

EMPLOYMENT AGREEMENT
BY AND BETWEEN THE
MAYOR AND CITY COUNCIL OF BALTIMORE
AND
MICHAEL S. HARRISON

This EMPLOYMENT AGREEMENT (“Agreement”) is entered into on this _____ day of February, 2019, by and between the Mayor and City Council of Baltimore, a Maryland municipal corporation (the “City”) and MICHAEL S. HARRISON (the “Executive”). Executive and the City are each referred to as a “Party” and collectively as the “Parties.” As required by Section 16-5(a) of the Public Local Laws of Baltimore City, the Executive’s appointment is contingent on, and shall not become effective until, the Baltimore City Council’s confirmation of Executive as the Police Commissioner. This Agreement is contingent upon and shall not become effective until the approval of this Agreement by the City’s Board of Estimates (the “Board of Estimates”).

RECITALS

WHEREAS, the City undertook a national search to identify a new Police Commissioner (“Commissioner”) for the Baltimore Police Department (“BPD”), widely viewed as among the most challenging and difficult law enforcement jobs in the country today; and

WHEREAS, after he was contacted by City officials, Executive expressed his willingness to be considered among the pool of candidates being pre-qualified as the new BPD Commissioner; and

WHEREAS, following that national search, and after reviewing the credentials of, and interviewing a host of candidates, the City has concluded that Executive possesses the leadership, management, and administrative qualities that would allow him to be an effective Commissioner for BPD; and

WHEREAS, Executive has expressed his willingness to serve as BPD Police Commissioner and represented he satisfies the requirements of that position; and

WHEREAS, the City desires to employ Executive as Police Commissioner for BPD and Executive desires to accept the position on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

- I. RECITALS. The foregoing recitals are incorporated into and made a substantive part of this agreement.
- II. CANDIDATE REPRESENTATIONS. Executive represents that he meets the qualifications for the position of Commissioner, that he satisfies the provisions of Section 16-

5(a) of the Public Local Laws of Baltimore City, that all information he provided during the course of the City's examination of his qualifications was and is true and accurate, and that there are no disqualifying matters in his background that were undisclosed. Executive acknowledges and agrees that, upon approval of this Agreement by the Baltimore City Board of Estimates, he will promptly relocate his permanent residence to the City of Baltimore and continue to reside within the City of Baltimore during the entire term of this Agreement.

III. DUTIES. As Commissioner, Executive shall diligently and faithfully carry out the following duties and responsibilities:

A. As the chief executive leader of BPD, Executive shall be charged with the effective and impartial enforcement of all applicable laws and regulations of the City, the State of Maryland, and the United States for the protection of all citizens who live or work in the City or who visit the City. Executive will be accountable for leading the BPD consistent with the department's Mission Statement, which states:

The Baltimore Police Department is dedicated to fostering trust with community members, safeguarding life and property, and promoting public safety through enforcing the law in a fair and impartial manner. Officers will police with integrity, dignity, honor, and respect with a commitment to ensure the highest ethical standards are maintained.

B. As BPD Commissioner, Executive will perform the duties normally assigned to the police commissioner of a large metropolitan region with responsibility for leading, planning, organizing, directing, staffing and coordinating police operations as those duties are set out in Subtitle 16 of the Public Local Laws of Baltimore City. Executive's duties shall require him to:

- (1) Manage, administer and direct BPD's functions and operations to enhance public safety and to protect the public interest;
- (2) Manage BPD's finances responsibly, and ensure expenditures are made consistent with applicable law and budgets approved by the Board of Estimates, including budgets for overtime;
- (3) Build positive relationships with citizens of the City of Baltimore and develop strategies that will promote responsive and courteous public service by BPD officers;
- (4) Supervise and direct the activities that will move BPD towards compliance with the federal Consent Decree. Work closely with the Mayor (or her designee) and the City Solicitor to develop a list of compliance priorities and a plan for solutions;
- (5) Create a structure within the agency to ensure that disciplinary matters involving BPD officers are investigated, charged, prosecuted and resolved appropriately and timely, consistent with the requirements of the Law Enforcement Officers' Bill of Rights, the Memorandum of Understanding with the Fraternal Order of Police, the public interest, and without any bias or favoritism. Ensure there are systems in place to

monitor and remediate issues involving officers who are the subject of multiple complaints;

- (6) Ensure that crimes reported within the City of Baltimore are tracked and categorized appropriately;
- (7) Provide policy advice to the Mayor and the City Council; and
- (8) Carry out such other duties and responsibilities as the Mayor shall determine to be desirable or necessary, provided such terms and conditions are not inconsistent with the terms and conditions of this Agreement and the requirements of Subtitle 16 of the Public Local Laws of Baltimore City.

C. Executive shall devote his entire professional time and effort to his service as Commissioner for the City of Baltimore, and he agrees that he will not engage in any outside paid or unpaid employment or undertake any other service, except as may be approved and authorized in advance and in writing by the Mayor or her designee.

D. Executive's performance shall be evaluated by the Mayor on an annual basis, at which time Executive shall share with the Mayor a list of goals and initiatives for himself and for the BPD for the following year.

E. The City acknowledges that the Executive's success will require a leadership team of his choice to support the Executive's efforts. Thus, the City would approve the employment of up to eight (8) newly appointed (external) executive staff members (including Deputy Commissioners and other Command Staff) and (1) one Chief of Staff, as needed, with tenure commensurate with your five (5) year term and with support for moving expenses consistent with extant administrative regulations of Baltimore City. Those positions may be converted from existing appointed ranks as the Executive deems appropriate and to minimize budgetary impact. The salaries for these leadership positions necessarily would be aligned with the existing salary ranges for the applicable positions, as well as the City's class and compensation rules, which generally require that new hires begin at or below the mid-point of the applicable range.

IV. TERM. The term (the "Term") of this Agreement shall be five (5) years. It shall begin on or about February 11, 2019 (the "Effective Date"), subject to the aforementioned Board of Estimates approval, and shall continue through the fifth anniversary of the Effective Date. Beginning on the Effective Date, the Executive shall serve as Interim Police Commissioner until his nomination is confirmed by the Baltimore City Council.

V. COMPENSATION AND BENEFITS. During the Term, Executive shall receive the following compensation and benefits:

A. Base Salary. Executive's base salary shall be Two Hundred Seventy-Five Thousand Dollars (\$275,000) per year, minus withholdings.

B. Salary Increases and Bonuses. Executive's base salary shall be subject to a minimum three percent (3%) increase per annum plus a provision for a further incentive increase based upon the attainment of objective crime reduction metrics and subjective personal performance factors. The applicable classification system places the position of Police Commissioner in the Managerial and Professional Society ("MAPS"). As a member of MAPS, Executive will be eligible to receive the same annual percentage rate increase, if any, as provided generally to other members of MAPS (inclusive of the minimum 3% salary increase previously mentioned). The parties acknowledge that the decision whether to award Executive any additional salary increase or bonus, beyond any MAPS increases applicable to Executive as a matter of law, is vested exclusively with the Board of Estimates.

C. Housing Allowance. Executive shall be paid Three Thousand Dollars (\$3,000.00) a month, minus withholdings, for up to twelve (12) months as a housing allowance, payable until his existing home is sold and the closing thereon has occurred, if sooner than twelve (12) months.

D. Leave. The parties acknowledge that the duties of the BPD Commissioner extend twenty-four hours a day. Executive shall accrue vacation, sick and compensatory leave consistent with the policies generally applicable to new City employees, and Executive shall be paid out for accrued but unused vacation and sick leave, subject to the same conditions as such leave is paid to other similarly situated employees. Executive agrees to ensure that accurate and complete records of his leave time are maintained. Further, Executive acknowledges and agrees that his base salary takes his extended duties into account and that he shall not be entitled to exhaust accrued compensatory time, or to receive a payout for accrued compensatory time, at the conclusion of his employment for any reason.

E. Other Benefits. Executive shall receive the same health and life insurance, pension, and other benefits on the same terms those benefits are made available to similarly situated BPD commanders and in accordance with the generally applicable terms of those policies as they exist from time to time.

F. Relocation Expenses. Executive shall be reimbursed for actual and reasonable relocation expenses to a residence within the City of Baltimore, subject to the terms of City Policy A.M. 200-3, a copy of which is attached as Exhibit A. Those costs shall be supported by appropriate receipts.

G. Professional Development. Subject to Board approval and applicable City requirements, the City shall pay for professional membership dues, travel, subsistence expenses incurred by Executive for professional conferences, continuing education programs, law enforcement institutes and similar seminars which are necessary for his professional development and for the good of the Department and/or of the City.

H. Community Engagement. The City encourages the Employee's participation in and appearance at local events and will pay for and/or reimburse the Employee for reasonable expenses associated with such appearances, it being the City's and the Employee's belief that the Commissioner serves as an ambassador of the City at such functions.

VI. SEPARATION FROM EMPLOYMENT.

A. Termination by the City for Just Cause. Executive may be terminated for "just cause" by the Mayor, acting on behalf of the City, and nothing in this Agreement shall affect the rights of the City or of the Mayor in that respect. A termination for Just Cause shall be effective immediately upon notice to Executive, and his right to salary or compensation and his service shall end immediately upon delivery of such written notice. However, termination for "just cause" shall have no effect on Executive's continued entitlement to vested benefits if any.

"Just Cause" for purposes of this section shall include, but not be limited to, the following:

(1) The willful failure to perform Executive's material duties, unless the failure is remediable, and Executive has cured the deficiency within thirty (30) days of receiving written notice of the deficiency from the Mayor or her designee;

(2) Any material breach of this Agreement, unless the failure is remediable, and Executive has cured the deficiency within thirty (30) days of receiving written notice of the deficiency from the Mayor or her designee;

(3) The City's reasonable determination Executive has committed any act, whether or not within the course of Executive's job duties, which reasonably calls into question his moral character or which, in the reasonable judgment of the City, harms BPD's reputation or Executive's ability to lead the department, including but not limited to any violation of the laws ensuring equal opportunity in employment;

(4) Executive's intentional breach of any material BPD policy or applicable City Administrative Policy;

(5) Chronic and excessive use of legal intoxicants, the use of illegal intoxicants, or the operation of a motor vehicle under the influence of any kind of intoxicant, whether legal or illegal;

(6) Indictment for any criminal offense constituting a felony or serious misdemeanor, or the commission of any act that could constitute grounds for terminating a uniformed member of BPD; or

(7) Mental or physical incapacitation that extends for longer than thirty (30) days.

B. Termination by the City Without Cause. The City may terminate this Agreement at any time without cause upon written notice to Executive. "Termination without cause" is defined as any basis for termination other than the bases specifically enumerated in Section VI-A of this Agreement as "Just Cause" termination bases. If Executive is terminated without just cause at any time during the five year term of this Agreement, he shall be paid the remaining balance due under the five-year term of this Agreement in regular bi-weekly payments as if he remained employed ("Severance Pay"); provided however, that if Executive obtains subsequent employment of any kind for regular compensation, whether through employment, consultancy or other arrangement that generates income reportable on IRS Form 1099 to the Executive, then the Severance Pay otherwise payable shall be reduced by such gross amount of compensation earned by Executive in such subsequent employment and the City shall receive a credit against such otherwise payable Severance Pay. The Executive agrees to provide notice the City prompt notice of his post-employment work activities.

C. Termination if Appointment is Not Confirmed. In the event the Baltimore City Council fails to confirm the Executive's appointment as Police Commissioner, the Executive shall be entitled to severance pay equal to the balance of his salary as Acting Commissioner, i.e., the remaining balance of the Two Hundred Seventy-Five Thousand Dollars (\$275,000) constituting the base salary for the first year of this Agreement.

D. Resignation by Executive. If Executive voluntarily resigns prior to the end of the term of this Agreement, he must give at least ninety (90) days' written notice. In the event of a resignation, Executive shall not be entitled to Severance Pay as detailed in Section VI-B, but shall receive accrued salary for services performed until the effective date of his resignation and the payout of any leave required by this Agreement and applicable City policies.

VII. INDEMNIFICATION.

A. To the fullest extent allowed by law, the City shall defend, indemnify, and hold harmless Executive, or his estate, in any civil or criminal action or proceeding seeking any kind of relief including compensatory or punitive damages, arising out of any act or omission that occurred while Executive was properly exercising or performing his job duties and responsibilities within the scope of his employment, so long as Executive was acting in good faith, did not act in a way that violates an applicable law, and did not act in an intentionally tortious matter.

B. Further, the City shall indemnify and save harmless Executive in the amount of any compensatory damages obtained against him in any judgment, or in the amount of any settlement; provided that Executive's act(s) or omission(s) underlying the judgment or settlement occurred while Executive was properly exercising or performing his job duties and responsibilities within the scope of his employment, so long as Executive was acting in good

faith, did not act in a way that violates an applicable law, and did not act in an intentionally tortious matter.

C. Notwithstanding the foregoing, by law, the City cannot legally contract to pay any punitive damages which arise from Executive's conduct. While the City cannot legally agree prospectively to satisfy punitive damages awards without limitation or qualification, in the unlikely event that any punitive damages are assessed against Executive, the City's retained counsel will file appropriate post-trial motions seeking to overturn such damages and will exhaust the appropriate appeals within the Maryland court system or to the United States Court of Appeals for the Fourth Circuit at no expense to Executive. If such appeals are unsuccessful in reversing any award of punitive damages against Executive and the verdict becomes final, the City Solicitor will then make an independent evaluation of the evidence upon which the verdict was based and recommend to the Board of Estimates that the City pay the judgment if in the City Solicitor's opinion the evidence does not support or warrant punitive damages under the law of Maryland.

D. Furthermore, nothing herein shall require the City to pay the costs of any criminal defense or any fines or penalties associated with any criminal action or proceeding which results in the conviction of Executive. Notwithstanding the foregoing, the City's obligation to indemnify Executive hereunder is contingent on his fully assistance and cooperate in any proceedings in which the City will provide indemnification to Executive.

E. This provision shall survive the termination of this Agreement for any reason.

VIII. MERGER CLAUSE.

This Agreement contains the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written.

IX. AMENDMENTS.

This Agreement may be amended only by the mutual consent of all Parties. Any amendment must be in writing and executed by all Parties and approved by the Board. Thereafter, the original Amendment shall be affixed to the original of this Agreement.

X. WAIVER.

Any waiver of any provision of this Agreement shall not be deemed to be a waiver of any other provision or of a subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

XI. SEVERABILITY CLAUSE.

If any provision or other portion of this Agreement is held unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, it shall be deemed severable and the validity of the remainder of the Agreement shall not be affected by the unconstitutional, invalid, or unenforceable provision or portion.

XII. RESOLUTION OF DISPUTES.

The exclusive jurisdiction for the filing of any claim or the adjudication of any Dispute shall be in the federal or state courts located in Maryland, and the exclusive venue for a Dispute shall be the Circuit Court for Baltimore City or in the United States District Court for the District of Maryland—Northern Division. For purposes of this Agreement, the term Dispute shall mean any claim that arises out of or relates in any way to this Agreement or to the Employee's employment, including but not limited to claims of wrongful termination or failure to provide benefits, and excluding only workers' compensation claims and claims for benefits under the State of Maryland's Unemployment Insurance laws or any other matter under the jurisdiction of the Labor Commissioner. The parties agree that before judicial relief is sought, the Mayor and the Employee shall meet face to face in an effort to resolve the dispute.

XIII. NOTICES.

Notices relating to this Agreement shall be effective when hand-delivered to the following:

To City: Andre M. Davis, City Solicitor
101 City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

To Executive: Commissioner Michael S. Harrison
Police Department of Baltimore City
600 E. Fayette Street
Baltimore, MD 21202

XVI. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the parties respecting the matters set forth herein. No oral agreement, representation or agreement not expressed herein in writing shall be binding upon or inure to the benefit of the parties or their heirs at law or the personal representative of Executive.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the day and year first above written.

ATTEST:

MAYOR AND CITY COUNCIL OF
BALTIMORE

WITNESS

By: _____
Catherine E. Pugh, Mayor

WITNESS

Michael S. Harrison

Approved as for Form and Legal
Sufficiency

Approved by the Board of Estimates:

Andre M. Davis Date
City Solicitor

Clerk Date

Public Release