

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "**Agreement**"), dated, October 1, 2022 (the "Effective Date"), is entered into by and between **THE RICHMOND REDEVELOPMENT AND HOUSING AUTHORITY**, a political subdivision of the Commonwealth of Virginia organized and existing pursuant to Title 36 of the Code of Virginia (the "**Authority**"), and **Steven B. Nesmith** (the "**Executive**") (as the Authority and the Executive may each be hereafter referred to, individually, as a "Party," and collectively, as the "**Parties**").

WHEREAS, the Authority desires to employ and utilize the experience, ability and services of the Executive, and the Executive desires to be so employed, on the terms and conditions of this Agreement;

NOW, THEREFORE, the Parties hereto, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, covenant and agree as follows:

I. Term.

(a) **Initial Term.** The Authority hereby employs the Executive as its Chief Executive Officer, pursuant to the terms and provisions of this Agreement, to render such services and executive duties as are appurtenant to the position of Chief Executive Officer. The Executive shall be employed for a **5-year term** beginning on the Effective Date first above stated and ending on October 1, 2027 (with such term referred to herein as the "**Initial Term of Employment**" or the "**Initial Term**," and such ending date, October 1, 2027, referred to herein as the "**Termination Date**")

(b) **Interim Performance Review.** During the Initial Term of Employment, the Board of Commissioners of the Authority (the "Board") shall review the Executive's performance in relation to the duties and expectations set forth in this Agreement, the job description attached hereto as Exhibit A (as such Exhibit may be revised from time to time by the mutual written agreement of the Board and the Executive), and such other goals and objectives as the Board and the Executive may agree to in writing from time to time (such review hereinafter referred to as an "Interim Performance Review"). The Board shall conduct an Interim Performance Review at the following times:

(i) At least thirty (30) days before the first anniversary of the Effective Date; and

(ii) At least thirty (30) days before the second anniversary of the Effective Date.

(c) **Continuing Performance Review.** At least ninety (90) days prior to the Termination Date (and at least ninety (90) days prior to the end of any Renewal Term, as defined

herein), the Board shall review Executive's performance in the same manner as the Interim Performance Reviews described above (such review hereinafter referred to as a "Continuing Performance Review"). If at any Continuing Performance Review, in the sole discretion of the Board, the Executive's performance is determined to be satisfactory, the Term of Employment may be extended for an additional term of one (1) year after the end of the preceding term (any such additional term hereafter referred to as a "Renewal Term"). If at any Continuing Performance Review, in the sole discretion of the Board, which shall not be subject to review by any court or otherwise, the Executive's performance is not satisfactory, the Authority shall notify the Executive in writing of this determination, and no Renewal Term shall take effect. Should the Board fail to conduct a Continuing Performance Review before the Termination Date, or before the end of any Renewal Term, the Term of Employment shall automatically be extended for an additional Renewal Term of one (1) year following the end of the preceding term.

(d) **Termination.** Notwithstanding any other provision of this Agreement, the Authority may invoke the provisions of Section 7 herein at any time during any term of the Executive's employment.

2. **Duties.**

(a) The Executive shall perform such executive duties and responsibilities as are in all material respects consistent with (i) the directions and policies established and promulgated by the Authority and (ii) the then-current job description attached hereto as Exhibit A, as such may be amended from time to time by the Board in accordance with this Agreement.

(b) The Executive shall report only to the Board and shall devote his full business time to the performance of his executive duties and responsibilities hereunder, and to the advancement of the Authority's interests. The Board expects: that CEO will set the highest standards of performance for the Authority and its employees; that his performance will be consistent with such highest standards; and that he will give the Authority the highest priority in terms of time and attention. The Board shall, from time to time, review the Executive's performance in relation to his duties and responsibilities as Chief Executive Officer and such goals and objectives as the Board may establish from time to time in accordance herewith.

(c) The Executive shall at all times during the term of his employment (i) discharge all of his executive duties and responsibilities hereunder conscientiously, in good faith, and to the best of his ability, and (ii) observe and comply with all rules and regulations of the Authority.

(d) The Executive shall be employed on a full-time basis and maintain a working schedule that is substantially the same as the Authority's other full-time employees.

(e) The Executive shall maintain his residence in the City of Richmond, Virginia (the "City") throughout the term of his employment.

(f) The Executive shall not be permitted to engage in any activities substantially related to his duties or to the business of the Authority, whether paid or unpaid, which are outside the scope of his employment with the Authority as established hereby, including, without limitation, serving as a consultant or advisor for a third party or participating

in speaking engagements: (i) unless and until the Board has provided its prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed; and (ii) so long as such activities do not interfere with the Executive's performance hereunder and do not create any conflict of interest.

(g) The Executive shall be permitted to invest his personal assets in any manner whatsoever, except that the Executive shall not invest in any entity that transacts substantial business with the Authority. If the Executive desires to invest his personal assets in an entity that will require the Executive to perform services in the operation of that entity's affairs, the Executive shall not be permitted to do so unless and until the Board has provided its prior written consent thereto, which consent may be withheld in the Board's sole and unfettered discretion. In no case may the Executive make any investment of his personal assets that would impair his obligations to the Authority, or would violate the Virginia State and Local Government Conflicts of Interest Act (Va. Code§ 2.2-3100, *et seq.*).

3. Compensation.

(a) As compensation for the Executive's services hereunder, the Authority shall pay to the Executive a salary adopted by resolution of the Board (the "Salary"), which Salary, less all applicable withholdings and deductions, shall be payable in equal installments at the same time and in the same manner as salaries paid to other employees of the Authority as defined under the applicable personnel policies and procedures of the Authority.

(b) The Executive's base Salary is established at the rate of Two Hundred Thirty Five Thousand and 00/100 Dollars (\$235,000.00) per year ("Base Salary"); provided, that the Board shall review the Executive's Base Salary at each Continuing Performance Review and may, in its sole discretion, increase or decrease such Base Salary based on changes in the cost of living, an evaluation of the Executive's performance hereunder, and salaries for comparable positions. To the extent the Executive's Salary exceeds One Hundred Sixty-Four Thousand, Two Hundred and 00/100 Dollars (\$164,200.00), the amount of such excess must be paid from unrestricted and de-federalized funds of the Authority; provided, that, to the extent such unrestricted and de-federalized funds are insufficient to pay such excess amount, the Authority shall not have any obligation to pay such amount or any liability therefor. As part of the Executive's duties, the Executive shall increase the sources of funding for the Authority's unrestricted and de-federalized funds. If the unrestricted and de-federalized funds are not sufficient to pay the portion of the Executive's salary above \$164,200.00, such amount shall accrue, without interest, until the unrestricted funds balance is sufficient to pay such amount, but in no event shall such accrual exceed three years.

(c) The Executive shall be entitled to substantially the same benefits and shall have the same corresponding duties relative to said benefits, as other Authority employees, as provided within the Authority's personnel policies and procedures, particularly with regard to health insurance, holidays, annual and sick leave, leaves of absence, jury duty, administrative and funeral leave, retirement, workers' compensation insurance, and educational courses. On the Effective Date, and thereafter, at each Continuing Performance Review, the Board shall determine in writing, in its sole discretion, whether the Executive shall be entitled to participate in and receive any additional benefits under any health, disability, insurance, pension, profit

sharing, or other employee benefit programs established by the Authority. The costs and expenses of the Executive's participation in such programs shall be paid as established by the Authority's personnel policies and procedures unless otherwise agreed to in writing by the Executive and the Authority. The Board may, from time to time, add to, reduce, eliminate, or otherwise modify such programs and the benefits received by the Executive thereunder, so long as the Executive is provided with benefits, or cash equivalents thereof, in amounts that are substantially similar to those received by other Authority employees of comparable grade and responsibility. The Board will offer an additional 10 days of paid vacation in addition to the standard employee offering of 22.7 days annually.

(d) Notwithstanding anything herein to the contrary, (i) the Executive will receive, in addition to his Base Salary, Fifteen Thousand and 00/100 Dollars (\$15,000.00) in annual deferred compensation beginning October 1, 2022, or upon the Executive's election, and (ii) the Executive also may, at his election, so defer a portion of his Base Salary. In each case, such deferred amount shall be paid on the Executive's behalf to the Virginia Retirement System.

(e) Upon each Interim and Continuing Performance Review, the Board may, in its sole discretion, award the Executive a compensatory bonus, in addition to his base salary, in an amount not to exceed Twenty-Five percent (25%) of the Executive's Base Salary (hereafter, the "Development Bonus"). The Board may award such Development Bonus upon the Board's determination that the Executive has met certain goals related to the redevelopment of RRHA's public housing inventory, as the Board may, in its sole discretion, promulgate such goals from time to time.

(f) Upon each Interim and Continuing Performance Review, the Board may, in its sole discretion, award the Executive an additional compensatory bonus in an amount which may be determined by the Board, based on an evaluation of the Executive's performance of his duties and responsibilities, and achievement of the goals and objectives, established pursuant to Section 2 above.

4. Expenses.

(a) The Executive is authorized to incur reasonable expenses for conducting and promoting the business of the Authority, including expenses for travel and similar items, subject to limitations and restrictions set by the Authority from time to time that are generally applicable to other Authority management employees and officials. The Authority will reimburse the Executive for such expenses, on a monthly or other regular basis, upon the presentation by the Executive of an itemized account of such expenditures, consistent with procedures established by the Authority, together with such receipts or other evidence as shall be required for tax or accounting purposes.

(b) The Authority shall reimburse the Executive for use of his personal automobile for business-related purposes at the then-current IRS mileage rate for reimbursement, or, at his discretion, the Executive may elect to receive an automobile allowance in an amount equal to Five Hundred and 00/100 Dollars (\$500.00) per month after the Authority withholds all customary federal, state, and local income taxes from such allowance.

5. **Personnel Policies and Procedures.** Except as otherwise specifically provided herein or therein, the Authority's personnel policies and procedures shall be applicable to the Executive; provided, however, that notwithstanding any other provision in such personnel policies and procedures, the Board shall have complete discretion over all aspects of the Executive's employment by the Authority, including, without limitation, supervision, evaluation, discipline, and termination of his employment in accordance with the provisions of this Agreement.

6. **Conflicts of Interest.**

(a) The Executive shall promptly disclose in writing to the Authority any existing, potential, or perceived conflict of interest (as that term is used within Va. Code § 2.2-3100, *et seq.*, or within any of the Authority's procurement or personnel policies or procedures) that may arise during the Term of Employment as result of his employment with the Authority.

(b) Except as otherwise provided under applicable law:

(i) Neither the Executive nor his family shall have a personal interest in any contract with the Authority other than this Agreement. For purposes of this paragraph, family shall include spouse, children, dependents, siblings, parents, in-laws, or any person living in the Executive's household.

(ii) The Executive shall not have a personal interest in any contract with any other governmental agency that is a component of the government of the City of Richmond, Virginia, unless such contract is (1) awarded as a result of competitive sealed bidding or competitive negotiation as defined in Virginia Code §2.2-4301 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivisions A(10) or A(11) of Virginia Code § 2.2-4343, or (2) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

(c) Except as otherwise provided under applicable law:

(i) The Executive shall not participate in the selection, award, or administration of an Authority contract supported by Federal funds or otherwise

governed by the Virginia Public Procurement Act (Va. Code § 2.2-4300 *et seq.*), if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when (i) the Executive, (ii) any member of his immediate family, (iii) his partner, or (iv) an organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The Executive will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to any agreement with or for the benefit of the Authority.

(ii) The Executive shall not engage in selling or attempting to sell supplies, services, or construction to the Authority for one (1) year following the date his employment with the Authority has ceased. For purposes of this provision, the term "sell" means signing a bid or proposal, negotiating a contract, contacting any Authority employee, officer, or agent for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract; settling contract disputes; or any other liaison activity with a view toward the ultimate consummation of a sale, although the actual contract is negotiated by another person.

(d) The Executive represents that to his best knowledge, any arrangement or circumstance existing as of the Effective Date which would violate this Section 6 has been disclosed to the Authority. The Executive acknowledges that the Authority has relied upon such representation as a material inducement to enter into this Agreement.

7. **Termination.**

(a) The Authority may terminate the Executive's employment with the Authority at any time under this Agreement under any of the following circumstances:

(i) The death of the Executive.

(ii) The inability of the Executive to perform his duties and responsibilities hereunder by reason of qualifying physical or mental disability or another incapacity, which inability shall continue for at least six (6) months. During such disability, the Executive shall be compensated at seventy percent (70%) of his base salary, as outlined in the current RRHA Short Term Disability Policy.

(iii) For cause, including, without limitation: (1) a material breach of any provision of this Agreement; (2) misconduct by the Executive which is injurious, whether monetarily or otherwise, to the Authority or its mission or standing in the community; (3) the Executive's nonperformance or neglect of his duties or responsibilities; (4) conviction of, or entry of a plea of guilty (or Alford plea, or plea of *nolo contendere*) to a felony or other crime involving moral turpitude; (5) any act involving theft, embezzlement or fraud, irrespective of whether charges are brought or a conviction made; (6) a violation of any policy, code or standard of ethics generally applicable to employees of the Authority; (7) the Executive's material breach of fiduciary duties owed to the Authority; (8) repeated abuse of alcohol or illegal drugs by the Executive which substantially affects his ability to perform his job duties or which results in material economic injury to the Authority; or (9) the Executive's excessive and

unexcused absenteeism. No act or failure to act on the Executive's part shall constitute cause unless done, or omitted to be done, after failure to cure such breach to the satisfaction of the Board within thirty (30) days following the date the Authority gives the Executive written notice specifying its breach and demanding its cure, if such breach is curable.

(b) The Authority shall have the further right at any time, upon thirty (30) days' written notice, to terminate the Executive's employment with the Authority under this Agreement without cause, and upon any such termination, all of the Executive's continuance rights under this Agreement shall terminate as well, except for the Executive's right to severance pursuant to Section 8 below, if applicable.

(c) The Executive may terminate his employment with the Authority under this Agreement under any of the following circumstances:

(i) upon sixty (60) days written notice to the Authority, for the breach of a material term hereof by the Authority; provided, that the Authority shall have failed to cure or remedy such breach within such 60-day period; or

(ii) at any time during the term of the Executive's employment, without cause, by giving the Authority sixty (60) days advance notice of such termination.

(d) The Executive acknowledges and agrees that he is responsible for upholding and promoting the reputation of the Authority, including its reputation for ethical activity. In the event of publicity which adversely affects the reputation of the Authority during the term of this Agreement, the Board, at its sole discretion, may request the Executive to resign, who if asked by the Board, shall agree to immediately resign. Upon such resignation, all of the Executive's rights under this Agreement shall terminate as well, except for the Executive's right to severance pursuant to Section 8 below, if applicable.

8. Severance.

(a) In the event the Executive's employment is terminated in accordance with Section 7(a) of this Agreement, or the Executive terminates his employment without cause pursuant to section 7(c)(ii) of the Agreement, the Executive shall not be entitled to any severance benefits hereunder.

(b) The Authority shall pay the Executive severance benefits, in an amount determined in accordance with Section 8(c) below, under the following circumstances:

(i) the Executive's employment is terminated without cause as provided in Section 7(b) hereof; provided, that, to the extent the Executive continues to work for any period following the effective date of termination, any payment made to the Executive for such work shall be subtracted from any severance benefits to which the Executive may be entitled; or

(ii) upon any Continuing Performance Review, the Board declines to extend the Executive's Term of Employment for a Renewal Term, and the Board does not invoke the termination procedures of Section 7(a).

(iii)

(c) In accordance with section 8(b) above, the amount of such severance benefits shall be determined as follows:

(i) If the Executive's employment is terminated on or before the first anniversary of the Effective Date, the severance benefits shall equal six (6) months of the Executive's Base Salary.

(ii) If the Executive's employment is terminated after the first anniversary of the Effective Date, the severance benefits shall equal six (6) months of the Executive's Base Salary.

9. Indemnification. To the extent permitted by applicable law, and without waiving any applicable defense of sovereign immunity, the Authority shall indemnify the Executive and hold the Executive harmless from any acts or decisions made by the Executive in good faith, as determined by the Authority, within the scope of the Executive's employment by the Authority, and the Authority will use its best efforts to obtain coverage for the Executive's actions under any insurance policy now in force or hereinafter obtained during the term of this Agreement covering other employees of the Authority and members of the Board against losses. As part of any such indemnification or insurance, the Authority may, to the extent permitted by applicable law, pay all expenses, including reasonable attorneys' fees, actually and necessarily incurred by the Executive in connection with the defense of such action, suit, or proceeding, and in connection with any appeal thereon, including the cost of court settlements approved by the Authority.

10. Notice.

(a) Each notice, demand, request, consent, report, approval, or communication ("Notice") that is or may be required to be given by any Party to any other Party in connection with this Agreement shall be in writing, and given by telex, telegram, telecopy, personal delivery, receipted delivery service, or by certified mail, return receipt requested, prepaid and properly addressed to the Party to be served as shown in paragraph (b) herein.

(b) Notices shall be effective on the date sent via telex, telegram or telecopy, the dated delivered personally or by receipted delivery service, or three (3) days after mailing date:

If to the Authority:

At the then current address of the Chair of the Board
of Commissioners

with a copy to:

The Authority's Director of Human Resources

If to Executive:

At the residential address on file with the Authority.

(c) Each Party may designate by notice to the others in writing, given in the foregoing manner, a new address to which any notice may thereafter be so given, served or sent.

11. Waiver of Breach. The waiver by either Party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach.

12. Assignment. The rights and obligations of the Authority under this Agreement shall inure to the benefit of, and shall be binding upon, the successors and permitted assigns of the Authority. The rights and obligations of the Executive hereunder are personal, and may not be assigned or delegated without the Authority's prior written consent, which may be withheld in its sole and unfettered discretion.

13. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof. It may not be changed orally, but only by an agreement in writing executed by the Party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

14. Applicable Law. This Agreement and all covenants contained herein shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by the laws of the Commonwealth of Virginia, without regard to conflicts of laws principles. In the event that any provision of this Agreement shall be held invalid by a court with jurisdiction over the Parties to this Agreement, such provision shall be deleted from the Agreement, which shall then be construed to give effect to the remaining provisions thereof.

15. Confidentiality. To the extent allowed by applicable laws, the Executive and the Authority agree to keep the existence, terms and substance of this Agreement confidential, and further agree that neither the Executive nor the Authority will disclose the contents or subject matter of this Agreement to any persons other than their attorneys or other similar professional advisors, except as required by law.

16. Legal Counsel. The Executive hereby acknowledges that (i) he has had the opportunity to seek independent tax and legal advice from attorneys of the Executive's choice with respect to the advisability of executing this Agreement and becoming employed by the Authority. The rule of construction that a written agreement is construed against the party preparing or drafting the agreement shall specifically not be applicable to the interpretation of this Agreement.

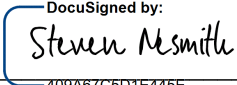
17. **Gender and Plurals.** Wherever the context so requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural and conversely.

18. **Section Headings.** The section headings contained in this Agreement are for convenience only and in no manner shall be construed as part of this Agreement.

19. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall construe one and the same instrument.

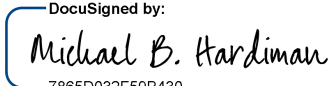
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Executive:

DocuSigned by:

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Steven B. Nesmith

The Authority:

THE RICHMOND REDEVELOPMENT AND HOUSING AUTHORITY, a political subdivision of the Commonwealth of Virginia:

DocuSigned by:

By: 7865D032F59B430...
Barrett Hardiman, in his capacity as the Chair of the Board of Commissioners of the RICHMOND REDEVELOPMENT AND HOUSING AUTHORITY