

**EMPLOYMENT AGREEMENT BETWEEN CITY OF HAWTHORNE
AND RUSSELL I. MIYAHIRA**

This Employment Agreement is entered into by and between the City of Hawthorne (City) and Russell I. Miyahira (Miyahira).

AGREEMENT TO EMPLOY

1. The City agrees to employ the services of Miyahira as City Attorney as provided by Chapter 2.08 of the Hawthorne Municipal Code. Miyahira agrees to accept employment as City Attorney pursuant to the terms of this employment agreement. Miyahira shall simultaneously be employed as the Housing Authority Counsel and Parking Authority Counsel.

Miyahira agrees to remain in the exclusive employ of the City during the term of this agreement and neither to accept other employment nor to become employed by any other employer unless his employment is terminated. The term "employment" shall not be construed to include occasional teaching, writing, consulting or military reserve service performed on Miyahira's time off.

EFFECTIVE DATE AND TERM

2. The effective date of this Employment Agreement shall be March 29, 2013.
3. Miyahira's title shall be Acting City Attorney from March 29, 2013 through April 28, 2013.
4. Miyahira's title shall become City Attorney on April 29, 2013.
5. Miyahira agrees to perform the duties of City Attorney as set forth in Chapter 2.08 of the Hawthorne Municipal Code.
6. The term of the Employment Agreement shall be one year and the term of the Employment Agreement shall expire on March 30, 2014.

COMPENSATION

7. City shall compensate Miyahira at the Salary Range of 69, step "H" employee under the Hawthorne Executive Group Memorandum of Understanding ("MOU"). The compensation shall be \$16,051 per month. Miyahira is an exempt employee and is not entitled to overtime.

FRINGE BENEFITS

8. Miyahira shall receive the following fringe benefits.
 - A. Miyahira waives the utilization of a City owned vehicle.
 - B. Vacation, holidays, floating holiday pay, administrative leave, insurance benefits, including medical and dental, annual physical, deferred compensation and negotiated across the board pay increases shall be as provided to those employees of the City represented by the Hawthorne Executive Group ("HEG"). Vacation leave shall accrue pursuant to Section 6.4 (D) of the HEG MOU.
 - C. The City shall pay Miyahira's entire share of PERS contributions in the same manner as the City pays those contributions for employees represented by HEG.
 - D. The City agrees to budget and pay travel and subsistence expenses of Miyahira for the annual League of California Cities Conference for City Attorney.

PERFORMANCE REVIEW

9. The City may periodically review Miyahira's performance as delineated under Hawthorne Municipal Code Section 2.08.

BENEFITS UPON RETIREMENT

City agrees to provide the following retirement benefits to Miyahira.

10. CalPERS retirement benefits shall be provided to Miyahira as required by law for retirement. Miyahira's Employment Agreement is to be construed as a continuation of his previous Employment Agreement dated December 11, 2010 to the extent that retirement benefits will be calculated at 3% at age 60.
11. Miyahira shall be granted the option of selecting medical insurance coverage from a list of carriers that exist as choices for other current retirees of HEG, except as limited by law. Such insurance coverage shall be provided at no cost to Miyahira, as it is provided to other retirees of HEG bargaining unit.

TERMINATION OF AGREEMENT

12. The City Council may terminate this Agreement pursuant to the provisions of Chapter 2.08 of the Hawthorne Municipal Code.

If the City terminates the Employment Agreement pursuant to Chapter 2.08, Miyahira shall be paid his entire unused vacation, sick, floating holiday, and administrative leave time. Miyahira shall be provided thirty (30) days written notice before the effective date of termination and shall have the opportunity to resign during this period. In lieu of thirty (30) days notice, Miyahira may be placed on thirty (30) days administrative leave. Miyahira shall be employed "at-will" and shall have no property rights to City employment. Miyahira shall also be afforded a public hearing pursuant to the requirements of Hawthorne Municipal Code Section 2.08.060.

13. **Severance.** The City is relieved of providing severance payment.
14. It is anticipated that, before voluntarily resigning his position, Miyahira shall give the City at least 30 days prior notice in writing of his intention to resign and shall in such notice state the reasons therefor.
15. The CITY is relieved of providing a severance payment in circumstances where grounds to terminate "for cause."

ASSEMBLY BILL 1344 COMPLIANCE

16. To the extent CITY provides (i) paid leave to Employee pending an investigation; (ii) funds for the legal criminal defense of the Employee; and/or (iii) a cash settlement to Employee related to the termination of the Employee pursuant to Paragraph 3 of this Agreement and Government Code Section 53243 et seq., Employee shall fully reimburse the City for any and amounts paid by the City which fall within subsection (i) through (iii) of this section in the event that the Employee is convicted of a crime involving the abuse of his office or position.

OTHER TERMS AND CONDITIONS

17. This is the entire Employment Agreement between City and Miyahira and supersedes any previous agreements, writings, notes or oral understandings.
18. This Employment Agreement may be amended provided such amendments are approved in a duly convened Brown Act meeting by the City Council.
19. If any provision of this Employment Agreement shall be held invalid by a final decision of a court of law, the remainder shall nevertheless be deemed valid and effective, and it is the intention of the parties hereto that each provision hereof is being stipulated to separately in the event one or more of such provisions should be held invalid.

DATE: May 14, 2013

May 14, 2013

APPROVED AS TO FORM:

May , 2013

CITY OF HAWTHORNE

By: Angie Reyes English
ANGIE REYES ENGLISH
Mayor Pro Tem

By: Russell I. Miyahira
RUSSELL I. MIYAHIRA

JENKINS & HOGIN

By: _____
Michael Jenkins, Esq.
Special Counsel to the
City Council of the City
Of Hawthorne.

nevertheless be deemed valid and effective, and it is the intention of the parties hereto that each provision hereof is being stipulated to separately in the event one or more of such provisions should be held invalid.

CITY OF HAWTHORNE

DATE: April __, 2013

By: _____
Angie Reyes English
Mayor Pro Tem

April __, 2013

By: _____
RUSSELL I. MIYAHIRA

APPROVED AS TO FORM:

April 4, 2013

JENKINS & HOGIN
By: 
Michael Jenkins, Esq.
Special Counsel to the
City Council of the City
Of Hawthorne.

**FIRST AMENDMENT TO
EMPLOYMENT AGREEMENT**

This FIRST AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into as of the 31st day of March, 2014, by and between the CITY OF HAWTHORNE, State of California, a Municipal Corporation (hereinafter "City") and RUSSELLMIYAHIRA (hereinafter "Employee").

RECITALS

A. City and Employee entered into an Employment Agreement (hereinafter the "Agreement") as of March 29, 2013 providing for employment of Employee as City Attorney of City.

B. The parties now desire to extend the term of the Agreement for an additional ^{two} ~~three~~ years.

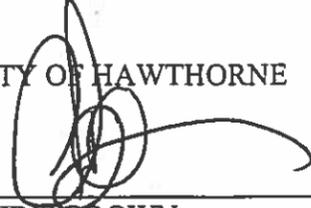
NOW, THEREFORE, in consideration of the foregoing, the parties agree to amend the Agreement as follows:

1. Section 6 of the Agreement is amended to read:

6. The term of the Employment Agreement shall expire on March 31, 201⁶, unless earlier terminated as provided in paragraphs 12 through 14 herein .

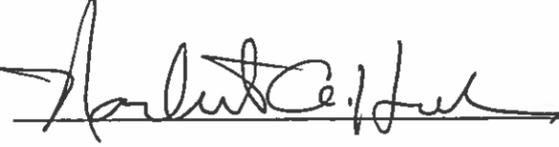
In all other respects the Agreement is hereby reaffirmed and in full force and effect.

IN WITNESS THEREOF, the parties have executed this Agreement as of the
day and year first above written.

CITY OF HAWTHORNE


CHRIS BROWN
MAYOR

ATTEST:



CITY CLERK

EMPLOYEE



RUSSELL MIYAHARA
CITY ATTORNEY

**SECOND AMENDMENT TO
EMPLOYMENT AGREEMENT**

This SECOND AMENDMENT TO EMPLOYMENT AGREEMENT ("Second Amendment") is dated and effective September 9, 2014, and is by and between the CITY OF HAWTHORNE, State of California, a Municipal Corporation ("City") and RUSSELL MIYAHIRA, an individual ("Miyahira").

RECITALS

- A. City and Miyahira entered into an Employment Agreement ("Agreement") as of March 29, 2013, providing for employment of Miyahira as City Attorney as provided in Chapter 2.08 of the Hawthorne Municipal Code.
- B. City and Miyahira entered into a First Amendment to Employment Agreement ("First Amendment") on March 31, 2014, extending the term of the Agreement for an additional two years to March 31, 2016 (Paragraph 6 of Agreement).
- C. The parties now desire to amend certain other provisions contained in the Agreement regarding Compensation (Paragraph 7 of Agreement) and Fringe Benefits (Paragraph 8 of Agreement) and other provisions in order to more explicitly and clearly define these aspects of the employment relationship between the City and Miyahira.

Section 1. Paragraph 7 of the Agreement is hereby amended in its entirety to read as follows:

- "7. City shall compensate Miyahira in accordance with the following:
- A. Prior to September 9, 2014, City shall compensate Miyahira for services rendered as City Attorney in the amount of \$16,051 per month, to be paid on a bi-weekly basis.
 - B. Effective September 9, 2014, City shall compensate Miyahira for services rendered as City Attorney in the amount of \$15,467 per month, to be paid on a bi-weekly basis.
 - C. Miyahira is an exempt employee and is not entitled to overtime."

Section 2. Paragraph 8 of the Agreement is hereby amended in its entirety to read as follows:

- "8. Miyahira shall receive the following fringe benefits:
- A. Miyahira waives the utilization of a City-owned vehicle.
 - B. Miyahira shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his official duties as City Attorney as set forth in Chapter 2.08 of the Hawthorne Municipal Code, including, but not limited to, reimbursement for mileage expenses for the use of a personal vehicle.
 - C. Miyahira shall accrue 6.70 hours of vacation leave per bi-weekly pay period. Miyahira may carry over a maximum of forty (40) unused vacation leave hours into the following fiscal year upon written request to the Finance Director. Miyahira may cash out any remaining unused vacation leave hours not carried over into the following fiscal year upon written request to the Finance Director at the end of the fiscal year in which the hours were earned.

- D. Miyahira shall be entitled to nine (9) hours of paid leave for those City holidays observed Monday through Thursday and eight (8) hours for City holidays that are observed on Friday.
- E. Miyahira shall be entitled to thirty-two (32) hours of floating or "personal" holiday leave, to be provided annually on September 1st. Miyahira may carry over a maximum of sixteen (16) unused floating holiday leave hours into the following fiscal year upon written request to the Finance Director. Each fiscal year Miyahira shall use any remaining unused floating holiday leave hours not carried over into the following fiscal year as time off with pay.
- F. Miyahira shall accrue 3.08 hours of administrative leave per bi-weekly pay period. Miyahira may accrue administrative leave hours on an unlimited basis and cash out unused administrative leave hours at any time upon written request to the Finance Director.
- G. Miyahira shall accrue 3.69 hours of sick leave per bi-weekly pay period. Miyahira may carry over any amount of unused sick leave hours into the following fiscal year upon written request to the Finance Director. Miyahira may cash out a maximum of one hundred twenty (120) unused sick leave hours per fiscal year upon written request to the Finance Director.
- H. Miyahira shall work on a 9/80 schedule that coincides with all other City employees working in City Hall.
- I. Miyahira shall receive the following insurance benefits at City's expense: (1) medical insurance coverage for the employee only and (2) dental insurance coverage for the employee only.
- J. Miyahira may, at his sole expense, enroll in a Flexible Spending Account Plan and/or a Deferred Compensation Plan upon written request to Finance Director.
- K. City shall pay to CalPERS an amount equal to eight percent (8%) of the normal contribution as Employer-Paid Member Contributions ("EPMC") and report the same percent (value) of compensation earnable as additional compensation.
- L. City shall budget for and pay Miyahira's travel and subsistence expenses for the annual League of California Cities Conference for City Attorneys."

Section 3. Paragraph 11 of the Agreement is hereby amended in its entirety to read as follows:

"11. Miyahira, at City's sole expense, may only select medical and dental insurance coverage from those coverage options offered annually to all City employees."

Section 4. Paragraph 16 of the Agreement is hereby amended in its entirety to read as follows:

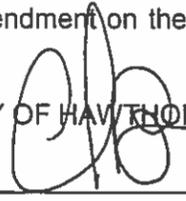
"16. To the extent City provides (i) paid leave to Miyahira pending an investigation; (ii) funds for the legal criminal defense of Miyahira; and/or (iii) a cash settlement to Miyahira related to the termination of Miyahira pursuant to Paragraph 12 of this Agreement and Government Code Section 53243 *et seq.*, Miyahira shall fully reimburse City for any amounts paid by City that fall within subsections (i) through (iii) of this Paragraph 16 in the event that Miyahira is convicted of a crime involving the abuse of his office or position."

Section 5. Except as expressly modified or supplemented by this Second Amendment, all provisions of the Agreement, as amended by the First Amendment, shall remain unaltered and in full force and effect. In the event of a conflict between the provisions of this Second Amendment and the provisions of the Agreement or the First Amendment, the provisions of this Second Amendment shall control.

The parties are signing this Second Amendment on the date stated in the introductory clause.

Date: September 10, 2014

CITY OF HAWTHORNE:

By: 

By: Russell J. Minchue

APPROVED AS TO FORM:

Date: September 10, 2014

By: 
Melissa Crosthwaite, Assistant City Attorney

**THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT**

This THIRD AMENDMENT TO EMPLOYMENT AGREEMENT ("Second Amendment") is dated and effective March 8, 2016, and is by and between the CITY OF HAWTHORNE, State of California, a Municipal Corporation ("City") and RUSSELL MIYAHIRA, an individual ("Miyahira").

RECITALS

- A. City and Miyahira entered into an Employment Agreement ("Agreement") as of March 29, 2013, providing for employment of Miyahira as City Attorney as provided in Chapter 2.08 of the Hawthorne Municipal Code.
- B. City and Miyahira entered into a First Amendment to Employment Agreement ("First Amendment") on March 31, 2014, extending the term of the Agreement for an additional two years to March 31, 2016 (Paragraph 6 of Agreement).
- C. City and Miyahira entered into a Second Amendment to Employment Agreement ("Second Amendment") on September 9, 2014, wherein Miyahira voluntarily reduced his annual compensation by \$7,500.
- D. The parties now desire to extend the term of this Agreement for additional ~~three~~ ^{two (2)} years.

Section 1. Paragraph 6 of the Agreement is hereby amended in its entirety to read as follows:

"6. The term of the Employment Agreement shall expire on April 1, 201~~8~~¹⁸, unless earlier terminated as provided in paragraphs 12 through 14 herein."

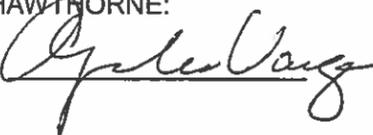
Section 2. Except as expressly modified or supplemented by this Third Amendment, all provisions of the Agreement, as amended by the First and Second Amendment, shall remain unaltered and in full force and effect. In the event of a conflict between the provisions of this Third Amendment and the provisions of the Agreement or the First and Second Amendment, the provisions of this Third Amendment shall control.

The parties are signing this ~~Second~~^{3rd} Amendment on the date stated in the introductory clause.

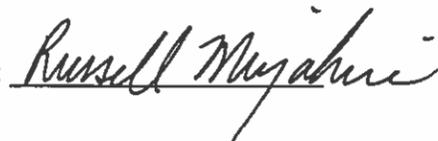
Date: March 22, 2016

CITY OF HAWTHORNE:

By:



By:



APPROVED AS TO FORM:

Date: March 22, 2016

By: 