



# AGENDA

## SPECIAL MEETING OF THE HEMET CITY COUNCIL

March 6, 2012

6:00 p.m.

[www.cityofhemet.org](http://www.cityofhemet.org)

Sister City Board Room  
445 E. Florida Avenue

*Please silence all cell phones*

*\*Notice: Members of the Public attending shall comply with the adopted Rules of Decorum in Resolution No. 4148. A copy of the Rules of Decorum are available from the City Clerk.*

### Call to Order

### Roll Call

ROLL CALL: Council Members Franchville, Krupa and Smith, Mayor Pro Tem Foreman and Mayor Youssef

### City Council Business

#### Notice to the Public

The Consent Calendar contains items which are typically routine in nature and will be enacted by one motion by the Council unless an item is removed for discussion by a member of the public, staff, or Council. If you wish to discuss a Consent Calendar item please come to the microphone and state the number of the item you wish to discuss. Then wait near the lectern. When the Mayor calls your item give your last name, and address, then begin speaking. You will have three minutes at that time to address the council.

#### Consent Calendar

1. **Recommendation by City Manager** - Fire Chief Appointment and At-Will Agreement
  - a. Approve the appointment and at-will agreement for the hire of Mr. Joe Morris as the City of Hemet's full-time Fire Chief.

### Communications From the Public

Anyone who wishes to address the Council regarding items not on the agenda may do so at this time. As a courtesy, please complete a Request to Speak Form, found at the City Clerk's desk. Submit your completed form to the City Clerk prior to the beginning of the meeting. Presentations are limited to three minutes in consideration of others who are here for agenda items. Please come forward to the lectern when the Mayor calls upon you. When you are recognized, you may proceed with your comments.

***\*Notice: Members of the Public attending shall comply with the adopted Rules of Decorum in Resolution No. 4148. A copy of the Rules of Decorum are available from the City Clerk.***

State law prohibits the City Council from taking action or discussing any item not appearing on the agenda except for brief responses to statements made or questions posed by the

public. In addition, they may, on their own initiative or in response to questions posed by the public, ask a question for clarification, provide a reference to staff or other resources for factual information, or request staff to report back to them at a subsequent meeting. Furthermore, a member of the City Council or the council itself may take action to direct staff to place a matter of business on a future agenda.

---

## **Discussions/Action Items**

2. Rent Review Mobile Home Commission Interviews
- 

## **Future Agenda Items**

If Members of Council have items for consideration at the next City Council meeting, please state the agenda item to provide direction to the City Manager.

---

## **Adjournment**

Adjourn to Tuesday, March 13, 2012 at 7:00 p.m. for considerations of items placed on that agenda. The next regular meeting will be held March 27, 2012.



Robert Youssef, Mayor



*Staff Report*

---

TO: Honorable Mayor and Members of the Hemet City Council  
FROM: Brian S. Nakamura, City Manager  
DATE: March 6, 2012  
RE: Fire Chief Appointment and Approval of At-Will Agreement

---

**RECOMMENDATION:**

The City Manager recommends that the City Council approve the appointment and at-will agreement for the hire of Mr. Joe Morris as the City of Hemet's full-time Fire Chief.

**BENEFIT OF RECOMMENDATION:**

The City operates a full-time Fire Department responsible for insuring the health, safety and welfare of its residents. In order for the Fire Department to continue to fully carry out its duties it is in the best interest of the City and its residents and businesses to retain a full-time Fire Chief.

**FISCAL IMPACT:**

Funding for the Fire Chief position was included in the FY 2011-2012 General Fund budget and will continue to be fully funded in the FY 2012/13 budget. The annual salary is \$140,000 and with benefits totals \$215,000. Additionally, filling this position for the remainder of the fiscal year was factored into the most recent mid-year projections presented to the Council at the February 28th, 2012 Council meeting.

**BACKGROUND:**

During the past eight months the City has operated the Fire Department through the leadership of a Public Safety Director and Acting Duty Chiefs. The Public Safety Director was originally hired to evaluate the day-to-day operations of the Fire Department and make recommendations to the City Council and City Manager in regards to its efficiencies and effectiveness.

The evaluation process is near closure and it is the recommendation of the Public Safety Director to the City Manager that a full-time Fire Chief be hired to initiate implementation of operational findings. The Public Safety Director, in recommending and confirming with the City Manager the hiring of Mr. Morris, is based upon Mr. Morris's professional background and experiences, commitment to the City of Hemet Fire Department,

expertise in fire fighting, fire prevention, building construction, fire department network administration, and emergency rescue services.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brian Nakamura', with a stylized, cursive script.

Brian Nakamura

**EMPLOYMENT AGREEMENT  
AMENDED AND RESTATED  
For the Position of  
FIRE CHIEF**

This Employment Agreement ("Agreement") is made and entered into this 7<sup>th</sup> day of March, 2012, by and between the CITY OF HEMET (the "CITY"), a California municipal corporation and general law city, and Joseph Morris ("MORRIS"), an individual, on the following terms and conditions:

**RECITALS**

A. CITY desires to employ the services of MORRIS as FIRE CHIEF of CITY, ("FIRE CHIEF") in consideration of and subject to the terms, conditions, and benefits set forth in this Agreement.

B. MORRIS desires to accept at-will employment as FIRE CHIEF of CITY in consideration of and subject to the terms, conditions, and benefits set forth in this Agreement.

**OPERATIVE PROVISIONS**

In consideration of the promises and covenants contained herein, the parties agree as follows:

**1. Position and Duties.**

1.1 **Position.** MORRIS accepts employment with the CITY as its FIRE CHIEF and shall perform all functions, duties and services set forth in Section 1.4 [Duties] of this Agreement. MORRIS shall provide service at the direction and under the supervision of the City Manager and/or the City Manager's designee. It is the intent of the parties that the FIRE CHIEF shall keep the City Manager and/or the City Manager's designee fully apprised of all significant ongoing operations of the Fire Department and other departments/divisions which may be assigned to MORRIS. Toward that end, MORRIS shall report directly to the City Manager and/or the City Manager's designee and will periodically, or as may be specifically requested by the City Manager and/or the City Manager's designee, provide status reports to the City Manager and/or the City Manager's designee on his activities and those of the assigned departments/divisions of CITY.

1.2 **Period of Employment/Commencement Date.** MORRIS shall serve for an indefinite term subject to the provisions contained in this Agreement concerning termination of his services or voluntary separation from service. This Agreement commences and is effective on March 5, 2012 ("Commencement Date"), upon being executed by MORRIS and the City Manager. MORRIS' original date of hire with CITY is December 16, 1996. CITY shall employ MORRIS under this Agreement, as specified in this section, until his employment is terminated in accordance with Section 6 [Termination] of this Agreement.

1.3 **At-Will.** MORRIS acknowledges that he is an at-will employee of CITY who shall serve at the pleasure of the City Manager at all times during the period of employment. The terms of the CITY's personnel rules, policies, procedures, ordinances, or resolutions (collectively "Personnel Policies") shall not apply to MORRIS to the extent such Personnel Policies conflict with this Agreement. Nothing in this Agreement is intended to, or does, confer upon MORRIS any right to any property interest in continued employment, or any due process right to a hearing before or after a decision by the City Manager to terminate his employment, except as is expressly provided in Section 6 [Termination] of this Agreement. Nothing contained in this Agreement shall in any way prevent, limit or otherwise interfere with the right of the CITY to terminate the services of MORRIS as provided in Section 6 [Termination]. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of MORRIS to resign at any time from this position with CITY, subject only to the provisions set forth in Section 6 [Termination] of this Agreement. This at-will employment Agreement shall be expressly subject to the rights and obligations of CITY and MORRIS, as set forth in Section 6 [Termination] below. This provision is not intended to limit, in any way, any right that MORRIS has under the Firefighters Procedural Bill of Rights Act, as set forth in Government Code sections 3250-3262.

1.4 **Duties.** MORRIS shall serve as the FIRE CHIEF and shall report directly to the City Manager and/or the City Manager's designee. MORRIS as the FIRE CHIEF shall be vested with the powers, duties and responsibilities set forth in both the Hemet Municipal Code and the City's approved Fire Chief job description, as both may be amended from time to time, the terms of which are incorporated herein by reference. Without additional compensation, MORRIS shall provide such other services as are customary and appropriate to the position of FIRE CHIEF, together with such additional services assigned from time to time by the City Council of CITY as may be consistent with California and federal law and the Hemet Municipal Code. Material changes to MORRIS's job duties or description will permit a reopener of this Agreement within thirty (30) days following such changes. MORRIS shall devote his best efforts and full-time attention to the performance of these duties.

1.5 **Hours of Work.** MORRIS shall devote the time necessary to adequately perform his duties as FIRE CHIEF. The parties expect that a minimum of forty (40) hours per week during regular business hours, as well as additional time outside of the normal business hours, will be required to satisfy this requirement. Toward that end, MORRIS shall be allowed reasonable flexibility in setting his own office hours, based upon a regular four-day workweek, provided the schedule of such hours provides adequate availability to the City Manager and/or the City Manager's designee, CITY staff, and members of the community during normal business hours and for the performance of his duties and of CITY business. The position of FIRE CHIEF shall be deemed an exempt position under the Fair Labor Standards Act. MORRIS' compensation (whether salary or benefits or other allowances) is not based on hours worked and MORRIS shall not be entitled to any compensation for overtime.

1.6 **Regional and Professional Activity.** During the period of employment, the CITY desires MORRIS to be reasonably active in national, statewide, regional and professional organizations that will contribute to FIRE CHIEF's professional development

and standing and that will contribute to the advancement of the CITY's interests and standing. Toward that end, MORRIS may, upon advance notice to and approval of the City Manager, undertake such activities as are directly related to his professional development and that advance the interests and standing of the CITY, provided that such activities do not in any way interfere with or adversely affect his employment as FIRE CHIEF or the performance of his duties as provided herein. Participation in such activities shall be subject to the constraints of the CITY's adopted budget. CITY agrees to budget and pay for the dues and subscriptions of the FIRE CHIEF necessary for his participation in such organizations subject to the approval of the City Manager. CITY agrees to reimburse MORRIS' reasonable and necessary travel, business and subsistence expenses for his activities as provided in Section 1.8 [Reimbursement] of this Agreement.

**1.7 Other Activity.** During the period of his employment, MORRIS shall not, except with the express prior written consent of the City Manager, accept any other employment or engage, directly or indirectly, in any other business, commercial, or professional activity (except as permitted under Section 1.6 [Regional and Professional Activity]), whether or not for pecuniary advantage, that is or may be competitive with the CITY, that might cause a conflict-of-interest with the CITY, or that otherwise might interfere with the business or operation of the CITY or the satisfactory performance of MORRIS' duties as FIRE CHIEF.

**1.8 Reimbursement.** CITY shall reimburse MORRIS for reasonable and necessary travel, subsistence and other business expenses incurred by MORRIS in the performance of his duties. All reimbursements shall be subject to and in accordance with the CITY's adopted Employee Reimbursement Policy.

## **2. Compensation.**

**2.1 Base Salary.** MORRIS shall receive an annual base salary of one hundred forty thousand dollars (\$140,000) paid according to the payroll schedule in place for CITY employees paid bi-weekly.

**2.1.1. Temporary 2% reduction.** For fiscal year 2011-2012, MORRIS shall participate in the CITY's budget reduction program by decreasing his base salary by two percent (2%) to one hundred thirty seven thousand two hundred dollars (\$137,200.00). This temporary salary reduction shall remain in effect through June 30, 2012. MORRIS' base salary shall be automatically reinstated to the level provided in Section 2.1 [Base Salary] commencing on July 1, 2012.

**2.2 Merit Increase.** On or about the anniversary date of MORRIS' Commencement Date as stated in Section 1.2 [Period of Employment/Commencement Date] and after the performance evaluation provided in Section 4 [Evaluation], the City Manager, in his sole discretion, may award MORRIS a merit increase in base annual salary. Any and all adjustments to MORRIS' compensation will be obtained through negotiation with the City Manager and are not governed by CITY's Personnel Policies or Administrative Personnel Resolution.

**2.3 Deferred Compensation.** During the period of employment, MORRIS shall be entitled to participate in, and CITY shall contribute to, the 457 deferred compensation program for MORRIS at a rate of two percent (2%) of monthly salary provided CITY continues to maintain this plan for CITY employees. MORRIS is eligible to contribute up to the combined plan annual limits for the deferred compensation program.

**2.4 Benefits.**

**2.4.1 Health Insurance.** CITY agrees that during the period of employment it will make available to MORRIS and his eligible dependents the CITY health insurance capped at \$953.81, and fully paid dental and vision and shall adjust the cap in accordance with that amount provided to the collective bargaining units. MORRIS agrees to pay the remaining portion of such premium payments through regular payroll deductions from MORRIS' base salary.

**2.4.2 Life Insurance.** CITY agrees that during the period of employment it will provide MORRIS with, and pay one hundred percent (100%) of the premium payments for, a term life insurance policy in an amount equal to one hundred percent (100%) of base salary.

**2.4.3 Long-Term Disability Insurance.** CITY agrees that during the period of employment it will pay one hundred percent (100%) of the premium payments applicable to, and to otherwise permit MORRIS to participate in, the CITY's long-term disability insurance with a sixty percent (60%) of base salary benefit, with a maximum monthly benefit of thirteen thousand dollars and 00/100 (\$13,000.00), and with a thirty-day (30) waiting period following illness/injury qualifying period. CITY does not provide short-term disability benefits.

**2.4.4 Gym Program.** During the period of employment, MORRIS is eligible to participate in the CITY's Gym Program and utilize the CITY designated gym facilities in accordance with the guidelines established for such program.

**2.4.5 Employee Assistance Program.** During the period of employment, MORRIS and his eligible dependents are eligible to participate in the CITY's Employee Assistance Program in accordance with the guidelines established for such program.

**2.4.6 City-Owned Vehicle.** During the period of employment, CITY will provide MORRIS a city-owned vehicle equipped with emergency equipment as described in CVC 21055(b) for his exclusive use and for limited personal use as may be required to maintain a one hour response time to the fire facility. CITY shall pay for, or reimburse MORRIS, for the necessary cost of automobile registration, insurance, fuel, and maintenance. MORRIS shall keep the vehicle in reasonable repair, obey all traffic laws relating to the operation of the vehicle and shall use due care and caution in its operation.

**2.4.7 Educational Reimbursement.** During the period of employment, MORRIS is eligible to participate in the CITY's tuition-reimbursement program, which covers courses taken at accredited colleges, accredited universities, correspondence courses and other institutions. Reimbursement by the CITY shall be subject to the following: the course

elected must be of benefit to CITY and directly related to MORRIS' current duties or future employment with CITY; CITY may approve courses taken to satisfy a degree requirement provided the degree goal is in the field of MORRIS' current or future employment with CITY; MORRIS shall attend such courses during his own time and complete such courses satisfactorily with a passing grade of "C" or its numerical equivalent, or a "pass" or "credit" for the class; MORRIS must obtain the approval of the City Manager in writing prior to enrolling in the course; CITY's reimbursement shall include tuition, necessary books and text materials used to complete course requirements and parking fees, but shall not include travel time, mileage or other miscellaneous costs incurred by MORRIS; upon completion of the course, MORRIS shall attach his grade report and receipts for eligible reimbursements to his approved application for educational assistance to the City Manager; and CITY reimbursement shall be limited to two thousand dollars and 00/100 (\$2,000.00) per calendar year. If MORRIS is terminated, in accordance with Section 6 [Termination] within one (1) year after completion of a course paid for by CITY, the costs of such course will be deducted from MORRIS' last paycheck. If such last paycheck is insufficient to repay such costs, MORRIS will be required to make arrangements, including a promissory note, to repay the balance within one (1) year of such termination. The City Manager may alter the above requirements in unusual circumstances.

**2.4.8 Jury Duty.** During the period of employment, MORRIS will receive full pay and benefits while responding to a jury summons or serving on a jury, regardless of the time period MORRIS is required to participate. Any compensation for such jury duty (except travel pay) shall be remitted to CITY.

**2.4.9 Business-Related Equipment.** During the period of employment, CITY shall supply MORRIS with a cell phone or blackberry (or PDA or similar equipment utilized by CITY), and if requested, a portable computer (inclusive of office docking station) for MORRIS'S exclusive business use.

### **3. Vacation and Leave.**

**3.1 Personal Time Off.** MORRIS shall maintain his balance of accrued Personal Time Off (PTO) and remain eligible to accrue PTO at a total of 256 hours per year, comprised of the following: 168 hours of vacation; 40 hours of management leave; and 48 hours of sick leave (separate from 3.4 Sick Leave below). The payroll period rate of PTO shall accrue at a rate of 10.67 hours per payroll period. The maximum amount of PTO that MORRIS may have at any time shall equal 512 hours. If MORRIS' earned but unused PTO reaches 512 hours, MORRIS will stop accruing PTO until the PTO falls below 512 hours. PTO will not be earned during the period in which MORRIS' benefits are at such maximum amount. Upon approval of the City Manager, MORRIS may sell back earned but unused PTO once each quarter up to a maximum of 176 hours per calendar year. MORRIS shall be paid the value of any earned and unused PTO at the time of separation of employment for any reason, at the base salary rate, as defined in section 2.1. As of the date of this Agreement Morris has accrued 768 hours of PTO agrees that he shall not accrue additional PTO until such time his PTO balance is below the maximum of 512 hours.

3.1.1 **PTO Sell Back Moratorium.** MORRIS waives his ability to sell back PTO throughout the 2011-2012 fiscal year.

3.2 **Holidays.** Paid holidays shall be in accordance with the CITY's current practices and are subject to change. Paid holidays will be those deemed authorized by the CITY. The CITY currently provides ten (10) paid holidays (New Years Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving and the Friday after, and Christmas) and two (2) floating paid holidays. The hour value of each holiday shall be equivalent to MORRIS'S scheduled work day.

3.3 **Administrative Leave.** MORRIS shall maintain his balance of accrued administrative leave and upon execution of this agreement shall be entitled to an initial eighty (80) hours of administrative leave. This initial balance of administrative leave shall expire on December 31, 2012. In addition to the paid leave described in 3.1 above, MORRIS shall be entitled to eighty (80) hours of administrative leave on January 1<sup>st</sup> of each calendar year in consideration of being required to respond to critical incidents and major crime scenes after normal business hours and to attend City Council and after-hours community meetings. Such annual grant of administrative leave must be used by December 31<sup>st</sup> of the calendar year in which it is granted. Granted and unused administrative leave shall not be carried over into the following year. No compensation shall be provided for granted and unused administrative leave and such granted and unused administrative leave shall not be paid out to MORRIS at the time of separation from employment. Unused administrative leave shall not be converted into PTO.

3.4 **Sick Leave.** MORRIS shall accrue sick leave at a rate of four (4) hours per month. There is no cap on the amount of sick leave that MORRIS may accrue or carry over from year to year. CITY agrees that upon MORRIS' retirement, disability, death or termination under Sections 6.1 [By CITY Not for Cause] or 6.2 [By Employee], CITY will purchase MORRIS' accrued and unused sick leave at a value of twenty-five percent (25%) after five (5) years of service, fifty percent (50%) after ten (10) years of service, or seventy-five percent (75%) after twenty (20) years of service with CITY. The CITY shall purchase such accrued and unused sick leave at MORRIS' base salary rate, as defined in section 2.1, at the time of such payout.

#### 4. **Evaluation.**

Annually, the City Manager and/or the City Manager's designee will review and evaluate the performance of MORRIS as FIRE CHIEF. Failure of the City Manager and/or the City Manager's designee to provide a performance evaluation shall not limit the CITY's ability to terminate this Agreement pursuant to Section 6 [Termination].

#### 5. **Retirement.**

5.1 **CalPERS.** The City will maintain its current retirement plan with the State of California's Public Employees Retirement System ("CalPERS") for MORRIS, and such plan will include 3% at fifty (50) plan (Fourth Level 1959 Survivor's Benefits, Post-Retirement Survivor Allowance, One-Year Final Compensation, Military Service Credit). City will

contribute the employee's contributive share to CalPERS at the rate of six percent (6%). MORRIS will contribute three percent (3%) of the employee's share of his CalPERS contribution. City will report to CalPERS as special compensation the value of employer-paid contributions. The special compensation shall be calculated on the base rate and reported as non-taxable to CalPERS. City has further implemented the provisions of Government Code Section 20636(c)(4) pursuant to Section 20691 by means of Resolution No. 3099, adopted June 14, 1994.

5.2 **Retirement Health.** The CITY shall contribute one hundred percent (100%) of premiums for MORRIS' medical/dental/vision in accordance with the July 24, 1990, Retirement Benefits Policy and Resolution No. 4190, adopted November 27, 2007. Should MORRIS be terminated from CITY under Section 6.1[By CITY Not for Cause] prior to MORRIS turning age fifty (50), MORRIS shall remain eligible for this provision in accordance with Resolution No. 4190, upon turning age fifty (50).

## 6. Termination.

6.1 **By CITY:** CITY may terminate MORRIS at any time, with or without cause, by providing written notice of the reason(s) and an opportunity for administrative appeal, as provided herein, in accordance with the requirements of the Firefighters Procedural Bill of Rights Act, as set forth in Government Code sections 3250-3862. CITY's right to terminate MORRIS shall not be subject to or in any way limited by any Personnel Policies or past CITY practices relating to the employment, discipline, or termination of its employees. MORRIS expressly waives any rights provided for Administrative Personnel under the CITY's Personnel Policies, any rights provided for the FIRE CHIEF or Administrative Personnel under the Hemet Municipal Code or under other State or federal law to any other form of pre- or post-termination hearing, appeal, or other administrative process pertaining to termination.

### 6.1.1. **By CITY for Cause.**

A. CITY may immediately terminate this Agreement at any time by providing MORRIS written notice of his termination for cause and the facts and grounds constituting cause. "Cause" shall include, but shall not be limited to the following: (1) theft or attempted theft; (2) dishonesty; (3) willful or persistent material breach of duties; (4) engaging in unlawful discrimination or harassment of employees or any third party while on CITY premises or time; (5) conviction of a felony; (6) engaging in conduct tending to bring embarrassment or disrepute to the CITY and (7) unauthorized absences.

B. Within five days of receipt of written notice under Section 6.1.1.A., MORRIS may submit a request in writing to the City Manager for an administrative appeal. The City Manager shall then appoint an independent hearing officer to conduct an administrative hearing. Both MORRIS and the CITY and their respective representatives, if

any, shall make reasonable efforts to set a hearing date within ten days from the City Manager's receipt of MORRIS' request.

C. At the hearing, the independent hearing officer shall be presented with both the information and documents on which CITY based its decision to terminate as well as any information and documentation that MORRIS chooses to submit to challenge CITY's information and documents or to raise mitigating circumstances for consideration by the independent hearing officer. Neither party shall have the opportunity to cross-examine witnesses.

D. Within seven days, the independent hearing officer shall make an advisory recommendation in writing to the City Manager. Following the City Manager's review, MORRIS shall be notified in writing as to whether his termination will be modified, rescinded, or remain in effect.

E. If the termination remains in effect following administrative appeal, or if MORRIS does not exercise his right to administrative appeal, no severance or any further salary shall be paid beyond the effective date of the termination. However, MORRIS shall receive payment for accrued and unused PTO and sick leave as provided for in this Agreement together with any extension of benefits required under California and federal law.

**6.1.2. By CITY for Reasons Other Than Cause.**

A. By providing MORRIS at least thirty days (30) days prior written notice thereof, CITY may terminate MORRIS for reasons other than "cause".

i. MORRIS may not be terminated, except for "cause" pursuant to Section 6.1.1, within one hundred eighty (180) days of the hiring of a new City Manager.

B. The CITY reserves the right to place MORRIS on paid administrative leave for all or a portion of the 180-day period provided under Section 6.1.2.A.

C. MORRIS may request to appear before the City Council prior to the effective date of the termination to challenge the reasons for the termination or to raise mitigating circumstances regarding the termination.

D. If the City Council proceeds with termination, MORRIS shall be entitled to twelve (12) months base salary, less applicable deductions, plus applicable accrued PTO and sick leave as provided herein

together with any extension of benefits required under California and federal law.

**6.2 By Employee.** MORRIS may terminate his employment for any reason, and at any time, with or without reason, by providing CITY with thirty (30) days advance written notice. CITY shall have the option, in its complete discretion, to make MORRIS' termination effective at any time prior to the end of such period, provided CITY pays MORRIS all compensation due and owing him through the last day actually worked, plus an amount equal to the base salary MORRIS would have earned through the balance of the above notice period.

**6.3 Intentionally Deleted.**

**6.4 Termination Obligations.** MORRIS agrees that all property, including, without limitation, all equipment, tangible Proprietary Information (as defined below), documents, records, notes, contracts, and computer-generated materials furnished to or prepared by him incident to his employment belongs to CITY and shall be returned promptly to CITY upon termination of MORRIS' employment. MORRIS' obligations under this subsection shall survive the termination of his employment and the expiration of this Agreement.

**6.5 Benefits Upon Termination.** All benefits to which MORRIS is entitled under this Agreement shall cease upon MORRIS' termination, except as specified in Section 5 and 6, unless expressly continued either under this Agreement, under any specific written policy or benefit plan applicable to MORRIS, or unless otherwise required by law.

**7. Proprietary Information.**

"Proprietary Information" is all information and any idea pertaining in any manner to the business of CITY (or any CITY affiliate), its employees, clients, consultants, or business associates, which was produced by any employee of CITY in the course of his or his employment or otherwise produced or acquired by or on behalf of CITY. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formulae, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, forecasts, and customer lists. All Proprietary Information not generally known outside of CITY's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." During his employment by CITY, MORRIS shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of CITY and as is or may be necessary to perform his job responsibilities under this Agreement. Following termination, MORRIS shall not use any Proprietary Information and shall not disclose any Confidential Information, except with the express written consent of CITY. MORRIS' obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

**8. Conflict Of Interest.**

MORRIS represents and warrants to CITY that he presently has no interest, and represents that he will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or interfere in any way with performance of his services under this Agreement.

**9. General Provisions.**

**9.1 Vehicle Operation.** MORRIS shall operate any vehicle used in connection with the performance of his duties as FIRE CHIEF in a safe manner and otherwise in observance of all established traffic safety laws and ordinances and shall maintain a valid California automobile's driver's license during the period of employment.

**9.2 Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to CITY at the address below, and or at the last known address maintained in MORRIS' personnel file. MORRIS agrees to notify CITY in writing of any change in his address during his employment with CITY. Notice of change of address shall be effective only when accomplished in accordance with this Section.

**City's Notice Address:**

City of Hemet  
c/o City Manager  
445 E. Florida Avenue  
Hemet, California 92543

**FIRE CHIEF's Address:** [Deliver to last updated address in personnel file]

**9.3 Indemnification.** Subject to, in accordance with, and to the extent provided by the California Tort Claims Act [Government Code Section 810 *et seq.*], the CITY will indemnify, defend, and hold MORRIS harmless from and against any action, demand, suit, monetary judgment or other legal or administrative proceeding, and any liability, injury, loss or other damages, arising out of any act or omission occurring during MORRIS' tenure as FIRE CHIEF.

**9.4 Bonding.** The CITY shall bear the full cost of any fidelity or other bonds required of the FIRE CHIEF under any law or ordinance.

**9.5 Integration.** This Agreement is intended to be the final, complete, and exclusive statement of the terms of MORRIS' employment by CITY. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of MORRIS, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements.

9.6 **Amendments.** This Agreement may not be amended except in a written document signed by the City Manager and MORRIS. Failure to exercise any right under this Agreement shall not constitute a waiver of such right.

9.7 **Assignment.** MORRIS shall not assign any rights or obligations under this Agreement. CITY may, upon prior written notice to MORRIS, assign its rights and obligations hereunder.

9.8 **Severability.** If a court or arbitrator holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

9.9 **Attorneys' Fees.** In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

9.10 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, with venue proper only in Riverside County, State of California.

9.11 **Interpretation.** This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the City Manager and MORRIS, and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, cancelled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

9.12 **Acknowledgment.** MORRIS acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

**IN WITNESS WHEREOF,** the CITY has caused this Agreement to be signed and executed on its behalf by its City Manager and duly attested to by its City Clerk, and MORRIS has signed and executed this Agreement, as of the date first indicated above.

\_\_\_\_\_  
Joseph Morris, Fire Chief

\_\_\_\_\_  
Brian S. Nakamura, City Manager

**ATTEST:**

**APPROVED AS TO FORM:**

---

Sarah McComas, City Clerk

---

Eric S. Vail, City Attorney