

**KENNETH POWELL,
FIRE CHIEF**

**EXECUTIVE EMPLOYMENT
AGREEMENT**

This Employment Agreement is entered into on this 24th day of January 2022, by and between the City of Culver City, California, a municipal corporation, hereinafter referred to as "City", and Kenneth Powell, hereinafter known as "Employee". The City and the Employee are collectively referred to as "the Parties" and agree as follows:

RECITALS

A. The City Council of the City of Culver City desires to enter into this Agreement:

1. To appoint Employee as Fire Chief of the City of Culver City.
2. To encourage the highest standards of public service on the part of Employee and provide assurances to Employee regarding his employment by offering certain compensation, benefits, and other incentives.
3. To ensure that Employee shall do his utmost to promote the City's interests and devote such time and effort as necessary to properly perform his duties.
4. To establish an equitable process for terminating Employee's services at such time as he may be unable to fully discharge his duties, or when City may desire to otherwise terminate his employment in accordance with this Agreement.
5. To establish a framework for a working relationship built on mutual respect.

B. Employee desires to accept such employment with City on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained herein, the Parties agree as follows:

1. EMPLOYMENT AND DUTIES:

A. The City hereby agrees to employ Employee as Fire Chief of the City of Culver City. Employee is appointed by and serves at the pleasure of the City Council in an at-will capacity. Employee shall exercise the powers and perform the duties of the position of Fire Chief, as set forth in Federal and State law, the City Charter, Culver City Municipal Code, resolutions, policies, and other rules and regulations including, but not limited to, those duties listed in Exhibit "A" attached hereto and incorporated herein by this reference. In addition, Employee shall exercise such other powers and perform such other lawful duties as the City Council may from time-to-time assign to Employee.

2. TERM OF AGREEMENT:

A. This Agreement shall continue in full force and effect unless and until modified by City and Employee in writing, or unless and until such time as Employee's employment relationship is terminated in accordance with Section 3.

B. Unless approved in advance or otherwise directed by the City Council in writing, Employee shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which in the determination of the City Council, actually or potentially is in conflict with or inimical to, or which interferes with, his duties and responsibilities to Employer.

3. TERMINATION OF AGREEMENT:

A. By City Council action, City may terminate this Agreement, at any time, with or without cause, upon thirty (30) days written notice to Employee. Under no circumstance

shall the City terminate this Agreement within ninety (90) days immediately before or following a regular Culver City municipal election.

B. Employee may terminate this Agreement at any time upon thirty (30) days written notice to the City. Upon Employee's termination of this Agreement, Employee shall not be entitled to any severance pay, with the exception of all unused accruals as outlined in the Culver City Fire Management Group Memorandum of Understanding ("CCFMG MOU)

C. In the event Employee is unable to perform his duties, with or without reasonable accommodation, due to incapacity or illness, as verified appropriately by the City's physician, Employee shall be entitled to leave as required by law or the CCFMG MOU, and the City Council may also grant any other form of leave it deems appropriate.

D. Reversion. Should City Council determine to remove Employee without cause, Employee shall have the right to be placed in the position of Assistant Fire Chief without loss of rights or privileges and upon the same terms and conditions of employment as if Employee had been placed and remained in said position continuously, prior to his appointment as Acting Fire Chief and Fire Chief. Each day that employee serves or has served as Fire Chief and Acting Fire Chief, shall be credited toward towards any required probationary period for Assistant Fire Chief, as if served in that position. If Employee is removed for cause, as described below, this contractual right of reversion does not apply.

4. DISCIPLINE AND/OR TERMINATION FOR CAUSE:

A. This Agreement may be terminated by the City Council for "cause." For purposes of this Agreement, "cause" shall be defined as circumstances where Employee:

- (i) Refuses and/or willfully fails to perform the duties of his position; or
 - (ii) Refuses and/or willfully fails to carry out the lawful orders, directions or decisions of the City Council; or
 - (iii) Commits any material act of dishonesty, malfeasance,
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moral turpitude, fraud, or theft; or

(iv) Willfully violates or fails to adhere to City or Fire Department rules and/or regulations.

B. City reserves the right to take appropriate disciplinary action, including but not limited to termination of employment for Cause.

C. Employee shall be provided written notice of City's intent to take disciplinary action for Cause at least ten (10) calendar days prior to the City Council meeting at which a final decision will be made. Employee shall be provided an opportunity to respond to the notice of intended action. Any decision or action of the City Council following such response shall be final.

D. Due to the salaried and exempt nature of Employee's position, if Employee is relieved of duty during the pendency of the above process, Employee shall continue to receive full pay and benefits until final action of the City Council has been taken.

5. ADMINISTRATIVE APPEAL

If employee is removed as Fire, whether for cause or not, he will be provided an administrative appeal hearing as may be required by Government Code section 3254. Any administrative appeal will be conducted pursuant to the appeal procedure set forth in CCFMG MOU. If the employee is removed without cause, the limited purpose of the appeal hearing shall be to permit the employee to establish a record of the circumstances around his removal. In such case, the City Manager or his or her designee shall serve as the hearing officer and issue recommendation to the City Council.

6. SALARY AND COMPENSATION:

Employee shall be compensated and receive all the benefits as set forth in the adopted CCFMG Memorandum of Understanding effective January 1, 2022 – June 30,

2022, and as may be amended in the future. Employee's base annual salary shall be \$227,570 and may be adjusted as provided in the Salary Initiative Ordinance and the CCFMG MOU. Payment of Employee's Salary shall be made in biweekly installments in the same manner as other employees of the City.

7. PERFORMANCE EVALUATION:

The City Council shall review and evaluate the performance of Employee quarterly for the first year of this Agreement and at least once per year thereafter for the remainder of the term of this Agreement. At a minimum, the annual review shall take place on or about the anniversary date of this Agreement. The Mayor shall provide Employee with a written summary of the findings of the City Council, and provide an adequate opportunity for Employee to discuss his evaluations with the City Council. The City Council and/or Employee may desire additional performance evaluations between anniversary dates. Such evaluations shall be less formal and may be conducted without written comments or reports.

8. OTHER TERMS AND CONDITIONS OF EMPLOYMENT:

A. Other Conditions. The City Council may, from time-to-time in writing, fix other terms and conditions of employment relating to Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter, Culver City Municipal Code, or other applicable law.

B. Communications with the City Council. It will be the obligation of the Employee to be accessible to the Mayor and all Members of the City Council on as equal a basis as reasonably possible and to

C. communicate information to the Mayor and all Members of the City Council in a similar and equal manner at approximately the same time.

D. Notification of Leave from Office. Employee shall provide the

E. City Council with reasonable notice prior to taking two (2) or more consecutive vacation or administrative days off.

F. Indemnification. City shall defend, hold harmless and indemnify Employee against any liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the course and scope of Employee's duties as Fire Chief, in accordance with the provisions of applicable law, including **Government Code Section 825**, and shall further provide Employee a defense in accordance with the provisions of applicable law, including **California Government Code Section 995, et seq.**, subject to the limitations and qualifications contained in these or other applicable statutes. City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment resulting therefrom. The obligation to defend and indemnify Employee shall survive the termination or expiration of this Agreement as to liability incurred during the term hereof. Nothing in this subsection shall be deemed to reduce the City's obligation to defend or indemnify Employee under applicable Federal, State or local law.

9. GENERAL PROVISIONS:

A. Entire Agreement. This Agreement represents the entire Agreement between the City and Employee regarding the matters described

B. hereunder, and all preliminary negotiations and agreements are deemed a part of this Agreement. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement, and any subsequent successors, heirs and assigns.

C. Modification. This Agreement may not be modified, nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties hereto.

D. Notice. Any notice given to City under this Agreement shall be given in writing to City, either by personal service or by registered and certified mail, postage prepaid, addressed to the City of Culver City, City Clerk at City's principal place of business. Any notice to Employee shall be given in a like manner, and if mailed shall be mailed to the Employee at his home address as shown in City's personnel files.

E. Severability. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

F. Resolution of Disputes. Should a dispute arise between the Parties specifically concerning the amount of salary or period for which salary is to be paid, the Parties agree that the dispute shall be submitted to binding arbitration. Such arbitration shall be conducted by a mutually agreed arbitrator and pursuant to the rules of the American Arbitration Association.

G. Each Party shall bear one-half the costs of the arbitration. The arbitrator may award costs and attorney's fees to the prevailing party as determined by the arbitrator. The Parties agree that any disputes resolved by arbitration shall be final and binding. Any other disputes arising out of this Agreement, not specifically referenced herein, shall not be subject to the provisions of this Section.

H. Governing Law. The terms of this Agreement shall be interpreted according to the laws of the State of California. If litigation arises out of this Agreement, then venue shall be in the Superior Court of Los Angeles County.

I. Effective Date. The effective date of this Agreement is the date it is signed on behalf of the City.

EMPLOYEE

Dated: 11/12/22

By: 
Kenneth Powell
Fire Chief

CITY OF CULVER CITY

Dated: _____

By: _____
Daniel Lee,
Mayor, City of Culver City

ATTEST:

APPROVED AS TO FORM:

Jeremy Green, City Clerk

Heather Baker, City Attorney

EXHIBIT "A"



FIRE CHIEF

DEFINITION

The occupant of this classification is in the unclassified service. This exempt executive level classification serves as the head of the Fire Department and assumes total management responsibility for functions related to fire prevention and suppression, communications, public safety garage, emergency medical systems, fire inspection, arson investigation, and other related functions. The position serves as a member of the City Manager's executive management team.

SUPERVISION RECEIVED AND EXERCISED

This position reports to the City Council with administrative oversight by the City Manager. Responsibilities include supervision of the Battalion Chief/Fire Marshal, Battalion Chief/Assistant Fire Chief, Emergency Medical Services/Captain, and an Administrative Secretary.

ESSENTIAL JOB DUTIES

The following tasks are essential for this position. Incumbents in this classification may not perform all of these duties, or may perform similar related duties not listed here.

1. Documents and regularly updates the City's fire protection, emergency medical, and disaster preparedness needs, and formulates and monitors goals, objectives, plans, and policies for adequately meeting these needs.
2. Evaluates current and future fire protection programs, emergency medical programs, and other emergency services to ensure they are effective and their benefits exceed their costs.
3. Organizes and directs the personnel, equipment, facilities, and other resources of the department to ensure their economical and productive utilization.
4. Maintains a competent and motivated work force through effective training, performance evaluation, and disciplinary procedures.
5. Stimulates and mobilizes the community to be aware of fire dangers and takes action to reduce these risks.
6. Keeps the City Manager and City Council adequately informed of department performance and problems, and proposes changes to improve fire protection and disaster preparedness.
7. Prepares the departmental budget and keeps actual expenditures within the limits set.
8. Keeps abreast of and utilizes, where appropriate, new fire prevention and suppression programs, tactics, technologies, and emergency medical systems.
9. Determines that the Fire Prevention and Arson Programs are effectively managed.
10. Promotes communication among the management staff, advising when necessary and gaining insight when available.

Revised June 2006
Revised May 2002
November 1998

MINIMUM KNOWLEDGE, SKILLS AND ABILITY

Knowledge of:

- Provide program evaluation, productivity improvement, and cost-benefit analysis.
- Identify, evaluate, motivate, and develop supervisors and managers.
- Communicate effectively both verbally and in written form.
- Plan, direct, and organize fire prevention, suppression, and support activities.
- Establish and maintain cooperative working relationships with those contacted in the course of work.
- Read and interpret legislation.
- Deal tactfully with the public.
- Analyze, interpret, and check complex plans and specifications and assure their compliance with fire safety requirements.

Skill and Ability to:

- Fire protection, emergency medical systems, and disaster preparedness problems, issues, philosophies, principles, and tactics.
- Modern planning, management, budgeting, and organizational techniques.
- Relevant laws, ordinances, codes, and court decisions which impact fire protection.
- Governmental operations at the local, state, and federal level and the insurance industry.
- Uniform building, plumbing, electrical, and mechanical codes.
- Principles and practices of City planning, zoning, and subdivision law.
- Labor and interpersonal relations.

LICENSE AND CERTIFICATE

Possession of a valid California Class C driver's license and possession of an EMT-1A Certificate.

TRAINING AND EXPERIENCE

A Bachelor's Degree from an accredited college or university preferably in fire science or related field, and five years of professional experience in the fire services including three (3) years of experience at a rank equivalent to Battalion Chief.

PHYSICAL REQUIREMENTS AND WORKING CONDITIONS

- Require the mobility to stand, stoop, reach, and bend.
- Require the ability to stand for long periods.
- Require the ability to walk long distances.
- Perform work which involves the frequent lifting, pushing and/or pulling of objects which may approximate 50 pounds and may occasionally weigh up to 100 pounds.
- Is subject to office and outside environmental conditions.
- May be required to work evenings or weekends.