

CITY OF RIDGECREST CITY PLANNER AT-WILL EMPLOYMENT AGREEMENT  
FOR PROFESSIONAL SERVICES

As of the 20<sup>th</sup> day of July, 2006 the City of Ridgecrest, California, (hereinafter "CITY") and [REDACTED] (hereinafter "EMPLOYEE") agree as follows:

**SECTION 1. PURPOSE.**

- A. CITY desires to secure the services of EMPLOYEE to perform the duties of the Office of City Planner as set forth in CITY and State codes.
- B. EMPLOYEE desires to fulfill the duties of the position of City Planner.
- 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.

**SECTION 2. DUTIES.**

- A. EMPLOYEE shall perform the duties of the Office of City Planner as set forth in the Municipal Code of the CITY, and shall perform such other legally permissible and proper duties and functions as shall from time-to-time be assigned.
- B. The City Planner shall take his orders and instructions from the City Manager or his designee. For all intents and purposes, such orders and instructions will come from the Community and Economic Development Director.

**SECTION 3. TERM.**

- A. This Agreement commences on the 22nd day of August, 2006. Salary, benefits and all other items covered within this agreement shall continue for a period of five (5) years from the commencement of this agreement, unless terminated as provided herein. Said original five year term shall be automatically extended for successive one (1) year terms unless notice is given by City Manager on or before May 1 of any given year that the contract will not be extended. If such notice of non-renewal is given by City Manager, 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 4 hereof.
- B. The City Planner serves at the pleasure of the City Manager. There exists no contract for or right to employment; either expressed or implied, with the sole exception of the provisions contained herein. The City Manager may terminate the employment of the EMPLOYEE

with or without cause. Upon such termination, with or without cause, EMPLOYEE'S sole remedy under the laws of the State of California, the laws of these United States, City of Ridgecrest Municipal Code, and this Agreement consists of the provisions contained in Section 4 hereof.

- 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, subject only to the provisions set forth in Section 4 of this Agreement.
- D. EMPLOYEE agrees to remain in the exclusive employ of CITY during the employment term, and neither to accept nor to become employed by another employer until said termination date, unless said termination date is effected as hereinafter provided. Notwithstanding, and at the sole discretion of CITY, EMPLOYEE may accept compensation for occasional outside consulting, writing, or speaking engagements; or while teaching or training; or while serving on the Board of Directors of one or more corporations. Such outside activities or work shall not be inconsistent or incompatible with CITY employment.

#### **SECTION 4. TERMINATION AND SEVERANCE PAY.**

- A. This Agreement shall terminate upon the occurrence of any 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; or
  - 4. Upon decision by City Manager to terminate with or without cause.
- B. If EMPLOYEE is terminated without cause, or in the event EMPLOYEE'S at-will employment is not renewed pursuant to Section 3.A. of this Agreement, CITY shall pay to EMPLOYEE a lump sum cash severance payment equal to the total of EMPLOYEE'S vacation and sick leave accruals, and the then current salary including Cafeteria allowance that he would have been entitled to receive for three (3) months under the terms of this Agreement.
- C. 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 Planner 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 Planner or CITY, 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 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 decision of the City Council shall be binding and without right of appeal. 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, the administrative pay previously paid to EMPLOYEE shall be credited against the severance amount payable under Section 3.B., 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 mid-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.

## **SECTION 5. COMPENSATION.**

- A. CITY shall pay EMPLOYEE initially at Pay Grade 653, Step 7; an annual, base salary of Eighty-four Thousand, and Four Dollars (\$84,004) in installments at the same time as other employees of CITY. EMPLOYEE shall be eligible to receive any salary adjustment that may be granted retroactively to all other mid-management employees effective July 1, 2006.
- B. The City Manager or his designee 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 on July 1<sup>st</sup> of each year beginning on July 1, 2007.
- C. Except as hereinafter provided, EMPLOYEE shall receive such other and further benefits as are accorded other mid-management employees of CITY, including, but not limited to, cost of living adjustments, holidays, and sick and bereavement leaves.

## **SECTION 6. RELOCATION EXPENSES.**

EMPLOYEE expresses his commitment to the City of Ridgecrest by relocating his household to Ridgecrest. CITY shall reimburse EMPLOYEE expenses associated with the relocation of EMPLOYEE'S household to the city. Relocation expenses may include moving company fees, transportation, containers, moving insurance charges, and temporary lodging and temporary storage not to exceed two (2) months. Total reimbursed expenses shall not exceed Twenty-five Hundred Dollars (\$2,500) and are subject to submission of appropriate receipts. Arrangements for relocation and expenditures shall be at EMPLOYEE'S discretion. EMPLOYEE may receive an advance of all or part of this

allowance following commencement of this Agreement. EMPLOYEE shall refund to the CITY any portion of the advanced allowance for which there are not appropriate receipts.

#### **SECTION 7. TEMPORARY AUTOMOBILE AND LODGING EXPENSE.**

CITY recognizes EMPLOYEE will need temporary use of a vehicle during the transition from his former employer to the City of Ridgecrest. The CITY agrees to reimburse EMPLOYEE for the rental of a mid-sized vehicle for his personal use during the first two (2) months following the start date of his employment with the CITY. Reimbursement is subject to the submission of appropriate receipts. Further, EMPLOYEE may continue lodging at the Carriage Inn at the expense of the CITY for no more than two (2) months following the commencement of this Agreement.

#### **SECTION 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.

#### **SECTION 9. VACATION AND SICK LEAVE.**

- A. Initially, EMPLOYEE shall accumulate 3.08 hours of vacation leave each pay period (80 hours annually) and 4.00 hours of sick leave per pay period (104 hours annually). Vacation accrual shall increase as allowed for all other mid-management employees. In recognition of the experience brought to the CITY by the EMPLOYEE, the EMPLOYEE'S leave bank shall be credited with 40 hours of vacation upon commencement of this agreement.
- B. At request of EMPLOYEE, CITY shall pay EMPLOYEE an amount equal to EMPLOYEE'S hourly rate of pay times 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. In the event of the termination or expiration of this Agreement, EMPLOYEE shall be entitled to payment for remaining, unused vacation leave.

**SECTION 10. DUES, SUBSCRIPTIONS, PROFESSIONAL DEVELOPMENT AND TRAVEL.**

- 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, upon submission of appropriate receipts.
- 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.

**SECTION 11. DISABILITY, HEALTH & LIFE INSURANCE, RETIREMENT.**

- A. CITY agrees to provide a cafeteria allowance based on enrollment in PERS major medical, as provided all other mid-management employees. CITY shall pay for EMPLOYEE'S group life insurance equal to one times annual salary. Cafeteria increases will be provided at the level provided other mid-management employees. Worker's Compensation insurance will be provided at no cost to EMPLOYEE.
- B. CITY shall establish a retirement account for EMPLOYEE with the California Public Employees Retirement System (PERS) and pay into the account both the employer and EMPLOYEE shares to the same extent as other mid-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 mid-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 his option and expense, participate in the plan.

**SECTION 12. OTHER TERMS AND CONDITIONS OF EMPLOYMENT.**

- A. The City Manager shall fix any such other terms and conditions of employment, as he 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 mid-management employees of CITY.
- C. EMPLOYEE'S reasonable business expenses will be reimbursed upon submission of appropriate documentation to CITY.

**SECTION 13. GENERAL PROVISIONS.**

- A. This Agreement shall become effective on the 20<sup>TH</sup> day of July, 2006.
- 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.

IN WITNESS WHEREOF, the City of Ridgecrest, State of California, has caused this Agreement to be signed and executed in its behalf by its City Manager, 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.

\_\_\_\_\_  
Harvey M. Rose, City Manager

ATTEST:

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Rita Gable, City Clerk

