
**CITY OF RIDGECREST CITY MANAGER
AT-WILL EMPLOYMENT AGREEMENT FOR PROFESSIONAL SERVICES**

As of April 17, 2013, the **City of Ridgecrest**, California (hereinafter "CITY"), and [REDACTED] (hereinafter "EMPLOYEE") agree as follows:

1. Purpose.

(a) CITY desires to obtain the services of EMPLOYEE to perform the duties of the City Manager as set forth in CITY and State Codes.

(b) EMPLOYEE desires to fulfill the duties of the position of City Manager. Prior to January 1, 2013, and to the present, EMPLOYEE has been working as the Interim City Manager; prior to that time he was Public Works Director.

(c) The parties desire to establish certain conditions of employment and to set working conditions of EMPLOYEE within the framework of an at-will employment relationship.

2. Duties.

(a) EMPLOYEE shall perform the duties of the City Manager as set forth in the Municipal Code of the CITY and the adopted City of Ridgecrest Classification Plan, and shall perform such other legally permissible and proper duties and functions as the City Council shall from time-to-time assign.

(b) EMPLOYEE shall have the responsibility of organizing, reorganizing and arranging the staff of the CITY in such a way that in his judgment best serves CITY in accordance with City Code and Personnel Rules. EMPLOYEE shall have such responsibility in personnel matters, including election, assignment, and transfer of employees in accordance with City Code and Personnel Rules. EMPLOYEE shall consult with members of City Council, individually and collectively, on any personnel matter when requested to do so, subject to applicable laws, rules, and procedures.

(c) EMPLOYEE will manage the Public Works department and will retain the title of Public Works Director until the position is filled. He will perform the duties of the Public Works Director as set forth in the Municipal Code of the CITY and the adopted City of Ridgecrest Classification Plan, and shall perform such other legally permissible and proper duties and functions as the City Council shall from time-to-time assign.

(d) The City Manager shall take orders and instructions from a majority of the City Council.

3. Council Duties.

(a) Members of the City Council, individually and collectively, will refer promptly, criticisms, complaints, and suggestions called to its attention to EMPLOYEE for study and timely recommendation.

(b) Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

4. Term.

(a) This Agreement commences on the 17th day of April, 2013. Salary,

benefits, and all other items covered within this Agreement shall continue for a period of five (5) years. Said original five (5) year term shall be automatically extended for successive one (1) year terms, unless notice is given by the City Council on or before sixty (60) days before the end of a contract term that the contract will not be extended. If such notice of non-renewal is given, EMPLOYEE shall complete the remaining balance of that current one (1) year term of service and he shall then be entitled to the severance pay described in Section 5 hereof. At the end of each year of the contract term, EMPLOYEE will receive a performance and salary review.

(b) The City Manager serves at the pleasure of the City Council. There exists no contract for or right to employment; either expressed or implied, with the sole exception of City of Ridgecrest City Manager At-Will Employment Agreement For Professional Services, the provisions contained herein. The City Council may terminate the employment of the EMPLOYEE with or without cause. Upon such termination, with or without cause, EMPLOYEE'S sole remedy consists of the provisions contained in Section 5 of this Agreement.

(c) Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of EMPLOYEE to resign at any time from his position with CITY. Upon voluntary resignation, EMPLOYEE shall receive all vacation, sick, and administrative leave accrued to date.

(d) EMPLOYEE agrees to refrain from engaging in any conflicts of interest, and to refrain from employment that would constitute a conflict of interest. If EMPLOYEE performs any outside work, EMPLOYEE must first notify CITY of such work and obtain CITY'S clearance that it does not foresee a potential conflict, potential interference with CITY work, or other prohibition on such work. EMPLOYEE may perform the following work for compensation provided the work is not prohibited by law, does not create a conflict of interest, and such outside work does not interfere with work for the CITY: occasional outside consulting, writing, or speaking engagements, teaching or training, serving on the Board of Directors of one or more corporations, and other part time or occasional employment.

5. Termination.

(a) This Agreement shall terminate upon the occurrence of any one of the following events:

1. Upon sixty (60) days' notice given to CITY by EMPLOYEE; or
2. Upon the death of EMPLOYEE; or
3. Upon the effective date of retirement from CITY service pursuant to PERS service or disability retirement; or
4. By motion carried by three (3) affirmative votes of the City Council of CITY, with or without cause; or
5. Upon continued inability to perform essential job functions with a reasonable accommodation.

(b) If EMPLOYEE is terminated without cause, CITY shall pay to EMPLOYEE a lump sum cash severance payment equal to the total of EMPLOYEE'S vacation, sick and administrative leave accruals, and the then current salary, including Cafeteria allowance, that he would have been entitled to receive for six (6) months under the terms of this Agreement.

(c) Notwithstanding the foregoing subsections, CITY reserves the right to terminate this Agreement without notice and without liability for any severance pay whatsoever,

when such termination is made for cause. "Termination for Cause" shall include:

1. Willful breach of this Agreement pursuant to California Labor Code Section 2924 as interpreted.
2. Habitual neglect of the duties required to be performed as City Manager pursuant to California Labor Code Section 2924 as interpreted.
3. Any acts of dishonesty, fraud, misrepresentation, or other acts of moral turpitude.
4. Conviction of any act which would constitute a crime, whether misdemeanor or felony, and which would bring disrespect to the Office of City Manager, whether prior to or after adoption of this Agreement.
5. Willful violations of CITY policies of a serious nature, including for example, CITY'S sexual harassment, violence-in-the-work-place or drugs-in-the-work-place policies.

Before termination for cause, CITY shall deliver to EMPLOYEE a written specification of the charges or other reasons upon which "cause" is alleged. EMPLOYEE shall have five (5) business days to challenge such termination for cause by delivery within such five (5) day period, a written response to such specifications. Within five (5) business day period EMPLOYEE may also demand a hearing upon the specifications. Failure to demand a hearing within the five (5) business day period shall be a waiver of such right and the City Manager shall make his final determination upon the written response, if any made by EMPLOYEE. If a hearing is demanded, such hearing shall be held before the City Council. The issues to be determined in the hearing shall be whether the specifications(s) alleged constitute "cause" pursuant to this contract and whether the specifications are supported by substantial evidence. The parties acknowledge that a requested hearing for cause shall be held at the earliest possible date, and to that extent, they shall cooperate in selecting a date for the hearing which shall be no later than sixty (60) days following CITY'S notice of termination for cause. Should EMPLOYEE challenge CITY'S termination for cause, CITY shall continue regular payment of EMPLOYEE'S salary and benefits (as administrative leave pay) pending the date of the decision of the City Council. However, in no event, shall such administrative leave pay continue beyond sixty (60) days from the date of service upon EMPLOYEE of CITY'S notice of termination for cause. In the event the City Council concludes in favor of EMPLOYEE, that no cause exists for the withholding of severance pay, then the termination is without cause, then administrative pay previously paid to EMPLOYEE shall be credited against the severance amount payable above, and the balance thereof shall be paid to EMPLOYEE by CITY.

(d) If CITY reduces the salary or other financial benefits of EMPLOYEE in a greater percentage than the reduction for management employees, or if the CITY refuses, following written notice, to comply with any other provision benefiting EMPLOYEE herein, EMPLOYEE may claim to be deemed to be "terminated without cause" at the date of such reduction or such refusal to comply with this Agreement.

6. Compensation.

(a) CITY shall pay EMPLOYEE an annual, base salary of \$158,000 in installments at the same time as other employees of CITY.

(b) The City Council shall perform reviews of EMPLOYEE'S performance for increases in salary and benefits in such amounts and to such an extent as may be determined in keeping

with Personnel Policies and Procedures and an Annual Municipal Budget approved by the City Council. The performance evaluation and compensation review shall take place annually on the EMPLOYEE'S anniversary date.

(c) Except as hereinafter provided, EMPLOYEE shall receive such other and further benefits as are accorded other management employees of CITY, including, but not limited to, cost of living adjustments, holidays, sick and bereavement leaves, and executive or administrative leave days.

(d) This position is exempt from overtime pay requirements.

(e) To the extent permitted by law and the CITY'S Municipal Code, CITY will pay the employer and employee share of Social Security.

7. Relocation Expenses.

There will be no reimbursement of relocation expenses, if any.

8. Equipment.

(a) To the extent, as provided and agreed upon by the City Council, in the CITY'S annual budget, CITY shall provide business computing, and communications equipment, as well as service and operating costs; furniture; and fixtures necessary and convenient to carry out the terms of this Agreement.

(b) Such equipment, furniture and fixtures provided by CITY shall continue to be the property of CITY.

(c) CITY shall provide EMPLOYEE neither a car nor car allowance. However, CITY shall either provide a motor pool vehicle or pay EMPLOYEE the same mileage paid all other employees for use of EMPLOYEE'S personal car for City related travel outside the City of Ridgecrest at the EMPLOYEE'S election.

9. Vacation and Sick Leave.

(a) EMPLOYEE shall accumulate 8 hours of vacation each pay period (208 hours annually) and 4.00 hours of sick leave per pay period (104 hours annually). EMPLOYEE shall be credited with 200 hours administrative leave, annually, administered in accordance with other CITY management employees.

(b) CITY shall pay EMPLOYEE, at his election, an amount equal to EMPLOYEE'S hourly rate of pay times up to 75% of the accrued vacation remaining in the EMPLOYEE'S personal account at the end of each fiscal year which amounts of time will be deducted from his leave balance.

(c) In the event of the termination or expiration of this Agreement, EMPLOYEE shall be entitled to payment for remaining, unused vacation Leave.

10. Dues, Subscriptions, Professional Development.

(a) To the extent permitted by the annual budget, CITY shall pay the dues and subscriptions of EMPLOYEE necessary for his contribution and full participation in national, regional, state and local associations necessary and desirable for his continued professional participation, growth, and advancement, and to maintain active communication with and through local organizations, and for the good of CITY.

(b) To the extent provided in the CITY'S annual budget and the CITY'S travel policy,

CITY shall pay the travel and subsistence expenses of EMPLOYEE for professional and official travel, meetings, and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for CITY, including, but not limited to, the Annual Congress of Cities of the National League of Cities, the Annual Conference of the International City and County Management Association, the Annual Conference of the California League of Cities, and such other national, regional, state, and local governmental groups and committees thereof which EMPLOYEE serves as a member.

(c) To the extent provided in the CITY'S annual budget and the CITY'S education policy, CITY shall pay for the travel and subsistence expenses of EMPLOYEE for short courses, institutes and seminars necessary for his professional development and for the good of CITY.

11. Disability, Health & Life Insurance, Retirement.

EMPLOYEE's disability, health and life insurance and retirement benefits shall be the same as provided for in the Public Works Director position agreement, including, but not limited to:

(a) CITY provides a cafeteria allowance (cash out) based on the PERS major medical schedule. Tier Three provides Seven Hundred Thirty-eight Dollars (\$738.00) per month to cover medical, dental, vision, long-term disability, and group life insurance. Cafeteria increases are provided at the level provided other management employees. Workers' Compensation insurance is provided at no cost to EMPLOYEE.

(b) CITY pays into a retirement PERS account both the employer and Employee shares to the same extent as other management employees.

(c) CITY shall pay into EMPLOYEE's retirement account with the Social Security Administration (Federal Insurance Contributions Act) to the same extent as other management employees.

(d) CITY shall execute the Deferred Compensation Employment Agreement and the associated Trust Agreement of the Plan of the International City Management Association Retirement Corporation ("ICMARC") so that EMPLOYEE may, at EMPLOYEE's option and expense, participate in the Plan.

12. Other Terms and Conditions of Employment.

(a) The City Manager shall fix any such other terms and conditions of Employment, as it may determine from time to time, relating to the performance of EMPLOYEE. Such terms and conditions shall be consistent with Agreement, the City of Ridgecrest Municipal Code, CITY Policies and Procedures, or other laws.

(b) Municipal Code and regulations and policies and procedures of CITY relating to usage of vacation, administrative, and sick leave; retirement and pension system contributions; holidays; and other fringe benefits and working conditions as they now exist or amended, also shall apply to EMPLOYEE as they would to other sworn police officers or other management personnel of CITY, whichever is greater or more beneficial to EMPLOYEE.

(c) EMPLOYEE'S reasonable business expenses will be reimbursed upon submission of appropriate documentation to CITY.

13. Right of Return.

At the conclusion of [REDACTED] term as City Manager and in the event that the Public Works Director position is vacant, he will have the option to return to his former position as Public Works Director under the terms and conditions stipulated in that agreement. For purposes of benefits and determination of the length of employment with Employer, EMPLOYEE will not be deemed to have lost any time in employment as Public Works Director during the time in which EMPLOYEE served as City Manager.

14. General Provisions.

- (a) This Agreement shall become effective April 17, 2013.
- (b) CITY shall indemnify and defend EMPLOYEE against claims or litigation arising within the scope of EMPLOYEE'S office as provided by law.
- (c) Should any litigation occur regarding the interpretation of this Agreement, the prevailing party shall, in addition to damages, be entitled to recover reasonable attorney's fees and costs.
- (d) This Agreement may be amended only in a writing signed by both parties.
- (e) This Agreement has been drafted by both parties, and shall not be interpreted in favor of or against either party.
- (f) Any notice required under this Agreement shall be personally delivered or mailed via certified mail to the last known address of the other party.
- (g) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.
- (h) The Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the City of Ridgecrest, State of California, has caused this Agreement to be signed and executed on its behalf by its Mayor or designee, and duly attested by its City Clerk, and the EMPLOYEE has signed and executed this Agreement, both in duplicate, the day and year first above written.

For the City of Ridgecrest:

By: Daniel O. Clark
Daniel O. Clark, Mayor

Employee: [Signature]

[REDACTED]

Attest:

By: Rachel J. Ford, CMC
Rachel Ford, City Clerk

[Seal]