

EMPLOYMENT AGREEMENT No. 06-849

This Employment Agreement No. 06-849 (the "Agreement") is made and entered into as of this 18th day of December, 2006 by and between the City of La Puente, State of California, a municipal corporation (hereinafter, the "City") and Carol Cowley, (hereinafter, "Employee"), collectively referred to herein as the "Parties."

RECITALS

The City desires to employ the services of Employee in the capacity of City Manager and further desires to assure the service of Employee by establishing herein certain salary and limited benefits, and other terms and conditions of her employment

Employee desires to accept employment as City Manager beginning January 1, 2007 under the terms and conditions set below.

NOW THEREFORE, in consideration of the mutual covenants, promises, and representations hereinafter set forth, the parties hereto do now agree as follows:

SECTION I DUTIES

- (a) The City hereby agrees to employ Employee as City Manager conferring upon and delegating to Employee the overall responsibility for management and administration of the City as set forth in the La Puente Municipal Code and to perform such other legally permissible and proper duties and functions as the City Council may from time to time assign.
- (b) Employee accepts employment as City Manager and agrees to serve as such commencing on January 1, 2007.
- (c) Employee shall perform her duties to the best of her ability in accordance with the highest professional and ethical standards of the profession. She shall comply with and carry out the City's rules and regulations and she shall obey the laws of the State of California and the United States of America as they apply to the performance of her duties.
- (d) Employee shall devote her full energies, interest, abilities and productive time to the performance of this Agreement and shall not,

without the City's prior written consent, render services of any kind to others for compensation or engage in any other activity which would materially interfere with the performance of her duties under this Agreement.

- (e) Employee shall not engage in any activity which is or may become a conflict of interest with her obligations to the City or which might create an incompatibility of office as defined under California law. She shall also complete and file financial disclosure statements immediately upon entry into her employment and annually thereafter at the appointed times.

SECTION II TERM

The term of this Employment Agreement shall become effective on January 1, 2007, and will remain in full force and effect until December 31, 2010, unless otherwise terminated as set forth herein.

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section III, paragraphs (a) and (b), of this Agreement.

The parties recognize and affirm that: 1) Employee is an "at will" employee whose employment may be terminated by the City without cause; 2) there is no express or implied promise made to Employee for any form of continued employment; and 3) this Agreement is the sole and exclusive basis for an employment relationship between Employee and the City.

Employee agrees to remain in the exclusive employ of the City during the term of this Agreement. This Agreement shall not be construed to preclude incidental and occasional teaching, writing or consulting performed by Employee. Furthermore, this Agreement shall not be construed to preclude volunteer work performed by Employee, so long as the provisions set forth in Section I, paragraphs (d) and (e) of this Agreement are not violated.

SECTION III TERMINATION AND SEVERANCE PAY

- (a) The City Council may terminate this Agreement for convenience in its absolute discretion upon sixty (60) days written notice to Employee. If Employee is terminated by the City Council for (1) conviction of a felony; (2) conviction of any illegal act involving moral turpitude or personal gain; or (3) a plea of nolo contendere to any felony or illegal act involving moral turpitude or personal gain,

the City Council shall have no obligation to provide sixty (60) days advance written notice or to pay the severance pay set forth in this section.

- (b) In the event Employee is terminated by the City Council in its sole discretion during first six months of this Agreement, the City will allow Employee to return to her former position as Administrative Services Director/City Clerk and at the rate of pay Employee would have been receiving as Administrative Services Director/City Clerk had she not entered this Agreement. In the event Employee is terminated by the City Council after the first six months of this Agreement, and Employee is willing and able to perform the duties of City Manager, the City shall pay Employee a lump sum cash payment or payment in equal installments over a nine (9) month period at the option of Employee equal to nine (9) months' aggregate salary. Employee shall also be entitled to continue receiving health insurance and dental and optical (DOC) coverage during the nine (9) month period.
- (c) In the event Employee voluntarily resigns her position with the City at any time during the term of this Agreement, then Employee shall give the City no less than sixty (60) days written notice, unless the parties otherwise agree in writing. Failure of Employee to give the required sixty (60) days written notice of resignation will result in a pro-rata reduction in benefits normally payable to resigning City employees, such as, but not limited to, accrued vacation payment, sick leave payment, and the like. Voluntary resignation by Employee will result in a loss of all severance pay to her by the City.

SECTION IV DISABILITIES

If Employee is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a thirty (30) working day period, the City shall have the option to terminate this Agreement, subject to the severance pay requirements of Section III, Paragraph (b).

SECTION V COMPENSATION

- (a) Effective January 1, 2007, the City agrees to pay Employee for her services rendered hereunder at an annual rate of One hundred and thirty-five thousand 00/100 Dollars (\$135,000.00), which sum shall

be considered the base salary and shall be payable in installments at the same times as the City's other employees are paid, and subject to customary withholdings.

- (b) In addition, the City agrees to consider adjusting said base salary and other benefits of Employee, in the City's sole discretion, subject to the performance evaluation process described in Section VI of this Agreement, which shall be merit based.

SECTION VI EVALUATION OF PERFORMANCE

- (a) The City Council shall review and evaluate the performance of Employee at least annually or at other times chosen by the City Council in its sole discretion. Said review and evaluation shall be in accordance with specific criteria developed by the City Council with consultation from Employee. Said criteria may be added to or deleted from as the City Council may from time to time determine, in consultation with Employee. Further, the City Council shall provide Employee with a summary written statement of the findings of the City Council and provide an adequate opportunity for Employee to discuss her evaluation with the City Council.
- (b) The City Council and Employee shall periodically define such goals and performance objectives which they determine necessary for the proper operations of the City and in the attainment of the City Council policy objectives, and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be reasonably attainable within the time limitations as specified in the annual operating and capital budgets and appropriations provided.

SECTION VII HOURS OF WORK

It is recognized that Employee must devote a great deal of time outside the normal office hours to business of the City, and to that end, Employee shall be allowed to take administrative time off from work as provided in Section X of this Agreement.

SECTION VIII INSURANCE

During the term of this Agreement, the City shall pay the monthly premiums for medical insurance and dental/optical coverage for Employee and

her dependents. City shall also pay the monthly premiums for life insurance to cover Employee. Insurance coverage(s) shall be provided in the same manner as offered to all other employees of the City, except as set forth in Section III (b).

SECTION IX AUTOMOBILE

During the term of this Agreement, the City shall provide Employee with a suitable City-owned automobile for Employee's exclusive and personal use by Employee in discharging her duties as City Manager. The City shall be responsible for paying for liability, property damage and comprehensive insurance for said automobile, and shall be responsible for paying for the purchase/lease of said automobile, gasoline for and maintenance and repair of said automobile, and for replacement of said automobile in accordance with the City's vehicle replacement policy.

SECTION X VACATION, SICK AND OTHER SUPPLEMENTAL BENEFITS

During the term of this Agreement, the City shall provide Employee with vacation, sick and holiday pay in the same manner as provided all other City employees. During the term of this Agreement, the City shall pay for the Employee's and the City's contributions to membership in the Public Employees Retirement System (PERS). Employee may elect to participate in the City's 457 deferred compensation retirement plan. Only Employee will make contributions to the City's 457 deferred compensation retirement plan. The City shall not make any contributions on the Employee's behalf to the City's 457 deferred compensation retirement plan. The City shall provide other benefits as mandated by law.

SECTION XI OUT OF POCKET EXPENSES

The City shall reimburse Employee for reasonable out-of-pocket expenses incurred in connection with the City's business, including travel, food and lodging while away from home, subject to such policies as the City may from time to time establish for its employees. The City also shall provide Employee a mobile telephone for use in carrying out her duties as set forth herein and in the La Puente Municipal Code.

SECTION XII OTHER TERMS AND CONDITIONS OF EMPLOYMENT

- A. The City Council may from time to time fix other terms and conditions of employment relating to the performance of Employee provided such terms and conditions are not inconsistent with or in conflict with the

provisions of this Agreement, the La Puente Municipal Code or other applicable law.

- B. The provisions of the La Puente Municipal Code and any La Puente personnel resolution(s) shall apply to Employee except where the specific provisions conflict with this Agreement, in which event the terms and conditions of this Agreement shall prevail.

SECTION XIII CONFIDENTIAL INFORMATION

Employment with the City creates a relationship of confidence and trust between Employee and the City, with respect to all Confidential Information of City. "Confidential Information" includes but is not limited to trade secrets, confidential information, client lists, knowledge or data of the City or any of its constituent entities or members that Employee may produce, obtain or otherwise acquire or have access to during the course of Employee's employment with the City, including but not limited to personnel information, passwords, and computer security systems. Employee agrees that during and after Employee's employment with the City, Employee (i) shall keep all Confidential Information confidential and shall not directly or indirectly use, divulge, publish or otherwise disclose or allow to be disclosed any aspect of Confidential Information without prior written consent of the City; and (ii) shall refrain from any action or conduct which might reasonably or foreseeably be expected to compromise the confidentiality or proprietary nature of the Confidential Information. Upon termination of employment for any reason, Employee agrees to return promptly to the City all writings and other tangible things in Employee's possession that contain Confidential Information.

SECTION XIV EMPLOYEE'S WARRANTIES

Employee warrants that, as of the commencement of the employment term, she will be able to immediately begin performance of her duties and that, by entering into this Agreement, she will not be in violation of any other contract or agreement related to her employment, or her eligibility or availability for employment that could subject her or the City to any claims or liability.

SECTION XV ARBITRATION

Any controversy or claim arising out of or relating to this Agreement or the breach thereof, or arising out of or relating to Employee's employment or termination thereof, including but not limited to claims of employment discrimination based on federal and state law, which cannot be resolved among the parties themselves, shall, on the written request of either party served on the

other within the applicable statute of limitations, be submitted and resolved by final and binding arbitration in a manner consistent with the Federal Arbitration Act, if applicable, or the California Code of Civil Procedure (including CCP Section 1283.05). Service of the written request shall be made only by certified mail, with a return receipt requested. Time is of the essence; if the request is not served within a one-year period for claims arising out of this Agreement, or within the applicable statute of limitations for the alleged federal and state law claims, the complaining party's claim(s) shall be forever waived and barred before any and all forums, including, without limitation, arbitration or judicial forums.

The Arbitrator shall have no authority to alter, amend, modify or change any of the terms of this Agreement unless a provision expressly conflicts with applicable federal or state laws. Any arbitrator selected under this provision shall have the express authority to consider statutory violations of federal and state law in addition to disputes involving this Agreement. The decision of the Arbitrator shall be final and binding and judgment therein may be entered in any court having jurisdiction over the dispute.

The Arbitration shall be conducted under the National Rules ("Rules") for the Resolution of Employment Disputes of the American Arbitration Association ("AAA") current at the time of the dispute. In the event that any of the above Rules are determined to be in conflict with federal or state law, then the arbitrator shall have the authority to amend the Rules accordingly. The City shall be responsible for paying all the AAA's administrative and arbitrator's fees. In all other respects, the parties shall bear their own attorneys' fees and costs except as otherwise required by law. The parties shall have the right to conduct discovery which provides them with access to documents and witnesses that are essential to the dispute, as determined by the arbitrator. The arbitrator's written award shall include the essential findings and conclusions upon which the award is based.

The parties intend that this arbitration procedure is mandatory and shall be the exclusive means of resolving all disputes whether founded in fact or law between Employee and the City and/or its employees, elected officials, directors, agents, officers or managers arising out of or relating to this Agreement, the parties' employment relationship and/or the termination of that relationship, including, but not limited to, any controversies or claims pertaining to wrongful or constructive discharge, violations of the covenant of good faith and fair dealing, implied contracts, public policies, anti-discrimination statutes or any employment-related statutes. THE PARTIES EXPRESSLY WAIVE ANY CONSTITUTIONAL OR STATUTORY RIGHT TO HAVE ANY SUCH DISPUTE DECIDED IN A COURT OF LAW AND/OR BY A JURY IN A COURT PROCEEDING.

SECTION XVI
GENERAL PROVISIONS

- A. This Agreement is the final expression of the complete Agreement of the parties with respect to the matters specified herein and supersedes all prior oral or written understandings. Except as prescribed herein, this Agreement cannot be modified except by written mutual agreement signed by the parties.
- B. This Agreement is not assignable by either the City or Employee.
- C. In the event that any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the parties, the remainder of the Agreement shall remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of the Agreement.
- D. This Agreement may be signed in any one or more counterparts all of which taken together shall be but one and the same Agreement. Any signed copy of this Agreement or of any other document or agreement referred to herein, or copy or counterpart thereof, delivered by facsimile transmission, shall for all purposes be treated as if it were delivered containing an original manual signature of the party whose signature appears in the facsimile and shall be binding upon such party in the same manner as though an original signed copy had been delivered.
- E. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- F. Each of the parties acknowledges that she or it has been represented by independent legal counsel of its own choosing, or if not, has been advised to obtain independent legal counsel and has freely and voluntarily waived and relinquished the right to legal counsel. Further, each party who has not obtained independent legal counsel acknowledges that the failure to have independent legal counsel will not excuse such party's failure to perform under this Agreement or any agreement referred to in this Agreement.
- G. This Agreement shall be interpreted and construed according to the laws of the State of California, and venue shall be in the County of Los Angeles.

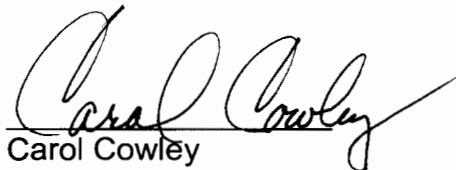
- H. All notices shall be personally delivered or mailed to the addresses listed below:

Carol Cowley
15900 East Main Street
La Puente, CA 91744

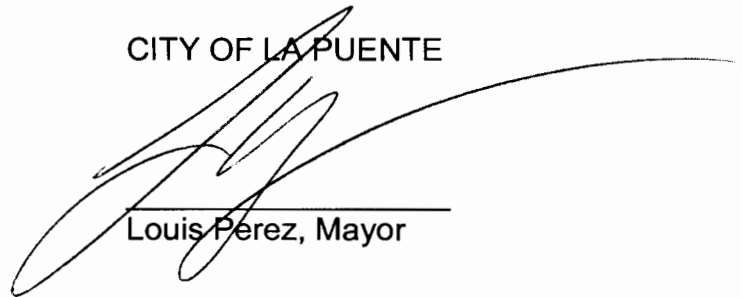
City of La Puente
15900 East Main Street
La Puente, CA 91744

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures as of the date and year first above written.

EMPLOYEE


Carol Cowley

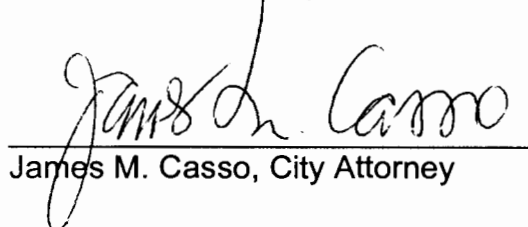
CITY OF LA PUENTE


Louis Perez, Mayor

ATTEST:


Diana Giron, Deputy City Clerk

APPROVED AS TO FORM


James M. Casso, City Attorney