

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is made, entered into, and effective this 11th day of March 2008 by and between the CITY OF LAGUNA HILLS, a California municipal corporation and general law city, hereinafter referred to as "City," and DONALD J. WHITE, an individual, hereinafter referred to as "Assistant City Manager."

RECITALS

WHEREAS, in order to insure that its governmental responsibilities are met at all times, the City must attract and retain management personnel who exhibit the highest degree of knowledge, experience, technical ability, professionalism, and leadership qualities; and,

WHEREAS, in order to attract and retain in its employment an assistant city manager who possesses those qualities and experience necessary to fulfill the City's immediate and long-term objectives, the City Council has determined that it is advisable to enter into this employment agreement with Donald J. White; and,

WHEREAS, Donald J. White was hired by the City on December 30, 1991 as the Director of Administrative Services and has been employed as the Assistant City Manager of the City since July 1, 1995; and,

WHEREAS, it is the desire of City to continue to receive the services of Assistant City Manager and to provide certain benefits, establish conditions of employment, and set working conditions for Assistant City Manager; and,

WHEREAS, City and Assistant City Manager desire to enter into this Agreement in order to specify the terms and conditions of the Assistant City Manager's continued employment with City.

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

AGREEMENT

Section 1: Duties.

1.1 City hereby employs Donald J. White as Assistant City Manager of City to perform assistant city manager functions and duties as may be specified in the Laguna Hills Municipal Code and Government Code of the State of California, and to perform such other legally permissible and proper duties and functions as the City Manager shall from time to time assign.

1.2 Unless otherwise directed by the City Manager, the services of Assistant City Manager shall be performed at City Hall, provided, however, that City may require Assistant City Manager to travel temporarily to other locations to perform services for or on behalf of City.

1.3 Assistant City Manager will, to the best of his ability and experience, loyally and conscientiously perform all of the duties and obligations required of Assistant City Manager, either expressly or implicitly by the terms of this Agreement.

1.4 In the event that the City Council requests that Assistant City Manager serve in an interim or acting city manager capacity, either temporarily or for an extended period of time, and Assistant City Manager agrees to serve in that capacity, the terms of this Agreement shall remain in full force and effect during any such period of service.

Section 2: Compensation and General Provision for Benefits

2.1 City agrees to pay Assistant City Manager an annual base salary as established in City's Annual Salary Resolution (*See*, Resolution No. 2007-06-12-2), and as such Resolution may be amended or superseded from time to time.

2.2 Assistant City Manager shall be entitled to the same benefits as other management employees, including annual adjustments to salary, on the same terms and conditions applicable to all other management employees, except City Manager.

Section 3: Term of Employment.

3.1 Assistant City Manager shall continue to serve as the Assistant City Manager of City in an "at-will" capacity serving at the pleasure of the City Manager, pursuant to Laguna Hills Municipal Code Section 2-08.060.

3.2 Either the City Manager or Assistant City Manager may terminate this Agreement at any time without advance notice, for any reason, no reason, with or without cause, and in their sole discretion.

3.3 In the event the City Manager terminates this Agreement as provided in Section 3.2, Assistant City Manager shall have no right to an appeal or grievance procedure, as the parties acknowledge and agree that he serves at the pleasure of the City Manager. In consideration therefore, and except as provided in Section 3.4 below, upon termination pursuant to this Section 3.3, City shall pay Assistant City Manager severance pay in an amount equal to nine months of his then current salary. Severance shall also include continuation of his group health and medical insurance benefits for nine months by making COBRA payments on behalf of Assistant City Manager, or until Assistant City Manager becomes employed and is eligible to receive group health and medical insurance benefits, whichever occurs first.

3.4 Notwithstanding Section 3.3, City Manager may terminate Assistant City Manager, without payment of severance pay, upon the occurrence of the following:

- A. Misappropriation of public funds; or
- B. An indictment, filing of an information, plea of guilty or plea of nolo contendere for a crime involving moral turpitude. However, if Assistant City Manager is terminated because of an indictment or the filing of an information for a crime involving moral turpitude, and is subsequently

acquitted with respect to the afore-mentioned indictment or filing of an information, he shall be entitled to nine months severance pay, but not to a continuance of group health and medical benefits; or

- C. A determination by a court of competent jurisdiction, or the State of California Fair Political Practices Commission, that Assistant City Manager knowingly and unlawfully participated in a government decision in which he had a conflict of interest, as defined California Code Section 87100 *et seq.*, or California Government Code Section 1090 *et seq.*; or
- D. Conduct found to be in violation of the City's workplace violence or harassment policies; or
- E. Voluntary termination of this Agreement by Assistant City Manager; or,
- F. Any material breach of this Agreement by Assistant City Manager.

Section 4: Other Benefits.

4.1 Automobile. The Assistant City Manager shall be provided with a City leased or owned automobile of a make and model deemed acceptable by the City Manager for the duration of his employment with City. City shall be responsible for all operating costs of such automobile including insurance, maintenance and repair, and gasoline. As part of his compensation, Assistant City Manager shall be allowed unrestricted personal use of the automobile when not engaged in City business subject to appropriate Internal Revenue Service ("IRS") reporting requirements.

4.2 Vacation. Assistant City Manager shall accrue vacation leave at the rate of twenty-five days each year (or 16.6 hours/month). Upon termination, Assistant City Manager shall be paid by City for all accrued and unused vacation time to a maximum of 320 hours, which shall be payable in a lump sum.

4.3 Deferred Compensation. Effective January 1, 2008, City agrees to provide a Section 457 deferred compensation program for Assistant City Manager which will be administered by the International City Management Association - Retirement Corporation (ICMA-RC) and to pay Ten Thousand Dollars (\$10,000.00) per year into such program for the benefit of Assistant City Manager. This amount shall be paid in a lump sum in January of each calendar year.

4.4 Medical Exam. Assistant City Manager may elect to submit once per calendar year to a complete physical examination, including a cardio-vascular examination and/or body scan, by a qualified physician under the City's medical plan, if available, or as may be otherwise selected by Assistant City Manager, the co-pay or cost of which is to be paid by City and shall not exceed \$1,000.00.

Section 5: Performance Evaluation.

5.1 In January of each calendar year, the City Manager and Assistant City Manager shall meet and mutually define such goals and performance objectives which they determine necessary for the proper operation of the City in the attainment of City policy objectives. Further, the City Manager and the Assistant City Manager shall establish a relative priority among those various goals and objectives to be reduced to writing with a mutual expectation of Assistant City Manager's achievement of those goals and objectives within a mutually agreed upon timeframe. This annual goal setting shall be conducted in accordance with criteria established by the City Manager. Such criteria may be added to or deleted as the City Manager may from time to time determine is appropriate.

5.2 The City Manager shall evaluate Assistant City Manager's performance against the goals established pursuant to Section 5.1 during the month of November or December of each calendar year. Following the evaluation, in December of each calendar year, Assistant City Manager may be entitled to receive a performance bonus equal to 0 - 10% of his then-current salary as determined at the sole discretion of the City Manager, as authorized pursuant to City's Annual Salary Resolution (*See*, Section 3, Article VI, Subsection C of Resolution No. 2007-06-12-2), which shall be payable in a lump sum.

5.3 In his sole discretion, the City Manager shall be entitled to review the performance of Assistant City Manager on a more frequent basis, with or without a written evaluation.

Section 6: Construction and Amendment.

This Agreement shall be governed by the laws of the State of California. This Agreement may not be modified, altered, or amended except in writing and signed by the City and the Assistant City Manager.

Section 7: Recitals.

The Recitals set forth above are hereby incorporated into this Agreement as though fully set forth herein and each party acknowledges and agrees that such party is bound, for purposes of this Agreement, by the same. The parties agree that the Recitals set forth above are true and correct.

Section 8: Notices.

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested or sent by electronic transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) three (3) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by electronic transmission. Any notice, request, demand, direction, or other communication sent by electronic transmission must be confirmed within forty-eight (48) hours by letter mailed or delivered. Notices or other communications shall be addressed as follows:

TO CITY: City of Laguna Hills
Attention: City Manager
24035 El Toro Road
Laguna Hills, California 92653

TO EMPLOYEE: Address listed in the Assistant City Manager's personnel file.

Either Party may, by written notice to the other, designate a different address, which shall be substituted for that specified above.

Section 9: Effect of Waiver.

The failure of either party to insist upon 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.

Section 10: Partial Invalidity.

If any provision of 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.

Section 11: Integration.

This Agreement supersedes any and all other agreements and understandings, either oral or in writing, between City and Assistant City Manager with respect to the employment of Assistant City Manager by City. Each party to this Agreement expressly acknowledges that no representations, inducements, promises, or agreements, either orally or otherwise, have been made by any party, or any person acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, representation, or promise not contained in this Agreement shall be of any force or effect.

Section 12: Indemnification.

Except for an act of misappropriation of public funds, or an indictment, the filing of an information, a plea of guilty or a plea of nolo contendere for a crime involving moral turpitude, City agrees that it shall defend, hold harmless, and indemnify Assistant City Manager from any and all demands, claims, suits, actions, and legal proceedings, to the maximum extent permitted by law, brought against Assistant City Manager in his individual capacity for acts arising out of or omissions in the scope of his employment or as agent and employee of City. The City reserves, however, the right to refuse to defend, indemnify, and pay damages for acts or omissions which were fraudulent, committed with actual malice, or otherwise outside the course and scope of his employment. If a conflict in good faith arises with regard to defense or claims between the legal position of Assistant City Manager and that of City, Assistant City Manager

may engage his own legal counsel, in which event City shall indemnify Assistant City Manager, including direct payment of all such reasonable costs related thereto.

Section 13. Outside Employment.

Assistant City Manager's position is considered full-time. Assistant City Manager shall devote his entire productive time, ability, and attention to the business of the City during the term of this Agreement. Assistant City Manager shall not engage in any other business, educational, professional, or charitable activities which in the sole discretion of the City Manager may conflict or materially interfere with Assistant City Manager's performance of his duties.

Section 14. Enforcement

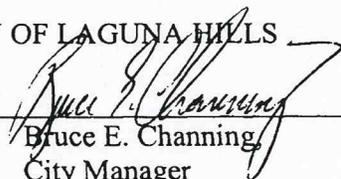
The prevailing party in any action brought to enforce this Agreement or resolve any dispute or controversy arising under the terms and conditions of hereof shall be entitled to payment of reasonable attorneys' fees.

Section 15. City's Policies and Procedures.

The terms and conditions of Assistant City Manager's employment, including additional employment benefits of Assistant City Manager not specifically provided for in this Employment Agreement, shall be governed by City's personnel policies and procedures, including but not limited to City's Annual Salary Resolution (*See*, Resolution No. 2007-06-12-2), governing management employees salaries and benefits, as amended from time to time, to the extent not inconsistent with the provisions of this Agreement. In the event of any such inconsistency or conflict, the provisions of this Agreement shall govern.

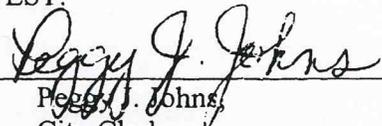
CITY OF LAGUNA HILLS

By: _____


Bruce E. Channing
City Manager

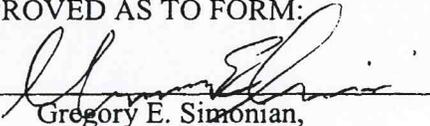
ATTEST:

By: _____


Peggy J. Johns
City Clerk

APPROVED AS TO FORM:

By: _____


Gregory E. Simonian,
City Attorney

DONALD J. WHITE

