

RESOLUTION NO. 24-4795

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA, APPOINTING JUSTIN CLIFTON AS ACTING CITY MANAGER EFFECTIVE NOVEMBER 22, 2024 AND APPROVING A CITY MANAGER EMPLOYMENT AGREEMENT WITH JUSTIN CLIFTON AND APPOINTING HIM AS PERMANENT CITY MANAGER EFFECTIVE JANUARY 12, 2025

WHEREAS, it is the desire of the City Council of the City of Murrieta (hereinafter the "Council") to employ an individual to serve in the position of City Manager, which position is prescribed by state law and the City's Municipal Code; and

WHEREAS, California Government Code Section 34852 provides that an ordinance establishing a City Manager form of government shall define the powers and duties of the City Manager; and

WHEREAS, the powers and duties of the City Manager of the City are set forth at Murrieta Municipal Code ("MMC") Section 2.08.060; and

WHEREAS, the City's current City Manager has announced her retirement effective January 11, 2025; and

WHEREAS, based on Justin Clifton's executive and administrative qualifications and ability, the City Council desires to employ Mr. Clifton to serve as the City's permanent City Manager beginning effective January 12, 2025; and

WHEREAS, the City's current City Manager will be on leave beginning November 22, 2024 through her retirement, such that there is a need for an Acting City Manager between November 22, 2024 and January 11, 2025; and

WHEREAS, Mr. Clifton desires to perform and assume responsibility for the provision of City Manager services to the City, as Acting City Manager beginning November 22, 2024 and as the City's permanent City Manager beginning January 12, 2025; and

WHEREAS, the parties wish to establish the terms and conditions of Employee's provision of City Manager professional services as the City's permanent City Manager through the attached Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Effective November 22, 2024 through January 11, 2025 Justin Clifton shall be appointed to be the City's Acting City Manager. Mr. Clifton's base compensation as Acting

City Manager will be at the rate of \$341,712.80 annually. While serving as Acting City Manager, Mr. Clifton's benefits shall remain consistent with his current benefits as Assistant City Manager.

Section 3. Justin Clifton shall be appointed to be the permanent City Manager of the City of Murrieta effective January 12, 2025. Mr. Clifton's base salary as City Manager will initially be \$341,712.80 annually. The Employment Agreement between the City and Mr. Clifton, attached hereto as Exhibit A, is hereby approved. The Mayor is authorized to execute the employment agreement on behalf of the City.

Section 4. This resolution shall be effective upon its adoption.

PASSED, APPROVED, AND ADOPTED this 19th day of November 2024, by the City Council of the City of Murrieta, State of California.

Lori Stone, Mayor

ATTEST:

Cristal McDonald, City Clerk

APPROVED AS TO FORM:

Tiffany Israel, City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF MURRIETA)

I, Cristal McDonald, City Clerk of the City of Murrieta, California, do hereby certify that the foregoing Resolution No. 24-4795 was duly adopted by the City Council of the City of Murrieta at the regular meeting thereof, held on the 19th day of November, 2024, and was signed by the mayor of the said City, and that the same was passed and adopted by the following vote:

AYES:

NOES:

ABSENT

ABSTAIN:

Cristal McDonald, City Clerk

Exhibit A

Exhibit “A” to Resolution No. 24-4795

CITY OF MURRIETA

CITY MANAGER EMPLOYMENT AGREEMENT

This CITY MANAGER EMPLOYMENT AGREEMENT (“Agreement”) is entered into and made effective the 12th day of January, 2025 (“Effective Date”) by and between the CITY OF MURRIETA, a general law city and municipal corporation (“City”) and JUSTIN CLIFTON, an individual (“Employee”).

RECITALS

WHEREAS, it is the desire of the City Council of the City of Murrieta (hereinafter the "City Council") to employ an individual to serve in the position of City Manager, which position is prescribed by state law and the City’s Municipal Code; and

WHEREAS, California Government Code Section 34852 provides that an ordinance establishing a City Manager form of government shall define the powers and duties of the City Manager; and

WHEREAS, the powers and duties of the City Manager of the City are set forth at Murrieta Municipal Code (“MMC”) Section 2.08.060; and

WHEREAS, the City’s current City Manager has announced her retirement effective January 10, 2025; and

WHEREAS, based on Employee’s executive and administrative qualifications and ability, the City Council desires to employ Employee to serve as the City’s City Manager beginning effective January 12, 2025; and

WHEREAS, Employee desires to perform and assume responsibility for the provision of City Manager services to the City; and

WHEREAS, the parties wish to establish the terms and conditions of Employee’s provision of City Manager professional services to the City through this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and Employee hereby agree as follows:

AGREEMENT

1.0 EMPLOYMENT, DUTIES & COMMITMENTS

1.1 Duties. City hereby employs Employee as City Manager for the City, to serve as the chief executive officer of the City and be responsible to the City Council for the proper administration of all affairs of the City. Employee shall perform all of the duties of the City

Manager as set forth in the job description attached hereto as Exhibit "A," Chapter 2.08 of the Murrieta Municipal Code (the "Municipal Code"), the California Government Code, City policies and procedures approved by the City Council as may be provided from time to time, and other legally permissible and proper duties and functions as the City Council shall from time to time assign. The City Council may also designate the City Manager as the chief executive of other City-related legal entities. Such other legal entities could include a redevelopment successor agency, financing authorities, and joint powers authorities. Employee shall devote his best efforts and full-time attention to performance of these duties as City Manager. The parties acknowledge that Murrieta Municipal Code Section 2.08.070 sets forth the municipal code expectations and requirements for city council relations with the City Manager.

1.2 Work Schedule. It is recognized that Employee is expected to engage in the hours of work that are necessary to fulfill the obligations of the position, must be available at all times, and must devote a great deal of time outside the normal office hours to the business of the City. Employee acknowledges that proper performance of the duties of City Manager will require Employee to generally observe normal business hours consistent with a regular work schedule made available for other City employees (including a 4/10 schedule), as set by the City Council and may be duly revised from time-to-time, and will also often require the performance of necessary services outside of normal business hours. Notwithstanding the foregoing, the City will permit Employee such reasonable "time off" as is customary for exempt employees of the City, so long as the time off does not interfere with normal business. Employee's compensation (whether salary or benefits or other allowances) is not based on hours worked, and Employee shall not be entitled to any compensation for overtime.

1.3 Other Activities. Employee shall focus his professional time, ability, and attention to City business during the term of this Agreement. Employee shall not engage, without the express prior written consent of the City Council, in any other business duties or pursuits whatsoever, or directly or indirectly render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, that is or may be competitive with the City, that might cause a conflict-of-interest with the City, or that otherwise might interfere with the business or operation of the City or the satisfactory performance of the functions and duties of City Manager.

1.4 Employment Status. Employee shall serve at the will and pleasure of the City Council and understands that he shall be an "at-will" employee without recourse to bumping or other demotion rights and shall be subject to summary dismissal without any right of notice or hearing except as expressly provided in this Agreement, including any so-called due process pre-disciplinary "Skelly" meeting. The City may terminate Employee at any time in accordance with Section 3.4 below.

1.5 City Documents. All data, studies, reports and other documents prepared by Employee while performing his duties during the term of this Agreement shall be furnished to and become the property of the City, without restriction or limitation on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Employee in connection with the performance of this Agreement shall be held confidential by Employee to the extent permitted by applicable law, except as may be required by any governmental agency or court of competent jurisdiction. Such materials shall not be used by Employee, without the prior written consent of the City Council, for any purposes other than the

performance of his duties. Additionally, no such materials may be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by (a) law, (b) any governmental agency, (c) subpoena, or (d) an order issued by a court of competent jurisdiction.

1.6 Exclusion from Personnel System. Employee understands, acknowledges and agrees that he is exempt from the City's personnel system pursuant to Municipal Code section 2.68.030(A).

1.7 FLSA Exempt Status. Employee agrees that his position is that of an exempt employee for the purposes of the Fair Labor Standards Act ("FLSA").

2.0 COMPENSATION

2.1 Compensation. For the services rendered pursuant to this Agreement, Employee's base compensation as of the Effective Date shall be Three Hundred Forty-One Thousand Seven Hundred Twelve Dollars and Eighty Cents (\$341,712.80) annually ("Salary"), which shall be paid on a pro-rated basis at the same intervals and in the same manner as other employees of the City are paid. Such Salary shall be adjusted for payroll taxes and other payroll-related liability costs as determined by the City.

2.2 Cost of Living Increases. Employee shall be entitled to receive a cost of living salary increase equal to that of other management employees. In addition, the City agrees to increase Employee's base salary and/or other benefits in such amounts and to such extent as the City Council may determine desirable on the basis of an annual performance review of Employee, as provided in Section 5.2.

2.3 Minimum Annual Base Salary. The annual base salary of Employee shall be at least five percent (5%) higher than the annual base salary of the City's next-highest paid employee.

3.0 TERM

3.1 Commencement. Employee shall commence his services as the City's City Manager hereunder at 12:01 a.m. Pacific daylight savings time on January 12, 2025 or such earlier date upon which the City Council and Employee may mutually agree, in either event such date will also be deemed the effective date of this Agreement ("Effective Date").

3.2 Term. This Agreement shall remain in effect for three (3) years from January 12, 2025, i.e. until January 11, 2028.

3.3 Termination by Employee. Employee may terminate this Agreement at any time, provided Employee provides the City Council with at least ninety (90) days' advance written notice prior to the effective date of termination in the event of resignation, unless a shorter period is acceptable to Council. In the event Employee voluntarily retires from service with the City, Employee shall provide no less than six (6) months written notice to the City. In the event Employee terminates this Agreement, Employee expressly agrees that he shall not be entitled to any severance pay.

3.4 Termination by City. The City Council may terminate this Agreement at any time with or without cause, by providing written notice of the reasons(s). The City Council's right to terminate Employee pursuant to this Section 3.4 shall not be subject to or in any way limited by the City's Municipal Code, Personnel Rules or past City practices related to the employment, discipline or termination of the City's employees. Nothing herein, however, shall be construed to create a property interest, where one does not exist by rule of law, in the position of City Manager. Upon appointment to the City Manager position, Employee remains an at-will employee serving at the pleasure of the City Council.

(a) Termination by City for Cause. The City may terminate this Agreement for cause at any time by providing Employee with five (5) business days' written notice of the termination for cause and the facts and grounds constituting such cause. In such event, City shall, if desired by Employee, afford Employee a public name-clearing hearing before Council. Request for a name clearing hearing shall be made to the City Clerk within seven (7) days of Employee's receipt of notice of termination. For purposes of this Agreement, the term "cause" shall be defined to include any misconduct materially related to performance of official duties, including but not be limited to any of the following: (1) breach of this Agreement; (2) violation of the City's Municipal Code, Ordinances, Rules, and Regulations, including but not limited to the City's Personnel Rules; (3) willful or persistent material breach or neglect of duties; (4) résumé fraud or other acts of material dishonesty; (5) corrupt or willful misconduct in office; (6) conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality) or conviction of a felony under California law; (7) willful destruction or misuse of City property; (8) habitual intoxication while on duty, whether by alcohol, prescription or non-prescription drugs, and in the case of prescription drugs, where they are being used in a manner not authorized by Employee's treating physician; (9) use or possession of illegal drugs; (10) inexcusable absence without an authorized leave of absence that impairs regular City business; (11) theft or attempted theft; (12) financial mismanagement; (13) material dishonesty; (14) willful violation of Federal, State or City discrimination and harassment laws concerning either members of the general public or City's employee(s) while acting in the course and scope of employment and/or while on City premises or time; (15) willful and unlawful retaliation against any City officer or employee or member of the general public who in good faith reports, discloses, divulges or otherwise brings to the attention of any appropriate authority any facts or information relative to actual or suspected violations of any law occurring on the job or related directly thereto; (16) willful violation of any conflict of interest or incompatibility of office laws; (17) performance of material outside business interests that conflict directly with the activities and duties as City Manager, but not including educational or professional training programs conducted by Employee whether for personal financial gain or not; (18) refusal to take or subscribe to any oath or affirmation which is required by law; (19) engaging in conduct that brings substantial embarrassment or disrepute to City;) (20) "abuse of office or position" as defined in Government Code §53243.4 (i.e., waste, fraud, and violation of the law under color of authority and crimes against public justice, including crimes involving bribery and corruption); or (21) any similar cause. For any of the foregoing, the City may, in its discretion, place Employee on paid or unpaid administrative leave until resolution. If the City terminates for cause this Agreement and the services of Employee hereunder, then the City shall have no obligation to pay severance.

(b) Termination by City Council Without Cause. The City Council may terminate Employee at any time without cause but rather based upon management reasons, including but not limited to: (i) change of administration, or (ii) incompatibility of management styles. In the event Employee is terminated without cause, Employee expressly agrees that he shall

not be entitled to any severance pay as the result of the termination of this Agreement except as provided in Section 4.1 below.

3.5 Limitation on Termination. In accordance with MMC Section 2.08.140, Employee shall not be terminated without cause during or within a period of ninety (90) days next succeeding any general municipal election held in the city at which election a member of the City Council is elected. Additionally, Employee shall not be removed without cause during the sixty (60) day period preceding a City election for membership on the City Council.

3.6 Waiver of Certain Discipline and Termination Rights. Employee expressly waives any rights afforded under City's personnel system or policies, and any rights afforded to Employee under the Municipal Code (including Chapter 2.08) or under State or Federal law, including Government Code §§ 54950 *et seq.* ("Brown Act"), to any form of pre- or post-discipline or termination hearing, appeal, or other administrative process pertaining to discipline or termination, except those rights Employee may have under the California or United States constitutions to a name-clearing hearing. Such rights waived under this Section 3.6 include the right under the Brown Act (Government Code §54957(b)) to have complaints or charges against an employee heard in a public session upon Employee's request.

4.0 SEVERANCE

4.1 Severance Pay. If the Council i) terminates Employee without cause and Employee does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim; ii) materially breaches this Agreement; or iii) materially changes the powers of the position of City Manager (not including changes to the City Manager job description or assignment of duties to Employee that are generally consistent with the role of City Manager), then City shall pay to Employee severance in an amount equal to his monthly base salary (calculated by dividing the annual Salary as defined in Section 2 above by 12) then in effect multiplied by twelve (12), less applicable deductions and excluding deferred compensation or the value of any other benefits.

Notwithstanding the foregoing, Government Code Section 53260 provides that all contracts of employment with a city must include a provision limiting the maximum cash settlement for the termination of the contract to the monthly salary (excluding benefits) multiplied by the number of months left on the unexpired term, but not more than 18 months if the unexpired term exceeds 18 months. Accordingly, should such proposed severance payment exceed the amount authorized to be paid under Government Code Section 53260, then the amount paid to Employee shall be reduced in the amount necessary to comply with such statute. (For example, if termination occurs with two (2) months left in the term, severance would be equal to the monthly base salary multiplied by two (2) rather than the twelve (12) months provided in this Section.)

4.2 No Severance Pay if Termination for Cause or Initiated by Employee. As provided in Section 3.4(a), should Employee be terminated for cause, the City shall have no obligation to pay the severance provided for in Section 4.1 above. As provided in Section 3.3, should Employee initiate termination of this Agreement, the City shall have no obligation to pay the severance provided for in Section 4.1 above. Additionally, the City shall have no obligation to pay severance in the event it elects to not extend the term of this Agreement.

4.3 Sole Rights. The severance rights provided in this Section 4.0 shall constitute the sole and only entitlement of Employee with respect to severance pay in the event of

the termination, other than for cause. Employee expressly waives any and all other rights with respect to severance pay except as provided herein. Any and all severance rights are conditioned upon and in consideration for execution of the standard “Agreement of Separation, Severance, and General Release” attached hereto in form only as Exhibit “C.” In the event Employee challenges his termination or declines to execute or revokes the general release of claims, no severance payment shall be made under this Article 4.0.

5.0 PERFORMANCE EVALUATIONS

5.1 Purpose. The performance review and evaluation process set forth herein is intended to provide review and feedback to Employee so as to facilitate a more effective management of the City. Nothing herein shall be deemed to alter or change the employment status of Employee (as set forth in Section 1.4 above), nor shall this Section 5.0 be construed as requiring “cause” to terminate this Agreement, or the services of Employee hereunder.

5.2 Process. In accordance with the City Council City Manager Performance Review Policy, the City Council shall conduct an evaluation of Employee’s performance at least once each year. The City Council and Employee agree that performance evaluations, for the purpose of mid-course corrections, may occur semi-annually or more often during each calendar-year. The Parties may use an outside facilitator paid by City funds to assist them in conducting this evaluation, at the option of the City Council. The City Council may, at its discretion, schedule at least one (1) closed personnel session with Employee to deliver and discuss the evaluation.

5.3 Timing. While performance evaluations for the purpose of mid-course corrections may occur several times during the year, the annual evaluation shall occur at a time determined by the City Council, with input from Employee, at approximately the anniversary date of Employee’s commencement of employment as City Manager. During such performance evaluation, Employee and City Council will create goals or other outcome measures that will provide the basis for determining the next year's performance.

5.4 Defining Goals. The City Council and Employee shall define such goals and performance objectives as they mutually determine are necessary for the proper operation of the City for the attainment of the City Council's policy objectives, and to the greatest extent possible, the goals and performance objectives will have clearly defined outcomes and/or measurable results. The City Council and Employee shall further establish a relative priority among those goals and performance objectives.

6.0 BENEFITS

6.1 Equipment and Cell Phone Allowance. The City shall provide a computer, laptop computer, high-speed internet access, cellular phone, and similar communication devices to Employee at the City's expense, both at the City Manager's office and, with the consent of the City Council, at Employee’s residence. Employee shall receive a \$70 a month allowance for cell phone expenses.

6.2 Holidays. Employee is entitled to the same scheduled holidays and floating holidays per calendar year as provided to the at-will executive management employees of the City.

6.3 Annual Leave. Employee shall receive the same annual leave accrual as provided to the at-will executive management employees of the City, not to exceed a maximum of 1,000 hours on the books. In the event of termination or resignation from employment, Employee will be entitled to compensation for 100% of accumulated and unused annual leave up to the maximum accrual limit.

6.4 Administrative Leave. Employee shall receive the same administrative leave accrual as provided to the at-will executive management employees of the City, which is 120 hours of administrative leave per complete year of employment accrued per pay period (at a rate of 4.6153 hours per pay period). Employee may accumulate administrative leave not to exceed a maximum of 240 hours and may sell back 50% each June in accordance with the Management, Professional, and Confidential Employees Compensation Plan. In the event of termination or resignation from employment, Employee will be entitled to compensation for 100% of accumulated administrative leave up to the maximum accrual limit in accordance with the Management, Professional, and Confidential Employees Compensation Plan.

6.5 Automobile Allowance. The City shall provide an automobile allowance of six hundred dollars (\$600.00) per month. Such allowance shall cease immediately upon termination or resignation of Employee's employment.

6.6 PERS. Employee is a "new" miscellaneous member of CalPERS as defined under the California Public Employees' Pension Reform Act ("PEPRA") and shall participate in the City's 2% at 62 formula. The City shall pay the full employer CalPERS contribution. The employee contribution required for "new" miscellaneous members, which is currently 8.0 %, shall be paid by Employee.

6.7 Health Care Benefits and Life Insurance. The City shall pay one hundred percent (100%) of the premium for group medical and dental care for Employee and dependents, and pay the cost pertaining to a term life insurance policy in an amount two times the amount of Employee's annual base salary up to a coverage maximum of \$800,000.

6.8 Health Care Benefits After Separation. Provided Employee retires from the City, Employee shall be entitled to retiree health benefits as provided to the at-will executive management employees of the City, based on date of hire.

6.9 Elective Leave Cash Out Procedure. For the purpose of complying with IRS constructive receipt rules, any elective leave cash out to which Employee may be entitled each year (for example, Administrative Leave as provided in Section 6.4 above) shall be subject to the following procedure: Employee must first irrevocably designate in writing the amount of leave to be cashed out in the calendar year preceding the cash-out. Cash-out is at Employee's rate of pay at the time paid. Finance will supply the irrevocable designation form upon request. Such requests shall be in writing to the City's Finance Department.

6.10 Deferred Compensation. Each calendar year the City will contribute to Employee's 401(a) account an amount equal to the 457(b) plan maximum annual amount allowed by law in the then-current tax year for employees under the age of 50 years (i.e. excluding catch-up contributions). In no event shall the City's contribution exceed limits established by the Internal Revenue Service for a deferred compensation plan. The City contribution shall be made on the first pay date in January of each year for the prior year starting in 2025. Additionally, Employee

may voluntarily contribute to the City's 457(b) deferred compensation plan to the same extent allowed by the IRS for employees.

6.11 Except as specifically provided herein, Employee shall be entitled to the benefits provided to executive management employees of the City pursuant to the then-current Management, Professional, and Confidential Employees Compensation Plan, and subject to the terms and conditions provided therein.

7.0 PROFESSIONAL DEVELOPMENT

7.1 Professional Dues. The City agrees to pay the professional dues and subscriptions on behalf of Employee which are necessary for Employee's continuation and full participation in national, regional, state, or local associations and organizations necessary and desirable for the good of the City, and for Employee's continued professional participation and advancement.

7.2 Professional Development. The City agrees to pay the travel and subsistence expenses of Employee to pursue official and other functions for the City, and meetings and occasions to continue the professional development of Employee, including, but not limited to, national, regional, state, and local conferences, and governmental groups and committees upon which Employee serves as a member, in accordance with the City's travel policy.

7.3 Short Courses. The City also agrees to pay for the travel and subsistence expenses of Employee for short courses, institutes and seminars that are necessary for the good of the City or for the professional development of Employee, in accordance with the City's travel policy.

7.4 Civic Clubs. The City recognizes the desirability of representation in and before local civic and other organizations, and Employee is authorized to become a member of civic clubs or organizations, for which the City shall pay membership dues.

8.0 BONDS AND INDEMNIFICATION

8.1 Indemnification. To the extent mandated by the California Government Code, the City shall defend, hold harmless, and indemnify Employee against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Employee's services under this Agreement. This section shall not apply to any intentional tort or crime committed by Employee, to any action outside the course and scope of the services provided by Employee under this Agreement, or any other intentional or malicious conduct or gross negligence of Employee.

8.2 Bonds. City shall bear the full cost of any fidelity or other bonds, which may be required under any law or ordinance in the performance of Employee's services under this Agreement.

9.0 GENERAL PROVISIONS

9.1 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 Employee's employment by the City and contains all of the covenants

and agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally 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 promises not contained in this Agreement shall be valid or binding upon either party.

9.2 Amendment. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing, which amendment shall require approval by the affirmative vote of three (3) members of the Council.

9.3 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party as sent by United States Postal Service, postage prepaid and addressed as follows:

To City:

City of Murrieta
Attention: City Clerk
1 Town Square
Murrieta, California 92562

To Employee:

Justin Clifton
[On file with Human Resources Dept.]

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

9.4 Conflicts Prohibited. During the term of this Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this Agreement. Employee shall comply with all requirements of law, including but not limited to, Sections 87100 *et seq.*, Section 1090 and Section 1125 of the Government Code, and all other similar statutory and administrative rules. Whenever any potential conflict arises or may appear to arise, the obligation shall be on Employee to seek legal advice concerning whether such conflict exists and Employee's obligations arising therefrom.

9.5 Effect of Waiver. The failure of either party to insist on 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.

9.6 Partial Invalidity. If any provision in 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.

9.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution and delivery by each party hereto.

9.8 Mandatory Government Code Provisions. Government Code §§ 53243 - 53243.4 require that contracts between local agencies and its employees include provisions requiring an employee who is convicted of a crime involving an abuse of his office or position to

provide reimbursement to the local agency for the following forms of payment: (i) paid leave salary; (ii) criminal defense costs; (iii) cash settlement payments; and (iv) any non-contractual settlement payments. Accordingly, the Parties agree that it is their mutual intent to fully comply with these Government Code sections and all other applicable law as it exists as of the date of execution of this Agreement and as such laws may be amended from time to time thereafter. Specifically, the following Government Code sections are called out and hereby incorporated by this Agreement:

§53243. Reimbursement of paid leave salary required upon conviction of crime involving office or position.

§53243.1. Reimbursement of legal criminal defense upon conviction of crime involving office or position.

§53243.2. Reimbursement of cash settlement upon conviction of crime involving office or position.

§53243.3. Reimbursement of noncontractual payments upon conviction or crime involving office or position.

§53243.4. "Abuse of office or position" defined.

Employee represents that Employee has reviewed, is familiar with, and agrees to comply fully with each of these provisions if any of these provisions are applicable to Employee, including that Employee agrees that any cash settlement or severance related to a termination that Employee may receive from the City shall be fully reimbursed to the local agency if Employee is convicted of a crime involving an abuse of Employee's office or position. The Government Code provisions referenced in this section are attached hereto in Exhibit "B".

9.9 Independent Legal Advice. The City and Employee represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement, or had the opportunity to do so, and the City and Employee further represent and warrant that each has carefully reviewed this entire Agreement and that each and every term thereof is understood and that the terms of this Agreement are contractual and not a mere recital. This Agreement shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

IN WITNESS WHEREOF, the City of Murrieta has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its officers thereunto duly authorized, and Employee has signed and executed this Agreement, all in triplicate.

[SIGNATURES ON FOLLOWING PAGE]

CITY: CITY OF MURRIETA

By: _____
Lori Stone, Mayor

ATTEST:

Cristal McDonald, City Clerk

APPROVED AS TO FORM:

Tiffany Israel, City Attorney

EMPLOYEE

Justin Clifton

EXHIBIT “A”

City Manager Job Description

Description and Essential Functions

DEFINITION

Under policy direction, plans, organizes, and provides administrative direction and oversight for all City functions and activities; coordinates and evaluates the work of the City in accordance with applicable laws, codes, and regulations and adopted policies and objectives of the City Council; provides policy guidance to management staff; encourages and facilitates provision of services to City residents and businesses; fosters cooperative working relationships with State and local intergovernmental and regulatory agencies and various public and private groups; directs the pursuit of appropriate avenues of economic and community development; and performs related work as required.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the City Council. Exercises general direction and supervision to the entire City staff through subordinate levels of management and supervision.

CLASS CHARACTERISTICS

The City Manager serves as the Chief Executive Officer of the City, accountable to the City Council and responsible for enforcement of all City codes, ordinances, and regulations, the conduct of all financial activities, and the efficient and economical performance of the City's operations.

ESSENTIAL FUNCTIONS

Management reserves the right to add, modify, change, or rescind the work assignments of different positions and to make reasonable accommodations so that qualified employees can perform the essential functions of the job.

- Plans, organizes, and administers operations of the City either directly or through subordinate management and supervisory staff; coordinates and evaluates the work of the City in accordance with applicable laws, codes, and regulations and adopted policies and objectives of the City Council.
- Directs and coordinates the development and implementation of goals, objectives, and programs for the City; develops administrative policies, procedures, and work standards to ensure that the goals and objectives are met and that programs provide mandated services in an effective, efficient, and economical manner.
- Oversees the preparation of the annual budget for the City; authorizes directly or through staff, budget transfers, expenditures, and purchases; provides information regarding the financial condition and needs to the City Council.
- Ensures that the Council is kept informed of City functions, activities, and financial status, and of legal, social, and economic issues affecting City activities.
- Monitors changes in laws, regulations, and technology that may affect City operations; implements policy and procedural changes as required.
- Develops and standardizes procedures and methods to improve and continuously monitor the efficiency and effectiveness of City services, projects, service delivery methods, and procedures; assesses and monitors workload, administrative and support systems, and internal reporting relationships; identifies and implements opportunities for improvement.
- Provides leadership and supervision; selects, motivates, and directs assigned staff; ensures appropriate training is provided; evaluates and reviews work for acceptability and conformance with City standards; works with employees on performance issues; implements discipline and termination procedures; responds to staff questions and concerns.

- Advises the City Council on issues, programs, and financial status; prepares and recommends long- and short-term plans for City service provision, capital improvements, and funding; and directs the development of specific proposals for action regarding current and future City needs.
- Represents the City and the Council in meetings with governmental agencies, community groups, and various business, professional, educational, regulatory, and legislative organizations.
- Provides for the investigation and resolution of complaints regarding the administration of and services provided by the City government.
- Provides for contract services and franchise agreements; ensures proper performance of obligations to the City; enforces all City codes, ordinances, and regulations.
- Directs the preparation of and prepares a variety of correspondence, reports, policies, procedures, and other written materials.
- Ensures the maintenance of working and official City files.
- Responds to the most complex, difficult, and sensitive public inquiries and complaints and ensures they are promptly and properly addressed.
- Ensures staff observe and comply with all City and mandated safety rules, regulations, and protocols. Performs other duties as assigned.

Minimum Qualifications

EDUCATION AND EXPERIENCE

Any combination of training and experience that would provide the required knowledge, skills, and abilities is qualifying. A typical way to obtain the required qualifications would be:

Required:

- Equivalent to a bachelor's degree from an accredited college or university with major coursework in public or business administration, public policy, finance, or a related field.
- Ten (10) years of management or administrative experience in a public agency, six (6) years of which must be in a management capacity.

Desired:

- Equivalent to a master's degree from an accredited college or university with major coursework in public or business administration.

LICENSES AND CERTIFICATIONS

- Possession of or ability to obtain and maintain a valid California Driver's License or other means that would allow for the ability to commute to meetings, conduct site visits, and attend other special events throughout the county may be required at the time of hire.

Knowledge, Skills and Abilities / Physical Demands and Environmental Conditions

KNOWLEDGE OF

- Administrative principles and practices, including goal setting, program development, implementation, and evaluation, and supervision of staff, either directly or through subordinate levels of supervision. Principles and practices of leadership.
- Principles and techniques for working with groups and fostering effective team interaction to ensure teamwork is conducted smoothly.
- Principles and practices of strategic plan development. Principles and practices of budget administration.
- Principles, practices, and procedures of public administration in a municipal setting. Functions, services, and funding sources of a municipal government.
- Functions, authority and responsibilities of an elected City Council.
- Public agency contract administration and City-wide administrative practices.

- Technical, legal, financial, and public relations issues associated with the management of municipal services. Federal, State, and local laws, regulations, and codes relevant to assigned areas of responsibility.
- Current social, political, and economic trends affecting City government and service provision. City and mandated safety rules, regulations, and protocols.
- Techniques for providing a high level of customer service by effectively dealing with the public, vendors, contractors, and City staff.
- The structure and content of the English language, including the meaning and spelling of words, rules of composition, and grammar.
- Modern equipment and communication tools used for business functions and program, project, and task coordination, including computers and software programs relevant to work performed.

ABILITY TO

- Plan, administer, coordinate, review, and evaluate the functions, activities, and staff of the City.
- Work cooperatively with, provide highly complex and responsible staff support to, and implement the policies of the City Council.
- Develop and implement goals, objectives, practices, policies, procedures, work standards, and internal controls.
- Provide leadership and direction to all departments of the City.
- Conduct effective negotiations and effectively represent the City in meetings with governmental agencies, community groups, and various business, professional, educational, regulatory, and legislative organizations, and the media.
- Direct the preparation of and prepare clear and concise reports, correspondence, policies, procedures, and other written materials.
- Oversee all City financial activities, including administering investments, the development and implementation of the City budget, and the control of all expenditures and purchases.
- Select and supervise staff, provide training and development opportunities, ensure work is performed effectively, and evaluate performance in an objective and positive manner.
- Understand, interpret, and apply all pertinent laws, codes, regulations, policies and procedures, and standards relevant to work performed.
- Effectively represent the department and the City in meetings with governmental agencies; community groups; various business, professional, and regulatory organizations; and in meetings with individuals. Independently organize work, set priorities, meet critical deadlines, and follow-up on assignments.
- Use tact, initiative, prudence, and independent judgment within general policy, procedural, and legal guidelines.
- Effectively use computer systems, software applications relevant to work performed, and modern business equipment to perform a variety of work tasks.
- Communicate clearly and concisely, both orally and in writing, using appropriate English grammar and syntax. Establish, maintain, and foster positive and effective working relationships with those contacted in the course of work.

PHYSICAL DEMANDS

Must possess mobility to work in a standard office setting and use standard office equipment, including a computer and to operate a motor vehicle to visit various City and meeting sites; vision to read printed materials and a computer screen; and hearing and speech to communicate in person and over the telephone. This is primarily a sedentary office classification although standing and walking between work areas may be required. Finger dexterity is needed to access, enter, and retrieve data using a computer keyboard or calculator and to operate standard office equipment. Positions in this classification occasionally bend, stoop, kneel, reach, push, and pull drawers open and closed to retrieve and file

information. Employees must possess the ability to lift, carry, push, and pull materials and objects weighing up to 25 pounds.

ENVIRONMENTAL CONDITIONS

Employees work in an office environment with moderate noise levels, controlled temperature conditions, and no direct exposure to hazardous physical substances. Employees may interact with upset staff and/or public and private representatives in interpreting and enforcing departmental policies and procedures.

Supplemental Information

APPLICATION PROCEDURE

A City application form and resume must be submitted online. Applicants can apply online at www.MurrietaCA.gov.

SELECTION PROCESS

Candidates must clearly demonstrate through their application materials that they meet the employment standards outlined above. All properly completed applications will be reviewed, and the most appropriately qualified individuals will be invited to continue in the selection process. Examinations for the position may consist of any combination of appraisal interview, performance test and writing exercise to evaluate the applicant's skill, training, and experience for the position. Successful applicants will be placed on an eligibility list. The City may also merge lists. The selected candidate(s) must successfully complete pre-employment clearances which may include a physical, drug screen, and fingerprinting.

EXHIBIT "B"

GOVERNMENT CODE SECTION 53243-53243.4

53243. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides paid leave salary offered by the local agency to the officer or employee pending an investigation shall require that any salary provided for that purpose be fully reimbursed if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.1. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides funds for the legal criminal defense of an officer or employee shall require that any funds provided for that purpose be fully reimbursed to the local agency if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.2. On or after January 1, 2012, any contract of employment between an employee and a local agency employer shall include a provision which provides that, regardless of the term of the contract, if the contract is terminated, any cash settlement related to the termination that an employee may receive from the local agency shall be fully reimbursed to the local agency if the employee is convicted of a crime involving an abuse of his or her office or position.

53243.3. On or after January 1, 2012, if a local agency provides, in the absence of a contractual obligation, for any of the payments described in this article, then the employee or officer receiving any payments provided for those purposes shall fully reimburse the local agency that provided those payments in the event that the employee or officer is convicted of a crime involving the abuse of his or her office or position.

53243.4. For purposes of this article, "abuse of office or position" means either of the following:

- (a) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority.
- (b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

EXHIBIT "C"

AGREEMENT OF SEPARATION, SEVERANCE, AND GENERAL RELEASE

1. PARTIES

This Agreement of Separation, Severance, and General Release (hereinafter referred to as the "AGREEMENT") is entered into by and between the City of Murrieta, a general law city and municipal corporation (hereinafter referred to as "THE CITY"), and JUSTIN CLIFTON, an individual (hereinafter referred to as "EMPLOYEE").

2. RECITALS

2.1. EMPLOYEE was hired by THE CITY as its at-will City Manager effective _____ serving at the pleasure of the City Council of THE CITY pursuant to a written contract, a copy of which is attached hereto as Exhibit "A" ("THE CONTRACT"). EMPLOYEE is currently ___ years old.

2.2. THE CITY and EMPLOYEE desire that EMPLOYEE resign and enter into a severance agreement whereby EMPLOYEE receives severance compensation in exchange for executing a general release and waiver of any and all claims that EMPLOYEE may have against THE CITY, including but not limited to its elected and non-elected officials, employees, attorneys, and agents. Accordingly, the parties hereto intend by this AGREEMENT to mutually conclude any and all employment relationships between THE CITY and EMPLOYEE by means of EMPLOYEE's voluntary separation as of _____, _____. This AGREEMENT sets forth the full and complete terms and conditions concluding EMPLOYEE's employment relationship with the CITY and any obligations related thereto, including any provided under THE CONTRACT.

2.3 In accordance with this AGREEMENT and with applicable state and federal laws, EMPLOYEE acknowledges that EMPLOYEE has been advised of EMPLOYEE's post-employment rights, including but not limited to, EMPLOYEE's rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), the Employee Retirement Income Security Act of 1974 ("ERISA"), and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

3. CONSIDERATION

3.1 EMPLOYEE shall receive payment to him at the time of his voluntary separation all earned salary, accrued fringe benefits as detailed in THE CONTRACT, and/or all other wage compensation/benefits owed to EMPLOYEE upon separation of employment, as required by law or THE CONTRACT or any other agreement with THE CITY.

3.2. In exchange for the waivers and releases set forth herein, THE CITY shall also cause to be paid to EMPLOYEE an additional compensatory payment by means of severance, settlement and release in the form of a lump sum amount of _____ and ___ cents (\$_____.00), as set forth in THE CONTRACT in the form of a check made payable to EMPLOYEE to be mailed to EMPLOYEE at EMPLOYEE's home address via certified mail return receipt requested within _____ business days after the EFFECTIVE DATE (as defined below) of this AGREEMENT.

3.3 In exchange for the severance payment provided for herein, EMPLOYEE, and on behalf of EMPLOYEE's spouse, heirs, representatives, successors, and assigns, hereby releases, acquits, and forever discharges THE CITY, and each of its predecessors, successors, assigns, officials, employees, representatives, agents, insurers, attorneys, and all persons and entities acting by, through, under, or in concert with any of them, and each of them (hereinafter referred to as "THE CITY PARTIES"), from any and all claims, charges, complaints, contracts, understandings, liabilities, obligations, promises, benefits, agreements, controversies, costs, losses, debts, expenses, damages, actions, causes of action, suits, rights, and demands of any nature whatsoever, known or unknown, suspected or unsuspected, which EMPLOYEE now has or may acquire in the future, or which EMPLOYEE ever had, relating to or arising out of any act, omission, occurrence, condition, event, transaction, or thing which was done, omitted to be done, occurred or was in effect at anytime from the beginning of time up to and including _____, _____ (hereinafter referred to collectively as "CLAIMS"), without regard to whether such CLAIMS arise under the federal, state, or local constitutions, statutes, rules or regulations, or the common law. EMPLOYEE expressly acknowledges that the CLAIMS forever barred by this AGREEMENT specifically include, but are not limited to, claims based upon any alleged breach of THE CONTRACT or any other agreement of employment, any demand for wages, overtime or benefits, any claims of violation of the provisions of ERISA, COBRA or HIPAA, any alleged breach of any duty arising out of contract or tort, any alleged wrongful termination in violation of public policy, any alleged breach of any express or implied contract for continued employment, any alleged employment discrimination or unlawful discriminatory act, or any claim or cause of action including, but not limited to, any and all claims whether arising under any federal, state or local law prohibiting breach of employment contract, wrongful termination, or employment discrimination based upon age, race, color, sex, religion, handicap or disability, national origin or any other protected category or characteristic, and any and all rights or claims arising under the California Labor Code or Industrial Welfare Commission Wage Orders, the Federal Fair Labor Standards Act, the California Fair Employment and Housing Act, California Government Code §§12900 *et seq.*, the Americans With Disabilities Act, Title VII of the Civil Rights Act of 1964, the Public Safety Officers Procedural Bill of Right Act, and any other federal, state, or local human rights, civil rights, or employment discrimination or employee rights statute, rule, or regulation.

4. SPECIFIC ACKNOWLEDGMENT OF WAIVER OF CLAIMS UNDER ADEA AND OWBPA

The Age Discrimination in Employment Act of 1967 (hereinafter referred to as the "ADEA") makes it illegal for an employer to discharge any individual or otherwise discriminate with respect to the nature and privileges of an individual's employment on the basis that the individual is age forty (40) or older. The Older Workers Benefit Protection Act (hereinafter referred to as the "OWBPA," 29 U.S.C. § 626, *et seq.*, Pub L 101-433, 104 Stat. 978 (1990)) further augments the ADEA and prohibits the waiver of any right or claim under the ADEA, **unless the waiver is knowing and voluntary**. By entering into this AGREEMENT, EMPLOYEE acknowledges that he knowingly and voluntarily, for just compensation in addition to anything of value to which EMPLOYEE was already entitled, waives and releases any rights he may have under the ADEA and/or OWBPA. EMPLOYEE further acknowledges that he has been advised and understands, pursuant to the provisions of the ADEA and OWBPA, that:

- (a) This waiver/release is written in a manner understood by EMPLOYEE;

(b) EMPLOYEE is aware of, and/or has been advised of, his rights under the ADEA and OWBPA, and of the legal significance of his waiver of any possible claims he currently may have under the ADEA, OWBPA and/or similar age discrimination laws;

(c) EMPLOYEE is entitled to a reasonable time of at least twenty-one (21) days within which to review and consider this AGREEMENT and the waiver and release of any rights he may have under the ADEA, the OWBPA and similar age discrimination laws; but may, in the exercise of his own discretion, sign or reject this AGREEMENT at any time before the expiration of the twenty-one (21) days;

(d) The waivers and releases set forth in this AGREEMENT shall not apply to any rights or claims that may arise under the ADEA and/or OWBPA **after** the EFFECTIVE DATE of this AGREEMENT;

(e) EMPLOYEE has been advised by this writing that he should consult with an attorney prior to executing this AGREEMENT;

(f) EMPLOYEE has discussed this waiver and release with, and been advised with respect thereto by, his counsel of choice, and that he does not need any additional time within which to review and consider this AGREEMENT;

(g) EMPLOYEE has **seven (7) days following his execution** of this AGREEMENT to revoke the AGREEMENT;

(h) Notice of revocation within the seven (7) day revocation period must be provided, in writing, to THE CITY pursuant to Paragraph 8.9 herein, and must state, "I hereby revoke my acceptance of our Agreement of Severance and General Release;" and

(i) This AGREEMENT shall not be effective until all parties have signed the AGREEMENT and ten (10) days have passed since EMPLOYEE's execution ("EFFECTIVE DATE").

5. UNKNOWN CLAIMS

In relation to the release provisions of Paragraphs 3 and 4 above, EMPLOYEE understands that California Civil Code section 1542 reads as follows:

"General Release--Claims Extinguished"

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

EMPLOYEE hereby waives the protection of California Civil Code section 1542.

6. WAIVER OF ADDITIONAL CLAIMS

EMPLOYEE hereby waives any provisions of state or federal law that might require a more detailed specification of the claims being released pursuant to the provisions of Paragraphs 3, 4, and 5 above.

7. REPRESENTATIONS AND WARRANTIES

Each of the parties to this AGREEMENT represents and warrants to, and agrees with, each other party as follows:

7.1. Advice of Counsel: The parties hereto have received independent legal advice from their respective attorneys concerning the advisability of entering into and executing this AGREEMENT or have been given the opportunity to obtain such advice. The parties acknowledge that they have been represented by counsel of their own choice in the negotiation of this AGREEMENT, that they have read this AGREEMENT; that they have had this AGREEMENT fully explained to them by such counsel, or have had such opportunity to do so and that they are fully aware of the contents of this AGREEMENT and of its legal effect.

7.2. No Fraud in Inducement: No party (nor any officer, agent, employee, representative, or attorney of or for any party) has made any statement or representation or failed to make any statement or representation to any other party regarding any fact relied upon in entering into this AGREEMENT, and neither party relies upon any statement, representation, omission or promise of any other party in executing this AGREEMENT, or in making the settlement provided for herein, except as expressly stated in this AGREEMENT.

7.3. Independent Investigation: Each party to this AGREEMENT has made such investigation of the facts pertaining to this settlement and this AGREEMENT and all the matters pertaining thereto, as it deems necessary.

7.4. Mistake Waived: In entering into this AGREEMENT, each party assumes the risk of any misrepresentation, concealment or mistake. If any party should subsequently discover that any fact relied upon by it in entering into this AGREEMENT was untrue, or that any fact was concealed from it, or that its understanding of the facts or of the law was incorrect, such party shall not be entitled to any relief in connection therewith, including without limitation on the generality of the foregoing any alleged right or claim to set aside or rescind this AGREEMENT. This AGREEMENT is intended to be, and is, final and binding between the parties, regardless of any claims of misrepresentation, promise made without the intent to perform, concealment of fact, mistake of fact or law, or any other circumstance whatsoever.

7.5. Later Discovery: The parties are aware that they may hereafter discover claims or facts in addition to or different from those they now know or believe to be true with respect to the matters related herein. Nevertheless, it is the intention of the parties that EMPLOYEE fully, finally and forever settle and release all such matters, and all claims relative thereto, which do now exist, may exist or have previously existed against THE CITY or THE CITY PARTIES. In furtherance of such intention, the releases given here shall be, and remain, in effect as full and complete releases of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.

7.6. Indemnification: EMPLOYEE agrees to indemnify and hold harmless THE CITY or THE CITY PARTIES from, and against, any and all claims, damages, or liabilities sustained by them as a direct result of the violation or breach of the covenants, warranties, and representations

undertaken pursuant to the provisions of this AGREEMENT. EMPLOYEE understands and agrees that he shall be exclusively liable for the payment of all taxes for which he is responsible, if any, as a result of his receipt of the consideration referred to in Paragraph 3 of this AGREEMENT. In addition, EMPLOYEE agrees fully to indemnify and hold the CITY PARTIES harmless for payment of tax obligations as may be required by any federal, state or local taxing authority, at any time, as a result of the payment of the consideration set forth in Paragraph 3 of this AGREEMENT.

7.7. Future Cooperation & Consultation fees: EMPLOYEE shall execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this AGREEMENT. EMPLOYEE shall provide THE CITY with consultation services (including deposition or trial testimony) in any litigation involving THE CITY which is reasonably related to acts or occurrences transpiring during his employment. Said services shall be provided as needed by THE CITY at a rate of \$100.00 per hour.

7.8. Return of Confidential Information and Property: Prior to the separation date, EMPLOYEE shall submit a written inventory of, and return to the City Clerk, all City keys, equipment, computer identification cards or codes, and other equipment or materials or confidential documents provided to or obtained by EMPLOYEE during the course of his employment with THE CITY.

7.9. No Pending Claims and/or Actions: EMPLOYEE represents that he has not filed any complaints or charges against THE CITY or THE CITY PARTIES with any local, state or federal agency or court; that he will not do so at any time hereafter for any claim arising up to and including the EFFECTIVE DATE of this AGREEMENT; and that if any such agency or court assumes jurisdiction of any such complaint or charge against THE CITY or THE CITY PARTIES on behalf of EMPLOYEE, whenever or where ever filed, he will request such agency or court to withdraw from the matter forthwith.

7.10. Ownership of Claims: EMPLOYEE represents and warrants as a material term of this AGREEMENT that EMPLOYEE has not heretofore assigned, transferred, released or granted, or purported to assign, transfer, release or grant, any of the CLAIMS disposed of by this AGREEMENT. In executing this AGREEMENT, EMPLOYEE further warrants and represents that none of the CLAIMS released by EMPLOYEE thereunder will in the future be assigned, conveyed, or transferred in any fashion to any other person and/or entity.

7.11. Enforcement Fees and Costs: Should any legal action be required to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

7.12. Authority: Each party represents to the other that it has the right to enter into this AGREEMENT, and that it is not violating the terms or conditions of any other AGREEMENT to which they are a party or by which they are bound by entering into this AGREEMENT. The parties represent that they will obtain all necessary approvals to execute this AGREEMENT. It is further represented and agreed that the individuals signing this AGREEMENT on behalf of the respective parties have actual authority to execute this AGREEMENT and, by doing so, bind the party on whose behalf this AGREEMENT has been signed.

8. MISCELLANEOUS

8.1. No Admission: Nothing contained herein shall be construed as an admission by THE CITY of any liability of any kind. THE CITY denies any liability in connection with any claim and intends hereby solely to avoid potential claims and/or litigation and buy its peace.

8.2. Governing Law: This AGREEMENT has been executed and delivered within the State of California, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

8.3. Full Integration: This AGREEMENT is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This AGREEMENT may be amended only by a further agreement in writing, signed by the parties hereto.

8.4. Continuing Benefit: This AGREEMENT is binding upon and shall inure to the benefit of the parties hereto, their respective agents, spouses, employees, representatives, officials, attorneys, assigns, heirs, and successors in interest.

8.5. Joint Drafting: Each party agrees that it has cooperated in the drafting and preparation of this AGREEMENT. Hence, in any construction to be made of this AGREEMENT, the parties agree that same shall not be construed against any party.

8.6. Severability: In the event that any term, covenant, condition, provision or agreement contained in this AGREEMENT is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant, condition, provision or agreement shall in no way affect any other term, covenant, condition, provision or agreement and the remainder of this AGREEMENT shall still be in full force and effect.

8.7. Titles: The titles included in this AGREEMENT are for reference only and are not part of its terms, nor do they in any way modify the terms of this AGREEMENT.

8.8. Counterparts: This AGREEMENT may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one AGREEMENT, which shall be binding upon and effective as to all parties.

8.9. Notice: Any and all notices given to any party under this AGREEMENT shall be given as provided in this paragraph. All notices given to either party shall be made by certified or registered United States mail, or personal delivery, at the noticing party's discretion, and addressed to the parties as set forth below. Notices shall be deemed, for all purposes, to have been given on the date of personal service or three (3) consecutive calendar days following deposit of the same in the United States mail.

As to EMPLOYEE:

At EMPLOYEE's home address on file with THE CITY.

As to THE CITY:

City of Murrieta
Attention: City Clerk

1 Town Square
Murrieta, California 92562

IN WITNESS WHEREOF, THE CITY has caused this AGREEMENT to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk, EMPLOYEE has signed and executed this Agreement, and the attorneys for THE CITY and EMPLOYEE, if any, have approved as to form as of the dates written below.

DATED: _____

EMPLOYEE

By: _____
Justin Clifton

THE CITY

DATED: _____

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

[EMPLOYEE's LAW FIRM]

By: _____
[Counsel]