

**CITY MANAGER EMPLOYMENT
AGREEMENT**

between the

CITY OF GRAND TERRACE

and

G. Harold Duffey

dated

May 26, 2015

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CITY MANAGER EMPLOYMENT AGREEMENT

between the
City of Grand Terrace
and
G. Harold Duffey

1. Parties and Date

This Agreement is entered into as of May __, 2015 by and between the City of Grand Terrace, California, a municipal corporation (the "City"), and G. Harold Duffey, an individual (the "Employee"). The City and the Employee are sometimes individually referred to as a "Party" and collectively as "Parties."

- A. The City requires the services of a City Manager.
- B. The Employee has the necessary education, experience, skills and expertise to serve as the City's City Manager; and
- C. The City Council of the City (the "City Council") desires to employ the Employee to serve as the City Manager of City.
- D. The Parties desire to execute this Agreement pursuant to the authority of and subject to the provisions of Government Code Section 53260 et seq.
- E. In consideration of these Recitals and the performance by the Parties of the promises, covenants, and conditions herein contained, the Parties agree as provided in this Agreement.

2. Employment

The City hereby employs the Employee as its City Manager, and the Employee hereby accepts such employment.

3. Commitments and Understandings

A. The City Manager's Commitments

(1) Duties & Authority

- (a) The Employee shall be the chief executive officer of the City and be responsible to the City Council for the proper administration of all affairs of the City.

- (b) The Employee shall perform all of the duties of the City Manager as set forth in Section 2.08 of the Grand Terrace Municipal Code (the "Municipal Code"), the California Government Code, and City policies and procedures approved by the City Council, as may be provided from time to time.
- (c) The City Council may also designate the Employee as the chief executive of other City-related legal entities. Such other legal entities could include the Successor Agency to the Redevelopment agency, financing authorities, and joint powers authorities.
- (d) The Employee shall administer and enforce policies established by the City Council and promulgate rules and regulations as necessary to implement City Council policies.
- (e) To accomplish this, the Employee shall have the power and shall be required to:
 - (i) Attend all meetings of the City Council, unless excused by the Mayor, and take part in the discussion of all matters before the City Council. The Employee shall receive notice of all regular and special meetings of the City Council.
 - (ii) Review all agenda documents before preparing the agenda for any regular or special meetings of the City Council. The Employee may publicly endorse or oppose any proposed agenda items placed on the agenda by persons other than the Employee or the Employee's staff.
 - (iii) Direct the work of all elective and appointive City officers and departments that are the concern and responsibility of the City Council, except those that are directly appointed by or report directly to the City Council. The Employee may undertake any study or investigation the Employee believes is necessary or desirable and shall make any study or investigation the City Council directs. The Employee shall endeavor to implement changes that the Employee believes will result in greater efficiency, economy, or improved public service in the administration of City affairs.

- (iv) Recommend to the City Council from time to time, adoption of such measures as the Employee may deem necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services.
- (v) Consolidate or combine offices, positions, departments, or units under the City Manager's jurisdiction. The City Manager may be the head of one or more City departments.
- (vi) Conduct research in administrative practices in order to bring about greater efficiency and economy in City government, and develop and recommend to the City Council long-range plans to improve City operations and prepare for future City growth and development.
- (vii) Provide management training and develop leadership qualities among department heads and staff as necessary to build a City management team that can plan for and meet future challenges.
- (viii) Exercise control of City government in emergencies as authorized by the Municipal Code and California law.

(2) Hours of Work

- (a) The Employee is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the City Manager's position. The Employee does not have set hours of work as the City Manager is expected to be available at all times.
- (b) It is recognized that the Employee must devote a great deal of time to the business of the City outside of the City's customary office hours, and to that end the Employee's schedule of work each day and week shall vary in accordance with the work required to be performed. The Employee shall spend sufficient hours on site to perform the City Manager's duties; however, the Employee has discretion over his work schedule and work location.

- (c) Employee shall not spend more than 12 hours per month in teaching, consulting, speaking, or other non-City connected business for which compensation is paid without the express prior consent of the City Council.

(3) Disability or inability to perform

- (a) In the event Employee becomes mentally or physically incapable of performing the City Manager's functions and duties with reasonable accommodation and it reasonably appears such incapacity will last for more than six months, the City Council may terminate Employee. If the City Council does elect to terminate Employee due to incapacity, Employee shall receive all severance benefits provided in Section 7.C below.

B. City Commitments

- (1) The City shall provide Employee with the compensation, incentives and benefits, specified elsewhere in this Agreement.
- (2) The City shall provide Employee with a private office, staff, office equipment, supplies, and all other facilities and services adequate for the performance of the City Manager's duties, to the extent that it is financially feasible.
- (3) The City shall pay for or provide Employee reimbursement for all actual business expenses.
- (4) Subject to prior City Council approval in the budget, the City may 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.
- (5) Subject to prior City Council approval in the budget, the City may 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.

- (6) Subject to prior City Council approval in the budget, the City may 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 the Employee.
- (7) 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, subject to prior City Council approval in the budget, the City may pay membership dues.
- (8) Given the importance of technological tools to the effective and efficient business of City government, the City shall provide computer, laptop computer (purchase price not to exceed \$1,300.00), high-speed internet access, electronic calendar, fax, copy machine and similar devices to Employee at the City's expense.

C. City Council Commitments

- (1) The City Council sets policy for the governance and administration of the City, and it implements its policies through the City Manager.
- (2) The City Council recognizes that to meet the challenges facing the City they must exercise decisive policy leadership. As one step in carrying out this leadership responsibility, the City Council commits to spending time each year outside of regular City Council meetings to work with Employee and staff on setting goals and priorities for the City government, and to work on issues that may be inhibiting the maximal achievement of City goals.
- (3) Except for the purpose of inquiry, the City Council and its members shall deal with all subordinate City employees, officers, contractors, and consultants solely through the City Manager or the City Manager's designee, and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

- (4) The City Council agrees none of its individual members will order the appointment or removal of any person to any office or employment under the supervision and control of the City Manager.
- (5) The City Council agrees that any criticism of a City staff member shall be done privately through the City Manager.

D. Mutual Commitments

(1) Performance Evaluation

- (a) Annual performance evaluations are an important way for the City Council and Employee to ensure effective communications about expectations and performance.
- (b) The City Council recognizes that for Employee to respond to its needs and to grow in the performance of the City Manager's job, Employee needs to know how the City Council Members evaluate Employee's performance.
- (c) To assure that Employee gets this feedback, the City Council shall conduct an evaluation of the Employee's performance at least once each year on or about the Employee's anniversary date of employment. In the first year of Employee's employment with City, the Employee may initiate a sixth month informal performance update.

(2) ICMA Code of Ethics

- (a) The Parties acknowledge that Employee shall maintain membership in the International City Management Association ("ICMA"). The Parties mutually desire that Employee be subject to and comply with the ICMA Code of Ethics.
- (b) Employee commits to comply with the ICMA Code of Ethics.
- (c) The City and the City Council agree that neither the City Council nor any of its members will give Employee any order, direction, or request that would require Employee to violate the ICMA Code of Ethics.

4. COMPENSATION

The City agrees to provide the following compensation to the Employee during the term of the agreement:

A. Compensation & Required Employer Costs

(1) Base Salary

- (a) The annual salary for the position of City Manager shall initially be \$180,000. An annual salary increase for cost of living and an increase based on merit will be considered by the City Council if the City's financial position makes such an increase feasible.
- (b) The City Manager shall be paid at the same intervals and in the same manner as regular City employees.
- (c) The City shall not at any time during the term of this Agreement reduce the base salary, compensation or other financial benefits of the City Manager, unless as part of a general City management salary reduction, and then in no greater percentage than the average reduction of all City department heads.

(2) Required Employer Costs

- (a) Federal Insurance Contributions Act (FICA) (if applicable).
 - (i) Old Age Survivor and Disability Income (OASDI).
 - (ii) Medicare.
- (b) Unemployment Compensation.
- (c) California Public Employees Retirement System (CalPERS).

The City contracts with the California Public Employees' Retirement System for retirement benefits. The City will pay the Employer's (as determined by CalPERS) share for participation in the CalPERS System. The Employee will pay in full, the Employee's share of 8% of salary. If Employee is a "Classic" member, as determined by CalPERS, Employee will be enrolled in the 2% @ 60 retirement formula. If employee is a

“PEPRA” member, as determined by CalPERS, Employee will be enrolled in the 2% @ 62 retirement formula

- (d) The cost of any fidelity or other bonds required by law for the City Manager.
- (e) The cost to defend and indemnify Employee as provided in Section 8.E below.
- (f) Workers Compensation.

B. Basic Benefits

(a) Health Benefits:

1. Employer Paid Medical: For the first year of employment, City shall provide full family coverage in an amount equal to the CalPers Blue Shield Net Value Plan, full family coverage for dental and full family coverage for vision;
2. Commencing on the first anniversary of employment the aforementioned plan will be replaced with a cafeteria plan that provides CalPers Blue Shield Net Value Plan for the employee only, plus \$6,000.

(b) Pensions:

1. Public Employees Retirement System (PERS)

- (c) Vehicle Allowance \$300.00 per month;
- (d) Cell Phone Allowance \$100.00 per month;
- (e) Relocation Allowance \$3,500.00 One time payment for relocation expenses

(f) Leave Allowance

1. Employee is entitled to the standard paid holidays per calendar year, as set by the City Council.
2. The City provides several leave benefits to its employees, including sick, vacation,

and bereavement leave. The Employee shall receive sick leave and vacation time as set forth herein.

3. The Employee shall then begin accruing sick leave a rate of 3.69 hours per pay-period beginning with the next full pay period, and for each subsequent pay period thereafter, following commencement of employment under this agreement. Sick leave accruals are capped at 480 hours. After five (5) years of employment, upon separation from employment, other than termination for cause, Employee shall be compensated for 40% of all unused sick leave.
4. The Employee shall be entitled to the same vacation leave as provided to other management employees, which is currently 80 hours for the first five years of employment; 120 hours for the second five years of employment; and 160 hours from the eleventh year of employment until termination of employment. Vacation is accrued in the same manner as other management employees. Vacation accruals are capped at 480 hours.
5. The Employee shall be entitled to a pro-rated Management Leave based on 80 hours per year on hire date and 80 hours annually thereafter on January 1st of each year. Management Leave must be used by the end of the calendar year in which it is given. Any hours from the prior year remaining on the books on January 1 will be forfeited.

C. Reimbursement to City Required

Notwithstanding the foregoing, the following provisions requiring reimbursement for certain compensation and/or indemnification provided to Employee by the City apply:

1. Paid Leave: Pursuant to Government Code section 53243, in the event that Employee is convicted of a crime involving the

abuse of his office or position, as defined by Government Code section 53243.4, with the City, any paid leave salary provided by the City for the time period in which the Employee is under investigation for such crimes shall be fully reimbursed by Employee to the City.

2. Legal Defense: Pursuant to Government Code section 53243.1, in the event that Employee is convicted of a crime involving abuse of his office or position, as defined by Government Code section 53243.4, Employee shall fully reimburse the City for all the costs of her legal criminal defense.
3. Severance: Pursuant to Government Code section 53243.2, in the event that Employee is convicted of a crime involving abuse of her office or position, as defined by Government Code Section 53243.4, Employee shall fully reimburse the City for any case settlement, including but not limited to severance pay, paid to Employee related to her termination under this Agreement.

5. SEPARATION

A. Resignation/Retirement

The Employee may resign at any time and agrees to give the City at least 45 days advance written notice of the effective date of the Employee's resignation, unless the Parties otherwise agree in writing. If the Employee retires from full time public service with the City, the Employee may provide six months' advance notice. The Employee's actual retirement date will be mutually established.

B. Termination & Removal

- (1) Employee is an at-will employee serving at the pleasure of the City Council as provided in Government Code Section 36506.
- (2) The City Council may remove the Employee at any time, with or without cause, by a majority vote of its members. Notice of termination shall be provided to the Employee in writing. Termination as used in this shall also include request that the Employee resign, a reduction in salary or other financial benefits of Employee (including a general City Management salary reduction), a material reduction in the powers and

authority of the City Manager, or the elimination of the City Manager's position. Any such notice of termination or act constituting termination shall be given at or effectuated at a duly noticed regular meeting of the City Council.

- (3) Given the at-will nature of the position of City Manager, an important element of the employment agreement pertains to termination. It is in both the City's interest and that of the Employee that any separation of the Employee is done in a businesslike manner.

C. Severance Pay

- (1) In the event the Employee is terminated by the City Council during such time that the Employee is willing and able to perform the City Manager's duties under this Agreement, then in that event the City agrees to pay the Employee a lump sum cash payment equal six months' base salary then in effect as provided in 4.A(1) above.
- (2) In addition, the City shall extend to the Employee the right to continue health insurance as may be required by and pursuant to the terms and conditions of the Consolidated Omnibus Budget Reconciliation Act Of 1986 (COBRA). The City agrees to pay the Employee's COBRA coverage for one month.
- (3) All payments required under Sections 5.C(1), and (2), are subject to and shall be interpreted to comply with the limitations set forth in Government Code Section 53260.

D. Involuntary Resignation

- (1) In the event that the City Council formally or a majority of the City Council informally asks the Employee to resign, then the Employee shall be entitled to resign and still receive the severance benefits provided in Section 5.C above.
- (2) The Employee has relied upon the provisions of the Municipal Code upon entering into this Agreement, as it pertains to the City Manger's role, powers, duties, authority, responsibilities, compensation and benefits. In the event the City Council adds, deletes or amends the Municipal Code without the consent of the

Employee, and such addition, deletion or amendment is inconsistent with the terms of this Agreement and the City Manager's role, powers, duties, authority, responsibilities, compensation and benefits as currently provided, then the Employee shall have the right, at the Employee's sole option, to give the City Council notice that such amendment(s) constitute a request by the City Council for the Employee's involuntary resignation.

- (3) Upon receipt of such notice the City Council shall have thirty days in which to do one of the following: (a) rescind the amendment(s); (b) renegotiate this Agreement to the Employee's satisfaction; (c) confirm that the Employee is being asked to involuntarily resign; or (d) take no action. In the event that either (c) or (d) occurs, or the City is unable to accomplish (b), then Employee shall be entitled to resign and still receive the severance benefits provided in Section 7.C above.

E. Separation for Cause

- (1) Notwithstanding the provisions of Section 5.C, the Employee may be terminated for cause. As used in this section, "cause" shall mean only one or more the following:
 - (a) Conviction of a felony;
 - (b) Continued abuse of non-prescription drugs or alcohol that materially affects the performance of the Employee's duties; or
 - (c) Repeated and protracted unexcused absences from the City Manager's office and duties.
- (2) In the event the City terminates the Employee for cause, then the City may terminate this Agreement immediately, and the Employee shall be entitled to only the compensation accrued up to the date of termination, payments required by Section 6.F below, and such other termination benefits and payments as may be required by law. The Employee shall not be entitled to any severance benefits provided by Section 5.C.

- (3) In the event the City terminates the Employee for cause, the City and the Employee agree that neither Party shall make any written or oral statements to members of the public or the press concerning the Employee's termination except in the form of a joint press release which is mutually agreeable to both Parties. The joint press release shall not contain any text or information that would be disparaging to either Party. Provided, however, that either Party may verbally repeat the substance of any such press release in response to inquiries by members of the press or public.

F. Payment for Unused Leave Balance

- (1) On separation from City employment, the Employee shall be paid for all unused accrued leave allowances provided in Section 4.B(f) above, and/or the Employee may apply the leave time to service credit for retirement purposes if permitted by PERS. Accumulated leave balances shall be paid at the Employee's monthly salary rate at the effective date of separation.
- (2) In the event the Employee dies while employed by the City under this Agreement, the Employee's beneficiaries or those entitled to the Employee's estate, shall be entitled to the Employee's earned salary, and any in-lieu payments for accrued benefits, including compensation for the value of all accrued leave balances.

6. MISCELLANEOUS PROVISIONS

A. Term

The Initial Term shall be for a period of three years commencing on June 1, 2015, and continuing until May 31, 2018, ("Termination Date").

B. Provisions that Survive Termination

Many sections of this Agreement are intended by their terms to survive the Employee's termination of employment with the City, including but limited to Sections 5 and 6.E. These sections, and the others so intended, shall survive termination of employment and termination of this Agreement.

C. Amendments

This Agreement may be amended at any time by mutual agreement of the City and the Employee. Any amendments are to be negotiated, put in writing, and adopted by the City Council.

D. Conflict of Interest

- (1) The Employee shall not engage in any business or transaction or shall have a financial or other personal interest or association, direct or indirect, which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business, personal, or political associations. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active City employment, providing such acts do not constitute a conflict of interest as defined herein.
- (2) The Employee shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to the Employee's City employment.
- (3) The Employee is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.

E. Indemnification

- (1) To the full extent of the law as provided by the California Torts Claims Act (Government Code Section 810 et seq.) and the indemnity provisions of this Agreement, whichever shall provide the greatest protection to the City Manager, the City and the Successor Agency to the Grand Terrace Redevelopment Agency, jointly and severally, shall defend and indemnify the Employee against and for all losses sustained by the Employee in direct consequences of the discharge of the City Manager's duties on the City's behalf for the period of the Employee's employment.

- (2) The City shall defend, save harmless and indemnify the Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Employee's duties as City Manager. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.
- (3) Whenever the Employee shall be sued for damages arising out of the performance of the Employee's duties, the City shall provide defense counsel for the Employee in such suit and indemnify the Employee from any judgment rendered against the Employee; provided that such indemnity shall not extend to any judgment for damages arising out of any willful wrongdoing. This indemnification shall extend beyond termination of employment and the otherwise expiration of this Agreement to provide protection for any such acts undertaken or committed in the Employee's capacity as City Manager, regardless of whether the notice of filing of a lawsuit occurs during or following employment with the City. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies that the Employee may have under the law.
- (4) The City and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Employee, while acting within the scope of the Employee's duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the City or any party affiliated with or otherwise claiming under or through it, regardless of any prior, concurrent, or subsequent active or passive negligence by the Employee.
- (5) In the event that Employee shall serve as the chief executive of other City-related legal entities as provided in Section 3.A(1)(c) above, then each provision of this Section 8.E shall be equally applicable to each City-related legal entity as though set forth in an indemnity agreement between Employee and that legal entity. The City hereby guarantees the performance of this indemnity obligation by the City-related legal entity, and shall indemnify and hold the Employee harmless

against any failure or refusal by City-related legal entity to perform its obligations under this Section 8.E.

F. Severability

If any clause, sentence, part, section, or portion of this Agreement is found by a court of competent jurisdiction to be illegal or unenforceable, such clause, sentence, part, section, or portion so found shall be regarded as though it were not part of this Agreement and the remaining parts of this Agreement shall be fully binding and enforceable by the Parties hereto.

G. Laws Affecting Title

In addition to those laws affecting a City Manager, the Employee shall have the same powers, rights and responsibilities as a Chief Executive Officer, City Administrative Officer, Administrator, and/or City Administrator as those terms are used in local, state or federal laws.

H. Jurisdiction and Venue

This Contract shall be construed in accordance with the laws of the State of California, and the Parties agree that venue shall be in Los Angeles County, California.

I. Entire Agreement

This Contract represents the entire agreement of the Parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by a written, fully executed agreement of the Parties.

J. Notice

Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which the Employee or the City shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first class mail or hand-delivered to the respective Parties as follows:

(1) If to the City:

Grand Terrace City Hall
22795 Barton Rd.
Grand Terrace, CA 902313

(2) If to the Employee:

G. Harold Duffey
1011 Eileen Way
Sacramento, CA 95831

7. Execution

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

“City”

“Employee”

CITY OF GRAND TERRACE
A Municipal Corporation

By: _____
Darcy McNaboe, Mayor

_____ G. Harold Duffey

ATTEST:

By: _____
Pat Jacquez-Nares, City Clerk

APPROVED AS TO FORM:

By: _____
Richard L. Adams II, City Attorney