

**EXHIBIT A**

**AGREEMENT FOR**  
**INTERIM DIRECTOR OF PUBLIC WORKS/CITY ENGINEER**  
**SERVICES**

THIS AGREEMENT is made and entered into this 11th day of May 2022 by and between the City of Fontana ("CITY") and Ricardo Sandoval ("SANDOVAL"). In consideration of the mutual covenants and agreements set forth herein, the Parties agree as follows:

**RECITALS**

This Agreement is made and entered into with respect to the following facts:

A. CITY seeks to engage SANDOVAL on an interim basis to serve in the position of interim Director of Public Works/City Engineer in accordance with the terms set forth in this Agreement; and

B. SANDOVAL desires to accept employment as interim Director of Public Works/City Engineer in consideration of and subject to the terms, conditions and benefits set forth in this Agreement; and.

C. SANDOVAL'S employment is authorized by Government Code sections 7522.56 and 21221(h), which permit the City Council to appoint a California Public Employees' Retirement System ("CalPERS") retiree to a vacant position requiring specialized skills during recruitment for a permanent appointment, and provide that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits, so long as it is a single appointment that does not exceed 960 hours in a fiscal year, inclusive of all hours worked for other all CalPERS employers, unless an exception applies.

D. SANDOVAL represents that he is a retired annuitant of CalPERS within the meaning of Government Code §§ 7522.56 and 21221(h) ("Statutes") and acknowledges that his compensation is statutorily limited as provided in Government Code § 21221(h). SANDOVAL represents that, as of the effective date of this Agreement, he has not worked for another CalPERS state or contracting agency as a retired annuitant during the CITY'S 2021-2022 fiscal year, and that he therefore acknowledges that he can work up to 960 hours for the CITY, a state agency or other CalPERS contracting agencies (collectively "CalPERS Agencies") during CITY'S 2021-2022 fiscal year. SANDOVAL represents that he has not received unemployment compensation from any CalPERS Agencies during the 12-month period preceding the effective date of this Agreement.

E. CITY has determined that it is necessary to hire SANDOVAL, a retired annuitant, on an interim basis because the vacant position of Director of Public Works/City Engineer requires special skills, and SANDOVAL, by virtue of his experience has those special skills.

F. Although SANDOVAL'S retirement became effective on April 30, 2022, less than the 180 days from the effective date of this Agreement, the City Council took action on May 10, 2022, pursuant to Government Code section 7522.56(f), to deem the appointment of SANDOVAL within the 180-day period as critically necessary as reflected in Resolution No. 2022-032.

NOW, THEREFORE, CITY and SANDOVAL, in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. **DESIGNATION OF INTERIM DIRECTOR OF PUBLIC WORKS/CITY ENGINEER.** In accordance with Resolution No. 2022-032, SANDOVAL is appointed interim Director of Public Works/City Engineer of the CITY under the terms of this Agreement.

2. **POSITION AND DUTIES.**

2.1 **Position.** SANDOVAL has been appointed by the City Council as interim Director of Public Works/City Engineer of the City to perform the duties and functions pertaining to the Director of Public Works/City Engineer position, and to perform other legally permissible duties and such functions as the City Manager shall from time-to-time assign. The City Manager shall have the authority to determine the specific duties and functions which SANDOVAL shall perform under this Agreement and the means and manner by which SANDOVAL shall perform those duties and functions. SANDOVAL agrees to devote all of his business time, skill, attention, and best efforts to the discharge of the duties and functions assigned to him by the City Manager.

2.2 **Term.** SANDOVAL shall commence the performance of his duties as the interim Director of Public Works/City Engineer on May 11, 2022, or at such later date as the parties hereto shall agree in writing ("Commencement Date"). This Agreement shall expire as of the first of the following to occur: (i) upon the employment commencement date of a regular Director of Public Works/City Engineer employed by CITY; (ii) upon SANDOVAL working his 960th hour for all CalPERS Agencies during fiscal year 2021-2022 or his 960<sup>th</sup> hour in any subsequent fiscal year; or (iii) upon termination of the Agreement by either SANDOVAL or CITY as provided below.

2.3 **At-Will.** SANDOVAL acknowledges that he is an at-will, temporary employee of CITY who shall serve at the pleasure of the City Manager at all times during the period of his service hereunder and shall be subject to termination by City Manager at any time without advance notice and without cause. The terms of CITY's personnel rules, policies, regulations, procedures, ordinances, and resolutions regarding administrative personnel (collectively "Personnel Policies"), as they may be amended or supplemented from time to time, shall not apply to SANDOVAL, and nothing in this Agreement is intended to, or does, confer upon SANDOVAL any right to any property interest in continued employment, or any due process right to a hearing before or after a decision by the City Manager to terminate his employment, except as is expressly provided in Section 2.2 [Term] or Section 4 [Termination] of this Agreement. Nothing contained in this Agreement shall in any way prevent, limit or otherwise interfere with the right of CITY to terminate the services of SANDOVAL, as provided in Section 2.2 [Term] or Section 4 [Termination]. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of SANDOVAL to resign at any time from this position with CITY, subject only to the provisions set forth in Section 2.2 [Term] or Section 4 [Termination] of this Agreement. This at-will employment shall be expressly subject to the rights and obligations of CITY and SANDOVAL, as set forth in Section 2.2 [Term] or Section 4 [Termination] below.

2.4 **Hours of Work.** SANDOVAL shall devote the time necessary to adequately perform his duties as interim Director of Public Works/City Engineer. The parties anticipate that

SANDOVAL will work a sufficient number of hours per week allocated between regular business hours and hours outside of regular business hours including, without limitation, attendance at regular and special City Council meetings, community events and other CITY functions as the City Manager may direct. However, in no event shall SANDOVAL be required to work in excess of 960 hours in fiscal year 2021-2022 and 960 hours per each subsequent fiscal year for CITY, including hours worked for other CalPERS Agencies during such fiscal years. The position of interim Director of Public Works/City Engineer shall be deemed a non-exempt position under California wage and hour law.

### 3. **COMPENSATION.**

3.1 **Rate of Pay.** For all services performed by SANDOVAL as the interim Director of Public Works/City Engineer under this Agreement, CITY shall pay SANDOVAL compensation at the rate of \$88.44 per hour according to the payroll schedule in place for CITY employees paid bi-weekly subject to the limitations provided below.

(a) **Compliance with CalPERS requirements.** It is the intent of the parties to compensate SANDOVAL only to the extent permitted under Government Code Sections 7522.56 and 21221(h), and corresponding CalPERS regulations and policy statements. The Rate of Pay set forth above is based on the salary limitations established by CalPERS and is not less than the minimum, nor more than the maximum rate of pay, for the position of Director of Public Works/City Engineer as listed on the CITY's publicly available pay schedule, divided by 173.333 to equal an hourly rate.

(b) **Recordation and Reporting of Hours Worked.** SANDOVAL will comply with all applicable CalPERS regulations governing employment after retirement, including the recordation and reporting of all hours worked for CITY to CalPERS as may be required. CITY shall assist in any such reporting obligations to CalPERS. Additionally, SANDOVAL shall keep CITY continually apprised of any hours worked by SANDOVAL for other CalPERS Agencies during the term of this Agreement.

3.2 **Benefits.** Other than the compensation described in Section 3.1, SANDOVAL will receive no other benefits, incentives, compensation in lieu of benefits, or any other form of compensation. SANDOVAL understands and agrees that he is not, and will not be, eligible to receive any benefits from CITY, including any CITY group plan for hospital, surgical, or medical insurance, any CITY retirement program, or any paid holidays, vacation, sick leave, or other leave, with or without pay, or any other job benefits available to an employee in the regular service of CITY, except for Worker's Compensation Insurance coverage or similar benefits required by state or federal law.

### 4. **TERMINATION.**

4.1 **By CITY.** This Agreement may be terminated by CITY for any reason thirty (30) days after providing written notice to SANDOVAL of such termination. CITY's only obligation in the event of such termination will be payment to SANDOVAL of all compensation then due and owing as set forth in Section 3.1 [Rate of Pay] up to and including the effective date of termination. However, this Agreement may be terminated immediately if necessitated by changes to CalPERS statutory or regulatory requirements.

4.2 By SANDOVAL. This Agreement may be terminated by SANDOVAL for any reason thirty (30) days after providing written notice to CITY of such termination. CITY shall have the option, in its complete discretion, to make SANDOVAL'S termination effective at any time prior to the end of such period, provided CITY pays SANDOVAL all compensation as set forth in Section 3.1 [Rate of Pay] then due and owing him through the last day actually worked.

4.3 No Notice for Expiration. Nothing in this Section 4 [Termination] shall be construed to require either party to give advance written notice in order for the Agreement to expire as set forth in Section 2.2 [Term].

4.4 Termination Obligations. SANDOVAL agrees that all property, including, without limitation, all equipment, tangible Proprietary Information (as defined below), documents, records, notes, contracts, and computer-generated materials furnished to or prepared by him incident to his employment belongs to CITY and shall be returned promptly to CITY upon termination of SANDOVAL'S employment. SANDOVAL'S obligations under this subsection shall survive the termination of his employment and the expiration of this Agreement.

5. PROPRIETARY INFORMATION. "Proprietary Information" is all information and any idea pertaining in any manner to the business of CITY (or any CITY affiliate), its employees, clients, consultants, or business associates, which was produced by any employee of CITY in the course of his/her employment or otherwise produced or acquired by or on behalf of CITY. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formulae, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, forecasts, and customer lists. All Proprietary Information not generally known outside of CITY'S organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." During his employment by CITY, SANDOVAL shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of CITY and as is, or may be, necessary to perform his job responsibilities under this Agreement. Following termination, SANDOVAL shall not use any Proprietary Information and shall not disclose any Confidential Information, except with the express written consent of CITY. SANDOVAL'S obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

6. NOTICE. Notices required pursuant to this Agreement shall be given by personal service upon the party to be notified or by delivery of same to the custody of the United States Postal Service, or its lawful successor, postage prepared and addressed as follows:

CITY  
City of Fontana  
8353 Sierra Avenue  
Fontana, CA 92335  
Attention: City Manager

SANDOVAL  
Ricardo Sandoval  
[Address on File with Human Resources]

7. **REIMBURSEMENT.** CITY shall reimburse SANDOVAL for authorized, reasonable and necessary travel expenses incurred by SANDOVAL in the performance of his duties pursuant to this Agreement. SANDOVAL shall document and claim said reimbursement for such travel in the manner and forms required by the CITY. All reimbursements shall be for actual expenses and shall be subject to and in accordance with California and federal law and CITY'S adopted reimbursement policies. Such reimbursements shall not be reported to CalPERS. Other than as specifically provided herein, SANDOVAL shall receive no other compensation or reimbursements for expenses incurred by him in performance of this Agreement.

8. **GENERAL PROVISIONS.**

8.1 **Waiver.** No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless executed in writing by the party making the waiver.

8.2 **Integration.** This Agreement is intended to be the final, complete, and exclusive statement of the terms of SANDOVAL'S employment by CITY. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of SANDOVAL, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of CITY, now or in the future, apply to SANDOVAL and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

8.3 **Amendments.** This Agreement may not be amended except in a written document signed by SANDOVAL and the City Manager.

8.4 **Assignment.** SANDOVAL shall not assign any rights or obligations under this Agreement. CITY may, upon prior written notice to SANDOVAL, assign its rights and obligations hereunder.

8.5 **Severability.** If a court or arbitrator holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

8.6 **Attorneys' Fees.** In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

8.7 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, with venue proper only in San Bernardino County, State of California.

8.8 **Interpretation.** This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert

that this Agreement was modified, cancelled superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

8.9 Acknowledgment. SANDOVAL acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

8.10 Status of Recruitment. CITY warrants that as of the Commencement Date it has initiated the process for the recruitment of a regular appointment to the Director of Public Works/City Engineer position.

IN WITNESS WHEREOF, CITY has caused this Agreement to be signed and executed on its behalf by the City Manager and duly attested to by its City Clerk, and SANDOVAL has signed and executed this Agreement, as of the date first indicated above.

INTERIM DIRECTOR OF PUBLIC  
WORKS/CITY ENGINEER

CITY OF FONTANA

\_\_\_\_\_  
Ricardo Sandoval

\_\_\_\_\_  
Matthew C. Ballantyne  
City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Germaine McClellan Key  
City Clerk

\_\_\_\_\_  
Best Best & Krieger LLP  
Ruben Duran