



EMPLOYMENT AGREEMENT

by and between

CITY OF NATIONAL CITY

and

ALEJANDRO HERNANDEZ

Dated January 16, 2024

EMPLOYMENT AGREEMENT
TABLE OF CONTENTS

	<u>Page</u>
Introduction	1
Section 1 Term	1
Section 2 Duties and Authority	1
Section 3 Compensation	1
Section 4 Health, Disability and Life Insurance Benefits	1
Section 5 Leave	2
Section 6 Monthly Vehicle Allowance	2
Section 7 Retirement	2
Section 8 General Business Expenses	2
Section 9 Termination	3
Section 10 Resignation	3
Section 11 Performance Evaluation	3
Section 12 Outside Activities	4
Section 13 Indemnification	4
Section 14 Bonding	4
Section 15 Notices	5
Section 16 General Provisions	5
Section 17 Background Investigation & Medical Evaluation	6

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) made and entered into this January 16, 2024, by and between the City of National City, a municipal corporation, (hereinafter called “Employer”) and Alejandro Hernandez (hereinafter called “Employee”) an individual who has the education, training and experience in local government management to perform the functions and duties contemplated by this Agreement.

Section 1 Term

This Agreement shall remain in full force in effect for a period of three (3) years from January 16, 2024, through January 15, 2027, unless sooner terminated by the Employer or Employee as provided in Sections 9, 10 or 11 of this Agreement. If the Employer or Employee takes no action, this Agreement will automatically extend for two (2) additional one-year options.

Section 2 Duties and Authority

Employer agrees to employ Alejandro Hernandez as Chief of Police of the City of National City, on an “at-will” basis, to perform the functions and duties specified in the National City Municipal Code and any other applicable law, and to perform other legally permissible and proper duties and functions, commencing January 16, 2024. The Employee shall perform such functions and duties under the supervision of the City Manager, or her designee who is the Appointing Authority, and who shall act for the Employer, for purposes of this Agreement.

Section 3 Compensation

A. Base Salary: The Employer agrees to pay the Employee an annual base salary of two hundred forty-six, eight hundred sixty-eight dollars and twenty-three cents (\$246,868.23), payable in installments at the same time that the other executive employees of the Employer are paid. Employee shall receive a 2% bilingual pay differential for regularly using bilingual skills in the performance of his duties. A uniform allowance of \$900 per year will be payable in August of each year during the term of this Agreement.

B. Additional Compensation: Employee Served as Interim Chief of Police commencing December 6, 2023. In recognition of the fact Employee has continuously performed the duties and responsibility of Chief of Police, Employer agrees to pay Employee additional compensation in the amount of \$1,527.06 which represents the difference between compensation paid between December 6, 2023 and January 15, 2024 and the base salary established by this Agreement.

C. This Agreement shall be re-opened to discuss compensation after year one, in January 2025.

D. This Agreement shall be re-opened to discuss compensation and benefits if, and at the time, managers or executives receive any increase in compensation or benefits.

Section 4 Health, Disability and Life Insurance Benefits

A. The Employer agrees to provide Employee a cafeteria health benefit of \$1,200 per month.

B. The Employer agrees to put into force and to make required premium payments for short term and long term disability coverage for the Employee.

C. The Employer shall pay the amount of premium due for term life insurance in the amount of the Employee's annual salary, not to exceed \$150,000. The Employee shall name the beneficiary of the life insurance policy.

Section 5 Leave

A. The Employee shall accrue sick and vacation leave and other paid leave on an annual basis at the rate provided to Executive Employees.

B. The Employee is entitled to accrue all unused vacation, without limit, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all unused vacation in accordance with the Employer's customary practice for Executive Employees.

C. The Employee shall be entitled to military reserve time pursuant to state law and City policy.

Section 6 Monthly Vehicle Allowance

Employer will provide Employee with an unmarked vehicle equipped with a police radio and Employer will oversee vehicle maintenance, fuel, and automobile insurance. Employee's duties as Chief of Police (law enforcement officer) require that Employee shall have the exclusive use at all times during employment with the City of a vehicle to carry out City business.

Section 7 Retirement

The Employer agrees to enroll the Employee into the Public Employees' Retirement System and to make the appropriate contributions on the Employee's behalf, for the Employer share required. Employee shall pay the entire employee share and any changed rate during the term of this Agreement. Employee shall pay an additional 1% of the required Employer's normal cost share, in line with the retirement costs paid by other CalPERS classic plan member Executive employees.

Section 8 General Business Expenses

A. Subject to prior City Manager approval, and sufficient budgetary resources, Employer agrees to pay for professional dues and subscriptions of the Employee described in this Section. Professional dues and subscriptions eligible for payment are those necessary for 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. Subject to prior City Manager approval, and sufficient budgetary resources, Employer agrees to pay for travel and subsistence 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 Police Officer's Research Association Conference (PORAC), FBI National Conference (FBINAA), and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.

C. Subject to prior City Manager approval, and sufficient budgetary resources, Employer also agrees to pay for travel and subsistence 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, 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 cash vouchers, receipts, statements or personal affidavits.

E. The Employer shall provide Employee with a computer, software, fax/modem, cell phone and pager required for the Employee to perform the job and to maintain communication.

Section 9 Termination

For the purpose of this Agreement, termination of the Employee's services and this Agreement shall occur when:

- A.** Employee elects to terminate his employment and this Agreement.
- B.** Employer's City Manager, in the exercise of her/his sole discretion, determines with or without cause, to terminate Employee's employment and this Agreement.

Section 10 Severance

- A.** The Employee is an at-will employee, serving at the pleasure of the Employer's City Manager. This Agreement, and the Employee's employment with the Employer, may be terminated with or without cause by the Employer's City Manager. If the Employee is terminated for cause, or voluntarily resigns his position with the Employer, then the Employee shall not be entitled to the payment of Severance by the Employer.
- B.** In the event the Employee is terminated by the Employer other than for cause, and during such time that Employee is willing and able to perform his duties under this Agreement, then Employer agrees to pay Severance equal to six (6) months base salary at the current rate of pay. This Severance shall be paid in one lump sum unless otherwise agreed to by the Employer and the Employee. This Severance shall not include any payments described under Section 6 and 8 for this Agreement.
- C.** In the event of Severance, the Employee shall also be compensated for all accrued sick and vacation leave in a manner consistent with the Executive Compensation Plan.
- D.** If the Employee is terminated because of a conviction of a felony, then the Employer is not obligated to pay Severance under this section.
- E.** In the event Employee is convicted of a felony involving an abuse of Employee's office or position, then any Severance paid under this section shall be reimbursed to

Employer, as required and set forth in Government Code section 53243.2, as amended.

Section 11 Resignation

In the event that the Employee voluntarily resigns his position with the Employer, the Employee shall provide a minimum of 30 days notice unless the parties agree otherwise.

Section 12 Performance Evaluation

The Appointing Authority, acting for the Employer, may annually review the performance of the Employee in the Employee's anniversary month subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee. The process at a minimum may include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within 30 days of the evaluation meeting.

Section 13 Outside Activities

The employment provided for by this Agreement shall be the Employee's sole employment. However, certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community. Accordingly, the Employee may, subject to the City Manager's approval, accept limited teaching, consulting or other business opportunities, and to pursue further education. If Employee pursues outside employment pursuant to this section, such arrangements shall not constitute interference with, nor a conflict of interest with, his or her responsibilities under this Agreement.

Section 14 Indemnification

Consistent with Federal, State or Local ordinance, Employer shall defend, save harmless and indemnify Employee 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 course and scope of the performance of Employee's duties as Chief of Police, or resulting from the exercise of judgment or discretion in connection with the course and scope of performance of program duties or responsibilities. However, if the Employee's act or omission involved willful or wanton conduct occurring outside the course and scope of the performance of Employee's duties as Chief of Police, Employer will consider providing a defense to Employee pursuant to Government Code Section 995 *et. seq.* In such cases not involving willful or wanton conduct, the Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at the Employer's expense and the Employer may not unreasonably withhold approval. Legal representation provided by Employer for Employee shall extend until a final determination of the legal action, including any appeals brought by either party. The Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of the Employee in the course and scope of her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes the Employer shall have the right to compromise and settle any claim or suit. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation.

Section 15 Bonding

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

Section 16 Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- (1) EMPLOYER: City Manager
City of National City
1243 National City Boulevard
National City, CA 91950-4301.
- (2) EMPLOYEE: At the address of the Employee's principal residence.

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 17 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. Effective Date. This Agreement shall become effective on January 16, 2024.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not effect the validity of any other 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.

E. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

F. Construction. The parties acknowledge and agree that (1) each party is of equal bargaining strength, (2) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (3) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (4) each party and such party's counsel and advisors have reviewed this Agreement, (5) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (6) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY

By: _____

Benjamin A. Martinez, City Manager

Alejandro Hernandez, Chief of Police

APPROVED AS TO FORM:

Barry J. Schultz
City Attorney