

CITY MANAGER EMPLOYMENT AGREEMENT

This City Manager Employment Agreement (“Agreement”) is entered into on December 17, 2015, by and between the City of Sanger, a municipal corporation (“City”), and Eutimio “Tim” Chapa (“Chapa”), with respect to the following Recitals, which are a substantive part of this Agreement:

RECITALS

- A. City’s former City Manager resigned in June 2015.
- B. An interim City Manager has served as City Manager since that time while the City searched for a new City Manager.
- C. Chapa desires to become the permanent City Manager and City desires to appoint Chapa as the City Manager, subject to the terms of this Agreement.

NOW, THEREFORE, City and Chapa agree as follows:

1. Employment. City employs Chapa as the City Manager, effective January 21, 2016. Chapa will be an at-will employee serving at the pleasure of the City Council subject to the terms and conditions set forth below. Chapa’s employment with the City as City Manager is at the mutual consent of both Chapa and the City. There are no express or implied agreements contrary to the foregoing.
2. Term. This Agreement shall be in effect for a period of three (3) years beginning on January 21, 2016, unless terminated by either party in accordance with Section 6 below or extended by mutual written agreement of both parties.
3. Salary. Chapa’s salary shall be \$157,000.00 annually (\$13,083.33 per month) for the term of the Agreement, except as may be adjusted as set forth herein. Chapa shall be entitled to cost of living adjustments as approved for all executive management employees of the City. Chapa shall also be eligible to receive an increase in salary and/or other benefits on the basis of an annual performance evaluation as described herein. Chapa may receive a merit increase not exceeding five percent (5.0%) annually as approved by the City Council following a performance evaluation. Such merit increase(s) shall not result in Chapa’s salary exceeding the City Council approved salary range for the City Manager in effect at the time. Chapa’s participation in any salary reductions or other cost saving measures during his employment with City shall be completely voluntary at Chapa’s sole discretion.
4. Duties and Professional Conduct. Chapa shall have the powers and shall perform the duties prescribed in the Sanger Municipal Code for the City Manager. Chapa shall also perform such additional duties as may be assigned by the City Council. Chapa shall adhere to the professional standards of conduct as prescribed by the International City/County Management Association (ICMA), and Chapa will also continue his membership in ICMA. During the term of this Agreement, Chapa shall be a full-time City Manager.

5. Evaluation. Chapa shall receive a performance evaluation in October of each year, or more often as may be requested by the City Council or Chapa. It shall be Chapa's responsibility to schedule those evaluations. Failure to evaluate shall have no effect on the rights, duties, and obligations of the parties herein.

6. Termination and Severance.

a. Termination Without Cause. The majority of the City Council may terminate this Agreement at any time (subject to the limitation in Section 8 below) without cause by providing at least thirty (30) days written notice to Chapa. In the event of termination without cause, Chapa shall be entitled to severance compensation as follows:

- (1) twelve (12) months salary if this Agreement is terminated without cause by the City Council during the first year (January 21, 2016 – January 20, 2017) of the Term; or
- (2) nine (9) months salary if this Agreement is terminated without cause by the City Council during the second year (January 21, 2017 - January 20, 2018) of the Term; or
- (3) six (6) months salary, or salary for the balance of the Term, whichever is less, if this Agreement is terminated without cause by the City Council during the third year (January 21, 2018 – January 20, 2019) of the Term.

Severance compensation shall be paid in one lump sum and in the same manner as the customary payout of earned salary.

b. Termination for Cause. The City may terminate this Agreement for cause immediately upon written notice to Chapa. If Chapa is terminated for cause, Chapa shall not be entitled to the severance compensation under this Section.

c. For Cause Defined. Cause shall be defined to include, but shall not be limited to, any of the following: (a) the refusal to follow the lawful directions of the City Council; (b) failure to substantially perform any of the required duties of the City Manager; (c) repeated unexcused absences from the City Manager's office and duties; (d) material violation of City policy(ies); (e) conviction of a felony or a misdemeanor crime involving acts of moral turpitude under California law; (f) use or possession of illegal drugs; (g) breach of this Agreement.

d. Termination Defined. Termination shall mean removal from office or a request that Chapa resign. Termination shall not mean a reduction of benefits generally applicable to all non-public safety executive management employees.

7. Resignation; Notice. Nothing in this Agreement shall prevent, limit or otherwise interfere with Chapa's right to resign from his employment with the City at any time. Chapa shall give City at least forty-five (45) days written notice prior to the effective date of resignation, and shall make reasonable efforts to give City sixty (60) days written notice. If Chapa resigns voluntarily (without a request from the City Council to resign), Chapa shall not be entitled to the severance compensation under Section 6 herein.

8. Limitation on Without Cause Termination Following Seating of Newly Elected Council Member. Notwithstanding any other provision of this Agreement, the City Council may not take any action to terminate this Agreement without cause during the period of sixty (60) days following the seating of a new city council member or mayor elected in a general municipal election. The purpose of this provision is to allow any newly elected member of the city council or a reorganized city council to have sufficient time to observe the actions and ability of the city manager in the performance of the powers and duties of his office. After the expiration of the aforementioned sixty (60) day period, there shall be no limitation on the City Council's ability to terminate without cause. Nothing herein shall limit the City's ability to terminate this Agreement for cause and serve written notice of such termination on Chapa.

9. Automobile Allowance. Chapa shall, at his expense, provide an automobile for use in carrying out his duties as City Manager, and in connection therewith. City shall pay Chapa an automobile allowance of \$400.00 per month. Chapa shall not be entitled to reimbursement for automobile use for business travel.

10. Retirement Benefits. During the Term of this Agreement, City shall enroll Chapa as a classic member of the PERS 2.5% at 55 Plan, and shall pay the applicable employee contribution at the same level as provided other non-public safety executive management employees of the City. Chapa acknowledges that after June 30, 2017, the City will no longer pay any portion of the PERS employee contribution on his behalf.

11. Health Benefits. During the Term of this Agreement, City shall provide Chapa with the same health, dental, and vision insurance coverage and benefits as are provided other non-public safety executive management employees of the City, and as may be modified from time to time. Currently, the City's applicable health insurance coverage shall be provided to Chapa at no cost for employee coverage and \$45.00 per month for dependent coverage. Chapa understands and acknowledges that such coverage may be subject to change in the future.

12. Vacation, Sick Leave, and Management Leave. Chapa shall accrue vacation leave, sick leave, and management leave in the same manner as other executive management employees of the City and shall be subject to applicable City ordinances, resolutions, rules and policies pertaining to accrual and use of such leaves by executive management employees as the same currently exist and may hereafter be modified. City recognizes that Chapa is reentering City's service, and Chapa shall be credited with service time accumulated with the City prior to his previous separation from the City for the limited purpose of determining his appropriate vacation leave accrual rate.

13. Other Benefits and Allowances. During the Term of this Agreement, Chapa shall be entitled to receive the same benefits, rights, and privileges afforded to non-public safety executive management and mid-management employees as approved, and as may be subsequently modified or replaced, by the City Council. This Agreement shall control if there is any conflict between this Agreement and any resolution or ordinance fixing compensation or benefits for non-public safety executive management employees.

14. Life Insurance. Upon submission of the appropriate documentation from Chapa, City shall pay the annual premium for a \$100,000 term life insurance policy covering Chapa

during the Term of this Agreement. Chapa shall have the sole discretion in designating any beneficiary(ies) under such policy.

15. Relocation Expense Reimbursement. City shall reimburse Chapa for relocation costs and moving expenses actually incurred, up to a maximum of \$2,500.00. Chapa shall submit a claim for reimbursement, along with copies of receipts and expenditures, by July 15, 2016.

16. Professional Meetings. Chapa is expected to attend appropriate professional meetings and conferences at local and state levels, including but not limited to League of California Cities and ICMA, and to periodically report to the City Council regarding meetings attended. City will pay for Chapa's annual membership fees for ICMA and other appropriate professional organizations. The annual budget for such memberships and Chapa's attendance at conferences shall be included in the City's adopted annual budget.

17. Expense Reimbursement. City shall reimburse Chapa for actual and necessary expenses incurred within the scope of employment in accordance with applicable City reimbursement schedules and policies. City shall pay for or reimburse Chapa's actual and necessary travel and subsistence expenses for professional and official travel to meetings, courses, seminars, and occasions reasonably necessary to adequately pursue official duties and other functions for the City, and to continue Chapa's professional development as authorized by the City Council.

18. Notices. Any notices required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given and deemed served upon the other party if sent by United State Postal Service, first class postage prepaid, and addressed as follows:

TO CITY: Sanger City Council
c/o City Attorney
City of Sanger
1700 7th Street
Sanger, CA 93657

TO EMPLOYEE: Tim Chapa
City Manager
City of Sanger
1700 7th Street
Sanger, CA 93657

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the U.S. Postal Service.

19. Bonding. City shall bear the full cost of any bond(s) or insurance required of Chapa to perform his duties pursuant to this Agreement under any law or ordinance.

20. General Provisions.

a. Governing Law and Venue. This Agreement and the rights and obligations of the parties shall be governed by and construed in accordance with the laws of the State of California. The parties also agree that, in the event of litigation, venue shall be the state courts located in Fresno County, California.

b. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties. There are no oral understandings, terms, or conditions, and neither party has relied upon any representation, express or implied not contained in this Agreement.


c. No Assignment. Chapa may not assign or transfer any rights granted or obligations assumed under this Agreement.

d. Modification. This Agreement cannot be modified, amended, or supplemented orally. This Agreement may be modified, amended, or superseded only by a written instrument executed by both of the parties.

e. Severability. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provision of the Agreement shall continue in full force and effect.

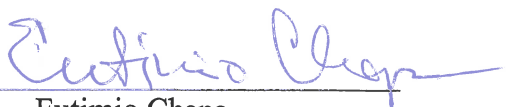
f. City Council/Manager Relations. The City Council and its members shall deal with the administrative services of the City only through the City Manager, except for the purpose of inquiry, and neither the City Council nor any member thereof shall give orders or instructions to any subordinates of the City Manager. The City Manager shall take orders and instructions from the City Council only when sitting in a duly convened meeting of the City Council, and no individual Council member shall give any orders or instructions to the City Manager.

CITY OF SANGER

By: 

Raul Cantu, Mayor Pro Tem

CITY MANAGER

By: 

Eutimio Chapa

APPROVED AS TO FORM



Scott G. Cross, City Attorney