

CITY OF CLEARLAKE
EMPLOYMENT SERVICES AGREEMENT

CITY MANAGER

1. PARTIES AND DATE.

This Employment Services Agreement (hereinafter referred to as the "Agreement") is made and entered into this April 18, 2024 ("Effective Date") by and between the City of Clearlake, a California municipal corporation (hereinafter referred to as "City") and Alan D. Flora (hereinafter referred to as "Employee"). City and Employee are sometimes individually referred to herein as "Party" and collectively as "Parties".

2. RECITALS.

City desires to continue to employ the services of Employee as City Manager for the City of Clearlake and Employee desires to accept employment as City Manager. It is the desire of the Parties through this Agreement to provide for certain benefits, establish conditions of employment and to set working conditions for Employee.

Employee currently serves the City as the City Manager and has an agreement with the City reflecting that employment relationship. The initial agreement was dated March 14, 2019, and a subsequent agreement was entered into March 18, 2021. Upon execution of this Agreement, the Employee's agreement, dated March 18, 2021, is terminated immediately and replaced with this Agreement.

3. TERMS.

3.1 Duties.

3.1.1 Designated Duties. City hereby agrees to employ Employee as City Manager to perform the functions and duties pertaining to the City Manager position, and to perform other legally permissible duties and such functions as the City Council shall from time to time assign. The City Council shall have the authority to determine the specific duties and functions that Employee shall perform under the Agreement and the means and manner by which Employee shall perform those duties and functions. Employee agrees to devote all business time, skill, attention and best efforts to the discharge of the duties and functions assigned by the City Council.

3.1.2 Control and Supervision. Employee shall serve at the will and pleasure of the City Council

3.1.3 City Council Meetings. Employee shall attend all City Council meetings

of the City of Clearlake unless directed otherwise or excused. Employee shall also attend all regular meetings of the Planning Commission until such time as a planning director may be employed or contracted as well as any other special meetings and workshops and such other meetings as are determined necessary for the business of the city.

3.2 Conditions of Employment.

3.2.1 During the term of the Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this agreement.

3.2.2 The City Manager is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the position. Employee does not have set hours of work as Employee is expected to be available at all times.

It is recognized that Employee must devote a great deal of time to the business of the city outside of the city's customary office hours, and to that end Employee's schedule of work each day and week shall vary in accordance with the work required to be performed. Employee shall spend sufficient hours on site to perform Employee's duties; however, Employee has discretion over Employee's work schedule and work location.

3.3 Compensation and Benefits and Other Considerations. For services rendered pursuant to this Agreement, Employee shall receive the following compensation:

3.3.1 Compensate Employee at a rate \$16,342.05 per month. Compensation shall be paid bi-weekly at the same time as other employees of City are paid and shall be subject to all applicable taxes, insurance and other required deductions.

a. Each year on or about the anniversary of this Agreement, the council shall perform an annual review of performance of Employee with the potential of salary and benefit adjustment. Salary adjustments made under this clause are considered separate from any cost-of-living adjustment that may be made as set forth below.

b. On July 1, 2024, and each year thereafter for the term of the agreement the Employee shall receive a 3% salary adjustment, contingent upon:

- a. a positive evaluation from a majority of the City Council members.
 - b. The Local Economic Benchmark, which is defined as secured property tax revenue, Bradley-Burns sales tax, and transient occupancy tax, exceeds audited revenues from fiscal year 19-20
 - c. City agrees to adjust Employee's annual salary by a cost-of-living adjustment on the same percentage amount and at the same time as cost-of-living adjustments are made to City's management salary ranges.
 - d. 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 City department heads or unless otherwise renegotiated.
- 3.3.2 Employee will be responsible for paying the Employee's share of the CalPERS retirement contribution cost (7%).
- 3.3.3 The Council agrees to provide Employee health, vision and dental insurance as is provided to management employees as set forth in the Management Employees Classification and Benefit Plan and any other documents that designate management benefits.
- 3.3.4 The Council agrees to provide Employee life insurance coverage equal to that provided to management employees as set forth in the Management Employees Classification and Benefit Plan and any other documents that designate management benefits.
- 3.3.5 The Council shall provide Employee with disability insurance coverage equal to that provided to other full-time employees of city.
- 3.3.6 If Employee serves the full term of his previous March 18, 2021 Agreement, by serving through March 18, 2026, City shall deposit an amount equal to 3% of each year's base salary into a deferred retirement account of Employee's choosing.
- 3.3.7 Employee will earn 120-hours vacation accrual annually, accrued at 10 hours per month commencing on the effective date of the employment agreement.

- 3.3.8 The City Manager position is classified as "exempt" under the Fair Labor Standards Act and Employee shall not be entitled to the payment of overtime. Employee shall be entitled to executive leave of 120 hours per employment year with full pay. Hours shall be credited on January 1st of each year. Executive leave does not accumulate and is not earned vacation time or benefit. Executive leave days not used at the end of the calendar year are lost. Sell back of executive leave is per the Management Benefit Plan.
- 3.3.9 Employee shall accrue sick leave at a rate of eight (8) hours per calendar month of service.
- 3.3.10 Employee shall be entitled to holiday leave consistent with the City's holiday policy.
- 3.3.11 Employee shall be entitled to bereavement leave consistent with the City's policy.
- 3.3.12 Leave Accrual:
- A. Employee shall be allowed to earn vacation accrual credit to a maximum of 240 hours. Employee will not be allowed to earn more than the maximum accrual. Should Employee's vacation leave credits reach the maximum, Employee shall cease to earn any additional vacation credits until the leave balance is reduced sufficiently to allow additional credits to be added without exceeding the maximum accrual unless authorized due to extenuating circumstances by the city council.
 - B. On termination of Employee, Employee shall receive pay for any unused vacation accrual.
 - C. On termination, employee shall be eligible for sick leave payout as provide to management employees as set forth in the Management Employees Classification and Benefit Plan and any other documents that designate management benefits.
- 3.3.13 Employee will be provided a stipend in the amount of \$400 per month to partially reimburse Employee's cost of operation, insurance and availability of Employee's personal vehicle as well as use of Employee's personal cell phone for City business. Employee is not precluded from using City vehicles for City business, during, before and after the normal

workday if needed.

3.3.14 Dues, expenses, professional development.

- A. The Council will budget sufficient funds to cover dues and subscriptions of the City Manager necessary for continued and full participation in regional, state and local associations and organizations necessary and desirable for the full representation of the City's interests. The City shall also pay City Manager's dues for membership in the International City Management Association, provided any travel expenses to attend functions of this organization. It is also provided that the City Manager may request to join other associations and organizations, and, if approved, the City shall pay such other dues and appropriate expenses.
- B. The Council recognizes that certain expenses of a non-personal and generally job-related nature are incurred by the Employee in the performance of Employee's duties and responsibilities. The Council agrees to reimburse or to pay said general expenses on receipt of duly executed expense or petty cash vouchers, receipts or statements, attached to a monthly request for reimbursement form.
- C. Council agrees to budget a sufficient amount of money to pay for the registration, travel and subsistence of Employee to adequately pursue necessary official functions for the City, short courses, institutions, seminars and other functions that are necessary for Employee's professional development and for the good of the city. These shall include but not be limited to the California City Management Association and the League of California Cities.
- D. Any expenses of a purely personal nature while participating in any organization shall be borne by Employee. Employee agrees to obtain prior approval for expenses unless specifically provided in the annual budget.

3.4 Status and Authority of Employee.

3.4.1 Employee shall at all times be considered an agent or employee of the City.

3.4.2 Subject to the prior authorization of the City Council, Employee may act as a representative of City in such a manner as may be required to carry out Employee's duties hereunder.

3.5 Term of Agreement. The term of this Agreement shall commence on April 18,

2024, and remain in effect for a term of two (2) years, ending on April 18, 2026. The term of the Agreement may be extended in one (1) year increments only upon mutual written agreement of both parties.

3.6 Termination.

3.6.1 For a period of one year after a new councilmember is elected and sworn into office, in order to terminate Employee without cause, such action will require a 4/5th vote of the Council.

3.6.2 This Agreement may be terminated with cause at any time upon thirty (30) days advance written notice given by Employee to City or immediately upon written notice by City to Employee. Notice of termination may be delivered personally or by mail. After the one-year period described in Section 3.6.1 above, this Agreement may be terminated without case at any time upon thirty (30) days advance written notice given by Employee to City or immediately upon written notice by City to Employee. All notices permitted or required under this Agreement shall be given to the respective parties at the following address or at such other address as the respective parties may provide in writing for this purpose:

CITY:	City of Clearlake 14050 Olympic Drive Clearlake, CA 95422 ATTN: Mayor
EMPLOYEE:	Alan D. Flora Address on File with City Clerk

3.6.3 Employee will have no recourse or right to appeal City's decision to terminate Employee except as provided by applicable law.

3.6.4 Notwithstanding the above, Employee may voluntarily resign employment with the city by giving 30 days written notice in advance of the last day of employment. However, both parties may mutually agree to a shorter period. In the event of a voluntary resignation, Employee is not entitled to any other compensation except for normal compensation for the 30-day period, pro-rated, following the notice of resignation and the value of all accrued benefits unless otherwise agreed to by parties.

3.6.5 For purposes of this agreement, "cause" shall mean any of the following:

- A. Conviction of a felony
- B. Conviction of a misdemeanor arising out of Employee's duties under this Agreement
- C. Conviction of any crime involving an "Abuse of office or position" as that term is defined in Government Code Section 53243.4
- D. Willful abandonment of duties
- E. Repeated failure to carry out a directive or directives of the City Council
- F. Any grossly negligent action or inaction by Employee that materially and adversely:
 - i. impedes or disrupts the operations of the City or its organizational units;
 - ii. is detrimental to employees or public safety;
 - iii. violates rules or procedures of City.

3.6.6 City may suspend or terminate Employee with cause by the affirmative vote of three members of the Council.

The Council shall provide Employee with written notice of the charges, which serve as the basis for any suspension or termination of cause.

In the event of suspension or termination with cause, Employee is not entitled to any other compensation except regular compensation, including any accrued vacation benefits, up to the suspension or termination date.

3.6.7 The City may suspend or terminate Employee without cause by the

affirmative vote of three members of the Council, except for the first year after a new councilmember is elected and sworn as described in Section 3.6.1 above, an affirmative vote of four members of the Council would be required.

The council shall provide Employee with at least five days written notice in advance of the commencement date of any suspension without cause. The council shall provide Employee with at least five days written notice in advance of the last day of employment because of a termination without cause.

In the event of suspension without cause, Employee shall be entitled to receive normal compensation during the suspension period.

Nothing in this subsection shall prohibit the City Council from placing Employee on an administrative leave of absence with pay for non-disciplinary reasons.

- 3.6.8 Until March 18, 2025, if Employee is terminated without cause during such time as Employee is willing and able to perform the duties of the position, Employee shall be entitled to eleven (11) months severance which is to include base salary plus accrued vacation leave benefits and one month's health insurance. No other compensation or benefits shall be paid except as set forth in Section 3.3.11 (C) above.

After March 18, 2025, the amount of severance pay and benefits shall be increased to twelve (12) months, and is thereafter capped at a maximum of twelve (12) months. No other compensation or benefits shall be paid. In the event that Employee finds other employment within six months, or the adjusted severance term referenced above, of termination, Employee will notify City and payment for health insurance shall cease. In no event shall Employee ever receive more severance pay and benefits than the number of months then remaining on Employee's Agreement term.

In no event shall the above lump sum and health insurance payments exceed the amounts determined pursuant to Article 3.5 (commencing with Section 53260) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

- 3.6.9 Notwithstanding all other provisions set forth in this agreement, Employee shall not be terminated without cause for a period of 90 days following the seating of newly elected or appointed Council members.

- 3.6.10 Given the at-will nature of the position of City Manager, an important element of the employment agreement pertains to termination. It is in

both the City's interest and that of Employee that any separation of the City Manager is done in a businesslike manner.

Except as otherwise required by law, in the event the City terminates Employee with or without Cause, the City and Employee agree that no member of the City Council, the city management staff, nor Employee shall make any written, oral, or electronic statement to any member of the public, the press, or any City employee concerning Employee's termination except in the form of a joint press release or statement, which is mutually agreeable to City and Employee. The joint press release or statement shall not contain any text or information that is disparaging to either Party. Either Party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

- 3.7 Indemnification.** City shall defend, save harmless and indemnify Employee against any negligent tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged negligent act or omission occurring in the performance of Employee's services as City Manager, except that this provision shall not apply with respect to any intentional tort or crime committed by Employee, or any actions outside the course and scope of employment.
- 3.8 Entire Agreement.** This Agreement constitutes the entire agreement between the parties. This Agreement may be amended if in writing and signed by both Parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless executed in writing by the party making the waiver. 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.
- 3.9 Governing Law; Venue.** This Agreement shall be construed under and governed by the laws of the State of California, and venue shall be in Lake County, California.

IN WITNESS WHEREOF, City and Employee have signed and executed this Agreement as of the Effective Date first above written.

CITY OF CLEARLAKE

EMPLOYEE

By: _____
David Claffey, Mayor

By: _____
Alan D. Flora

ATTEST:

By: _____
Melissa Swanson, City Clerk

Approved as to form:

By: _____
Ryan Jones, City Attorney