

AGREEMENT FOR TEMPORARY EMPLOYMENT

This Agreement is made and entered into this 24th day of July 2024, by and between the City of La Mesa, a municipal corporation organized and operating pursuant to the laws of the State of California ("City"), and Charles Strickland, an individual ("Retiree") (this "Agreement").

RECITALS

WHEREAS, City's Fire Marshal position is a regular position that is currently vacant as of July 1, 2024, and information regarding the recruitment for Fire Marshal will be posted no later than July 29, 2024;

WHEREAS, during this recruitment period, City will have an immediate need for an employee to temporarily perform duties of the Fire Marshal, a position involving specialized skills in senior management and leadership skills in fire prevention;

WHEREAS, Retiree is competent and qualified to perform the services required by this Agreement, and City wishes to have Retiree perform certain critically necessary on-going duties and functions of the Fire Marshal position on an interim basis;

WHEREAS, Retiree's employment is authorized by Government Code section 21221(h), which permits City to appoint a retired annuitant from the California Public Employees' Retirement System (CalPERS) to a vacant position requiring specialized skills during recruitment for a permanent replacement;

WHEREAS, the parties have determined that Retiree is specially trained, experienced, competent and possesses the requisite specialized skills and training necessary to perform satisfactorily pursuant to this Agreement;

WHEREAS, Retiree certifies he is above normal retirement formula age and has not received an early retirement incentive;

WHEREAS, Retiree retired from the City of La Mesa on December 31, 2011;

WHEREAS, Retiree certifies he has not received any unemployment insurance compensation arising out of public employment for the 12-month period preceding the effective date of this Agreement;

WHEREAS, accordingly, City shall compensate Retiree pursuant to Government Code Sections 7522.56 for his performance related to this Agreement.

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, CITY and Retiree agree as follows:

1.0 DUTIES; CONFLICT OF INTEREST

1.1 City and Retiree agree that any and all duties, obligations, roles and responsibilities required of Retiree by City arise solely and exclusively pursuant to this Agreement.

1.2 Retiree covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with his performance pursuant to this Agreement. Retiree further covenants that in the performance of this Agreement he shall be subject to and abide by the provisions of the Political Reform Act (Government Code Section 81000 *et seq.*) and City's Conflict of Interest Code.

2.0 TERM

2.1 The term of this Agreement shall be for a limited duration beginning on July 24, 2024, and will end prior to the start date of a full-time permanent Fire Marshal appointee, unless terminated earlier by either party.

2.2 This Agreement may be terminated immediately by City upon written notice. Retiree acknowledges and agrees that he shall serve at the general direction of the City Manager or his or her designee on an "At Will" basis and without due process and/or property rights to such employment or rights to appeal.

2.0 COMPENSATION; EMPLOYEE STATUS

3.1 Rate of Pay: Retiree shall be paid hourly based on a full-time monthly salary of \$12,500 (\$72.12/hour). City has confirmed that this rate is not less than the minimum, nor in excess of the maximum, paid by City to other employees performing comparable duties (Fire Marshal) as listed on City's publicly-available pay schedule. The Fire Marshal's salary range is a minimum monthly salary of \$11,456 (\$66.09 per hour) and a maximum monthly salary of \$13,925 (\$80.34 per hour). Such compensation shall be the sole compensation for his services under this Agreement. Retiree acknowledges and agrees that he shall have no rights to any other benefits, including vacation, retirement, or otherwise which accrue to other employees of City, and hereby expressly waives any claim to any such rights.

3.2 Retiree agrees to provide the services to City required pursuant to this Agreement as a Retiree of City of La Mesa; accordingly, therefore, City and Retiree agree that City shall indemnify Retiree as if he is a regular employee pursuant to the provisions of Title 1, Division 3.6 of the Government Code. Retiree's compensation shall be subject to all required deductions and withholdings as any other employee of City; provided, however, that no deductions or withholdings shall be made for the purpose of contributions to any employment benefits regularly provided to City employees.

3.3 Work Schedule and 960-Hour Limitation: Retiree is expected to devote the necessary time, within and outside normal business hours, to the business of City. Retiree may use his judgment (consistent with his experience and with standards of practice in the industry) to determine his specific hours and his work tasks performed or work events attended, subject to the direction and oversight of the Director of Administrative Services. City retains the right to designate, reduce, change, or amend the number of hours assigned to Retiree consistent with City's

workload and other needs. Retiree shall be responsible for keeping track of his hours worked. Retiree must submit his record of hours worked to the Finance Department according to the same schedule and procedures as other City employees. City will provide Retiree with copies of the hours reports periodically submitted to CalPERS regarding his employment with City.

3.4 The position is exempt from FLSA overtime pay requirements. This temporary, full-time employment typically averages approximately 40 hours per week. Retiree's typical working hours shall be on an agreeable work schedule during City's regular business hours, plus evening hours as needed to attend City Council meetings and other City business. Due to the nature of the position, however, it is understood that the working hours may exceed 40-hours per work week and may occasionally be slightly less than 40 hours per week. All hours worked must be tracked and submitted to City pursuant to this Agreement for the purpose of counting against the 960-hour per fiscal year limitation.

3.5 Retiree understands that he is not a member of any bargaining unit nor benefitted or obligated by the terms of any Memorandum of Understanding with any represented or unrepresented group of City employees.

3.6 Retiree understands and agrees that the terms of his employment are governed only by this Agreement and that no right of employment for any specific term is created by this Agreement. Retiree further understands that he acquires no property interest in his employment by virtue of this Agreement, and that the employment is "at-will" as defined by laws of the State of California. The Parties agree that confidential personnel records pertaining to Retiree's employment and eventual release from employment shall remain confidential to the extent permitted by law.

3.7 Retiree understands that CalPERS retired annuitants may be employed by a CalPERS public agency employer, by temporary appointment not to exceed 960 hours in any fiscal year for all such employers; either (1) during an emergency to prevent stoppage of public business, or (2) because the retired employee has skills needed in performing the work of limited duration. Retiree agrees not to perform work for any other CalPERS agency during the period of employment for City under this Agreement.

3.8 City makes no representation on the impact, if any, this Agreement shall or may have upon Retiree's CalPERS retirement benefits, status, duties, and/or obligations. Retiree acknowledges that in entering into this Agreement, he has not relied upon any such representations (none of which being in existence) in assessing the CalPERS-related impact of his employment. Therefore, Retiree releases City from any and all CalPERS-related claims or liabilities that may arise in connection with his employment pursuant to this Agreement.

City is not obligated to provide, and Retiree is not entitled to receive from City, enrollment in CalPERS, unless Retiree is currently a member of CalPERS through prior employment.

3.9 In compliance with CalPERS regulations and requirements, the Parties expressly agree that Retiree cannot and shall not perform any "volunteer" work to City during his employment under this Agreement.

3.10 In the event that Retiree providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS of City, Retiree shall indemnify, defend, and hold harmless City for the payment of any employee contributions for CalPERS benefits on behalf of the Retiree.

3.11 Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Retiree providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any other compensation and benefit.

4.0 GENERAL EXPENSES

City recognizes that certain reasonable expenses of a non-personal and job-affiliated nature, as authorized in writing by City, may be incurred by Retiree. City agrees to reimburse Retiree for said City related expenses.

5.0 OTHER TERMS AND CONDITIONS OF APPOINTMENT

City, in consultation with Retiree, shall fix any other such terms and conditions of employment as it may deem necessary from time to time relating to the performance of Retiree pursuant to this Agreement provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Municipal Code or any other applicable law or regulation.

6.0 NOTICES

Notice pursuant to this Agreement shall be given by deposit in the custody of the United States Postal service, postage prepaid, addressed as follows:

City of La Mesa
Attn: Director of Human Resources
8130 Allison Avenue
La Mesa CA 91942

Charles Strickland
8130 Allison Ave
La Mesa, CA 91942

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

7.0 GENERAL PROVISIONS

7.1 The text herein shall constitute the entire agreement between the parties.

7.2 Retiree shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of City.

7.3 Retiree agrees that all documents and writings of any type produced in the performance of this Agreement and delivered to City or staff shall be the sole property of City including all rights therein of whatever kind and whether arising from common or civil law or equity. Upon termination of this Agreement for any reason, or upon expiration of this Agreement, all such

documents and writings produced in the performance of this Agreement shall be transferred to and become the property of City upon its request without additional compensation.

7.4 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.

7.5 This Agreement shall be governed by the laws of the State of California and any litigation brought pursuant to it shall be in San Diego County. Retiree expressly waives any rights he might otherwise have as provided in Code of Civil Procedure Section 394 to remove any action from San Diego County.

7.6 This Agreement constitutes the entire agreement between City and Retiree and supersedes and replaces any and all prior or contemporaneous agreements, understandings or commitments between City and Retiree. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of both City and Retiree.

7.7. This Agreement may be signed in counterpart or duplicate copies and any signed counterpart of duplicate copy shall be equivalent to a signed original for all purposes.

7.8 This Agreement shall not be construed against any one party, but shall be construed as if jointly prepared by City and Retiree.

IN WITNESS WHEREOF, City has caused this Agreement to be signed and executed by the City Manager on behalf of City, the parties execute this Agreement the day and year first above written.

RETIREE

CITY OF LA MESA

Charles Strickland

Greg Humora, City Manager

Date

Date

APPROVED AS TO FORM:

Glenn Sabine, City Attorney

Date