

EMPLOYMENT AGREEMENT

This City Manager Employment Agreement (“Agreement”) is between Arroyo Grande (“City”) and **NAME** (“Employee”). It is effective as of **DATE**.

This Agreement is entered into on the basis of the following facts, among others:

- A. The City has a vacancy in the position of City Manager;
- B. The City, through its City Council (“Council”), desires to appoint Employee as the City Manager of City, and Employee desires to accept this appointment; and
- C. The City and Employee desire to establish specific terms and conditions relating to compensation and benefits, performance evaluations, and related matters.

BASED UPON THE FOREGOING, THE CITY AND EMPLOYEE AGREE AS FOLLOWS:

1. Employee Appointed. The City appoints and employs Employee as City Manager, and Employee accepts the appointment and employment effective **DATE**.
2. Duties of Employee. Employee shall perform the duties established for the City Manager by applicable State, local law, the City’s Municipal Code, the City Manager job description as it may be periodically amended, a current copy of which is attached hereto as Exhibit A, the directions of the Council, or as otherwise provided by law, ordinance, or regulation.
 - (a) Full Energy and Skill. Employee shall faithfully, diligently, and to the best of Employee’s abilities, perform all duties that may be required under this Agreement. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to the City. Employee shall devote the whole of Employee’s working time, skill, experience, knowledge, ability, labor, energy, attention, and best effort exclusively to the City’s business and affairs.
 - (b) No Conflict. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Employee’s duties.
 - (c) Outside Activities. Employee shall not spend more than 8 hours per month in teaching, consulting, expert witness testimony, speaking, or other non-City connected business for which compensation is paid without express prior consent of the Council. Employee will take personal leave (i.e. annual leave or management leave) for all outside activities of this nature.
3. Hours of Work. Employee is an exempt employee and is expected to engage in those hours of work that are necessary to fulfill the obligations of the City Manager position. Employee does not have set hours of work, as the City Manager is expected to be available at all times during the City’s customary office hours. It is recognized that the City

Manager must devote a great deal of time to the business of the City outside of the City's customary office hours, and to that end the City Manager's schedule of work each day and week shall vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Council.

4. Term. The initial term of this at-will Agreement shall be for three years from the Effective Date through **DATE** ("Initial Term"), unless terminated earlier by either party in accordance with the provisions set forth in paragraph 6. Unless either party provides notice of non-renewal to the other party on or before one-hundred twenty (120) days prior to expiration of the Initial Term as set forth in paragraph 6(d), the Agreement shall continue in effect until terminated by either party in accordance with the provisions set forth in paragraph 6.

5. Compensation.

(a) Salary. Employee shall receive the base annual salary of Two Hundred Thirty Five Thousand Nine Hundred Dollars (\$235,900.00) payable on a pro-rata basis in the same manner as all full time City employees, and subject to all applicable payroll taxes and withholdings.

(b) Salary Adjustments. In connection with Employee's annual performance evaluations, the Council can decide, in its sole discretion, whether to award Employee any increase in compensation. In addition, the Council has discretion to award Employee increases in compensation at other times deemed appropriate by the Council. Employee shall be eligible to receive the same percentage of cost of living adjustment (COLA) salary increase, if any, awarded to Management Employees. Employee shall receive any such COLA increase on the same date it is provided to Management Employees. Other than a COLA increase, Employee is not eligible to automatically receive any general salary increases or equity compensation adjustments provided to Management Employees or other City bargaining groups. Other than as provided in this paragraph, Employee is not guaranteed any compensation increase, even with a positive evaluation or even if other City employees are provided an increase.

6. Termination and Severance Pay – At-Will Employment / No Property Interest. Employee understands and agrees that Employee has no constitutionally-protected property or other interest in Employee's employment as City Manager. Employee understands and agrees that Employee works at the will and pleasure of the Council, and that Employee may be terminated, or asked to resign, at any time, with or without cause, by a majority vote of three or more of its members.

(a) Termination without Cause

(1) Employee serves at the will and pleasure of the Council and may be terminated with or without cause, with or without advance notice, at any time. Nothing in this Agreement shall in any way affect the Council's right to terminate the employment of Employee with or without cause, with or without advance notice, at any time.

(2) In the event Employee is terminated by the City without cause during the term of this Agreement, at which time Employee is willing and able to perform

Employee's duties under the Agreement, the City shall provide Employee with: (1) six (6) months' salary; and (2) continuation of all existing health benefits currently offered to Employee, for the lesser of six (6) months, until Employee finds other employment, or the remaining months in the term of the Agreement, whichever occurs first. (The salary and benefits shall be referred to collectively as "Severance Pay.") In no event shall the amount of Severance Pay exceed the value of six (6) months' salary plus benefits. The intention is for this section to be interpreted and applied in a manner that is consistent with California Government Code sections 53260 and 53261. Employee's eligibility for Severance Pay is expressly conditioned upon Employee's execution of (i) a waiver and release of any and all of Employee's claims against City and related parties; and (ii) a covenant not to sue, in a form prepared by the City. All normal payroll taxes and withholdings as required by law shall be made with respect to any amounts paid under this paragraph. Employee expressly agrees to provide notice to the City within two (2) business days of accepting employment elsewhere, and the City's obligation to pay for the continuation of any health benefits to Employee shall terminate upon Employee's acceptance of such alternative employment.

(3) Notwithstanding any provisions in this Agreement to the contrary, the City shall not terminate Employee without cause for a period of one hundred twenty (120) calendar days immediately following a general election *unless* (1) the City has cause to terminate under paragraph 6(b)(1) or (2) Employee is convicted for abuse of office or position as defined in Government Code section 53243.4.

(b) Termination for Cause

(1) In the event that it is determined that the Employee has been terminated for cause, the Employee shall not be entitled to any Severance Pay. Termination shall be "for cause" if Employee: (a) willfully breaches this Agreement; (b) habitually neglects their duties as required to be performed under this Agreement; (c) is convicted, or pleads guilty or *nolo contendere*, to any felony or a misdemeanor involving dishonesty or moral turpitude; (d) refuses or fails to act in accordance with any legal directive or order of the Council; or (e) acts in bad faith and to the detriment of the City.

(2) In the event Employee and this Agreement are terminated for cause, Employee's sole remedy shall be a judicial action in declaratory relief to determine whether there was substantial evidence of cause. If the court determines there was not substantial evidence, Employee shall receive the severance pay provided in this Section, but no other damages.

(c) Resignation

(1) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from the City Manager position, subject only to the provisions set forth in this Agreement.

(2) In the event Employee resigns from their position with the City, then Employee shall provide the Council sixty (60) days' advance notice, unless the Parties

agree otherwise. In the event that Employee resigns, Employee shall not be entitled to any Severance Pay, but shall be compensated for accrued wages under the same terms and conditions generally applicable to City employees.

(d) Non-Renewal. In the event either party provides notice of non-renewal in accordance with paragraph 4, Employee shall not be entitled to any Severance Pay, but shall be compensated for accrued wages under the same terms and conditions generally applicable to City employees.

7. Performance Evaluation. The Council will conduct regular periodic performance reviews. On or about the end of the first six months of Employee's employment (based on Council's availability), the Council shall conduct an evaluation of Employee's performance and provide guidance and direction regarding the Council's goals and objectives which Employee shall be tasked with implementing. Thereafter, in or about May of each year (with the first annual review to be conducted in or about May 2025), the Council shall conduct an evaluation of Employee's performance and provide guidance and direction regarding the City's goals and objectives which Employee shall be tasked with implementing. The Council, at more frequent intervals and at times selected by the Council, can also conduct both informal and formal performance reviews and/or provide other input to Employee regarding Employee's job performance in a format chosen by the Council. The Council can also arrange for a 360 review, in a format and at intervals selected by the Council, in order to obtain performance feedback from City staff and the Employee's direct reports.

8. Benefits.

(a) Health and Welfare Benefits. Employee will be eligible for all regular health and welfare benefits provided by the City in accordance with the City as further described in the City's Personnel Policies and Procedures ("Personnel Policies").

(b) CalPERS Retirement Benefits. Employee will participate in CalPERS, with employee and employer contributions in compliance with applicable law, the City's contract with CalPERS, and the City's Personnel Policies.

(c) Deferred Compensation. As part of Employee's annual compensation, City agrees to contribute to a Section 457 deferred compensation plan the amount of Two Thousand, Two Hundred dollars (\$2,200.00) annually, payments to be equally divided in each pay period.

(d) Life Insurance. The City agrees to pay for a term life insurance policy in the face amount of One Hundred and Fifty Thousand Dollars (\$150,000.00) on Employee's life with a carrier selected by the City. Employee shall designate the beneficiaries of the policy. Employee shall also be entitled to participate in any group life or disability insurance programs provided by the City for management employees.

(e) Equipment and Allowance. The City agrees to provide Employee with a portable computer for City business. The City will provide Employee with a monthly cellular telephone allowance in accordance with City policy.

(f) Automobile Allowance. The City shall provide Employee with an automobile allowance of Five Hundred Dollars (\$500.00) per month, added to Employee's wages on a monthly basis as taxable income. This allowance is intended to compensate Employee for all automobile expenses and mileage incurred in connection with the performance of City duties.

9. Leave and Other Benefits. In addition to the benefits specified in paragraph 8, Employee shall receive the following benefits.

(a) Annual Leave; Holidays. Employee shall accrue annual leave in accordance with the policy applicable to Management Employees. At the commencement of employment, Employee is credited with 13 years of service credit and will earn 33 days (264 hours) per year (accrued pro rata on a per pay period basis). Subject to any policy change applicable to Management Employees, once Employee completes two years of service with the City, Employee will be credited with a total of fifteen (15) years of service and shall earn annual leave at the rate of 34 days (272 hours) per year (on a pro rata basis each pay period). Upon the Effective Date of this Agreement, Employee is provided a one-time grant of fifty-six (56) hours of Annual Leave. Use and maximum accrual of Annual Leave are governed by the terms applicable to City Management Employees. Employee is also eligible for paid holidays under the same terms and conditions applicable to Management Employees.

(b) Management Leave. Employee will be provided with forty (40) hours of management leave each calendar year. Hours do not accumulate from year to year. At the beginning of each calendar year, Employee's management leave bank will be replenished to a total of forty (40) hours. At the commencement of their employment, Employee will be provided with a pro rata amount of management leave to use during the remainder of 2024. Any management leave remaining upon separation of employment will not be cashed out.

10. Payment of Expenses of Employment. The City shall pay the following usual and customary employment expenses.

(a) The cost of any fidelity or other bonds required by law for the City.

(b) The cost to defend and indemnify Employee in accordance with the California Government Claims Act (Government Code §810 *et seq.*).

(c) The City will provide a reasonable budget for dues for Employee's full membership in professional organizations associated with the office of City Manager. The City will allow Employee reasonable time away from the City to participate in the annual conferences of these organizations.

(d) Reimbursement for expenses related to travel to and attendance at conferences or other events (i.e. out-of-town meetings, professional seminars, etc.), reasonably necessary for Employee's professional development and the proper discharge of City Manager duties, is governed by the City's expense reimbursement policy.

(e) The City will not reimburse Employee for any expenses related to membership in service clubs.

11. Miscellaneous.

(a) Notices. Notices given under this Agreement shall be in writing and shall be:

- (i) served personally; or
- (ii) delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or
- (iii) Sent by Federal Express, or some equivalent private overnight delivery service.

Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

CITY:

City of Arroyo Grande
Attn: Mayor
300 E. Branch Street
Arroyo Grande, CA 93420
Phone: 805-473-5400

EMPLOYEE:

Name
Address last on file

(b) Compliance with Government Code §§53243, 53243.1, & 53243.2.
If Employee is convicted of a crime involving an abuse of her office or position, all of the following shall apply:

(i) if Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse the City for such amounts paid;

(ii) if the City pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is not generally required to pay for a criminal defense), Employee shall be required to fully reimburse the City such amounts paid; and

(iii) if this Agreement is terminated, any cash settlement related to the termination that Employee may receive from the City shall be fully reimbursed to the City or void if not yet paid to Employee.

For this subsection, "abuse of office or position" means either (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority, or (2) a

crime against public justice, including but not limited to a crime described in Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

(c) Entire Agreement/Amendment. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated, and signed by the parties and attached hereto.

(d) Attorney's Fees. If any legal action or proceeding is brought to enforce or interpret this Agreement, each party shall bear their own attorney's fees, including any such fees and costs as may be incurred in enforcing any judgment or order entered in any such action.

Nothing in this subsection shall be read to prevent the parties from agreeing to some alternative method of dispute resolution. If such a method is agreed to, the parties shall bear their own attorney's fees in pursuing such relief and resolution.

(e) Severability. In the event any portion of this Agreement is declared void, such portion shall be severed from this Agreement and the remaining provisions shall remain in effect, unless the result of such severance would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.

(f) Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

(g) Representation by Counsel. The parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.

(h) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Employee and the City agree that venue for any dispute shall be in San Luis Obispo County, California.

(i) Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

(j) No Assignment. Employee may not assign this Agreement in whole or in part.

[SIGNATURES ON THE FOLLOWING PAGE]

SIGNATURE PAGE TO CITY MANAGER EMPLOYMENT AGREEMENT

Dated: _____

City of Arroyo Grande

Caren Ray Russom, Mayor

Dated: _____

EMPLOYEE

Name

Approved as to Form:

Isaac Rosen, City Attorney

Exhibit “A”

Job Description