

SIXTH AMENDMENT TO
EMPLOYMENT AGREEMENT OF JULY 22, 2013

CITY MANAGER, CITY OF CARPINTERIA

THIS SIXTH AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into this 9th DAY OF SEPTEMBER 2019 by and between **THE CITY OF CARPINTERIA** ("City") and **DAVE DURFLINGER** ("Employee") at Carpinteria, California, with reference to the following facts and intentions:

- A. Employee serves as City Manager for City.
- B. The City and Employee wish to amend the terms of Employee's Employment Agreement as set forth below.

NOW, THEREFORE, in consideration of the above Recitals and of the mutual promises and conditions of this Sixth Amendment, **IT IS AGREED** as follows:


- 1. Section 5 - **Compensation**. The following provisions of Section 5, Compensation, shall be amended to read as follows:
 - a. **Salary** - Effective the first pay period beginning after July 1, 2019, Employee shall be paid at the rate of Six Thousand Six Hundred Sixty-Three Dollars and Ninety-Six Cents (\$6,663.96) bi-weekly, which equals to One Hundred Seventy-Three Thousand Two Hundred Sixty-Three Dollars and Twenty Cents (\$173,263.20) per year ("Base Salary").

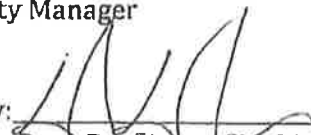
All other Sections of the Employment Agreement, as amended, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment to the Employment Agreement of July 22, 2013, on the date first written above.

CITY
City of Carpinteria

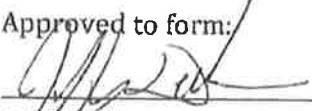
EMPLOYEE
City Manager

By: 
Wade Nomura, Mayor

By: 
Dave Durflinger, City Manager

Date: 9/9/19

Date: 9/10/19

Approved to form:

Jeff Dinkin
Legal Counsel

Date: 9/11/19

SIXTH AMENDMENT TO
EMPLOYMENT AGREEMENT OF JULY 22, 2013

CITY MANAGER, CITY OF CARPINTERIA

THIS SIXTH AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into this 9th DAY OF SEPTEMBER 2019 by and between **THE CITY OF CARPINTERIA** ("City") and **DAVE DURFLINGER** ("Employee") at Carpinteria, California, with reference to the following facts and intentions:

- A. Employee serves as City Manager for City.
- B. The City and Employee wish to amend the terms of Employee's Employment Agreement as set forth below.

NOW, THEREFORE, in consideration of the above Recitals and of the mutual promises and conditions of this Sixth Amendment, **IT IS AGREED** as follows:

1. Section 5 - **Compensation**. The following provisions of Section 5, Compensation, shall be amended to read as follows:


- a. **Salary** - Effective the first pay period beginning after July 1, 2019, Employee shall be paid at the rate of Six Thousand Six Hundred Sixty-Three Dollars and Ninety-Six Cents (\$6,663.96) bi-weekly, which equals to One Hundred Seventy-Three Thousand Two Hundred Sixty-Three Dollars and Twenty Cents (\$173,263.20) per year ("Base Salary").

All other Sections of the Employment Agreement, as amended, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment to the Employment Agreement of July 22, 2013, on the date first written above.

CITY
City of Carpinteria

EMPLOYEE
City Manager

By: 
Wade Nomura, Mayor

By: 
Dave Durflinger, City Manager

Date: 9/9/19

Date: 9/14/19

Approved to form:

Date: _____

Jeff Dinkin
Legal Counsel

2018-047

RECEIVED

SEP 27 2018

CITY OF CARPINTERIA

FIFTH AMENDMENT TO
EMPLOYMENT AGREEMENT OF JULY 22, 2013

CITY MANAGER, CITY OF CARPINTERIA

THIS FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into this 24th DAY OF SEPTEMBER 2018 by and between **THE CITY OF CARPINTERIA** ("City") and **DAVE DURFLINGER** ("Employee") at Carpinteria, California, with reference to the following facts and intentions:

- A. Employee serves as City Manager for City.
- B. The City and Employee wish to amend the terms of Employee's Employment Agreement as set forth below.


NOW, THEREFORE, in consideration of the above Recitals and of the mutual promises and conditions of this Fifth Amendment, **IT IS AGREED** as follows:

- 1. Section 5 - **Compensation**. The following provisions of Section 5, Compensation, shall be amended to read as follows:
 - a. **Salary** - Effective the first pay period beginning after July 1, 2018, Employee shall be paid at the rate of Six Thousand Four Hundred Sixty-Nine Dollars and Eighty- Seven Cents (\$6,469.87) bi-weekly, which equals to One Hundred Sixty-Eight Thousand Two Hundred Sixteen Dollars and Seventy Cents (\$168,216.70) per year ("Base Salary").

All other Sections of the Employment Agreement, as amended, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment to the Employment Agreement of July 22, 2013, on the date first written above.

CITY
City of Carpinteria

By: 
Fred Shaw, Mayor

EMPLOYEE
City Manager

By: 
Dave Durlinger, City Manager

Date: 9/27/18

Date: 9/27/18

Approved to form:



Jeff Dinkin
Special Counsel

Date: 9-26-18

**THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT OF JULY 22, 2013**

CITY MANAGER, CITY OF CARPINTERIA

THIS FOURTH AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into this 11th DAY OF DECEMBER 2017 by and between **THE CITY OF CARPINTERIA** ("City") and **DAVE DURFLINGER** ("Employee") at Carpinteria, California, with reference to the following facts and intentions:

- A.** Employee serves as City Manager for City.
- B.** The City and Employee wish to amend the terms of Employee's Employment Agreement as set forth below.

NOW, THEREFORE, in consideration of the above Recitals and of the mutual promises and conditions of this Third Amendment, **IT IS AGREED** as follows:

1. Section 5 – **Compensation**. The following provisions of Section 5, Compensation, shall be amended to read as follows:

- a. **Salary** - Effective the first pay period beginning after July 1, 2017, Employee shall be paid at the rate of Six Thousand One Hundred Eighty-Two Dollars and Fifty-One Cents (\$6,182.51) bi-weekly, which equals to One Hundred Sixty Thousand Seven Hundred Forty-Five Dollars and Thirty-Four Cents (\$160,745.34) per year ("Base Salary").

Additionally, effective after the City Council approves and adopts Resolution No. 5761, changing CalPERS City payment and reporting value of Employer Paid Member Contribution (EPMC), employee shall be paid at the rate of Six Thousand Two Hundred Eight-One and Forty-Three Cents (\$6,281.43) bi-weekly, which equals to One Hundred Sixty-Three Thousand Three Hundred Seventeen and Thirty Cents (\$163,317.30) per year ("Base Salary").

- d. **Flexible Benefit Program (Wellness) Allowance** - Effective January 1, 2018 employee will be enrolled in a flexible benefit program, and credited with a flexible benefit program allowance of One Thousand One Eighty-Five Dollars (\$1,185.00) and will have an annual 2% increase until January 1, 2020. This allowance may be utilized in a manner consistent with the provisions applicable to management personnel of the City.

2. Section 6 – **Benefits**. The following provisions of Section 6, Benefits, shall be amended to read as follows:

- a. **Medical Insurance**. The City shall provide medical insurance coverage for employee and his dependents, up to the premium amount for coverage under the PERS Health Benefit Program HMO Plan. Beginning the first pay period after January 1, 2018, the City Manager will pay by payroll deduction a monthly contribution to his health insurance premium (employee and

dependents) in the amount equal to .029% of his annual base salary times the percent of insurance carrier increase or decrease with a minimum five percent (5%) or maximum thirty percent (30%) for three years. If the City Manager elects the PPO Plan, the cost share will be the same as the HMO plan formula, plus the difference between the HMO and PPO insurance premiums.

- f. **Retirement.** The City is a member of the Public Employees Retirement System (PERS) for the purpose of employee retirement benefits. Employee shall be eligible for coverage under PERS as provided under the existing contract between PERS and the City, and any subsequent amendments thereto, with the City paying the Employer contributions to PERS.

Effective the pay period after the City Council approves and adopts Resolution No. 5761 to change the payment and reporting value of CalPERS Employer Paid Member Contribution (EPMC), the employee's retirement contribution will increase by one percent (1%). A 1.60% base wage adjustment is reflected on Section 5-a.

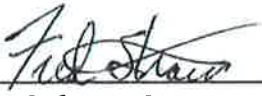
Employee will be required to pay four and one-half percent (4.5%) of the required employer contribution to PERS and three and one-half percent (3.5) of the EPMC of "compensation earnable". In addition, the City shall report the value of one-hundred percent (100%) of the Employer Paid Member Contribution (EPMC) on earned compensation as special compensation.

All other provisions of Section 5 and 6, as amended, shall remain unchanged and in full force and effect.

All other Sections of the Employment Agreement, as amended, shall remain unchanged and in full force and effect.

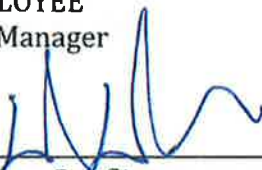
IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to the Employment Agreement of July 22, 2013, on the date first written above.

CITY
City of Carpinteria

By: 
Fred Shaw, Mayor

Date: 12/11/17

EMPLOYEE
City Manager

By: 
Dave Durlinger, City Manager

Date: 12/13/17

Approved to form:

A handwritten signature in black ink, appearing to read "P. Brown", written over a horizontal line.

Date: 12/18/17

**Peter Brown on behalf of
Brownstein Hyatt Farber Schreck, LLP
Acting as City Attorney of the City of Carpinteria**

**THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT OF JULY 22, 2013**

CITY MANAGER, CITY OF CARPINTERIA

THIS THIRD AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into this 28th DAY OF NOVEMBER 2016 by and between **THE CITY OF CARPINTERIA** ("City") and **DAVE DURFLINGER** ("Employee") at Carpinteria, California, with reference to the following facts and intentions:

- A. Employee serves as City Manager for City.
- B. The City and Employee wish to amend the terms of Employee's Employment Agreement as set forth below.

NOW, THEREFORE, in consideration of the above Recitals and of the mutual promises and conditions of this Third Amendment, **IT IS AGREED** as follows:

- 1. Section 5 – **Compensation**. The following provisions of Section 5, Compensation, shall be amended to read as follows:
 - a. **Salary** – Effective the first pay period beginning after July 1, 2016, Employee shall be paid at the rate of Six Thousand Two Dollars and Forty-Four Cents (\$6,002.44) bi-weekly, which equals One Hundred Fifty Six Thousand Sixty-Three Dollars and Forty-Four Cents (\$156,063.44) per year ("Base Salary").

All other provisions of Section 5, as amended, shall remain unchanged and in full force and effect.

- 2. A new section 8.1, entitled Participation in Housing Assistance Program, shall be added to the Employment Agreement, to read as follows:

Participation in Housing Assistance Program. Employee shall be entitled to participate in any Housing Assistance Program as may be established by the City in the future for the position of City Manager.

All other Sections of the Employment Agreement, as amended, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to the Employment Agreement of July 22, 2013, on the date first written above.

CITY
City of Carpinteria

EMPLOYEE
City Manager


By: 
Gregg A. Carty, Mayor

By: 
Dave Durrflinger, City Manager

Date: 11/28/16

Date: 11/30/16

Approved as to form:


Peter Brown on behalf of
Brownstein Hyatt Farber Schreck, LLP
Acting as City Attorney of the City of Carpinteria

Date: 11/28/16

**SECOND AMENDMENT TO
EMPLOYMENT AGREEMENT OF JULY 22, 2013**

CITY MANAGER, CITY OF CARPINTERIA

THIS SECOND AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into this 22ND DAY OF JUNE, 2015 by and between **THE CITY OF CARPINTERIA** ("City") and **DAVE DURFLINGER** ("Employee") at Carpinteria, California, with reference to the following facts and intentions: This amendment will be effective July 1, 2015.

- A.** Employee serves as City Manager for City.
- B.** The City Manager is a part of the management group and receives the same retirement benefit, and the City Council wishes for recent changes made to retirement cost sharing and compensation to the conditions of employment for management employees to also be made a part of the City Manager contract.

NOW, THEREFORE, in consideration of the above Recitals and of the mutual promises and conditions of this Second Amendment, **IT IS AGREED** as follows:

- 1. Section 5 - Compensation. The following provisions of Section 5, Compensation, shall be amended to read as follows:
 - a. Salary - Employee shall be paid at the rate of Five Thousand Eight Hundred Twenty-Seven Dollars and Sixty-one Cents (\$5,827.61) bi-weekly, which equals to One Hundred Fifty One Thousand Five Hundred Seventeen Dollars and Ninety Cents (\$151,517.90) per year ("Base Salary").

All other provisions of Section 5, as amended, shall remain unchanged and in full force and effect

- 2. Section 6 - Benefits. The following provisions of Section 6, Benefits, shall be amended to read as follows:
 - f. Retirement - The City is a member of the Public Employees Retirement System (PERS) for the purpose of employee retirement benefits. Employee shall be eligible for coverage under PERS as provided under the existing contract between PERS and the City, and any subsequent amendments thereto, with the City paying the Employer contributions to PERS. Employee will be required to pay four and one-half percent (4.5%) of Employer contribution to PERS and Two and a half percent (2.50%) of the Employer Paid Member Contributions (EPMC) for a total of Seven percent (7.00%) of Employer and Employee contributions to PERS. In addition, the City shall report the value of Five percent (5.00%) of the normal member contributions as EPMC on earned compensation as

special compensation for Employee, as provided by Resolution No. 5564.

All other provisions of Section 6, as amended, shall remain unchanged and in full force and effect.

All other Sections of the Employment Agreement, as amended, shall remain unchanged and in full force and effect, with the understanding that the City Council will reevaluate the conditions of the contract no later than six months from the date of this amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to the Employment Agreement of July 22, 2013, on the date first written above.

CITY
City of Carpinteria

EMPLOYEE
City Manager


By: 
Gregg A. Carty, Mayor


Dave Durlinger, City Manager

Date: 7-2-15

Date: 6/25/15

Approved as to form:


Peter Brown on behalf of
Brownstein Hyatt Farber Schreck, LLP
Acting as City Attorney of the City of Carpinteria

Date: 6/22/15

**FIRST AMENDMENT TO
EMPLOYMENT AGREEMENT OF JULY 22, 2013**

CITY MANAGER, CITY OF CARPINTERIA

THIS FIRST AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into this 16TH DAY OF FEBRUARY, 2015 by and between **THE CITY OF CARPINTERIA** ("City") and **DAVE DURFLINGER** ("Employee") at Carpinteria, California, with reference to the following facts and intentions: This amendment will be effective January 3, 2015.

- A.** Employee serves as City Manager for City.
- B.** The City Manager is a part of the management group and receives the same retirement benefit, and the City Council wishes for recent changes to retirement cost sharing and compensation to the conditions of employment for management employees also be made a part of the City Manager contract.

NOW, THEREFORE, in consideration of the above Recitals the City Council wishes for and of the mutual promises and conditions of the Employment Agreement, **IT IS AGREED** as follows:

1. Section 5 – Compensation. The following provisions of Section 5, Compensation, shall be amended to read as follows:
 - a. Salary - Employee shall be paid at the rate of Five Thousand Six Hundred Fifty-Seven Dollars and Eighty-Six Cents (\$5,657.86) bi-weekly, which equals to One Hundred Forty-Seven Thousand One Hundred Four Dollars and Seventy-One Cents (\$147,104.71) per year ("Base Salary").
 - c. Deferred Compensation - City will pay Deferred Compensation to the International City/County Management Association ("ICMA") in employee's name in the amount of Five Percent (5%) of Employee's annual Base Salary plus One Thousand One Hundred Dollars (\$1,100.00).
2. Section 6 – Benefits. The following provisions of Section 6, Benefits, shall be amended to read as follows:
 - a. Medical Insurance - From January 1, 2015 through December 31, 2015, the City will continue to pay the health insurance premium for the employee and his dependents, up to the premium amount for coverage under the PERS Health Benefit Program HMO Plan (Blue Shield Access + HMO). Beginning the first pay period after January 1, 2016, the City Manager will pay by payroll deduction or through the Flexible Benefit Program a monthly contribution to his health insurance

premium (employee and dependents) in an amount equal to .029% of his annual base salary.

f. Retirement - The City is a member of the Public Employees Retirement System (PERS) for the purpose of employee retirement benefits. Employee shall be eligible for coverage under PERS as provided under the existing contract between PERS and the City, and any subsequent amendments thereto, with the City paying the Employer contributions to PERS. Employee will be required to pay four and one-half percent (4.5%) of Employer contribution to PERS and One and Twenty-Five percent (1.25%) of the Employer Paid Member Contributions (EPMC) for a total of Five and Seventy-five percent (5.75%) of Employer and Employee contributions to PERS. In addition, the City shall report the value of Five and Seventy-Five percent (5.75%) of the normal member contributions as EPMC on earned compensation as special compensation for Employee, as provided by Resolution No. 5564.

All other provisions of the Employment Agreement, as amended, shall remain unchanged and in full force and effect, with the understanding that the City Council will reevaluate the conditions of the contract no later than six months from the date of this amendment.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to the Employment Agreement of July 22, 2013, on the date first written above.

CITY
City of Carpinteria

EMPLOYEE
City Manager

By: Gregg A. Carty
Gregg A. Carty, Mayor

Dave Dürflinger
Dave Dürflinger, City Manager

Date: 2-9-15

Date: 2/10/15

AMENDED EMPLOYMENT AGREEMENT**CITY MANAGER
FOR THE CITY OF CARPINTERIA**

This Amended Employment Agreement ("Amended Agreement") is made and entered into this 22nd day of July 2013, by and between the City of Carpinteria (City) and David Durflinger (Employee) at Carpinteria, California, with reference to the following facts and intentions:

A. Employee and City entered into an Employment Agreement effective July 23, 2001, and subsequently entered into ten amendments to such Employment Agreement, with the tenth amendment being entered into effective February 25, 2013;

B. The Employment Agreement as amended by the aforesaid ten amendments is referred to herein as the "Employment Agreement," and it is the intent of the parties that this Amended Agreement will supersede and replace the Employment Agreement;

C. City desires to continue to employ Employee in the position of City Manager,

D. Employee desires to continue in his position of City Manager;

C. Employee represents that he continues to be well qualified to perform the duties of City Manager of City, and will devote the necessary time, effort and energy to perform such duties; and

D. Based upon these representations, City is desirous of continuing to employ Employee as its City Manager pursuant to the terms of this Amended Agreement.

NOW, THEREFORE, in consideration of the above recitals and of the mutual promises and conditions of this Amended Agreement, **IT IS AGREED** as follows:

1. **Employment.** City and Employee agree that effective July 22, 2013, his employment as City Manager will be subject the terms and conditions and for the compensation set forth in this Amended Agreement.

2. **Scope of Duties.** As City Manager, Employee shall be the administrative head of the government of the City under the direction and control of the City Council, except as otherwise provided in Chapter 2.08 of the Carpinteria Municipal Code. The powers, duties and responsibilities of Employee, as City Manager, are set forth and described in the Carpinteria Municipal Code, including but not limited to Chapter 2.08 of the Municipal Code. Employee shall perform his obligations and responsibilities as City Manager diligently within the time parameters indicated by the City Council, applying the highest degree of professionalism, integrity and management to every aspect of his obligations.

3. **Employment At-Will.** As City Manager, Employee serves at the pleasure of the City Council. In the event City seeks to terminate Employee's employment as City Manager, Employee shall have the hearing rights set forth in Section 2.08 of the Carpinteria Municipal Code.

4. **Pay Practices.** Employee shall be paid in the same manner as other management personnel of City.

5. **Compensation.** For the services to be provided pursuant to this Amended Agreement, Employee shall receive the following compensation, subject to appropriate tax and governmental deductions:

a. **Salary.** Employee shall be paid at the rate of Five Thousand Five Hundred Four Dollars and Eighty-two Cents (\$5,504.82) bi-weekly, which equals to One Hundred Forty-Three Thousand One Hundred Twenty-five Dollars and Forty Cents (\$143,125.40) per year (“Base Salary”).

b. **SDI/FICA Medicare Reimbursement.** City will reimburse Employee for payroll deductions made on base salary for State Disability Insurance (SDI) and FICA Medicare Tax. Such reimbursement will be equal to Employee’s annual cost for SDI and FICA Medicare Tax, will be pro-rated over the twenty-six (26) payroll periods and paid to Employee on the regular biweekly payroll check.

c. **Deferred Compensation.** City will pay deferred compensation to the International City/County Management Association (“ICMA”) in employee’s name in the amount of Five Percent (5%) of Employee’s annual Base Salary plus One Thousand One Hundred Dollars (\$1,100.00).

d. **Flexible Benefit Program (Wellness) Allowance.** Employee will be enrolled in a flexible benefit program, and credited with a flexible benefit program allowance of One Thousand One Hundred Sixty-two Dollars (\$1,162.00). This allowance may be utilized in a manner consistent with the provisions applicable to management personnel of the City, and will be increased of the amount of any increase in allowance granted to other management personnel.

6. **Benefits.** In addition to the compensation listed in Section 5 above, Employee shall receive the benefits listed below.

a. **Medical Insurance.** The City shall provide medical insurance coverage for family coverage in the amount equal to the family insurance premium rate for 2006 HMO as Base Premium Amount or PPO family coverage which is determined by the HMO City Share premium. Any future premium increases after 2006 which exceeds 10% will be paid 20% by the employee through payroll deduction and 80% by the City.

b. **Dental Insurance.** The City shall provide dental insurance coverage for family coverage to Employee on the same terms as other management personnel, with the City paying the full premium amount

c. **Flexible Spending Account.** Subject to all applicable legal requirements, Employee shall be eligible to participate in a Flexible Spending Account (“FSA”), with the City contributing Two Thousand Five Hundred Dollars (\$2,500.00) per year to the FSA on Employee’s behalf.

d. **Leave Bank.** Employee shall be granted a leave bank of thirty-four (34) days, which will be granted to Employee on the effective date of this Amended Agreement (adjusted

by any leave bank allowance granted to Employee this fiscal year) and at the beginning of each fiscal year thereafter. Employee shall have the same leave bank cash out options, leave accumulation rights and treatment of accrued leave upon termination as granted other management personnel of the City.

e. **Holidays**. The schedule of holidays applicable to Employee shall be the same schedule as applicable to other management personnel of City.

f. **Retirement**. The City is a member of the Public Employees Retirement System (PERS) for the purpose of employee retirement benefits. Employee shall be eligible for coverage under PERS as provided under the existing contract between PERS and the City, and any subsequent amendments thereto, with the City paying the Employer contributions to PERS. Employee will be required to pay four and one-half percent (4.5%) of Employee contributions to PERS. In addition, the City shall report the value of one-hundred percent (100%) of the Employer Paid Member Contribution (EPMC) on earned compensation as special compensation for Employee, as provided by Resolution No. 4216.

g. **Life Insurance**. City will purchase and maintain a term life insurance policy for Employee with a face value of one hundred fifty thousand dollars (\$150,000) throughout the term of Employee's employment with City. If Employee retires with twenty (20) years or more of continuous service with City and is enrolled in City's group life insurance program at the time of retirement, Employee may continue to be covered, at City sole expense, for a ten thousand dollar (\$10,000) life insurance benefit. Such extended coverage will not include AD&D benefits.

h. **Short-Term/Long Term Disability Program**. City will provide Employee, at City's sole expense, additional short-term disability coverage to integrate with SDI for a weekly benefit of sixty percent (60%) of covered earnings and a long-term disability program to provide a monthly benefit of sixty-six and two-thirds percent (66 2/3%) of covered earnings.

i. **Other Leave Time**. Employee shall be eligible for advance of leave time for catastrophic events, family care leave and disability leave on the same terms as applicable to other management personnel of City, except any authorizations required for these benefits must issue from the City Council.

j. **Annual Physical**. City shall provide Employee the opportunity for an annual physical examination, with City paying for any costs not paid by Employee's health insurance.

k. **Fitness Program**. If Employee chooses to enroll in a physical fitness program, City shall pay Thirty-One dollars and Twenty Cents (\$31.20) per month (equivalent of Three Hundred Seventy-Four Dollars and Forty Cents (\$374.40) per year) toward such fitness program.

7. **Use of Vehicle**.

a. **Vehicle Allowance**. City shall provide Employee a vehicle allowance in the amount of Eight Thousand Four Hundred Dollars (\$8,400) per year, payable monthly in the amount of Seven Hundred Dollars (\$700.00).

b. **Employee's Obligations.** Employee shall operate any vehicle utilized in connection with his duties as City Manager in a safe manner, and shall maintain a valid California automobile driver's license during the term of this Amended Agreement.

8. **Reimbursable Expenses.**

a. **General.** Expenses incurred by Employee in the performance of his duties under the terms of this Amended Agreement shall be reimbursed to Employee by City, but these reimbursable expenses shall be limited to those reasonable and necessary for the performance of Employee's duties under this Amended Agreement. Such expenses shall be submitted to the City Council for approval and reimbursement upon such forms and with receipts and other expense records as may be reasonably required by the City Council.

b. **Memberships.** City will pay the membership costs and fees for Employee to join and maintain membership in the International City/County Management Association (ICMA) and such other associations as the City Council may deem appropriate.

c. **Conferences.** City will reimburse Employee for reasonable travel and meeting expenses incurred by Employee to attend the annual League of California Cities Conference, annual League of California City Managers meeting, annual ICMA conference, and such other travel and/or meetings as are approved by the City Council. Employee shall provide receipts and other expense records as may reasonably be requested by the City Council as a condition for expenses to be reimbursed under this subsection.

d. **Professional Development.** The City agrees that all direct costs of all training or instruction required by the City relating to the performance of Employee's duties as City Manager shall be paid for by the City. Charges for tuition, books and supplies for educational courses not required by the City but directly related to Employee's performance of his duties as City Manager, and having the prior written approval of the City's Mayor, will be reimbursed to employee upon presentation of satisfactory completion of such training.

9. **Annual Reviews.** The City will review Employee's performance on an annual basis, with the goal being to have any amendments to this Amended Agreement become effective as of the first pay period following July 1 of such year. All compensation and benefits provided under this Amended Agreement may be discussed by the parties as part of the performance review process.

10. **Conflict of Interest.** Employee represents and warrants to City that he presently has no interest or employment, and covenants that he will not acquire any interests or employment, direct or indirect, for financial gain or otherwise, which would conflict in any manner or interfere with the performance of services required to be performed under this Amended Agreement.

11. **Severance Pay.**

a. **General.** In the event Employee's employment is terminated by City other than for cause, as defined in subsection "b" below, Employee shall be entitled severance pay in an amount equal to six (6) months of pay at his then existing regular rate of pay.

b. **Termination for Cause.** Cause for termination is any of the following:

(1) Employee's willful or intentional failure or refusal to perform his duties and responsibilities consistent with his obligations under this Amended Agreement, or to comply with lawful written directives issued by the City Council pertaining to performance of Employee's job duties and responsibilities.

(2) Employee is convicted of a felony or any crime involving moral turpitude, provided that Employee may be placed on administrative leave without pay should he be charged with a felony or any crime involving moral turpitude.

(3) Employee is determined by a civil court of competent jurisdiction to be liable for damages for dishonesty or fraud.

(4) Employee is determined to have engaged in unlawful discrimination or harassment of City employees or any third party in connection with the performance of his duties under this Amended Agreement.

(5) Employee fails to report to work without notice to City and/or without authorization from the City Council for three (3) consecutive days, except if Employee's failure to comply with this subsection is due to emergency circumstances beyond Employee's control.

City and Employee acknowledge and agree that nothing contained in this section is intended to alter the at-will status of Employee's employment with City and set forth in section 3 above.

12. **General Provisions.**

a. **Notices.** All notices, requests, demands and other communications under this Amended Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served, on the first day after mailing, if mailed by Federal Express or a similar overnight delivery service, or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

City: Mayor
City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013

Copy to: Peter N. Brown, City Attorney
c/o Brownstein Hyatt Farber Schreck
21 East Carrillo Street
Santa Barbara, CA 93101

Employee: David Durflinger
4868 Dorrance Way, No. C
Carpinteria, CA 93103

Any party may change their address for the purpose of this section by giving the other party written notice of the new address in the above manner.

b. **Waiver.** No waiver of a provision of this Amended Agreement shall constitute a waiver of any other provision, whether or not similar. No waiver shall constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

c. **Construction of Terms.** All parts of this Amended Agreement shall in all cases be construed according to their plain meaning and shall not be construed in favor or against either of the parties. If any term, provision, covenant or condition of this Amended Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, the remainder of this Amended Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. In the event of such invalidity, voidness or unenforceability, the parties hereto agree to enter into supplement agreements to effectuate the intent of the parties and the purposes of this Amended Agreement.

d. **Controlling Law.** This Amended Agreement shall be construed in accordance with and governed by the laws of the State of California, with venue proper only in the County of Santa Barbara, State of California.

e. **Entire Agreement and Amendment.** In conjunction with the matters considered herein, this Amended Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Amended Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Amended Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Amended Agreement was modified, cancelled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

IN WITNESS WHEREOF, the parties hereto have executed this Amended Agreement on the date first written above.

CITY
CITY OF CARPINTERIA


EMPLOYEE

By:


Brad Stein, Mayor
City of Carpinteria


DAVE DURFLINGER

Approved as to form:


Peter Brown, City Attorney