

**EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF AUBURN AND LARRY T. COMBS**

RECITAL

On September 1, 2016 the City Council of the City of Auburn ("City Council") selected Larry T. Combs (hereafter "Employee") to serve as Employee of the City of Auburn ("City") on the following terms. The City and the Employee are the Parties to this Agreement and each, a Party. Accordingly, the Parties agree as follows:

AGREEMENT

1. Effective Date

This Agreement shall be effective when approved by Resolution of the City Council and executed by the later of the Parties to do so.

2. Term of Employment

Employee is employed as Interim City Manager of the City of Auburn pending recruitment of a permanent City Manager. Employee serves at the pleasure of City Council and on an "at will" basis during the term of this Agreement, subject to its terms. This Agreement shall terminate on January 31, 2017 or when the City hires a permanent City Manager, whichever occurs first, unless terminated earlier in accordance with its terms.

3. Duties; Hours of Work

A. Employee shall perform the functions and duties of the Auburn City Manager specified by State law, the Auburn Municipal Code and by formal direction of the City Council. Employee shall perform such duties in accordance with the highest professional and ethical standards of the city manager profession. Employee shall not engage in any activity, which is, or which may become, incompatible with the office of Auburn City Manager, as provided for by State law. During the term of this agreement, Employee shall be exclusively employed by the City, unless prior written authorization otherwise is received from the City Council, which authorization will not be unreasonably withheld. Employee has informed the City of his service as Vice-Chair of the California Statewide Communities Development Authority (CSCDA) and the City hereby authorizes such service.

B. City Manager's duties may involve expenditures of time in excess of eight hours per day and/or forty hours per week, and may also include time outside normal office hours such as attendance at City Council meetings. City Manager shall not be entitled to compensation for such time at a rate higher than that provided for in paragraph 4. below. Employee may set his own schedule provided that Employee is discharging the duties of Interim City Manager to the satisfaction of the City Council.

C. The Parties agree to meet and confer as soon as practicable to establish goals and priorities for Employee to achieve during the term of this Agreement. The City Council shall establish such goals and priorities and shall provide direction to Employee from time to time regarding their implementation.

4. Compensation

Employee's salary shall be \$13,125 per month.

5. No Benefits

Employee is a retired annuitant of the California Public Employees Retirement System (CalPERS) and receives health benefits as a retired annuitant. Accordingly, no health, life insurance or other benefits afforded to other management employees of the City shall be made available to him except as expressly provided in this Agreement.

6. Professional Expenses

A. City recognizes that certain expenses of a non-personal and job-related nature may be incurred by Employee. City agrees to reimburse Employee for reasonable expenses which are authorized by the City budget, submitted to the City Council for approval, and which are supported by expense receipts, statements or personal affidavits, and audit thereof in like manner as other demands against the City. Employee shall also be reimbursed for up to \$300 per month in expenditures without additional Council approval, provided that each expense is consistent with IRS regulations for tax-deductible business expenses of for-profit entities.

B. City will reimburse Employee at the IRS rate for mileage (other than commuting from his home to and from City Hall) on City business or, at his option, he may use a City pool vehicle at no cost.

7. CalPERS

As provided for in Government Code section 21221(h), City and Employee warrants for the benefit of each other that this Agreement does not constitute a violation of section 21221(h) and to all the provisions of the law known as the Public Employees Pension Reform Act of 2013 ("PEPRA"), including but not limited to:

A. City affirms it is filling a vacant position solely on a temporary basis while it recruits to fill the position with a permanent replacement;

B. The compensation provided Employee under this Agreement shall not exceed the hourly maximum published (publicly available) pay schedule for the vacant position;

C. That in no case shall Employee hold the position for a period of more than six months from the appointment date or for more than 900 hours in a fiscal year (July 1 to June 30) unless City expressly secures in writing an extension approval from CalPERS. Said extension shall not in any way negatively impact Employee's existing retiree benefits as provided by CalPERS prior to Employee being appointed Interim City Manager of Auburn.

D. City acknowledges that City is not providing any benefits or other compensation beyond the hourly compensation for the position of interim City Manager to Employee.

E. Employee warrants that he has not been employed as a retired annuitant for any PERS-contracting agency in fiscal year 2016–2017 for 60 or more hours, such that his employment by the City for 900 hours in that fiscal year will not exceed the 960 hour limit stated in Government Code Section 21221(h).

F. The promises contained in this Section 7 shall survive termination or expiration of this Agreement.

8. Indemnification

City shall defend, hold harmless and indemnify Employee against any claim, demand, judgment, or action of any type or kind arising within the course and scope of Employee's employment as required by Government Code sections 825 and 995.

9. 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 provision of this Agreement, the Auburn Municipal Code, or other applicable law.

B. The provisions of the City's Personnel Manual ("Rules") shall apply to Employee to the extent they explicitly apply to the position of City Manager, except that if the provisions of this Agreement conflict with the Rules, the terms of this Agreement shall prevail. Without limiting the generality of the exception noted in the previous sentence, however, no provision of the Rules or this Agreement shall confer upon Employee a property right in his employment or a right to be discharged only upon cause. Employee is an at-will employee serving at the pleasure of the City Council and may be dismissed at any time with or without cause, subject only to the provisions of this Agreement.

C. Employee may be terminated at any time, with or without cause, before the City hires a permanent City Manager, in accordance with the terms of paragraphs 10 and 11 of this Agreement.

D. Employee shall be exempt from paid overtime compensation.

10. Termination Without Cause

The City Council may terminate Employee's employment with the City at any time and without cause, upon seven days' written notice to Employee.

11. Termination With Cause

The City Council may immediately terminate Employee's employment with City for cause, upon written notice to Employee. For purposes of this agreement, the term "for cause" shall include any of the following: (a) use of alcohol or drugs in the workplace or otherwise in a manner that impedes performance of duties; (b) conviction of a felony, a misdemeanor in service to the City, or a misdemeanor involving moral turpitude (a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed a conviction for this purpose); (c) a proven claim of either sexual harassment or abuse of employees in violation of law or adopted City policy; (d) willful and repeated failure to carry out the lawful directives or policy decisions of the City

Council; or (e) willful abandonment of the position or continued and unexcused absence from duty.

12. Resignation

Employee may resign at any time during the term of this Agreement, subject to at least 14 days' written notice to the City Council. In such case, City shall have no further obligation to provide pay and such benefits as are afforded by this Agreement upon the effective date of termination of employment.

13. Compliance With Law; Exception

This Agreement is subject to all applicable provisions of State and Federal law and to the provisions of the Auburn Municipal Code.

14. Historic Design Review Commission

The Parties acknowledge that Employee's spouse, Cindy Combs, currently serves as an unpaid, volunteer member of the City's Historic Design Review Commission. As that position is uncompensated and advisory, no conflict of interest arises under applicable law. However, to prevent the appearance of a conflict of interest, Employee shall delegate all work otherwise required of the City Manager related to the Historic Design Review Commission to the City's Planning and Public Works Director or her designee. Such work includes, but is not limited to, attending meetings of the Historic Design Review Commission, reviewing decisions, actions, proposals, or appeals of the Historic Design Review Commission, and/or otherwise interacting with City staff regarding the operations of the Historic Design Review Commission. Notwithstanding Section 31.023 of the Auburn Municipal Code, Employee shall not serve as an ex officio member of the Historic Design Review Commission; rather, the City's Planning and Public Works Director shall serve in his stead.

15. General Provisions

A. This Agreement constitutes the entire agreement between the Parties. City and Employee hereby acknowledge that they have neither made nor accepted any other promise or obligation with respect to the subject matter of this Agreement.

B. If any provision or any portion of this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of the Agreement shall be deemed severable and shall not be affected and shall remain in full force and effect.

C. Any notice to City pursuant to this Agreement shall be given in writing, either by personal service or by registered or certified mail, postage prepaid, addressed as follows:

Mayor
City of Auburn
1225 Lincoln Way
Auburn, CA 95603-5004

With a courtesy copy to:

Michael G. Colantuono, Esq.
Auburn City Attorney
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091.

Any notice to Employee shall be given in a like manner, and, if mailed, shall be addressed to Employee at the address then shown in City's personnel records. For the purpose of determining compliance with any time limit stated in this Agreement, a notice shall be deemed to have duly given on the date of delivery, if served personally, or on the second calendar day after mailing, if mailed.

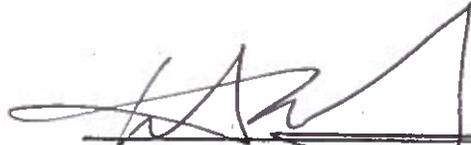
D. If an action at law or in equity is necessary to enforce or interpret this Agreement, the prevailing party in that action shall be entitled to reasonable and actual attorneys' fees and costs with respect to the prosecution or defense of the action.

E. A waiver of any of the terms and conditions of this Agreement shall not be construed as a general waiver and either Party shall be free to enforce any term or condition of this Agreement with or without notice to the other notwithstanding any prior waiver of that term or condition.

16. Amendments

This Agreement represents the entire agreement between the Parties. This Agreement may be amended by a writing approved by the City Council and executed on its behalf and by the Employee.

Dated: 9-2-16



William Kirby, Mayor

Dated: 9/1/2016



Larry T. Combs, Employee

Approved as to form:



Michael G. Colantuono
City Attorney

Dated: 9/2/16

Attest:

Stephanie L. Snyder
City Clerk

Dated: _____