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City of South Gate
CITY COUNCIL

CITY OF SOUTH GATE
OFFICE OF THE CITY MANAGER

10:20pm

AGENDA BILL

For the Regular Meeting of: November 24, 2020

Originating Department: Administrative Services

Department Director:


Jackie Acosta

City Manager:


Michael Flad

SUBJECT: RESOLUTION APPOINTING CHRIS JEFFERS AS INTERIM CITY MANAGER AND APPROVING EMPLOYMENT AGREEMENT

PURPOSE: To adopt a Resolution appointing Chris Jeffers as Interim City Manager and approving an Employment Agreement detailing the terms of this appointment.

RECOMMENDED ACTIONS:

- a. Adopt Resolution appointing Chris Jeffers as Interim City Manager and approving Employment Agreement effective November 30, 2020; and
- b. Authorize the Mayor to execute the Employment Agreement in a form acceptable to the City Attorney.

FISCAL IMPACT: There is no impact to the General Fund. Funds are already budgeted in the Fiscal Year 2020/21 Municipal Budget for this position.

ANALYSIS: The City Manager is the most critical and key position in the City. Leaving this position vacant while a recruitment is conducted would have a negative impact on City operations.

BACKGROUND: On October 8, 2020, the City's City Manager, Michael Flad, advised the City Council that he was resigning his position. With the responsibility to carry out and implement City Council direction and to oversee all City staff and the day-to-day operations of the City, the City Manager position is critical to the City's ongoing operations and should be filled on an interim basis while a recruitment process is underway. After an interview process, the City Council has selected Chris Jeffers, retired City Manager of the City of Glendora, to fill the City Manager position on an interim basis. Mr. Jeffers has 28 years of experience as a City Manager having served as the City Manager of the City of Glendora for 11 years and as the City Manager of the City of Monterey Park for 17 years.

To assist the City in finding the right person to fill the permanent City Manager position, the City has executed a contract with Peckham & McKenney, an executive search firm, to handle the recruitment process. Efforts are already underway and the application period will be opening soon. More information on the recruitment process can be found at <https://www.peckhamandmckenney.com/>.

In order to comply with CalPERS regulations regarding hiring retired annuitants, the City Council must adopt the attached proposed Resolution. Additionally, the proposed Employment Agreement setting forth the terms and conditions of Mr. Jeffers' interim appointment is attached for the City Council's approval.

ATTACHMENT: Proposed Resolution including Employment Agreement.

RESOLUTION _____

**CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE,
CALIFORNIA, APPOINTING CHRIS JEFFERS AS INTERIM CITY MANAGER AND
APPROVING EMPLOYMENT AGREEMENT EFFECTIVE NOVEMBER 30, 2020**

WHEREAS, Government Code Sections 21221(h) and 7522.56 permit retired annuitants under the California Public Employees' Retirement System ("CalPERS") to be employed without reinstatement from retirement upon appointment by a governing body to fill a vacant position on an interim basis during the recruitment to permanently fill the vacant position;

WHEREAS, the City's City Manager has recently announced his resignation, such that the position will soon be vacant;

WHEREAS, the City has hired an Executive Search firm to begin conducting an open recruitment to permanently fill the position of City Manager;

WHEREAS, as a CalPERS retired annuitant under Government Code Section 21221(h), Chris Jeffers possesses extensive experience as a City Manager and possesses the specialized skill set to perform the required duties of Interim City Manager and desires to perform the duties of, and assume responsibility for, the position of Interim City Manager and acknowledges that such employment is at-will and of a limited duration for a definite period of time, as described below; and

WHEREAS, the City desires to hire Mr. Jeffers as an at-will, limited duration employee for the position of Interim City Manager, which is a position that requires specialized skills, for a definite period of time, effective November 30, 2020.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH GATE,
CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The City Council does hereby declare that the above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council hereby approves the appointment of Chris Jeffers as the Interim City Manager for the City of South Gate.

SECTION 3. The City Council hereby approves the Interim City Manager Employment Agreement between the City of South Gate and Chris Jeffers, attached hereto as Exhibit "A."

SECTION 4. The Mayor is hereby authorized to execute the Employment Agreement on behalf of the City of South Gate.

SECTION 5. The City Clerk shall certify to the adoption of this Resolution which shall be effective upon its adoption.

PASSED, APPROVED and ADOPTED on this **24th** day of November **2020**.

CITY OF SOUTH GATE:

By: _____
Maria Davila, Mayor

ATTEST:

By: _____
Carmen Avalos, City Clerk
(SEAL)

APPROVED AS TO FORM:

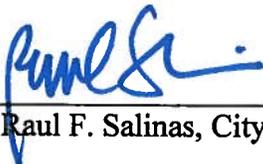
By:  _____
Raul F. Salinas, City Attorney

Exhibit "A"

EMPLOYMENT AGREEMENT AS THE INTERIM CITY MANAGER BETWEEN THE CITY OF SOUTH GATE AND CHRIS JEFFERS

This Employment Agreement as the Interim City Manager ("Agreement") is made and entered into on November 24, 2020, and effective November 30, 2020, by and between the City of South Gate, a municipal corporation ("City") and Chris Jeffers ("Employee"). The City and Employee may be referred to individually as a "Party" or collectively as "the Parties."

RECITALS

WHEREAS, Government Code Sections 21221(h) and 7522.56 permit retired annuitants under the California Public Employees' Retirement System ("CalPERS") to be employed without reinstatement from retirement upon appointment by a governing body to fill a vacant position on an interim basis during the recruitment to permanently fill the vacant position;

WHEREAS, the City's City Manager recently announced his resignation, such that the position will soon be vacant;

WHEREAS, the City has hired an Executive Search firm to begin conducting an open recruitment to permanently fill the position of City Manager;

WHEREAS, the City anticipates that the City Manager position will be filled with a permanent replacement within twelve (12) months after the effective date of this Agreement;

WHEREAS, as a CalPERS retired annuitant under Government Code Section 21221(h), Employee possesses extensive experience as a City Manager and possesses the specialized skill set to perform the required duties of Interim City Manager and desires to perform the duties of, and assume responsibility for, the position of Interim City Manager and acknowledges that such employment is at-will and of a limited duration for a definite period of time, as described below;

WHEREAS, since retirement, Employee has not previously served as the Interim City Manager for the City;

WHEREAS, the City desires to hire Employee as an at-will, limited duration employee for the position of Interim City Manager, which is a position that requires specialized skills, for a definite period of time, effective November 30, 2020;

WHEREAS, pursuant to South Gate Municipal Code §1.06.010, "the City Manager shall be appointment [*sic*] by the City Council solely on the basis of executive and administrative qualifications and abilities, and shall hold office at the pleasure of the City Council;" and

WHEREAS, the Parties wish to establish the terms and conditions of Employee's services to the City, as described in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, City and Employee hereby agree as follows:

AGREEMENT

SECTION 1. TERM. The term of this Agreement shall commence on November 30, 2020, and shall automatically terminate on November 29, 2021 (“Term”). The City shall terminate this Agreement in accordance with Section 4(B) of this Agreement upon the City’s appointment of a permanent replacement for the position of City Manager. November 30, 2020, shall be Employee’s “Hire Date” for purposes of this Agreement. In no event shall Employee work more than 960 hours per fiscal year during the Term of this Agreement. In the event Employee works 960 hours during a fiscal year within the Term of this Agreement, then this Agreement shall terminate automatically.

SECTION 2. DUTIES, RESPONSIBILITIES AND WORK HOURS.

- A. Employee shall be appointed to the position of Interim City Manager, the duties of which are set forth in South Gate Municipal Code Chapter 1.06 and in Exhibit “A” to this Agreement. Employee acknowledges that the position of Interim City Manager requires specialized skills and expert professional services for a definite period of time, as described above in Section 1 of this Agreement.
- B. Employee acknowledges proper performance of the duties of Interim City Manager will generally require Employee to observe normal business hours (Monday through Thursday, 7:00 a.m. to 6:00 p.m.) as well as work occasional time outside of normal office hours. Employee shall work under the direction of the City Council. Subject to the Term as stated in Section 1 of this Agreement, Employee shall work the number of hours each week as directed and authorized by the City Council.
- C. All data, studies, reports and other documents prepared and/or reviewed by Employee while performing his duties during the Term of this Agreement shall be furnished to, and become the property of the City, without restriction or limitation on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information and other materials either created by, or provided to, Employee in connection with the performance of this Agreement shall be held confidential by Employee to the extent permitted by applicable law. Such materials, without the prior written consent of the City Council, shall not be used by Employee for any purpose other than the performance of his duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

SECTION 3. COMPENSATION AND BENEFITS.

- A. The City agrees to compensate Employee at the Step A of the salary range for the City Manager position, which is currently Twenty Thousand Five Hundred and Seventy-Five Dollars (\$20,575.00) per month, to equal an hourly rate of One Hundred Eighteen Dollars and Seventy Cents (\$118.70; \$20,575.00 divided by 173.333). That calculated hourly rate is simply to show compliance with CalPERS' requirements (Government Code Section 21221(h)) and not to be construed as designating the City Manager position as hourly employment and anything other than salaried and exempt pursuant to the Fair Labor Standards Act ("FLSA").
- B. Employee shall not be eligible for any other benefits, incentives, compensation in lieu of benefits or any other forms of compensation.

SECTION 4. RESIGNATION/TERMINATION.

- A. Employee may resign at any time; provided, however, Employee shall reasonably provide the City Council with at least two (2) weeks advance written notice.
- B. Employee is an at-will employee and serves at the will and pleasure of the City Council and may be terminated at any time, with or without cause, and with or without notice. Employee expressly waives any rights provided for the City Manager under the City's Personnel Rules, Municipal Code, or under other state or federal law to any other form of pre- or post-termination hearing, appeal or other administrative process pertaining to termination.
- C. In accordance with state law and the requirements of the California Public Employees' Retirement Law, Employee may not be reappointed to this position following the expiration of this Agreement, nor may this Agreement be modified to extend the term of the Agreement.
- D. After notice of resignation or termination, Employee shall cooperate with the City, as requested by the City, to effect a transition of Employee's responsibilities and duties and to ensure that the City is aware of all matters being handled by Employee.
- E. Employee shall not be entitled to severance pay and Employee expressly waives any and all rights with respect to severance pay.

SECTION 5. NOTICES. Notices required to be served pursuant to this Agreement shall be served in person or by first-class U.S. mail addressed as follows:

TO CITY:

City Attorney
City of South Gate
8650 California Avenue
South Gate, CA 90280

TO EMPLOYEE:

Chris Jeffers
[Address on file with Human Resources]

SECTION 6. GENERAL TERMS AND CONDITIONS. The General Terms and Conditions of this Agreement are described as follows:

- A. Indemnification. To the extent mandated by the California Government Code, the City shall defend, hold harmless, and indemnify Employee against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Employee's services under this Agreement. This section shall not apply to any intentional tort or crime committed by Employee, to any action outside the course and scope of Employee's employment, or any other intentional or malicious conduct or gross negligence of Employee.
- B. Entire Agreement. The text of this Agreement shall constitute the entire and exclusive agreement between the Parties. All prior oral or written communications, understandings or agreements between the Parties not set forth herein shall be superseded in total by this Agreement. No amendment or modification to this Agreement may be made except by a written agreement signed by the Employee and the Mayor and approved as to form by the City Attorney.
- C. Assignment. This Agreement is not assignable by either the City or Employee.
- D. Severability. In the event any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the Parties, the remainder of this Agreement shall remain in full force and effect unless the parts found to be illegal or void are wholly inseparable from the remaining portions of this Agreement.
- E. Effect of Waiver. The failure of either Party to insist on strict compliance with any of the terms, covenants or conditions in this Agreement by the other Party shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other time or times.

- F. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution. Any action to interpret or enforce the terms of this Agreement shall be held exclusively in a state court in Los Angeles County, California. Employee expressly waives any right to remove any such action from Los Angeles County.
- G. Effective Date. This Agreement is effective November 30, 2020.
- H. Effect of Agreement on Employee's CalPERS Retirement Benefits. The City makes no representation on the impact, if any, this Agreement shall or may have upon Employee's CalPERS retirement benefits, status, duties and/or obligations. Employee acknowledges that in entering into this Agreement, he has not relied upon any such representations (none of which being in existence) in assessing the CalPERS-related impact of his employment. Therefore, Employee releases the City from any and all CalPERS-related claims or liabilities that may arise in connection with his employment pursuant to this Agreement.
- I. No Unemployment Insurance Benefits Received By Employee. Employee expressly certifies and warrants to the City that he has not received any unemployment insurance payments for retired annuitant work for any public employer within the 12 months prior to his appointment date.
- J. Compliance With 960 Hours Per Fiscal Year Limit. Employee further certifies and warrants to the City that he will not exceed the 960 hours per fiscal year limit pursuant to Government Code Section 21221(h), including work for any other CalPERS employer during the current fiscal year.
- K. Conflicts Prohibited. During the term of this Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this Agreement. Employee shall comply with all requirements of law, including but not limited to, Sections 1090, 1125 and 87100 *et seq.* of the Government Code, and all other similar statutory and administrative rules.
- L. Independent Legal Advice. The City and Employee represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement, or has at least had the opportunity to do so, that each has carefully reviewed this entire Agreement, that each and every term thereof is understood, and that the terms of this Agreement are contractual and not a mere recital. This Agreement shall not be construed against the Party or its representatives who drafted it or who drafted any portion thereof.

M. Government Code §§ 53243 - 53243.4. Government Code §§ 53243 - 53243.4 sought to provide greater transparency in local government and institute certain limitations on compensation paid to local government executives. Those statutes also require that contracts between local agencies and their employees include provisions requiring an employee who is convicted of a crime involving an abuse of his/her office or position to provide reimbursement to the local agency. Those statutes are incorporated herein by reference. Accordingly, the Parties agree it is their mutual intent to fully comply with the cited Government Code sections and all other applicable law as it exists as of the date of execution of this Agreement and as such laws may be amended from time to time thereafter. Specifically, the following Government Code sections are called out and hereby incorporated by this Agreement:

§53243. Reimbursement of paid leave salary required upon conviction of crime involving office or position.

§53243.1. Reimbursement of legal criminal defense upon conviction of crime involving office or position.

§53243.2. Reimbursement of cash settlement upon conviction of crime involving office or position.

§53243.3. Reimbursement of noncontractual payments upon conviction or crime involving office or position.

§53243.4. "Abuse of office or position" defined.

Employee represents he has reviewed, is familiar with and agrees to comply fully with each of these provisions if any of these provisions are applicable to Employee.

[Remainder of page left blank intentionally.]

IN WITNESS WHEREOF, the City of South Gate has caused this Agreement to be signed and executed on its behalf by the Mayor, City Attorney and duly attested to by the City Clerk, and the Employee has signed and executed two (2) copies of this Agreement.

CITY OF SOUTH GATE:

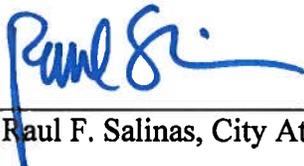
By: _____
Maria Davila, Mayor

Date: _____

ATTEST:

By: _____
Carmen Avalos, City Clerk
(SEAL)

APPROVED AS TO FORM:

By:  _____
Paul F. Salinas, City Attorney

EMPLOYEE:

By: _____
Chris Jeffers

Date: _____

In signing this Agreement, Employee understands and agrees that he is an **at-will employee** and that his rights to employment with the City are governed by the terms and conditions of this Agreement rather than the ordinances, resolutions and policies of the City of South Gate which might otherwise apply to classified or other employees of the City. Employee further acknowledges that he was given the opportunity to consult with an attorney prior to signing this Agreement.

EMPLOYEE:

By: _____
Chris Jeffers

Date: _____

Exhibit “A”

City of South Gate

POSITION SPECIFICATIONS AND ATTRIBUTES

CITY MANAGER

DUTIES OF POSITION

Subject to legislative determination of policy, to administer the activities of the City government as prescribed by ordinance and in accordance with the policies of the City Council; perform related duties as assigned.

EXAMPLE OF DUTIES

Enforce and administer the provisions of laws and ordinances; plan, coordinate and provide overall direction of the work of all City departments; prepare recommendations and advise Council on matters requiring legislative action; keep the Council informed on all important matters relating to City affairs; prepare original drafts and recommend ordinances, resolutions and contracts; institute programs and policy changes as directed by the Council; plan work programs and propose an annual budget providing for the balancing of revenues and expenditures; administer approved programs and budgets; counsel with and advise City commissions and boards; act as Personnel Officer and Purchasing Agent; conduct special studies designed to increase the efficiency and economy of municipal operations; represent the City in a variety of meetings and public functions; coordinate the general activities of the City government with other governmental agencies. Perform related duties as assigned.

QUALIFICATIONS

FORMAL TRAINING AND EXPERIENCE: Any combination equivalent to completion of a college education and extensive responsible administrative experience in the planning, coordination and financing of varied activities.

KNOWLEDGE AND ABILITIES: Knowledge of management theory and practice; municipal organization and procedures. Ability to plan and enforce a balanced budget; plan, direct and coordinate a varied work program; supervise and delegate authorities and responsibilities; establish and maintain effective public relations; gain and retain good working relationships with the community at large, the Council, subordinate officials and employees

and public officials of other jurisdictions.

CM.ADM