



STAFF REPORT

TOWN COUNCIL MEETING OF MARCH 12, 2013

To: Town Council

From: Town Attorney

Subject: Town Manager Employment Agreement

Date: March 12, 2013

RECOMMENDED ACTION:

Approve the attached Employment Agreement with Town Manager Rick Angelocci.

DISCUSSION:

The Town Manager's current Employment Agreement was approved by the Town Council when the Manager was hired in 2011. Under the current Agreement, the Town Manager is an "at-will" employee and the Agreement does not identify a particular term for the Agreement.

At the direction of Council, the Town Attorney has prepared a revised Agreement which provides for a three year term to the Agreement. The Agreement continues the "at-will" nature of employment and, as the current Agreement does, provides that the Town Council may terminate the Agreement early. As with the current Agreement, if early termination is not "for cause" (as defined), the Manager will be entitled to a lump sum severance payment equal to three months salary and medical benefits.

FINANCIAL IMPLICATIONS:

None not already addressed in the budget. The new Agreement does not alter the Town Manager's salary or benefits.

TOWN OF LOOMIS
EMPLOYMENT AGREEMENT
TOWN MANAGER

This Agreement is made and entered into this ____ day of _____ 2013 (the "Effective Date"), by and between the Town of Loomis, California, a municipal corporation ("Town") and Rick Angelocci ("Employee").

SECTION 1. DUTIES

Town hereby employs Employee as Town Manager to perform the functions and duties specified in the laws of the State of California, Ordinances and Resolutions of the Town of Loomis, and to perform such other duties and functions as the Council shall from time to time assign.

A. Full Energy and Skill. Employee shall devote his full energy, skill, ability, and productive time to the performance of the duties of the Town Manager.

B. Conflict. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of his duties as Town Manager. He acknowledges that he is subject to the various conflict of interest requirements found in the California Government Code and state and local policies and regulations.

(1) The expenditure of reasonable amounts of time not in conflict with the Town's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement.

(3) All data, studies, reports and other documents prepared by Employee while performing his duties during the term of this Agreement shall be furnished to and become the property of the Town, without restriction or limitation on their use.

C. Permission Required For Outside Activities. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, without the express, written consent of the Town Council.

D. Professional Activities. During his appointment as Town Manager, Employee may attend and/or participate in professional activities, provided that his ability to perform his duties as Town Manager herein is not compromised. He shall be paid his regular salary and benefits while traveling to, attending, or participating in professional activities, and shall be entitled to expense advances in accordance with Town policy

applicable to other employees. Employee shall be entitled to reimbursement for the actual costs of the following expense categories that he incurs as a result of the Professional Activities authorized in this section: airfare, rental car, conference fees and lodging, consistent with Town policy and subject to annual budget appropriations. Employee shall inform the Town Council in writing in advance of absences of more than one day related to such Professional Activities.

SECTION 2. TERM OF AGREEMENT

A. Term Generally. The term of this Agreement will begin on the Effective Date of this Agreement and will expire on the first to occur of: i) the third anniversary of the Effective Date of this Agreement (the "Term"); or ii) the Employee's termination at the will of Town as set forth in paragraph B.

B. At-Will Employment.

1. During the term of this Agreement, Town may terminate Employee's employment, but in the event such termination is for any reason other than "For Cause," Employee will be entitled to a severance payment equivalent to three (3) months aggregate salary and an amount equivalent to three (3) months aggregate medical insurance benefit allowance, to be paid as a single lump sum payment on the effective date of the termination. As a condition to receipt of this severance payment, Employee agrees that he will execute a Release Agreement in a form presented to him by Town at the time of his termination without Cause.

2. "For Cause", as used here, shall consist of a termination for any of the following reasons: (i) conviction of a felony or other crime involving moral turpitude (ii) fraud, material dishonesty, or gross negligence in the Employee's performance of his duties as Town Manager; (iii) death or Disability; (iv) civil liability for a violation of statute or law constituting misconduct in office. In the event of a "For Cause" termination, the Town shall not be obligated to pay, and shall not pay, any amounts or continue any benefits under the provisions of paragraph 2.B.1. For purposes of this Agreement, "Disability" shall mean the Employee's inability, because of physical or mental illness or incapacity or otherwise, to perform his essential duties under this Agreement for a period of 180 days or more in any period of 360 days.

3. Further, Town shall not be obligated to pay, and shall not pay, any amounts or continue any benefits under the provisions of paragraph 2.B.1, in the event Employee voluntarily resigns his employment or retires.

SECTION 3. SALARY

Town agrees to pay the Town Manager for services rendered at the annual salary of one hundred and ten thousand dollars and no cents (\$110,000.00) per year, payable in installments at the same time as other employees of the Town are paid. The Town Council, at its sole discretion, may grant increases and/or bonuses to Employee. Toward this end, the Town Council at a time and at intervals fixed in its sole discretion

shall conduct evaluations of Employee's performance for purposes of determining whether to grant salary increases to Employee. However, the mere fact that the Town Council conducts a performance evaluation of Employee shall not entitle him to any change in salary or benefits.

SECTION 4. BENEFITS

Employee shall receive the following benefits:

A. Town shall pay one hundred percent (100%) of the employer and employee share of the CalPERS 2% at 55 retirement plan.

B. Town shall pay the State annuitant rate on the various PERS health plan choices, for the plan chosen (single, double or family) as that rate is determined and changed from year to year by CalPERS.

C. Town makes available through CalPERS a 457 retirement plan to which employee can contribute the amount allowed by law. The Town does not make any contribution.

D. Town shall provide one hundred percent (100%) of the cost for health, dental, and vision insurance for the Employee and for the Employee's dependents in the same manner as Town provides for such benefits in the Town's flexible benefits and/or cafeteria plan for other senior management employees.

E. Town shall provide a one time relocation assistance reimbursement of one thousand five hundred dollars and no cents (\$1,500.00) payable on showing of receipts of costs incurred.

F. Town shall provide a monthly car allowance in the amount of three hundred dollars and no cents (\$300.00).

G. Town shall pay the yearly dues of Employee's membership in the International City Management Association to a maximum of .008% of base wage.

H. Town shall provide a cell phone to Employee for business use or in the alternative, employee can bill the Town for business use of the employee's personal cell phone.

SECTION 5. LEAVE

A. Vacation. Vacation time shall be prorated and accrue monthly at the rate of ten (10) days for the first through the 4th year of employment; fifteen (15) days for the 5th through the 9th year of employment; eighteen (18) days for the 10th through the 14th year of employment; twenty (20) days for 15th through the 19th year of employment; and add one day per year beginning with the 20th year of employment. Vacation may be accrued to a maximum of 800 hours. Accrued hours shall be paid off at the then current rate at separation of service

B. Administrative Leave. Employee shall receive eighty (80) hours of Administrative Leave per calendar year credited in January. Employee shall not have the right to accrue Administrative Leave from year to year. Administrative leave shall be prorated for the remainder of the 2011 calendar year based on date of hire.

C. Holidays. Employee shall receive paid holidays as other Town employees, currently 12 per year.

D. Sick leave. Employee shall receive eight (8) hours per month with unlimited accrual. At retirement employee can take half of the hours accrued in pay and apply half toward time in the CalPERS retirement system.

SECTION 6. Reserved

SECTION 7. PERFORMANCE EVALUATION

The Town Council and the Employee shall meet and establish performance standards for the position of Town Manager to be used in the review and evaluation of the performance of Employee as the Town Manager. The Town Council may, in its sole discretion, use any professional assistance in establishing standards, including but not limited to an agreed upon facilitator. Employee shall be evaluated at times, and at intervals, determined by the Town Council in its sole discretion. Nothing in this provision shall be construed to require Town to grant the Employee pay increases based upon the performance standards, if any, mentioned above nor to limit in any manner the discretion of Town to grant or not grant pay increases. Nor shall anything in this Agreement be construed to require Town to evaluate the Employee solely upon the performance standards, if any, mentioned above, nor to limit the discretion of Town to evaluate the Town Manager as it deems necessary in the sole discretion of the Town.

SECTION 8. PROFESSIONAL DEVELOPMENT

Town shall budget and pay for the professional dues, subscriptions, seminars, conferences and memberships of Employee necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement and for the good of Town, as determined after consultation between Employee and Town.

SECTION 9. BONDING, DEFENSE AND INDEMNIFICATION

Town shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

To the extent permitted by law, the Town shall defend, indemnify, and hold harmless Employee from any suit, demand, claim, or cause of action (collectively "proceeding") brought against his by any third party or parties for acts or omissions arising from the performance of his official duties, including, but not limited to, claims of negligence or professional malpractice.

The Town retains the authority to settle or compromise any proceeding brought against Employee when, in the sole discretion of the Town, such settlement or compromise is in the best interests of the Town.

SECTION 10. MISCELLANEOUS

A. Town, in consultation with Employee, shall fix any other terms and conditions of employment as Town may determine from time to time relating to Employee's performance as Town Manager, provided such terms and conditions are not inconsistent with, or in conflict with, the provisions of this Agreement, the Municipal Code, or any other law. No such terms and conditions shall be binding upon the parties to this Agreement unless and until they are reduced to writing and signed by both parties. Neither party may rely upon such terms and conditions with such an executed writing.

B. Unless otherwise specifically provided herein, all provisions of the Municipal Code and regulations and rules of Town relating to leave and benefits, including without limitation, vacation and sick leave, retirement system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended, also shall apply to Employee as they would to other Town senior management employees of Town.

SECTION 11. NOTICES

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

TOWN	EMPLOYEE
Mayor Town of Loomis P.O. Box 1327 Loomis, CA 95650	Rick Angelocci Town Manager 751 Central Park Dr. #311 Roseville, CA 95678

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to the civil judicial process. 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.

SECTION 12. GENERAL PROVISIONS

A. The text herein shall constitute the entire agreement between the parties, and supersedes any and all other writings, documents, correspondence, agreements or understandings, either oral or in writing, between the parties hereto with respect to the employment of Employee by Town. Each party to this Agreement acknowledges that no representation, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding on either party. The Parties expressly agree that as of the Effective Date, this Agreement supersedes and replaces in its entirety that certain Employment Agreement by and between the Parties dated October 11, 2011.

B. This Agreement shall be binding upon and inure to the benefit of Employee's heirs at law and executors.

C. 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.

D. Any modification of this Agreement will be effective only if it is in writing and signed by both Employee and Town.

E. This Agreement shall be governed by the laws of the State of California. The venue for any and all litigation arising from this Agreement shall be in the Superior, Municipal or Federal Courts located in Placer County, California.

F. This Agreement may be modified or amended, or any of its provisions waived, only by a subsequent written agreement executed by each of the parties. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

G. Employee and Town agree and acknowledge that the provisions of this Agreement have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel, and that both parties agree that they either have had the provisions of this Agreement reviewed by legal counsel or have voluntarily chosen not to do so. The parties agree any ambiguities in construing or interpreting this Agreement shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Agreement.

SIGNATURES ON FOLLOWING PAGE

Town of Loomis
Employment Agreement
Town Manager

IT IS SO AGREED:

"EMPLOYEE"

Rick Angelocci

"TOWN"

By: _____
Walt Scherer,
Mayor

APPROVED AS TO FORM:

By: _____
Jeffrey Mitchell,
Town Attorney

ATTEST:

By: _____
Crickett Strock,
Town Clerk, CMC