing in this Agreement shall operate or otherwise be construed to place any restriction upon CITY in exercising and/or enforcing such rights under the foregoing Government Code sections. In the event HAMILTON is convicted of an offense constituting an abuse of office or position, HAMILTON shall reimburse CITY for any sums expended investigating and/or defending such wrongdoing as provided under Government Code section 53243, 53243.1 and 53243.3. For purposes of this Agreement, the phrase "abuse of office or

position” shall have the same meaning as set forth under Government Code section 53243.4

6.4 ENTIRE AGREEMENT. This Agreement is intended to be the final, complete, and exclusive statement of the terms of HAMILTON’s employment by CITY. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of HAMILTON, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of CITY, now or in the future, apply to HAMILTON and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

6.5 AMENDMENTS. This Agreement may not be amended except in a written document signed by HAMILTON, approved by the City Council and signed by Mayor.

6.6 WAIVER. Failure to exercise any right under this Agreement shall not constitute a waiver of such right.

6.7 ASSIGNMENT. HAMILTON shall not assign any rights or obligations under this Agreement. CITY may, upon prior written notice to HAMILTON, assign its rights and obligations hereunder.

6.8 SEVERABILITY. If any court of competent jurisdiction holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

6.9 ATTORNEYS’ FEES. In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys’ fees and costs.

6.10 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of California, with venue properly only in Los Angeles County, State of California.

6.11 INTERPRETATION. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit or against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the Parties to this Agreement and by no other means. Each Party waives its future right to claim, contest, or assert that this Agreement was modified, cancelled superseded or changed by any oral agreement, course of conduct, waiver or estoppel.


6.12 ACKNOWLEDGMENT. HAMILTON acknowledges that he has had the opportunity to consult legal counsel with regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

6.13 COUNTERPARTS. This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts. One fully executed counterpart shall be delivered to HAMILTON, the second fully executed counterpart shall be archived by the City Clerk and the third fully executed counterpart shall be retained by the Human Resources Department.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, CITY has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested to by its City Clerk, and HAMILTON has signed and executed this Agreement, as of the date first indicated above.

CITY OF EL MONTE

By: 
Andre Quintero, Mayor

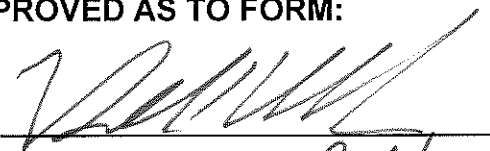
Date: 2/5/18

ALEXANDER HAMILTON

By: 
Alexander Hamilton

Date: 1-31-18

APPROVED AS TO FORM:

By: 

Name: Richard Podillo

Title: Asst. city clerk