

City Manager Restated and Amended Employment Agreement

This Restated and Amended Employment Agreement is made and entered into this ____ day of _____, 2021, by and between the City of Plano, a municipal corporation, (hereinafter called “Employer”) and Mark Israelson, an individual, (hereinafter called “Employee”) to set forth the obligations between the parties for the duties and benefits for Employee to serve as Plano City Manager and the parties agree as follows:

The purpose of this Agreement is to set forth the expectations and benefits to be provided for the Employee while he serves as the Plano City Manager.

Section 1: Term

A. The Initial Term of this Agreement shall be from March 16, 2021 through April 30, 2024, unless it is terminated earlier by Employee or Employer under Section 6.

B. If the Employer elects to **not** renew the Agreement after the Initial Term, it shall notify the Employee in writing not later than January 30, 2024 and the Agreement shall terminate on May 1, 2024.

C. At the end of the Initial Term and if the Employer has **not** provided notice to terminate in accordance with Section 1(B) herein, the Agreement shall automatically renew annually for two (2) year term(s). Thereafter, the Employer must notify Employee in writing of its election to **not** renew the Agreement no later than January 30 of each year the Agreement will renew; otherwise the Agreement is extended automatically for two additional years starting each year on May 1. If the Employer elects to not renew, the Agreement is terminated on May 1 immediately subsequent to the notice date of the renewal year.

D. Upon termination, neither party shall have any further obligations under the Agreement including but not limited to the employment of Employee as City Manager except that the Employee shall be entitled to any severance due pursuant to Sections 6 & 7 of the herein Agreement and the customary benefits that are provided to other employees on termination pursuant to city policies.

Section 2: Duties and Authority

By City Council action on January 28, 2019, Employer appointed Employee as City Manager to perform all customary and usual functions and duties of the position of City Manager including but not limited to those specified by state law, City Charter, and any applicable city ordinances, resolutions and policies. It shall be the duty of the Employee to perform the duties of Chief Executive Officer of the City consistent with the City Charter and ordinances and policies of the City. All duties assigned to the Employee by the City Council shall be appropriate and consistent with the professional role and responsibility of Employee.

Section 3: Compensation

A. Employer agrees to pay Employee an annual base salary and benefits as set out in the City of Plano FY 2020-2021 Operating Budget, Ordinance 2020-9-4, and as currently being paid to Employee on the date of approval of this Restated and Amended Employment Agreement which is payable in installments at the same time that the other employees of the Employer are paid.

B. This Agreement shall be automatically amended to reflect any salary adjustments that are provided by the Employer. Consideration shall be given on an annual basis to increase compensation and other benefits provided to Employee.

Section 4: Retirement

A. As additional compensation, Employer agrees to pay both the Employee and Employer's share of contributions to Employee's Texas Retirement System and Retirement Savings Plan benefits for Employee in accordance with the provisions of those plans.

B. In addition to the plans referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation [ICMA-RC] Section 457 deferred compensation plan for Employee's continued participation in said plan. Employer agrees to pay annually an amount as budgeted but, in no event, less than equal to Fifteen Thousand Dollars (\$15,000.00) to be paid in equal proportionate amounts each pay period into said plan on Employee's behalf. This retirement contribution is in addition to the annual base salary and other compensation in Section 3.

Section 5: General Business Expenses

A. Employer agrees to budget and pay for professional dues and subscriptions of the Employee necessary for his continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

B. Employer agrees to budget and pay for travel expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, the Texas Municipal League, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.

C. Employer also agrees to budget for and to pay for travel expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer.

D. Employer recognizes that certain expenses of a non-personal but job-related nature are incurred by Employee and agrees to reimburse or to pay said general expenses. The Finance Director is authorized to disburse such moneys upon receipt of duly executed expense or petty vouchers, receipts, statements or personal affidavits.

E. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs and organizations.

Section 6: Termination

This Agreement may be terminated only as follows:

A. Without cause by a majority vote of the governing body City Council at a duly authorized public meeting and by providing notice as required by Section 1(B) of this Agreement. If the Employer reduces the compensation and/or benefits of Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this Agreement and shall be deemed termination without cause; or,

B. With cause by a majority vote of the City Council and by providing at least ninety days' notice to Employee. For Cause means any of the following: (i) willful failure to fulfill City Manager duties; (ii) documented incompetence in the fulfillment of City Manager duties with a reasonable opportunity to remediate any incompetency; (iii) documented insubordination or failure to follow a reasonable directive that would not violate the law or professional ethics; (iv) illegal use of drugs, hallucinogens, or other illegal substances regulated by state law; (v) knowingly falsifying records or documents related to Employer's activities; (vi) conviction of, including probation or deferred adjudication, or deferred disposition of a felony or misdemeanor involving moral turpitude, theft, fraud, bribery, forgery, abuse of public office, illegal drugs or controlled substances or a crime of involving misapplication of public funds; (vii) knowing misrepresentation of material facts to the Employer or other City officials in the performance of Employee's work; (viii) any knowing or negligent misapplication of property entrusted to the Employer or in Employee's official capacity; or (ix) any court order by a court of competent jurisdiction preventing Employee from performing her duties to the City. The Employer may reduce the notice period upon written agreement of the Employee; or,

C. By Employee giving ninety days' notice of his resignation to Employer and Employer accepting such resignation at a duly authorized public meeting. The Employer may reduce the notice period upon written agreement of the Employee.

Notwithstanding any other provision, Employer specifically agrees that Employer may not terminate the Employee without cause during the Initial Term, as defined in Section 1(A) of the herein Restated and Amended Agreement, and if Employer does so, it will constitute a breach of this Agreement and Employee shall remain a City employee for

the remainder of such Initial Term and all compensation, benefits, and requirements of the Agreement shall remain in effect until the expiration of the Initial Term and Employer shall continue to pay Employee compensation and benefits, including retirement benefit participation in the TMRS and RSP plans, at the same rate of pay, including benefits, in effect prior to the breach of the Agreement through April 30, 2024.

Section 7: Severance

A. Severance shall be paid only under the following events:

In the event the Employee is terminated without cause by the Employer during any renewed term beyond the Initial Term of this Agreement and Employee is willing and able to perform his duties under this Agreement, Employer agrees to pay a severance payment in an amount equal to a pro-rated share of the annual base salary as provided in Section 3 based on the remainder of months left on the term of this Agreement as set out in Section 1, but in no event less than six months' salary excluding any retirement contributions required by Section 4(B) of this Agreement as further set out herein. If less than six months remains on the Employees term as of the termination date, and the Employee is terminated without cause, the Employer shall pay Employee a severance payment equal to six months' salary at his then current rate of pay, excluding any retirement contributions required by Section 4(B) of this Agreement. The severance shall be paid in a lump sum within ten days of the effective date of the termination.

B. Upon termination, the Employee shall also be compensated for accrued sick leave and vacation time in accordance with the limitations for such payments under City policy.

C. All lump sum payments will be net of any applicable and customary deductions for income tax, Medicare, etc.

D. If the Employee is terminated **for cause**, the Employer is not obligated to pay any severance under this section other than the standard payments made pursuant to City policy for any employee of Employer upon separation from Employer, unless otherwise agreed in writing by the parties.

E. No severance is due if the Employee resigns of his own accord unless otherwise agreed in writing by the parties other than the standard payments made pursuant to City policy for any employee of Employer upon separation from Employer, unless otherwise agreed in writing by the parties.

Section 8: Performance Evaluation

Employer shall annually review the performance of the Employee subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee.

Section 9: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer and, to that end, Employee shall be allowed to establish an appropriate work schedule.

Section 10: Outside Activities

The employment provided for by this Agreement shall be the Employee's sole employment unless otherwise approved by the City Council in writing.

Section 11: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 12: Other Terms and Conditions of Employment

The Employer shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee that are not inconsistent with this Agreement and that are agreed to in writing by the parties.

Section 13: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

D. Venue/Governing Law. The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County Texas. Exclusive venue shall lie in Collin County, Texas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this
____ day of _____, 2021.

ATTEST:

By: _____
Harry LaRosiliere, MAYOR

ATTEST:

By: _____
Mark Israelson, CITY MANAGER