

EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF RICHMOND
AND WILLIAM LINDSAY

THIS CONTRACT (the "Contract") is entered into as of the ^{7th}8th day of December 2010, between the City of Richmond, a municipal corporation, (the "City"), and William Lindsay (the "Employee").

RECITALS

WHEREAS, City wishes to continue to employ the services of Employee as City Manager of the City of Richmond; and

WHEREAS, Employee wishes to continue to provide his services to the City as its City Manager; and

WHEREAS, City and Employee desire to provide for certain procedures, benefits and requirements regarding the continued employment of Employee by City; and

NOW, THEREFORE, City and Employee agree as follows:

1. Employment/Scope of Services.

City agrees to continue to employ Employee as the City Manager of the City of Richmond, California, conferring upon and delegating to Employee all of the duties, powers and responsibilities of City Manager as the same are specifically prescribed and set forth in the City Charter and in applicable City ordinances, resolutions, policies and California statutes. Employee agrees to continue his employment as City Manager of the City of Richmond and agrees to serve as such.

2. Compensation.

- (a) **City agrees to pay Employee a monthly salary of Twenty-two thousand five hundred forty-seven Dollars and Sixty-six Cents (\$22,547.66), effective February 14, 2011. Employee shall be entitled to an annual salary increase effective February 14 of each subsequent year in an amount equal to the salary increase granted to Local 21/1021, provided that Employee receives a satisfactory performance evaluation pursuant to Section 8 (below). In the event that the salary increases for Local 21 and Local 1021 are different in any given year, Employee shall receive an increase equal to the average of such increases.**
- (b) Employee shall receive the same holidays, sick leave, medical, dental, and vision insurance coverage and other fringe benefits as are provided to other City management employees as set forth in

the City's Management Salary Ordinance (Ord. No. 39-91 N.S., as currently amended, and Resolution No. 153-04.).

- (c) Employee shall accrue vacation at the rate of twenty-five (25) days per year and Employee shall be provided with eleven (11) days of administrative leave per year in recognition of the extraordinary hours required to be worked by the City Manager.
- (d) City shall also provide Employee a vehicle allowance of Five Hundred Dollars (\$500) per month and a cellular telephone allowance of One Hundred Dollars (\$100) per month.
- (e) City shall provide Employee with a credit card which shall be utilized only for City business purposes and purchases.
- (f) Employee shall be eligible for membership in the California Public Employees Retirement System (PERS) as per other general (non-public safety) management level City employees.

3. Community/Professional Development.

City recognizes the responsibility of Employee to participate in professional associations and organizations on the national, state, regional and local levels to advance and maintain his professional, educational, and technical competency for the benefit of both himself and the City. City hereby agrees to pay for Employee's expenses necessarily incurred in such activities including: (1) annual membership dues in such professional associations and organizations as selected by Employee and agreed to by City Council during the annual budgetary process; and (2) attendance at the annual conference of the International City Management Associations, the annual conference of the National League of Cities, the annual conference of the League of California Cities, and the annual meeting of the City Manager's Department of the League of California Cities. City also agrees, subject to prior authorization of the City Council, to pay travel and subsistence expenses of Employee for attendance at other meetings, seminars, and conferences that are necessary for his professional development and for the good of the City.

4. Term.

- (a) **The term of this Contract shall be for five (5) years commencing on February 14, 2011 and terminating on February 13, 2016.**
- (b) However, Employee is an at will employee and nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the City to terminate the services of Employee at any time, with or without cause, and for any reason, by a majority vote of the entire City Council, subject only to the provisions set forth in Section 6 of this Contract and in the City Charter.
- (c) Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from the position of City Manager, subject only to the provisions set forth in Sections 4.d. and 4.e., of this Contract.

- (d) In the event Employee voluntarily resigns from his position with the City before expiration of the five year term of his employment, Employee shall give City sixty (60) days written notice, in advance, unless the parties agree otherwise in writing.
- (e) Employee agrees to use his best efforts not to voluntarily resign from his position as City Manager between April 1 and June 30 of any year so as to ensure completion of the annual budgetary process.

5. Deferred Compensation.

To the extent authorized by Internal Revenue Code Section 457 and regulations applicable thereto (the "Federal Laws"), City agrees to pay annually, on behalf of Employee, Twenty-two Thousand Dollars (\$22,000) (or the then applicable maximum allowable contribution pursuant to the Federal Laws) into the Employee's deferred compensation account with the City's current deferred compensation provider. Annual payments of Twenty-two Thousand Dollars (\$22,000) (or the then applicable maximum allowable contribution pursuant to the Federal Laws) are to be made by the City for each year of Employee's Contract with City. However, in no event will City be obligated to pay more than one twelfth (1/12) of the maximum allowable contribution authorized to be deferred annually pursuant to the Federal Laws into Employee's deferred compensation account for each month Employee serves in the capacity of City Manager for the City.

6. Termination and Severance Pay.

- (a) "Involuntary Termination" is herein defined as (1) Employee's discharge or dismissal by City; (2) Employee's resignation following a salary reduction of ten percent (10%) or more; or (3) his resignation following a request by the City Council, approved by a majority of the City Council, that he resign, unless such request is made pursuant to one of the situations described in the following terms of this Section 6.
- (b) "Involuntary Termination" does not include (1) Employee's death, or (2) Employee's incapacity due to injury or illness (physical or mental), or (3) Employee's discharge or dismissal for willful misconduct, malfeasance, or dishonesty, or (4) for conviction of any felony or a misdemeanor involving moral turpitude.
- (c) In the event of the "Involuntary Termination" of the Employee, City shall pay Employee, as severance pay, a lump sum equal to twelve (12) months of then current salary (or one year's salary paid on a monthly basis) excluding all other benefits specified in Section 2 and Section 5.
- (d) In the event of the "Involuntary Termination" of the Employee, City shall also pay for the continuation of Employee's then current monthly premiums for medical, dental, vision and life insurance for Employee and his family.
- (e) City may withhold payment of severance pay pending final disposition of any criminal charges.

- (f) In the event Employee's employment with City terminates for any reason other than a situation of "Involuntary Termination", Employee shall not be eligible to receive any form of severance pay nor shall the City be obligated to pay for the continuation of Employee's premiums for medical, dental, vision and life insurance.

7. Indemnification.

Provided that Employee complies with the provisions of Sections 825 and 825.6 of the California Government Code, as now existing or hereafter amended, City shall defend, hold harmless, and indemnify 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 Employee's duties in accordance with the provisions of Sections 825 and 825.6, as now existing or hereafter amended. City may conduct such defense reserving the rights of City not to pay the judgment, compromise or settlement until it is established that the injury arose out of an act or omission occurring within the scope of Employee's employment as an employee of City. City is required to pay the judgment, compromise, or settlement only if it is established that the injury arose out of an act or omission occurring in the scope of Employee's employment as an employee of City. Nothing in this Contract authorizes or obligates City to pay that part of any claim or judgment that is for punitive or exemplary damages. City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom only to the extent authorized in Sections 825 through 825.6, as now existing or hereafter amended.

8. Annual Performance Evaluation and Pay Adjustment.

Employee shall be evaluated by the City Council on an annual basis using a mutually agreed to format. Annual salary increases, bonuses (not part of the base wage), and/or cost of living adjustments (COLAs), or any combination thereof, if any, shall be based upon such annual performance evaluations. Early in each one year period, a "goal-setting session" will be held between Employee and City Council wherein the parties will establish the goals for the remainder of the year. Employee's success in meeting the goals set at these sessions will be a major factor in the evaluation to be conducted at the end of the year.

9. Other Employment.

Employee shall not engage in any other employment or business activity during the term of this Contract without the prior written consent of the City Council.

10. Entire Agreement.

This Contract constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes any and all previous agreements or understandings.

11. Amendments.

Except as otherwise provided herein, this Contract may be amended or modified only by a written instrument agreed upon and executed by both City and Employee.

12. Controlling Law Venue.

This Contract and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Contract shall be held exclusively in a state court in the County of Contra Costa.

13. Litigation Expenses and Attorney's Fees.

If either party to this Contract commences any legal action against the other party arising out of this Contract, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

14. Severability.

If any term or portion of this Contract is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Contract shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Contract as of the 8th day of December, 2010.

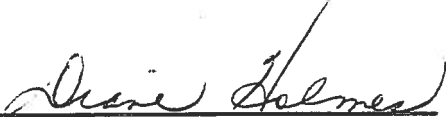
CITY OF RICHMOND,
a California municipal corporation


MAYOR

WILLIAM LINDSAY,
an individual


WILLIAM LINDSAY

Attest:


CITY CLERK

Approved as to form:


CITY ATTORNEY