

CITY OF CLAREMONT

CITY MANAGER EMPLOYMENT AGREEMENT

This City Manager Employment Agreement ("Agreement") is entered into as of the 23rd day of February 2021 (the "Effective Date"), between the City of Claremont (hereinafter referred to as the "City") and Adam Pirrie (hereinafter referred to as "Mr. Pirrie" or "City Manager"). City and Mr. Pirrie are sometimes individually referred to in this Agreement as a "Party" and collectively as the "Parties." The above-named Parties hereby mutually agree and promise as follows:

RECITALS

1. Mr. Pirrie has worked for the City since 2003. He has been the City's Finance Director since 2011.
2. Following the mid-term resignation of the City's former city manager, the City Council appointed Mr. Pirrie as the "Acting City Manager," effective October 22, 2020.
3. Because there was an election on November 3, 2020 that would result in at least one new City Councilmember being seated, the City Council decided to wait until the new Councilmember(s) was (were) seated to start the process of searching for, recruiting, and hiring a permanent city manager.
4. One new Councilmember was seated on December 8, 2020, and on January 26, 2021, the City Council held a closed session to discuss the timing and process of filling the position of permanent City Manager.
5. Since his appointment in October of 2020, Mr. Pirrie has performed the duties of both Acting City Manager and Finance Director, which has resulted in considerable salary savings for the City, but is not sustainable on a long-term basis.
6. The City Council recognizes that Mr. Pirrie has risen to the challenge and performed exceptionally well as Acting City Manager over the last four months. The City Council also recognizes it is in the best interests of the City Council, City staff, the community, and other stakeholders to have stability in the City Manager position, particularly over the next twelve (12) months while the City undertakes significant projects, like the Village South Specific Plan and the state-mandated Housing Element Update, and navigates unprecedented challenges, like the ongoing COVID-19 pandemic. The City Council has determined this is not an appropriate time to launch a search for a new City Manager.
7. Over the next twelve months, the City Council may determine the time is right to launch a search for a new City Manager and/or Mr. Pirrie may decide he prefers

the position of Finance Director. For the first twelve months, both Parties desire to leave the option open of Mr. Pirrie returning to the role of Finance Director.

8. The City desires to appoint Mr. Pirrie to the position of permanent City Manager based on the terms and conditions set forth below, and Mr. Pirrie desires to accept such appointment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

1. TERM.

1.1 Term

The term of this Agreement shall be from February 23, 2021 (the "Effective Date"), through and including February 23, 2022 ("Initial Term"), unless earlier terminated as provided herein.

1.2 Extensions

For the Initial Term, on or before February 23, 2022, the City Council shall notify Mr. Pirrie in writing of the City's intent to allow the Agreement to expire. If such notice is not provided in writing to Mr. Pirrie, this Agreement shall automatically be extended for one (1) year (i.e., until the following February 23) ("Extended Term"), unless earlier terminated as provided herein, without further action of the City Council.

For any Extended Term(s), on or before August 23 of the then-current Term, the City Council shall notify Mr. Pirrie in writing of the City's intent to allow the Agreement to expire at the end of the then-current Term. If such notice is not provided in writing to Mr. Pirrie, this Agreement shall automatically be extended for one (1) year, unless earlier terminated as provided herein, without further action of the City Council.

1.3 At-Will Employment

Notwithstanding the above, Mr. Pirrie serves at the will and pleasure of the City Council, as set forth in Section 9.

2. COMPENSATION.

2.1 Salary

Mr. Pirrie's annual salary, commencing on the Effective Date, shall be Two Hundred Twenty-Four Thousand Dollars (\$224,000).

2.2 Cost of Living Adjustments

Mr. Pirrie shall receive the same cost of living adjustments, if any, that are provided to Department Head employees who are part of the Claremont Management Association ("CMA") (or the most comparable successor bargaining unit), with such adjustments to become effective at the same time they become effective for Department Head employees.

2.3 Deferred Compensation

The City shall also provide an annual deferred compensation payment to Mr. Pirrie, as provided for in Section 4 below.

3. PERFORMANCE EVALUATION

3.1 Initial Term

The City Council shall conduct an initial review of Mr. Pirrie in a noticed closed session meeting on or before September 30, 2021.

3.2 Extended Term(s)

On or before July 31 of each calendar year, the City Council shall conduct a review of Mr. Pirrie in a noticed closed session meeting to evaluate Mr. Pirrie's performance and compensation.

4. FRINGE BENEFITS

Except as otherwise expressly provided in this Agreement, City shall provide to Mr. Pirrie those fringe benefits provided to Department Head employees of the City as set forth in the Benefit Summary Sheet applicable to Department Heads as of July 1, 2020, or as such Sheet may be amended from time to time by a vote of the City Council. In addition, Mr. Pirrie shall receive the same long-term disability insurance benefits and the same life insurance benefit provided to non-sworn Department Heads. However, Mr. Pirrie shall not receive the following fringe benefits which may be provided to Department Heads: deferred compensation, automobile or auto allowance, and vacation leave, all of which are provided for separately in this Agreement.

Notwithstanding Mr. Pirrie's non-receipt of the deferred compensation benefit set forth in the Benefit Summary Sheet, Mr. Pirrie shall receive from City a payment of One Thousand Dollars (\$1,000) each month paid into City's Deferred Compensation Plan. City shall contribute \$1,294 per month towards health, dental and vision insurance for Mr. Pirrie. If Mr. Pirrie does not use the full amount, Mr. Pirrie shall receive the remaining amount as taxable income. Mr. Pirrie may contribute through tax-deferred payroll deductions any amount up to the maximum allowable under law to the 457 Deferred Compensation Plan.

City shall continue to participate in the California Public Employees Retirement System (PERS) on behalf of Mr. Pirrie and City shall pay for the City's obligation to PERS. Mr. Pirrie shall pay his obligation of eight percent (8%) of Mr. Pirrie's member contribution for PERS retirement benefits.

5. TRANSPORTATION.

5.1 Auto Allowance

In exchange for Mr. Pirrie having a personal vehicle available on a daily basis for work related business, Mr. Pirrie shall receive \$450 per month.

6. VACATION TIME.

6.1 Vacation Time

Mr. Pirrie shall accrue four (4) weeks' vacation leave (total 160 hours) during each fiscal year of the term of this Agreement. Unused vacation time exceeding the maximum sum specified for City Department Heads that is not cashed out on an annual basis in accordance with the same terms and conditions applicable to Department Heads shall not be reimbursed or payable to Mr. Pirrie by City. Once the maximum sum of vacation time has been accrued in a year, Mr. Pirrie shall stop accruing vacation time for that year.

7. EXPENSE REIMBURSEMENTS.

Mr. Pirrie shall be reimbursed for actual and reasonable business expenses incurred during the performance of his duties as City Manager. Mr. Pirrie must provide copies of receipts or other detail to the Finance Department prior to receiving reimbursement of business expenses. If Mr. Pirrie is simultaneously serving as both City Manager and Finance Director, a different employee in the Finance Department shall process Mr. Pirrie's reimbursement requests.

8. DUTIES

8.1 Statutory Duties

Mr. Pirrie shall perform the duties of the City Manager as prescribed by the Claremont Municipal Code, including but not limited to Chapter 2.04. In addition to the powers and duties set forth in the Claremont Municipal Code, the City Manager shall have such powers and duties which are delegated to him by the City Council. The City Manager shall execute all of his powers and duties in accordance with the policies adopted by the City Council and applicable provisions of the California Government Code.

8.2 City Manager and City Council Responsibilities

The City Manager shall be the Chief Executive Officer of the City and the Claremont Successor Agency. As such, the City Manager shall have the responsibility for implementing City Council policy, whereas the City Council shall retain the responsibility for formulating and adopting said policy. The City Manager shall only implement those City Council policies which are approved by a majority vote of the City Council. The City Manager shall not take action to implement any action or participate in any activity concerning City policy without direction in the form of a majority vote of the City Council. City Manager shall keep all members of the City Council informed of his progress in implementing City policy and shall ensure that all members of the City Council receive copies of all written work product, information or correspondence concerning City business requested by any one or more members of the Council.

8.3 Personnel Matters

The City Manager shall have the additional responsibility of organizing, reorganizing and arranging the staff of the City in such a way that in his judgment best serves the City, consistent with applicable provisions of the Claremont Municipal Code, adopted City Council policies, and California law (including without limitation the Meyers Miliias Brown Act, California Government Code Sections 3500 *et seq.*). The City Manager shall have such responsibility in all personnel matters, including selection, assignment and transfer of employees in accordance with City's Personnel Rules.

City Council Members, individually and collectively, will promptly refer to City Manager for study and recommendations all criticisms, complaints, and suggestions called to their attention concerning the foregoing matters. The City Manager shall promptly review such matters and report back to all members of the City Council within a reasonable period of time. The City Manager shall consult with City Council Members, individually or collectively, on any personnel matter when requested to do so by one or more City Council Members, subject to the requirements of the Ralph M. Brown Act, Government Code Section 54950, *et seq.*

Notwithstanding Section 2.04.060(C) of the Claremont Municipal Code, contracts with Department Heads shall be approved as to form by the City Attorney, and the City Manager must obtain advance approval from the City Council for any contract with a Department Head that has any term(s) (including without limitation, a severance provision) that is valued at twenty-five thousand dollars (\$25,000) or more above the compensation and benefits that would be provided to Department Heads under the CMA's then-current Memorandum of Understanding (MOU).

8.4 Other Duties

The City Manager (or his designee) shall: (1) review all policies proposed to the City Council and make appropriate recommendations to the City Council; (2) annually, at a minimum, evaluate employees as provided for by California law and City policy; (3)

advise the City Council of possible sources of funds that might be available to implement then-current or contemplated City programs or services; (4) maintain and improve his professional competence by available means, including subscribing to and reading appropriate periodicals, and joining and participating in appropriate professional associations and their activities; (5) establish and maintain an appropriate community relations program; (6) serve as liaison between the City Council and as its designated representative with respect to all employer-employee matters, and make recommendations to the City Council concerning those matters; (7) complete (or supervise the completion) of a obligations outlined in any work plan approved by the City Council; and (8) fulfill any other written directive issued to Mr. Pirrie by the City Council. For purposes of this Section, a written directive may be in the form of correspondence from an individual member of the City Council authorized to give such directive by a majority of the City Council or in the form of the official open and closed session minutes of the City Council. Notwithstanding that a designee of the City Manager may perform various of said duties from time to time, the City Manager shall be the person ultimately responsible to the City Council for the proper implementation of the duties and responsibilities described herein.

9. RESIGNATION, TERMINATION, AND DISCIPLINE.

9.1 At-Will Employee

Mr. Pirrie shall serve at the will and pleasure of the City Council and may be removed from office (terminated) at any time for any reason or for no reason upon the affirmative vote of at least three members of the City Council at a regularly scheduled, non-adjourned meeting of the City Council. Nothing in this Agreement shall prevent the City Council from terminating this Agreement and the services of Mr. Pirrie at its sole discretion.

9.2 Termination Without Cause

In the event Mr. Pirrie is terminated without cause, and at such time Mr. Pirrie is willing and able to perform his duties under this Agreement, City shall pay to Mr. Pirrie a severance payment ("Severance Payment"). The amount of the Severance Payment shall be the equivalent of six (6) months' of Mr. Pirrie's then-current compensation.

Mr. Pirrie and the City acknowledge and agree that there is a mutual benefit in advancing and maintaining a positive and final resolution to the employment relationship. In keeping with the spirit of this provision, and as a condition to the receipt of the Severance Payment and as partial consideration therefor, Mr. Pirrie agrees not to make any public or private statements critical or disparaging of the City, the City Council, its members, department heads, officers or employees. Mr. Pirrie further agrees that the Severance Payment shall be his sole remedy for a termination without cause. The Severance Payment shall be not be paid to Mr. Pirrie unless and until Mr. Pirrie executes a waiver and release agreement prepared by the City Attorney in a form substantially similar to that one set forth as Exhibit "A" to this Agreement.

Notwithstanding the foregoing, City and Mr. Pirrie mutually acknowledge and agree that as of the Effective Date of this Agreement, the 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"). The City does not covenant in this Agreement to remain a member of CJPIA or to ensure that CJPIA continues to maintain the CESP during any Term of this Agreement, but if the CESP or similar program is in effect upon the date Mr. Pirrie is terminated without cause, nothing in this Agreement is intended to limit or restrict Mr. Pirrie's entitlement to an additional separation payment pursuant to the CESP, provided that Mr. Pirrie satisfies all of the terms and conditions of such program. The Severance Payment provided for herein shall be in addition to, and not offset by, any payment to which the City Manager may otherwise be entitled to, or qualify for, through the CESP.

The City Council shall not issue a notice of termination or actually terminate the City Manager without cause during or within thirty (30) days before or thirty (30) days after the date of a regularly scheduled municipal election at which one or more member of the City Council is or are elected. Notwithstanding the foregoing, the City retains its authority to terminate the City Manager for cause at any time as explicitly provided for in Section 9.3 herein.

9.3 Termination For Cause

If the City Manager is terminated for "cause," then he shall not be entitled to the Severance Payment or any other severance benefit. Any of the following shall constitute "cause" for termination and/or removal:

- (1) Any conduct that constitutes theft, embezzlement, or unlawful discrimination (whether or not such conduct results in a conviction or civil liability);
- (2) Any act of "terrorism" or "terrorizing" as defined by Penal Code section 11410 et seq. (whether or not such conduct results in a conviction or civil liability);
- (3) Conviction of a felony or misdemeanor;
- (4) Persistent violation of or refusal to obey the federal, state, and/or local laws, regulations, and orders;
- (5) Willful dishonesty in regards to employment;
- (6) Knowingly and unlawfully participating in a governmental decision in which he has a conflict of interest as defined in Government Code sections 87100, et seq., or Government Code sections 1090 et seq.;

(7) Performance of outside business interests, or participation in transactions, contracts, or financial activities that conflict directly with City's policies or activities, without prior consent of any such conflict in writing by City Council;

(8) Abuse of alcohol, prescription medications, stimulants, or controlled substances that materially affects City Manager's discharge of his duties;

(9) Failure or inability to perform assigned duties as outlined in Chapter 2.04 of the Claremont Municipal Code and Section 8 of this Agreement

(10) Failure to follow a written directive of the City Council, after written notice of such failure is provided to City Manager;

(11) Conduct that is publicly insubordinate, or humiliating, or demeaning to the City, City staff, or the City Council;

(12) Gross insubordination to the City Council;

(13) Repeated or recurring unexcused absences from the City Manager office, City Hall, or City Manager's duties;

(14) Evident unfitness for service (e.g., persistent failure to perform duties competently);

(15) Willful destruction or misuse of City property;

(16) Willful unauthorized taking of City funds or property;

(17) Willful and unlawful retaliation against any employee, officer, official, manager, agent, or representative of the City, or member of the general public, who in good faith reports, discloses, reveals, or divulges to any appropriate authority, any violation of law, or any facts or information pertaining thereto;

(18) Willful disclosure of closed session confidential communications, attorney-client confidential communications, or other information whose confidentiality is privileged or protected by law; and

(19) Any other acts determined by the City Council to have been carried out in bad faith and willfully to the detriment of the City.

Apart from such grounds for removal as are otherwise defined under state law or this Agreement, the City Council shall have sole discretion to determine what constitutes appropriate "cause" for termination of City Manager.

9.4 Discipline

Nothing in this Agreement shall prohibit City from imposing discipline less than termination upon City Manager, including written reprimands, or suspensions. Such discipline may be imposed by City in its discretion.

9.5 Crime Involving Office or Position

Pursuant to Government Code sections 53243, 53243.1 and 53243.2, if City Manager is convicted of a crime involving an abuse of his office or position, all of the following shall apply: (1) if City Manager is provided with administrative leave pay pending an investigation, City Manager shall be required to fully reimburse City such amounts paid; (2) if City pays for the criminal legal defense of City Manager (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), City Manager shall be required to fully reimburse City such amounts paid. For purposes of this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (2) a crime against public justice, including, but not limited to, a crime described in Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

9.6 Resignation

If Mr. Pirrie desires to resign his position, he shall provide the City Council with at least thirty (30) calendar days' notice, in writing. In the event Mr. Pirrie resigns from his employment with City, Mr. Pirrie shall not be entitled to the Severance Payment (as defined below in Section 9.2) or any other severance benefit. The City Council may waive the thirty (30) day written notice requirement.

9.7 Disability

If the City Manager is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for up to ninety (90) days of any accrued sick leave to which City Manager is entitled, or for the legal duration of the Family and Medical Leave Act (whichever is greater), City shall have the option to terminate this Agreement. Termination pursuant to this Section will not subject the City to payment of the Severance Payment or any other severance benefit. However, City Manager shall be compensated for any accrued vacation, holidays, and other accrued benefits on the same basis as any other employee of the City pursuant to the Personnel Rules.

9.8 Reduction of Salary or Benefits

The City Council shall not at any time during the term of this Agreement reduce the base salary, compensation or fringe benefits of the City Manager, except as agreed to in writing by the City Council and the City Manager.

10. OPTIONAL RETURN TO FINANCE DIRECTOR POSITION

During the Initial Term, if the City Council initiates a search for a new City Manager or terminates Mr. Pirrie's employment as City Manager without cause, or if Mr. Pirrie resigns from the position of City Manager, Mr. Pirrie shall have the option to return to his former position as the City's Finance Director ("Reinstatement Option"). If Mr. Pirrie chooses this Reinstatement Option, his compensation and benefits shall be subject to the then-current MOU with the CMA, with the compensation and benefits Mr. Pirrie would receive if he had continued to work as Finance Director from October 22, 2020 until the date of reinstatement (rather than Acting City Manager and City Manager). If the City Council initiates a search for a new City Manager during the Initial Term, but has not completed the search prior to the expiration of the Initial Term, then Mr. Pirrie will continue to have a Reinstatement Option while the City Council diligently pursues that search. Except as set forth above, the Reinstatement Option shall terminate at the end of the Initial Term.

If Mr. Pirrie chooses the Reinstatement Option, this Agreement shall automatically terminate on the date a new City Manager (including an Acting City Manager or Interim City Manager) is appointed, and Mr. Pirrie shall not be entitled to the Severance Payment or any other separation benefits set forth in Section 9.2 of this Agreement. If the City Council terminates Mr. Pirrie for cause, he shall not be entitled to the Reinstatement Option.

The Parties acknowledge that Mr. Pirrie does not intend to hire or appoint a permanent Finance Director while the Reinstatement Option is available to Mr. Pirrie. If Mr. Pirrie hires or appoints someone to the position of Finance Director who would be owed separation benefits in order for Mr. Pirrie to exercise the Reinstatement Option, then the Reinstatement Option shall automatically terminate. This provision shall not prevent Mr. Pirrie from appointing an acting Finance Director or hiring a contractor or retired annuitant to assist with the duties of Finance Director.

11. GENERAL PROVISIONS.

11.1 This Agreement supersedes any and all other agreements, either oral or written, between the Parties hereto with respect to the employment of Mr. Pirrie by City and contains all of the covenants and agreements between the Parties with respect to the employment of Mr. Pirrie by City.

11.2 Each Party agrees and acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by either Party or anyone acting on its or her behalf which are not embodied herein and that any agreement, statement, or promise not contained in this Agreement shall not be valid or binding on either Party.

11.3 Any modification of this Agreement will be effective only if made in writing and signed by both Mr. Pirrie and City after approval by the City Council.

11.4 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

11.5 This Agreement shall be governed by and construed in accordance with the internal laws of the State of California, without regard to conflict of laws principles.

11.6 This Agreement shall be construed as a whole, according to its fair meaning, and not in favor or against either Party. By way of example and not in limitation, this Agreement shall not be construed in favor of the Party receiving a benefit nor against the Party responsible for drafting or preparation of any particular language set forth in this Agreement.

11.7 Mr. Pirrie acknowledges that he has had an opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on her own judgment and not on any representations or promises other than those contained in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this City Manager Employment Agreement on the 23rd day of February, 2021.

[Signatures on Following Page]

CITY MANAGER




Adam Pirrie

CITY OF CLAREMONT



Jennifer Stark
Mayor

APPROVED TO FORM AND CONTENT:



City Attorney

ATTEST:



Shelley Desautels
City Clerk

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 CLAREMONT (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 Manager serves at the will and pleasure of the City Council and may be terminated with or without cause, and without right of appeal, at any time.

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

D. 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 Severance Payment.** In consideration of the releases as set forth in this Agreement, the City shall pay the City Manager a Severance Payment equal to _____ (____) months of his salary (\$_____ per month x _____ months = \$_____), less any relevant taxes and other legally required withholdings ("Severance Payment"). The City shall provide the Severance Payment to the City Manager within _____ (____) business days after the Revocation Period (as defined herein) expires.

2. **Payout of Accrued Leave Time.** Within _____ (____) business 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) Vacation (____ hours) - \$_____;
- (b) Administrative Leave (____ hours) - \$_____; and
- (c) 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 origin 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, Los Angeles 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, Mr. Paulson 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 on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date set forth opposite their respective signatures.

DATE: _____, 20__

CITY OF CLAREMONT

_____, Mayor

APPROVED AS TO FORM:

_____, City Attorney

DATE: _____, 20__

CITY MANAGER

[NAME]

IN CONSULTATION WITH:

_____, Legal Counsel for
City Manager