

A G R E E M E N T

THIS AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("City") and **ROBERT C. WHITE**, whose address is _____, ("Chief") collectively referred to as the "Parties."

In consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1. SERVICES TO BE PERFORMED: The Chief shall perform the duties of the chief of the Denver Police Department, as set forth in the City's Charter and Revised Municipal Code.

The Chief represents that Chief has the requisite qualifications for performing the services described and is ready, willing and able to provide the City with these services.

The Chief agrees to perform, at all times faithfully, industriously, to the best of Chief's ability, experience, and talents, and to the City's reasonable satisfaction, all of the duties that may be assigned or required.

2. TIME OF PERFORMANCE: The Chief shall perform the services under this Agreement during a period of time commencing on December 19, 2011, and continuing until terminated in accordance with Section 5.

3. COMPENSATION, BENEFITS, METHOD OF PAYMENT:

A. Base Pay. The City agrees to pay to the Chief a salary as set forth in section 42-53(b), DRMC, currently set at \$161,706.00 ("Base Pay"), which Base Pay shall be payable in bi-weekly installments in accordance with City payroll for services the Chief actually performed for the City. The City shall be responsible for withholding and remitting federal income, state, and local taxes and Medicare tax (F.I.C.A.) due on such compensation. In the event of changes to the Base Pay or benefits of the police chief as set forth in Division 3 of Article II of Chapter 42, DRMC, the salary and benefits received by the Chief under this Agreement will likewise automatically be modified without the need for a formal contract amendment.

B. Fringe benefits. The Chief shall receive the following fringe benefits, which shall be equal to the corresponding fringe benefits provided for police officers holding the rank of captain in the classified service in the police department, as set forth in sections 42-58 and 42-71, DRMC, and any current or then current collective bargaining agreement: vacation, sick leave, health and dental insurance benefits, injury in the line of duty, uniform and equipment allowance, life insurance, bereavement leave, leave of absence, funeral expenses, military service leave, death and disability coverage contribution by the City, and City holidays. The Chief shall also receive longevity pay, in the amount of \$5,760.00 for the first year, calculated on the basis of Chief's 40 years of service at other police departments.

C. Pension contribution by City. The City will contribute an amount equal to 8% of Base Pay toward the Fire and Police Pension Association of Colorado ("FPPA") pension plan

Chief further agrees to provide proof of coverage by means of an auto insurance card along with a copy of the policy declaration page describing the above stated minimum limits of liability and coverages.

The Chief shall provide the Manager of Safety with a copy of Chief's current motor vehicle record at or before execution of this Agreement. If the City's Risk Administrator determines that the MVR reflects an unsafe driving record, the City reserves the right to place the Chief in a strictly non-driving position or to terminate this Agreement.

The Chief shall be covered by the City's Workers' Compensation Insurance program for employment related claims that occur during the term of this Agreement.

All insurance required under this Agreement shall contain a provision by which all rights of subrogation or recovery of any kind against the City, its agents, employees, officers, successors and assigns are specifically waived by the Chief and the insuring entity.

Chief's insurance obligations shall survive the termination of this Agreement for such time as the applicable statute of limitation against such causes of action has not expired.

5. TERMINATION OF AGREEMENT: The Chief acknowledges that he serves at the pleasure of the Mayor, and that the Mayor may terminate this Agreement, without notice, at any time with or without cause. If the Chief accepts a career service or a classified service position with the City this Agreement shall terminate automatically without notice on the effective date of commencement of the position. If the Chief elects to terminate this Agreement, he or she shall give four (4) weeks written notice to the City. If the Chief's services are terminated, the Chief shall be paid only for that portion of Chief's service satisfactorily completed at the time of termination.

6. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any payment by the City under this Agreement constitute or be construed to be a waiver by the City of any breach of contract or default that may then exist on the part of the Chief. The making of any payment when any breach or default exists shall not impair or prejudice any right or remedy available to the City with respect to such breach or default. No consent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

7. SUBJECT TO LOCAL LAWS; VENUE: This Agreement is subject to the provisions of Colorado law, the Charter of the City and County of Denver, and the ordinances and regulations enacted pursuant to the Charter. Venue for any action arising under this Agreement shall be in the City and County of Denver, Colorado.

8. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: The Chief shall cooperate and comply with the provisions of Executive Order 94 concerning the use, possession or sale of alcohol or drugs. Violation of this provision can result in the City terminating this Agreement and barring the Chief from City facilities or participating in City operations.

9. **TRADE SECRETS AND CONFIDENTIAL INFORMATION:** The Chief shall not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm or corporation in any manner whatsoever any information concerning any matters that are not subject to public disclosure, including without limitation the trade secrets of businesses or entities doing business with the City and other privileged or confidential information. This obligation shall survive the termination of this Agreement.

10. **INTELLECTUAL PROPERTY RIGHTS:** The Parties intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, drawings, photographs, specifications, software, data, products, ideas, inventions, or any other work or recorded information created by the Chief and paid for by the City pursuant to this Agreement, in preliminary or final form and on any media whatsoever (collectively, "Materials"), shall belong to the City. The Chief shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101 et seq., the Materials are a "work made for hire," and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a "work made for hire," the Chief hereby sells, assigns, and transfers all right, title, and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark, and other intellectual property rights in perpetuity. This obligation shall survive the termination of this Agreement.

11. **NO THIRD PARTY BENEFICIARIES:** The Parties expressly agree that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action to any third person. The Parties expressly intend that any person, other than the City or the Chief receiving services or benefits under this Agreement, shall be deemed to be an incidental beneficiary only.

12. **NOTICES:** Any notices, bills, invoices, or reports required by this Agreement shall be sufficiently delivered if sent by the Parties in the United States mail, postage prepaid, if to the Chief at the address first above written, and if to the City at:

City: City and County of Denver
Manager of Safety
1331 Cherokee St., Room 302
Denver, CO 80204

The addresses may be changed by the Parties by written notice.

13. **PARAGRAPH HEADINGS:** The captions and headings set forth in this Agreement are for convenience of reference only and shall not be construed to define or limit the terms and provisions of this Agreement.

14. SEVERABILITY: The parties expressly agree that if any court holds any part, term, or provision of this Agreement to be illegal or in conflict with any law of the State of Colorado, except for the provisions of the Agreement requiring prior appropriation of funds and limiting the total amount payable by the City, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

15. CITY EXECUTION OF AGREEMENT: This Agreement shall not take effect until approved by the Denver City Council and signed by all appropriate City officials, including the Mayor, the Clerk and Recorder, the Manager of Finance, and the Auditor.

16. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Chief consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

17. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: This Agreement is the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other modification shall have any force or effect, unless embodied in this Agreement in writing. No subsequent novation, renewal, addition, deletion, or other amendment shall have any force or effect unless embodied in a written amendment to this Agreement properly executed by the Parties. No oral representation by any officer or employee of the City at variance with the terms and conditions of this Agreement or any written amendment to this Agreement shall have any force or effect nor bind the City. This Agreement and any amendments to it shall be binding upon the Parties and their successors and assigns.

18. CONFLICT OF INTEREST: The Chief agrees not to engage in any transaction, activity or conduct which would result in a conflict of interest under this Agreement. The Chief agrees to abide by the City's Ethics Code, 2-51, et seq.

19. COMPLIANCE WITH ALL LAWS: All of the work performed under this Agreement by the Chief shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado and with the charter, ordinances, and rules and regulations of the City and County of Denver. The Chief agrees to verify his or her own legal status in the United States by execution of the Verification Affidavit attached hereto as **Exhibit A**.

EXHIBIT A
VERIFICATION AFFIDAVIT

I, Robert C. White, the Chief herein, swear or affirm under penalty of perjury under the laws of the State of Colorado the following:

1. I am over eighteen (18) years of age and am competent to make this Verification Affidavit (the "Affidavit").

2. I swear or affirm that (check one):

_____ I am a United States citizen, or

_____ I am a legal permanent resident of the United States, or

_____ I am lawfully present in the United States pursuant to Federal law.

3. I understand that the sworn statement set out in this Affidavit is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statutes §18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature of Chief

DATE: _____, 20__