

INTERIM CITY ATTORNEY
APPOINTMENT AGREEMENT

Between
The City of Alameda
And
MICHAEL H. ROUSH

This Agreement (this "Agreement") is entered into as of December 1, 2018 between the City of Alameda, California, a municipal corporation (the "City"), and Michael H. Roush, an individual ("ROUSH").

RECITALS

WHEREAS, the City has a need for an Interim City Attorney effective December 1, 2018; and

WHEREAS, ROUSH has the necessary education, experience, skills and expertise to serve as the City's Interim City Attorney; and

WHEREAS, the City Council of the City (the "City Council") desires to appoint ROUSH to serve as the Interim City Attorney of the City of Alameda: and

WHEREAS, City, acting by and through its City Council, desires to appoint ROUSH as Interim City Attorney as permitted under Government Code Section 21221(h); and

WHEREAS, ROUSH desires to accept appointment as Interim City Attorney of the City of Alameda under the terms and conditions set forth below.

NOW THEREFORE, in consideration of these Recitals and the mutual covenants contained below, the parties agree as follows:

AGREEMENT

1. APPOINTMENT. City hereby appoints ROUSH as its Interim City Attorney, and ROUSH hereby accepts such appointment.
2. TERM. ROUSH shall commence serving as Interim City Attorney effective December 1, 2018. He will serve in this position until the Termination Date. The "Termination Date" means the earliest to occur of either: (a) The effective date of the City Council's appointment of a permanent City Attorney; (b) ROUSH has worked 960 hours for the City during the period of December 1, 2018 through June 30, 2019 as more fully described in Section 6; or (c) This Agreement is terminated by either party as set forth in Section 8 below.

3. DUTIES. As Interim City Attorney, ROUSH shall serve as the City Attorney for the City of Alameda and shall be vested with the authority granted to the City Attorney in the Alameda City Charter. As Interim City Attorney, ROUSH shall perform such duties and undertake such activities as may be assigned from time to time by the City Council, and which are consistent with the position of City Attorney.

4. COMPENSATION. The salary for Interim City Attorney shall be \$113.94 hourly which shall be paid every two weeks on the same schedule as pay is provided to regular full time employees.

5. EMPLOYMENT BENEFITS AND WORKING CONDITIONS. ROUSH shall receive no employment benefits (including, but not limited to, retirement, annual leave, sick leave (except as required by law), holiday/floating holiday pay, health, dental, or any other benefits given to regular, full time employees) except that the City shall provide workers' compensation benefits as required by State law, and shall pay the employer's share of the Medicare tax. ROUSH shall be entitled to reimbursement for reasonable work related expenses to the same extent and in the same manner as other full time employees. ROUSH shall not receive a car allowance, but shall be entitled to the standard mileage reimbursement for the use of his own private vehicle for City business.

6. HOURS OF WORK. ROUSH shall work a 36- hour week as an exempt employee and will complete a timesheet each pay period that reflects all hours worked. Pursuant to Government Code Section 21221(h), ROUSH is limited to working in an appointed position for no more than 960 hours for any and all CalPERS employers during the period of July 1, 2018 through June 30, 2019. It is estimated that ROUSH will be available to serve as Interim City Attorney for a maximum of 31 weeks ending January 31, 2019. During the term of this Agreement ROUSH will not accept an interim appointment with any other agency that contracts with the California Public Employees Retirement System ("CalPERS").

7. RETIREMENT BENEFITS. Except as otherwise provided in this Agreement, ROUSH is not entitled to any post-employment benefit to be paid by the City of Alameda. The parties have entered into this Agreement pursuant to the provisions of Government Code Section 21221(h) for purposes of determining ROUSH's status under the Public Employees' Retirement Law. In the event that this Agreement is determined to be contrary to any provision of the Public Employees' Retirement Law, each party shall be solely responsible for paying to CalPERS any amounts respectively owed as the employer and employee contributions, including interest, in connection with ROUSH's appointment with the City of Alameda. Each party is solely responsible for any administrative fees that may be assessed to each of them under Government Code Section 21220 or by CalPERS.

8. TERMINATION OF ROUSH'S APPOINTMENT AS INTERIM CITY ATTORNEY.

- A. ROUSH may terminate this appointment as Interim City Attorney at any time and for any reason upon 30 days prior written notice to the City Council. Upon its receipt of such notice from ROUSH, the City Council may terminate ROUSH's appointment as Interim City Attorney any time within the 30-day period.
- B. The City Council may terminate ROUSH's appointment as Interim City Attorney at any time with or without cause upon seven (7) days prior written notice to ROUSH.

9. INDEMNIFICATION. City shall defend, hold harmless, and indemnify ROUSH against any claims, demands, or legal actions, whether specious, frivolous, or otherwise, arising out of an alleged action or omission, direct or indirect, occurring within the scope and during the course of ROUSH's appointment as Interim City Attorney. ROUSH will cooperate in good faith with the City with respect to the defense of such claims, demands or legal actions.

10. SEVERABILITY. In the event that any term of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the City and ROUSH, the remainder of this Agreement shall remain in full force and effect unless the term or terms held to be illegal or void are wholly inseparable from the remaining portions of the Agreement.

11. INTEGRATION CLAUSE. This Agreement constitutes the sole and entire agreement of the parties in this matter and that any modifications may be made only in a writing signed by both the City and ROUSH. There are no representations, agreements, arrangements or understandings, whether written or oral, between the parties relating to the subject matter of this Agreement which are not fully set forth in this Agreement.

CITY OF ALAMEDA: A Municipal Corporation

By: _____
Trish Herrera Spencer, Mayor
Dated: _____

By: _____
Michael H. Roush
Dated: _____

APPROVED AS TO FORM:

By _____
Alan M. Cohen,
Assistant City Attorney