



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

July 15, 2014

Stephen M. Willis
212 Cazneau Avenue
Sausalito, CA 94965

Re: **AT-WILL EMPLOYMENT AGREEMENT FOR INTERIM POLICE CHIEF SERVICES**

Dear Mr. Willis:

The following constitutes the entire agreement between the City of Fort Bragg and Stephen M. Willis ("Parties") regarding a temporary, at-will position pursuant to the City of Fort Bragg Personnel Rules concerning services to be provided for the City of Fort Bragg ("City"). The Parties agree as follows:

1. The Parties freely and voluntarily enter into this Agreement. The only consideration under this Agreement is as specified herein. Mr. Willis will commence working as a temporary, at-will employee of the City in accordance with the terms of this Agreement commencing on July 15, 2014, in accordance with the following.
2. Term: This Agreement will take effect on July 15, 2014 and terminate upon whichever of the following occurs first: Whenever the total number of hours of services performed by Mr. Willis pursuant to this Agreement and the "Temporary Consulting Agreement for Police Administration Services" as executed on July 7, 2014 total 960 hours; or on April 30, 2015. Notwithstanding the foregoing, the Parties may terminate this Agreement in accordance with Paragraphs 15 and 17, below.
3. Position: Under this Agreement, Mr. Willis will be employed as the at-will, Interim Police Chief for the City and perform all of the services ("Services") described in Paragraph 4, below. Nothing in Paragraph 4, below, is to be construed to require Mr. Willis to perform the day-to-day duties and responsibilities of a patrol officer, except for occasional back-up of patrol officers when Mr. Willis determines such back-up is warranted and appropriate.
4. Services: Mr. Willis shall be responsible for directing, administering and coordinating the law enforcement functions of the City, as follows:
 - a. Provide daily administrative oversight of the Police Department and dispatch functions and provide full managerial direction to the members of the Police Department;
 - b. Provide managerial oversight to the Police Department in response to critical incidents or declared states of emergency, as needed;

- c. Oversee preparation of any staff reports presented to the City Council;
- d. Serve as the Department Head in administering the personnel functions of the Police Department (oversight of employee personnel evaluations, disciplinary matters, confidential personnel records maintenance, recommendations on hiring decisions);
- e. Hold regular police department staff meetings and be available to attend management staff meetings convened by the City Manager;
- f. Attend regularly scheduled City Council meetings;
- g. Provide budgetary oversight for the expenditures of the police and dispatch functions;
- i. Serve as the chief liaison with the Mendocino County Sheriff's Department on matters of broad interest in the county-wide law enforcement community;
- k. Report to and take direction from the City Manager.
- i. Other duties as may be assigned from time to time by the City Manager.

5. Compensation: For his performance of the Services in accordance with this Agreement, Mr. Willis shall be compensated at an hourly rate of \$64.33 ("Hourly Rate"). Mr. Willis' compensation will be determined by multiplying the Hourly Rate by the number of hours worked during each two-week City pay period, not to exceed 80 hours for any such two-week period. The Hourly Rate is the sole compensation to which Mr. Willis will be entitled under this Agreement, unless this Agreement is modified in accordance with its terms. This position is exempt under the Fair Labor Standards Act (FLSA) and therefore Mr. Willis shall not be paid overtime compensation for any hours worked in excess of 40 hours per week. Mr. Willis shall submit a bi-monthly timesheet that includes a report of hours worked to the City Manager and the Finance Department. The total annual maximum compensation to which Mr. Willis may be entitled for his performance of the Services in accordance with this Agreement is \$61,756.80. Taxes and other legally required deductions will be deducted from Mr. Willis' compensation under this Agreement. Actual payments to Mr. Willis for performance of the Services will be made bi-weekly at the same time as for regular City employees, and will be the net of compensation at the Hourly Rate less legally-required deductions. Mr. Willis' compensation for performance of the Services does not include fringe benefits provided to regular City employees, and will not be subject to deductions for employee benefits that may apply to regular City employees.

6. Use of Vehicle; No Mileage Reimbursement: The City will not pay Mr. Willis a mileage reimbursement to compensate Mr. Willis for the use of his personal vehicle in the performance of the Services. However, notwithstanding any contrary provision in this Agreement, the City will provide Mr. Willis with the use of the currently assigned vehicle for the Chief of Police ("Chief's Vehicle"), to be used in the performance of the Services, in accordance with established police department policies.

7. At-will Employment: The Parties agree that Mr. Willis' employment pursuant to this Agreement is "at-will" in accordance with California Labor Code Section 2922, and may be terminated by either party without cause in accordance with Paragraphs 15 and 17 of this Agreement. This Agreement contains no express or implied promise to Mr. Willis concerning any form of continued employment as Interim Police Chief. Mr. Willis agrees that the City has made no representation, promise, or statement that may be construed to mean that Mr. Willis has been employed on any basis other than an at-will basis in

accordance with this Agreement. Mr. Willis' temporary, at-will employment status may only be changed or superseded by a subsequent written agreement signed by authorized representatives of both Parties. This Agreement is the sole and exclusive basis for an employment relationship between Mr. Willis and the City and supersedes and replaces any prior agreements between the Parties. The Parties agree that Mr. Willis holds no property right in his employment by the City.

8. Waiver and Release Concerning Any and All Additional Compensation: The Parties understand and agree that the consideration specified in Paragraph 5, above, is the sole compensation to which Mr. Willis will be entitled for performance of the Services pursuant to this Agreement. By signing this Agreement, to the maximum extent allowed by law, Mr. Willis, on behalf of himself and his heirs, estate, executors, administrators, successors, and assigns waives, releases, and discharges this City and its officials, officers, employees, agents, volunteers, attorneys, affiliated entities, successors, assigns and insurers from any and all compensation or consideration in addition ("Additional Compensation") to that specified in Paragraph 5, above, concerning Mr. Willis's performance of the Services. Except as may otherwise be required by law, the "Additional Compensation" waived, released, and discharged pursuant to this provision includes, but is not limited to, compensation in the form of benefits pursuant to the Public Employees Retirement System ("PERS") concerning performance of the Services, and any and all other compensation or benefits that may otherwise be due Mr. Willis concerning performance of the Services pursuant to the City's Personnel Rules or applicable law.

9. Indemnification for Acts or Omissions within the Scope of Employment: City shall provide for the defense of Mr. Willis in any action or proceeding alleging an act or omission within the scope of Mr. Willis' performance of the Services under this Agreement in accordance with California Government Code §§ 825, 995 *et seq.*, and other applicable law. The City agrees that Mr. Willis, while serving in the capacity of Interim Police Chief of the City of Fort Bragg in accordance with this Agreement, shall receive the same immunities, right to a defense and indemnification for liability arising from the performance of the Services as would a regular employee of the City. It is the intent of the City to treat Mr. Willis as a regular City employee solely concerning the City's duty to defend and indemnify City officials for acts or omissions occurring within the course and scope of their duties in accordance with California Government Code §§ 825, 995 *et seq.*, and other applicable law. However, notwithstanding anything to the contrary in this Agreement, in accordance with California Government Code § 825(a), the City reserves the right to not pay any judgment, compromise or settlement subject to that section until it is established that the injury arose out of an act or omission occurring within the scope of Mr. Willis' Services pursuant to this Agreement. Further, notwithstanding anything to the contrary in this Agreement, the City reserves the right to refuse to provide for the defense of Mr. Willis for the reasons set forth in California Government Code § 995.2 or other applicable provisions of law.

10. Indemnification for PERS Benefits and Liability: In the event a court of competent jurisdiction or an authorized PERS representative determines Mr. Willis to be eligible for enrollment in PERS as an employee of the City, or determines Mr. Willis and/or the City to be liable for costs, expenses, penalties or other PERS-related liability arising from or related to Mr. Willis' performance of the Services pursuant to this Agreement, Mr. Willis shall indemnify, defend and hold the City harmless for payment of any employee

and/or employer contributions for PERS benefits on behalf of Mr. Willis, as well as for the payment of any penalties or interest or other liability concerning such contributions or other PERS-related liability that would otherwise be the responsibility of the City.

11. Compliance with Laws: Mr. Willis shall use reasonable care and diligence to comply with applicable federal, state, and local laws in the performance of the Services under this Agreement.

12. Nondiscrimination: During the performance of this Agreement, Mr. Willis will not discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, sex, sexual orientation, or age.

13. Binding Effect: This Agreement is binding upon City and Mr. Willis and their successors. Except as otherwise provided herein, neither City nor Mr. Willis shall assign, sublet, or transfer their interest in this Agreement, or any part thereof, without the prior written consent of the other, and any purported assignment without such written consent will be void.

14. Entire Agreement: This Agreement represents the entire agreement between City and Mr. Willis and supercedes all prior negotiations, representations, or agreements, either written or oral concerning the subject matter of this Agreement. This Agreement may be modified or amended only by a subsequent written agreement signed by authorized representatives of both Parties. In the event of a conflict between this Agreement and any other agreement between the Parties, this Agreement shall govern.

15. Termination of Agreement: Either party may terminate this Agreement for any reason, or for no reason, on 14 days written notice to the other Party in accordance with Paragraph 17 of this Agreement. The City may terminate this Agreement without notice upon Mr. Willis' commission of the following actions or occurrence of the following events:

- a. Any act of dishonesty;
- b. Inability or unwillingness to provide adequate documentation of Mr. Willis' right to work in the United States;
- c. Unauthorized disclosure of confidential information relating to City or its Consultants;
- d. Death or incapacity to fully perform the Services;
- e. Willful breach of duty, gross carelessness or misconduct in the performance of the Services;
- f. Unjustifiable neglect concerning performance of the Services;
- g. A conflict of interest pursuant to provision 16, below; or
- h. Other breach of conditions of this Agreement.

16. Conflict of Interest.

- a. Mr. Willis represents that there is no conflict of interest concerning Services to be rendered under this Agreement with respect to Mr. Willis's services and/or employment with any

other Parties or pursuant to any applicable ethical laws. If Mr. Willis believes that there is a conflict, or such conflict arises during the term of this Agreement, Mr. Willis will immediately advise the City and City may, at its sole discretion, immediately terminate this Agreement.

- b. No officer, employee, or consultant of City shall have any financial interest in this Agreement in violation of California Government Code sections 1090 and following. This Agreement and Mr. Willis shall be subject to City Conflict of Interest Code adopted pursuant to the provisions of California Government Code § 87300 and following.

17. Notices: All notices, demands, requests, or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the fourth business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified mail, or on the next business day after delivery to a courier service which guarantees next business day delivery, addressed as hereinafter provided.

All notices, demands, requests, or approvals from City to Mr. Willis shall be addressed to Mr. Willis at:

Stephen M. Willis
212 Cazneau Avenue
Sausalito, CA 94965

All notices, demands, requests, or approvals from Mr. Willis to City shall be addressed to City at:

Linda Ruffing, City Manager
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

18. Severability: In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

19. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument.

20. Governing Law and Venue: The laws of the State of California shall govern the rights, obligations, duties and liabilities of the Parties to this Agreement and shall also govern the interpretation of this Agreement. It is further agreed by the Parties to this Agreement that venue be sited as Mendocino County, State of California.

At-Will Employment Agreement for
Interim Chief of Police Services
City of Fort Bragg and Stephen M. Willis
July 15, 2014

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement on the day first above-written.

“CITY”
City of Fort Bragg

By: Linda Ruffing, City Manager

Stephen M. Willis

ATTEST:

Cynthia M. Van Wormer, MMC
City Clerk

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