

AMENDMENT NO. 4 TO CITY ADMINISTRATOR EMPLOYMENT AGREEMENT

CITY OF RIALTO  
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This AMENDMENT NO. 4 TO CITY ADMINISTRATOR EMPLOYMENT AGREEMENT (“Amendment No. 4”) is effective January 1, 2016, by and between the CITY OF RIALTO, RIALTO HOUSING AUTHORITY AND RIALTO UTILITY AUTHORITY (collectively, “City”), acting by and through the City Council of the City of Rialto (hereinafter, “City Council”), and MICHAEL E. STORY (“Story”).

RECITALS

A. On August 9, 2011, City and Story entered into an employment agreement that employed Story as City Administrator from August 9, 2011 through December 31, 2012 (hereafter called “First Agreement”).

B. On August 28, 2012, City Council reviewed Story’s employment under the First Agreement as City Administrator, expressed its satisfaction with his employment, and offered to continue his employment for an additional three year period (through December 31, 2015) following the original expiration of the First Agreement.

C. On April 9, 2013, the City and Story entered into an Amended Employment Agreement (“Amended Agreement”), wherein Story agreed to make concessions to the First Agreement to be effective beginning July 1, 2013 through December 31, 2015.

D. On April 22, 2014, Story and City agreed to amend the Amended Agreement by Amendment No. 3 to the City Administrator Employment Agreement to allow Story to reinstate Story’s right to cash out accrued vacation (through June 30, 2015) and sick leave time to be effective beginning July 1, 2014 through the end of the Agreement, in exchange for a reduction in the severance rights due Story from six months to four months.

E. The City and Story have now agreed to further amend the Amended Agreement, through this Amendment No. 4 to the City Administrator Employment Agreement (“Amendment No. 4”), in order to restore certain benefits originally provided to Story in the First Agreement and to extend the term of the Amended Agreement until December 31, 2017.

F. Specifically, the benefits to be restored to Story in this Amendment No. 4 consist of the following: 1) increase vacation leave accrual from 4.62 hours of vacation time per pay period to 10 hours per pay period and extend vacation leave cash out until the end of the term of the Amended Agreement; 2) increase sick leave accrual from 4.62 hours of sick leave per pay period to 4.82 hours per pay period; and 3) increase executive leave from eighty (80) hours per fiscal year to one hundred and forty (140) hours per fiscal year.

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

1. Employment. Section 1.1 of the Amended Agreement shall be amended in its entirety to provide as follows:

“1.1. Employment. City hereby employs Story and Story hereby accepts employment with City commencing on January 1, 2016 through December 31, 2017 as the City Administrator of the City of Rialto and the Executive Director of the Rialto Housing Authority and the Rialto Utility Authority.”

2. Annual Salary. Section 3.1 of the Amended Agreement shall be amended in its entirety to provide as follows:

“3.1. Annual Salary. As compensation for his service hereunder, Story shall receive an annual salary of \$196,062. The salary shall be paid on the same days of each month as other employees of the City are paid. However, the City Council, upon review and evaluation, may, at any time, increase Story’s compensation or benefits including a severance payment.”

3. Benefits. Section 3.2 of the Amended Agreement, at Subsections (4), (5), and (6) shall be amended in its entirety, with Subsections (1), (2), (3) and (7) remaining unmodified and in full force and effect:

“3.2 Benefits.

...

(4) Vacation. Commencing the first pay period following City Council approval of this Amendment No. 4, Story shall receive 10 hours of vacation time for each pay period that he is employed hereunder. Any vacation time that is not used in any fiscal year may be carried over to the next fiscal year, at Story’s election, provided that Story may not accrue more than 600 hours at any time. In the event that his accrued vacation time reaches 600 hours, Story shall reduce it below 600 hours by using it or exchanging up to 240 hours in any one fiscal year, which City shall compensate based on the hourly rate derived from his salary at the time of the exchange if a minimum balance of eighty (80) hours of accrued vacation time is maintained after the exchange. Upon termination of his employment as City Administrator, Story shall be entitled to exchange any remaining accrued vacation time based on the hourly rate derived from his salary at the time of such exchange.

(5) Sick Leave. Commencing the first pay period following City Council approval of this Amendment No. 4, Story shall receive 4.82 hours of sick time for each pay period that he is employed hereunder. Any sick leave that is not used in any fiscal year may be carried over to the next fiscal year regardless of the number of hours. Story may exchange up to 110 hours of accrued sick leave in any one fiscal year, which City shall compensate based on the hourly rate derived

from his salary at the time of the exchange. Upon termination of his employment as City Administrator, Story shall be entitled to exchange any remaining accrued sick leave based on the hourly rate derived from his salary at the time of such exchange.

- (6) Executive Leave. Commencing the first pay period following City Council approval of this Amendment No. 4, Story shall be granted one hundred and forty (140) hours of executive leave for each fiscal year provided that such leave shall not duplicate any such leave granted under the First Agreement. Such leave may not be carried over to any subsequent period; and City shall not be obligated to pay Story for any unused executive leave.  
....”

4. Termination/Severance. Section 5.2 of the Amended Agreement, entitled “Termination by Notice”, is hereby amended in its entirety to include a second full paragraph pertaining to the limitation on severance payments mandated by California law, which amended language shall read in its entirety as follows:

“5.2 Termination by Notice. The City Council may terminate this Agreement and the services of Story at any time without cause upon an affirmative vote to terminate made by at least three (3) members of the City Council at a meeting of the City Council, which termination shall become effective ten (10) days from the date of such Council action. Upon the effective date of such termination, Story shall be entitled to a Severance Payment equal to four (4) months of his then salary, excluding benefits, payable to Story under this Agreement on the date of said termination as Story’s sole compensation or damages under this Agreement.

Notwithstanding the foregoing, should such proposed severance payment exceed the amount authorized to be paid under Government Code Section 53260, then the amount paid to Story shall be reduced in the amount necessary to comply with such statute. (Government Code Section 53260 provides that all contracts of employment with a city must include a provision limiting the maximum cash settlement for the termination of the contract to the monthly salary (excluding benefits) multiplied by the number of months left on the unexpired term, but not more than eighteen (18) months if the unexpired term exceeds 18 months).”

5. Full Force and Effect. Except as specifically provided in this Amendment No. 4, the terms of the Amended Agreement, as previously amended in the manner described in the Recitals, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date written in the preamble above. Executed on November 10, 2015 at Rialto, California.

CITY

STORY

By:

  
Deborah Robertson, Mayor

By:

  
Mike Story

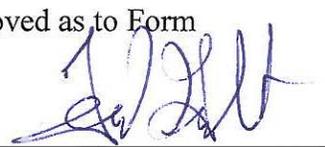
Attest:

By:

  
Barbara McGee, City Clerk

Approved as to Form

By:

  
Fred Galante, City Attorney