

## RESOLUTION NO. 2013-163

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING CITY MANAGER EMPLOYMENT AGREEMENT BETWEEN THE CITY OF ROHNERT PARK AND DARRIN JENKINS

WHEREAS, the City Council wishes to enter into an Employment Agreement with Darrin Jenkins to perform the duties of City Manager;

WHEREAS, Darrin Jenkins possesses the skills and expertise necessary to perform these services;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that the City Council authorizes and approves the City Manager Employment Agreement between the City of Rohnert Park and Darrin Jenkins attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED that the Mayor is authorized and directed to execute same for and on behalf of the City of Rohnert Park.

DULY AND REGULARLY ADOPTED by the City Council of the City of Rohnert Park this 26th day of November, 2013.

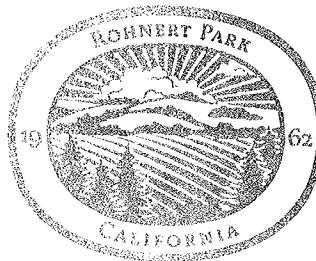
CITY OF ROHNERT PARK

Pam Stafford  
Pam Stafford, Mayor

ATTEST:

JoAnne Buergler  
JoAnne Buergler, City Clerk

Attachment: Exhibit A -- Agreement



AHANOTU: AYE BELFORTE: ABSTAIN MACKENZIE: AYE CALLINAN: AYE STAFFORD: AYE  
AYES: ( 4 ) NOES: ( 0 ) ABSENT: ( 0 ) ABSTAIN: ( 1 )

**CITY MANAGER EMPLOYMENT  
AGREEMENT  
BETWEEN THE  
CITY OF  
ROHNERT PARK  
AND  
DARRIN JENKINS**

**EXHIBIT “A”**

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**CITY MANAGER EMPLOYMENT  
AGREEMENT  
BETWEEN THE  
CITY OF  
ROHNERT PARK  
AND  
DARRIN JENKINS**

**1. PARTIES AND DATE**

This Agreement is entered into as of November 26, 2013 by and between the City of Rohnert Park, California, a municipal corporation (the "City"), and Darrin Jenkins, an individual (the "City Manager"). The City and the City Manager are sometimes individually referred to as a "Party" and collectively as "Parties."

- A. The City requires the services of a City Manager.
- B. The City Manager has the necessary education, experience, skills and expertise to serve as the City's City Manager; and
- C. The City Council of the City (the "City Council") desires to employ the City Manager to serve as the City Manager of City.
- D. The Parties desire to execute this Agreement pursuant to the authority of and subject to the provisions of Government Code Section 53260 et seq.
- E. In consideration of these Recitals and the performance by the Parties of the promises, covenants, and conditions herein contained, the Parties agree as provided in this Agreement.

**2. EMPLOYMENT**

The City hereby employs the City Manager as its City Manager, and the City Manager hereby accepts such employment effective December 1, 2013.

**3. COMMITMENTS AND UNDERSTANDING**

A. The City Manager's Commitments

(1) Duties & Authority

- (a) The City Manager shall be the chief executive officer of the City and be responsible to the City Council for the proper administration of all affairs of the City.
- (b) The City Manager shall perform all of the duties of the City Manager as set forth in Chapter 2.04 of the Rohnert Park Municipal Code (the

“Municipal Code”), the California Government Code, and City policies and procedures approved by the City Council, as may be provided from time to time.

- (c) The City Council may also designate the City Manager as the chief executive of other City-related legal entities. Such other legal entities could include a financing authorities, and joint powers authorities.
- (d) The City Manager shall administer and enforce policies established by the City Council and promulgate rules and regulations as necessary to implement City Council policies.
- (e) To accomplish this, the City Manager shall have the power and shall be required to:
  - (i) Attend all meetings of the City Council, unless excused by the Mayor, and take part in the discussion of all matters before the City Council. The City Manager shall receive notice of all regular and special meetings of the City Council.
  - (ii) Review all agenda documents before preparing the agenda for any regular or special meetings of the City Council. The City Manager may publicly endorse or oppose any proposed agenda items placed on the agenda by persons other than the City Manager or the City Manager’s staff.
  - (iii) Direct the work of all elective and appointive City officers and departments that are the concern and responsibility of the City Council, except those that are directly appointed by or report directly to the City Council. The City Manager may undertake any study or investigation the City Manager believes is necessary or desirable and shall make any study or investigation the City Council directs. The City Manager shall endeavor to implement changes that the City Manager believes will result in greater efficiency, economy, or improved public service in the administration of City affairs.
  - (iv) Recommend to the City Council from time to time, adoption of such measures as the City Manager may deem necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services.
  - (v) Consolidate or combine offices, positions, departments, or units under the City Manager’s jurisdiction. The City Manager may be the head of one or more City departments.
  - (vi) Conduct research in administrative practices in order to bring about greater efficiency and economy in City government, and develop and recommend to the City Council long-range

plans to improve City operations and prepare for future City growth and development.

- (vii) Provide management training and develop leadership qualities among department heads and staff as necessary to build a City management team that can plan for and meet future challenges.
- (viii) Exercise control of City government in emergencies as authorized by the Municipal Code and California law.

(2) Hours of Work

- (a) 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 City Manager's position. The City Manager does not have set hours of work as the City Manager is expected to be available at all times.
- (b) It is recognized that the City Manager 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 the City Manager's schedule of work each day and week shall vary in accordance with the work required to be performed. While the City Manager has discretion over the City Manager's work schedule and work location, the City Manager shall spend sufficient hours at City Hall to perform the City Manager's duties.
- (c) The City Manager shall not spend more than 8 hours per month in teaching, consulting, speaking, or other non-City connected business for which compensation is paid without the express prior consent of the City Council.

(3) Disability or Inability to Perform

In the event the City Manager becomes mentally or physically incapable of performing the City Manager's functions and duties with reasonable accommodation and it reasonably appears such incapacity will last for more than six months, the City Council may terminate the City Manager. If the City Council does elect to terminate the City Manager due to incapacity, the City Manager shall receive all severance benefits provided in Section 5.C below.

B. City Commitments

- (1) The City shall provide the City Manager with the compensation, incentives and benefits specified elsewhere in this Agreement.
- (2) The City shall provide the City Manager with a private office, secretary, staff, office equipment, supplies, automobile allowance, and all other facilities and services adequate for the performance of the City Manager's duties.

- (3) In accordance with Municipal Code section 2.04.040, the City shall pay for or provide the City Manager reimbursement for all actual business expenses. The City shall provide the City Manager a City credit card to charge appropriate and lawful business expenses.
- (4) The City agrees to pay the professional dues and subscriptions on behalf of the City Manager which are necessary for the City Manager's continuation and full participation in national, regional, state, or local associations and organizations necessary and desirable for the good of the City, and for the City Manager's continued professional participation and advancement.
- (5) The City agrees to pay the travel and subsistence expenses of the City Manager to pursue official and other functions for the City, and meetings and occasions to continue the professional development of the City Manager, including, but not limited to, national, regional, state, and local conferences, and governmental groups and committees upon which the City Manager serves as a member.
- (6) The City recognizes the desirability of representation in and before local civic and other organizations, and the City Manager is authorized to become a member of civic clubs or organizations, for which the City shall pay membership dues.
- (7) Given the importance of technological tools to the effective and efficient business of City government, the City shall provide computer, laptop computer, high-speed internet access, cellular phone, electronic calendar, fax, copy machine and similar devices to the City Manager at the City's expense.

C. City Council Commitments

- (1) The City Council sets policy for the governance and administration of the City, and it implements its policies through the City Manager.
- (2) The City Council commits to work with the City Manager and staff on setting goals and priorities for the City government, and to work on issues that may be inhibiting the maximum achievement of City goals.
- (3) Except for the purpose of inquiry, in accordance with Municipal Code section 2.04.160, the City Council and its members shall deal with all subordinate City employees, officers, contractors, and consultants solely through the City Manager or the City Manager's designee.
- (4) Neither the City Council nor any of its members shall interfere with the execution of the powers and duties of the City Manager. The City Manager shall take orders and instructions from the City Council only when it is sitting as a body in a lawfully held meeting.

D. Mutual Commitments

(1) Performance Evaluation

- (a) Annual performance evaluations are an important way for the City Council and City Manager to ensure effective communications about expectations and performance.
- (b) The City Council recognizes that for the City Manager to respond to its needs and to grow in the performance of the City Manager's job, the City Manager needs to know how the City Council Members evaluate the City Manager's performance.
- (c) To assure that the City Manager gets this feedback, the City Council shall conduct an evaluation of the City Manager's performance at least once each year. The City Council and the City Manager agree that performance evaluations, for the purpose of mid-course corrections, may occur quarterly or several times during each calendar year.
- (d) The Parties agree that an annual evaluation shall occur in September of each year for purposes of performance and salary review. City also agrees that during this annual review it will consider all possible merit-based increases.
- (e) It shall be a mutual goal of the City Manager and the City Council to annually create and prioritize goals for the ensuing year.

4. **COMPENSATION**

The City agrees to provide the following compensation to the City Manager during the term of the agreement:

A. Compensation & Required Employer Costs

(1) Base Salary

- (a) The annual salary for the position of City Manager shall initially be \$189,000.00.
- (b) The City Manager shall be paid at the same intervals and in the same manner as regular City employees.
- (c) The City shall not at any time during the term of this Agreement reduce the base salary, compensation or other financial benefits of the City Manager, 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.

B. Basic Benefits

(1) Automobile

The City Manager shall be provided a monthly automobile allowance of \$398.00 in exchange for making a vehicle available for the City Manager's own use and for City-related business and/or functions during, before and after normal work hours. By the City Manager making the City Manager's personal automobile available for use, the City Manager is not precluded from using City vehicles for City business during, before, and after the normal workday on occasion, when appropriate.

(2) Additional Benefits

The City Manager shall be entitled to all benefits, rights, and privileges accorded to non-public safety Management Unit except for the following:

- (i) City Manager shall not be entitled to Columbus and Admission Day holidays and shall either work on those holidays or use annual leave for those two City Holidays;
- (ii) City Manager shall not be entitled to receive retiree medical benefits currently offered to non-public safety Management Unit employees;
- (iii) City Manager shall be entitled to accrue annual leave hours up to a maximum of 1100 hours; and
- (iv) In addition to Base Salary, the City Manager shall receive 5% of his Base Salary placed into a deferred compensation 401(a) account established by the City.

If there is any conflict between this Agreement and any resolution fixing compensation and benefits for non-public safety City Department Directors or other unclassified employees, this Agreement shall control.

(3) Internal Revenue Code Compliance

All provisions of this Section 4.B are subject to the provisions and limitations of the Internal Revenue Code and its related regulations as amended from time to time. No requirement of any provision of this Section 4.B shall be effective if it would violate any provision of the Internal Revenue Code or its related regulations, and the inability of the City to effectuate such requirements shall not constitute a breach of this Agreement.

- (4) Upon commencing employment as City Manager, City Manager shall be credited with his current accrued leave balances for sick leave, administrative leave, and annual leave accrued in his prior positions with the City. City Manager's original hire date with the City—October 6,

2003—shall be used as the basis for calculating accrual rates for annual and administrative leave.

- (5) The City agrees to assure that Employee is enrolled into the California Public Employees Retirement System and to make the appropriate City contributions. City Manager shall continue to be included in the City's Miscellaneous Plan with CalPERS at the 2.7% at age 55 benefit level. City Manager's retirement provisions are based on his original employment date of October 6, 2003. City has determined and warrants that City Manager is a "current" or "classic" employee and not a "new" employee as those terms are used and defined in the California Pension Reform Act (Gov. Code SS 7522 et seq.), effective January 1, 2013, and subsequent CalPERS implementing regulations.

## 5. SEPARATION

### A. Resignation/Retirement

The City Manager may resign at any time and agrees to give the City at least 45 days advance written notice of the effective date of the City Manager's resignation, unless the Parties otherwise agree in writing. If the City Manager retires from full time public service with the City, the City Manager shall provide six months' advance notice. The City Manager's actual retirement date will be mutually established. In the event the City Manager resigns before his anniversary date of December 1, 2018, City Manager agrees to reimburse the City for all costs associated with him receiving certification from ICMA as a Credentialed Manager which costs shall be documented, itemized and presented to the City Council and City Attorney upon expenditure by City.

### B. Termination & Removal

- (1) Manager is an at-will employee serving at the pleasure of the City Council as provided in Government Code Section 36506.
- (2) The City Council may remove the City Manager at any time, with or without cause, by a majority vote of its members. Notice of termination shall be provided to the City Manager in writing. Termination as used in this Section B shall also include request that the City Manager resign or elimination of the City Manager's (or City Administrator's) position. Any such notice of termination or act constituting termination shall be given at or effectuated at a duly noticed regular meeting of the City Council.
- (3) The City Manager shall not be removed during the 120-day period preceding or following any City election for membership on the City Council, or during the 120-day period following any change in membership of the City Council, except upon unanimous vote of the City Council.

- (4) 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 the City Manager that any separation of the City Manager is done in a businesslike manner.

C. Severance Pay

- (1) In the event the City Manager is terminated by the City Council during such time that the City Manager is willing and able to perform the City Manager's duties under this Agreement, then the City agrees to pay the City Manager a lump sum cash payment equal to 9 months of the then current base salary of the City Manager. At City Manager's option, this severance may be paid as a continuation of salary on the existing biweekly basis.
- (2) All payments required under Sections 5.C(1) are subject to and shall be interpreted to comply with the limitations set forth in Government Code Section 53260.

D. Involuntary Resignation

- (1) In the event that the City Council formally or a representative of a majority of the City Council informally asks the City Manager to resign, then the City Manager shall be entitled to resign and still receive the severance benefits provided in Section 5.C(1) above.
- (2) If the City reduces the base salary, compensation, or any other benefit of the City Manager, unless it is applied in no greater percentage than the average reduction of all department heads, then the City Manager shall be entitled to resign and still receive the severance benefits provided in Section 5.C(1) above.

E. Separation for Cause

- (1) Notwithstanding the severance provisions of Section 5.C, the City Manager may be terminated for cause at any time. Termination for cause means termination based upon a malfeasance of any nature occurring during the course and scope of the City Manager's duties as City Manager, or a conviction, plea bargain, or personal adverse State or Federal determination against the City Manager individually involving any felony, intentional tort, crime of moral turpitude, or violation of statute or law constituting forfeiture of office, misconduct in office for personal gain, misuse of public funds for personal benefit, or conflict of interest resulting in conviction.
- (2) In the event the City terminates the City Manager for cause, then the City may terminate this Agreement immediately, and the City Manager shall be entitled to only the compensation accrued up to the date of termination, payments required by Section 5.F below, and such other termination benefits and payments as may be required by law. If the City Manager is terminated for cause, then he shall not be entitled to any severance benefits provided by Section 5.C.

F. Payment for Unused Leave Balance

- (1) On separation from City employment, the City Manager shall be paid for all unused accrued annual and administrative leave. Accumulated annual and administrative leave balances shall be paid at the City Manager's monthly salary rate at the effective date of separation.
- (2) In the event the City Manager dies while employed by the City under this Agreement, the City Manager's beneficiaries or those entitled to the City Manager's estate, shall be entitled to the City Manager's earned salary, and any in-lieu payments for accrued benefits, including compensation for the value of all accrued annual and administrative leave balances.

G. Reimbursement by City Manager to City – AB 1344 Requirements

- (1) If this Agreement is terminated, any cash settlement related to the termination that City Manager may receive from the City shall be fully reimbursed to the City if City Manager is convicted of a crime involving an abuse of his office or position as defined by Government Code section 53243.4.
- (2) If any express or implied provision of this Agreement, the Municipal Code of the City, or any policy or practice of the City provide paid leave salary to City Manager pending an investigation, said paid leave salary shall be fully reimbursed by the City Manager to the City if City Manager is convicted of a crime involving an abuse of his office or position as defined by Government Code section 53243.4.
- (3) If any express or implied provision of this Agreement, the Municipal Code of the City, or any policy or practice of the City provide for payment of funds for the legal criminal defense of City Manager, said funds paid for his legal defense shall be fully reimbursed by City Manager to the City if Employee is convicted of a crime involving an abuse of his office or position as defined by Government Code section 53243.4.

6. **MISCELLANEOUS PROVISIONS**

A. Provisions that Survive Termination

Many sections of this Agreement are intended by their terms to survive the City Manager's termination of employment with the City, including but not limited to Sections 5.C and 6.D. These sections, and the others so intended, shall survive termination of employment and termination of this Agreement.

B. Amendments

This Agreement may be amended at any time by mutual agreement of the City and the City Manager. Any amendments are to be negotiated, put in writing, and adopted by the City Council.

C. Conflict of Interest

- (1) The City Manager shall not engage in any business or transaction or shall have a financial or other personal interest or association, direct or indirect, which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business, personal, or political associations. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active City employment, providing such acts do not constitute a conflict of interest as defined herein.
- (2) The City Manager shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to the City Manager's City employment.
- (3) The City Manager is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.
- (4) City shall support City Manager in keeping his commitments to the International City Manager Association Code of Ethics by refraining from any order, direction or request that would require City Manager to violate the ICMA Code of Ethics. Specifically, City Manager shall not be requested as part of his City Manager's duties to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality and merit.

D. Indemnification

- (1) To the full extent of the law as provided by the California Torts Claims Act (Government Code Section 810 et seq.) and the indemnity provisions of this Agreement, whichever shall provide the greatest protection to the City Manager, the City shall defend and indemnify the City Manager against and for all losses sustained by the City Manager in direct consequences of the discharge of the City Manager's duties on the City's behalf for the period of the City Manager's employment.
- (2) The City shall defend, save harmless and indemnify the City Manager against any tort, 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 the City Manager's duties as City Manager. provided that such indemnity shall not extend to any judgment for damages arising out of any willful wrongdoing or gets performed outside the normal cause and scope of his employment. This indemnification shall extend beyond termination of employment and the otherwise expiration of this Agreement to provide protection for any such acts undertaken or committed in the City Manager's

capacity as City Manager, regardless of whether the notice of filing of a lawsuit occurs during or following employment with the City. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies that the City Manager may have under the law. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

- (3) In the event that the City Manager shall serve as the chief executive of other City-related legal entities as provided in Section 3.A(1)(c) above, then each provision of this Section 6.D shall be equally applicable to each City-related legal entity as though set forth in an indemnity agreement between the City Manager and that legal entity. The City hereby guarantees the performance of this indemnity obligation by the City-related legal entity, and shall indemnify and hold the City Manager harmless against any failure or refusal by City-related legal entity to perform its obligations under this Section 6.D.

E. Severability

If any clause, sentence, part, section, or portion of this Agreement is found by a court of competent jurisdiction to be illegal or unenforceable, such clause, sentence, part, section, or portion so found shall be regarded as though it were not part of this Agreement and the remaining parts of this Agreement shall be fully binding and enforceable by the Parties hereto.

F. Laws Affecting Title

In addition to those laws affecting a City Manager, the City Manager shall have the same powers, rights and responsibilities as a Chief Executive Officer, City Administrative Officer, Administrator, and/or City Administrator as those terms are used in local, state or federal laws.

G. Jurisdiction and Venue

This Agreement shall be construed in accordance with the laws of the State of California, and the Parties agree that venue shall be in Sonoma County, California.

H. Entire Agreement

This Agreement represents the entire agreement of the Parties, and no representations have been made or relied upon except as set forth herein. This Agreement may be amended or modified only by a written, fully executed agreement of the Parties.

I. Notice

Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which the City Manager or the City shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first class mail or hand-delivered to the respective Parties as follows:

- (1) If to the City:
- City Clerk  
City Hall  
130 Avram Avenue  
Rohnert Park, CA 94928

- (2) If to the City Manager:
- Darrin Jenkins,  
address on file with Human Resources.

## 7. EXECUTION

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

"City"

"City Manager"

CITY OF ROHNERT PARK

A Municipal Corporation

By: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Darrin Jenkins

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney