

## EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (Agreement) is entered into by and between the CITY OF SAN CLEMENTE (City) and Gary Andrew "Andy" Hall (Hall) as of February 20, 2023 and is made in regard to the following:

1. Employment:

The City hereby employs Hall as the City Manager of the City, and Hall hereby accepts that employment.

2. Duties:

Hall shall perform those duties and have those responsibilities that are commonly assigned to a City Manager of a general law city in California with a city manager form of government, and as are further set forth in the City's Municipal code and related City policies. Hall shall perform such other legally permissible and proper duties and functions consistent with the office of the City Manager, as the City Council shall from time to time assign.

3. Term:

- A. This Agreement shall be effective for three years, starting on February 20, 2023, and shall continue until February 19, 2026, unless earlier terminated in accordance with the terms of this Agreement. On February 19, 2024 and each February 19<sup>th</sup> thereafter, the Agreement shall be automatically extended for one additional year (i.e., on February 19, 2024 the Term of this Agreement shall be extended to continue through February 19, 2027; on February 19, 2025, the Term of this Agreement shall be extended to continue through February 19, 2028, and so on) unless prior to such date, pursuant to a majority vote of the entire City Council in attendance at any lawfully called meeting and pursuant to a City Manager evaluation, the City Council declares its intention not to extend this Agreement for one additional year. Such decision to non-renew shall not constitute a termination for purposes of Subsection 3B or Section 15 of this Agreement.
- B. The City, acting through the City Council with an affirmative vote of not less than three (3) members in attendance at a lawfully called meeting, may terminate Hall's employment without cause or reason, provided that Hall has been given written notice of the meeting and the intention to terminate, with the notice of intention to terminate as part of its agenda at least fifteen (15) calendar days prior to the meeting, with actual notice of termination being given at least thirty (30) calendar days in advance of the effective

date of the termination. In the event of such termination, Hall shall be provided severance pay in accordance with Section 15 hereof.

- C. Hall may resign from his employment as City Manager at any time upon giving thirty (30) calendar days written notice to the City Council during the term of this Agreement.
- D. Notwithstanding any provision in this Agreement to the contrary, the City Council shall not take any action pursuant to paragraph 3B or otherwise to terminate Hall for a period of six (6) months before or after any City Council election, except for "good cause" as defined in Section 15.

4. Devotion to City Business:

Hall's position as City Manager is considered a full-time position. Hall shall not engage in any other business, educational, professional or charitable activities that would conflict or materially interfere with Hall's performance of his City Manager duties.

5. Compensation:

- A. City agrees to pay Hall for services rendered an annual base salary of two-hundred and seventy thousand dollars (\$270,000). Said amount shall be payable in bi-weekly installments at the same time and in the same manner as other City employees are paid. Additionally, at a public, regular meeting of the City Council, the City Council can agendaize as a non-consent item, an amendment to this Agreement increasing the City Manager's base salary above the initial base compensation payable under Section 5A.
- B. In addition to base salary, City agrees to provide a Section 457 deferred compensation program for Hall, which will be administered by the City's deferred compensation provider, and to pay the legal maximum per year into such program for Hall's benefit. This amount shall be paid in monthly installments at the same time and in the same manner as other City employees' deferred compensation payments are made.

6. Performance Evaluation:

The City Council shall evaluate Hall's performance annually. Hall will be provided a written performance evaluation in closed session of a regular or special City Council meeting. The City Council shall decide what materials from the evaluation, if any, will be included in Hall's personnel file.

7. Retirement Benefits:

City agrees to keep Hall enrolled as a member of the City's CalPERS retirement plan. City shall pay for City's portion (employer's portion). Hall shall pay the same percentage of the "employee's portion" as all other "classic employees" in the City's Executive Group.

8. Health, Medical, Dental, and Vision Benefits Insurance:

City shall provide Hall with the same health, medical, dental, and vision benefits plan or plans which are provided other City employees, and City shall pay for Hall's premiums up to the Family Coverage premium rates for medical, dental and vision coverage. Hall shall have the option of electing out of this insurance coverage and receiving the cash equivalent of the employee-only.

9. Life Insurance:

City agrees to provide Hall with a term life insurance policy of five hundred thousand dollars (\$500,000) on Hall's life, with a beneficiary to be named by Hall. City agrees to pay the premiums for that policy. Hall shall also be entitled to participate in any group life insurance program approved by the City Council for all employees.

10. Allowances and Equipment:

- A. City shall provide Hall with a Six-Hundred Dollar (\$600) per month automobile allowance, payable in bi-weekly installments at the same time and in the same manner as other employees who receive automobile allowances.
- B. City shall reimburse Hall the monthly City cost of a "smart phone" or provide a "smart phone" for Hall's use.
- C. City shall provide Hall with a City-owned laptop computer, tablet, or iPad with access to the City's computer system and the Internet, for use at his residence, primarily for conducting City business; provided, however, that it is expressly understood that the equipment may be subject to personal use by Hall, so long as it does not interfere with its primary use.

11. Professional and City Business Expenses:

- A. City agrees to pay the professional dues and subscriptions on behalf of Hall which are necessary for Hall's continuation or full participation in international, national, regional, state, or local associations and organizations necessary and desirable for Hall's professional participation, growth, or for the good of the City.

Furthermore, the City shall budget and pay for the professional dues and subscriptions to such additional organizations as may be approved by the City Council.

- B. City agrees to pay the business travel and subsistence expenses of Hall for official travel and attendance at meetings and occasions reasonably adequate to continue the professional development of Hall, and for Hall's reasonable pursuit of necessary official and other functions for the City; including, but not limited to, national, regional, state, and local conferences, community events, governmental groups and committees upon which Hall serves as a member. Notwithstanding the above, the number of conferences or meetings City will pay for each year and attendance at out-of-state conferences and meetings shall be at the discretion of the City Council as set forth in the City's budget.

12. Leave: Hall shall be entitled to the following paid leave:

- A. Vacation leave: Vacation leave shall accrue based on years of service, as follows:

- i) 0-3 Years: 140 hours
- ii) 4-9 Years: 160 hours
- iii) 10+ Years: 180 hours

Maximum vacation leave accrual shall be 2.5x annually. Hall may cash out 5 days/year up to 60 hours if he maintains a minimum accrual of 100 hours. After 15 years of City service, Hall may cash out up to 68 hours per year if he maintains a minimum accrual of 100 hours. Hall's accrual of vacation leave shall be consistent with that provided by policy to other eligible City Executive Group employees. Hall may use this leave in accordance with the terms of the City's generally applicable employment policy governing vacation. Upon commencement of employment, forty (40) hours will be credited to Hall's vacation leave bank.

- B. Administrative leave: Hall shall receive 96 hours of administrative leave annually with 48 hours credited on January 1st and 48 hours credited on July 1<sup>st</sup> of each year. Unused administrative leave may not be carried over at the end of the fiscal year. Any administrative leave remaining unused at the end of each calendar year shall be placed into a Retirement Health Savings Plan according to City rules and any remaining balance paid out in cash (non-pensionable wages).

- C. Sick leave: Hall shall accrue sick leave of 8 hours/month (3.69 hours/pay period) with no cap on accrual. Sick leave may not be cashed out.

Hall shall also accrue special sick leave of 24 hours/year for immediate family during his first year of service. Thereafter special sick leave shall accrue at 2 hours/month of service until accrual reaches the maximum of 24 hours/year. Special sick leave shall be forfeited if unused by the last day of each calendar year.

Hall's accrual of sick leave shall be consistent with that provided by policy to other eligible City Executive Group employees, based on years of service. Hall may use this time in accordance with the terms of the City's generally applicable employment policy governing sick leave. Upon commencement of employment, eighty (80) hours will be credited to Hall's sick leave bank.

13. Short and Long-Term Disability Insurance:

City shall provide Hall with the same State Disability Insurance (SDI) and long-term disability insurance provided to full-time employees, with premiums paid by the City.

14. Additional Benefits:

- A. In addition to those benefits set forth in this Agreement, City shall provide Hall with all other benefits provided to the City's Department Heads.
- B. Hall shall be eligible to participate in the City's RHS program in the same manner as the City's Department Heads.

15. Acts Entitling Hall to Severance Compensation:

In the event this Agreement is terminated by the City Council for any reason other than for good cause, Hall shall be entitled to a lump sum payment in an amount equal to the sum of nine (9) months of his base pay, as adjusted from time to time as provided in Section 5 above, or the remainder of the term of the Agreement, whichever is less. This severance shall be independent of any other form of severance provided by the City's joint powers insurance authority or other carrier. Hall shall be entitled to continuation of his group medical, dental, and vision insurance benefits, as required under COBRA for the same period as severance payments are made. All COBRA premiums and costs shall be paid by Hall. "Good Cause" in this Agreement means a material breach of this Agreement, misappropriation of public funds, malfeasance in office, conviction of a felony or a crime involving moral turpitude as determined by a court of

competent jurisdiction, or a nolo contendere plea to any felony which adversely impacts his reputation or that of the City, or any such crime.

16. Provisions of Government Code Sections 53243-53244:

- A. In the event that the City provides paid leave to Hall pending an investigation of a crime involving abuse of his office or position covered by Government Code section 53243.4 and should that investigation lead to a conviction, Hall shall fully reimburse the City for any salary provided for that purpose.
- B. In the event that the City provides funds for the legal criminal defense of Hall pending an investigation of a crime involving abuse of his office or position covered by Government Code section 53243.4 and should that investigation lead to a conviction, Hall shall fully reimburse the City for any funds provided for that purpose.
- C. In the event that the City provides a cash settlement related to the termination of Hall as defined in the terms of this Agreement and Hall subsequently is convicted of a crime involving abuse of his office or position covered by Government Code section 53243.4, Hall shall fully reimburse the City for any funds provided for that purpose.
- D. If Hall is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of, or in the performance of, his official duties, Hall shall forfeit any contract right or other common law, constitutional, or statutory claim against the City to retirement or pension benefits, however those benefits may be characterized, including lost compensation other than accrued rights and benefits to which he may be entitled under any public retirement system in which he is a member. The forfeiture provided herein shall be in addition to, and independent of any forfeiture of public retirement system rights and benefits pursuant to Government Code section 7522.74. Hall shall notify the City of any conviction within sixty (60) days of the felony conviction.

17. Enforcement of this Agreement:

The prevailing party in any action brought to enforce this Agreement or resolve any dispute or controversy arising under the terms and conditions hereof shall be entitled to payment of reasonable attorney fees.

18. Notices:

Any notices to be given hereunder by either party to the other in writing may be effected either by personal delivery or by US Mail. Mailed notices shall be addressed to the parties as set forth below, but each party may change its address by written notice given in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and receive as of five (5) calendar days following the date of mailing:

City: City of San Clemente  
Attention: Mayor  
910 Calle Negocio  
San Clemente, CA 92672

Hall: Andy Hall  
at the home address then shown in Employer's files

19. Entire Agreement:

This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Hall by City, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding upon either party.

20. Modifications:

Any modifications to this Agreement shall be effective only if in writing and signed by both of the parties hereto.

21. Effect of Waiver:

The failure of either party to insist upon strict compliance with any of the terms, covenants or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

22. Partial Invalidity:


If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

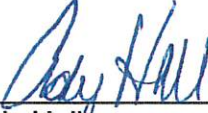
23. Governing Law:

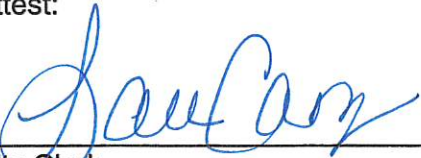
This Agreement shall be governed by and construed in accordance with the laws of the State of California.

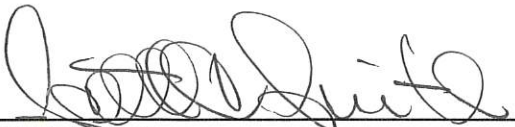
This Agreement is entered into as of the date first set forth above.

CITY OF SAN CLEMENTE

By:   
Chris Duncan, Mayor

  
Andy Hall

Attest:  
  
City Clerk

Approved as to Form:  
  
City Attorney