

**FOURTH AMENDMENT TO CITY ADMINISTRATOR
AT-WILL EMPLOYMENT AGREEMENT**

This Fourth Amendment to City Administrator At-Will Employment Agreement (“Fourth Amendment”) is made and entered into between the City of Carmel-by-the-Sea, California, a municipal corporation (“City”) and Richard (“Chip”) Lyons Rerig, an individual (“City Administrator”). The City and the City Administrator are sometimes individually referred to as a “Party” and collectively as “Parties.” This Fourth Amendment shall be effective on November 1, 2020.

WHEREAS, the Parties entered into an Employment Agreement (“Employment Agreement”) on February 2, 2016.

WHEREAS, pursuant to Section 7A of the Employment Agreement, City Administrator received a base salary that, at the time of the Employment Agreement, was \$190,000.00.

WHEREAS, the current base salary of the City Administrator based upon Resolution No. 2018-110 and the Second Amendment to the Employment Agreement is \$196,650.00.

WHEREAS, in an effort to conserve costs for the City, the City Administrator has requested the City decrease its contribution to City Administrator’s Section 457 deferred compensation program, in an amount equal to 10% (ten percent) of the City Administrator’s annual base salary, for 12 (twelve) months commencing June 1, 2020 and ending May 31, 2021. Based upon Resolution No. 2020-034 and Third Amendment to the Employment Agreement, the current base salary of the City Administrator is \$196,650; 10% (ten percent) thereof is \$19,665.00.

WHEREAS, pursuant to Section 7C of the Employment Agreement, the City Council of the City of Carmel-by-the-Sea (“City Council”) grants salary increases to City Administrator in its discretion. City Administrator does not currently have a salary increase pending.

WHEREAS, the Parties now desire to amend the Employment Agreement as follows:

NOW, THEREFORE, in consideration of the promises herein, the Parties agree as follows:

1. Term: City Administrator’s employment commenced March 1, 2016, and shall continue until March 1, 2025, or the date of earlier termination in accordance with provisions in this Agreement. Commencing March 1, 2018, and on every succeeding March 1st thereafter while this Agreement is in effect, and on the condition that Administrator receives positive performance reviews in the two preceding years, this Agreement shall be automatically extended for two (2) additional years unless prior to that date the City Council notifies Administrator of its intention not to extend the Agreement for two additional years. The City Council’s election not to extend this Agreement shall not entitle Administrator to Severance pursuant to Section 6 of this Agreement.

2. Executive Leave. In recognition of his prior service to the City, City Administrator was deemed to have accrued 80 hours of Executive Leave on the date of commencement of employment. Thereafter, the City has granted and will continue to grant 80 hours of Executive Leave on July 1 of each year. In addition, City will grant City Administrator a one-time bank of 40 executive leave hours, for a total of 120 hours; these additional 40 executive leave hours must be used by December 31, 2021. Executive Leave shall not roll over from year to year. Executive Leave shall have no cash value and may not be cashed out during or at the end of Administrator's tenure with the City.

3. No Car Allowance / Use of City Take Home Vehicle. City Administrator's duties require him to be available and to respond to the demands of City business at all times and outside of regular business hours, including weekends. City shall not pay City Administrator a monthly car allowance but permit City Administrator to use a City-owned vehicle for business purposes, to commute to or from work, and for personal purposes.

Any and all benefits of the Third Amendment to City Administrator At-Will Employment Agreement, executed by the parties on or around June 3, 2020 or otherwise agreed to between the City Council and City Administrator, shall remain the same.

4. Government Code Provisions

a. Pursuant to Government Code section 53260, in the event City provides City Administrator with a cash settlement related to termination of the Employment Agreement, the cash settlement shall not exceed the lesser of (1) an amount equal to the monthly salary of Employee multiplied by 18 or (2) an amount equal to the monthly salary of City Administrator multiplied by the number of months left on the unexpired term of the Employment Agreement.

b. Pursuant to Government Code sections 53243 and 53243.3, in the event City provides paid leave salary to City Administrator pending an investigation into City Administrator, the City Administrator shall fully reimburse City for any paid leave salary if City Administrator is convicted of a crime involving an abuse of his office or position.

c. Pursuant to Government Code sections 53243.1 and 53243.3, in the event the City provides funds for City Administrator's legal criminal defense, the City Administrator shall fully reimburse City for any such funds if City Administrator is convicted of a crime involving an abuse of his office or position.

d. Pursuant to Government Code sections 53243.2 and 53243.3, in the event LAFCO provides City Administrator with a cash settlement related to City Administrator's termination, City Administrator shall fully reimburse City for any such cash settlement if City Administrator is convicted of a crime involving an abuse of his office or position.

e. Pursuant to Government Code section 53243.4, an "abuse of office or position" means (a) an abuse of public authority, including, but not limited to, waste, fraud, and violation of

the law under color of authority, or (b) a crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

5. Except as specifically modified and amended in this Amendment, the Employment Agreement and First Amendment and Second Amendment and Third Amendment remain in full force and effect and binding upon the Parties.

IN WITNESS WHEREOF, the Parties have executed this Fourth Amendment.

CITY OF CARMEL-BY THE SEA
A Municipal Corporation

By: Dave Potter 11-12-2020
Dave Potter. Date
Mayor

Chip L. Rerig 11-10-2020
Chip L. Rerig Date
City Administrator

ATTEST:

By: Britt Avrit 11-12-2020
Britt Avrit Date
City Clerk

APPROVED AS TO FORM:

By: Brian Pierik November 10, 2020
Brian Pierik. Date
City Attorney