



AGENDA

SPECIAL MEETING OF THE HEMET CITY COUNCIL

December 22, 2015

7:00 a.m.

City Hall Sister City Conference Room
445 E. Florida Avenue

www.cityofhemet.org

Please silence all cell phones

**Notice: Members of the Public attending shall comply with the Council's adopted Rules of Decorum in Resolution No. 4545. A copy of the Rules of Decorum are available from the City Clerk.*

Call to Order

Roll Call

ROLL CALL: Council Members Krupa, Milne and Youssef, Mayor Pro Tem Raver and Mayor Wright

Communications from the Public

Anyone who wishes to address the Council regarding items not on the agenda may do so at this time. As a courtesy, please complete a Request to Speak Form found at the City Clerk's desk. Submit your completed form to the City Clerk prior to the beginning of the meeting. Presentations are limited to three minutes in consideration of others who are here for agenda items. Please come forward to the lectern when the Mayor calls upon you. When you are recognized, you may proceed with our comments.

****Notice: Members of the Public attending shall comply with the adopted Rules of Decorum in Resolution No. 4545. A copy of the Rules of Decorum are available from the City Clerk.***

State law prohibits the City Council from taking action or discussing any item not appearing on the agenda except for brief responses to statements made or questions posed by the public. In addition, they may, on their own initiative or in response to questions posed by the public, ask a question for clarification, provide a reference to staff or other resources for factual information, or request staff to report back to them at a subsequent meeting. Furthermore, a member of the City Council or the Council itself may take action to direct staff to place a matter of business on a future agenda.

Closed Session

Notice of Opportunity for Public Comment

Members of the Public may comment upon any identified item on the closed session agenda. Since the Council's deliberation on these items is confidential the City Council and City Staff will not be able to answer or address questions relating to the items other than procedural questions. At the conclusion of the closed session, the City Attorney will report any actions taken by the City Council which the Ralph M. Brown Act required to be publicly reported.

1. Public Employee Appointment
Pursuant to Government Code section 54957
Title: *City Manager*

2. Public Employee Performance Evaluation
Pursuant to Government Code section 54957
Title: *Chief of Police*
-

City Attorney Closed Session Report

3. Public Employee Appointment
Pursuant to Government Code section 54957
Title: *City Manager*
 4. Public Employee Performance Evaluation
Pursuant to Government Code section 54957
Title: *Chief of Police*
-

City Council Business

Notice to the Public

The Consent Calendar contains items which are typically routine in nature and will be enacted by one motion by the Council unless an item is removed for discussion by a member of the public, staff, or Council. If you wish to discuss a Consent Calendar item please come to the microphone and state the number of the item you wish to discuss. Then wait near the lecture. When the Mayor calls your turn give your last name, and address, then begin speaking. You will have three minutes at that time to address the Council.

Consent Calendar

5. **Recommendation by Interim City Manager** - Appointment of City Manager
 - a. Approve the appointment of Mr. Alexander P. Meyerhoff as the City Manager of Hemet, California effective January 6, 2016, subject to completion of background check and approve of the employment agreement by the City Council.
-

Future Agenda Items

If Members of Council have items for consideration at a future City Council meeting, please state the agenda item to provide direction to the City Manager.

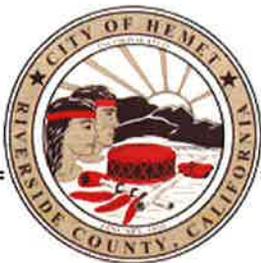
Adjournment

Adjourn to Tuesday, January 12, 2016 at 7:00 p.m. for consideration of items placed on that agenda. The next regular meeting will be held September 8, 2015.

Staff reports and other disclosable public records related to open session agenda items are available at the City Clerk's Office or at the public counter located at 445 E. Florida Avenue during normal business hours.



Bonnie Wright, Mayor



Staff Report

TO: Honorable Mayor and Members of the Hemet City Council
FROM: Gary Thornhill, Interim City Manager
DATE: December 22, 2015
RE: Appointment of City Manager

RECOMMENDATION:

That the City Council approve the appointment of Mr. Alexander P. Meyerhoff as the City Manager of Hemet, California effective January 6, 2016, subject to completion of background check and approval of the employment agreement by the City Council.

BACKGROUND:

Hemet has been without a permanent City Manager since its former manager was relieved of his duties on May 9, 2015. Consequently the City hired the firm of Bill Avery & Associates to conduct a recruiting campaign for City Manager. A total of 28 applications were received for the position and six were selected for further review. From the six, two individuals were invited to interview with the Council on December 8, 2015. At the conclusion of the interviews, Mr. Alexander P. Meyerhoff was unanimously selected as the Council's choice for the position of City Manager.

PROJECT DESCRIPTION:

The City Manager is the chief operating officer for the City and is responsible for the day to day activities of the City and implementing the policy direction identified by the City Council.

Mr. Meyerhoff most recently served as the Community Development Director in Desert Hot Springs and prior to that served as City Manager in the City of Holtville, California, from 2011 to 2014.

FISCAL IMPACT:

To be determined when salary and benefits are agreed upon by the City and Mr. Meyerhoff.

Respectfully submitted,

Gary Thornhill
Interim City Manager

Approved as to form:

Eric S. Vail
City Attorney

Attachment(s):

Employment Agreement between City of Hemet and Alexander P. Meyerhoff

**EMPLOYMENT AGREEMENT
For the Position Of
CITY MANAGER**

This Employment Agreement (“Agreement”) is made and entered into this ____ day of December, 2015, by and between the CITY OF HEMET (the “CITY”), a California municipal corporation and general law city, and ALEXANDER P. MEYERHOFF (“MEYERHOFF”), an individual, on the following terms and conditions:

RECITALS

A. CITY desires to employ the services of MEYERHOFF as City Manager of CITY (“City Manager”), as provided for by the Hemet Municipal Code, in consideration of and subject to the terms, conditions, and benefits set forth in this Agreement.

B. MEYERHOFF desires to accept employment as City Manager in consideration of and subject to the terms, conditions, and benefits set forth in this Agreement.

OPERATIVE PROVISIONS

In consideration of the promises and covenants contained herein, the parties agree as follows:

1. Position and Duties.

1.1 **Position.** MEYERHOFF accepts employment with the CITY as its City Manager and shall perform all functions, duties and services set forth in Section 1.4 [Duties] of this Agreement. MEYERHOFF shall provide service at the direction and under the supervision of the City Council. It is the intent of the parties that the City Manager shall keep the City Council fully apprized of all significant ongoing operations of the CITY. Toward that end, MEYERHOFF shall report directly to the City Council and will periodically, or as may be otherwise specifically requested by the City Council, provide status reports to the City Council on his activities and those of the CITY.

1.2 **Period of Employment / Commencement Date.** MEYERHOFF shall serve for a nominal term of five (5) years, subject to the provisions contained in this Agreement concerning termination of his services or voluntary separation from service, and contained in the Hemet Municipal Code, as they may be amended from time to time. This Agreement shall be effective on January 6, 2016, upon being executed by MEYERHOFF and the CITY’s Mayor. CITY shall employ MEYERHOFF from the date of commencement of his service, as specified in this section, until the earlier of the expiration of the term or MEYERHOFF’s employment is terminated in accordance with Section 5 [Termination] of this Agreement. MEYERHOFF shall commence the performance of his duties as the City Manager on January 6, 2016, (“Commencement Date”).

1.3 **At-Will.** MEYERHOFF acknowledges that he is an at-will employee of CITY who shall serve at the pleasure of the City Council at all times during the period of his service hereunder. The terms of the CITY's personnel rules, policies, procedures, ordinances, resolutions, memorandums of understanding, or collective bargaining agreements (collectively "Personnel Policies"), shall not apply to MEYERHOFF, and nothing in this Agreement is intended to, or does, confer upon MEYERHOFF any right to any property interest in continued employment, or any due process right to a hearing before or after a decision by the City Council to terminate his employment, except as is expressly provided in Section 5 [Termination] of this Agreement. Nothing contained in this Agreement shall in any way prevent, limit or otherwise interfere with the right of the CITY to terminate the services of MEYERHOFF as provided in Section 5 [Termination]. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of MEYERHOFF to resign at any time from this position with CITY, subject only to the provisions set forth in Section 5 [Termination] of this Agreement. This at-will employment Agreement shall be expressly subject to the rights and obligations of CITY and MEYERHOFF, as set forth in Section 5 [Termination] below.

1.4 **Duties.** MEYERHOFF shall serve as the City Manager and shall be vested with the powers, duties and responsibilities set forth in Section 2-86 of the Hemet Municipal Code, as may be amended from time to time, the terms of which are incorporated herein by reference. It is the intent of the City Council for the City Manager to function as the chief executive officer of CITY's organization. Without additional compensation, MEYERHOFF shall provide such other services as are customary and appropriate to the position of City Manager, including serving as the Executive Director of the Successor Agency of the Hemet Redevelopment Agency and Hemet Housing Authority, together with such additional services assigned from time to time by the City Council as may be consistent with California law and the Hemet Municipal Code. MEYERHOFF shall devote his best efforts and full-time attention to the performance of these duties.

1.5 **Hours of Work.** MEYERHOFF shall devote the time necessary to adequately perform his duties as City Manager. The parties expect that a minimum of forty (40) hours per week during regular business hours, as well as additional time outside of the normal business hours, will be required to satisfy this requirement. Toward that end, MEYERHOFF shall be allowed reasonable flexibility in setting his own office hours, provided the schedule of such hours provides adequate availability to the City Council, CITY staff, and members of the community during normal CITY business hours and for the performance of his duties and of CITY business. The position of City Manager shall be deemed an exempt position under California wage and hour law. MEYERHOFF's compensation (whether salary or benefits or other allowances) is not based on hours worked and MEYERHOFF shall not be entitled to any compensation for overtime.

1.6 **Regional and Professional Activity.** The City Council desires MEYERHOFF to be reasonably active in national, statewide, regional and professional organizations that will contribute to City Manager's professional development and standing and that will contribute to the advancement of the CITY's interests and standing. Toward that end, MEYERHOFF may, upon advance notice to the City Council, undertake such activities as are directly related to his professional development and that advance the

interests and standing of the CITY. These activities may include, without limitation, participation in the California League of Cities, ICMA, or other similar national, statewide, regional or professional organizations, and periodic teaching assignments of limited duration at institutions of higher learning or professional instruction located in Southern California, provided that such activities do not in any way interfere with or adversely affect his employment as City Manager or the performance of his duties as provided herein. CITY agrees to budget and pay for the dues and subscriptions of the City Manager necessary for his participation in national, statewide, regional or professional organizations. CITY agrees to reimburse, as provided in Section 1.8 [Reimbursement] of this Agreement, MEYERHOFF's reasonable and necessary travel, business and subsistence expenses for the activities described herein, except for the periodic teaching assignments described above which shall be undertaken at MEYERHOFF's own expense.

1.7 **Other Activity.** In accordance with Government Code Section 1126, during the period of his employment, MEYERHOFF shall not accept, without the express prior written consent of the City Council, any other employment or engage, directly or indirectly, in any other business, commercial, or professional activity (except as permitted under Section 1.6 [Regional and Professional Activity]), whether or not to pecuniary advantage, that is or may be competitive with the CITY, that might cause a conflict-of-interest with the CITY, or that otherwise might interfere with the business or operation of the CITY or the satisfactory performance of MEYERHOFF'S duties as City Manager.

1.8 **Reimbursement.** CITY shall reimburse MEYERHOFF for reasonable and necessary travel, subsistence and other business expenses incurred by MEYERHOFF in the performance of his duties. All reimbursements shall be subject to and in accordance with California law and the CITY's adopted Employee Reimbursement Policy.

2. **Compensation.**

2.1 **Base Salary.** MEYERHOFF shall receive an annual base salary of Two Hundred Thousand Dollars (\$200,000) paid according to the payroll schedule in place for CITY employees paid bi-weekly. It is the intent of the City Council that the City Manager have and retain the highest base salary of any employee of CITY. The City Council will consider salary compaction among executive employees as such may arise from time to time among executive employees and take such actions as are reasonable to maintain a separation of at least ten percent (10%) between the base salary of the MEYERHOFF and the base salary of the next highest paid active employee of CITY.

2.1.1 **Merit Increase.** After completion of the annual evaluation as provided for in Section 2.2 [Evaluation], the City Council, in its sole discretion, may award MEYERHOFF a merit increase in base salary.

2.1.2 **Performance Bonus.** MEYERHOFF shall be eligible to be considered annually by the City Council for a performance bonus in an amount not to exceed Twenty Thousand Dollars (\$20,000). Award of a performance bonus to MEYERHOFF shall be at the sole discretion of the City Council. The City Council will consider the award of a performance bonus as part of MEYERHOFF'S annual evaluation

described in Section 2.2 [Evaluation] below. In considering whether to award MEYERHOFF a performance bonus, the City Council will consider MEYERHOFF's achievement of objective performance goals mutually agreed upon by the City Council and MEYERHOFF as provided in Section 2.2 [Evaluation] below. In addition to the objective performance goals, the City Council may also consider MEYERHOFF's overall performance as City Manager, including his leadership skills, professional ethics, community engagement, and progress in meeting, achieving or exceeding City Council defined goals, priorities, activities, and programs for the City organization, as well as notable involvement in local, regional, and statewide organizations beneficial to the City, and other factors the City Council may consider relevant.

2.1.3 Adjustments to Compensation. Any other adjustment in compensation, including base salary, merit increases, performances bonus, adjustment in benefits or other compensation shall be solely at the discretion of the City Council except for the following which shall be automatically implemented after written notification to MEYERHOFF and CITY's City Council of the adjustment: (1) an increase in base salary required to maintain a ten percent (10%) separation between MEYERHOFF's base salary and the base salary of the next highest paid active employee of CITY; and (2) any cost of living salary adjustment or increase in benefits approved by the City Council to all City Employees or to the majority of CITY recognized collective bargaining groups. Adjustments to MEYERHOFF'S compensation are not governed by or subject to CITY's Personnel Policies.

2.2 Evaluation. Annually, within thirty (30) days of the anniversary of the Commencement Date, or as soon thereafter as the parties may reasonably attend to the matter, the City Council will review and evaluate the performance of MEYERHOFF as City Manager. Review and evaluation shall be in accordance with such criteria as the parties may jointly agree upon, but which the parties contemplate will include mutually agreed upon performance goals for the City Manager and City Council defined goals, priorities, activities, and programs for the City organization. Failure of the CITY to provide a performance evaluation shall not limit the CITY's ability to terminate this Agreement pursuant to Section 5 [Termination].

2.2.1 Initial Goal Setting and Strategic Planning. Within Ninety (90) days of the Commencement Date, MEYERHOFF shall complete and present to the City his initial evaluation of the CITY organization including organizational structure and major programs. Within One Hundred and Eighty (180) days of the Commencement Date, MEYERHOFF will have guided the City Council through a strategic planning process and developed a strategic plan embodying City Council defined goals, priorities, activities, and programs for the City organization. Within the same One Hundred and Eighty (180) day period the City Council will have meet with MEYERHOFF to establish mutually agreed upon objective performance goals for the City Manager. It is contemplated that these objective performance goals for the City Manager will be reassessed and reset annually as part of the City's Manager evaluation held in accordance with Section 2.2 above.

2.3 Deferred Compensation. During the period of employment, MEYERHOFF shall be entitled to participate in CITY's deferred compensation programs (the 457 plan

and the 401A plan) provided CITY continues to maintain these plans for CITY employees. CITY agrees that it will contribute an amount equal to two percent (2%) MEYERHOFF'S base salary, as it may be adjusted from time to time. CITY will contribute a proration of this amount (initially equaling \$153.85) each pay period to the 457 plan on MEYERHOFF'S behalf. MEYERHOFF may at his discretion contribute additional amounts up to the maximum allowable contribution as provided under U.S. Internal Revenue Service regulations, as may be amended from time to time. In the event that the IRS should modify the existing regulations in a manner that materially changes the amount that may be contributed, the parties agree to meet and confer and negotiate in good faith the appropriate contribution by CITY to the 457 plan.

2.4 **Benefits.**

2.4.1 **Health Insurance.** CITY agrees that during the period of employment it will make available to MEYERHOFF and his eligible dependents the CITY health insurance capped at Nine Hundred Fifty-Three dollars and 81/100ths cents (\$953.81), and fully paid dental and vision. MEYERHOFF agrees to pay the remaining portion of such premium payments through regular payroll deductions from MEYERHOFF'S base salary.

2.4.2 **Life Insurance.** CITY agrees that during the period of employment it will provide MEYERHOFF with, and pay one hundred percent (100%) of the annual premiums for, a term life insurance policy in an amount equal to two times (2x) MEYERHOFF'S base salary set forth in Section 2.1.

2.4.3 **Long-Term Disability Insurance.** CITY agrees that during the period of employment it will pay one hundred percent (100%) of the premium payments applicable to, and to otherwise permit MEYERHOFF to participate in, the CITY'S long-term disability insurance with a sixty percent (60%) of base salary benefit (currently \$12,000), with a maximum monthly benefit of Thirteen Thousand dollars (\$13,000) subject to periodic adjustment, and with a thirty-day (30) waiting period following illness/injury qualifying period. CITY does not provide short-term disability benefits.

2.4.4 **Gym Program.** During the period of employment, MEYERHOFF is eligible to participate in the CITY'S Gym Program and utilize the CITY designated gym facilities in accordance with the guidelines established for such program.

2.4.5 **Employee Assistance Program.** During the period of employment, MEYERHOFF and his eligible dependents are eligible to participate in the CITY'S Employee Assistance Program in accordance with the guidelines established for such program.

2.4.6 **Vehicle Allowance.** During the period of employment, CITY will provide MEYERHOFF a Five Hundred dollar and 00/100 (\$500.00) per month vehicle allowance as a fixed reimbursement for the business use of a personal vehicle. This payment may be apportioned and paid according to the payroll schedule in place for CITY employees paid bi-weekly. During out of area travels, while on CITY business, the CITY shall provide for fuel purchases or mileage reimbursement at the IRS rate. MEYERHOFF

shall provide evidence of a liability insurance policy in an amount of not less than One Hundred thousand dollars and 00/100 (\$100,000.00) naming the CITY as additional insured. MEYERHOFF shall keep the vehicle in reasonable repair, shall obey all traffic laws relating to operation of the vehicle and shall use due care and caution in its operation.

2.5 Jury Duty. The City Manager will receive full pay and benefits while responding to a jury summons or serving on a jury, provided that such jury duty does not exceed fifteen (15) business days. Any compensation for such jury duty (except travel pay) shall be remitted to CITY.

2.6 Business Related Equipment. CITY shall supply MEYERHOFF with a cell phone, and such personal data device as is currently in use within the city (e.g. iPad or similar device), and if requested by MEYERHOFF, a portable computer (inclusive of office docking station) for MEYERHOFF's exclusive business use. In addition, at MEYERHOFF'S option, and in recognition of the fact MEYERHOFF may be required to perform job related duties outside the office and/or his home, City agrees that it will provide either a CITY owned computer for CITY business conducted at his home or such upgrades as are necessary to his personal computer system in order to maintain compatibility with CITY owned and operated technology and systems.

2.7 Relocation Benefits. CITY shall pay MEYERHOFF'S reasonable expenses, up to a maximum amount of Ten Thousand Dollars (\$10,000), if MEYERHOFF establishes his primary residence in the Hemet / San Jacinto Valley within One Hundred and Eighty (180) days of the Commencement Date. Qualifying expenses include costs for packing materials, packing services, temporary storage for up (30) days, moving, moving insurance, and reasonably related costs. The cost of temporary accommodations, rent, down payments for housing, and security deposits for accommodations or utility hook-up are not eligible for reimbursement.

3. Vacation and Leave.

3.1 Personal Time Off. MEYERHOFF shall be eligible to accrue Personal Time Off (PTO) at a total of 256 hours per year, comprised of the following: 168 hours of vacation; 40 hours of management leave; and 48 hours of sick leave (separate from 3.4 Sick Leave below). The payroll period rate of PTO shall accrue at a rate of 10.67 hours per payroll period. The maximum amount of PTO that MEYERHOFF may have at any time shall equal 512 hours. If MEYERHOFF's earned but unused PTO reaches 512 hours, MEYERHOFF will stop accruing PTO until the PTO falls below 512 hours. PTO will not be earned during the period in which MEYERHOFF's benefits are at such maximum amount. Upon approval of the Mayor and concurrence of the Finance Director and City Attorney, MEYERHOFF may sell back earned but unused PTO once each quarter up to a maximum of 176 hours per calendar year. MEYERHOFF shall be paid the value of any earned and unused PTO at the time of separation of employment for any reason, at the base salary rate, as defined in section 2.1.

3.2 Holidays. Paid holidays shall be in accordance with the CITY's current practices and are subject to change. Paid holidays will be those deemed authorized by the

CITY. The CITY currently provides twelve (12) paid holidays, including two (2) floating paid holidays. The hour value of each holiday shall be equivalent to MEYERHOFF'S scheduled work day.

3.3 Administrative Leave. In addition to the paid leave described in 3.1 above, MEYERHOFF shall be entitled to Forty (40) hours of administrative leave as of the Commencement Date. Thereafter, MEYERHOFF shall be entitled to forty (40) hours of administrative leave on January 1 of each succeeding calendar year following the Commencement Date in consideration of being required to attend City Council meetings. Such initial grant and subsequent annual grant of administrative leave must be used by December 31st of the calendar year in which it is granted. Granted and unused administrative leave shall not be carried over into the following year. CITY agrees that upon MEYERHOFF'S retirement, disability, death or termination under Sections 5.1 [By CITY Not for Cause] or 5.2 [By Employee], CITY will purchase MEYERHOFF's accrued and unused administrative leave at MEYERHOFF'S then existing base salary rate, as defined in section 2.1. Unused administrative leave shall not be converted into PTO.

3.4 Sick Leave. In addition to the paid leave described in 3.1 above, MEYERHOFF shall accrue sick leave at a rate of four (4) hours per month up to a maximum accrual of Five Hundred (500) hours. Upon reaching the maximum accrual, MEYERHOFF shall cease to accrue sick leave until the amount of sick leave accrued decreases by at least four (4) below the maximum accrual amount. No compensation shall be provided for granted and unused sick leave and such granted and unused sick leave shall not be paid out at the time of MEYERHOFF'S retirement, disability, death or termination. Unused sick leave shall not be converted into PTO.

4. Retirement.

4.1 CalPERS. CITY will maintain its current retirement plan with the State of California's Public Employees Retirement System ("CalPERS") for MEYERHOFF, and such plan will include two percent (2%) at sixty-two (62) and the "highest average annual pensionable compensation earned during a period of at least thirty-six (36) consecutive months", pursuant to the California Public Employees' Pension Reform Act of 2013, will contribute fifty-percent (50%) of the normal cost rate for the plan. The plan also includes Fourth Level 1959 Survivor's Benefits, Post-Retirement Survivor Allowance, and Military Service Credit.

5. Termination.

5.1 By City Not for Cause. Except as provided in Section 5.1.1 below, CITY may terminate MEYERHOFF for any reason, and at any time, with or without cause, by providing MEYERHOFF thirty (30) days prior written notice thereof a payment equal to six (6) months base salary as of the date of the notice of termination ("Severance Payment"), less applicable deductions, plus applicable accrued PTO and unused Administrative Leave, as provided herein, together with any extension of benefits required under California law. For each full year of employment completed by MEYERHOFF, an additional one (1) month of base salary shall be added to the Severance Payment, for a maximum of twelve (12)

months of base salary after MEYERHOFF'S sixth (6th) consecutive year of employment with CITY as City Manager. CITY may dismiss MEYERHOFF notwithstanding anything to the contrary contained in or arising from any Personnel Policies or past CITY practices relating to the employment, discipline, or termination of its employees. In exchange for the Severance Payment MEYERHOFF agrees to execute a settlement, waiver and release document prepared by the City Attorney in which MEYERHOFF agrees not to commence any legal or administrative actions against CITY, its officials, officers and employees, and hereby waives and releases CITY and its officials, officers, and employees from any liabilities, known or unknown, owing to MEYERHOFF, arising from or related to MEYERHOFF's employment with City, except those for compensation, including retirement benefits, legally due.

5.1.1 Termination After Seating of New City Council Member. CITY may not terminate MEYERHOFF, except for cause as provided in Section 5.3 [By City for Cause], within One Hundred Twenty (120) days of the seating of a new CITY Councilmember whether by election or appointment. The purpose of this provision is to provide MEYERHOFF during his initial years as City Manager a reasonable period to work with new City Councils and new members. This provision shall become inoperative without need to amend the Agreement upon MEYERHOFF either completing his sixth year of employment with CITY as City Manager or accruing a Severance Payment based on twelve months of base salary as provided in Section 5.1 above.

5.2 By Employee Not for Cause. MEYERHOFF may terminate his employment for any reason, and at any time, with or without cause, by providing CITY with thirty (30) days advance written notice. CITY shall have the option, in its complete discretion, to make MEYERHOFF'S termination effective at any time prior to the end of such period, provided CITY pays MEYERHOFF all compensation due and owing him through the last day actually worked, plus an amount equal to the base salary MEYERHOFF would have earned through the balance of the above notice period.

5.3 By City for Cause. CITY may immediately terminate this Agreement at any time by providing MEYERHOFF written notice of his termination for cause. No severance or any further salary shall be paid in the event MEYERHOFF'S employment is terminated for cause except for accrued and unutilized PTO and sick leave as provided for in this Agreement. For purposes of this Agreement, cause for termination shall include but not be limited to the following: theft or attempted theft; material dishonesty; willful or persistent material breach of duties; engaging in unlawful discrimination or harassment of employees or any third party while on CITY premises or time; conviction of a felony; engaging in conduct tending to bring disrepute to the CITY and unauthorized absences. MEYERHOFF expressly waives any rights provided for Administrative Personnel under the CITY'S Personnel Policies, any rights provided for the City Manager or Administrative Personnel under the Hemet Municipal Code or under State or Federal law to any form of pre or post-termination hearing, appeal, or other administrative process pertaining to termination, except when MEYERHOFF has a California or federal constitutional right to a name clearing hearing.

5.4 Termination Obligations. MEYERHOFF agrees that all property, including, without limitation, all equipment, tangible Proprietary Information (as defined below), documents, records, notes, contracts, and computer-generated materials furnished to or prepared by him incident to his employment belongs to CITY and shall be returned promptly to CITY upon termination of MEYERHOFF'S employment. MEYERHOFF'S obligations under this subsection shall survive the termination of his employment and the expiration of this Agreement.

5.5 Benefits Upon Termination. All benefits to which MEYERHOFF is entitled under this Agreement shall cease upon MEYERHOFF'S termination in accordance with this Section 5, unless expressly continued either under this Agreement, under any specific written policy or benefit plan applicable to MEYERHOFF, or unless otherwise required by law.

6. Proprietary Information.

"Proprietary Information" is all information and any idea pertaining in any manner to the business of CITY (or any CITY affiliate), its employees, clients, consultants, or business associates, which was produced by any employee of CITY in the course of his or her employment or otherwise produced or acquired by or on behalf of CITY. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formulae, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, forecasts, and customer lists. All Proprietary Information not generally known outside of CITY's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." During his employment by CITY, MEYERHOFF shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of CITY and as is or may be necessary to perform his job responsibilities under this Agreement. Following termination, MEYERHOFF shall not use any Proprietary Information and shall not disclose any Confidential Information, except with the express written consent of CITY. MEYERHOFF'S obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

7. Conflict Of Interest.

MEYERHOFF represents and warrants to CITY that he presently has no interest, and represents that he will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or interfere in any way with performance of his services under this Agreement.

8. General Provisions.

8.1 Vehicle Operation. MEYERHOFF shall operate any vehicle used in connection with the performance of his duties as City Manager in a safe manner and otherwise in observance of all established traffic safety laws and ordinances and shall maintain a valid California automobile's driver's license during the period of employment.

8.2 **Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to CITY at the address below, and or at the last known address maintained in MEYERHOFF'S personnel file. MEYERHOFF agrees to notify CITY in writing of any change in his address during his employment with CITY. Notice of change of address shall be effective only when accomplished in accordance with this Section.

City's Notice Address:

City of Hemet
445 E. Florida Avenue
Hemet, California 92543
Attn: Mayor and City Council

City Manager's Address: [Deliver to last updated address in personnel file]

8.3 **Indemnification.** Subject to, in accordance with, and to the extent provided by the California Tort Claims Act [Government Code Section 810 *et seq.*] the CITY will indemnify, defend, and hold MEYERHOFF harmless from and against any action, demand, suit, monetary judgment or other legal or administrative proceeding, and any liability, injury, loss or other damages, arising out of any act or omission occurring during MEYERHOFF'S tenure as City Manager.

8.4 **Bonding.** The CITY shall bear the full cost of any fidelity or other bonds required of the City Manager under any law or ordinance.

8.5 **Integration.** This Agreement is intended to be the final, complete, and exclusive statement of the terms of MEYERHOFF'S employment by CITY. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of MEYERHOFF, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of CITY, now or in the future, apply to MEYERHOFF and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

8.6 **Amendments.** This Agreement may not be amended except in a written document signed by MEYERHOFF, approved by the City Council and signed by CITY'S Mayor.

8.7 **Waiver.** Failure to exercise any right under this Agreement shall not constitute a waiver of such right.

8.8 **Assignment.** MEYERHOFF shall not assign any rights or obligations under this Agreement. CITY may, upon prior written notice to MEYERHOFF, assign its rights and obligations hereunder.

8.9 **Severability.** If a court or arbitrator holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

8.10 **Attorneys' Fees.** In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

8.11 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, with venue proper only in Riverside County, State of California.

8.12 **Interpretation.** This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, cancelled superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

8.13 **Acknowledgment.** MEYERHOFF acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

[Signatures on next page]

IN WITNESS WHEREOF, the CITY has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested to by its City Clerk, and MEYERHOFF has signed and executed this Agreement, as of the date first indicated above.

MEYERHOFF

CITY OF HEMET

Alexander P. Meyerhoff

Bonnie Wright, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah McComas, City Clerk

Eric S. Vail, City Attorney