

EMPLOYMENT AGREEMENT

This Agreement is made as of _____, 201__, by and between the City of Manhattan Beach, a California municipal corporation (“City” or “Employer”), and [name], an individual (“Employee”).

RECITALS

- A. Employee has been or will be employed in the City as _____ (“Classification”) for the City.
- B. Employer either has appointed or desires to appoint Employee and Employee has accepted or desires to accept appointment in the Classification.
- C. Employee represents that he/she has the requisite specialized skills, training, certifications, licenses, and authorizations and is otherwise qualified to serve in the Classification.
- D. In connection with and contingent on Employee’s acceptance of employment in the Classification, Employer and Employee wish to enter into an Employment Agreement that sets forth the rights and obligations of the parties and that will supersede all prior negotiations, discussions or agreements. Where Employee is employed by City prior to executing this Agreement, the parties intend for this Agreement to continue the employment relationship between the City and the Employee without interruption.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, Employer and Employee agree as follows:

1. COMMENCEMENT OF EMPLOYMENT. The City Manager has appointed or appoints Employee and Employee has accepted or accepts appointment in the Classification, effective _____, subject to the terms and conditions of this Agreement. If Employee is employed by City prior to executing this Agreement, the employment relationship between Employer and Employee continues without interruption. Except as otherwise provided in this Agreement, from and after the date of this Agreement the terms of the employment relationship will be governed by this Agreement.

2. DUTIES AND AUTHORITY. Employee shall exercise the full powers and perform the duties of the Classification, as set forth in the job description (if any) as well as all other applicable City ordinances, laws, rules, regulations and procedures, as they now exist or as they may hereafter be amended. Employee shall exercise such other powers and perform such other duties as the City Manager or the City Manager’s designee may require from time to time.

3. EMPLOYEE’S OBLIGATIONS. Employee shall devote Employee’s full energy, interest, abilities and productive time to the performance of the terms of this

Agreement, and utilize Employee's best efforts to promote the City's interests. Employee shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which is actually or potentially in conflict with or inimical to, or which interferes with, his/her duties and responsibilities to Employer, except as authorized in writing (including e-mail) by the City Manager. Employee shall obtain prior authorization from the City Manager or designee for any outside employment, consulting, teaching or enterprise.

4. SALARY AND BENEFITS.

A. Salary and Performance Pay.

(1) **Base Salary.** Employer shall pay Employee a base salary in accordance with the salary range established for the position in the Manhattan Beach Class and Salary Schedule adopted by the City Council. Employee's salary, effective _____, shall be \$_____ annually, subject to legally permissible, voluntary or required withholding, prorated and paid on Employer's normal paydays. Adjustments to the base salary, if any, will be reflected in Appendix A. Employee's salary is compensation for all hours worked. Employee shall be exempt from the overtime pay provisions of California law (if any) and federal law.

(2) **Salary Review and Performance Pay.** The City Manager may conduct salary reviews on an annual basis. The City Manager will set Employee's salary within the salary range adopted for Employee's classification. Performance pay, if any, shall be in an amount as determined by the City Manager, based on the level of completion of goals identified by the City Manager.

B. Employment Benefits. In addition to base salary and performance pay, if any, Employer shall provide to Employee the benefits listed on Appendix A and, where applicable, Appendix B. Employer reserves the right to enhance, reduce, terminate, and amend or to otherwise change its benefit programs at any time. Any such change to any benefit available under the personnel agreement shall apply to Employee, including any new or additional benefits, without the need to amend this Agreement. Such change shall be reflected in an amended Appendix A, which shall be affixed hereto as a replacement to the prior Appendix A.

C. Expenses. Employer recognizes that Employee may incur certain expenses of a non-personal and job-related nature. Employer agrees to reimburse or to pay such business expenses, which are authorized for reimbursement and incurred and submitted according to Employer's normal expense approval and reimbursement procedures. To be eligible for reimbursement, all expenses must be supported by documentation meeting Employer's normal requirements and must be submitted within time limits established by Employer, in accordance with AB 1234 and any applicable City ordinances, resolutions, rules, policies or procedures.

5. ANNUAL EVALUATIONS. On or before June 30 of each year, the City Manager may conduct an evaluation of Employee's performance. If the City Manager does not conduct said evaluation by June 30, the Employee may request, in writing, that

an evaluation be conducted. The absence of an annual evaluation shall not be deemed either a “negative” or a “positive” evaluation.

6. INDEMNIFICATION. Except as otherwise permitted, provided, limited or required by law, including without limitation California Government Code Sections 825, 995, and 995.2 through 995.8, the City will defend and pay any costs and judgments assessed against Employee arising out of an act or omission by Employee occurring in the course and scope of Employee’s performance of his/her duties under this Agreement.

7. OTHER TERMS AND CONDITIONS OF EMPLOYMENT. The City Manager may from time to time fix other terms and conditions of employment relating to the performance of Employee provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or applicable law.

8. AT-WILL RELATIONSHIP. Employee shall hold his/her position and continue in employment at the pleasure of the City Manager. Except as otherwise provided by law, or this Agreement, the City Manager may remove Employee from Employee’s position and may terminate this Agreement and the employment relationship with or without cause and with or without prior notice (except as designated below). Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign from employment with the City, subject only to Employee providing 30 calendar days’ prior written notice to the City of the resignation and termination of the Agreement.

9. TERM AND TERMINATION OF AGREEMENT.

A. Term. Subject to earlier termination, as provided in this Agreement, this Agreement shall remain in full force and effect for an initial term from the date of execution through and including December 31, 2016. Unless prior notice of non-renewal is given, this Agreement will automatically renew for subsequent one-year terms on January 1, 2017 and each January 1 thereafter. Notice of non-renewal must be in writing and must be given at least three months before the applicable December 31 termination date.

B. Termination Without Cause.

(1) Termination After One Year Without Cause. If Employer terminates this Agreement (thereby terminating Employee’s Employment), without cause (as defined in Paragraph C of this Section), after one full year of Executive Management service, Employer shall provide Employee prior notice of the termination date within a three-to-six month range, at the discretion of the City Manager.

In lieu of some or all of the notice under the previous paragraph, and at the City Manager’s discretion, the City Manager may provide Employee with three to six months’ severance pay (base salary and COBRA reimbursement) subject to the terms and conditions set forth below.

(2) Early Termination Without Cause. If Employer terminates this Agreement (thereby terminating Employee's Employment), without cause (as defined in Paragraph C of this Section), within one year of Executive Management service, Employer shall provide Employee up to three months' prior notice of the termination of this Agreement and the intended date of that termination.

In lieu of some or all of the notice under the previous paragraph, and at the City Manager's discretion, the City Manager may provide Employee with up to three months' severance (base salary and COBRA reimbursement) subject to the terms and conditions set forth below.

(3) Post Termination COBRA Reimbursement. If the City terminates Employee pursuant to this Paragraph B, City will reimburse Employee's elected COBRA benefits for the period of severance pay provided. The employee must provide the City with documentation verifying that payments to the insurer were made for the reimbursement to be non-taxable and excluded from wages.

C. Termination for Cause. For purposes of this Agreement, the following grounds for termination shall be considered termination for cause:

- (1) Conviction of a felony;
- (2) Conviction of a misdemeanor arising out of Employee's duties under this Agreement and involving a willful or intentional violation of law;
- (3) Willful abandonment of duties;
- (4) A pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted policy decisions of the City Manager; and/or
- (5) Any other action or inaction by Employee that materially and substantially impedes or disrupts the performance of Employer or its organizational units, is detrimental to employee safety or public safety, violates properly established rules or procedures, adversely affects the reputation of the City, its officers or employees, or has a substantial and adverse effect on Employer's interests.

D. Disputes. Except as otherwise mutually agreed, any dispute as to whether severance is excused under Section 9, Paragraph C, Sub-Paragraphs (4) and (5), above, shall be referred to arbitration before a single neutral arbitrator selected from a list of seven arbitrators requested from the California State Mediation and Conciliation Service. Employer will strike the first name and the parties will alternate striking names until one person is left who shall be designated as the arbitrator.

E. Compensation on Termination. Employer shall pay Employee for all services through the effective date of termination. Employee shall be paid for accrued and unused paid leave time, as provided and limited under the personnel rules.

However, under no circumstances shall Employee receive any amount in excess of the limitations provided in Government Code §§ 53260 – 53264, or other applicable law.

10. METHOD OF AMENDMENT. No amendments to this Agreement may be made except in writing signed and dated by Employer and Employee. Such amendments, if any, will be appended to this Agreement as a separate Appendix.

11. NOTICES. Any notice to Employer under this Agreement shall be given in writing to Employer, either by personal service or by registered or certified mail, postage prepaid, addressed to the City Manager's Office at the City's then principal place of business. Any such notice to Employee shall be given in writing and, if mailed, shall be addressed to Employee at Employee's home address then shown in Employer's files maintained by the Human Resources Department. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of delivery, if served personally on the party to whom notice is to be given, or (b) on the third calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this Section.

12. GENERAL PROVISIONS.

A. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

B. This Agreement sets forth the final, complete and exclusive agreement between Employer and Employee relating to the employment of Employee by Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The foregoing notwithstanding, Employee acknowledges that, except as expressly provided in this Agreement, Employee's employment is subject to Employer's generally applicable rules, policies and regulations, including those pertaining to employment matters, such as rules and regulations addressing equal employment opportunity, sexual harassment and violence in the workplace. Employee also acknowledges that unless otherwise expressly provided in this Agreement, Employee's employment is subject to the terms of the City's personnel rules, as amended from time to time.

C. This Agreement shall be interpreted and construed pursuant to and in accordance with the local laws of the State of California.

D. All Appendices referenced in this Agreement are hereby incorporated into the Agreement as if set forth in full herein. In the event of any material discrepancy between the terms of any exhibit so incorporated and the terms of this Agreement, the terms of this Agreement shall control.

E. Employee acknowledges that Employee has had the opportunity to review this Agreement and has conducted an independent review of the financial and legal effects of this Agreement. Employee acknowledges that Employee has made an

independent judgment regarding the financial and legal effects of this Agreement and has not relied upon any representation of Employer, its officers, agents or employees other than those expressly set forth in this Agreement.

13. APPENDICES.

A. Appendix A contains Employee's salary and benefits.

B. If the box to the left is checked, Appendix B is attached and incorporated into this Agreement as part of this Agreement. If there is any inconsistency between any provision of this Agreement and Appendix B, the provisions of this Agreement will prevail.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed personally or on its behalf by its duly authorized representative

Executed by the parties as of the date below at Manhattan Beach, California.

City of Manhattan Beach

[name]

By: _____
City Manager

Date: _____

ATTEST:

Liza Tamura, City Clerk

APPROVED AS TO FORM:

Quinn M. Barrow, City Attorney

Appendix A

**CITY OF MANHATTAN BEACH
SALARY AND BENEFITS SUMMARY FOR EMPLOYEE
(as of _____)**

SALARY HISTORY

Starting Annual Salary: _____
Annual Salary as of date of this Agreement (if different than starting annual salary): _____
Salary Adjustment, effective ____: _____
Salary Adjustment, effective ____: _____
Salary Adjustment, effective ____: _____

RETIREMENT – CalPERS

“Classic” Member

- 2%@55 formula; Employee pays 7% employee contribution
- Single highest year calculation

“New” Member

- 2%@62 formula; Employee pays half the “TOTAL normal cost” or the current contribution rate of similarly situated employees
- Average of the highest three years calculation

Retiree Medical:

- For eligible employees
- Department Heads - \$400/month until Medicare eligibility or age 65

GENERAL LEAVE

<u>Years of Service</u>	<u>Days per year</u>
Up to 5 years	25 days/year
5 years – 10 years	30 days/year
10+ years	35 days/year

HOLIDAYS

New Year’s Day
Martin Luther King Day
Presidents’ Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans’ Day
Thanksgiving Day
Friday following Thanksgiving Day
Christmas Day

MEDICAL AND DENTAL INSURANCE

- CalPERS Medical and Delta Dental Plans available
- City contribution for medical insurance for employee and dependents at PERS Choice premium level (max 95% of PERS Choice) plus additional \$70 per month for dental coverage or cash back

FLEXIBLE SPENDING ACCOUNTS

For healthcare and/or dependent care expenses

VISION INSURANCE

City paid vision plan for employees and eligible dependents

LONG TERM DISABILITY

- City paid coverage
- Plan pays 60% of salary after 60-day waiting period

SHORT TERM DISABILITY

- Optional coverage available
- Plan pays 60% of salary after 30-day waiting period

LIFE INSURANCE

- City paid coverage
- Benefit is 1.5 times annual base salary to a maximum of \$500,000
- Medex Travel Assist included with coverage

ICMA-RC DEFERRED COMPENSATION & RHS

- Income may be tax deferred through ICMA-RC 457 plan
- 4.5% of monthly compensation to a 401(a) plan
- 2.0% of monthly compensation to a RHS account through ICMA-RC

COMMUTER PROGRAM

Employees not eligible for a car allowance may participate in the commuter program and receive \$60 per month for carpooling to work and/or using other modes of transportation

TUITION REIMBURSEMENT

Up to \$2,500 for cost of tuition and books for job related classes

CAR ALLOWANCE

- \$400 per month
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FITNESS CENTER ON-SITE

Appendix B

If the box in Section 12 of the Agreement is checked, this Appendix includes additional terms and conditions that are attached and incorporated into the Agreement. If there is any inconsistency between any provision of this Appendix B and the Agreement, the provisions of the Agreement will prevail. This Appendix may be used, for example, to document an agreement as to separation of ranks for Executive Employees in the Police and Fire Departments. It can be used for other terms within the discretion of the City Manager consistent with the authority delegated by the City Council.

Name of Employee: _____

Date of Employment Agreement: _____

Position/Classification Title: _____

Additional Terms and Conditions: