

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF HUNTINGTON BEACH AND URSULA LUNA-REYNOSA**

THIS AGREEMENT is entered into this _____ day of _____, 2018, between the City of Huntington Beach, a California municipal corporation, hereinafter "City," and Ursula Luna-Reynosa, hereinafter "Luna-Reynosa."

WITNESSETH

The City Manager has been empowered to appoint and remove department heads; and

The City, through the City Manager, desires to employ the services of Luna-Reynosa as the, head of the Community Development Department as the Community Development Director, of the City of Huntington Beach; and

The City seeks to provide certain benefits, establish certain conditions of employment, and to set working conditions of Luna-Reynosa; and

The City intends to:

- (1) Secure, retain and employ the services of Luna-Reynosa: and
- (2) To provide a means for terminating Luna-Reynosa's service; and
- (3) Luna-Reynosa intends to accept employment as Community Development Director of the City;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

SECTION 1. DUTIES.

The City agrees to employ Luna-Reynosa as Community Development Director of the City to perform the functions and duties of that office as set forth in the Municipal Code of the City of Huntington Beach and the City Charter, and to perform other duties and functions as the City

Manager shall from time to time assign. Luna-Reynosa shall devote her full attention and effort to the office and perform the mentioned duties and functions in a professional manner.

SECTION 2. STATUS AND TERM.

(a) Luna-Reynosa shall serve for an indefinite term at the pleasure of the City Manager and shall be considered an at-will employee of the City.

(b) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Manager to terminate the employment of Luna-Reynosa at any time, subject only to the provisions set forth in Section 6, subparagraphs (a), (b) and (c) of this Agreement, and Section 401 of the Charter of the City of Huntington Beach.

(c) Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Luna-Reynosa to resign at any time from her position with the City, subject only to the provisions set forth in Section 6, subparagraph (d), of this Agreement.

(d) Luna-Reynosa agrees to remain in the exclusive employ of City for an indefinite period of time and shall neither accept other employment or become employed by any other employer without the prior written approval of the City Manager until notice of Luna-Reynosa's resignation is given.

The term "employed" (and derivations of that term as used in the preceding paragraph) shall include employment by another legal entity or self-employment, however, shall not be construed to include occasional teaching, writing, consulting, or military reserve service performed on Luna-Reynosa's time off, and with the advance approval of the City Manager.

SECTION 3. SALARY.

City agrees to pay Luna-Reynosa for her services rendered pursuant to this Agreement at Range NA0589, High Point/Step E (\$100.13/hourly) of the City's classification and compensation plan or Resolutions or Ordinances from time to time enacted that govern such compensation.

SECTION 4. OTHER BENEFITS.

In addition to the foregoing benefits, Luna-Reynosa shall also receive all such other benefits that are generally applicable to non-associated employees (Department Heads) hired after 12/27/97, as set forth in Huntington Beach City Council Resolution No. 2016-50, entitled "*A Resolution Of The City Council Of The City Of Huntington Beach Modifying Salary And Benefits For Non-Represented Employees Including The Elected City Attorney, City Clerk, And City Treasurer*", a copy of which is attached hereto as Exhibit "A" and incorporated by reference as fully set forth herein. Luna-Reynosa shall also be eligible for a cell-phone stipend (Smartphone) in the amount of \$50.00 per month, paid bi-weekly. The benefits provided to Luna-Reynosa pursuant to this Section may be modified by the City from time to time, upon adoption of a successor Resolution.

SECTION 5. ADMINISTRATIVE LEAVE.

The City Manager may place Luna-Reynosa on Administrative Leave with full pay and benefits at any time during the term of this Agreement.

SECTION 6. TERMINATION AND SEVERANCE PAY.

(a) Except as provided in subsection (b), in the event the City Manager terminates the employment of Luna-Reynosa, and during such time that Luna-Reynosa is willing and able to perform her duties under this Agreement, then City shall pay to Luna-Reynosa a severance payment equal to salary payments which Luna-Reynosa would have been receiving over a twelve week period at Luna-Reynosa's current rate of pay in effect on the day prior to the date of termination. In addition, for the lesser of ninety (90) calendar days after the date of termination or the time Luna-Reynosa secures health and medical insurance through comparable employment, the City shall maintain and pay for health, medical, disability, the continuation of retirement benefits and life insurance in such amounts and on such terms as have been received by Luna-

Reynosa and Luna-Reynosa's dependents at the time of such termination; however, no other or additional benefits shall accrue during this ninety (90) calendar-day period.

(b)(1) Notwithstanding subsection (a) above, the following reasons shall constitute grounds to terminate the employment of Luna-Reynosa without severance pay:

- (i) a willful breach of this agreement or the willful and repeated neglect by Luna-Reynosa to perform duties that she is required to perform;
- (ii) conviction of any criminal act relating to employment with the City;
- (iii) conviction of a felony.

(2) Prior to the time that the City Manager terminates Luna-Reynosa without severance pay for any of the reasons set forth in Section (b)(1) above, and only in that case, the City Manager shall provide Luna-Reynosa with written notice of proposed termination which will include the reason and factual basis for termination. Within ten days of such notice, Luna-Reynosa may request an opportunity to respond to the reasons and factual basis provided by the City Manager. If such a request to respond is made, the City Manager shall conduct a meeting, which may be informal in nature, that Luna-Reynosa may respond to the notice of proposed termination. At such meeting, Luna-Reynosa may be represented by an attorney of her choice and present evidence or information relevant to the reasons and factual basis set forth in the notice of proposed termination. Subsequently, the decision of the City Manager as to whether reasons set forth in Section (b)(1) exist or do not exist shall be final as between the parties.

(c) In the event the City at any time during the term of this Agreement, reduces the salary of Luna-Reynosa from its current level, except as part of an across-the-board reduction for all Directors of City, or in the event City refuses, following written notice, to extend to Luna-Reynosa any non-salary benefit customarily available to all Directors, or in the event Luna-Reynosa resigns following a suggestion, whether formal or informal, by the City Manager that she resign, then, Luna-Reynosa may, at her option, be deemed to be "terminated". The termination date will occur then at the date of reduction or refusal to extend or such suggestion of resignation

within the meaning and context of the severance pay provision in subparagraph (a) above; provided that the option to be deemed terminated is exercised by written notice from Luna-Reynosa and delivered to the City Manager within ten (10) working days of notification of such reduction, refusal to extend, or suggestion of resignation. In that event, the severance payment shall be calculated from the date Luna-Reynosa exercises the option to be deemed terminated.

(d) In the event Luna-Reynosa voluntarily resigns her position, Luna-Reynosa shall give City written notice at least thirty (30) days prior to the last workday, unless the City Manager and Luna-Reynosa otherwise agree.

(e) It is understood that after notice of termination in any form, Luna-Reynosa and the City will cooperate to provide for an orderly transition. Specific responsibilities during such transition may be specified in a written separation agreement.

SECTION 7. DISABILITY.

If Luna-Reynosa is medically, physically disabled or otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or ill health, and has provided proof of the same from a medical professional, she shall be eligible for Disability Leave upon exhausting all accrued sick leave, general leave and executive leave, and duty injury leave if applicable. Disability Leave shall be unpaid and shall be approved by the City Manager for a time period of up to three (3) months. The length of such time period of the Disability Leave shall be dependent upon the length of the disability as demonstrated by Luna-Reynosa. If Luna-Reynosa is unable to return to work at that time, the City shall have the option to terminate the employment of Luna-Reynosa, subject to the requirements imposed on City by Section 6, paragraph (a).

SECTION 8. PERFORMANCE EVALUATION.

The City Manager shall review and evaluate in writing the performance of Luna-Reynosa at least once annually. That review and evaluation shall be in accordance with specific criteria

developed in consultation with Luna-Reynosa and the City Manager. Those criteria may be added to or subtracted from as the City Manager may from time to time determine, in consultation with Luna-Reynosa.

SECTION 9. GENERAL AND EXECUTIVE LEAVE

Luna-Reynosa shall accrue General Leave in accordance with the General Leave accrual provisions applicable to Department Heads of the City as contained in the Non-Associated Resolution (Exhibit "A"). Luna-Reynosa will be credited 80 hours of Executive Leave upon her first day of employment. Thereafter, Luna-Reynosa shall be credited 80 hours of Executive Leave on January 1 of each calendar year. Executive Leave must be used in the same calendar year it is credited; unused Executive Leave may not be carried forward to the next calendar year or cashed out at any time. Luna-Reynosa will be credited 100 hours of General Leave upon the first day of employment. General Leave shall be accrued in accordance with the appropriate provisions of the Non-Associated Resolution (Exhibit "A"). Luna-Reynosa shall provide the City Manager with reasonable notice prior to taking two (2) or more General Leave or Executive Leave days off.

SECTION 10. PROFESSIONAL DEVELOPMENT.

The City agrees to budget and pay for Luna-Reynosa's professional memberships as normally accorded to Department Heads. Luna-Reynosa shall also receive paid leave, plus registration, travel and reasonable expenses for short courses, conferences and seminars that are necessary for professional/personal development and, in the judgment of the City Manager, for the good of the City, and subject to budget limitations and to established travel policies and procedures.

SECTION 11. FINANCIAL DISCLOSURE.

Luna-Reynosa shall report to the City Manager any ownership interest in real property within the County of Orange, excluding personal residence. Luna-Reynosa shall also complete and file annually, Financial Disclosure 700 Forms. Also, Luna-Reynosa shall report to the City Manager any financial interest greater than Ten Thousand Dollars (\$10,000) in value in a firm doing work for City or from which City intends to make a purchase. Such reporting shall be made in writing by Luna-Reynosa to the City Manager within ten (10) calendar days of the execution of this agreement and within ten (10) calendar days of acquisition of that interest in real property. Additionally, Luna-Reynosa shall report in writing to the City Manager any financial interest greater than Ten Thousand Dollars (\$10,000) in value in a firm doing work for the City or from whom the City intends to make a purchase immediately upon notice of the intended work or purchase.

SECTION 12. INDEMNIFICATION.

The City shall defend and indemnify Luna-Reynosa against actions, including but not limited to any: tort, professional liability claim or demand, or other non-criminal legal, equitable or administrative action, arising out of an alleged act or omission occurring in the performance of Luna-Reynosa during the discharge of her duties as an employee/officer of the City, other than an action brought by the City against Luna-Reynosa, or an action filed against the City by Luna-Reynosa. The City shall pay the reasonable expenses for the travel, lodging, meals, and lost work time of Luna-Reynosa should Luna-Reynosa be subject to such, should an action be pending after termination of Luna-Reynosa. The City shall be responsible for and have authority to compromise and settle any action, with prior consultation with Luna-Reynosa, and pay the amount of any settlement or judgment rendered on that action. Luna-Reynosa shall cooperate fully with the City in the settlement, compromise, preparation of the defense, or trial of any such action.

SECTION 13. GENERAL PROVISIONS.

- (a) The text herein shall constitute the entire Agreement between the parties.
- (b) This Agreement shall become effective commencing July 16, 2018.
- (c) If any provision, or any portion of any provision, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or any portion of it, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- (d) No amendment of this Agreement shall be effective unless in writing and signed by both parties.

IN WITNESS WHEREOF, City has caused this Agreement to be signed and executed on its behalf by its City Manager, and Luna-Reynosa has signed and executed this Agreement, both in duplicate, the day and year first above written.

CITY:

LUNA-REYNOSA:

City Manager

Ursula Luna-Reynosa

APPROVED AS TO FORM:

City Attorney