

**EMPLOYMENT AGREEMENT  
BETWEEN CITY OF REDONDO BEACH  
AND  
CITY MANAGER**

This EMPLOYMENT AGREEMENT ("**Agreement**") is entered into on the 16th day of November 2021 ("**Effective Date**") between City of Redondo Beach, a chartered municipal corporation ("**City**") and Mike Witzansky ("**City Manager**"). As used in this Agreement, "**Parties**" shall mean collectively City and City Manager, and a "**Party**" shall mean either one of such Parties.

**RECITALS**

- A. City is a Charter City as defined in California Government Code Section 34101 and not a local agency as defined in California Government Code Sections 53263 or 3511.1(c). Pursuant to Article V, Section 5 of the Charter of the City of Redondo Beach (the "**Charter**"), the City is a Council-Manager form of government.
- B. City desires to appoint and employ Mike Witzansky to serve as its City Manager to perform the duties and discharge powers specified in Article XII, Section 12.3 of the Charter or as otherwise specifically provided for in the City of Redondo Beach Municipal Code or lawfully adopted ordinances (the "**Professional Services**"), and to be employed pursuant to a contract required by Article XII, Section 12.1 of the Charter at the pleasure of the City Council, subject to limitations of such pleasure only as specified in Article IX, Section 9.1 of the Charter.
- C. This Agreement is intended to establish and provide conditions, compensation and benefits, and working conditions for such appointment and employment, as authorized by Redondo Beach City Council and consistent with the Pay and Benefits Plan for Management & Confidential Employees of the City of Redondo Beach (the "**Management & Confidential Plan**", current version attached as Exhibit A), as amended during the Term of this Agreement.
- D. Mike Witzansky represents he is eligible for such appointment and employment, that he resides (and will continue to reside) at a location that allows him to reasonably and timely respond to City emergencies, and desires to accept appointment and employment on the terms set forth herein.

**AGREEMENT**

Incorporating each of the Recitals above into the terms of this Agreement as a material contractual part hereof, and not as mere recitals, the Parties agree as follows:

**Section 1. Duties - Exclusive Employment and Restriction on Outside Pursuits**

Upon appointment by the City Council, City agrees to employ City Manager to serve as the City's chief executive officer and to perform the Professional Services and such other legally permissible duties and functions as City Council may direct from time to time. City Manager shall be empowered with such authority as set forth in Article XII, Section 12.3 or as reasonably necessary to lawfully perform the Professional Services.

In addition to restrictions contained in Article VII, Section 2 of the Management & Confidential Plan, City Manager agrees he will be employed exclusively by City and may not be employed in any other capacity while employed or engage in any other business duties or professional pursuits whatsoever or, directly or indirectly, render any services of a business, commercial, or professional nature to any other person or organization, whether provided compensation or otherwise, without prior consent of City Council, which consent may be withheld at the sole discretion of the City Council. Notwithstanding the foregoing, the expenditure of reasonable amounts of time not in conflict with City's needs and interests for non-compensated educational, charitable, community, volunteer, and/or professional activities (the "**Volunteer Activities**") shall not be deemed a breach of this Agreement and shall not require prior consent. If the City Council determines that any of the City Manager's Volunteer Activities are in conflict with this Section, the City Council shall notify the City Manager of such determination and the City Manager shall make appropriate modifications to such duties or pursuits in order to comply with this Section. The Parties have negotiated and agreed to conditions, compensation and benefits, and working conditions materially sufficient to permit City Manager to exclusively focus his professional time, ability, and attention to City business during the term of this Agreement.

## **Section 2. Term, Renewal, and Expressed At-Will Status**

The term of this Agreement shall commence as of the Effective Date and shall be for a period of three (3) years (the "**Term**"); provided, however, this Agreement may be terminated as provided in Section 3 below or renewed from time to time for such period as specified in the Charter..

If this Agreement is not formally renewed by City Council action but City Manager continues to serve as such and otherwise be employed by the City, all terms of the Agreement shall remain in effect.

At all times, City Manager is an "at-will" employee (as that term is defined by case law interpreting California Labor Code Section 2922). The City Manager will serve at the pleasure of City Council, subject to limitations of such pleasure only as specified in Article IX, Section 9.1 of the Charter. Nothing in this Agreement shall require Cause for removal, or prevent, limit, or otherwise interfere with the right of City Council to terminate the services of City Manager at any time, subject only to the provisions set forth in Section 3 of this Agreement.

Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of City Manager to resign at any time from his position with City, subject only to the provisions set forth in Section 3 of this Agreement. Nothing in this Section shall prevent the City from terminating City Manager for Cause, as defined in Section 3(C) of this Agreement.

### Section 3. Termination of Agreement

This Agreement may be terminated prior to expiration of its Term as follows:

- A. By mutual written agreement of the parties; or
- B. The City may terminate this Agreement for convenience at any time without any showing of, or necessity for, Cause; or
- C. The City may terminate this Agreement at any time for Cause. For purposes of this Agreement, "Cause" shall mean:
  - (1) City Manager's commission of an act of fraud, embezzlement or misappropriation, or a crime of moral turpitude; or
  - (2) City Manager's continuing or willful misconduct or failure, refusal or neglect to perform his job functions, or adhere to the lawful policies and practices of the City, or to the terms of Section 1 of this Agreement; or
  - (3) City Manager's continuing or willful misconduct or failure, refusal or neglect to adhere to the lawful direction of the City Council; or
  - (4) Conviction of a crime involving an abuse of office or position as Defined in Government Code Section 54243.4; or
  - (5) Being habitually impaired by, or under the influence of, drugs or alcohol to such an extent as to have a material negative affect on the performance of Professional Services;
  - (6) Physically responding to unexpected or unplanned work events outside City Hall's normal operating hours, while impaired by, or under the influence of, drugs or alcohol to such an extent as to have a material negative affect on the performance of Professional Services related to those specific events.
- D. City Manager may terminate this Agreement for any reason upon thirty (30) days' notice; or
- E. This Agreement shall terminate automatically upon City Manager's death; or
- F. The City may terminate this Agreement upon City Manager's Disability. For purposes of this Agreement, "Disability" means that City Manager has become "disabled" (1) within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, or (2) within the meaning of Government Code Section 20026. If the City Manager becomes disabled within the meaning of Government Code Section 20026, the City will place the City Manager on an unpaid leave of absence and apply for a disability retirement to the extent permitted under then applicable laws, regulations,

and binding CalPERS Circular Letters.

G. In the event City terminates the Agreement for any reason other than Cause, upon execution and delivery of an applicable Settlement Agreement and Release ("**Release**", substantially in the form attached as Exhibit B), City shall make the following payment ("**Severance Payment**"):

- (1) If the City makes the decision to terminate this Agreement pursuant to the provisions of Section 3(B) prior to July 15, 2022, the City Manager shall receive a minimum of 90-days (the "**Advance Notice Period**") advance written notice of termination. The written notice shall state the last date of employment with the City ("**Effective Date of Termination**") and provide such other details as the City Attorney may determine appropriate. During the Advance Notice Period City Manager shall be given reasonable leave to interview for other employment but shall be required to effectively discharge Professional Services required by this Agreement and shall receive his usual compensation through the Effective Date of Termination. Upon execution and receipt by the City of the applicable Release and subject to the provisions contained in Section 3(G)(5) below, City shall pay City Manager an amount equal to the three (3) months of his then existing Base Salary. Nothing provided in this Section shall preclude the City from terminating this Agreement for Cause for any act, action, or omission as described in Section 3(C) about which it becomes aware during the Advance Notice Period.
- (2) If on or after July 15, 2022, the City makes the decision to terminate this Agreement pursuant to the provisions of Section 3(B), the City shall not be required to provide any advance notice. Upon execution and receipt by the City of the applicable Release and subject to the provisions contained in Section 3(G)(5) below, City shall pay City Manager an amount equal to the six (6) months of his then existing Base Salary.
- (3) If on or after January 1, 2023, the City makes the decision to terminate this Agreement pursuant to the provisions of Section 3(B), the City shall not be required to provide any advance notice. Upon execution and receipt by the City of the applicable Release and subject to the provisions contained in Section 3(G)(5) below, City shall pay City Manager an amount equal to the seven (7) months of his then existing Base Salary.
- (4) If on or after January 1, 2024, the City makes the decision to terminate this Agreement pursuant to the provisions of Section 3(B), the City shall not be required to provide any advance notice. Upon execution and receipt by the City of the applicable Release and subject to the provisions contained in Section 3(G)(5) below, City shall pay City Manager an amount equal to the eight (8) months of his then existing

Base Salary. In the event the remaining term of the Agreement is less than eight (8) months, the City shall pay City Manager an amount equal to the remaining term of the agreement, or six (6) months of his then existing Base Salary, whichever is greater.

- (5) Any Severance Payment paid shall be less applicable taxes and withholdings required by law. City shall pay the Severance Payment, at City Manager's option, either by (i) a lump sum upon the later of the last date of employment, or fifteen (15) days after expiration of any revocation period as specified in the applicable Release, or (ii) on the same schedule as the City's normal payroll cycle (but not as an employee of the City). Also, in the event City Manager and City Manager's dependents are covered under the City's health, dental, and/or vision plan(s), and in addition to the Severance Payment described above, and provided such plans permit continuation after termination, the City shall provide for continuation of health, dental, and vision plans (the "HCP") for up to six (6) months after the date of termination or until the City Manager obtains other employment that provides health benefits, whichever occurs first. The cost of any HCP shall be at the City Manager's sole expense, and shall be withheld from any Severance Payment to the extent City Manager and City Manager's dependents remain covered by the then applicable plans.

- H. Termination of this Agreement pursuant to Section 3(D), 3(E), or 3(F), shall not be deemed "termination for any reason other than Cause".
- I. Notwithstanding the provision set forth in Section 3(C) above, if the occurrence of an event of "neglect" described in Section 3(C)(2) or 3(C)(3) is capable of being cured, such occurrence shall constitute Cause only if (1) written notice specifying in reasonable detail the nature thereof, and the manner in which the City requires cure to be effected, is provided to City Manager within reasonable time after the City becomes aware of the alleged event or conduct, and (2) City Manager shall have substantially failed to cure such event as soon as reasonably possible but in no event later than fourteen (14) days after receiving such notice. The written notice referred to shall specify with reasonable particularity the alleged "neglect", together with a reasonable summary of facts support the allegation and provide a date for hearing at which the City Manager may show cure of any such negligent act or acts.

#### **Section 4: Salary and Exempt Status**

City agrees to pay City Manager for his services rendered an initial base annual salary of \$250,000 ("Base Salary"), payable in the normal payroll installments at the same time as other Executive Level Employees of City (as that term is defined in the Management & Confidential Plan) are paid. The City Council may review the Base Salary as part of any City Manager performance evaluation and may provide upward only adjustments as it determines appropriate.

City Manager agrees his appointment and employment pursuant to this Agreement is exempt

from overtime and minimum wage provisions of applicable federal, state, or local law. Appointment and employment pursuant to this Agreement is also exempt from any provision of the California Labor Code not specifically made applicable to public employers.

### **Section 5: Performance Evaluation**

City Council may conduct its first initial performance review of City Manager after the completion of his first six months. City Council may provide input with respect to City Manager's initial performance and alignment with City Council goals and objectives.

Commencing with the completion of the City Manager's first full year with the City, City Council may annually review and evaluate his performance and compensation in closed session. If possible, this annual review should take place in October of each year to allow for timely evaluation and payment of the annual Base Salary adjustment and/or performance bonus, if City Council determines in its discretion that City Manager is eligible for either. Said review and evaluation will normally be in accordance with specific performance measures and rating criteria mutually agreed to by City Council and City Manager.

Any failure of the City Council to conduct or complete a performance review shall not be deemed a breach of this Agreement.

### **Section 6: Hours of Work & Designation of "Acting City Manager"**

It is agreed City Manager will devote all time necessary to perform Professional Duties including substantial time outside City Hall's normal operating hours. During any leave City Manager shall, in compliance with the Redondo Beach Municipal Code, designate an "Acting City Manager" to oversee operation of the City in his absence.

### **Section 7: Benefits**

Benefits provided to City Manager are the same as those provided to Executive Level employees in the Pay and Benefits Plan for Management & Confidential Employees, as may be modified from time to time, and are detailed in Exhibit A.

### **Section 8: Notices**

Any notice required by this Agreement shall be in writing and delivered either personally, via overnight courier, or U.S. First Class Mail. The notice address for the City is: Redondo Beach City Council, c/o Michael Webb, City Attorney, 415 S. Diamond Street, Redondo Beach, CA 90277. The notice address for the City Manager is the address supplied by City Manager and on file with the City. Either Party may specify an alternate address in accordance with this notice Section. Notice shall be effective upon receipt, if personally delivered, on the day of receipt if sent via overnight courier, or three (3) business days after deposit, postage prepaid and properly addressed, with the United States Postal Service.

### **Section 9. Mediation/Arbitration**

All disputes of whatever kind or nature arising out of or related to this Agreement or City

Manger's employment or separation from the City shall be resolved through mediation and then binding arbitration, if necessary, utilizing Judicial Arbitration and Mediation Services ("JAMS") and shall be conducted in JAMS Century City or downtown Los Angeles offices or such other location mutually agreed upon by the Parties. JAMS mediation and arbitration procedures and rules shall be utilized for purposes of conducting the mediation and arbitration. JAMS shall randomly provide the Parties with a list of three mediators or arbitrators, depending on which process is being utilized, and each party shall have the right to reject one of the mediators or arbitrators. If more than one mediator or arbitrator is left after the parties have each had the opportunity to reject one of the mediators or arbitrators, JAMS shall randomly select the mediator or arbitrator to mediate or arbitrate the dispute(s). The City will pay the arbitrator's fees and arbitration expenses and any other costs unique to the arbitration, recognizing that each side bears its own deposition, witness, expert and attorney's fees and expenses to the same extent as if the matter were being heard in court. If, however, any Party prevails on a statutory claim, which affords the prevailing party attorney's fees and costs, then arbitrator may award reasonable fees and costs to the prevailing party. Any dispute as to who the prevailing party is and/or the reasonableness of any fee or cost shall be resolved by the arbitrator.

#### **Section 10. Professional Activities**

City shall pay membership dues and other reasonable costs related to City Manager's participation in professional organizations such as the League of California Cities and the International City Management Association. It is understood that City Manager's participation in these organizations, including but not limited to attendance at annual conferences, meetings and/or service as an officer, board member, or committee member, is beneficial to the City, and the City will pay or reimburse City Manager for all reasonable expenses associated therewith, in accordance with the Pay and Benefits Plan for Management and Confidential Employees, the City's travel policies and procedures, and within available City Budget.

#### **Section 11. Indemnification and Duty to Defend**

Consistent with California Government Code Sections 825 and 995, and subject only to the limitations provided therein, City shall defend and pay any costs, expenses and settlements or judgements assessed against City Manager arising out of any civil action or proceeding brought against City Manager in his official or individual capacity, or both, for an act or omission by City Manager occurring in the course and scope of City Manager's performance of his duties under this Agreement, provided, however, City shall have no indemnification obligation for costs, expenses, settlements or judgements arising from City Manager conduct that falls within Sections 3(C)(1) or 3(C)(4) of this Agreement. The City's obligations under this Section shall survive any termination of this Agreement.

## **Section 12. Local Government Omnibus Act Provisions.**

**Reimbursement Requirement (Government Code Sections 53243-53244).** To the extent City provides: (i) paid leave to City Manager pending an investigation; (ii) funds for the legal criminal defense of the City Manager; and/or (iii) a cash settlement to City Manager related to the termination of the City Manager, pursuant to this Agreement or Government Code Section 53243 et seq., City Manager shall fully reimburse the City for any and all amounts paid by the City which fall within subsections (i) through (iii) in the event that the City Manager is convicted of a crime involving the abuse of his office or position. For purposes of this Agreement, "abuse of his office or position" shall mean either (a) an abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority, or (b) a crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the California Penal Code.

**Forfeiture Upon Conviction of Certain Crimes (Government Code Sections 53260-53264).** To the extent City Manager is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of, or in the performance of, his official duties, City Manager shall forfeit any right related to, or arising under this Agreement or other common law, constitutional, or statutory claim to retirement or pension rights or benefits, however those benefits may be characterized, including lost compensation, other than the accrued rights and benefits to which he may be entitled under any public retirement system in which he is a member. The forfeiture provided by this provision shall be in addition to, and independent of, any forfeiture of public retirement system rights and benefits pursuant to California Government Code Sections 7522.70, 7522.72, or 7522.74.

## **Section 13: General Provisions**

A. All of City Manager's writings, reports, and other documentation generated as part of his day-to-day duties during his employment with the City are the property of the City.

B. This Agreement is for professional services that are personal to the City, and the Agreement is not assignable by City Manager.

C. The provisions of this Agreement shall be construed according to common meaning or purpose of providing a public benefit and not strictly for or against any Party. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

D. This Agreement and the rights and obligations of the Parties shall be governed and interpreted in accordance with the laws of the State of California.

E. The text herein shall constitute the entire Agreement between the Parties and supersedes any other agreements, either oral or in writing, between the Parties hereto with respect to rendering services, compensation matters, or benefits. Any modification of this Agreement shall be effective only if it is in writing and signed by both Parties.



F. This Agreement shall inure to the benefit of the heir at law and executor(s) of City Manager.

G. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provision or Section of this Agreement.

H. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable by a Court, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

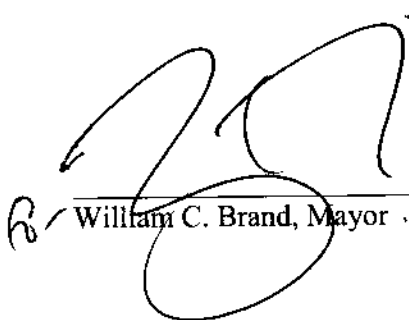
J. Both Parties have had sufficient time and opportunity to consult with legal counsel of their own choosing regarding the terms and conditions of this Agreement.

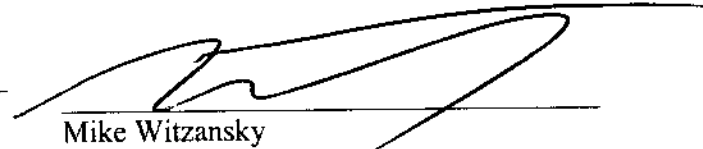
I. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not specifically provided herein, and that no other agreement, statement, or promise not specifically contained in this Agreement shall be valid or binding on either Party.

K. The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and fully incorporated into this Agreement. Therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter, shall be applicable in interpreting or enforcing this Agreement.

*SIGNATURES APPEAR ON NEXT PAGE*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date set forth above.


 William C. Brand, Mayor  
Mayor  
Pro Tem

 Mike Witzansky

ATTEST:

  
Eleanor Manzano, City Clerk CMC

APPROVED AS FORM:

  
Michael W. Webb, City Attorney

**EXHIBIT A**

**PAY AND BENEFITS PLAN FOR MANAGEMENT & CONFIDENTIAL  
EMPLOYEES OF THE CITY OF REDONDO BEACH**

**Copy Consisting of 26 Separately Numbered Pages Attached**

**RESOLUTION NO. CC-2109-089**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, UPDATING THE PAY AND BENEFITS PLAN FOR MANAGEMENT AND CONFIDENTIAL EMPLOYEES**

WHEREAS, pursuant to Section 2-3.602 and 2-3.603, Section 2-3.701, Section 2-3.802 and 2-3.803, Section 2-3.1002 and 2-3.1003, and Section 2-3.1102 and 2-3.1103 of Chapter 3, Title 2 of the Redondo Beach Municipal Code, the list of class titles, salary ranges and other benefits for certain Management and Confidential employees of the City of Redondo Beach shall be set forth from time to time by Resolution of the City Council; and

WHEREAS, the previous Pay and Benefits Plan for Management and Confidential Employees was last updated on January 12, 2021; and

WHEREAS, the attached Pay and Benefits Plan when adopted will provide language modifications to allow the City of Redondo Beach to comply with CalPERS regulations; and

WHEREAS, said Pay and Benefits Plan is not binding until approved by the Mayor and City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:


SECTION 1. That the Pay and Benefits Plan for Management and Confidential Employees of the City of Redondo Beach, marked Exhibit "A" and attached hereto and made a part hereof, effective September 7, 2021, is hereby adopted.

SECTION 2. The City Clerk shall certify to the passage and adoption of this resolution and shall enter the same in the Book of Original Resolutions.


PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of September, 2021.

  
William C. Brand, Mayor

APPROVED AS TO FORM:

  
Michael W. Webb, City Attorney

ATTEST:

  
Eleanor Manzano, City Clerk

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES    )     SS  
CITY OF REDONDO BEACH     )

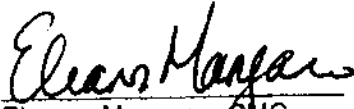
I, Eleanor Manzano, City Clerk of the City of Redondo Beach, California, do hereby certify that the foregoing Resolution No. CC-2109-089 was duly passed, approved and adopted by the City Council of the City of Redondo Beach, California, at a regular meeting of said City Council held on the 7<sup>th</sup> day of September, 2021, by the following roll call vote:

AYES:           NEHRENHEIM, LOEWENSTEIN, HORVATH, OBAGI, JR., EMDEE

NOES:           NONE

ABSENT:        NONE

ABSTAIN:       NONE



Eleanor Manzano, CMC  
City Clerk

C29

H.25



**PAY & BENEFITS PLAN FOR  
MANAGEMENT & CONFIDENTIAL EMPLOYEES  
OF THE CITY OF REDONDO BEACH**

Effective September 7, 2021

Per Resolution No. CC-

## Table of Contents

<b>ARTICLE I. TERMS</b>	<b>3</b>
SECTION 1 - DEFINITION OF TERMS	3
<b>ARTICLE II. COMPENSATION</b>	<b>4</b>
SECTION 1 - PAY PLAN	4
SECTION 2 - PAY RATE ADVANCEMENT WITHIN SALARY RANGE	7
SECTION 3 - OTHER PAY ADJUSTMENTS	7
SECTION 4 - FIRE DIVISION CHIEF OTHER PAY	8
SECTION 5 - CLOTHING ALLOWANCE	8
SECTION 6 - CAR ALLOWANCE	8
SECTION 7 - REALLOCATION AND REORGANIZATION	7
SECTION 8 - LONGEVITY PAY	9
SECTION 9 - LONGEVITY PAY FOR FIRE DIVISION CHIEFS	10
SECTION 10 - EDUCATIONAL INCENTIVE PAY FOR FIRE DIVISION CHIEFS	10
SECTION 11 - DEFERRED COMPENSATION	11
SECTION 12 - PROFESSIONAL DEVELOPMENT REIMBURSEMENT	11
SECTION 13 - COMPUTER LOAN PROGRAM	12
SECTION 14 - SEVERANCE	11
<b>ARTICLE III. RETIREMENT BENEFITS</b>	<b>12</b>
SECTION 1 - PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) PLAN	12
SECTION 2 - OPTIONAL PERS CONTRACT PROVISIONS	15
SECTION 3 - RETIREE MEDICAL INSURANCE BENEFITS	18
SECTION 4 - RETIREE MEDICAL INSURANCE FOR FIRE DIVISION CHIEFS	20
<b>ARTICLE IV. INSURANCE BENEFITS</b>	<b>20</b>
SECTION 1 - HEALTH INSURANCE	20
<b>ARTICLE V. SICK LEAVE BENEFITS</b>	<b>22</b>
SECTION 1 - SICK LEAVE ACCRUAL PLAN	22
SECTION 2 - FAMILY SICK LEAVE PROGRAM	22
<b>ARTICLE VI. HOLIDAYS, VACATION AND OTHER LEAVE BENEFITS</b>	<b>23</b>
SECTION 1 - HOLIDAYS	23
SECTION 2 - VACATION	22
SECTION 3 - AUTHORIZED PROFESSIONAL TIME (APT)	25
SECTION 4 - RETIREMENT HEALTH SAVINGS PLAN	25
SECTION 5 - BEREAVEMENT LEAVE	25
<b>ARTICLE VII. OTHER MATTERS</b>	<b>26</b>
SECTION 1 - PROBATIONARY PERIOD	26
SECTION 2 - OUTSIDE EMPLOYMENT	26
SECTION 3 - DIRECT DEPOSIT	26
SECTION 4 - SAVINGS CLAUSE	26
SECTION 5 - IMPLEMENTATION AND DURATION	26



## **ARTICLE I. TERMS**

### **SECTION 1 - DEFINITION OF TERMS**

1.01 The following terms, whenever used in the Plan, shall have the meaning set forth in this Section:

- A. CITY: Shall mean the City of Redondo Beach
- B. CITY MANAGER: Shall mean the City Manager or his/her designee.
- C. DAYS: Shall mean calendar days except where working days are expressly specified.
- D. EMPLOYEE: Shall mean an individual who serves full-time and who is appointed to a full-time Management or Confidential position.
- E. EXECUTIVE LEVEL EMPLOYEE: Shall mean the City Manager, individual appointed to department head level positions by the City Manager, and elected officials.
- F. FISCAL YEAR: Shall mean the 12 month period from July 1 through June 30.
- G. PUBLIC EMPLOYEES' PENSION REFORM ACT (PEPRA): Shall mean the California Public Employees' Pension Reform Act of 2013, including AB 340 (Furutani, Chapter 296, Statutes of 2012) and AB 197 (Buchanan, Chapter 297, Statutes of 2012) and all subsequent amendments.
- H. PERS: Shall mean the California Public Employees' Retirement System.
- I. PUBLIC AGENCY EXPERIENCE: shall mean full-time service in an agency that participates in a public retirement plan.
- J. RETIREE: Shall mean a former employee of the City who has been granted and is receiving a regular service or disability retirement from PERS.
- K. SERIOUS INJURY OR ILLNESS: Shall mean, for the purposes of benefits provided by Article V, Section 1.04 herein, an injury or illness certified by the City to require a recuperation period of 30 days or more.
- L. WORK PERIOD: Shall mean seven consecutive, regular recurring 24 hour periods equal to 168 hours, designated by the City Manager.
- M. YEAR: Shall mean fiscal year, except where calendar year is expressly specified.

## ARTICLE II. COMPENSATION

### SECTION 1 - PAY PLAN

1.01 The pay plan for Executive Level employees is set forth as follows:

Effective January 12, 2021:

TITLE	MONTHLY SALARY
Assistant City Manager (U)	\$12,176 - \$17,018
Chief of Police (U)	\$11,881 - \$16,220
Fire Chief (U)	\$11,881 - \$16,220
Community Development Director (U)	\$9,946 - \$14,067
Information Technology Director (U)	\$9,946 - \$14,067
Waterfront and Economic Director (U)	\$9,042 - \$12,788
Public Works Director (U)	\$9,042 - \$12,788
Finance Director (U)	\$9,042 - \$12,788
Human Resources Director (U)	\$9,042 - \$12,788
Community Services Director (U)	\$9,042 - \$12,788
Library Director (U)	\$9,042 - \$12,788

Effective the first full pay period in January 2022:

TITLE	MONTHLY SALARY
Assistant City Manager (U)	\$12,298 - \$17,188
Chief of Police (U)	\$12,000 - \$16,382
Fire Chief (U)	\$12,000 - \$16,382
Community Development Director (U)	\$10,045 - \$14,208
Information Technology Director (U)	\$10,045 - \$14,208
Waterfront and Economic Director (U)	\$9,132 - \$12,916
Public Works Director (U)	\$9,132 - \$12,916
Finance Director (U)	\$9,132 - \$12,916
Human Resources Director (U)	\$9,132 - \$12,916
Community Services Director (U)	\$9,132 - \$12,916
Library Director (U)	\$9,132 - \$12,916

Effective the first full pay period in January 2023:

TITLE	MONTHLY SALARY
Assistant City Manager (U)	\$12,544 - \$17,532
Chief of Police (U)	\$12,240 - \$16,710
Fire Chief (U)	\$12,240 - \$16,710
Community Development Director (U)	\$10,246 - \$14,492
Information Technology Director (U)	\$10,246 - \$14,492

Waterfront and Economic Director (U)	\$9,315 - \$13,174
Public Works Director (U)	\$9,315 - \$13,174
Finance Director (U)	\$9,315 - \$13,174
Human Resources Director (U)	\$9,315 - \$13,174
Community Services Director (U)	\$9,315 - \$13,174
Library Director (U)	\$9,315 - \$13,174

**1.02** The pay plan for Management and Confidential employees is set forth as follows:

Effective January 12, 2021:

TITLE	MONTHLY SALARY
Assistant Fire Chief	\$11,251 - \$14,590
Assistant City Attorney (U)	\$11,180 - \$14,551
Fire Division Chief	\$10,296 - \$12,806
Senior Deputy City Attorney (U)	\$8,910 - \$12,358
City Engineer (U)	\$8,689 - \$11,823
Assistant Financial Services Director (U)	\$7,884 - \$10,237
Chief Deputy City Treasurer	\$7,884 - \$10,237
Chief Building Official (U)	\$7,808 - \$10,139
Deputy City Attorney (U)	\$6,988 - \$10,731
Assistant to the City Manager (U)	\$6,907 - \$8,925
Payroll & Finance Manager	\$6,907 - \$8,925
Risk Manager	\$6,577 - \$8,501
Senior Human Resources Analyst	\$6,395 - \$8,263
Human Resources Analyst	\$5,816 - \$7,510
Executive Assistant to the City Manager	\$4,992 - \$6,076

Effective the first full pay period in January 2022:

TITLE	MONTHLY SALARY
Assistant Fire Chief	\$11,364 - \$14,736
Assistant City Attorney (U)	\$11,292 - \$14,697
Fire Division Chief	\$10,399 - \$12,934
Senior Deputy City Attorney (U)	\$8,999 - \$12,482
City Engineer (U)	\$8,776 - \$11,941
Assistant Financial Services Director (U)	\$7,963 - \$10,339
Chief Deputy City Treasurer	\$7,963 - \$10,339
Chief Building Official (U)	\$7,886 - \$10,240
Deputy City Attorney (U)	\$7,058 - \$10,838
Assistant to the City Manager (U)	\$6,976 - \$9,014
Payroll & Finance Manager	\$6,976 - \$9,014
Risk Manager	\$6,643 - \$8,586

Senior Human Resources Analyst	\$6,459 - \$8,346
Human Resources Analyst	\$5,874 - \$7,585
Executive Assistant to the City Manager	\$5,042 - \$6,137

Effective the first full pay period in January 2023:

TITLE	MONTHLY SALARY
Assistant Fire Chief	\$11,591 - \$15,031
Assistant City Attorney (U)	\$11,518 - \$14,991
Fire Division Chief	\$10,607 - \$13,193
Senior Deputy City Attorney (U)	\$9,179 - \$12,732
City Engineer (U)	\$8,952 - \$12,180
Assistant Financial Services Director (U)	\$8,122 - \$10,546
Chief Deputy City Treasurer	\$8,122 - \$10,546
Chief Building Official (U)	\$8,044 - \$10,445
Deputy City Attorney (U)	\$7,199 - \$11,055
Assistant to the City Manager (U)	\$7,116 - \$9,194
Payroll & Finance Manager	\$7,116 - \$9,194
Risk Manager	\$6,776 - \$8,758
Senior Human Resources Analyst	\$6,588 - \$8,513
Human Resources Analyst	\$5,991 - \$7,737
Executive Assistant to the City Manager	\$5,143 - \$6,260

## **SECTION 2 - PAY RATE ADVANCEMENT WITHIN SALARY RANGE**

- 2.01 On the basis of the evaluation of an employee's performance, an employee shall be eligible for a pay rate advancement added to his/her base pay of an amount between zero and 10 percent, not to exceed the top of the salary range, effective at the beginning of the pay period following an employee's anniversary date.

## **SECTION 3 - OTHER PAY ADJUSTMENTS**

- 3.01 A minimum of five percent upward adjustment to base salary shall be provided to an employee at the time of promotion; provided however, that no adjustment for promotion may cause an employee's base salary to exceed the maximum salary range set forth for the class to which the employee is appointed.
- 3.02 An employee appointed to acting status in a position with a higher salary range, where a department is being reorganized, or where a department is undergoing experimental restructuring, who, as a result, is required to perform additional duties above and beyond those reasonable required may, with approval of the City Manager, receive a pay increase on a temporary basis. Such salary shall be established within the salary range of the class with duties that most closely approximate to the duties to be performed. The higher salary shall not be considered a promotion, and may be reduced or removed without cause, notice or hearing.
- 3.03 Effective July 7, 2015 and in recognition of the unique nature of the City's executive management and confidential positions and associated job responsibilities, Management Incentive Pay may be provided annually as a percentage of base pay, not to exceed a maximum of 25% in any fiscal year. Management and Confidential employees are responsible for coordinating the services provided by their department and are held accountable for responding to the distinctive needs of the community, irrespective of time and place. The amount of Management Incentive Pay will be determined at the discretion of the City Manager in the following tiered categories: a low tier of 1%-10%, an intermediate tier of 10%-17.5%, and an upper tier of 17.5%-25%. Placement within these tiers will be dependent on the level and diversity of the individual's job functions, regardless of hours worked, and other unique and relevant circumstances associated with the position. Management Incentive Pay is available to all employees included in the pay and benefits plan, and employees shall not be allowed to the option to decline Management Incentive Pay. Management Incentive Pay shall not be for overtime, nor in lieu of other benefits excluded under the California Public Employees Retirement Law statutes, not for special compensation not otherwise listed in Title 2 CCR, Section 571. To the extent permitted by law, this pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571 (a)(1) Incentive Pay – Management Incentive. Such pay may be reduced or removed without cause, notice or hearing.
- 3.05 An employee appointed to a class in another bargaining unit, when temporarily assigned to perform the duties of a Management or Confidential class, may, with approval of the City Manager, be paid at a rate within the salary range for such class. Such assignment shall not be considered a promotion, and the pay may be reduced or removed without cause, notice or hearing.
- 3.06 An employee may be appointed to a class at any point within the salary range established for that class.

#### **SECTION 4 - FIRE DIVISION CHIEF OTHER PAY**

- 4.01 The City believes that the Fire Division Chief classification is appropriately designated as exempt from the payment of overtime under the executive exemption of the Fair Labor Standards Act. Notwithstanding this designation, Fire Division Chiefs recalled to duty for an emergency or anticipated emergencies, including as Area G Strike Team Leader, who work in excess of one hour from the time he/she is called, will be paid for a minimum of two hours at his/her hourly rate, and on an hour to hour basis for work performed in excess of two hours. Fire Division Chiefs recalled for an emergency who works for less than one hour will receive no additional compensation.
- 4.02 Fire Division Chiefs who replace another as Duty Chief may receive compensating time off on an hour-for-hour basis for hours worked as a result of assuming additional fire suppression duty days in lieu of pay.

#### **SECTION 5 - CLOTHING ALLOWANCE**

- 5.01 Employees appointed to the class of Police Chief or Fire Chief shall be entitled to an annual clothing allowance of \$800.
- 5.02 Employees appointed to the class of Assistant Fire Chief shall be entitled to an annual clothing allowance of \$600.
- 5.03 Employees appointed to the class of Fire Division Chief shall be provided a uniform and safety equipment and the uniform and safety equipment shall be replaced as needed.

#### **SECTION 6 - CAR ALLOWANCE**

- 6.01 Employees appointed to Executive Level classes shall receive a car allowance \$375 per month.
- 6.02 The City Manager shall have the option to provide a car allowance of up to \$250 per month to designated employees appointed to assist a department head and/or division manager positions.
- 6.03 Any employee granted a City vehicle for his/her exclusive use shall not receive a car allowance or mileage reimbursement payments.

#### **SECTION 7 - REALLOCATION AND REORGANIZATION**

- 7.01 An employee whose position is reallocated or reorganized to a lower paying class or position, may at the discretion of the City Manager, remain at the rate of pay received immediately prior to the reallocation or reorganization. Such employee shall not be eligible for any pay adjustment until the salary range for his/her new class exceeds his/her rate of pay.

## **SECTION 8 - LONGEVITY PAY**

- 8.01 Executive Level employees who have completed 10 years of public agency service, or equivalent job related service as determined by the City Manager, are eligible to receive Longevity Pay. In addition to an employee's base salary, exclusive of all premium and other pays, each employee shall receive a Longevity Pay increase added to the employee's base salary of two percent un compounded for each year of service beginning with the tenth year of service through the sixteenth year of service for a maximum total of up to 12 percent above base salary.
- 8.02 Management and Confidential employees who have completed 19 years of public agency service are eligible for Longevity Pay under the following conditions:
- A. The employee must have completed his/her initial probationary period, or must have completed one year of service with the City of Redondo Beach; and
  - B. The employee must be in a classification not designated as an Executive Level position.

In addition to an employee's base salary, exclusive of all premiums and other pays, each employee meeting all the criteria shall receive a Longevity Pay increase added to the employee's base salary of two percent un compounded for each year of service beginning with the 20<sup>th</sup> year of service through the 25<sup>th</sup> year of service for a maximum total percentage of 12 percent above base pay.

- 8.03 The effective date of a Longevity Pay increase shall be the beginning of the pay period following the date of eligibility.

## **SECTION 9 - LONGEVITY PAY FOR FIRE DIVISION CHIEFS**

- 9.01 Fire Division Chiefs who have completed 15 years of public agency service are eligible for Longevity Pay.
- 9.02 Fire Division Chiefs appointed before July 1, 2012 shall receive a Longevity Pay increase added to the employee's base salary, exclusive of all premiums and other pays, of two percent un compounded at the completion of 15 years of public agency service.
- 9.03 Fire Division Chiefs appointed on or after July 1, 2012 shall receive a Longevity Pay increase added to the employee's base salary, exclusive of all premiums and other pays, of two percent un compounded at the completion of 15 years of public agency service.
- 9.04 Beginning with the 20<sup>th</sup> year of public agency service, Fire Division Chiefs appointed before July 1, 2012 shall receive an additional Longevity Pay increase added to the employee's base salary of two percent un compounded for each year of service through the 25<sup>th</sup> year of public agency service for a maximum of 14 percent above base salary.

- 9.05 Beginning with the 20<sup>th</sup> year of public agency service, Fire Division Chiefs appointed on or after July 1, 2012 shall receive an additional Longevity Pay increase added to the employee's base salary of two percent un compounded for each year of service through the 25<sup>th</sup> year of public agency service for a maximum of twelve percent above base salary.
- 9.06 The effective date of a Longevity Pay increase shall be the beginning of the pay period following the date of eligibility.
- 9.07 Longevity Pay is compensation earnable within the meaning of Section 20636 of the California Government Code and Section 571 (a) (1) of the PERS regulations.

#### **SECTION 10 - EDUCATIONAL INCENTIVE PAY FOR FIRE DIVISION CHIEFS**

- 10.01 Education incentive pay earned under this section is compensation earnable within the meaning Section 20636 of the California Government code and section 571 (a) (4) of the PERS regulations.
- 10.02 Upon completion of the education requirements Fire Division Chiefs are eligible to achieve the following levels of education incentive bonus pay in addition to their base salary:

<b>COLLEGE DEGREE</b>	<b>BONUS</b>
Associates	3%
Bachelors	6%
Masters or EFO*	8%

\*Graduation from the National Fire Academy Executive Fire Officer Program.

<b>CERTIFICATE</b>	<b>BONUS</b>
FF II/EMT or EMT-P	3%
Driver Operator (1A & 1B)	1%
Fire Officer	3%
Chief Officer	3%

College Degree Bonus Pay shall only be paid for degrees obtained through accredited colleges or universities. Human Resources must certify that the institution meets the accreditation requirements.

The maximum College Degree Bonus Pay is eight percent of base salary. The maximum Certificate Bonus Pay is 10 percent of base salary. The combined maximum College Degree Bonus Pay and Certificate Bonus Pay an employee can earn is 18 percent of base salary.



## **SECTION 11 - DEFERRED COMPENSATION**

- 11.01 Employees are eligible to participate in the City contracted 457 deferred compensation plan to the limits imposed by law and/or the plan. Effective December 27, 2014 the City shall contribute one half of one percent (0.5%) of the employee's hourly rate of pay into the Plan for all enrolled Management and Confidential employees.
- 11.02 Executive Level employees who have completed 10 years of public agency service shall defer Longevity Pay as provided for in Section 8.01 in a City contracted 401a deferred compensation plan at a rate of two percent of the base pay uncompounded for each year of eligibility up to six years, for a total of 12 percent of base pay.

## **SECTION 12 - PROFESSIONAL DEVELOPMENT REIMBURSEMENT**

- 12.01 Each employee is eligible to receive up to a maximum \$1,500 per year for the reimbursement of professional development expenses. Reimbursement is available for job related: academic courses; training; license exams and fees; certifications; and membership dues for professional organizations. Employees are allowed up to \$500 of the maximum \$1,500 benefit (per employee), to use towards fitness and/or health programs (i.e., gym membership, stop smoking programs, with weight loss programs etc.). Requests for reimbursement must be approved in advance by the employee's supervisor and the City Manager or designee. Employees shall not be paid salary for attending such courses, training or exams.

## **SECTION 13 - COMPUTER LOAN PROGRAM**

- 13.01 Each employee is eligible to participate in the City of Redondo Beach Loan Program for Employee Purchase of a Personal Computer.

## **SECTION 14 - SEVERANCE**

- 14.01 The City Manager may terminate the employment of department head Executive Level employees at any time for any reason. When employment of a department head Executive Level employee who was appointed to his/her position on or after July 1, 2012 is terminated without cause, the City shall owe the terminated department head Executive Level employee an amount (less applicable State and Federal taxes) equal to the monetary value of three months base salary. The City shall also continue for three months for the date of termination, full employee health insurance benefits for the department head Executive Level employee and his/her dependents.
- 14.02 Notwithstanding any provision of this Plan to the contrary, the City Manager may terminate the employment of department head Executive Level appointed to his/her position on or after July 1, 2012 with payment of the severance described above under any of the following circumstances:
- A. If the City Manager determines the termination is for cause, including: neglect of duty; dishonesty involving employment; being under the influence of alcohol or intoxicating drugs during normal working hours; absence without leave; conviction of a crime or conduct constituting a violation of State law which renders it more difficult for the employee to deliver public service or brings discredit to the City;

## **SECTION 2 - OPTIONAL PERS CONTRACT PROVISIONS**

### **Optional Benefits - Tier I Miscellaneous, Local Firefighter and Local Police Officers Members**

2.01 The City shall provide the following optional PERS contract provisions to Tier I Miscellaneous, Local Firefighter and Local Police Officer members:

- A. Basic Level of 1959 Survivor Benefits for Miscellaneous Members only (§21571) not covered by Social Security.
- B. Post-Retirement Survivor Allowance (§21624 and §21626).
- C. Military Service Credit as Public Service Statutes of 1974 for Local Police Officer Members only (§21024).
- D. Military Service Credit as Public Service Statutes of 1976 for Local Miscellaneous Members and Local Firefighter Members only (§21024).
- E. Credit for Unused Sick Leave (§20965).

For the purposes of reporting Credit for Unused Sick Leave at the time of retirement, the following formulas shall apply:

The formula for employees in a sick leave plan defined by Article V, Section 1 shall be the total hours of unused sick leave that the employee accrued up to the maximum allowed of 2,080 hours, divided by eight, equals number of days of credit for unused sick leave to report to PERS.

- F. Fourth Level of 1959 Survivor Benefits for Local Firefighter and Police Officer Members only (§21574).
- G. One-Year Final Compensation (§20042).
- H. Employer Paid Member Contributions as Compensation (EPMC) (§20692).

As set forth in Section 1, Article III, in accordance with Government Code Section 20691, the City has elected to pay the presently required normal member contribution to PERS for eligible employees covered by this Resolution.

As allowed by Section 20692, during the employee's final compensation period, the City shall stop paying the employee's contribution and, instead, shall increase the pay rate of the employee by an amount equal to the normal contribution previously paid by the City as provided by Section 1.03, 1.11, and 1.17 of this Article.

- I. Pre-Retirement Optional Settlement 2 Death Benefit for Local Firefighter and Police Officer Members only (§21548).

#### **Optional Benefits - Tier II Miscellaneous Member Benefits**

2.02 The City shall provide the following optional PERS contract provisions to employees participating in the Tier II Miscellaneous Membership benefit plan:

- A. Pre-Retirement Optional Settlement 2 Death Benefit (§21548).

Except as expressly provided in this Section 2.02, no other CalPERS optional benefits shall be available to employees participating in the Tier II Miscellaneous Member benefit plan.

#### **Optional Benefits - Tier II Local Firefighter Plan**

2.03 The City shall provide the following optional PERS contract provisions to employees participating in the Tier II Local Firefighter benefit plan:

- A. Fourth Level of 1959 Survivor Benefits (§21574).
- B. Post-Retirement Survivor Allowance (§21624 and §21626).
- C. Military Service Credit as Public Service (§21024).
- D. One-year Final Compensation (§20042).
- E. Credit for Unused Sick Leave (§20965).

For the purposes of reporting Credit for Unused Sick Leave at the time of retirement, the following formulas shall apply:

The formula for employees in a sick leave plan defined by Article V, Section 1 shall be the total hours of unused sick leave that the employee accrued up to the maximum allowed of 2,080 hours, divided by eight, equals number of days of credit for unused sick leave to report to PERS.

- F. Pre-Retirement Optional Settlement 2 Death Benefit (§21548).

#### **Optional Benefits - Tier III Local Firefighter Plan**

2.04 The City shall provide the following optional PERS contract provisions to employees participating in the Tier II Local Firefighter benefit plan:

- A. Fourth Level of 1959 Survivor Benefits (§21574).
- B. Post-Retirement Survivor Allowance (§21624 and §21626).
- C. Military Service Credit as Public Service (§21024).
- D. Credit for Unused Sick Leave (§20965).

For the purposes of reporting Credit for Unused Sick Leave at the time of retirement, the following formulas shall apply:

The formula for employees in a sick leave plan defined by Article V, Section 1 shall be the total hours of sick leave that would have been accrued based on length of service, up to the maximum allowed of 4,160 hours, less total hours of sick leave used, divided by eight, equals number of days of credit for unused sick leave to report to PERS.

The formula for employees in a sick leave plan defined by Article V, Section 2 shall be the total hours of unused sick leave that the employee accrued up to the maximum allowed of 2,080 hours, divided by eight, equals number of days of credit for unused sick leave to report to PERS.

E. Pre-Retirement Optional Settlement 2 Death Benefit (§21548).

Except as expressly provided in this Section 2.04, no other CalPERS optional benefits shall be available to employees participating in the Tier III Local Firefighter Membership benefit plan.

**Optional Benefits - Tier II Local Police Officer Plan**

- 2.05 The City shall provide receive the same optional benefits as those contained in the Tier I Local Police Officer Membership benefit plan to employees participating in the Tier II Local Police Officer Membership benefit plan, except that a Tier II employee's final compensation shall be calculated using the three-year average method. The option of calculating an employee's benefits based on a one-year final compensation period (Government Code Section 20042) shall not be available under the Tier II Local Police Officer Membership benefit plan.

**Optional Benefits - Tier III Local Police Officer Plan**

- 2.06 The City shall provide the following optional PERS contract provisions to employees participating in the Tier III Local Police Officer benefit plan:

- A. Fourth Level of 1959 Survivor Benefits (§21574).
- B. Post-Retirement Survivor Allowance (§21624 and §21626).
- C. Military Service Credit as Public Service (§21024).
- D. Credit for Unused Sick Leave (§20965).

For the purposes of reporting Credit for Unused Sick Leave at the time of retirement, the following formulas shall apply:

The formula for employees in a sick leave plan defined by Article V, Section 1 shall be the total hours of unused sick leave that the employee accrued up to the maximum allowed of 2,080 hours, divided by eight, equals number of days of credit for unused sick leave to report to PERS.

E. Pre-Retirement Optional Settlement 2 Death Benefit (§21548).

### **SECTION 3 - RETIREE MEDICAL INSURANCE BENEFITS**

#### **Tier I Retirees - Retirees Hired Before July 1, 2011 and Not Medicare-Age Eligible**

3.01 For each retiree hired before July 1, 2011 ("Tier I Retiree"), the City shall make an "unequal" contribution of \$1 per month directly to CalPERS. The City's mandated contribution for each annuitant shall be increased annually to an amount equal to the number of years that the City has been enrolled with PEHMCA multiplied by 5% of the current Employer Minimum Contribution for Employees, until the contribution for retirees equals the contribution paid for employees, in compliance with Government Code section 22892(c). This amount is referred to as the "Employer Minimum Contribution for Retirees." In combination with this unequal contribution, the City will also pay the Tier I Retiree the difference between the Employer Minimum Contribution for Retirees and the employee-only monthly flexible spending allowance for active employees, as outlined in Article IV, Section 1.01 ("Tier I Retiree Differential Payment"). This benefit shall be provided to only a Tier I Retiree who meets all of the following criteria:

- A. Must have a minimum of five years full-time service with the City; and,
- B. Must retire with CalPERS within 120 days of separation from service with the City; and,
- C. Must have completed a minimum of 20 years full-time verifiable service in a public agency at the time of their separation from the City.

When a Tier I retiree becomes eligible to enroll in the Federal Medicare program and/or any Medicare Supplement plans the Tier I Retiree will not be entitled to the Tier I Retiree Differential Payment. The premium cost for any additional insurance coverage selected by the Tier I retiree, including but not limited to, dental insurance, life insurance, and dependent medical insurance, shall be paid entirely by the Tier I retiree selecting any such option.

Employees hired on or after July 1, 2011, are not eligible to receive benefits under this Section. However, the City Manager shall have the option to authorize benefits under this section for the Police Chief and Fire Chief positions, irrespective of their hire date.

#### **Tier II Retirees - Retirees Hired On or After July 1, 2011 and Not Medicare-Age Eligible**

3.02 For employees hired on or after July 1, 2011 ("Tier II Retirees"), the City's contribution towards medical premium rates, if any shall be determined as follows:

The Employer Minimum Contribution for Retirees, plus the differential payment applicable to the Tier II Retiree as follows (collectively, "Tier II Retiree Differential Payment"):

- A. For Tier II Retirees who retire with 10 years of continuous City service the City shall pay the Tier II Retiree the difference between the Employer Minimum Contribution for Retirees and 25% of the Tier I Retiree Differential Payment as outlined in Section 3.01;

- B. For Tier II Retirees who retire with 15 years of continuous City service the City shall pay the Tier II Retiree the difference between the Employer Minimum Contribution for Retirees and 50% of the Tier I Retiree Differential Payment as outlined in Section 3.01;
- C. For Tier II Retirees who retire with 20 years of continuous City service the City shall pay the Tier II Retiree the difference between the Employer Minimum Contribution for Retirees and 75 % of the Tier I Retiree Differential Payment as outlined in Section 3.01;
- D. For Tier II Retirees who retire with 25 or more years of continuous City service the City shall pay the Tier II Retiree the difference between the Employer Minimum Contribution for Retirees and 100 % of the Tier I Retiree Differential Payment as outlined in Section 3.01.

When a Tier II Retiree becomes eligible to enroll in the Federal Medicare program or any Medicare Supplement plans, the Tier II Retiree will not be entitled to any Tier II Retiree Differential Payment. The premium cost for any additional insurance coverage selected by the Tier II Retiree, including but not limited to, dental insurance, life insurance, and dependent medical insurance, shall be paid entirely by the Tier II Retiree selecting any such option. When the Tier II Retiree dies, he or she will no longer be entitled to the Employer Minimum Contribution for Retirees or any Tier II Retiree Differential Payment

The benefits provided under this Section shall only be offered through the City to Tier II Retirees who meet all of the following criteria:

- 1. The employee must retire and begin receiving pension benefits from CalPERS within 120 days of separation (either through a service retirement or a disability retirement);
- 2. Individuals receiving benefits under this section are solely responsible for paying any portion of the health insurance premium (and any other costs) not paid for by the City;
- 3. Individuals must ensure continuity of coverage through City insurance plans. Termination of the individual's participation in City-sponsored insurance plans for any reason shall automatically result in the termination of the City's obligation to provide any contribution under this section. Once the City's obligation to provide benefits is terminated, the City shall have no future obligation to provide a retiree with further benefits under this section above the minimum amounts required by law.

### 3.03 Retirees That Are Medicare-Age Eligible

Beginning with the transition to the PERS Health program, and for retirees that are eligible to enroll in the Federal Medicare program or any Medicare supplemental programs ("Medicare-Eligible Retirees"), the City shall make the Employer Minimum Contribution for Retirees. The City's obligation to make mandatory contributions on behalf of Medicare-eligible retirees shall be limited to the minimum contribution required by law, and only for so long as the City contracts with CalPERS for medical insurance.

The premium cost for any additional insurance coverage selected by the Medicare-Eligible Retirees, including but not limited to, dental insurance, life insurance, and dependent medical insurance, shall be paid entirely by the Medicare-Eligible Retiree selecting any such option. When the Medicare-Eligible Retiree dies, he or she will no longer be entitled to the Employer Minimum Contribution for Retirees.

#### **SECTION 4 - RETIREE MEDICAL INSURANCE FOR FIRE DIVISION CHIEFS**

- 4.01 The City shall, for an employee who qualifies for the above benefit and chooses to enroll in the HMO medical plan, pay up to the Blue Shield HMO rate each month toward the cost of the employee and their spouse's HMO premium.

The HMO medical plan benefits for retired members and their spouses shall be equal to HMO medical plan benefits afforded active members.

Fire Division Chiefs who were not employed with the City as Fire Captain, Deputy Harbor Master/Boat Captain, or Fire Engineer immediately prior to promotion to Fire Division Chief and are appointed on or after July 1, 2011, are not eligible to receive benefits under this Section and will receive benefits under Section 3.

### **ARTICLE IV. INSURANCE BENEFITS**

#### **SECTION 1 - MEDICAL BENEFITS**

- 1.01 The City shall contract with the California Public Employees' Retirement System (PERS) for medical insurance coverage in accordance with the Public Employees' Medical and Hospital Care Act (PEMHCA). The City will contribute the Public Employees' Medical and Hospital Care Act (PEMHCA) statutory minimum on behalf of each participant in the program. A participant is defined as 1) an enrolled employee and eligible dependents, 2) an enrolled retiree and eligible dependents or 3) a surviving annuitant. The PEMHCA statutory minimum for 2021 is \$143 per month, and changes each year in accordance with Government Code section 22892(b) ("Employer Minimum Contribution for Employee"). Eligible new hires will be covered under this program on the first day of the month following enrollment.

In addition, the City has implemented a flexible spending cafeteria plan ("Cafeteria Plan") in accordance with Internal Revenue Code Section 125 for all active employees. The following health care benefits shall be offered through the Cafeteria Plan: medical, dental (with orthodontia), and vision insurance. Employees participating in the Cafeteria Plan shall receive a monthly flexible spending allowance ("Monthly Allowance") to purchase benefits offered under the Cafeteria Plan. The Monthly Allowances shall be awarded to employees who enroll in the PERS health plan as follows:

Effective January 1, 2021:

<b>EMPLOYEE</b>	<b>EMPLOYEE + 1</b>	<b>FAMILY</b>
<b>\$ 1,000</b>	<b>\$ 1,350</b>	<b>\$ 1,650</b>

Effective January 1, 2022:

EMPLOYEE	EMPLOYEE + 1	FAMILY
\$ 1,200	\$ 1,500	\$ 1,850

Each participating employee shall pay the Employer Minimum Contribution for Employee and the employee's remaining portion of the premium ("Employee Contribution") from the Employee's Monthly Allowance. The Employer Minimum Contribution for Employee and the Employee Contribution together comprise the "Total Mandatory Medical Contribution." After the Total Mandatory Medical Contribution has been made, the employee has the option (a) to waive the other benefits and have the excess Monthly Allowance converted to taxable income or (b) to purchase the other supplementary products. If premiums and/or costs for the selected benefits exceed the Monthly Allowance, the balance will be paid by the employee through an automatic pre-tax payroll deduction, as permitted under Internal Revenue Code Section 125.

Although the Employer Minimum Contribution for Employee may increase as a matter of law, the Monthly Allowance will not increase.

- 1.02 As an added benefit, the City shall pay the cost of life insurance, accidental death and dismemberment insurance, and employee assistance plan premiums for each employee.

## **SECTION 2 – OPT OUT**

Employees may elect to not participate in the PERS Health Plan medical insurance coverage and therefore "Opt Out" of PERS Health insurance coverage. Upon proof of other qualifying group coverage, unit employees may elect to waive PERS Health insurance and receive the monthly flexible spending allowance for which they are eligible (Employee, Employee+1, or Family) to purchase other items in Cafeteria Plan or convert this allowance to taxable income. Effective January 12, 2021, the monthly flexible spending allowance "opt out" amount is frozen at \$800 per month for Employee, \$1,150 per month for Employee Plus One, and \$1,450 per month for Family, based upon eligibility.

The opt-out option will not be provided and shall not be used for the purpose of purchasing either an individual health plan or insurance on the ACA exchange. Such alternative insurance must provide minimum essential health coverage pursuant to the U.S. Patient Protection and Affordable Care Act (ACA), and cover both the employee and all individuals in the employee's expected tax family, if any. During open enrollment or as otherwise required by the City, the employee must each year provide the City with an attestation or other reasonable documentation, subject to the City's approval confirming such alternative coverage. According to the ACA, the City must not make payment if the City knows that the employee or family member does not have the alternative coverage.

Employees wishing to subsequently re-enroll in the PERS Health plan may only do so during the open enrollment period, unless a qualifying event occurs.



## **ARTICLE V. SICK LEAVE BENEFITS**

### **SECTION 1 - SICK LEAVE ACCRUAL PLAN**

- 1.01 Employees shall be eligible to accrue eight hours of sick leave per month up to a maximum of 2,080 hours over his/her entire career with the City.
- 1.02 An employee who suffers a serious injury or illness may utilize a long-term disability sick leave bank 2,080 non-replenishing hours that shall be available for use following a 30 day qualifying period. During the qualifying period, such employee may use accrued sick leave, vacation leave, holiday leave, authorized professional time, or any other paid leave to provide salary continuation. Any long term disability sick leave used from the bank after the qualifying period shall reduce the balance of sick leave available for any subsequent long-term disability for the duration of the employee's career with the City.
- 1.03 The City Manager may require sick leave verification without prior written notice at any time during a sick leave absence.
- 1.04 Accrued sick leave may be used to supplement temporary disability payments in order to provide full pay during periods of occupational illness or injury.
- 1.05 No employee shall be entitled to use accrued sick leave or long-term disability sick leave to defer the effective date of a disability retirement. This provision shall be construed as a local rule and regulation within the meaning of Section 21025.2 of the Government Code as it now exists or may hereafter be amended.
- 1.06 Fire Division Chiefs, who are assigned to work a 24-hour shift, may accrue a maximum of 130 shifts (3,120 hours) of sick leave with full pay that may be accrued at a rate of six shifts (144 hours) per year based on continuous full-time employment. Such employees who are assigned to work a 4/10, 5/8 or other schedules, may accrue a maximum 2,080 hours of sick leave with full pay that may be accrued at a rate of one day per month for each month of full-time employment up to the maximum limit per year not to exceed 120 hours.
- 1.07 The sick leave plan set forth in this Section shall supersede and make null and void any and all conflicting provision of the Redondo Beach Municipal Code, Section 2-3.514 (d) related to limits of sick leave with pay.

### **SECTION 2 - FAMILY SICK LEAVE PROGRAM**

- 2.01 For family sick leave as defined by State law, each employee may use, in any one fiscal year, 96 hours of Sick Leave or Long Term Disability leave bank, or 50% of his or her annual accrued Sick Leave, whichever is greater.

The leave benefit provided for in this Subsection shall supersede the Emergency Family Sick Leave benefit described in Section 2-3.515 of the Redondo Beach Municipal Code.

- 2.02 The City agrees to allow employees to pre-designate and substitute other family members for those persons defined as immediate family. The intent of this provision is not to expand the number of persons included in the definition of "immediate family" or to increase paid

leave opportunities, but rather to recognize variations in family structure (e.g., substitute a stepmother for mother)

- 2.03 Immediate family shall mean father, mother, father-in-law, mother-in-law, brother, sister, spouse, domestic partner, child, legal dependent, grandparent or grandchild.

## **ARTICLE VI. HOLIDAYS, VACATION AND OTHER LEAVE BENEFITS**

### **SECTION 1 - HOLIDAYS**

- 1.01 The following days shall be recognized as holidays:

1. New Year's Day
2. Martin Luther King, Jr. Day
3. Presidents Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving
9. The day after Thanksgiving
10. Christmas Eve
11. Christmas Day
12. New Year's Eve

December 22, 27 and 28, 2021, December 22, 27 and 28 2022, and December 22, 27, and 28, 2023 (hereinafter referred to as the "Additional December Holidays") shall be additional paid holidays.

If a holiday falls on a day when the employee's workplace is normally open, the holiday shall be observed on that day. If a holiday falls on a day when the employee's workplace is normally closed, the holiday shall generally be observed on the nearest day when the employee's workplace is open. For example, if a holiday falls on a Friday when City Hall is normally closed for business, the preceding Thursday will be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday. If a holiday falls on a Sunday, the following Monday shall be observed as a holiday. Days observed as a holiday are Observed Holidays.

- 1.02 Departments or Divisions with seven day and/or 24-hour work schedule requirements may schedule holidays on days other than the actual holiday with approval of the City Manager. At the end of each calendar year, any unused holidays shall be converted to vacation leave and subject to the provisions of vacation leave.
- 1.03 Fire Division Chiefs shall earn 144 hours of Holiday Leave per completed calendar year of employment with the City as Fire Division Chief.

## **SECTION 2 - VACATION**

- 2.01 Except as otherwise provided in this Section, employees shall accrue vacation as follows:

<b>YEARS OF SERVICE COMPLETED</b>	<b>ANNUAL ACCRUAL RATE</b>	<b>MAXIMUM ACCRUAL</b>
1 through 5	96 hours	240 hours
6 through 14	128 hours	320 hours
15 or more	168 hours	400 hours

- 2.02 Employees assigned to the position of Fire Division Chief shall accrue vacation as follows:

<b>YEARS OF SERVICE COMPLETED</b>	<b>ANNUAL ACCRUAL RATE</b>	<b>MAXIMUM ACCRUAL</b>
1 through 5	135 hours	270 hours
6 or more	216 hours	400 hours

- 2.03 Executive Level and Executive Level department head employees appointed to his/her position before July 1, 2012 may accrue vacation up to a maximum equal to their accrual for the preceding three year period.
- 2.04 Executive Level department head employees appointed to his/her position on or after July 1, 2012 accrue vacation as detailed in Section 2.01.
- 2.05 It is the City's policy that vacation shall be used annually. Should any employee not use vacation, accrual will cease at the maximum accrual set forth above until vacation is used to bring the employee's balance below the minimum. At no time shall an employee be entitled to accrue vacation in excess of the maximum.
- 2.06 Employees may cash out up to a maximum of 60 hours of accrued vacation per fiscal year. Employees may cash out once or twice per fiscal year, but in no event shall the cash out exceed 60 hours in a fiscal year.
- 2.07 At the discretion of the City Manager, employees who are hired from another public agency may be credited with time served in other public agencies as years of service completed for purposes of establishing their vacation accrual rate.
- 2.08 At the discretion of the City Manager, Executive Level employees may be credited with or allowed to accrue vacation at any level as outlined in 2.01 above.

### **SECTION 3 - AUTHORIZED PROFESSIONAL TIME (APT)**

- 3.01 The City Manager may grant time off with pay, not to exceed 124 hours per calendar year for Executive Level employees; 88 hours per calendar year for Management and Confidential employees; and 72 hours per calendar year for Fire Division Chiefs, in the form of Authorized Professional Time to those employees who are exempt from the payment of overtime and who regularly work extra hours, attend evening meetings, and/or are required to participate in job related weekend activities or functions for which they do not receive paid overtime. The actual number of days an employee may be granted shall be determined by the City Manager. Effective January 1, 2021 and in relation to the ongoing Covid-19 emergency, employees will be allowed a one-time carry over of a maximum of 27 hours of unused APT time from calendar year 2020 into calendar year 2021. The City recognizes that APT time is use it or lose it. All APT time earned in 2021 (including that which is carried over from 2020) must be used by the last pay period in December 2021 or it will be forfeited.

### **SECTION 4 - RETIREMENT HEALTH SAVINGS PLAN**

- 4.01 The City offers a retirement health savings (RHS) Plan. This employer-sponsored health benefit savings vehicle allows employees to accumulate assets to pay for medical expense for the employee, spouse, and/or dependents (e.g., health insurance and prescriptions) upon retirement on a tax-free basis.
- 4.02 Employees participate in the RHS plan as follows:
- A. Upon Separation/Retirement: deposit of value of accrued vacation hours in excess of 120 hours to the RHS plan.
  - B. Regular Contribution of Vacation: when employee reaches 144 hours of accrued vacation, a mandatory contribution of vacation will be made per the following schedule:

<b>YEARS OF SERVICE</b>	<b>HOURS PER PAY PERIOD</b>	<b>HOURS ANNUALLY</b>
1-5	1.0	26
6-14	1.5	39
15-19	2.0	52
20+	3.0	78

### **SECTION 5 - BEREAVEMENT LEAVE**

- 5.01 Each employee shall receive 27 hours of bereavement leave per qualifying incident. A qualifying incident is defined as the death of an employee's parent, grandparent, child, step-child, grand-child, spouse, domestic partner, legal dependent, sister or brother or with approval by Human Resources, a substitute family member for a person defined above.

## **ARTICLE VII. OTHER MATTERS**

### **SECTION 1 - PROBATIONARY PERIOD**

- 1.01 An employee appointed to a position in the Classified Service shall serve a probationary period of 12 months. An employee absent from work for any reason, for more than 160 hours during their probationary period shall have their probationary period extended for the number of hours that equals the total hours absent from work. For example, an employee absent 161 hours during their probationary period shall serve an additional 161 hours before successfully completing their probationary period.

### **SECTION 2 - OUTSIDE EMPLOYMENT**

- 2.01 An employee shall not be employed by an employer other than the City, nor shall he/she contract for or accept anything of value in return for services provided, nor shall he/she otherwise be self-employed for remuneration, without the written approval of the City Manager. The City Manager has sole discretion with respect to any employee request for outside employment, and his/her decision to approve or not approve outside employment is final.

An employee seeking permission to perform outside employment shall apply in writing to the City Manager on the form provided by the City. If outside employment is initially approved, such approval may be revoked, provided that the employee shall receive at least 14 days advance notice in writing of such revocation.

### **SECTION 3 - DIRECT DEPOSIT**

- 3.01 All employees shall be required to receive their pay through the City's direct deposit pay system.

### **SECTION 4 - SAVINGS CLAUSE**

- 4.01 The provisions of the Resolution are declared to be severable and if any article, section, subsection, sentence, clause or phrase contained herein shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining articles, sections, subsections, sentences, clauses or phrases of this Resolution, but they shall remain in full force and effect. It is the intent of the City this Resolution stand notwithstanding the invalidity of any part hereof.

### **SECTION 5 - IMPLEMENTATION AND DURATION**

- 5.01 Except as otherwise provided herein, this Resolution shall be in full force and effect beginning September 7, 2021 and shall remain in full force and effect until amended, repealed or superseded by action of the City Council.

## **EXHIBIT B**

### **FORM OF SEVERANCE AGREEMENT AND RELEASE**

**PARTIES.** The parties (“**Parties**”) to this Agreement of Settlement, Compromise, and General Release (“**Agreement**”) are Mike Witzansky (“**Witzansky**”) and the City of Redondo Beach (“**City**”).

#### **1.0 RECITALS.**

- 1.1 On November 16, 2021 (the “**Employment Commencement Date**”), the City and Witzansky entered into a written at will employment agreement (“**Employment Agreement**”). The original employment agreement and all amendments are collectively attached as Exhibit 1.1 (the “**Employment Agreement**”).
- 1.2 Pursuant to the Employment Agreement, Witzansky has been employed by the City on a full-time basis from and since the Employment Commencement Date. The period between the Employment Commencement Date the Employment Termination Date is referred to as the “**Employment**”.
- 1.3 This Agreement is made to amicably resolve all matters between Witzansky and the City regarding Witzansky’s employment and the cessation of said employment pursuant to Section 3(B) of the Employment Agreement. The City and Witzansky understand and agree that a material purpose of this Agreement is to resolve any disputes and claims arising from or relating to Witzansky’s employment with the City, if any, and provide for a separation payment for Witzansky.
- 1.4 The City’s action triggers certain severance obligations more specifically described in the Employment Agreement (collectively, the “**Severance Obligations**”).

2.0. **AGREEMENT.** Based upon the forgoing Recitals, which are fully incorporated into the terms and conditions set forth below, and in further consideration for the covenants, conditions and releases contained herein, each of the parties agree as follows:

- 2.1. **Waiver of Due Process and Hearing Rights.** As a material and indispensable condition of this Agreement, Witzansky represents he has been fully advised by legal counsel of his own choosing of all of his Due Process and Hearing Rights, including, but not limited to, his right to have the City’s decision to terminate Employment without Cause: (A) occur in a public hearing; (B) specific statutory and constitutional rights afforded public employees related to pre and post-deprivation due process, including any public or private hearings; (C) a public hearing pursuant to *Lubey v. City and County of San Francisco*, 98 Cal.App.3d 340 (1979), or any similar type of name-clearing proceeding or process; (D) any other public employment property pre- or post-deprivation due process rights or hearings; or (E) any other public employment liberty pre- or post-deprivation due process rights or hearings.

2.4. Consideration for Compromise and Release. Provided Witzansky does not (A) revoke this Agreement pursuant to section 2.5(c) below, and (B) is otherwise in full and complete compliance with each material term hereof, in consideration for the full, complete, absolute, and general release of the City and the Releasees (as defined below), the City shall pay to Witzansky the applicable Severance Obligations, in the amount and manner, set forth in Section 3(G) of the Employment Agreement.

2.5. Waiver and Release of Claims.

- (a) Witzansky irrevocably releases the City, and any of its representatives, insurers, re-insurers, agents, officers, current or former employees, elected officials and attorneys, including any and all of the City's Mayors and City Council members (collectively, "**Releasees**"), from any and all claims, demands, and causes of action that may exist or may have existed as of the date of execution of this Agreement, including but not limited to claims for personal injury, emotional distress, violation of civil rights, violation of due process, failure to take any action, any omission from taking action, any action taken, breach of contract, wrongful termination, discrimination or harassment based on age, gender, race, or any other protected classification, or any other claims arising under state or federal law. Provided, however, the above release shall not apply to claims that Witzansky may have under any Workers Compensation claim. The above release shall not apply to claims that arise out of or relate to a breach of either party's obligations under this Agreement, or to claims that cannot be released or waived under applicable law. The release shall not apply to the City's obligation to Indemnify and Defend Witzansky against any claims, demands or causes of action against Witzansky that are pursuant to the Indemnification and Duty to Defend Section (Section 11) of the Employment Agreement.
- (b) Witzansky expressly acknowledges that the City has advised him of his right to consult with an attorney of his choosing prior to his execution of this Agreement, and Witzansky has done so. Witzansky has been granted twenty-one (21) days to consider this Agreement and decide whether to execute this Agreement, although he may choose to execute this Agreement prior to the expiration of the twenty-one (21) day period. If Witzansky executes this Agreement prior to the expiration of the twenty-one (21) day period, he acknowledges that he does so voluntarily and after having had the opportunity to consult with an attorney.
- (c) Witzansky may revoke this Agreement at any time within seven (7) days of his execution of the Agreement ("**Revocation Period**"). Witzansky may revoke this Agreement by delivering his revocation, in writing, to Michael Webb, City Attorney, City of Redondo Beach, 415 S. Diamond Street, Redondo Beach, CA 90277. From and after the Effective Date of this Agreement, and unless Witzansky exercises the revocation right set forth in this subsection, this Agreement shall be fully binding and enforceable.

- (d) The City irrevocably releases Witzansky, and any of his heirs, estate and attorneys, (collectively, "Witzansky Releasees"), from any and all claims, demands, and causes of action that arose during the course and scope of the discharge of his duties and during his Employment.

## 2.6 No Other Claims.

- (a) Witzansky represents and warrants that he has not filed any complaints, charges, or lawsuits against the City or Releasees, with any governmental agency or court. Witzansky agrees that as a material part of the consideration for this Agreement, and included in the release of all claims, are any rights or claims Witzansky may, or could, have asserted. This expressed representation and warranty is a material, essential, and indispensable condition of this Agreement.
- (b) If any complaints, charges, or lawsuits have been filed, or are filed in the future that are related to any claims released herein, the parties shall take all steps necessary to effectuate a dismissal of such complaints, charges, or lawsuits with prejudice.
- (c) Except for such claims as may arise from a breach of this Agreement, Witzansky agrees that he will not file against the City or Releasees any complaints, charges, or lawsuits (or appeals therefrom), regarding claims released herein, with any governmental agency or court at any time hereafter. If any such agency or court assumes jurisdiction over any such complaints, charges, or lawsuits against the City or Releasees, Witzansky will request such agency or court to immediately withdraw from, dismiss, or otherwise close the matter.

## 2.7. Confidentiality.

- (a) Except (1) where disclosure is ordered by a court of competent jurisdiction, or (2) disclosure is required or permitted by law, or (3) permitted under the provisions of Section 2.11, or (4) required to be disclosed to attorneys, tax advisors, accountants, or state or federal administrative bodies to lawfully report the payment or receipt of consideration paid under this Agreement, or to support any position taken on federal or state tax return under actual audit or litigation, (5) the Press Release, (6) to Witzansky's immediate family, or (7) required to be disclosed to support a position taken in action to enforce the terms of the Agreement (collectively, "**Permitted Disclosure**"), Witzansky and the City agree to keep and maintain the terms of this Agreement, this settlement, and any and all actions of the City related to this Agreement, as strictly confidential. In the event the City receives a request under state or federal freedom of information laws, legal counsel for Witzansky will be advised of such request. Witzansky will have sole responsibility to challenge any such request, and any such challenge shall be done at his sole and exclusive cost.



- (b) Except for a Permitted Disclosure, each party may provide no more information regarding settlement of claims between Witzansky and the City than, in substance, as follows: "The matter was resolved. I'm not permitted to speak further on the issue."
  - (c) Beyond anything contained within the Letter of Recommendation or the Press Release, prospective employers, other than a law enforcement agency conducting a background check on Witzansky shall be told only of Witzansky's dates of employment, his position at the time of his retirement and that he was granted a service retirement. No other information shall be provided, except with a signed written release by Witzansky expressly stating specifically what information the City may release. Law enforcement agencies conducting background checks will be entitled to any information normally entitled to in conducting background checks, notwithstanding anything to the contrary in this Agreement.
- 2.8. Tax Reporting. Witzansky shall be solely responsible to report and pay any tax liability that may result from any payment and shall indemnify and hold the City and the Releasees harmless from any and all taxes, penalties, fees, costs, claims, or losses associated therewith.
- 2.9. Knowing and Intelligent Release. Each party represents that he/it has fully discussed all aspects of this Agreement with legal counsel of his/its own choosing, that he/it has read and fully understands the scope and effect of all provisions of this Agreement, that he/it has taken as much time as he/it needs for full consideration of the Agreement, that he/it understands that this Agreement releases all claims, both known and unknown against the other party, that he/it is voluntarily entering into this Agreement, and that he/it has the capacity to enter into the Agreement.
- 2.10. Compromise. This Agreement constitutes a compromise settlement agreement of disputed claims. Neither party admits any of the allegations made against it, and specifically denies each said allegation. Neither this Agreement nor any consideration provided hereunder shall be deemed an admission of liability or responsibility by any of the parties.
- 2.11. Knowing and Voluntary Waiver of Future Assertion of Claims. Each party understands that there is a risk that each and every injury may not now be known, and that such claimed injuries, whether known or unknown, might progressively become worse and that as a result thereof, further damages may be sustained. Nevertheless, each party desires to fully and forever release and discharge the other, and understands that by the execution of this Agreement, no further claims for such alleged injuries may ever be asserted.

Each party specifically waives the benefits of the provisions of Section 1542 of the California Civil Code and does so understanding and acknowledging the significance of such specific waiver of Section 1542. Said Section reads as follows:

**A general release does not extend to claims which  
the creditor or releasing party does not know or**

**suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

Notwithstanding the provisions of Section 1542, and for the purposes of implementing a full, final, and complete release of all parties, each party expressly acknowledges that this Agreement is intended to include in its effect, without limitation, all claims that one party does not know or suspect to exist in favor of the other.

**3.0 REPRESENTATIONS AND WARRANTIES.** Each party hereto further represents, warrants, and agrees as follows:

- 3.1 Legal Advice. Each party hereto has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided herein, or has been advised to seek out such counsel, with respect to the advisability of executing this Agreement, release of claims, and with respect to the meaning of the operation of California Civil Code Section 1542.
- 3.2 No Reliance. No party or officer, agent, employee, representative, or attorney of any party has made any statement or representation to any of the parties regarding any fact derived upon and entering into this Agreement, and each party does not rely upon any statement, representation, or promise of the other party or of any officer, agent, employee, representative, or attorney for the other party, in executing this Agreement, or in making a settlement provided for herein, except as expressly stated in this Agreement.
- 3.3 Investigation. Each party to this Agreement has made such investigation of facts pertaining to the settlement and this Agreement, and of all the matters pertaining thereto as it deems necessary.
- 3.4 No Assignment. None of the parties herein assigned, transferred, granted, or purported to assign, transfer, or grant, any of the claims or demands disposed of by this Agreement.
- 3.5 Contractual Terms. Each term of this Agreement is contractual and not merely a recital.
- 3.6 Additional Facts. Each party is aware that it may hereafter discover claims or facts in addition to or different from those it now knows or believes to be true with respect to the matters related herein. Nevertheless, it is the intention of the parties to fully, finally, and forever settle and release all such matters, and all claims related thereto, which do now exist, may exist, or should therefore have existed between them. In furtherance of such intention, the releases given herein shall be and remain in effect as full and complete mutual releases of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.

- 3.7 Additional Documents. The parties shall execute all further and additional documents as is reasonable, convenient, necessary, or desirable to carry out the provisions of this Agreement.
- 3.8 Authority. Each individual executing this Agreement for or on behalf of the City warrants and represents that he or she has all requisite authority to bind the City in accordance with the terms of this Agreement.
- 3.9. Approval by City Council. Witzansky acknowledges that irrespective of his signature on this Agreement, all terms are subject to approval by the City Council. Until and unless it is so approved, the Agreement has no force or effect.

4.0 **MISCELLANEOUS.**

- 4.1 Applicable Law. This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereto shall be construed and enforced in accordance with, and governed by, the laws of the State of California.
- 4.2 Arbitration.
- (a) Any dispute arising under the Agreement shall be settled by final and binding arbitration by JAMS, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. The costs of arbitration, and of the arbitrator, shall be paid exclusively by City. The prevailing party shall be entitled to recover reasonable attorneys' fees and costs from the other party, in addition to any other relief that may be granted.
  - (b) The arbitration will take place in the County of Los Angeles in the State of California. Each party waives any objections it may have to such venue for reason of personal or subject matter jurisdiction and *forum non conveniens*.
- 4.3 Entire Agreement. This Agreement is the entire Agreement between the parties with respect to the subject matter hereof and, if not revoked in the Revocation Period as provided herein, supersedes all prior and contemporaneous oral or written agreements and discussions related to its subject matter. This Agreement may be amended only by agreement in writing.
- 4.4 Successors in Interest. This Agreement is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, assigns, spouses, children, heirs, and successors in interest. Each party shall indemnify and hold harmless the other from any claims, lawsuits, judgments, and damages of any nature whatsoever asserted by any individual or entity, whether or not a signatory to this Agreement, which are asserted against the other and which are released by the terms of this Agreement.

- 4.5 Attorneys' Fees and Costs. Each party shall bear their own attorneys' fees and costs related to the Employment, or the negotiation and execution of this Agreement.
- 4.6 Counterparts. This Agreement may be executed in counterparts, all of which shall be an original for all purposes. Facsimile signatures shall be deemed to have the same force and effect as original signatures.
- 4.7 Effective Date of this Agreement. For purposes of reference, the Effective Date of this Agreement is \_\_\_\_\_, provided that it is approved by the City Council on such date, irrespective of the date actually executed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective as of the Effective Date of the Agreement, set forth above.

\_\_\_\_\_  
Mike Witzansky

\_\_\_\_\_  
William C. Brand, Mayor

ATTEST:

\_\_\_\_\_  
Eleanor Manzano, City Clerk, CMC

APPROVED AS FORM:

\_\_\_\_\_  
Michael W. Webb, City Attorney