

CITY MANAGER EMPLOYMENT AGREEMENT

This City Manager Employment Agreement between the City of Laguna Woods (“City”) and Christopher Macon (“Manager”) (“Agreement”) is made this 17th day of May, 2023.

RECITALS

A. Christopher Macon has been employed by the City of Laguna Woods since May 2007 and has served as City Manager since August 2013.

B. City desires to continue to employ Christopher Macon, as City Manager, as provided by Chapter 2.06 of the Laguna Woods Municipal Code, and upon the terms and conditions set out herein.

C. Christopher Macon desires to continue to serve as City Manager of the City of Laguna Woods on the terms and conditions set out herein.

D. City desires to enter into a new employment agreement with Christopher Macon as City Manager of the City of Laguna Woods for the period May 17, 2023, to and including August 21, 2029.

AGREEMENT

NOW, THEREFORE, the parties agree as follows on the terms and conditions of Manager’s employment.

1. DUTIES AND TERM

Effective May 17, 2023 (“Effective Date”), and effective until August 21, 2029, unless earlier terminated by either of the parties, City hereby employs Manager, and Manager hereby accepts employment, as City Manager of the City. Manager shall perform the functions and duties specified for the City Manager of the City in Chapter 2.06 of the Laguna Woods Municipal Code and other ordinances, resolutions and policies of City, and shall perform such other legally

permissible and proper duties and functions as the City Council of the City (the “Council”) may from time-to-time assign, consistent with the Laguna Woods Municipal Code, other applicable law, and this Agreement. City and Manager hereby expressly agree that the employment relationship created by this Agreement is “at-will” and that Manager serves at the will and pleasure of Council.

2. NOTIFICATION REQUIREMENTS REGARDING EXPIRATION OR TERMINATION OF AGREEMENT

(a) Potential Renewal of Agreement. On or before July 15, 2029, and in the event Agreement is not earlier terminated, Manager shall notify Council of the provisions of Section 2 of this Agreement, at which time Manager and Council shall meet to discuss whether this Agreement shall be renewed or not renewed, and if renewed, upon such terms and conditions as the parties may mutually agree to.

(b) Termination by Manager. In the event Manager terminates his employment as Manager, then Manager shall give City at least forty-five (45) days’ notice of termination in writing in advance of the date of termination, unless mutually agreed upon otherwise.

(c) All Terminations. Manager agrees that in the event Manager’s employment is terminated, with or without cause, under no circumstances shall Manager be entitled to, nor shall, contest the existence or nature of Manager’s “at-will” employment status, nor shall Manager be entitled to seek or receive the remedy of reinstatement to employment with City in any administrative or legal forum.

(d) Effect of Council Change on Terminations. As the sole and exclusive restriction on Manager’s “at-will” status, Council shall take no action, whether immediate or prospective, to terminate Manager or request Manager’s resignation within one hundred twenty (120) days following the certification of any City election at which any City Councilmember seat

is up for election or within one hundred twenty (120) days following the appointment of any City Councilmember.

3. SEVERANCE AND SEVERANCE PAY AND BENEFITS

(a) Termination without Cause. In the event Manager is involuntarily terminated by Council without cause, City agrees to pay Manager within fifteen (15) days of the later to occur of (i) the date of termination of employment; (ii) the date of final determination by Council of the matters subject to a hearing as set forth in this paragraph; or (iii) the date of Manager's execution of the waiver and release agreement described in this Section (3)(a) and culmination of any revocation period set forth therein: a lump sum cash payment equal to six (6) months of the base salary Manager is receiving on the date of Council's action to terminate Manager, or as many months as then remain on Manager's contract term, whichever is less, less legally required or authorized deductions, plus a lump sum deferred compensation contribution equal to six (6) months of the deferred compensation contribution Manager is receiving on the date of Council's action to terminate Manager, or as many months as then remain on Manager's contract term, whichever is less ("Severance Pay"). City shall also pay Manager's Consolidated Omnibus Budget Reconciliation Act ("COBRA") premiums for COBRA insurance coverage otherwise available to Manager, for a period of six (6) months, or as many months as then remain on Manager's contract term, or until Manager becomes ineligible for COBRA, whichever is less. The payments described in this paragraph are collectively referred to as "Severance Benefits."

Such Severance Pay and Severance Benefits shall be in addition to any other payments for accrued paid time off or other cash payments Manager would be entitled to at the termination of employment.

Manager agrees that Severance Pay and Severance Benefits shall be Manager's sole remedy for a termination without cause. Severance Pay and Severance Benefits shall not be paid

to Manager unless and until Manager executes a waiver and release agreement prepared by the City Attorney in form substantially similar to the one set forth as Exhibit “A” to this Agreement.

Notwithstanding the foregoing, City and Manager acknowledge and agree that as of the Effective Date of this Agreement, City is a member of the California Joint Powers Insurance Authority (“CJPIA”) and that CJPIA currently maintains a program for compensation to chief executives of its members who are involuntarily terminated (the “Chief Executives’ Separation Payment” or “CESP”). City does not covenant in this Agreement to remain a member of CJPIA or to ensure that CJPIA continues to maintain the CESP or similar program during any term of this Agreement, but if City is a member of CJPIA and the CESP or similar program is in effect upon the date Manager is terminated without cause, nothing in this Agreement is intended to limit or restrict Manager’s entitlement to an additional separation payment pursuant to the CESP or similar program, nor shall City object to Manager’s entitlement of the same, provided Manager satisfies all of the terms and conditions of such program. The Severance Pay and Severance Benefits provided for herein shall be in addition to, and not offset by, any payment to which Manager may otherwise be entitled to, or qualify for, through the CESP or similar program.

In the event Council terminates Manager without cause, neither Council, any Councilmember(s), nor Manager shall make any written, verbal or electronic statement concerning Manager’s termination except in the form of a joint press release or statement, the form and content of which is mutually agreeable to Council and Manager. The joint press release or statement shall not contain any text or information that is disparaging to Council or Manager. Council, any Councilmember(s) or Manager may repeat the substance of the joint press release or statement in response to any inquiry. City employees and City representatives shall be directed by Council to only refer inquiring parties to the joint press release or statement without further comment.

(b) Termination by City with Cause. In the event Manager is terminated for cause as defined herein due to the reasonable determination of Council, based upon the weight of the evidence produced at a hearing conducted by Council, then, and in that event, City shall have no obligation to pay the Severance Pay and Severance Benefits described above in Section 3, subpart (a). Council's determination of the sufficiency of cause shall be final and binding. In the context of this Agreement, "for cause" shall mean that Manager has committed, in the performance of Manager's duties or in any manner that causes harm to Manager's or City's reputation, either (i) any illegal act, as determined by a court of law or adjudicated by an appropriate administrative agency or official, resulting in personal gain to Manager ; (ii) any act of insubordination or defiance of official Council instruction or direction, given to Manager after being approved by a majority of the members of Council; (iii) any conviction on a crime of fraud, misrepresentation, deceit or moral turpitude; or (iv) malfeasance in connection with Manager's office or position.

Nothing set forth herein shall be deemed to confer upon Manager any due process or other right to have a hearing by Council concerning any proposed termination of Manager; provided, however, that Manager shall be entitled to a hearing solely concerning any proposal by Council not to pay Manager the Severance Pay and Severance Benefits.

(c) Involuntary Resignation. In deciding to enter into this Agreement, Manager has relied upon (i) the current provisions of the Laguna Woods Municipal Code and other ordinances, resolutions and policies of City as pertains to Manager's hiring, appointment, promotion, demotion, supervisory and removal authority of City officers and employees, and Council's commitment to give orders and direction to Manager; and (ii) the terms and conditions of this Agreement. In the event Council or the electorate (i) adds, deletes or amends the Laguna Woods Municipal Code or any ordinance, resolution or policy of City without the consent of

Manager and such addition, deletion or amendment is inconsistent with this Agreement or reduces or infringes upon Manager's hiring, appointment, promotion, demotion, supervisory or removal authority as pertains to any City officer or employee as currently provided in the Laguna Woods Municipal Code or other ordinances, resolutions and policies of City, or allows Council or any Councilmember(s) to give orders or direction to any City officers or employees subordinate to Manager; or (ii) acts in a manner inconsistent with this Agreement, then Manager shall have the right, at Manager's sole option, to give Council written notice that such action(s) constitute a request for Manager's involuntary resignation. For the purpose of this Section 3(c), "City officers or employees" shall include employees of City, as well as consultants and independent contractors providing services on behalf of City which would otherwise be undertaken by employees of City, with the exception of Council, the City Attorney and consultants and independent contractors retained by Council to perform evaluation, investigation or other services directly related to Manager.

Upon receipt of such written notice, Council shall have thirty (30) days in which to do one of the following: (a) rescind the action(s); (b) renegotiate this Agreement to Manager's satisfaction; (c) confirm that Manager is being asked to involuntarily resign; or (d) take no action. In the event either (c) or (d) occurs, or Council is unable to accomplish (a) or (b), then Manager shall be entitled to resign subject to the terms and conditions of Section 3(a) above, including the receipt of Severance Pay and Severance Benefits as provided therein.

4. SALARY AND OTHER COMPENSATION

(a) Salary. Commencing on the Effective Date, City shall pay Manager an annual base salary, exclusive of benefits, in the sum of One Hundred Ninety-Six Thousand Three Hundred Seventy-Six Dollars and Forty-Five Cents (\$196,376.45) per year, payable in installments at the same time and by the same methods as other City employees are regularly paid.

Thereafter, such base salary amount shall be increased by two percent (2%), effective with the first pay period of June 2023, and annually thereafter, effective with the first pay period of each calendar year. City acknowledges that this base salary may be subject to increase based upon merit and performance. In addition thereto, Council shall conduct an annual performance evaluation of Manager as described in Section 7 below, and if a majority of Council deems Manager to have successfully performed up to the Anniversary Date may, in their sole and absolute discretion, grant Manager a discretionary bonus or increase in base salary or other benefits or compensation, based on merit and performance. Council and Manager agree to review Manager's compensation and benefits at the time of Manager's annual performance evaluation for each year this Agreement is in effect.

(b) Reduction of Salary. Council may, in its discretion, reduce the salary of Manager due to budgetary constraints, on condition that any such reduction shall not exceed the average reduction applicable to all full-time City employees at the time of reduction in Manager's salary. City shall not at any time during this Agreement reduce the salary of Manager, except as permitted by this Agreement.

(c) Deferred Compensation Contribution. Commencing with the first pay period of June 2023, City shall contribute Seven Hundred Fifty Dollars and Zero Cents (\$750.00) per month into a MissionSquare Retirement Internal Revenue Code 457(b) Deferred Compensation Plan, or other deferred compensation plan mutually agreed to by Council and Manager, on behalf of Manager. Thereafter, as a retention incentive, such monthly deferred compensation contribution amount shall be increased by Two Hundred Fifty Dollars and Zero Cents (\$250.00), effective with the first pay period of each calendar year, except that such amount

shall not exceed elective deferral limits established by the Internal Revenue Service as may change from time-to-time.

5. BENEFITS

(a) Paid Time Off. Manager shall accrue paid time off (leave) at a rate of one hundred and sixty (160) hours per calendar year, to be used at Manager's discretion and otherwise administered consistent with applicable City Resolutions and Personnel Rules. Manager shall not maintain paid time off in excess of 480 hours.

(b) Administrative Leave. Upon each January 1 of the term hereof, Manager shall accrue eighty (80) hours of paid administrative leave to be used at Manager's discretion. Such administrative leave must be used each calendar year in which it is accrued, or shall be lost at the end of the calendar year, without cash payment or other compensation, and cannot be carried over to a subsequent calendar year. Administrative leave shall not be treated as compensable upon separation or termination.

(c) Supplemental Benefits. Except as provided otherwise herein, Manager shall receive any and all other supplemental benefits as are generally available to full-time City employees as provided by applicable City Resolutions and Personnel Rules. In the event more generous supplemental benefits are extended to any class of full-time City employee, Manager shall be eligible for the same. Except as otherwise provided herein, all actions undertaken by City relating to supplemental benefits for full-time City employees shall be considered actions affecting the same benefits applicable to Manager. As used herein, "supplemental benefits" include, but are not limited to, monthly benefit allowances, flexible benefits plan options, paid time off, administrative leave, floating holidays, holiday pay, retirement benefits and payments, health insurance and such other benefits not expressly enumerated herein which City offers to any class of full-time City employee.

(d) Retirement. Manager shall be eligible for all of the retirement rights currently in existence for full-time City employees or as may be amended from time to time.

(e) Reduction of Benefits. City shall not at any time during the term of this Agreement reduce the benefits of Manager, except as permitted by this Agreement.

6. PROFESSIONAL DEVELOPMENT, OUTSIDE PROFESSIONAL ACTIVITIES, WORK SCHEDULE, AND OTHER EXPENSES

(a) Professional Development.

(i) Subject to Council's discretion to adopt and amend the budget, City agrees to pay for professional dues and subscriptions on behalf of Manager which are reasonably necessary, as determined by Council, for Manager's continuation and full participation in national, regional, state or local associations and organizations necessary and desirable for Manager's continued professional participation, growth and advancement, or for the good of City. Furthermore, City shall pay for any additional professional dues and subscriptions as may be approved by Council from time to time.

(ii) Subject to Council's discretion to adopt and amend the budget, City agrees to pay within the adopted budget the reasonable travel and subsistence expenses of Manager for official travel, meetings and events reasonably necessary to continue the professional development of Manager and reasonably necessary to fulfill official and other functions for City, all as determined to be reasonable and necessary by Council. Such meetings and events may include, but are not limited to, national, regional, state and local conferences of governmental groups and committees in which Manager serves as a member.

(b) Outside Professional Activities. Manager agrees to remain in the exclusive employ of the City of Laguna Woods while employed by the City of Laguna Woods. This Section 6(b) shall not prohibit occasional teaching, writing, speaking, consulting or other employment for

compensation, a fee, or other value, provided that Manager gives advance written notification to Council of such teaching, writing, speaking, consulting or other employment. Any teaching, writing, speaking, consulting or other employment performed or engaged in by Manager during the term of this Agreement shall not interfere with Manager's performance of Manager's duties and obligations under this Agreement.

(c) Work Schedule. Manager's duties are anticipated to require time in excess of a forty (40) hour workweek and time outside of normal office hours. Manager's base salary includes compensation for all hours worked. Manager shall be classified as an exempt employee for purposes of the Fair Labor Standards Act and shall not be entitled to compensation for overtime. In recognition of the time required by Manager to perform Manager's duties and obligations under this Agreement and the exempt, salaried nature of the employment, Manager is permitted to establish and exercise a flexible work schedule including, but not limited to, telecommuting and remote work, to the extent such flexible work schedule does not (i) interfere with Manager's performance of Manager's duties and obligations under this Agreement; (ii) result in Manager's in-person absence from Council meetings unless excused by the Mayor or Council pursuant to Laguna Woods Municipal Code section 2.06.060(6); or (iii) result in Manager telecommuting or working remotely for a majority of any eighty (80) hour pay period unless in connection with job-affiliated travel; Manager's use of paid time off, administrative leave or floating holidays; illness; construction, maintenance or other condition affecting occupancy of Manager's office; or other circumstance separately approved by Council.

(d) General Expenses. City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by Manager, including participation in civic and other local organizations, and hereby agrees to reimburse or pay said reasonable general expenses.

Subject to Council's discretion to adopt and amend the budget, the City Treasurer (or other designated City employee) is hereby authorized to disburse funds within the adopted budget as needed to fulfill all provisions of this Agreement upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

City shall bear full cost of any fidelity or other bonds required of Manager under any law or ordinance.

(e) Technology Allowance. Manager shall at all times keep and maintain his own home Internet capabilities and cellular telephone with email, Internet and data capabilities available for use in connection with Manager's duties. Manager shall be paid a technology allowance of One Hundred Fifty Dollars (\$150.00) per month, to offset the costs of maintaining such technology.

(f) Vehicle Insurance. Manager shall at all times keep and maintain in full force and effect during the term of this Agreement automobile liability insurance with minimum limits of \$100,000 per claim and \$300,000 per occurrence, or such lesser amount as otherwise may be established by the City Council.

7. PERFORMANCE EVALUATION

(a) Council and Manager may annually define such goals and objectives for City which they mutually determine necessary for the proper operation of City in the attainment of Council's policy objectives, and Council and Manager may further establish a priority among those various goals and objectives to be reduced to writing. The process of considering the establishment and priority of goals and objectives of City shall be conducted and completed generally in July of each year ("Goals and Objectives"), and may occur in connection with Manager's annual performance review.

(b) Council, following informal and nonbinding consultation with Manager, shall periodically assess the Goals and Objectives and how they relate to the performance of Manager. Council shall review and evaluate the performance of Manager at least once annually, in closed session, on a form Council and Manager mutually agree to. Except as otherwise required by law, any public report of Manager's evaluation shall be made in accordance with a mutual agreement by Council and Manager as to form and content. To the extent Council desires to use a consultant or other party, with the exception of the City Attorney, to facilitate, manage or conduct work on behalf of Council as it relates to Manager's evaluation, such consultant or other party shall be mutually agreed to by Council and Manager. Notwithstanding any term or provision of this Agreement to the contrary, Manager shall serve at the will and pleasure of Council, and Council shall be entitled to terminate the employment of Manager without cause.

8. TERMS OF EMPLOYMENT

Council, following informal and nonbinding consultation with Manager, may by motion, resolution or written amendment to this Agreement approved as an official Council meeting agenda item, fix any other terms and conditions of employment as it may determine, from time to time, relating to the performance of Manager, provided such terms and conditions are not prohibited by the provisions of this Agreement, the Laguna Woods Municipal Code or any other rules or regulations of City or other applicable laws. Manager shall be subject to applicable City Resolutions and Personnel Rules, provided, however, that Council shall replace the role of the City Manager therein in dealings affecting Manager that would otherwise be referred to or involve the City Manager, and provided further that nothing therein shall abridge or infringe the "at-will" nature of Manager's employment, nor grant Manager any rights inconsistent with that status.

9. CONFLICT OF INTEREST PROHIBITION

It is understood and agreed that because of the duties of Manager within and on behalf of the City of Laguna Woods and its citizenry, Manager shall not, during the term of this Agreement, individually, as a partner, joint venturer, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City of Laguna Woods, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without prior approval of Council. For and during the term of this Agreement, Manager further agrees, except for a personal residence or residential property acquired or held for future use as his personal residence and real property acquired by Manager prior to the Effective Date of this Agreement, not to invest in any other real estate or property improvements within the corporate limits of the City of Laguna Woods without prior consent of Council.

10. PROVISIONS OF GOVERNMENT CODE SECTION 53243 ET AL.

(a) Pursuant to Government Code section 53243, in the event City provides paid leave to Manager pending an investigation of a crime involving abuse of his office or position covered by Government Code section 53243.4, and should that investigation lead to a conviction, Manager shall fully reimburse City for any salary provided for that purpose.

(b) Pursuant to Government Code section 53243.1, in the event City provides funds for the legal criminal defense of Manager pending an investigation of a crime involving abuse of his office or position covered by Government Code section 53243.4, and should that investigation lead to a conviction, Manager shall fully reimburse City for any funds provided for that purpose.

(c) Pursuant to Government Code section 53243.2, in the event City provides a cash settlement related to the termination of Manager as defined in the terms of this Agreement and Manager subsequently is convicted of a crime involving abuse of his office or position covered

by Government Code section 53243.4, Manager shall fully reimburse City for any funds provided for that purpose.

11. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties concerning the subject matter set forth herein and no promise, representation, warranty or covenant not included in this Agreement has been or is relied upon by any party hereto concerning the offer and acceptance of employment described herein.

12. NO CONTINUING WAIVER

No waiver of any term or condition of this Agreement by either party shall be deemed a continuing waiver of such term or condition.

13. EFFECTIVE DATE AND ANNIVERSARY DATE

The Effective Date of this Agreement shall be May 17, 2023. The Anniversary Date shall be August 21 of each subsequent year this Agreement remains in effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth hereinabove.

CITY:

MANAGER:

Cynthia S. Conners
Mayor

Christopher Macon

Agreement approved by the City Council in open session at a meeting on May 17, 2023.

ATTEST:

Yolie Trippy, CMC
City Clerk

APPROVED AS TO FORM:

Alisha Patterson
City Attorney

EXHIBIT "A"

WAIVER AND GENERAL RELEASE

THIS WAIVER AND GENERAL RELEASE (hereinafter " Agreement") is entered into by and between City Manager [NAME] (hereinafter the "City Manager") and the CITY OF LAGUNA WOODS (hereinafter "City") and is made with reference to the following facts:

RECITALS

A. The City Manager is employed by the City as the City Manager pursuant to that certain [TITLE OF AGREEMENT] dated [DATE] (the Employment Agreement").

B. The City Council terminated the City Manager without cause, effective [DATE] ("Termination Date").

C. Pursuant to Section of the Employment Agreement, in the event the City Manager is terminated without cause, the City Manager is entitled to a severance payment, conditioned on the City Manager executing a release and waiver of any and all claims against the City, it's officers, employees, and agents arising out of his employment with the City and the termination thereof.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Lump Sum Cash Payment.** In consideration of the releases as set forth in this Agreement, the City shall pay the City Manager a Severance Payment equal to six (6) months of the base salary the City Manager is receiving on the date of the City Council's action to terminate the City Manager, or as many months as then remain on the City Manager's contract term, whichever is less, less legally required or authorized deductions, plus a lump sum deferred compensation contribution equal to six (6) months of the deferred compensation contribution the City Manager is receiving on the date of the City Council's action to terminate the City Manager, or as many months as then remain on the City Manager's contract term, whichever is less. The City shall provide the Severance Payment to the City Manager within fifteen (15) calendar days after the Revocation Period (as defined herein) expires.

2. **Insurance.** In consideration of the releases as set forth in this Agreement, the City shall pay the City Manager's Consolidated Omnibus Budget Reconciliation Act ("COBRA") premiums for COBRA insurance coverage otherwise available to the City Manager, for a period of six (6) months, or as many months as then remain on the City Manager's contract term, or until the City Manager becomes ineligible for COBRA, whichever is less

2. **Payout of Accrued Leave Time.** Within fifteen (15) calendar days after the Revocation Period (as defined herein) expires, the City shall pay the City Manager for his accrued leave time in the amounts set forth below, less any relevant taxes and other legally required withholdings:

a) Paid Time Off (_ hours) - \$ _

b) Floating Holidays (_ hours) - \$ _

3. Releases.

a) In consideration of the compensation provided for by this agreement, the City Manager, for the City Manager's self and the City Manager's successors, assigns and representatives, does hereby release the City, its officers, agents, employees, insurers, successors, predecessors, assigns and representatives, from any and all claims, demands, causes of actions, contracts, covenants, representations, warranties, promises, undertakings, actions, suits, obligations, controversies, debts, costs, expenses, accounts, damages, losses, judgments, liabilities or demands of any nature whatsoever, anticipated or unanticipated, known or unknown (collectively "Claims") that the City Manager may have or claim to have at any time up to and including the time this Agreement is executed by the respective parties. The matters released include by way of example and not limitation: Claims for injuries to the City Manager arising out of or relating to the course and scope of employment with the City; claims for alleged violations of any contracts, express or implied, or any covenants of good faith and fair dealing, express or implied; claims of any legal restrictions on the City's right to discipline or terminate employees, any "constructive discharge," or "wrongful discharge," or any tort; claims for defamation, invasion of privacy and emotional and/ or personal injury or distress or the like; claims for sick leave, vacation, compensated time off, separation pay or severance; claims for violation of any local, state, federal or other government statute, regulation or ordinance, as amended, or any public policy expressing such statute, regulation or ordinance, including, without limitation, the following: Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national original discrimination); 42 U. S. C. Section 1918 and 1983 (discrimination in making and enforcement of contracts, deprivation of rights, respectively); Age Discrimination in Employment Act (42 U. S. C. Section 621, 634); Federal and California Equal Pay Acts (29 U. S. C. Section 206(d)(1) and California Labor Code Sections 3200 et seq.); California Fair Employment and Housing Act (Government Code Section 12940, et seq., including discrimination on the basis of race, color, national origin, ancestry, physical handicap, mental condition, marital status, sex or age); California Labor Code Section 1102. 1 (sexual orientation); Executive Order 11141 (age discrimination); Rehabilitation Act of 1973 (29 U. S. C. Sections 503 and 504); Older Workers Benefit Protection Act; Amendments to the Age Discrimination in Employment Act (29 U. S. C. Sections 621, et seq.); Civil Rights Act of 1991; Americans with Disabilities Act; or the Unruh Civil Rights Act California Civil Code Section 51, et seq.); State and Federal Family Medical Leave Acts; any other local, state or federal statute, rule, regulation, ordinance, law or constitution, governing employment, employment termination, discrimination or harassment in employment, or payment of wages or benefits not otherwise specifically mentioned.

b) The City Manager expressly acknowledges and agrees that, by entering into this Agreement, the City Manager is waiving any and all rights or claims that the City Manager may have arising under the Age Discrimination in Employment Act of 1967, as amended, which have arisen on or before the date of execution of this Agreement. The City Manager further expressly acknowledges and agrees that (a) the City Manager has entered into this Agreement voluntarily, free from duress, coercion, or mistake of facts; (b) that this Agreement is in writing and understandable; (c) that the City Manager is waiving current ADEA claims explicitly and cannot waive future ADEA claims; (d) in return for this

Agreement the City Manager will receive consideration beyond that which the City Manager was already entitled to receive before entering into this Agreement; (e) the City Manager has been advised and is hereby advised in writing to consult with an attorney before signing this Agreement; (f) that the City Manager has been given a copy of this Agreement and informed that the City Manager has twenty-one (21) days within which to consider the Agreement, which period the City Manager has elected to waive; and (g) the City Manager is hereby informed that the City Manager has seven (7) days following the date of the City Manager's execution of this Agreement in which to revoke the Agreement ("Revocation Period"). Any notice of revocation must be in writing and must be delivered to the City Attorney, prior to the end of the seventh calendar day following the date of the City Manager's execution. The Agreement shall become binding and effective on the eighth day after the date of execution unless a revocation has been filed.

c) The parties represent and warrant that they have not filed any complaints, charges, or lawsuits against the other, or the City's Councilmembers, officers, directors, employees, attorneys, or agents, with any court or governmental agency arising out of the City Manager's employment with the City, and that they will not do so at any time hereinafter. However, the Parties shall not be limited from pursuing claims for the sole purpose of enforcing their rights under this Agreement. Further, the Parties agree that under this Agreement, they waive any claim for damages incurred at any time after the date of this Agreement because of alleged continuing effects of any alleged unlawful acts or omissions involving the City Manager's employment with or separation from the City, including compensation and other employee benefits. Nothing in this Agreement shall prevent the City from forwarding information or documents to law enforcement officials if the City determines that illegal conduct may have occurred or if otherwise required by law.

d) The parties intend and agree that this Agreement will be effective as full, final and general release of and from all matters covered herein. In furtherance thereof, the City Manager acknowledges that the City Manager is familiar with and has secured independent advice as to California Civil Code Section 1542 which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT 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.

The City Manager expressly waives and releases any right or benefit which the City Manager may have or may in the future have under California Civil Code Section 1542 and all similar laws, rules and statutes to the fullest extent that such rights or benefits may be lawfully waived or released.

e) The City Manager acknowledges that the City Manager may hereafter discover facts different from or in addition to those now known or believed to exist arising out of the employment relationship recited above, or matters for which releases have been given

herein, and agrees that this Agreement will nonetheless be binding and remain in full and complete force and effect.

f) The City Manager acknowledges that he has had the opportunity to consult independent legal counsel of his own choice prior to the execution of this Agreement. Each party shall bear his or its own respective legal fees and costs.

4. Return of City Property. Before accepting the Severance Payment, the City Manager shall return all City property, including identification cards or badges, access codes or devices, keys, computers, telephones, mobile phones, hand-held electronic devices, credit cards, electronically stored documents or files, physical files, and any other City property in the City's possession. Notwithstanding the timeframe outlined in Section 1 of this Agreement, the City shall not be required to provide the Severance Payment unless and until the City Manager has returned all City property.

5. Confidential Information and Trade Secrets.

This clause is specifically designed to protect the City's confidential or proprietary information and confidential information and trade secrets. The City Manager acknowledges that during the course of his employment, he has obtained and has had access to certain confidential information, including, but not limited to, personnel information, legal advice, and other confidential or proprietary information relating to City business ("Confidential Information"). All Confidential Information is of substantial value to the City. The City Manager that Confidential Information shall be construed to the fullest extent permitted by Civil Code section 3426 et seq. and any other law that would preclude the release of Confidential Information. The City Manager hereby agrees to forever hold the Confidential Information in strict confidence and not to use such Confidential Information for his or any other person's benefit. If the City Manager is compelled in any judicial or administrative proceeding to disclose any Confidential Information, he shall promptly notify the City in writing of the proceeding, so that the City may oppose such disclosure or seek an appropriate protective order or other remedy to prevent the disclosure.

The City Manager agrees to deliver or return to the City all Confidential Information regardless of the form it takes, whether documents (including all copies thereof), electronically stored information (including, but not limited to, email, information stored on any laptop, home computer, handheld personal device or cellular phone, voicemail, text messages, portable storage devices, CDs, DVDs, disks) records, lists, or notes.

6. Miscellaneous.

a) Integration. This Agreement contains and expresses the entire and final agreement of the parties with respect to the matters covered herein, and supersedes all negotiations, prior discussions, prior agreements and preliminary agreements between the parties. No promises or representations, express or implied, concerning this Agreement have been made by the parties other than those contained in this Agreement.

b) Amendments. Any alteration or modification of this Agreement must be in writing and signed by each party to it, or their authorized representatives.

c) Severability. In the event a court of competent jurisdiction determines that any provision of this Agreement or application of it is void, invalid, unenforceable or contrary to law for any reason, its remaining provisions shall remain in full force and effect.

d) Binding on Successors and Assigns. This Agreement shall forever bind and inure to the benefit of the parties and their respective successors and assigns of every type.

e) No Admission of Wrongdoing. Each party to this Agreement denies its liability to the other party hereto in connection with the subject matter of this Agreement, but desires to resolve the rights, claims and causes of action, if any, between and among them without the necessity of litigation. This Agreement is a compromise of the disputed claims and rights, and shall not constitute or be construed as an admission by either of the parties of wrongdoing or violation of any law, statute, duty or contract whatsoever, or that any of the parties was entitled to any damages or amounts demanded incident to this controversy.

f) Admissibility of Agreement. Notwithstanding any other provision of this Agreement to the contrary, it is the parties' intent that this Agreement be admissible, binding and enforceable under California Civil Code section 664. 6, and subject to disclosure within the meaning of California Evidence Code section 1123(a), (b) and (c), and that this Agreement is expressly not privileged from disclosure under California Evidence Code section 1119.

g) Venue. The Parties agree that any and all disputes regarding this Agreement shall be brought in the Superior Court of the State of California, Orange County.

h) Attorneys' Fees. In any action brought to enforce any provision of this Agreement, each side shall bear their own costs and attorney's fees.

i) Indemnification for Tax Obligations. It is expressly understood and agreed that the City Manager has secured his own independent advice with respect to the tax consequences of the payments to be made under this Agreement and shall indemnify and hold the City harmless for any and all claims, demands or actions brought alleging any tax obligation with respect to said payments. It is expressly understood that by entering into this Agreement, the City Manager is not relying upon any representations concerning the tax consequences or effect of the payments to be made under this Agreement by the City or its attorneys.

j) Execution. This Agreement may be executed in two or more counterparts, including typewritten, photographic or facsimile copies, each of which shall be deemed to be an original Agreement, and all of which together shall constitute one agreement.

THE UNDERSIGNED PARTIES, AND EACH OF THEM, ACKNOWLEDGE THAT THEY HAVE CAREFULLY READ THIS AGREEMENT IN ITS ENTIRETY, HAVE HAD THE OPPORTUNITY TO DISCUSS THE CONTENTS OF THE AGREEMENT WITH THEIR RESPECTIVE ATTORNEYS AND, AS A RESULT, FULLY UNDERSTAND THE TERMS AND CONSEQUENCES OF THE AGREEMENT. BASED ON THEIR KNOWLEDGE AND UNDERSTANDING OF THE AGREEMENT, THE

**PARTIES REPRESENT AND WARRANT THAT THEY FREELY AND VOLUNTARILY
ENTER INTO IT ON THE DATE SET FORTH BELOW.**

[SIGNATURES]