

ATTACHMENT A

**THIRD AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE
CITY OF VICTORVILLE
AND KEITH C. METZLER**

This Third Amendment to the Employment Agreement (“Third Amendment”) is entered into as of **August __, 2024**, between City of Victorville, a California municipal corporation and charter city (“Employer”), and Keith C. Metzler as City Manager (hereinafter referred to as “Employee”).

WHEREAS, on July 22, 2021, Employer and Employee entered into that certain Employment Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated by this reference (“Original Agreement”); and

WHEREAS, on August 3, 2022, Employer and Employee entered into Amendment No. 1 to the Original Agreement, a copy of which is attached hereto as Exhibit B and incorporated by this reference (“Amendment No.1”); and

WHEREAS, on April 16, 2023, Employer and Employee entered into Amendment No.2 to the Original Agreement, a copy of which is attached hereto as Exhibit “C” and incorporated by this reference (“Amendment No. 2”); and

WHEREAS, the Original Employment Agreement, Amendment No. 1 and Amendment No.2 shall hereafter be collectively referred to as the “Amended Employment Agreement”, and

WHEREAS, it is the desire of the Employer and Employee to amend certain sections of the Amended Employment Agreement, and

NOW, THEREFORE, for the valuable mutual consideration set forth in this Third Amendment, the receipt and sufficiency of which is hereby acknowledged, City and Employee hereby agree to amend the Amended Employment Agreement as follows:

1. Amendments:

Section 4A of the Amended Employment Agreement is hereby amended to read:

- A. In the event Employee is terminated by the Council before expiration of the applicable term of employment as provided in Section 2 and during such time, Employee is willing and able to perform his duties under this Agreement, then in that event, Employer agrees to pay Employee a lump sum cash payment equal to twelve (12) month’s base salary plus Employee contribution to retirement program. Also, in such event, and in addition to the lump sum payment, Employer shall provide for (i). the continuance of the Employee benefits provided in Sections 12 and 13 of this Agreement for twelve (12) months from and after the date of termination, and (ii).the same retirement medical coverage provided to Employees and Council Members that retire from the City, provided, however, that such the termination of this Agreement takes place on or after June 27, 2025 and which termination shall require a unanimous

decision of the Council. In the event Employee is terminated because of conviction of any illegal act involving personal gain to him, then in that event, Employer shall have no obligation to pay the severance sum designated in this paragraph. Employee shall not receive the termination and severance pay as provided in this Section after the expiration of the term hereinabove set forth and during such time that he serves as City Manager on a month-to-month basis. Such termination shall require a majority vote of the Council.

Section 7 of the Amended Employment Agreement is hereby amended to read;

The Council shall review and evaluate the performance of the Employee in June of each year hereafter for satisfactory consideration. Said review and evaluation shall be in accordance with specific criteria developed and agreed upon by the Employer and Employee and may be facilitated by a third party management consultant that is experienced in facilitating city manager evaluations. Said criteria may be added to or deleted from as the Council and Employee may from time to time determine. Further, the results of said evaluation shall be memorialized in writing and provided to the Employee and all members of the Council.

2. Miscellaneous Provisions Applicable to Third Amendment

- a) This Third Amendment will be effective as of the date first written above.
- b) This Third Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.
- c) This Third Amendment shall be governed by the law of the State of California, without reference to its choice of law rules.
- d) Unless otherwise defined in this Third Amendment, all terms used in this Third Amendment that are defined in the Amended Employment Agreement are used here as they are there defined.
- e) Except for the underlying Amended Employment Agreement, this Third Amendment supersedes any prior agreements, negotiations, and communications, oral or written, with respect to this subject matter.

3. Status of Agreement. Except as amended by this Third Amendment, the Amended Employment Agreement as amended by this Third Amendment continues in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the undersigned have executed this instrument that day and year written above, in the City of Victorville, California.

Employer:

Elizabeth Becerra
Mayor of the City of Victorville

Employee:

Keith C. Metzler

Attest:

City Clerk

Approved as to form:

City Attorney

EXHIBIT A

Original Agreement

AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of July, 2021, by and between the City of Victorville, a municipal corporation, hereinafter referred to as "Employer" as party of the first part, and Keith C. Metzler, hereinafter referred to as "Employee", as party of the second part, both of whom understand as follows:

WHEREAS, Employee continues to serve as City Manager of the City of Victorville pursuant to that certain Agreement dated April 17, 2018, by and between Employer and Employee, which was amended and restated on May 22, 2019 and is hereby superseded; and

WHEREAS, Employer desires to continue to retain the services of said Keith C. Metzler as City Manager of the City of Victorville as provided by ordinance of the City of Victorville; and

WHEREAS, it is the desire of the City Council, hereinafter referred to as "Council" to provide certain benefits, establish certain working conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council (1) to secure and retain the service of Employee and to provide inducement for him to remain in such employment, and (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security.

WHEREAS, Employee desires continued employment as City Manager of said City of Victorville.

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

Section 1. Duties

Employer hereby agrees to employ said Keith C. Metzler as City Manager of the City of Victorville to perform the functions and duties specified as required by State law; the ordinances of the City of Victorville; as contained in this Agreement; and to perform such other legally permissible and proper duties and functions as the Council may from time to time assign.

The City Manager shall be the administrative head of the government of the City under the direction and control of the City Council, except as otherwise provided in the

Municipal Code. The City Manager shall be responsible for the administration of all of the affairs of the City which are under his control, including, but not limited to, law enforcement, authority over employees, power of appointment and removal of employees, administrative reorganization of departments and offices and such other duties delegated by ordinance, resolution or other official action of the City Council or as prescribed by law.

In furtherance of such administration of the affairs of the City, Employer specifically authorizes City Manager to enter into contract arrangements with the /Deputy City Managers and with the City Fire Chief on terms consistent with the adopted Table of Organization and Salary Schedule, provided, however, that such contracts shall not exceed terms of three (3) years and shall contain severance provisions no greater than the severance provisions set forth in Section 4 of the Agreement.

Any official or unofficial action or inaction by the City Council or any individual member of the City Council that limits or interferes with the ability of the City Manager to efficiently administer the affairs of the City shall constitute a default of this employment Agreement. In the event that the City Manager reasonably determines that such default has occurred, he shall provide written notification to the City Council within ten (10) working days. City Council shall, within thirty (30) days of such notification, take such action as reasonably necessary to cure the default. Failure to cure shall cause termination of this employment Agreement in accordance with Section 4(A) of this Agreement

Section 2. Term

A. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 4, Paragraph A and B, of this Agreement.

B. Nothing in this Agreement shall prevent limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 4, Paragraph C, of this Agreement.

C. Employee agrees to remain in the exclusive employ of Employer until June 30, 2025 (the "Initial Term") and neither to accept other employment nor to become employed by any other employer until said termination date unless said termination date is affected as hereinafter provided. Employee shall have the unilateral right to extend the term of this contract for an additional twelve (12) months provided Employee provides notice to the Employer of his election to extend the term hereof at least ninety (90) days prior to the expiration of the Initial Term

The term “employed” shall not be construed to include occasional teaching, writing or consulting on Employee's time off, provided, however, that such teaching, writing or consulting has received the prior approval of the Council.

D. In the event written notice is not given by either party to this Agreement to the other ninety (90) days prior to the termination date as hereinabove provided, this Agreement shall be extended on the same terms and conditions as herein provided, all for two (2) year periods unless either party hereto gives ninety (90) days written notice to the other party that the party does not wish to extend this Agreement for an additional two (2) year term.

Section 3. Suspension

Employer may suspend the Employee with full pay and benefits at any time during the term of this Agreement but only if (1) a majority of the Council and Employee agree or (2) after a hearing, a majority of the Council votes to suspend Employee for just cause provided, however, that Employee shall have been given written notice setting forth any charges at least ten (10) days prior to such hearing by the Council Members bringing such charges.

Section 4. Termination and Severance Pay

A. In the event Employee is terminated by the Council before expiration of the applicable term of employment as provided in Section 2 and during such time. Employee is willing and able to perform his duties under this Agreement, then in that event, Employer agrees to pay Employee a lump sum cash payment equal to twelve (12) months' base salary plus Employee contribution to retirement program. Also, in such event, and in addition to the lump sum payment, Employer shall provide for continuance of the Employee benefits provided in Sections 12 and 13 of this Agreement for twelve (12) months from and after the date of termination. Such termination shall require a unanimous decision of the Council. In the event Employee is terminated because of conviction of any illegal act involving personal gain to him, then in that event, Employer shall have no obligation to pay the severance sum designated in this paragraph. Employee shall not receive the termination and severance pay as provided in this Section after the expiration of the term hereinabove set forth and during such time that he serves as City Manager on a month-to-month basis. Such termination shall require a majority vote of the Council.

B. In the event Employer at any time during the term of this Agreement reduces the salary or other financial benefits of Employee, or the Employee resigns following a suggestion, whether formal or informal, by the Council that he resign, then, in that

event, Employee may at his option, be deemed to be "terminated" at the date of such reduction.

C. In the event Employee voluntarily resigns his position with Employer, then Employee shall give Employer thirty (30) days' notice in advance, unless the parties otherwise agree. In such event, Employer shall pay Employee for accrued vacation, sick and special leave and any other accrued benefits.

D. Notwithstanding any other provision of this Agreement, in no event shall this Agreement terminate Employee or be terminated within 90 days, before or 180 days after, a municipal election for the selection or recall of one or more of the members of the City Council.

Section 5. Disability

If Employee is permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, Employer shall have the option to terminate this Agreement subject to the severance pay requirements of Section 4, Paragraph A. However, Employee shall be compensated for any accrued sick leave, vacation, special leave or other accrued benefits.

Section 6. Salary

Employer agrees to pay Employee for his services rendered pursuant hereto a base salary of \$21,507 per month, through June 30, 2025, to be paid in installments at the same time as other employees of the Employer are paid, which may be further adjusted to the extent the City Council approved future cost of living increases for other employees of the City.

Section 7. Performance Evaluation

A. The Council shall review and evaluate the performance of the Employee in June of each year hereafter for salary consideration. Said review and evaluation shall be in accordance with specific criteria developed and agreed upon by Employer and Employee. Said criteria may be added to or deleted from as the Council and Employee may from time to time determine. Further, the results of said evaluation shall be memorialized in writing and provided to Employee and all members of the Council.

B. In effecting the provision of this Section, the Council and Employee mutually agree to abide by the provisions of applicable law.

Section 8. Hours of Work

It is recognized that Employee must devote a great deal of time outside the normal office hours to the business of the Employer, and to that end Employee will be allowed to take compensatory time off as mutually agreed upon between Employee and Employer. However, both parties agree that the accumulated time is based upon the additional hours (overtime) worked and not compensated. Further, monthly the City Manager will submit a report of hours taken for all leave, vacation, conferences and any extended leave will be requested in advance of all scheduled leave.

Section 9. Outside Activities

Employee shall not spend more than nine (9) hours per week in teaching, counseling or other non-Employer connected business without prior approval of the Council.

Section 10. Automobile

Employee's duties require the extensive use of an automobile in the normal course of business. Employee shall be provided a vehicle for use in carrying out his official duties as City Manager of the City of Victorville. It is understood and agreed that the City Manager shall be on duty at all times and, as a result, the vehicle so supplied shall not be restricted to City business and may be utilized for personal use. Employer and Employee may mutually agree that the City Manager may provide his own vehicle in lieu of a City vehicle and to that end, Employer shall pay to Employee an allowance for use of Employee's automobile in the sum of Six Hundred Dollars (\$600.00) per month during the term of employment, and Employee shall be responsible for paying for liability insurance as required by state law and for gas, maintenance and repair of his automobile.

Section 11. Benefits

Employee shall be eligible for the same benefits as regular full time employees of the City and as provided for in the Personnel Rules and Regulations. Except as specifically provided in this Section and as otherwise provided in this Agreement, Employee is exempt from the Personnel Rules of the City of Victorville. In the event that this Agreement is not renewed in accordance with Section 2, Paragraphs A and D, or is terminated in accordance with Section 4, Paragraphs A and B, accrued sick leave shall be paid at an amount of 100 percent (100%) of face value.

Section 12. Disability, Health and Life Insurance

A. Employer agrees to keep in force and to make required premium payments for

Employee for insurance policies covering Employee and his dependents the same as are currently provided to all general employees of the City of Victorville under the Personnel Rules and Regulations. After purchasing the Employee's medical choice for themselves and/or dependents, including vision and dental, any remaining balance shall be transferred to a deferred compensation account administered by the City of Victorville for all employees. Should the medical choice exceed the amount hereinafter adjusted for all employees, the excess will be deducted from employee's monthly payroll check.

B. Employer agrees to purchase and to pay the required premiums on term life insurance in an amount equal to the Employee's annual salary to the nearest thousandth dollar.

Employer shall provide travel insurance for Employee while he is traveling on Employer's business, with Employee to name beneficiary thereof.

Employee agrees to submit once per calendar year to a complete physical examination by a qualified physician of his choice, the cost of which shall be paid by the Employer. Employer shall receive a copy of all medical reports related to said examination.

Section 13. Retirement

Employer agrees to provide for participation in the California Public Retirement System ("PERS"). Employer shall pay Employer's share of any contribution to PERS and Employee shall pay Employee's share of any contribution to PERS.

Section 14. Dues, Subscriptions and License Fees

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

Section 15. Professional Development

A. Employer hereby agrees to budget and to pay the travel subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer, including but not limited to the annual conference of the League of California Cities and such other national, regional, state and local government groups and committees thereof which Employee serves as

a member, with concurrence of the City Council.

B. Employer also agrees to budget and pay for the travel and subsistence expenses of employee for short courses, institutes and seminars that are necessary for his professional development and the good of the Employer, with concurrence of the City Council.

Section 16. General Expenses

Employer recognizes that certain expenses of a non-personal nature and generally job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or to pay said general expenses upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits, in accordance with the policy on reimbursement for general and/or travel expenses of the City.

Section 17. Civic Club Membership

Employer recognizes the desirability of representation in and before local civic and other organizations and Employee is authorized to become a member of such civic clubs or organizations, for which Employer shall pay all expenses. Membership in such civic clubs or organizations at City's expense shall require approval of the City Council. Employee shall report to Employer on each membership that he has taken out at Employer's expense.

Section 18. Cellular Phone Stipend

Employer shall pay to Employee One Hundred Fifty Dollars (\$150.00) per month for a cellular phone stipend, as set forth in the City of Victorville Administrative Policy Cellular Telephone Stipend Number 8-28.

Section 19. Indemnification

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 performance of Employee's duties as City Manager, except this provision shall not apply in respect to any intentional tort or crime committed by Employee. Where deemed reasonable to do so by Employer, Employer will compromise and settle any such claim or suit covered by this section and will pay the amount of any settlement or judgment rendered thereon.

Section 20. Bonding

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

Section 21. Other Terms and Conditions of Employment

The Council, in consultation with the City Manager, shall fix any such others terms and conditions of employment, as it may determine from time to time, relating to performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City ordinance or any other law.

Section 22. No Reduction of Benefits

Employer shall not at any time during the time of this Agreement reduce the salary, compensation or other financial benefits of Employee, except to the degree of such reduction across-the-board for all employees of Employer.

Section 23. Notices

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows, or to such other address as may be subsequently furnished by the parties:

- | | | |
|-----|-----------|--|
| (1) | Employer | Mayor, City of Victorville
14343 Civic Drive
Victorville, CA 92392 |
| (2) | Employee: | Keith C. Metzler
14343 Civic Drive
Victorville, CA 92392 |


Alternatively, notices 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 of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 24. General Provisions

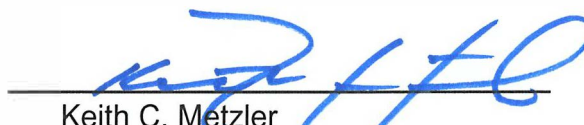
- A. The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. This Agreement shall become effective commencing immediately upon approval by the Victorville City Council, and shall supersede the prior Agreement between Employer and Employee dated May 22, 2019.
- D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City of Victorville has caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by its City Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.




Debra Jones
Mayor of the City of Victorville



Keith C. Metzler

Attest:



City Clerk

Approved as to form:



City Attorney

EXHIBIT B

Amendment No. 1

**FIRST AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE
CITY OF VICTORVILLE
AND KEITH C. METZLER**

This First Amendment to the Employment Agreement (“Amendment”) is entered into as of **August 4, 2022**, between City, a California municipal corporation and charter city (“Employer”), and Keith C. Metzler as City Manager (hereinafter referred to as “Employee”).

WHEREAS, on July 22, 2021, Employer and Employee entered into that certain Employment Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated by this reference (“Original Agreement”); and

WHEREAS, it is the desire of the Employer and Employee to amend certain sections of the Original Agreement; and

WHEREAS, Employer and Employee deem it best to amend the Original Agreement at this time.

NOW, THEREFORE, for the valuable mutual consideration set forth in this Amendment, the receipt and sufficiency of which is hereby acknowledged, City and Employee hereby agree to amend the Original Agreement as follows:

1. Amendment.

- i. The first sentence of Section 2 C. of the Original Agreement is hereby amended to read:

C. Employee agrees to remain in the exclusive employ of Employer until June 30, 2030 (the “Initial Term”) and neither to accept other employment nor to become employed by any other employer until said termination date is affected as hereinafter provided.

- ii. Section 6 of the Original Agreement is hereby amended to read:

Employer agrees to pay Employee for his services rendered pursuant hereto a base salary of \$25,250 per month, through June 30, 2030, to be paid in installments at the same time as other employees of the Employer are paid, which may be further adjusted to the extent the City Council approved future cost of living increases for other employees of the City.

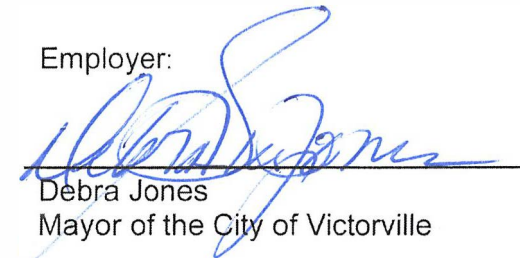
2. Miscellaneous Provisions Applicable to Amendment.

- a) This Amendment will be effective as of the date first written above.
- b) This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

- c) This Amendment shall be governed by the law of the State of California, without reference to its choice of law rules.
 - d) Unless otherwise defined in this Amendment, all terms used in this Amendment that are defined in the Original Agreement are used here as they are there defined.
 - e) Except for the underlying Agreement, this Amendment supersedes any prior agreements, negotiations, and communications, oral or written, with respect to this subject matter.
3. **Status of Agreement.** Except as amended by this Amendment, the Original Agreement continues in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the undersigned have executed this instrument that day and year written above, in the City of Victorville, California.

Employer:


Debra Jones
Mayor of the City of Victorville

Employee:


Keith C. Metzler

Attest:


City Clerk

Approved as to form:


City Attorney

Exhibit A

Original Agreement

AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of July, 2021, by and between the City of Victorville, a municipal corporation, hereinafter referred to as "Employer" as party of the first part, and Keith C. Metzler, hereinafter referred to as "Employee", as party of the second part, both of whom understand as follows:

WHEREAS, Employee continues to serve as City Manager of the City of Victorville pursuant to that certain Agreement dated April 17, 2018, by and between Employer and Employee, which was amended and restated on May 22, 2019 and is hereby superseded; and

WHEREAS, Employer desires to continue to retain the services of said Keith C. Metzler as City Manager of the City of Victorville as provided by ordinance of the City of Victorville; and

WHEREAS, it is the desire of the City Council, hereinafter referred to as "Council" to provide certain benefits, establish certain working conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council (1) to secure and retain the service of Employee and to provide inducement for him to remain in such employment, and (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security.

WHEREAS, Employee desires continued employment as City Manager of said City of Victorville.

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

Section 1. Duties

Employer hereby agrees to employ said Keith C. Metzler as City Manager of the City of Victorville to perform the functions and duties specified as required by State law; the ordinances of the City of Victorville; as contained in this Agreement; and to perform such other legally permissible and proper duties and functions as the Council may from time to time assign.

The City Manager shall be the administrative head of the government of the City under the direction and control of the City Council, except as otherwise provided in the

Municipal Code. The City Manager shall be responsible for the administration of all of the affairs of the City which are under his control, including, but not limited to, law enforcement, authority over employees, power of appointment and removal of employees, administrative reorganization of departments and offices and such other duties delegated by ordinance, resolution or other official action of the City Council or as prescribed by law.

In furtherance of such administration of the affairs of the City, Employer specifically authorizes City Manager to enter into contract arrangements with the /Deputy City Managers and with the City Fire Chief on terms consistent with the adopted Table of Organization and Salary Schedule, provided, however, that such contracts shall not exceed terms of three (3) years and shall contain severance provisions no greater than the severance provisions set forth in Section 4 of the Agreement.

Any official or unofficial action or inaction by the City Council or any individual member of the City Council that limits or interferes with the ability of the City Manager to efficiently administer the affairs of the City shall constitute a default of this employment Agreement. In the event that the City Manager reasonably determines that such default has occurred, he shall provide written notification to the City Council within ten (10) working days. City Council shall, within thirty (30) days of such notification, take such action as reasonably necessary to cure the default. Failure to cure shall cause termination of this employment Agreement in accordance with Section 4(A) of this Agreement

Section 2. Term

A. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 4, Paragraph A and B, of this Agreement.

B. Nothing in this Agreement shall prevent limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 4, Paragraph C, of this Agreement.

C. Employee agrees to remain in the exclusive employ of Employer until June 30, 2025 (the "Initial Term") and neither to accept other employment nor to become employed by any other employer until said termination date unless said termination date is affected as hereinafter provided. Employee shall have the unilateral right to extend the term of this contract for an additional twelve (12) months provided Employee provides notice to the Employer of his election to extend the term hereof at least ninety (90) days prior to the expiration of the Initial Term

The term "employed" shall not be construed to include occasional teaching, writing or consulting on Employee's time off, provided, however, that such teaching, writing or consulting has received the prior approval of the Council.

D. In the event written notice is not given by either party to this Agreement to the other ninety (90) days prior to the termination date as hereinabove provided, this Agreement shall be extended on the same terms and conditions as herein provided, all for two (2) year periods unless either party hereto gives ninety (90) days written notice to the other party that the party does not wish to extend this Agreement for an additional two (2) year term.

Section 3. Suspension

Employer may suspend the Employee with full pay and benefits at any time during the term of this Agreement but only if (1) a majority of the Council and Employee agree or (2) after a hearing, a majority of the Council votes to suspend Employee for just cause provided, however, that Employee shall have been given written notice setting forth any charges at least ten (10) days prior to such hearing by the Council Members bringing such charges.

Section 4. Termination and Severance Pay

A. In the event Employee is terminated by the Council before expiration of the applicable term of employment as provided in Section 2 and during such time. Employee is willing and able to perform his duties under this Agreement, then in that event, Employer agrees to pay Employee a lump sum cash payment equal to twelve (12) months' base salary plus Employee contribution to retirement program. Also, in such event, and in addition to the lump sum payment, Employer shall provide for continuance of the Employee benefits provided in Sections 12 and 13 of this Agreement for twelve (12) months from and after the date of termination. Such termination shall require a unanimous decision of the Council. In the event Employee is terminated because of conviction of any illegal act involving personal gain to him, then in that event, Employer shall have no obligation to pay the severance sum designated in this paragraph. Employee shall not receive the termination and severance pay as provided in this Section after the expiration of the term hereinabove set forth and during such time that he serves as City Manager on a month-to-month basis. Such termination shall require a majority vote of the Council.

B. In the event Employer at any time during the term of this Agreement reduces the salary or other financial benefits of Employee, or the Employee resigns following a suggestion, whether formal or informal, by the Council that he resign, then, in that

event, Employee may at his option, be deemed to be "terminated" at the date of such reduction.

C. In the event Employee voluntarily resigns his position with Employer, then Employee shall give Employer thirty (30) days' notice in advance, unless the parties otherwise agree. In such event, Employer shall pay Employee for accrued vacation, sick and special leave and any other accrued benefits.

D. Notwithstanding any other provision of this Agreement, in no event shall this Agreement terminate Employee or be terminated within 90 days, before or 180 days after, a municipal election for the selection or recall of one or more of the members of the City Council.

Section 5. Disability

If Employee is permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, Employer shall have the option to terminate this Agreement subject to the severance pay requirements of Section 4, Paragraph A. However, Employee shall be compensated for any accrued sick leave, vacation, special leave or other accrued benefits.

Section 6. Salary

Employer agrees to pay Employee for his services rendered pursuant hereto a base salary of \$21,507 per month, through June 30, 2025, to be paid in installments at the same time as other employees of the Employer are paid, which may be further adjusted to the extent the City Council approved future cost of living increases for other employees of the City.

Section 7. Performance Evaluation

A. The Council shall review and evaluate the performance of the Employee in June of each year hereafter for salary consideration. Said review and evaluation shall be in accordance with specific criteria developed and agreed upon by Employer and Employee. Said criteria may be added to or deleted from as the Council and Employee may from time to time determine. Further, the results of said evaluation shall be memorialized in writing and provided to Employee and all members of the Council.

B. In effecting the provision of this Section, the Council and Employee mutually agree to abide by the provisions of applicable law.

Section 8. Hours of Work

It is recognized that Employee must devote a great deal of time outside the normal office hours to the business of the Employer, and to that end Employee will be allowed to take compensatory time off as mutually agreed upon between Employee and Employer. However, both parties agree that the accumulated time is based upon the additional hours (overtime) worked and not compensated. Further, monthly the City Manager will submit a report of hours taken for all leave, vacation, conferences and any extended leave will be requested in advance of all scheduled leave.

Section 9. Outside Activities

Employee shall not spend more than nine (9) hours per week in teaching, counseling or other non-Employer connected business without prior approval of the Council.

Section 10. Automobile

Employee's duties require the extensive use of an automobile in the normal course of business. Employee shall be provided a vehicle for use in carrying out his official duties as City Manager of the City of Victorville. It is understood and agreed that the City Manager shall be on duty at all times and, as a result, the vehicle so supplied shall not be restricted to City business and may be utilized for personal use. Employer and Employee may mutually agree that the City Manager may provide his own vehicle in lieu of a City vehicle and to that end, Employer shall pay to Employee an allowance for use of Employee's automobile in the sum of Six Hundred Dollars (\$600.00) per month during the term of employment, and Employee shall be responsible for paying for liability insurance as required by state law and for gas, maintenance and repair of his automobile.

Section 11. Benefits

Employee shall be eligible for the same benefits as regular full time employees of the City and as provided for in the Personnel Rules and Regulations. Except as specifically provided in this Section and as otherwise provided in this Agreement, Employee is exempt from the Personnel Rules of the City of Victorville. In the event that this Agreement is not renewed in accordance with Section 2, Paragraphs A and D, or is terminated in accordance with Section 4, Paragraphs A and B, accrued sick leave shall be paid at an amount of 100 percent (100%) of face value.

Section 12. Disability, Health and Life Insurance

A. Employer agrees to keep in force and to make required premium payments for

Employee for insurance policies covering Employee and his dependents the same as are currently provided to all general employees of the City of Victorville under the Personnel Rules and Regulations. After purchasing the Employee's medical choice for themselves and/or dependents, including vision and dental, any remaining balance shall be transferred to a deferred compensation account administered by the City of Victorville for all employees. Should the medical choice exceed the amount hereinafter adjusted for all employees, the excess will be deducted from employee's monthly payroll check.

B. Employer agrees to purchase and to pay the required premiums on term life insurance in an amount equal to the Employee's annual salary to the nearest thousandth dollar.

Employer shall provide travel insurance for Employee while he is traveling on Employer's business, with Employee to name beneficiary thereof.

Employee agrees to submit once per calendar year to a complete physical examination by a qualified physician of his choice, the cost of which shall be paid by the Employer. Employer shall receive a copy of all medical reports related to said examination.

Section 13. Retirement

Employer agrees to provide for participation in the California Public Retirement System ("PERS"). Employer shall pay Employer's share of any contribution to PERS and Employee shall pay Employee's share of any contribution to PERS.

Section 14. Dues, Subscriptions and License Fees

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

Section 15. Professional Development

A. Employer hereby agrees to budget and to pay the travel subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer, including but not limited to the annual conference of the League of California Cities and such other national, regional, state and local government groups and committees thereof which Employee serves as

a member, with concurrence of the City Council.

B. Employer also agrees to budget and pay for the travel and subsistence expenses of employee for short courses, institutes and seminars that are necessary for his professional development and the good of the Employer, with concurrence of the City Council.

Section 16. General Expenses

Employer recognizes that certain expenses of a non-personal nature and generally job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or to pay said general expenses upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits, in accordance with the policy on reimbursement for general and/or travel expenses of the City.

Section 17. Civic Club Membership

Employer recognizes the desirability of representation in and before local civic and other organizations and Employee is authorized to become a member of such civic clubs or organizations, for which Employer shall pay all expenses. Membership in such civic clubs or organizations at City's expense shall require approval of the City Council. Employee shall report to Employer on each membership that he has taken out at Employer's expense.

Section 18. Cellular Phone Stipend

Employer shall pay to Employee One Hundred Fifty Dollars (\$150.00) per month for a cellular phone stipend, as set forth in the City of Victorville Administrative Policy Cellular Telephone Stipend Number 8-28.

Section 19. Indemnification

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 performance of Employee's duties as City Manager, except this provision shall not apply in respect to any intentional tort or crime committed by Employee. Where deemed reasonable to do so by Employer, Employer will compromise and settle any such claim or suit covered by this section and will pay the amount of any settlement or judgment rendered thereon.

Section 20. Bonding

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

Section 21. Other Terms and Conditions of Employment

The Council, in consultation with the City Manager, shall fix any such others terms and conditions of employment, as it may determine from time to time, relating to performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City ordinance or any other law.

Section 22. No Reduction of Benefits

Employer shall not at any time during the time of this Agreement reduce the salary, compensation or other financial benefits of Employee, except to the degree of such reduction across-the-board for all employees of Employer.

Section 23. Notices

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows, or to such other address as may be subsequently furnished by the parties:

- (1) Employer Mayor, City of Victorville
 14343 Civic Drive
 Victorville, CA 92392
- (2) Employee: Keith C. Metzler
 14343 Civic Drive
 Victorville, CA 92392


Alternatively, notices 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 of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

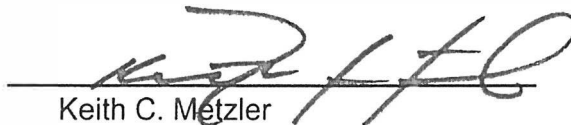
Section 24. General Provisions

- A The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. This Agreement shall become effective commencing immediately upon approval by the Victorville City Council, and shall supersede the prior Agreement between Employer and Employee dated May 22, 2019.
- D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City of Victorville has caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by its City Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.


Debra Jones
Mayor of the City of Victorville


Keith C. Metzler

Attest:


City Clerk

Approved as to form:


City Attorney

EXHIBIT C

Amendment No. 2

**SECOND AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE
CITY OF VICTORVILLE
AND KEITH C. METZLER**

This Second Amendment to the Employment Agreement (“Amendment”) is entered into as of **August 16, 2023**, between City, a California municipal corporation and charter city (“Employer”), and Keith C. Metzler as City Manager (hereinafter referred to as “Employee”).

WHEREAS, on July 22, 2021, Employer and Employee entered into that certain Employment Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated by this reference (“Original Agreement”); and

WHEREAS, on August 3, 2022, Employer and Employee entered into Amendment No. 1 to the Original Agreement, a copy of which is attached hereto as Exhibit B and incorporated by this reference (“Amendment No.1”); and

WHEREAS, it is the desire of the Employer and Employee to amend certain sections of the Original Agreement, as amended by Amendment No. 1; and

NOW, THEREFORE, for the valuable mutual consideration set forth in this Amendment, the receipt and sufficiency of which is hereby acknowledged, City and Employee hereby agree to amend the Original Agreement as follows:

1. Amendment as Amended by Amendment No. 1

Section 6 of the Original Agreement is hereby amended to read:

Employer agrees to pay Employee for his services rendered pursuant hereto a base salary of \$327,877 per year, through June 30, 2030, to be paid in installments at the same time as other employees of the Employer are paid, which may be further adjusted to the extent the City Council approved future cost of living increases for other employees of the City.

2. Miscellaneous Provisions Applicable to Second Amendment.

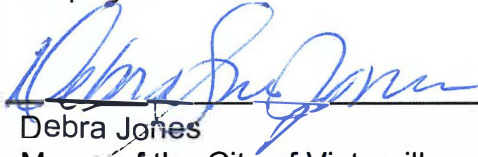
- a) This Second Amendment will be effective as of the date first written above.
- b) This Second Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.
- c) This Second Amendment shall be governed by the law of the State of California, without reference to its choice of law rules.

- d) Unless otherwise defined in this Second Amendment, all terms used in this Second Amendment that are defined in the Original Agreement are used here as they are there defined.
- e) Except for the underlying Original Agreement and Amendment No. 1, this Second Amendment supersedes any prior agreements, negotiations, and communications, oral or written, with respect to this subject matter.

3. **Status of Agreement.** Except as amended by this Second Amendment, the Original Agreement as Amended by Amendment No. 1 continues in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the undersigned have executed this instrument that day and year written above, in the City of Victorville, California.

Employer:



Debra Jones
Mayor of the City of Victorville

Employee:




Keith C. Metzler

Attest:



City Clerk

Approved as to form:



City Attorney

EXHIBIT A

Original Agreement

AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of July, 2021, by and between the City of Victorville, a municipal corporation, hereinafter referred to as "Employer" as party of the first part, and Keith C. Metzler, hereinafter referred to as "Employee", as party of the second part, both of whom understand as follows:

WHEREAS, Employee continues to serve as City Manager of the City of Victorville pursuant to that certain Agreement dated April 17, 2018, by and between Employer and Employee, which was amended and restated on May 22, 2019 and is hereby superseded; and

WHEREAS, Employer desires to continue to retain the services of said Keith C. Metzler as City Manager of the City of Victorville as provided by ordinance of the City of Victorville; and

WHEREAS, it is the desire of the City Council, hereinafter referred to as "Council" to provide certain benefits, establish certain working conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council (1) to secure and retain the service of Employee and to provide inducement for him to remain in such employment, and (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security.

WHEREAS, Employee desires continued employment as City Manager of said City of Victorville.

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

Section 1. Duties

Employer hereby agrees to employ said Keith C. Metzler as City Manager of the City of Victorville to perform the functions and duties specified as required by State law; the ordinances of the City of Victorville; as contained in this Agreement; and to perform such other legally permissible and proper duties and functions as the Council may from time to time assign.

The City Manager shall be the administrative head of the government of the City under the direction and control of the City Council, except as otherwise provided in the

Municipal Code. The City Manager shall be responsible for the administration of all of the affairs of the City which are under his control, including, but not limited to, law enforcement, authority over employees, power of appointment and removal of employees, administrative reorganization of departments and offices and such other duties delegated by ordinance, resolution or other official action of the City Council or as prescribed by law.

In furtherance of such administration of the affairs of the City, Employer specifically authorizes City Manager to enter into contract arrangements with the /Deputy City Managers and with the City Fire Chief on terms consistent with the adopted Table of Organization and Salary Schedule, provided, however, that such contracts shall not exceed terms of three (3) years and shall contain severance provisions no greater than the severance provisions set forth in Section 4 of the Agreement.

Any official or unofficial action or inaction by the City Council or any individual member of the City Council that limits or interferes with the ability of the City Manager to efficiently administer the affairs of the City shall constitute a default of this employment Agreement. In the event that the City Manager reasonably determines that such default has occurred, he shall provide written notification to the City Council within ten (10) working days. City Council shall, within thirty (30) days of such notification, take such action as reasonably necessary to cure the default. Failure to cure shall cause termination of this employment Agreement in accordance with Section 4(A) of this Agreement

Section 2. Term

A. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 4, Paragraph A and B, of this Agreement.

B. Nothing in this Agreement shall prevent limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 4, Paragraph C, of this Agreement.

C. Employee agrees to remain in the exclusive employ of Employer until June 30, 2025 (the "Initial Term") and neither to accept other employment nor to become employed by any other employer until said termination date unless said termination date is affected as hereinafter provided. Employee shall have the unilateral right to extend the term of this contract for an additional twelve (12) months provided Employee provides notice to the Employer of his election to extend the term hereof at least ninety (90) days prior to the expiration of the Initial Term

The term “employed” shall not be construed to include occasional teaching, writing or consulting on Employee's time off, provided, however, that such teaching, writing or consulting has received the prior approval of the Council.

D. In the event written notice is not given by either party to this Agreement to the other ninety (90) days prior to the termination date as hereinabove provided, this Agreement shall be extended on the same terms and conditions as herein provided, all for two (2) year periods unless either party hereto gives ninety (90) days written notice to the other party that the party does not wish to extend this Agreement for an additional two (2) year term.

Section 3. Suspension

Employer may suspend the Employee with full pay and benefits at any time during the term of this Agreement but only if (1) a majority of the Council and Employee agree or (2) after a hearing, a majority of the Council votes to suspend Employee for just cause provided, however, that Employee shall have been given written notice setting forth any charges at least ten (10) days prior to such hearing by the Council Members bringing such charges.

Section 4. Termination and Severance Pay

A. In the event Employee is terminated by the Council before expiration of the applicable term of employment as provided in Section 2 and during such time. Employee is willing and able to perform his duties under this Agreement, then in that event, Employer agrees to pay Employee a lump sum cash payment equal to twelve (12) months' base salary plus Employee contribution to retirement program. Also, in such event, and in addition to the lump sum payment, Employer shall provide for continuance of the Employee benefits provided in Sections 12 and 13 of this Agreement for twelve (12) months from and after the date of termination. Such termination shall require a unanimous decision of the Council. In the event Employee is terminated because of conviction of any illegal act involving personal gain to him, then in that event, Employer shall have no obligation to pay the severance sum designated in this paragraph. Employee shall not receive the termination and severance pay as provided in this Section after the expiration of the term hereinabove set forth and during such time that he serves as City Manager on a month-to-month basis. Such termination shall require a majority vote of the Council.

B. In the event Employer at any time during the term of this Agreement reduces the salary or other financial benefits of Employee, or the Employee resigns following a suggestion, whether formal or informal, by the Council that he resign, then, in that

event, Employee may at his option, be deemed to be "terminated" at the date of such reduction.

C. In the event Employee voluntarily resigns his position with Employer, then Employee shall give Employer thirty (30) days' notice in advance, unless the parties otherwise agree. In such event, Employer shall pay Employee for accrued vacation, sick and special leave and any other accrued benefits.

D. Notwithstanding any other provision of this Agreement, in no event shall this Agreement terminate Employee or be terminated within 90 days, before or 180 days after, a municipal election for the selection or recall of one or more of the members of the City Council.

Section 5. Disability

If Employee is permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, Employer shall have the option to terminate this Agreement subject to the severance pay requirements of Section 4, Paragraph A. However, Employee shall be compensated for any accrued sick leave, vacation, special leave or other accrued benefits.

Section 6. Salary

Employer agrees to pay Employee for his services rendered pursuant hereto a base salary of \$21,507 per month, through June 30, 2025, to be paid in installments at the same time as other employees of the Employer are paid, which may be further adjusted to the extent the City Council approved future cost of living increases for other employees of the City.

Section 7. Performance Evaluation

A. The Council shall review and evaluate the performance of the Employee in June of each year hereafter for salary consideration. Said review and evaluation shall be in accordance with specific criteria developed and agreed upon by Employer and Employee. Said criteria may be added to or deleted from as the Council and Employee may from time to time determine. Further, the results of said evaluation shall be memorialized in writing and provided to Employee and all members of the Council.

B. In effecting the provision of this Section, the Council and Employee mutually agree to abide by the provisions of applicable law.

Section 8. Hours of Work

It is recognized that Employee must devote a great deal of time outside the normal office hours to the business of the Employer, and to that end Employee will be allowed to take compensatory time off as mutually agreed upon between Employee and Employer. However, both parties agree that the accumulated time is based upon the additional hours (overtime) worked and not compensated. Further, monthly the City Manager will submit a report of hours taken for all leave, vacation, conferences and any extended leave will be requested in advance of all scheduled leave.

Section 9. Outside Activities

Employee shall not spend more than nine (9) hours per week in teaching, counseling or other non-Employer connected business without prior approval of the Council.

Section 10. Automobile

Employee's duties require the extensive use of an automobile in the normal course of business. Employee shall be provided a vehicle for use in carrying out his official duties as City Manager of the City of Victorville. It is understood and agreed that the City Manager shall be on duty at all times and, as a result, the vehicle so supplied shall not be restricted to City business and may be utilized for personal use. Employer and Employee may mutually agree that the City Manager may provide his own vehicle in lieu of a City vehicle and to that end, Employer shall pay to Employee an allowance for use of Employee's automobile in the sum of Six Hundred Dollars (\$600.00) per month during the term of employment, and Employee shall be responsible for paying for liability insurance as required by state law and for gas, maintenance and repair of his automobile.

Section 11. Benefits

Employee shall be eligible for the same benefits as regular full time employees of the City and as provided for in the Personnel Rules and Regulations. Except as specifically provided in this Section and as otherwise provided in this Agreement, Employee is exempt from the Personnel Rules of the City of Victorville. In the event that this Agreement is not renewed in accordance with Section 2, Paragraphs A and D, or is terminated in accordance with Section 4, Paragraphs A and B, accrued sick leave shall be paid at an amount of 100 percent (100%) of face value.

Section 12. Disability, Health and Life Insurance

A. Employer agrees to keep in force and to make required premium payments for

Employee for insurance policies covering Employee and his dependents the same as are currently provided to all general employees of the City of Victorville under the Personnel Rules and Regulations. After purchasing the Employee's medical choice for themselves and/or dependents, including vision and dental, any remaining balance shall be transferred to a deferred compensation account administered by the City of Victorville for all employees. Should the medical choice exceed the amount hereinafter adjusted for all employees, the excess will be deducted from employee's monthly payroll check.

B. Employer agrees to purchase and to pay the required premiums on term life insurance in an amount equal to the Employee's annual salary to the nearest thousandth dollar.

Employer shall provide travel insurance for Employee while he is traveling on Employer's business, with Employee to name beneficiary thereof.

Employee agrees to submit once per calendar year to a complete physical examination by a qualified physician of his choice, the cost of which shall be paid by the Employer. Employer shall receive a copy of all medical reports related to said examination.

Section 13. Retirement

Employer agrees to provide for participation in the California Public Retirement System ("PERS"). Employer shall pay Employer's share of any contribution to PERS and Employee shall pay Employee's share of any contribution to PERS.

Section 14. Dues, Subscriptions and License Fees

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

Section 15. Professional Development

A. Employer hereby agrees to budget and to pay the travel subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer, including but not limited to the annual conference of the League of California Cities and such other national, regional, state and local government groups and committees thereof which Employee serves as

a member, with concurrence of the City Council.

B. Employer also agrees to budget and pay for the travel and subsistence expenses of employee for short courses, institutes and seminars that are necessary for his professional development and the good of the Employer, with concurrence of the City Council.

Section 16. General Expenses

Employer recognizes that certain expenses of a non-personal nature and generally job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or to pay said general expenses upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits, in accordance with the policy on reimbursement for general and/or travel expenses of the City.

Section 17. Civic Club Membership

Employer recognizes the desirability of representation in and before local civic and other organizations and Employee is authorized to become a member of such civic clubs or organizations, for which Employer shall pay all expenses. Membership in such civic clubs or organizations at City's expense shall require approval of the City Council. Employee shall report to Employer on each membership that he has taken out at Employer's expense.

Section 18. Cellular Phone Stipend

Employer shall pay to Employee One Hundred Fifty Dollars (\$150.00) per month for a cellular phone stipend, as set forth in the City of Victorville Administrative Policy Cellular Telephone Stipend Number 8-28.

Section 19. Indemnification

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 performance of Employee's duties as City Manager, except this provision shall not apply in respect to any intentional tort or crime committed by Employee. Where deemed reasonable to do so by Employer, Employer will compromise and settle any such claim or suit covered by this section and will pay the amount of any settlement or judgment rendered thereon.

Section 20. Bonding

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

Section 21. Other Terms and Conditions of Employment

The Council, in consultation with the City Manager, shall fix any such others terms and conditions of employment, as it may determine from time to time, relating to performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City ordinance or any other law.

Section 22. No Reduction of Benefits

Employer shall not at any time during the time of this Agreement reduce the salary, compensation or other financial benefits of Employee, except to the degree of such reduction across-the-board for all employees of Employer.

Section 23. Notices

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows, or to such other address as may be subsequently furnished by the parties:

- | | |
|---------------|--|
| (1) Employer | Mayor, City of Victorville
14343 Civic Drive
Victorville, CA 92392 |
| (2) Employee: | Keith C. Metzler
14343 Civic Drive
Victorville, CA 92392 |


Alternatively, notices 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 of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 24. General Provisions


- A The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. This Agreement shall become effective commencing immediately upon approval by the Victorville City Council, and shall supersede the prior Agreement between Employer and Employee dated May 22, 2019.
- D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City of Victorville has caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by its City Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.



Debra Jones
Mayor of the City of Victorville



Keith C. Metzler

Attest:



City Clerk

Approved as to form:



City Attorney

EXHIBIT B

Amendment No. 1

**FIRST AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE
CITY OF VICTORVILLE
AND KEITH C. METZLER**

This First Amendment to the Employment Agreement (“Amendment”) is entered into as of **August 4, 2022**, between City, a California municipal corporation and charter city (“Employer”), and Keith C. Metzler as City Manager (hereinafter referred to as “Employee”).

WHEREAS, on July 22, 2021, Employer and Employee entered into that certain Employment Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated by this reference (“Original Agreement”); and

WHEREAS, it is the desire of the Employer and Employee to amend certain sections of the Original Agreement; and

WHEREAS, Employer and Employee deem it best to amend the Original Agreement at this time.

NOW, THEREFORE, for the valuable mutual consideration set forth in this Amendment, the receipt and sufficiency of which is hereby acknowledged, City and Employee hereby agree to amend the Original Agreement as follows:

1. Amendment.

- i.** The first sentence of Section 2 C. of the Original Agreement is hereby amended to read:

C. Employee agrees to remain in the exclusive employ of Employer until June 30, 2030 (the “Initial Term”) and neither to accept other employment nor to become employed by any other employer until said termination date is affected as hereinafter provided.

- ii.** Section 6 of the Original Agreement is hereby amended to read:

Employer agrees to pay Employee for his services rendered pursuant hereto a base salary of \$25,250 per month, through June 30, 2030, to be paid in installments at the same time as other employees of the Employer are paid, which may be further adjusted to the extent the City Council approved future cost of living increases for other employees of the City.


2. Miscellaneous Provisions Applicable to Amendment.

- a) This Amendment will be effective as of the date first written above.
- b) This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

- c) This Amendment shall be governed by the law of the State of California, without reference to its choice of law rules.
 - d) Unless otherwise defined in this Amendment, all terms used in this Amendment that are defined in the Original Agreement are used here as they are there defined.
 - e) Except for the underlying Agreement, this Amendment supersedes any prior agreements, negotiations, and communications, oral or written, with respect to this subject matter.
3. **Status of Agreement.** Except as amended by this Amendment, the Original Agreement continues in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the undersigned have executed this instrument that day and year written above, in the City of Victorville, California.

Employer:


Debra Jones
Mayor of the City of Victorville

Employee:


Keith C. Metzler

Attest:


City Clerk

Approved as to form:


City Attorney

Exhibit A

Original Agreement

AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of July, 2021, by and between the City of Victorville, a municipal corporation, hereinafter referred to as "Employer" as party of the first part, and Keith C. Metzler, hereinafter referred to as "Employee", as party of the second part, both of whom understand as follows:

WHEREAS, Employee continues to serve as City Manager of the City of Victorville pursuant to that certain Agreement dated April 17, 2018, by and between Employer and Employee, which was amended and restated on May 22, 2019 and is hereby superseded; and

WHEREAS, Employer desires to continue to retain the services of said Keith C. Metzler as City Manager of the City of Victorville as provided by ordinance of the City of Victorville; and

WHEREAS, it is the desire of the City Council, hereinafter referred to as "Council" to provide certain benefits, establish certain working conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council (1) to secure and retain the service of Employee and to provide inducement for him to remain in such employment, and (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security.

WHEREAS, Employee desires continued employment as City Manager of said City of Victorville.

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

Section 1. Duties

Employer hereby agrees to employ said Keith C. Metzler as City Manager of the City of Victorville to perform the functions and duties specified as required by State law; the ordinances of the City of Victorville; as contained in this Agreement; and to perform such other legally permissible and proper duties and functions as the Council may from time to time assign.

The City Manager shall be the administrative head of the government of the City under the direction and control of the City Council, except as otherwise provided in the

Municipal Code. The City Manager shall be responsible for the administration of all of the affairs of the City which are under his control, including, but not limited to, law enforcement, authority over employees, power of appointment and removal of employees, administrative reorganization of departments and offices and such other duties delegated by ordinance, resolution or other official action of the City Council or as prescribed by law.

In furtherance of such administration of the affairs of the City, Employer specifically authorizes City Manager to enter into contract arrangements with the /Deputy City Managers and with the City Fire Chief on terms consistent with the adopted Table of Organization and Salary Schedule, provided, however, that such contracts shall not exceed terms of three (3) years and shall contain severance provisions no greater than the severance provisions set forth in Section 4 of the Agreement.

Any official or unofficial action or inaction by the City Council or any individual member of the City Council that limits or interferes with the ability of the City Manager to efficiently administer the affairs of the City shall constitute a default of this employment Agreement. In the event that the City Manager reasonably determines that such default has occurred, he shall provide written notification to the City Council within ten (10) working days. City Council shall, within thirty (30) days of such notification, take such action as reasonably necessary to cure the default. Failure to cure shall cause termination of this employment Agreement in accordance with Section 4(A) of this Agreement

Section 2. Term

A. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 4, Paragraph A and B, of this Agreement.

B. Nothing in this Agreement shall prevent limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 4, Paragraph C, of this Agreement.

C. Employee agrees to remain in the exclusive employ of Employer until June 30, 2025 (the "Initial Term") and neither to accept other employment nor to become employed by any other employer until said termination date unless said termination date is affected as hereinafter provided. Employee shall have the unilateral right to extend the term of this contract for an additional twelve (12) months provided Employee provides notice to the Employer of his election to extend the term hereof at least ninety (90) days prior to the expiration of the Initial Term

The term “employed” shall not be construed to include occasional teaching, writing or consulting on Employee's time off, provided, however, that such teaching, writing or consulting has received the prior approval of the Council.

D. In the event written notice is not given by either party to this Agreement to the other ninety (90) days prior to the termination date as hereinabove provided, this Agreement shall be extended on the same terms and conditions as herein provided, all for two (2) year periods unless either party hereto gives ninety (90) days written notice to the other party that the party does not wish to extend this Agreement for an additional two (2) year term.

Section 3. Suspension

Employer may suspend the Employee with full pay and benefits at any time during the term of this Agreement but only if (1) a majority of the Council and Employee agree or (2) after a hearing, a majority of the Council votes to suspend Employee for just cause provided, however, that Employee shall have been given written notice setting forth any charges at least ten (10) days prior to such hearing by the Council Members bringing such charges.

Section 4. Termination and Severance Pay

A. In the event Employee is terminated by the Council before expiration of the applicable term of employment as provided in Section 2 and during such time. Employee is willing and able to perform his duties under this Agreement, then in that event, Employer agrees to pay Employee a lump sum cash payment equal to twelve (12) months' base salary plus Employee contribution to retirement program. Also, in such event, and in addition to the lump sum payment, Employer shall provide for continuance of the Employee benefits provided in Sections 12 and 13 of this Agreement for twelve (12) months from and after the date of termination. Such termination shall require a unanimous decision of the Council. In the event Employee is terminated because of conviction of any illegal act involving personal gain to him, then in that event, Employer shall have no obligation to pay the severance sum designated in this paragraph. Employee shall not receive the termination and severance pay as provided in this Section after the expiration of the term hereinabove set forth and during such time that he serves as City Manager on a month-to-month basis. Such termination shall require a majority vote of the Council.

B. In the event Employer at any time during the term of this Agreement reduces the salary or other financial benefits of Employee, or the Employee resigns following a suggestion, whether formal or informal, by the Council that he resign, then, in that

event, Employee may at his option, be deemed to be "terminated" at the date of such reduction.

C. In the event Employee voluntarily resigns his position with Employer, then Employee shall give Employer thirty (30) days' notice in advance, unless the parties otherwise agree. In such event, Employer shall pay Employee for accrued vacation, sick and special leave and any other accrued benefits.

D. Notwithstanding any other provision of this Agreement, in no event shall this Agreement terminate Employee or be terminated within 90 days, before or 180 days after, a municipal election for the selection or recall of one or more of the members of the City Council.

Section 5. Disability

If Employee is permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, Employer shall have the option to terminate this Agreement subject to the severance pay requirements of Section 4, Paragraph A. However, Employee shall be compensated for any accrued sick leave, vacation, special leave or other accrued benefits.

Section 6. Salary

Employer agrees to pay Employee for his services rendered pursuant hereto a base salary of \$21,507 per month, through June 30, 2025, to be paid in installments at the same time as other employees of the Employer are paid, which may be further adjusted to the extent the City Council approved future cost of living increases for other employees of the City.

Section 7. Performance Evaluation

A. The Council shall review and evaluate the performance of the Employee in June of each year hereafter for salary consideration. Said review and evaluation shall be in accordance with specific criteria developed and agreed upon by Employer and Employee. Said criteria may be added to or deleted from as the Council and Employee may from time to time determine. Further, the results of said evaluation shall be memorialized in writing and provided to Employee and all members of the Council.

B. In effecting the provision of this Section, the Council and Employee mutually agree to abide by the provisions of applicable law.

Section 8. Hours of Work

It is recognized that Employee must devote a great deal of time outside the normal office hours to the business of the Employer, and to that end Employee will be allowed to take compensatory time off as mutually agreed upon between Employee and Employer. However, both parties agree that the accumulated time is based upon the additional hours (overtime) worked and not compensated. Further, monthly the City Manager will submit a report of hours taken for all leave, vacation, conferences and any extended leave will be requested in advance of all scheduled leave.

Section 9. Outside Activities

Employee shall not spend more than nine (9) hours per week in teaching, counseling or other non-Employer connected business without prior approval of the Council.

Section 10. Automobile

Employee's duties require the extensive use of an automobile in the normal course of business. Employee shall be provided a vehicle for use in carrying out his official duties as City Manager of the City of Victorville. It is understood and agreed that the City Manager shall be on duty at all times and, as a result, the vehicle so supplied shall not be restricted to City business and may be utilized for personal use. Employer and Employee may mutually agree that the City Manager may provide his own vehicle in lieu of a City vehicle and to that end, Employer shall pay to Employee an allowance for use of Employee's automobile in the sum of Six Hundred Dollars (\$600.00) per month during the term of employment, and Employee shall be responsible for paying for liability insurance as required by state law and for gas, maintenance and repair of his automobile.

Section 11. Benefits

Employee shall be eligible for the same benefits as regular full time employees of the City and as provided for in the Personnel Rules and Regulations. Except as specifically provided in this Section and as otherwise provided in this Agreement, Employee is exempt from the Personnel Rules of the City of Victorville. In the event that this Agreement is not renewed in accordance with Section 2, Paragraphs A and D, or is terminated in accordance with Section 4, Paragraphs A and B, accrued sick leave shall be paid at an amount of 100 percent (100%) of face value.

Section 12. Disability, Health and Life Insurance

A. Employer agrees to keep in force and to make required premium payments for

Employee for insurance policies covering Employee and his dependents the same as are currently provided to all general employees of the City of Victorville under the Personnel Rules and Regulations. After purchasing the Employee's medical choice for themselves and/or dependents, including vision and dental, any remaining balance shall be transferred to a deferred compensation account administered by the City of Victorville for all employees. Should the medical choice exceed the amount hereinafter adjusted for all employees, the excess will be deducted from employee's monthly payroll check.

B. Employer agrees to purchase and to pay the required premiums on term life insurance in an amount equal to the Employee's annual salary to the nearest thousandth dollar.

Employer shall provide travel insurance for Employee while he is traveling on Employer's business, with Employee to name beneficiary thereof.

Employee agrees to submit once per calendar year to a complete physical examination by a qualified physician of his choice, the cost of which shall be paid by the Employer. Employer shall receive a copy of all medical reports related to said examination.

Section 13. Retirement

Employer agrees to provide for participation in the California Public Retirement System ("PERS"). Employer shall pay Employer's share of any contribution to PERS and Employee shall pay Employee's share of any contribution to PERS.

Section 14. Dues, Subscriptions and License Fees

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

Section 15. Professional Development

A. Employer hereby agrees to budget and to pay the travel subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer, including but not limited to the annual conference of the League of California Cities and such other national, regional, state and local government groups and committees thereof which Employee serves as

a member, with concurrence of the City Council.

B. Employer also agrees to budget and pay for the travel and subsistence expenses of employee for short courses, institutes and seminars that are necessary for his professional development and the good of the Employer, with concurrence of the City Council.

Section 16. General Expenses

Employer recognizes that certain expenses of a non-personal nature and generally job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or to pay said general expenses upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits, in accordance with the policy on reimbursement for general and/or travel expenses of the City.

Section 17. Civic Club Membership

Employer recognizes the desirability of representation in and before local civic and other organizations and Employee is authorized to become a member of such civic clubs or organizations, for which Employer shall pay all expenses. Membership in such civic clubs or organizations at City's expense shall require approval of the City Council. Employee shall report to Employer on each membership that he has taken out at Employer's expense.

Section 18. Cellular Phone Stipend

Employer shall pay to Employee One Hundred Fifty Dollars (\$150.00) per month for a cellular phone stipend, as set forth in the City of Victorville Administrative Policy Cellular Telephone Stipend Number 8-28.

Section 19. Indemnification

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 performance of Employee's duties as City Manager, except this provision shall not apply in respect to any intentional tort or crime committed by Employee. Where deemed reasonable to do so by Employer, Employer will compromise and settle any such claim or suit covered by this section and will pay the amount of any settlement or judgment rendered thereon.

Section 20. Bonding

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

Section 21. Other Terms and Conditions of Employment

The Council, in consultation with the City Manager, shall fix any such others terms and conditions of employment, as it may determine from time to time, relating to performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City ordinance or any other law.

Section 22. No Reduction of Benefits

Employer shall not at any time during the time of this Agreement reduce the salary, compensation or other financial benefits of Employee, except to the degree of such reduction across-the-board for all employees of Employer.

Section 23. Notices

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows, or to such other address as may be subsequently furnished by the parties:

- | | | |
|-----|-----------|--|
| (1) | Employer | Mayor, City of Victorville
14343 Civic Drive
Victorville, CA 92392 |
| (2) | Employee: | Keith C. Metzler
14343 Civic Drive
Victorville, CA 92392 |


Alternatively, notices 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 of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

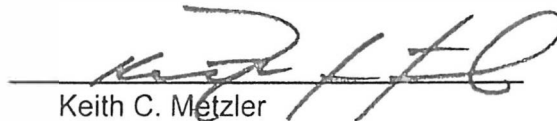
Section 24. General Provisions

- A The text herein shall constitute the entire agreement between the parties.
- B This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C This Agreement shall become effective commencing immediately upon approval by the Victorville City Council, and shall supersede the prior Agreement between Employer and Employee dated May 22, 2019.
- D If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City of Victorville has caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by its City Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.


Debra Jones
Mayor of the City of Victorville


Keith C. Metzler

Attest:


City Clerk

Approved as to form:


City Attorney