

SECOND AMENDMENT TO EMPLOYMENT AGREEMENT

THIS SECOND AMENDMENT TO EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into effective June 28, 2016 between the CITY OF STANTON, a municipal corporation ("City") and JAMES A. BOX ("Manager") as follows:

WHEREAS, City desires to retain the services of Manager as city manager of City, as provided by the City Municipal Code, and

WHEREAS, it is the desire of the City Council of the City ("Council"), to provide certain benefits, establish certain conditions of employment and to set working conditions of said Manager, and

WHEREAS, it is the desire of the Council to (1) secure and retain the services of Manager and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Manager's morale and peace of mind with respect to future security, and (3) to provide a means of terminating Manager's services when City may desire to terminate his employ, and

WHEREAS, Manager desires to continue employment as city manager of City.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1 – Duties

City hereby agrees to employ Manager as city manager to perform the functions and duties specified in the City Municipal Code and the Government Code of the State of California, and to perform other legally permissible and proper duties and functions as the Council shall from time to time assign.

Section 2 – Termination and Severance Pay

- A. In the event Manager is terminated by a majority vote of the Council at such time as Manager continues to be willing and able to perform his duties under this Agreement, City agrees to pay Manager a lump sum cash payment, or equal payments over an agreed upon period of time, equal to (6) months of aggregate salary, and health benefits and discretionary compensation (Section 6), provided, however, that if less than six months remain in the term of this contract, the lump sum cash payment shall be in an amount equal to the monthly salary of the employee as provided above multiplied by the number of months left on the unexpired term of the contract. However, in the event Manager is terminated by a majority vote of the Council because of his commission of any illegal act involving a felony, an act or action constituting moral turpitude or personal gain to him, then in that event, City shall have no obligation to pay the aggregate severance sum designated in this paragraph.

- B. Except for a termination involving the commission of any illegal act, etc., as set forth in Section 2 A above, the Manager may not be terminated by the City within three (3) months preceding or following a City General Municipal Election where one or more Council seats are contested on the ballot of such election (the "election cool-off period"). Notwithstanding the foregoing, if a majority vote of the Council should determine to terminate Manager during the election cool-off period, and such a termination does not involve the commission of any illegal act, etc., as set forth in Section 2 A, above, the Manager shall be entitled to an additional (3) months aggregate salary beyond the six (6) months as provided in Section 2 A above, provided, however, that if less than six months remain in the term of this contract, the lump sum cash payment shall be in an amount equal to the monthly salary of the employee as provided above multiplied by the number of months left on the unexpired term of the contract.
- C. In the event City at any time during the term of the Agreement reduces the salary or other financial benefits of Manager in a greater percentage than an applicable across-the-board reduction for all department head level employees of City, or in the event City refuses, following written notice, to comply with any other provision benefitting Manager herein, or Manager resigns following a request, whether formal or informal, by a majority of the Council that he resign, Manager may, at his option, be deemed to be "terminated" at the date of such reduction, resignation or such refusal to comply, within the meaning and contest of the severance pay provision set forth in Sections 2 A and B.
- D. To the extent that any payments described in this section have been made to Manager based upon his termination, any cash settlement or payment related to the termination that Manager may receive from the City shall be fully reimbursed to the City if Manager is convicted of a crime involving an abuse of his office or position.
- E. Manager hereby expresses his intent to remain as Manager for a period of not less than three (3) years from the date of execution of this Agreement. Manager and Council agree that should Manager be offered other employment, he shall advise Council of his intent to accept the offer and provide Council the opportunity to meet with him to discuss the offer and other matters as might be desirable by either party. In the event Manager voluntarily resigns his position with the City, Manager shall give City a minimum of thirty (30) days' written notice in advance.

Section 3 - Salary

City agrees to pay Manager for his services rendered pursuant hereto a monthly base salary of thirteen thousand five hundred forty two dollars (\$13,542.00), payable in installments at the same time as other employees of City are paid. City and Manager agree that, as of the effective date of this Agreement, such a base salary is over ten percent (10%) higher than the current base salary of the highest paid department head level City employee. City agrees that the base salary of Manager shall be maintained at

least ten percent (10%) higher than any future base salary of the highest paid department head level City employee and, within thirty days of written request by the Manager, to increase such base salary of the Manager to maintain such ten percent (10%) salary differential. In addition, City agrees to increase said base salary and/or other benefits of Manager in such amounts and to such extent that the Council may determine that is desirable to do so, provided however, that unless otherwise agreed to by both Manager and Council, Manager shall automatically receive any cost of living or other salary and/or fringe benefit increases provided to all department head level City employees.

Section 4 – Automobile/Telephone

The City agrees to pay to the Manager a one hundred dollars (\$100.00) per month cellular telephone allowance, which shall be paid in equal installments in each pay period.

The City also agrees that it shall provide the Manager with a City-owned automobile. The Manager's duties, as City Manager and Director of Emergency Services for the City require that the Manager have exclusive and unrestricted use of an automobile at all times. As a result of these duties, the City will provide Manager with an automobile. Because Manager is essentially on 24-hour call, the automobile will be available for both business and personal use (and thus available for use by Manager's properly licensed and insured spouse under Manager's supervision). City agrees to maintain and pay for liability, property damage, and comprehensive insurance, and to pay for the purchase, operation (including all fuel costs), maintenance, repair, or replacement of a City-owned automobile. Manager agrees to keep the automobile in good condition and will ensure that all service is performed per the factory maintenance schedule.

Section 5 – Holidays Benefits

Manager shall be entitled to the same holidays as other department head level City employees.

Section 6 – Health, Disability and Life Insurance

- A. City agrees to provide hospitalization, surgical and comprehensive medical coverage for Manager. City shall contribute one hundred percent (100%) of premium, commensurate to Kaiser HMO, for "Manager and two or more", for health insurance plan cost. City shall also contribute one hundred percent of premium, commensurate to Delta Dental, for "Manager and two or more" for dental plan cost. City shall also contribute one hundred percent of premium, commensurate to VSP, for "Manager and two or more" for vision plan cost.
- B. City also agrees to provide Manager short-term and long-term disability insurance coverage commensurate with the standard City employee program.
- C. City also agrees to provide a term life insurance policy equal to a maximum of one hundred and fifty thousand (\$150,000.00).

Section 7- Retirement

City agrees to execute all necessary agreements to enroll Manager in the California Public Employees Retirement System ("CalPERS") and to pay a maximum of seven percent (7%) of "compensation earnable," for Manager, toward the employee's contribution to CalPERS.

Section 8 – Deferred Compensation

Manager may, at his own cost, participate in the City's deferred compensation program.

Section 9 – Comprehensive Leave

In lieu of sick, vacation, administrative, or any other paid leave, Manager shall accrue annually up to a maximum of three hundred seventy five (375) hours of comprehensive leave. On June 30 of each year, Manager shall be paid, at the then current rate of pay, for all unused accumulated comprehensive leave up to a maximum of two hundred twenty five (225) hours. After any such sell back of comprehensive leave under the previous sentence, any unused accumulated comprehensive leave remaining shall be carried forward to the following year. On July 1 of each year, the total amount of comprehensive leave available to Manager shall be replenished to reach the maximum comprehensive leave accumulation limit of three hundred seventy five (375) hours.

In the event that Manager voluntarily leaves the employ of the City, he shall receive in addition to any other accrued salary, a pro rata share of unused accumulated comprehensive leave at the then current rate of pay. For example, if Manager leaves City's employ on September 1st of any year, he shall receive 2/12ths of the unused accumulated leave balance at his then current rate of pay.

Section 10 – Dues and Subscriptions

City agrees to pay for the professional dues and subscriptions of Manager necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

Section 11 – Professional Development

- A. City hereby agrees to pay the travel and subsistence expenses of Manager for professional and official travel, meetings and occasions adequate to continue the professional development of Manager and to adequately pursue necessary official and other functions for City, including but not limited to, International City and County Management Association, and League of California Cities and other professional associations.

- B. City also agrees to pay for the travel and subsistence expenses of Manager for short courses, institutes and seminars that are necessary for his professional development and for the good of the City.
- C. City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by Manager, and hereby agrees to pay said general expenses subject to submission of written receipts and documentation of such expenses.

Section 12 – Performance Evaluation

- A. The Council shall review and evaluate the performance of Manager at the one year anniversary of the effective date of this Agreement and at least once annually thereafter. A full, formal review and evaluation shall be conducted each year on or before the anniversary date of the effective date of the Agreement. The Mayor of City shall provide Manager with a summary written statement of the findings of the Council and provide an adequate opportunity for Manager to discuss his evaluation with the Council. Said criteria may be modified as the Council may from time to time determine in consultation with Manager. The Council further agrees to review the Manager's total compensation on the first six month review and thereafter on the anniversary date of the effective date of the Agreement.
- B. Annually, the Council and Manager shall define such goals and performance objectives which they determine necessary for the proper operation of the City, and in the attainment of the Council's policy objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

Section 13 -- Indemnification

City shall defend, save harmless and indemnify Manager against any tort, professional liability claim, and demand or other legal action, whether groundless or otherwise, arising out of an alleged act of omission occurring in the performance of Manager's duties as city manager.

Section 14 - Bonding

City shall bear the full cost of any fidelity or other bonds required of Manager, acting as city manager of the City, under any law or ordinance.

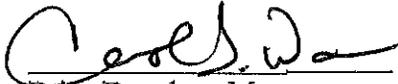
Section 15 – Other Terms and Conditions of Employment

- A. The Council, in consultation with the Manager, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the

F. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

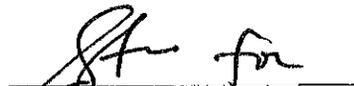
IN WITNESS WHEREOF, the City and Manager have signed and executed this Agreement as of the day and year first above written.

CITY



Brian Donahue, Mayor

APPROVED AS TO FORM



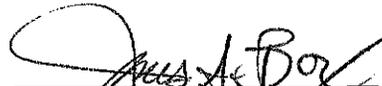
Matthew E. Richardson,
City Attorney

ATTEST



Patricia A. Vazquez, City Clerk

MANAGER



James A. Box, City Manager