

CITY OF RIO VISTA
CITY MANAGER AGREEMENT FOR EMPLOYMENT

This City Manager Agreement for Employment ("**Agreement**") is made and entered into this 16th day of May 2023 by and between the City of Rio Vista (the "**City**"), a general law city, and Kristina Miller ("**Employee**").

RECITALS

WHEREAS, the City desires to employ the services of Employee as the City Manager; and,

WHEREAS, it is the desire of the City Council to provide certain benefits, to establish certain conditions of employment, and to set working conditions for Employee; and,

WHEREAS, Employee desires to accept employment as the City Manager of Rio Vista; and,

WHEREAS, the parties acknowledge that Employee has the option to become a member of the International City County Management Association (ICMA) and that Employee will be subject to the ICMA Code of Ethics.

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

AGREEMENT

1. Appointment and Duties:

The City has appointed Employee as the City Manager of the City of Rio Vista and wishes to accept her employment based on the terms set forth herein. Employee shall be vested with the powers, duties and responsibilities set forth in the Rio Vista Municipal Code and California law. Employee shall perform the functions and duties specified under the laws of the State of California; the Rio Vista Municipal Code; the Ordinances and Resolutions of the City; and such other duties and functions as the City Council may from time-to-time assign. Employee agrees to devote her productive time, ability and attention to the City's business. For the duration of this Agreement, Employee shall not hold secondary employment, and shall be employed exclusively by the City, subject to any

exceptions approved in writing by the City Council. As an exempt employee, Employee shall not receive overtime or extra compensation for work performed outside normal business hours.

2. Term of Agreement:

This Agreement shall be effective as of June 26, 2023 ("Effective Date") and continue in full force and effect until June 30, 2026, and shall terminate thereafter unless either party terminates the Agreement pursuant to the provisions of paragraph 4 entitled "Termination of Employment and Severance."

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of Employee at any time, subject only to the terms of this Agreement.

3. At-Will Employment:

Employee is an "at will" employee who shall serve at the pleasure of the City Council. Accordingly, the City Council may terminate Employee's employment at any time, with or without cause pursuant to the provisions of paragraph 4 entitled "Termination of Employment and Severance." Employee understands that she has no constitutionally protected property or other interest in her employment as the City Manager. Employee further understands that she is not a member of any union or covered by any collective bargaining agreement. This provision may not be altered except by a written instrument executed by Employee and formally approved by the City Council which specifically references this Agreement and section.

4. Termination of Employment and Severance:

- a. Employee may terminate this Agreement with or without cause, by giving the City a minimum of forty-five (45) days' written notice in advance of termination. During the notice period, all the rights and obligations of the parties under this Agreement shall remain in full force and effect.
- b. In the event Employee resigns or is terminated without cause, the Employee shall be paid for all unused accumulated leave, including administrative, vacation and sick leave. Accumulated leave shall be paid based upon her base salary on the date of separation.

In the event the Employee dies while employed by the City under this Agreement, the Employee's beneficiaries or those entitled to her estate, shall be entitled to her earned and accrued salary, and any in-lieu payments for accrued benefits, including compensation for the value of all accrued leave.

- c. The City Council may terminate this Agreement with or without cause, subject to any limitations in the City Code at the time of termination. In the event that a majority of the City Council formally or informally asks the City Manager to resign without cause, then the City Manager shall be entitled to resign and still receive the provided in Sections 4(d) and 4(e) below.
- d. If Employee is terminated or removed from office without Cause, Employee will be eligible to receive the following Severance Payment: a cash payment equivalent to the sum of Employee's then-current monthly base salary multiplied by the number of months left on the unexpired term of the contract, and not more than six (6) months, unless that sum exceeds the "maximum cash settlement" permitted by California Government Code section 53260. In the event that the sum referenced in this paragraph exceeds the maximum cash settlement allowed pursuant to California Government Code section 53260, the Severance Payment will be reduced by the minimum amount necessary to comply with Government Code section 53260. Eligibility for this Severance Payment is expressly conditioned upon Employee's execution of (i) a waiver and release of any and all of Employee's claims against City, its Councilmembers, officers, and employees, and (ii) a covenant not to sue any of those parties, in a form acceptable to the City Attorney. The cash payment of the base salary shall be paid to Employee in a lump sum cash severance payment, less withholdings within thirty (30) days of termination.
- e. Further, Employee wants to encourage any newly-elected City Council members to take ample time to work with Employee before making any decision to terminate her employment without cause. In recognition of this desire, the City agrees to not terminate Employee's employment without cause within three (3) months following a municipal election at which a new City Council member is elected.
- f. If the City terminates Employee for cause, the City shall not owe any Severance under this Agreement. Employee may be terminated for cause. As used in this section, "cause" shall mean one or more the following:
 - i Conviction of a felony;
 - ii Continued abuse of non-prescription drugs or alcohol that materially affects the performance of the City Manager's duties; or

- iii Repeated and protracted unexcused absences from the City Manager's office and duties; or
- iv. Gross mismanagements and/or acts of moral turpitude (including but not limited to a misdemeanor arising out of Employee's duties pursuant to this Agreement, willful abandonment of duties, or a pattern of repeated, willful and intentional failure to carry out the clear, unambiguous, materially significant and legally constituted policy decisions of the City Council).

In the event the City terminates Employee for cause, then the City may terminate this Agreement immediately, and Employee shall be entitled to only the compensation accrued up to the date of termination, payments required by Section 4(b), and such other termination benefits and payments as may be required by law.

- g. Except as set forth at paragraph 4(c), Employee shall not be offered Severance if Employee voluntarily resigns.
- h. Employee shall not be entitled to Severance if the Agreement ends pursuant to the expiration of the term, as set forth in Section 2.
- i. Severance payment under this section and any legal criminal defense payments under section 8 are subject to, and shall be interpreted to comply with, the limitations set forth in Government Code section 53260, concerning the maximum cash settlement in an employment contract, and Government Code sections 53243 through 53243.4, limiting and/or restricting payment or continued retention of severance payments and/or legal criminal defense payments should Employee be convicted of a crime involving an abuse of office or position. "Abuse of office or position" for purposes of this Agreement, shall be as defined in Government Code section 53243.4 which provides: "'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) or Title 7 (commencing with Section 92) of Part 1 of the Penal Code."

5. Compensation & Benefits:

- a. Employee's base salary on the effective date of this Agreement shall be payable in installments at the same time as other employees of the City are paid in the amount set forth in Exhibit A. Employee's salary is reflective of the salary for similar positions in a comparable employment market, and takes into account the special expertise, experience and job duties of Employee.
- b. The City shall not at any time during the term of this Agreement reduce the base salary, compensation or other financial benefits of Employee, unless as part of a general city management salary reduction, and then in no greater percentage than the average reduction of all department heads. If such a non-uniform reduction occurs, Employee may deem such action to be a termination without cause and shall be eligible for severance compensation provided herein.
- c. Employee shall receive the salary and benefits identified in Exhibit A to this Agreement.

6. Pay for Performance Incentive Pay:

The City may consider the adoption of a "Pay for Performance" type of compensation system for the executive management team, including the City Manager. If such a system is adopted by the City Council, Employee agrees to participate in said system. Employee shall have the right to participate, provide input, and make recommendations regarding the "Pay for Performance" plan. The incentive may be based, in part, on the accomplishment of specific goals, set by the City Council that are achieved by Employee.

7. Memberships:

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, subject to its financial constraints, shall pay membership dues.

8. Indemnification:

The City shall defend, hold harmless and indemnify Employee against any tort, civil rights, personnel, discrimination, professional liability claim or demand or other legal

action, whether groundless or otherwise, arising out of an alleged act of omission occurring in the performance of Employee's duties in accordance with the provisions of California Government Code Section 825 and provide a defense in accordance with Government Code Section 995. The City may decline to defend and/or indemnify only as permitted by the California Government Code. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment therefrom. This provision shall survive any termination or resignation of the Employee or expiration of this Agreement. This paragraph is not intended to provide any rights in excess of those rights provided by state law.

9. Notices:

Notices pursuant to this Agreement shall be in writing given by deposit in the custody of the United States Postal Service, first class postage prepaid, addressed as follows:

City:

Mayor and City Council
City of Rio Vista
One Main Street
Rio Vista, CA 94571

Employee:

Kristina Miller


Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice, postage prepaid, with the United States Postal Service.

10. Bonding:

The City shall bear the full cost of any fidelity or other bond required under any law or ordinance.

11. Performance Evaluations:

The City Council shall review and evaluate the performance of Employee at least every twelve (12) months. The City Council may consider adjusting Employee's salary annually based on her performance or other factors.

12. Training:

Employee is encouraged to maintain memberships in and to attend conferences of appropriate professional organizations including, but not limited to, League of California Cities (LOCC) and international City Management Association (ICMA). Employee's annual budget for such memberships and conferences, including travel and related expenses shall be as included in the City of Rio Vista's adopted annual budget. Additionally, and in order to encourage Employee's continued professional development, the City will reimburse Employee for Employee's expenses in attending the — LOCC City Managers' annual meeting and the annual meeting of the ICMA, and will pay Employee's annual membership fees for appropriate professional organizations. All expense reimbursements are subject to the City policies and limited by budget line items approved by the City Council for the City Manager from time to time.

13. Miscellaneous:

14. Employee shall be entitled to all benefits, rights, and privileges accorded to non-public safety City Department Directors and management employees except as otherwise provided in this Agreement. If there is any conflict between this Agreement and any resolution fixing compensation and benefits for non-public safety City Department Directors or other unclassified employees, this Agreement shall control.
15. The text herein shall constitute the entire agreement between the parties. This Agreement may not be modified, except by written agreement executed by both parties.
16. The headings in this Agreement are included for convenience only and neither affect the construction or interpretation of any section in this Agreement, nor affect any of the rights or obligations of the parties to this Agreement.
17. 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.

a. This Agreement shall be governed by the laws of the State of California.

b. The parties agree that any ambiguity in this Agreement shall not be construed or interpreted against, or in favor of, either party.

c. This Agreement may be executed in counterparts containing original signatures.

IN WITNESS WHEREOF, the City has caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by its City Clerk, and Employee has signed and executed this Agreement, on the day and year written below.

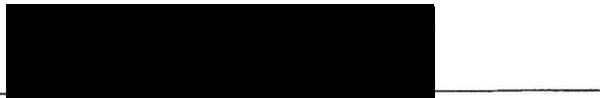
"EMPLOYEE"



Dated:

Kristina Miller

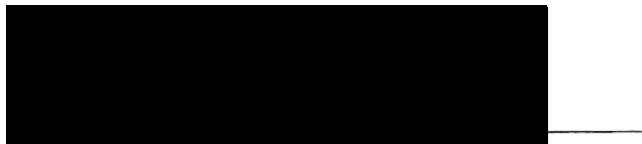
"CITY"



Dated:

Ronald Kott, Mayor

ATTEST:



Dated:

Pamela Caronongan, City Clerk

APPROVED AS TO FORM:



Dated: May 18, 2023

Mona G. Ebrahimi, City Attorney

EXHIBIT A

EMPLOYEE SALARY AND BENEFITS

Base City Salary

Effective June 26, 2023, the base salary will be approximately Seventeen thousand nine hundred and seventeen dollars (\$17,917) per month; two hundred fifteen thousand (\$215,000) dollars annually.

Health and Welfare Benefits

Retirement. Employee shall be eligible for, and shall receive, all regular benefits (i.e. health insurance, PERS contributions paid by the City, deferred compensation, dental, etc.) as are provided to the City's department heads by the City Council from time to time. The City shall pay the employer's share of required Social Security contributions, and Employee shall pay the Employee's share. The parties acknowledge that the City is moving towards a "cafeteria plan" program for the benefits for the executive team management. If this type of program is adopted, Employee agrees to participate in this program.

The City shall pay Employer's contributions into the Public Employee Retirement System (PERS Classic: 2% at 55 program) in accordance with the policies for other management employees. Employee shall pay the Employee's contributions into the Public Employee Retirement System (PERS Classic: 2% at 55 program).

Health Insurance. The City will pay 90% for Employee medical insurance plan offered through CalPERS. If Employee elects to forego health coverage through the City, the Employee is entitled to receive a monthly cash back benefit of \$600 dollars. The City currently provides medical coverage through CalPERS; Employee recognizes the City may change medical plan coverage to a provider other than CalPERS at some point in the future and this provision in no way guarantees coverage through CalPERS.

Dental Insurance. The City will pay for 100% of the dental insurance premium offered by the City for Employee plus family.

Vision Insurance. The City will pay for 100% of the vision insurance premium offered by the City for Employee plus family.

Life Insurance. The City will pay 100% of a \$25,000 plan for the Employee only.

Vacation

Employee shall accrue vacation leave at a rate of twenty (20) days per year. Employee may apply to cash out up to fifty (50) hours of accrued leave/vacation. Employee must request cash out of vacation leave in writing no later than the Monday following the pay period which includes July 15 and December 1 of each year, and subject to maintaining a minimum of one hundred (100) hours of accrued vacation leave on the books.

Administrative Leave

The City shall provide eighty (80) hours of administrative leave to Employee on an annual, calendar year basis. Administrative leave may only be carried over beyond the applicable calendar year with the City Council's formal approval.

Sick Leave

Employee shall accrue and may use sick leave in accordance with the City's policies for management employees at the rate of 3.69 hours per two-week pay period days, and as required by law.

Holidays

Employee shall be entitled to all holidays that are provided to other management employees.

Automobile Allowance

A. The City Manager's duties require that she have the use of a personal automobile at all times during her employment with the City. In recognition of that fact, Employee shall receive an automobile allowance of four hundred (\$400) dollars per month for conducting City of Rio Vista business, except as provided in subsection B below.

B. The parties acknowledge that the City plans to consider acquiring automobiles that will be available for use by the City department heads in connection with their employment with the City. In the event that the City acquires an automobile or automobiles in which one is provided for the exclusive use by the City Manager in connection with her duties, Employee agrees that she will no longer receive the car allowance provided for in subsection A, commencing at such time that the automobile or automobiles are first made available for her use.

Expense Reimbursement

- Moving Expenses – The City shall reimburse the employee for moving / relocation expenses not too exceed \$10,000 for costs incurred within twelve months of the execution of this Agreement provided, however, if Employee voluntarily leaves employment in the first twelve months, Employee shall reimburse the city for any moving/relocations costs paid by the City.
- Regular Expenses - The City will reimburse Employee for normal business expenses subject to the City's financial constraints and subject to Employee submitting an appropriate invoice or the City will make direct payment to vendors as determined by the City for routine business expenses such as, but not limited to: (a) travel on City business, (b) membership in community organizations as a representative of the City, (c) conferences and other City related training.

END OF EXHIBIT