

### **THIRD AMENDMENT EMPLOYMENT AGREEMENT**

This Third Amendment Employment Agreement between the City of Yorba Linda ("City") and Mark Pulone ("Pulone" or "Manager") ("Third Amendment Employment Agreement") is made this 15<sup>th</sup> day of November, 2016.

#### **RECITALS**

A. On July 2, 2013, City and Manager entered into an Employment Agreement with an effective date of August 5, 2013 ("Original Agreement"), a First Amendment Employment Agreement effective October 7, 2014, and a Second Amendment Employment Agreement effective October 6, 2015, whereby Pulone was employed as City Manager for the City of Yorba Linda pursuant to the terms and conditions set forth in Original Agreement as subsequently amended.

B. Manager desires to continue serving as City Manager of the City of Yorba Linda, and the City desires to continue Pulone as City Manager of the City of Yorba Linda on the terms and conditions set forth in the Original Agreement, subject to the amendments and modifications hereinafter stated.

C. The City desires to enter into a five (5) year contract with Pulone as City Manager of the City of Yorba Linda with a period from October 19, 2016 through and including October 19, 2021.

#### **AGREEMENT**

NOW, THEREFORE, the parties agree to the following amendment to the terms and conditions of Manager's employment:

1. Section 4(a) Salary is amended to state:

“Effective October 19, 2016, City Council grants Manager an increase in his current base salary of \$218,614.05 based on merit and performance in accordance with the provisions of Section 4(a) of Original Agreement. The merit and performance increase is 5%. Therefore, effective October 19, 2016, City agrees to pay Manager an annual base salary, exclusive of benefits, in the sum of \$229,544.75, payable in installments at the same time and by the same methods as other City employees are regularly paid. In addition thereto, at least thirty (30) days prior to Manager’s Anniversary Date (August 5th), the Council shall conduct a performance evaluation of Manager, and if a majority of the Council deems Manager to have successfully performed up to the Anniversary Date may, in their sole discretion, grant Manager an increase in base salary based on merit and performance consistent with the City’s compensation policy in effect at the time of said increase. City and Manager agree to review Manager’s salary and benefits at the time of Manager’s performance evaluation in 2017 and subsequent years thereafter.

Council may, in its discretion, reduce the salary of Manager due to budgetary constraints, on condition that any such reduction shall not exceed the average reduction applicable to all management employees of the City at the time of reduction and Manager’s salary. Furthermore, Manager, in his sole discretion may elect not to receive any salary increase that may be granted

hereunder; provided, however, if Manager elects not to receive a salary increase provided hereunder, said salary increase shall be subsequently implemented, on a prospective basis only, upon written request of Manager.”

2. Section 11 ENTIRE AGREEMENT is amended to state:

“Except as herein stated, all other terms and conditions of Original Employment Agreement with an effective date of August 5, 2013, as amended in First Amendment Employment Agreement effective October 7, 2014, and as amended in the Second Amendment Employment Agreement effective October 6, 2015, shall remain in full force and effect until changed or terminated pursuant to the provisions of Section 3 of Original Employment Agreement.

This First, Second and Third Amendment Employment Agreement and Original Employment Agreement contain the Entire Agreement between the parties concerning the subject matters set forth therein, and no promise, representation, warranty or covenant not included in this Third Amendment Employment Agreement, Second Amendment Employment Agreement, First Amended Employment Agreement or Original Employment Agreement have been or is relied upon by any party hereto concerning the offer and acceptance of employment described therein.”

3. Section 13 EFFECTIVE DATE AND TERM is amended to state:


“The Effective Date of this Third Amendment Employment Agreement is October 19, 2016, and the term is for five (5) years until October 19, 2021.”

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment Employment Agreement as of the date first set forth hereinabove.


Date: November 15, 2016

Third Amendment Employment Agreement approved by City Council in open session at a regular City Council meeting and reflected in the minutes pursuant to Government Code sections 53262 and 54956(b).

**CITY:**

  
\_\_\_\_\_  
Tom Lindsey, Mayor

**MANAGER:**

  
\_\_\_\_\_  
Mark Pulone

**ATTEST:**

  
\_\_\_\_\_  
Mariana Brown  
City Clerk

**APPROVED AS TO FORM:**

RUTAN & TUCKER, LLP

  
\_\_\_\_\_  
Todd Litfin, City Attorney