



CITY OF ESCONDIDO
AT WILL EMPLOYMENT AGREEMENT

Between: CITY OF ESCONDIDO
201 N. Broadway
Escondido, California 92025
("Employer")

And: Jeffrey R. Epp
1467 Rimrock Drive
Escondido, CA 92027
("Employee")

Witness that whereas:

- A. Employer and Employee wish to enter into an Agreement providing for Employee to serve as the City Manager for the City of Escondido, as provided by the California Government Code and Chapter 2, Article 3 of the Escondido Municipal Code; and
- B. Employee has been employed by Employer pursuant to previous contracts, more recently as Interim City Manager since March 8, 2017. It is the mutual intent of the parties to replace all prior agreements with this new Agreement effective May 10, 2017; and
- C. It is the desire of the Employer to provide certain benefits and establish certain conditions of employment of the Employee for the purpose of securing and retaining the services of the Employee;
- D. Employee desires to be employed as the City Manager for the City of Escondido.

NOW THEREFORE, in consideration of the mutual covenants set forth below, the parties agree as follows:

SECTION 1. Duties.

Employer employs Employee as the City Manager of the City of Escondido to perform the functions and duties specified by law and in the Escondido Municipal Code, and to perform such other legally permissible and proper duties and functions as the Council shall from time to time assign. It is acknowledged by Employer and Employee that, as provided in Escondido Municipal Code Sections 2-49 and 2-50, the City Manager takes direction from the Council as a whole, provided that the Council may expressly authorize a Council subcommittee, the Mayor, or other council member to give direction on particular matters and such subcommittee, the Mayor, or council member may give direction to the City Manager within the scope of such Council authorization. Employer and Employee understand that no such direction from the Council shall be contrary to or in violation of law or applicable City Manager Code of Professional Responsibility. With respect to such authorizations the Council acts only through duly enacted resolutions, ordinances, or minute action.

SECTION 2. Term.

(a) This Agreement shall be effective as of May 10, 2017, and may be terminated by either party for any reason at their sole discretion by providing ninety (90) days advance written notice to the other.

(b) Employee understands that he is an "at will" employee under controlling law and is "at will" serving at the pleasure of the Council pursuant to Chapter 2, Article 3 of the Escondido Municipal Code. Nothing in this Agreement is intended to, nor shall it, prevent, limit or otherwise interfere with the right of the Employer, in the Employer's discretion, to terminate the services of Employee at any time in accordance with said laws and the provisions of this Agreement.

SECTION 3. Salary.

(a) Employer will pay Employee a base salary of \$286,000.00 per year ("Salary"). Such Salary shall be payable at the time as other employees of the Employer are paid.

(b) Employer may from time to time adjust the Salary and/or other benefits of Employee in such amounts and to such extent as the City Council may determine is appropriate, taking into account the City's budgetary needs, its financial resources, and such other factors as the Council may determine to be relevant at the time, provided that no decrease shall be made that is any different than is made to unclassified City employees generally.

(c) In addition to such Salary, Employee shall receive the benefits identified in Exhibit "A" attached hereto and incorporated herein by this reference. The 7% deferred compensation contribution shall be payable by the Employer directly to the Employer's 401K or 457 plan for the benefit of the Employee. Employee shall further be entitled to all benefits provided to other management employees generally.

(d) The Employer will continue to pay the California State Bar dues on behalf of Employee.

SECTION 4. Management Leave.

In addition to Employee's entitlement to holiday and vacation leave on the same basis as is available to other management employees generally in accordance with Section 3 of this Agreement, Employee shall be entitled to twenty (20) days of management leave annually. Management leave granted pursuant to this provision shall be in lieu of any other management leave available to members of the City management team generally.

SECTION 5. Conversion of Unused Leave Time to Salary.

In addition to any other provision of the City Code or this Agreement authorizing conversion of unused leave time to salary, Employee shall be entitled, as he may determine at his sole discretion, to convert up to fifteen (15) days of unused leave time (whether vacation, management or reserve time leave) each year during the term of this Agreement to salary. Employee shall exercise his right to convert leave time to salary by giving notice in writing to the payroll staff stating the number of days of leave time, if any, which shall be converted to salary. Such notice shall be given between July 1st and October 1st for each year for the term of this Agreement. Employer shall pay the Employee the salary equivalent of the leave time, if any, so converted within thirty (30) days of delivery of such notice.

SECTION 6. Evaluation.

The City Council may review and evaluate the performance of the City Manager on a regular basis. Normally, a review and evaluation may occur on an annual schedule and pursuant to an evaluation form developed by the City Council. Copies of any written evaluation will be provided to the City Manager and he shall be given an opportunity to discuss his evaluation with the City Council.

SECTION 7. Dispute Resolution.

(a) Informal Meet and Confer.

The parties agree to meet and confer informally as the first step towards resolution of any dispute between them arising out of or related to this Agreement. The Council may be represented by a representative of its choosing, and Employee may be represented as well.

(b) Council Resolution.

If the parties are unable to resolve the matter informally through meet and confer, the matter shall be submitted to the Council for final resolution at a meeting to be held by the Council within 30 days of submittal, and the Council shall promptly make a final decision, unless Employee and the Council mutually agree to a longer period.

(c) Litigation.

Neither party shall commence any litigation, arbitration, or other formal dispute resolution process until the above referenced informal meet and confer session and final Council determination have occurred.

SECTION 8. General Provisions.

(a) Governing Law.

This Agreement shall be interpreted and enforced in conformance with California law.

(b) Entire Agreement.

This Agreement together with the exhibits represents the entire Agreement between the parties and supersedes any prior agreements, written or oral, and any representations, written or oral, not expressly included herein.

(c) Venue.

The venue for any litigation to interpret or enforce this Agreement shall be the San Diego Superior Court, Vista Division.

(d) Integration Clause.

If any part, provision, paragraph or subparagraph of this Agreement shall be held to be void or unenforceable by a final judgment of a court of competent jurisdiction, then unless that provision is found in such proceeding to be material to this Agreement, said void or unenforceable provision shall be severed from this Agreement and the balance of this Agreement shall remain in full force and effect. In the event that the void or unenforceable provision is found to be material to this Agreement then the entire Agreement shall be voided.

(e) Attorneys Fees.

The prevailing party in any litigation to interpret or enforce this Agreement shall be entitled to recover his or its attorneys fees in addition to costs.

(f) Independent Review: Interpretation.

Employer and Employee affirm in signing this Agreement that they have each had an opportunity to review and consider this Agreement, and to have it reviewed and to receive advice from independent advisors of their own choosing, including attorneys, and that each knowingly and voluntarily enters into this Agreement. Employer and Employee further affirm that this Agreement was the mutual product of their negotiations, including give and take, and that neither party shall be considered the drafter of this Agreement such that the Agreement is interpreted against that party.

IN WITNESS WHEREOF, the City of Escondido has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk as authorized by Resolution No. 2017-70, and Employee has signed and executed this Agreement set forth below.

CITY OF ESCONDIDO

Date: 5-11-17



Sam Abed
Mayor

Date: 5-11-17



Diane Halverson
City Clerk

Date: 5-16-17



Jeffrey R. Epp
Employee

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
Michael R. McGuinness, City Attorney

By: 

Exhibit "A"

Auto Allowance	\$750.00 per month
Contribution to City's Deferred Compensation Plan	7% of base salary
Life Insurance	Two times salary
Long Term Disability	Same as management
Worker's Compensation	Per State Law
Health and Dental Coverage	Same as management
Vacation	Same as management
Sick Leave	Same as management