

**EMPLOYMENT AGREEMENT  
BUILDING AND FIRE CODE OFFICIAL  
CODE ENFORCEMENT OFFICER**

**THIS EMPLOYMENT AGREEMENT** (“Agreement”) is made and entered into by and between the City of Angels Camp, a municipal corporation (“City”), and Michael Clarke, an individual (“Employee”). The City and Employee may individually be referred to herein as “Party” or collectively as the “Parties.” There are no other parties to this Agreement.

**RECITALS**

A. The City Administrator is authorized to select and recommend City staff appointments to the City of Angels Camp City Council (“City Council”) pursuant to City of Angels Camp Municipal Code (“Municipal Code”) section 2.08.070.

B. The City Administrator has evaluated the Employee’s knowledge, experience, administrative skills, and ability to serve as the Building and Fire Code Official Code Enforcement Officer and recommends to City Council that Employee be appointed to the position of Building and Fire Code Official Code Enforcement Officer, pursuant to the terms of this Agreement.

C. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as Building and Fire Code Official Code Enforcement Officer.

D. The Parties’ desire to execute this Agreement pursuant to the authority of, and subject to, the provisions of California Government Code (“Government Code”) section 53260 *et seq.*

**NOW, THEREFORE**, in consideration of the mutual covenants entered into between the Parties, and in consideration of the benefits that accrue to each, it is agreed as follows:

**AGREEMENT**

**Section 1. Recitals.** The recitals set forth above (“Recitals”) are incorporated herein by this reference and made a part of this Agreement. In the event of any inconsistencies between the Recitals and Sections 1 through 10 of this Agreement, Sections 1 through 10 will prevail.

**Section 2. Effective Date.** The effective date of this Agreement shall be December 16, 2024, once it has been executed by both the City and Employee (“Effective Date”).

**Section 3. Appointment of Building and Fire Code Official Code Enforcement Officer, Duties, and Term.**

**3.1. Appointment of Building and Fire Code Official Code Enforcement Officer and Duties.** Employee shall serve as the Building and Fire Code Official Code Enforcement

Officer for the City, and shall be vested with the powers, duties, and responsibilities as set forth in the City Code, California law, City ordinances and resolutions, the Building and Fire Code Official Code Enforcement Officer Job Description, and any such other duties and functions as the City Administrator may from time-to-time assign to Employee. Employee accepts employment pursuant to the terms of this Agreement.

**3.2. Secondary Employment/Conflict of Interest.** Employee agrees to devote all of his productive time, ability, and attention to the City's business to the extent necessary to perform his duties and responsibilities in a manner satisfactory to City. During the Term, as defined in Section 3.5 of this Agreement, Employee shall not hold secondary employment or engage in activities which conflict with, or present the appearance or possibility of conflicting with, City's legitimate business interests. As such, Employee agrees that Employee will notify the City Administrator in writing at least thirty (30) days prior to accepting or engaging in any secondary employment, so the City may determine whether there is the appearance of, or an actual conflict or potential conflict with, the satisfactory performance of Employee's duties and/or the best interest of the City. Employee has the right to volunteer for such nonprofit organizations as he may see fit provided that such volunteer services shall not interfere with or conflict with his duties as Building and Fire Code Official Code Enforcement Officer.

**3.3. Exempt Employee.** Employee agrees to devote that amount of time and energy which is reasonable and necessary to the full accomplishment of duties of Building and Fire Code Official Code Enforcement Officer. A work week shall generally consist of forty (40) hours; however, it is recognized by the Parties that Employee is an exempt employee for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 *et seq.*). Employee shall not receive overtime or extra compensation for hours worked over forty (40) hours, which are necessary to fulfill the duties of the Building and Fire Code Official Code Enforcement Officer position, unless otherwise provided in this Agreement.

**3.4. Duties/Schedule.** Employee's daily and weekly work schedule shall vary in accordance with the work required to be performed. The Building and Fire Code Official Code Enforcement Officer position may include frequent attendance at evening meetings and irregular hours as necessary to meet deadlines and achieve objectives. The City Council and the City Administrator recognize that the Building and Fire Code Official Code Enforcement Officer must devote a great deal of his time outside normal office hours to the business of the City and, to that end, Employee will be allowed to take Management Leave during general business hours, upon approval of the City Administrator.

As Building and Fire Code Official Code Enforcement Officer, Employee's initial duties shall be as shown in the Job Description attached as **Exhibit A**. Employee shall perform Employee's duties under this Agreement pursuant to the laws of the State of California and applicable City Municipal Code, ordinances, and resolutions. Employee understands that Employee's duties may be amended from time to time by City, as necessary to meet the City's needs. No modification or change in Employee's responsibilities, duties, or position shall otherwise change or revoke any other provision of this Agreement.

Unless otherwise specified in this Agreement, Employee shall be bound by all the policies, rules, and regulations of City now in force and effect applicable to Employee's position, and by all such other applicable policies, rules, and regulations as may be hereafter implemented and called to his notice and will faithfully observe and abide by the same. No such policy, rule, or regulation shall alter, modify, or revoke Employee's status as an at-will employee or any other provision of this Agreement.

**3.5. Term.** The term of this Agreement shall be for one (1) year from the Effective Date ("Term") subject to Section 4 of this Agreement. The City Administrator, in his or her sole discretion, may extend the Term from time to time in increments of at least one (1) year. No later than three (3) months prior to the expiration of the Term, the City Administrator shall provide written notice to Employee as to whether the City Administrator intends to extend the Term. Termination of this Agreement shall be in accordance with Section 6 below. If no notice is provided to terminate the Agreement, then the Agreement shall continue in effect for an additional one-year term.

#### **Section 4. At-Will Employment.**

**4.1. At Will.** Employee is an at-will employee serving at the pleasure of the City Council and City Administrator, as provided in Government Code section 36506. Accordingly, either the City or Employee may terminate Employee's employment and this Agreement at any time, with or without cause. Only if Employee is terminated by City without Good Cause, as defined in Section 6.3 of this Agreement, shall Employee be entitled to a Severance, as defined in Section 6.3 of this Agreement.

**4.2. No Property Right in Employment.** Employee understands and agrees that the terms of his employment are governed solely by this Agreement and the provisions of any applicable Memorandum of Understanding ("MOU"). Employee further understands and agrees that this Agreement does not confer a right of employment for any specified term and that he is not entitled to due process for any disciplinary action under the City's personnel policies and rules, including termination, unless such process is provided in pursuant to the terms of any applicable MOU, or otherwise required by law.

#### **Section 5. Compensation and Evaluations.**

**5.1. Base Salary.** City agrees to pay Employee in accordance with the Exempt Salary Schedule, Range Forty-Eight (48), of the City's Salary Plan. Employee's initial compensation shall be at Step 2, which is an annual salary of One Hundred Five Thousand, Six Hundred Ninety-three Dollars and 95/100 Cents (\$105,693.95) ("Base Salary"), payable in installments at the same time as other City employees are paid. Employee shall be eligible for cost of living and salary increases under the same terms and conditions as other similarly situated employees, in accordance with any applicable provisions of City personnel policies, rules, and regulations and/or applicable MOU.

**5.2 Pro-Rata Decrease.** Employee acknowledges that the Base Salary may be subject to a pro-rata decrease based on the City Council's adoption of an unpaid Mandatory Furlough Program adopted as a budgetary measure.

**5.3. Review and Evaluation.** The City Administrator agrees to review and evaluate Employee's performance of his duties as Building and Fire Code Official Code Enforcement Officer, pursuant to the terms of this Agreement ("Review and Evaluation"), on not less than an annual basis and to provide Employee with a written performance review. The annual Review and Evaluation shall generally be conducted each year in the month prior to Employee's anniversary date, or at the City Administrator's discretion.

**5.4. Health Benefits.** Employee shall be entitled to participate in medical, dental, and vision insurance coverage provided by the City on the same terms and conditions as similarly situated employees, and in accordance with any applicable provisions of City personnel policies, rules, and regulations, and/or any applicable MOU. Employee acknowledges that the level of benefits and portion of premiums paid by the City may be subject to change. City will endeavor to provide Employee no less than thirty (30) days' notice of new medical benefit program and costs.

**5.5. Longevity Pay.** Employee shall be eligible for longevity pay based on years of continuous service under this Agreement in accordance with any applicable provisions of City personnel policies, rules, and regulations, and/or any applicable MOU.

**5.6. Retirement.** The City participates in CalPERS. CalPERS will make the determination whether Employee is considered a "Classic" or "New Member" (as defined by Government Code section 7522.04), and Employee shall contribute based on the enrolled tier. City will pay one hundred percent (100%) of the employer contribution. Employee will pay one hundred percent (100%) of the employee contribution.

**5.7. Vacation.** Accrual of vacation leave shall begin on the first day of the first full month of employment under this Agreement. Unless otherwise specified in this Agreement, the accrual, use, and cash out of vacation shall be administered in accordance with any applicable provisions of City personnel policies, rules, and regulations and/or applicable MOU. Upon separation, Employee is entitled to receive payment for all accrued but unused vacation time at his current Base Salary rate as of the date of the Employee's separation of employment.

**5.8. Sick Leave.** Accrual of sick leave shall begin on the first day of the first full month of employment under this Agreement. Unless otherwise specified in this Agreement, the accrual and use of sick leave shall be administered in accordance with any applicable City personnel rules, policies, and regulations and/or applicable MOU.

**5.9. Management Leave.** It is recognized that Employee must devote a great deal of time outside the normal office hours to City business as the Building and Fire Code Official Code Enforcement Officer. To that end, Employee shall be eligible for management leave ("Management Leave") at the beginning of each fiscal year to be used as needed, upon approval of the City Administrator. The accrual and use of Management Leave shall be administered in accordance with any applicable City personnel rules, policies, and regulations and/or applicable MOU. In the first year of this Agreement, Employee will be credited with a prorated portion of Management Leave for the remainder of the fiscal year. Any unused Management Leave expires on June 30 of each fiscal year and shall not be carried over from year to year.

**5.10. Holidays.** Employee shall be entitled to observe, with pay, designated City holidays. The accrual and use of holiday pay shall be administered in accordance with any applicable City personnel rules, policies, and regulations and/or applicable MOU. Any unused holiday pay will not be paid out on Employee's separation from employment.

**5.11. Vehicle and Equipment.** The City will provide Employee with a vehicle to be used for City-related business and will cover the costs and expenses associated with said vehicle. The City will also provide Employee with all gear and equipment necessary for Employee to perform his duties, as determined by the City.

**5.12. Safety Equipment.** The City shall furnish all safety equipment as required by law. All equipment entrusted to Employee shall be maintained in a reasonable and prudent manner.

## **Section 6. Termination of Employment and Severance.**

**6.1. Voluntary Resignation.** Employee may resign at any time and agrees to give the City at least thirty (30) days' advance written notice of the effective date of Employee's resignation, unless the Parties otherwise agree in writing. If Employee retires from full-time public service with the City, Employee shall provide three (3) months' advanced written notice. During the notice period, all rights and obligations of the Parties under this Agreement shall remain in full force and effect. Promptly after the effective date of resignation or retirement, the City shall pay to Employee all salary and other compensation due and owing under this Agreement. In the event of voluntary resignation or retirement, Employee shall not be entitled to Severance, as set forth in Section 6.3 of this Agreement.

**6.2. Termination by City Administrator.** The City Administrator may, with the approval of City Council, terminate this Agreement and remove Employee from his position as Building and Fire Code Official Code Enforcement Officer at any time with or without cause and with or without notice. If Employee's termination is based on charges of misconduct that publicly stigmatizes Employee's reputation or impairs his ability to earn a living, or might damage his standing in a community, Employee may, within ten (10) calendar days of the City Administrator's notice to Employee of his or her intent to terminate Employee's employment, make a written request for a "name-clearing" hearing (as described in *Lubey v. City and County of San Francisco* (1979) 98 Cal.App.3d 340 at its progeny) before the City Council. Any such "name-clearing" hearing will be held solely to provide Employee an opportunity to clear Employee's name. The City Council shall use its sole discretion, and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing; the purpose of which is solely to allow Employee to present Employee's grounds of opposition to the allegations in the notice of termination. The "name-clearing" hearing is solely to provide Employee the opportunity to clear his name.

The City Council may determine whether the allegations in the notice of termination are supported. If the City Council determines that the allegations are not supported, a decision shall be issued to reflect that the Employee's termination was without fault. Such a decision, however, will not require that Employee be reinstated. The hearing shall take place at a regularly scheduled City

Council meeting and held in accordance with the City's standard practice and any applicable provisions of state law. The decision whether to terminate Employee shall be made by a majority vote of the whole City Council as then constituted, and if held in closed session, reported out of closed session as required by the California Government Code.

**6.3. Termination Without Good Cause.** In the event the City terminates Employee's employment and this Agreement without Good Cause, as defined in Section 6.4, below, the City shall pay Employee a sum equal to one (1) month's Base Salary ("Severance"). Such Severance is contingent on Employee's execution of a general release of claims in favor of the City in a form acceptable to the City and is subject to the restrictions of Government Code section 53260, which states that the Severance amount shall not be more than the monthly Base Salary of the employee multiplied by the number of months left on the unexpired term of the contract. The City has the option to pay the Severance to the Employee in monthly installments following the Employee's termination. In the event the City terminates this Agreement and Employee's employment, Employee shall be entitled to continued medical and dental benefits at his own cost, pursuant to the provisions of the federal Consolidated Omnibus Budget Reconciliation Act ("COBRA").

**6.4. Termination for Good Cause.** The City may at any time immediately terminate this Agreement and Employee's employment for Good Cause, as defined below. If Employee is terminated for Good Cause, the City shall not be required to pay any Severance under this Agreement, and the City shall have no obligation to Employee beyond those benefits accrued as of Employee's last day of employment and those the City is obligated to provide under federal or state law.

"Good Cause" for purposes of this Agreement, means a fair and honest cause or reason for termination. These reasons include, but are not limited to:

1. Conviction of a felony;
2. Disclosing confidential information of the City;
3. Gross carelessness or misconduct;
4. Unjustifiable and willful neglect of the duties described in this Agreement;
5. Mismanagement;
6. Dishonesty;
7. Failure to perform Employee's duties to the standard set by the City;
8. Any conduct which violates the applicable provisions of the City's personnel policies, rules, or regulations for which a City employee may be terminated;
9. Repeated and protracted unexcused absences from the Building and Fire Code Official Code Enforcement Officer's office and duties;
10. Willful destruction or misuse of City property;
11. Conduct that in any way has a direct, substantial, and adverse effect on the City's reputation, whether during or outside business hours;
12. Willful violation of federal, state, or City discrimination laws;

13. Being under the influence of alcohol or narcotics (for which the employee does not have a valid medical prescription) while on duty;
14. Substance abuse which adversely affects performance of Employee's duties as Building and Fire Code Official Code Enforcement Officer;
15. Discourteous treatment of the public or other employees;
16. Refusal to take or subscribe any oath or affirmation which is required by law;
17. Employee's disability resulting in his inability to perform the essential functions of his job, which the City is unable to reasonably accommodate without placing an undue burden on City business operations; or
18. Engaging in other employment or activities which conflict with, or present the appearance or possibility of conflicting with, City's legitimate business interests.

The City Administrator may also place Employee on paid or unpaid investigatory leave during the Term of this Agreement.

**Section 7. Indemnification.** The City shall defend, hold harmless, and indemnify Employee against any tort, personnel, civil rights, or 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 as Building and Fire Code Official Code Enforcement Officer in accordance with the California Government Claims Act (Government Code section 810 *et seq.*) and shall provide a defense to Employee in accordance with Government Code sections 995 through 996.6. The City may decline to defend or indemnify Employee only as permitted by the Government Code. City may compromise and settle any such claim or suit and pay the amount of any resulting settlement or judgment; provided, however, the City's duty to defend and indemnify Employee shall be contingent upon Employee's good faith cooperation with such defense. In the event the City provides paid leave to the Employee pending an investigation or funds for a legal criminal defense pursuant to this Section, Employee shall reimburse the City for the amount of such paid leave or cost of the legal criminal defense, if Employee is convicted of a crime involving an abuse of office or position, as provided by Government Code sections 53243 through 53243.1. If this Agreement and Employee's employment are terminated, any severance the Employee may have received from the City shall be fully reimbursed to the City if Employee is convicted of a crime involving an abuse of his office or position as provided in Government Code section 53243.2 through 53243.4.

**Section 8. Bonding.** City shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

**Section 9. Notices.** Any notice or communication required hereunder between the City and Employee must be in writing and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS, or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving

Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day, or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days' written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the City: City of Angels Camp  
Attn: City Clerk  
P.O. Box 667  
200 Monte Verda Street, Suite B  
Angels Camp, CA 95222

If to the City Administrator: City of Angels Camp  
Attn: City Administrator  
P.O. Box 667  
200 Monte Verda Street, Suite B  
Angels Camp, CA 95222

and White Brenner LLP  
Attn: Douglas L. White  
1608 T Street  
Sacramento, CA 95811

If to Employee: City of Angels Camp  
Attn: Michael Clarke  
P.O. Box 667  
200 Monte Verda Street  
Angels Camp, CA 95222

With copy sent to employee's home address.

## **Section 10. General Provisions.**

**10.1. Modification of Agreement.** This Agreement may be supplemented, amended, or modified only by a writing signed by the City and Employee.

**10.2. Entire Agreement.** This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties and supersedes all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been



induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement.

**10.3. Severability of Agreement.** If a court or an arbitrator of competent jurisdiction holds any section of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining sections of this Agreement shall not be affected.

**10.4. Authority.** All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states, or firms and that all former requirements necessary or required by state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

**10.5. Headings.** 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.

**10.6. Necessary Acts and Further Assurances.** The Parties shall, at their own cost and expense, execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

**10.7. Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.

**10.8. Waiver.** No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

**10.9. Counterparts.** This Agreement may be executed in counterparts, and all so executed shall constitute one (1) agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

**10.10. Venue.** Venue for all legal proceedings shall be in the Superior Court in and for the County of Calaveras in the State of California.

**10.11. Attorney's Fees and Costs.** If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret sections of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

**IN WITNESS WHEREOF**, this Agreement has been entered into by and between Employee and City as of the date of the Agreement set forth above.

**CITY:**

City of Angels Camp, a municipal corporation  
of the State of California

**EMPLOYEE:**

Michael Clarke

By: \_\_\_\_\_  
Steve Williams, Interim City Administrator

By: \_\_\_\_\_  
Michael Clarke, an individual

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Rose Beristianos, City Clerk

Date Signed: \_\_\_\_\_

Approved as to Form and Content:

By: \_\_\_\_\_  
Douglas L. White, City Attorney

Date Signed: \_\_\_\_\_

**EXHIBIT A**  
**Job Description**