

**AMENDMENT NO. 4 TO AMENDED AND RESTATED  
EMPLOYMENT AGREEMENT**

between



City of Seal Beach  
211 - 8th Street  
Seal Beach, CA 90740

&

Jill R. Ingram  
211- 8th Street  
Seal Beach, CA 90740

This Amendment No. 4 shall amend that certain Amended and Restated Employment Agreement dated July 1, 2013, as amended ("Agreement"), between the City of Seal Beach, a California charter city ("City") and Jill R. Ingram, an individual ("Employee").

**RECITALS**

A. City and Employee are parties to the Agreement, pursuant to which Employee serves as City Manager for City.

B. City and Employee wish to amend the Agreement as provided herein, to be effective as of December 9, 2019.

**AMENDMENT**

NOW, THEREFORE and in consideration of the foregoing, and of the mutual covenants and promises herein set forth, the parties agree to amend the Agreement as follows:

Section 1. Section 4 of the Agreement is hereby amended to read as follows:

"4. BASE SALARY. City shall pay Employee an annual base salary of \$239,828.58, to be paid effective as of first full pay period in July 2019. Effective first pay period on or following July 1, 2020, City shall pay Employee an annual base salary of \$251,820.01. Thereafter, at its sole discretion, the City Council shall consider merit adjustments commensurate with Employee's performance in accordance with the annual evaluation process pursuant to Section 6 of this Agreement. Employee's salary shall be subject to withholding and other applicable taxes, and shall be pro-rated and paid to Employee at the same time as other employees of City are paid. Employee shall be exempt from the overtime pay provisions of California and federal law."

All other terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 4 to be executed and attested, and incorporated into the Agreement:

CITY OF SEAL BEACH

EMPLOYEE

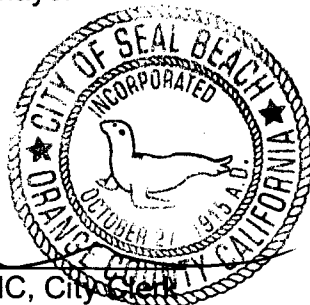
By: Thomas Moore  
Thomas Moore, Mayor

By: Jill R. Ingram  
Jill R. Ingram

Attest:

Approved as to Form:

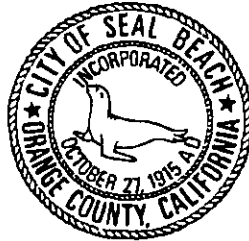
By: Gloria Harper  
Gloria Harper, CMC, City Clerk



By: Craig A. Steele  
Craig A. Steele, City Attorney

**AMENDMENT NO. 3 TO AMENDED AND RESTATED  
EMPLOYMENT AGREEMENT**

between



City of Seal Beach  
211 8th Street  
Seal Beach, CA 90740

&

Jill R. Ingram  
211 8th Street  
Seal Beach, CA 90740

This Amendment No. 3 shall amend that certain Amended and Restated Employment Agreement dated July 1, 2013, as amended ("Agreement"), between the City of Seal Beach, a California charter city ("City") and Jill R. Ingram, an individual ("Employee").

## RECITALS

A. City and Employee are parties to the Agreement, pursuant to which Employee serves as City Manager for City.

B. City and Employee wish to amend the Agreement as provided herein, to be effective as of November 1, 2017.

## AMENDMENT

NOW, THEREFORE and in consideration of the foregoing, and of the mutual covenants and promises herein set forth, the parties agree to amend the Agreement as follows:

Section 1. **Section 4** of the Agreement is hereby amended to read as follows (text to be added is underscored; text to be deleted is ~~struck through~~):

**4. BASE SALARY.** City shall pay Employee an annual base salary of ~~\$222,806.19~~ \$230,604.41, to be paid effective as of January 1, 2017. At its sole discretion, the City Council shall consider merit adjustments commensurate with Employee's performance in accordance with the evaluation process pursuant to Section 6 of this Agreement. Employee's salary shall be subject to withholding and other applicable taxes, and shall be pro-rated and paid to Employee at the same time as other employees of City are paid. Employee shall be exempt from the overtime pay provisions of California and federal law."

Section 2. **Section 8, Paragraph P** of the Agreement is hereby amended to read as follows:

**P. Deferred Compensation Plan.** Employee shall be entitled to participate in the City's deferred compensation plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall contribute ~~\$519.23~~ \$653.85 per pay period to the plan on behalf of Employee for a total of ~~\$13,500.00~~ \$17,000 per year, to be paid effective as of July 1, 2017."

Section 3. **Section 5.R** is hereby ADDED to the Agreement to read as follows:

**R. Medical Maintenance Examination/Wellness Program.** The City shall reimburse Employee, as a medical benefit, for Employee's actual documented expenses for medical maintenance exams or the cost of participation in wellness programs, in an amount not to exceed \$850 per fiscal year, subject to the City's normal reimbursement policies. Reimbursable expenses may include, but not be limited to, actual out of pocket expenses for annual physical examinations or other medical tests or examinations, participation in weight loss, stop smoking, fitness or other similar programs, or membership in a health or fitness club."

Section 4. Section 5.B is hereby amended to read as follows (text added is underlined):

"2. Employee shall accrue sick leave at the rate of 8 hours of sick leave per month. The maximum sick leave that can be accumulated is 520 hours. Sick leave accrual balance will be paid to Employee upon termination at 25% of her base rate of pay in cash and, if Employee is not Eligible for Retiree Health Benefits as provided in this Agreement and the City's Personnel Rules, an additional 25% of the accrual balance shall be deposited by the City into a Retiree Health Savings Account to be established for the benefit of the Employee."

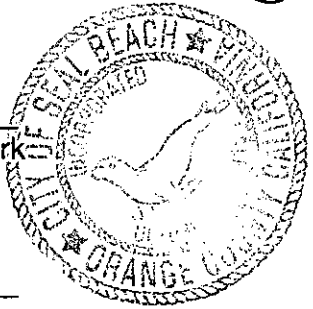
All other terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 3 to be executed and attested, and incorporated into the Agreement:

CITY OF SEAL BEACH  
By: Sandra Massa-Lavitt  
Sandra Massa-Lavitt, Mayor

EMPLOYEE  
By: Jill R. Ingram  
Jill R. Ingram

Attest:  
By: Robin L. Roberts  
Robin L. Roberts, MMC, City Clerk



Approved as to Form:  
By: Craig A. Steele  
Craig A. Steele, City Attorney

**AMENDMENT NO. 2 TO AMENDED AND RESTATED  
EMPLOYMENT AGREEMENT**

between



City of Seal Beach  
211 - 8th Street  
Seal Beach, CA 90740

&

Jill R. Ingram  
211- 8th Street  
Seal Beach, CA 90740

This Amendment No. 2 shall amend that certain Amended and Restated Employment Agreement dated July 1, 2013, as amended ("Agreement"), between the City of Seal Beach, a California charter city ("City") and Jill R. Ingram, an individual ("Employee").

## RECITALS

A. City and Employee are parties to the Agreement, pursuant to which Employee serves as City Manager for City.

B. City and Employee wish to amend the Agreement as provided herein. To be effective as of January 1, 2016.

## AMENDMENT

NOW, THEREFORE and in consideration of the foregoing, and of the mutual covenants and promises herein set forth, the parties agree to amend the Agreement as follows:

Section 1. **Section 4** of the Agreement is hereby amended to read as follows (text to be added is underscored; text to be deleted is ~~struck through~~):

**4. BASE SALARY.** City shall pay Employee an annual base salary of ~~\$210,197.50~~ \$222,806.19. At its sole discretion, the City Council shall consider merit adjustments commensurate with Employee's performance in accordance with the evaluation process pursuant to Section 6 of this Agreement. Employee's salary shall be subject to withholding and other applicable taxes, and shall be pro-rated and paid to Employee at the same time as other employees of City are paid. Employee shall be exempt from the overtime pay provisions of California and federal law."

~~Cost of Living Salary Increases. Salary increases are as follows:~~

~~First pay period on or following July 1, 2014 – CPI adjustment, up to 3% maximum, as measured utilizing the change in the California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations for Los Angeles – Riverside – Orange County for the 12 months of April 1, 2013 – March 31, 2014.~~

~~First pay period on or following July 1, 2015 – CPI adjustment, up to 3% maximum, as measured utilizing the change in the California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations for Los Angeles – Riverside – Orange County for the 12 months of April 1, 2014 – March 31, 2015.~~

Section 2. **Section 8, Paragraph P** of the Agreement is hereby amended to read as follows:

**P. Deferred Compensation Plan.** Employee shall be entitled to participate in the City's deferred compensation plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall contribute ~~\$519.23~~ \$384.61 per pay period to the plan on behalf of Employee for a total of ~~\$13,500.00~~ \$10,000 per year."

Section 3. All other terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 2 to be executed and attested, and incorporated into the Agreement:

CITY OF SEAL BEACH

By: *Sandra Massa-Lavitt*  
Sandra Massa-Lavitt, Mayor

EMPLOYEE

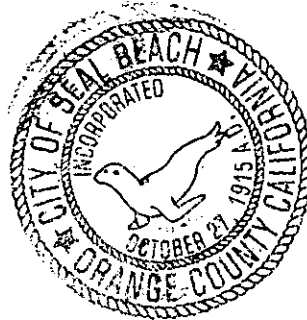
By: *Jill R. Ingram*  
Jill R. Ingram

Attest:

By: *Robin L. Roberts*  
Robin L. Roberts, MMC, City Clerk

Approved as to Form:

By: *Craig A. Steele*  
Craig A. Steele, City Attorney





**AMENDMENT NO. 1 TO AMENDED AND RESTATED  
EMPLOYMENT AGREEMENT**

between



City of Seal Beach  
211 - 8th Street  
Seal Beach, CA 90740

&

Jill R. Ingram  
211- 8th Street  
Seal Beach, CA 90740

This Amendment No. 1, dated August 11, 2014, amends that certain Amended and Restated Employment Agreement ("Agreement") dated July 1, 2013 between the City of Seal Beach, a California charter city ("City") and Jill R. Ingram, an individual ("Employee").

**RECITALS**

A. City and Employee are parties to the Agreement, pursuant to which Employee serves as City Manager for City.

B. City and Employee wish to amend the Agreement to as provided herein.

**AMENDMENT**

NOW, THEREFORE and in consideration of the foregoing and of the mutual covenants and promises herein set forth, the parties agree to amend the Agreement as follows:

Section 1. Section 6 of the Agreement is hereby amended to read as follows:

**6. ANNUAL EVALUATIONS AND SALARY REVIEW.** On or before March 1 of each year or such later date as the parties mutually agree, the City Council shall conduct an evaluation of Employee's performance. During that evaluation, the City Council and Employee shall mutually establish performance goals and objectives to be met by Employee during the following year. In addition, the City Council shall review Employee's salary and benefits as part of the evaluation process and may do so at any other time.

Section 2. Section 8, Paragraph C of the Agreement is hereby amended to read as follows:

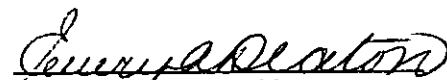
"C. Employee Initiated Termination. Employee may terminate this Agreement by providing City 30 days' prior written notice."

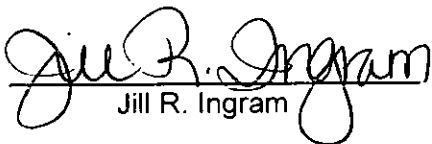
Section 3. All other terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to be executed and attested:


CITY OF SEAL BEACH

EMPLOYEE

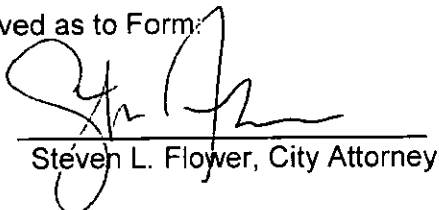
By:   
Ellery A. Deaton, Mayor

By:   
Jill R. Ingram

Attest:

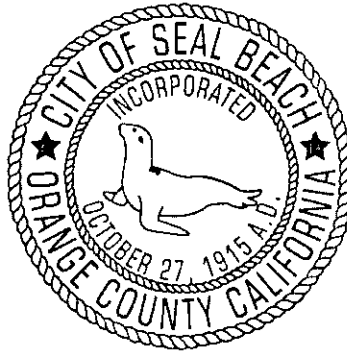
By:   
Linda Devine, City Clerk

Approved as to Form:

By:   
Steven L. Flower, City Attorney

# AMENDED AND RESTATED EMPLOYMENT AGREEMENT

Between



City of Seal Beach  
211 - 8th Street  
Seal Beach, CA 90740

&

Jill R. Ingram  
211- 8th Street  
Seal Beach, CA 90740

## RECITALS

A. On October 2, 2008, the City of Seal Beach ("City") hired Jill R. Ingram ("Employee") as the Assistant to the City Manager for the City.

B. Effective July 1, 2011, the City and Employee entered into an employment agreement ("Initial Agreement") under which the City hired Employee as City Manager for the City.

City and Employee wish to enter into a restated and amended agreement ("Agreement" hereinafter) to extend the term and amend the Initial Agreement.

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

1. **EFFECTIVE DATE.** Employee commenced her services as City Manager on July 1, 2011. The effective date of this Agreement is **July 1, 2013.**

2. **DUTIES AND AUTHORITY.** Employee shall exercise the powers and perform the duties of the position of City Manager as set forth in the City Charter, City Municipal Code, personnel rules, regulations and procedures and City Manager job description, as each of them currently or may in the future exist. Employee shall exercise such other powers and perform such other duties as City, by the City Council, may from time to time assign.

3. **EMPLOYEE'S OBLIGATIONS.** Employee shall devote her full energies, interests, abilities and productive time to the performance of this Agreement, and utilize her best efforts to promote 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 materially interferes, with her duties and responsibilities to City.

4. **BASE SALARY.** City shall pay Employee an annual base salary of \$210,197.50. At its sole discretion, the City Council shall consider merit adjustments commensurate with Employee's performance in accordance with the evaluation process pursuant to Section 6 of this Agreement. Employee's salary shall be subject to withholding and other applicable taxes, and shall be pro-rated and paid to Employee at the same time as other employees of City are paid. Employee shall be exempt from the overtime pay provisions of California and federal law.

A. **Cost of Living Salary Increases.** Salary increases are as follows:

1. **First pay period on or following July 1, 2014** - CPI adjustment, up to 3% maximum, as measured utilizing the change in the California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations for Los Angeles - Riverside - Orange County for the 12 months of April 1, 2013 – March 31, 2014.

2. First pay period on or following July 1, 2015 - CPI adjustment, up to 3% maximum, as measured utilizing the change in the California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations for Los Angeles - Riverside - Orange County for the 12 months of April 1, 2014 - March 31, 2015.

5. **BENEFITS**. In addition to base salary, City shall provide to Employee the following benefits:

A. Holidays. Employee shall be entitled to the holidays generally available to other exempt employees of City. Employee's salary includes holiday pay. Accordingly, Employee shall not be entitled to any additional salary or compensation for working on a holiday.

B. Sick Leave. Employee shall accrue sick leave at the rate of 8 hours of sick leave per month. The maximum sick leave that can be accumulated is 520 hours. Upon termination of employment with the City, Employee will be paid for accumulated sick leave hours at 25% of her base salary hourly rate.

C. Vacation Leave. Employee shall receive vacation leave benefits in the amount of 136 hours annually (5.23 hours per pay period). Employee shall be entitled to 8 additional hours of vacation leave benefits annually on October 20, 2011, her anniversary date. On her anniversary date in the following years of this Agreement, Employee shall be entitled to an additional 8 hours of vacation leave benefits. Vacation leave shall be scheduled with the City Council at least two weeks in advance, unless otherwise arranged with the Mayor. Once each calendar year, Employee may elect to sell back up to 160 hours of accumulated vacation leave benefits and receive cash compensation therefor at her then existing base salary hourly rate. The maximum vacation leave that can be accumulated is 320 hours. When Employee's accumulated vacation leave balance reaches the maximum, Employee shall cease earning additional vacation leave benefits until her accumulated vacation leave balance drops below the maximum accumulation limit.

D. Administrative Leave. Employee shall be entitled to 48 hours of administrative leave per fiscal year. Administrative leave hours may neither be carried forward to succeeding years nor converted to cash payment.

E. Health Insurance Coverage. Employee shall be provided an opportunity to participate in City's group hospital, medical and dental insurance plan. City shall contribute to the cost of medical coverage for Employee and her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) minimum contribution.

F. Cafeteria Plan. Employee shall participate in City's full flex cafeteria plan. Effective January 1, 2010, City currently provides Employee with a \$955 monthly flex dollar allowance to be used for the purchase of benefits under the full flex cafeteria plan. A portion of the monthly flex dollar allowance is identified as the City's

contribution towards PEMHCA. Each year, the City shall increase the contribution amount above by the percentage of increase for basic plans published in the CalPERS circular letter setting health insurance premiums for the coverage year. Employee shall be required to pay any premium amounts in excess of the above City contribution. Such amounts will be deducted from Employee's payroll check on the first two pay periods of each month.

G. Automobile.

1. City shall provide to Employee a monthly automobile allowance of \$500. Such amount is designed to reimburse Employee for all costs associated with the use of Employee's automobile for City business, including but not limited to all applicable costs of automobile liability insurance, maintenance, operating expenses, depreciation and interest.

2. Employee shall maintain all records required by applicable California and federal law concerning use of such automobile, including without limitation records to substantiate personal and City-related use of such automobile.

3. Employee currently has an automobile liability insurance policy with \$250,000/\$500,000/\$100,000 maximum coverage, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. Unless otherwise required by the City, Employee will maintain a policy with such coverage and limits throughout the term of this Agreement. If City requires Employee to secure and maintain an insurance policy with greater coverage than said coverage set forth in the insurance policy currently insuring Employee, and as a result of such requirement, Employee's premium cost for such policy containing greater coverage is higher than the premium cost of her insurance policy, City shall pay the difference. Employee shall name City, and its Council members, officials and employees as additional insured on her policy; and deliver to City copies of such insurance endorsements and certificate of insurance. Such insurance policy shall provide that the insurance coverage shall not be canceled, reduced or otherwise modified by Employee or by Employee's insurance carrier without at least 30 days prior written notice, served on City personally by said insurance company.

H. Retirement Plan. Employee is required to participate in City's California Public Employees' Retirement System (CalPERS) retirement program and to make an employee contribution toward the program in the amount of seven percent (7%) of her compensation earnable. The City shall pay the following amounts toward the Employee's CalPERS required contribution of seven percent (7%) of her compensation earnable:

1. Effective first pay period on or following July 1, 2013:  
3% (Employee pays 4%).

2. Effective first pay period on or following July 1, 2014:  
1% (Employee pays 6%).

3. Effective first pay period on or following July 1, 2015:  
nothing (Employee pays 7%).

I. Bereavement Leave. Employee shall be eligible for bereavement leave as generally available to other executive management employees of City.

J. Mobile Phone. City shall provide Employee with a \$100 per month allowance for mobile phone charges incurred in the performance of her official City business and duties.

K. Life Insurance and Income Continuation Policy. Employee shall receive a \$50,000 life insurance policy paid by City.

L. Professional Expenses and Dues. Provided the City Council has previously budgeted for such expenses, City shall pay all reasonable and necessary business expenses, including dues and subscriptions in local civic organizations, regional organizations, state organizations and national organizations upon Employee's submittal of invoices in accordance with City's standard reporting practice.

M. Professional Development. City shall pay all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred in continuing education within the state in accordance with the Municipal Code, as amended from time to time, City Resolutions and state law applicable to charter cities.

N. Reasonable and Necessary Expenses Incurred in the Performance of Official Duties. Pursuant to the City Charter and AB 1234, if applicable to charter cities, City shall reimburse Employee all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred in connection with the performance of her official duties.

O. Bonding. City shall bear the full costs of any fidelity or other bonds required of Employee under any law, City Charter provision, City ordinance or resolution by virtue of her employment as City Manager.

P. Deferred Compensation Plan. Employee shall be entitled to participate in the City's deferred compensation plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall contribute \$384.61 per pay period to the plan on behalf of Employee for a total of \$10,000 per year.

Q. Designation of Recipients Pursuant to Government Code Section 53245. Employee may file with the City a designation of a person who, notwithstanding any other provision of law, shall, on the death of Employee, be entitled to receive all warrants or checks that would have been payable to Employee had she survived.

Employee may change the designation from time-to-time. Any person so designated shall claim such warrants or checks from the City. On sufficient proof of identity, the City shall deliver the warrants or checks to the claimant. A person who receives a warrant or check pursuant to Government Code Section 53245 is entitled to negotiate it as if he or she were the payee.

**6. ANNUAL EVALUATIONS AND SALARY REVIEW.** On or before June 30 of each year, the City Council shall conduct an evaluation of Employee's performance. During that evaluation, the City Council and Employee shall mutually establish performance goals and objectives to be met by Employee during the following year. In addition, the City Council shall review Employee's salary and benefits as part of the evaluation process and may do so at any other time.

**7. 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 her duties under this Agreement.

**8. TERMINATION.**

A. Termination by City without Cause. Employee is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council may terminate this Agreement and the employment relationship at any time without cause. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the employment of Employee. The City shall pay Employee for all services through the effective date of termination. In addition, Employee shall receive severance to the extent provided in Section 9 and shall receive no other compensation or payment.

B. Termination by City with Cause. City may terminate this Agreement and Employee's employment with the City if:

1. Employee refuses or fails to perform the powers and duties of the City Manager as specified in Sections 2 and 3 of this Agreement, the City Charter or Municipal Code;

2. Employee has engaged in: corrupt or willful misconduct in office, any illegal act involving personal gain or willful malfeasance constituting grounds for removal from office due to an indictment of the grand jury; any act of dishonesty; actions that have or may have a substantial and adverse effect on City's interest; or is convicted of any felony or any misdemeanor involving moral turpitude. In no event shall a minor traffic offense or moving violation be considered a misdemeanor involving moral turpitude. In the event Employee is under investigation for any of the foregoing reasons, City may withhold part or all of any severance payment, until it is determined if charges will be filed, and if charges are filed, until final judgment is rendered. If charges



are not filed, or if Employee is found innocent, City shall pay any severance to which Employee is entitled; or

3. Employee breaches this Agreement, including, without limitation, any provision set forth in Section 2, "Duties and Authority," of this Agreement.

C. Employee Initiated Termination. Employee may terminate this Agreement by providing the City 90 days' prior written notice.

D. City Charter Section 607 and Municipal Code Section 3.15.020.

1. Prior to City initiated termination, City shall substantially comply with the provisions in City Charter Section 607 and Municipal Code Section 3.15.020.

2. Pursuant to Charter Section 607, the City may not terminate Employee during the 90-day period immediately after a councilmanic election.

3. Notwithstanding subsections 1 and 2 above, City may terminate Employee if Employee has engaged in corrupt or willful misconduct in office or any illegal act involving personal gain or is convicted of any felony or any misdemeanor involving moral turpitude. In such case the effective date of the termination is the date upon which City serves the notice of termination upon Employee.

E. Communications Upon Separation. In the event the City terminates Employee with or without cause, the City and Employee agree that no member of the City Council, nor any employee directly employed by the City Council, shall make any written, oral, or electronic statement to any member of the public, the press, or any City employee concerning the Employee's termination except in the form of a joint press release or statement, which is mutually agreeable to the City and the Employee. The joint press release or statement shall not contain any text or information that is disparaging to either Party. Either Party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

## **9. SEVERANCE.**

A. If City terminates this Agreement (thereby terminating Employee's employment with City) without cause pursuant to Section 8.A., City shall:

1. Pay Employee an amount equal to her then-monthly base salary for a period of 12 months, less interim compensation to which Employee becomes entitled to during the 12-month period following her termination. Employee shall use her best efforts and due diligence to secure employment with, become an independent contractor for, or otherwise provide services for compensation, for, any person, organization or entity, other than City; and

2. Provide at no cost to Employee the medical and dental insurance benefits provided by Section 5.E. herein, the deferred compensation provided

by Section 5.P., the automobile allowance as provided by Section 5.G.1., and the mobile phone allowance as provided by Section 5.J. for 12 months, or until Employee secures other employment, whichever occurs first.

B. Notwithstanding any other provision or the term of this Agreement, the maximum severance and health benefits that Employee may receive under this Agreement as a result of termination, shall not exceed the limitations provided in Government Code §§ 53260–53264.

C. As used in this Agreement, the term “interim compensation” shall include, but not be limited to: compensation, in any form, to which Employee is entitled from employment other than employment with City; compensation, in any form, to which Employee is entitled to as an independent contractor; and compensation, in any form, from any source, including, without limitation, unemployment and disability insurance, from any person, entity or source, to which Employee is otherwise entitled. Interim compensation shall not include retirement benefits or any payment received from the California Joint Powers Insurance Authority (“CJPIA”). Upon City’s request, Employee shall promptly provide City with documentary evidence of interim compensation.

D. In addition, City is a member of the CJPIA. The CJPIA provides to its members an Unemployment Protection Payment, as that term is defined in that certain Memorandum of Liability Coverage (“MOLC”) effective July 1, 2010, under which Employee can receive up to 6 monthly payments, subject to the terms and conditions set forth in the MOLC.

E. Employee shall not be entitled to severance pay:

1. If Employee terminates this Agreement; or
2. If City terminates this Agreement for cause for any of the reasons set forth in Section 8.B.

**10. INTEGRATION OF AGREEMENT.** This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning Employee’s employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

**11. METHOD OF AMENDMENT.** Amendments to this Agreement are effective only upon City Council and Employee written approval.

12. **NOTICES.** All notices pertaining to this Agreement shall be sent to:

EMPLOYEE: Jill Ingram  
City of Seal Beach  
211 Eighth Street  
Seal Beach, California 90740

CITY: City Clerk  
City of Seal Beach  
211 Eighth Street  
Seal Beach, California 90740

Such notice shall be deemed made when personally delivered, transmitted by facsimile, or when mailed, 48 hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

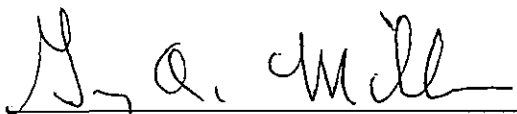
13. **GENERAL PROVISIONS.**

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 shall be interpreted and construed pursuant to and in accordance with the City Charter, applicable laws of the State of California and all applicable City Codes, Ordinances and Resolutions.

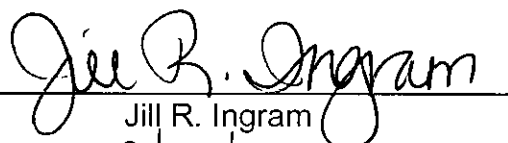
Executed by the parties as of the date below at Seal Beach, California.

CITY OF SEAL BEACH

By:   
Gary A. Miller, Mayor

Date: 09/23/13

EMPLOYEE

By:   
Jill R. Ingram

Date: 9/18/13

ATTEST:

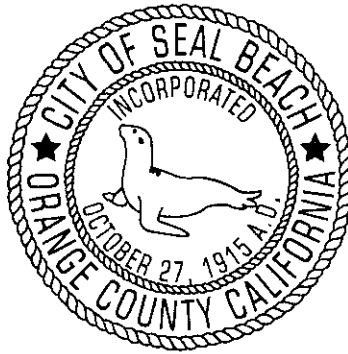
By:   
Linda Devine, City Clerk

APPROVED AS TO FORM

By:   
Quinn Barrow, City Attorney

# EMPLOYMENT AGREEMENT

Between



City of Seal Beach  
211 - 8th Street  
Seal Beach, CA 90740

&

Jill R. Ingram  
211- 8th Street  
Seal Beach, CA 90740

## RECITALS

- A. The City of Seal Beach ("City") desires to hire a City Manager and the Seal Beach Redevelopment Agency ("Agency") desires to hire an Executive Director.
- B. The City hired Jill Ingram ("Employee") on October 2, 2008 as the Assistant to the City Manager.
- C. City and Employee represent that Employee is qualified to perform the duties of City Manager for the City and Executive Director for the Agency.
- D. City and Employee wish to enter into an Employment Agreement that sets forth the rights and obligations of the parties.

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

1. **TERM.** Employee shall commence her services on July 1, 2011, which shall also be deemed the effective date of this Agreement. This Agreement shall expire on June 30, 2014, subject to Section 8 of this Agreement.

2. **DUTIES AND AUTHORITY.** Employee shall exercise the powers and perform the duties of the position of City Manager and Executive Director of the Seal Beach Redevelopment Agency as set forth in the City Charter, City Municipal Code, Agency by-laws, personnel rules, regulations and procedures and City Manager and Executive Director job descriptions, as each of them currently or may in the future exist. Employee shall exercise such other powers and perform such other duties as City, by the City Council, may from time to time assign.

3. **EMPLOYEE'S OBLIGATIONS.** Employee shall devote her full energies, interests, abilities and productive time to the performance of this Agreement, and utilize her best efforts to promote 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 materially interferes, with her duties and responsibilities to City.

4. **SALARY.** Base Salary. City shall pay Employee an annual base salary of \$190,000. At its sole discretion, the City Council shall consider merit adjustments commensurate with Employee's performance in accordance with the evaluation process pursuant to Section 6 of this Agreement. Employee's salary shall be subject to withholding and other applicable taxes, and shall be pro-rated and paid to Employee at the same time as other employees of City are paid. Employee shall be exempt from the overtime pay provisions of California and federal law.

5. **BENEFITS.** In addition to base salary, City shall provide to Employee the following benefits:

A. Holidays. Employee shall be entitled to the holidays generally available to other exempt employees of City. Employee's salary includes holiday pay. Accordingly, Employee shall not be entitled to any additional salary or compensation for working on a holiday.

B. Sick Leave. Employee shall accrue sick leave at the rate of 8 hours of sick leave per month. The maximum sick leave that can be accumulated is 520 hours. Upon termination of employment with the City, Employee will be paid for accumulated sick leave hours at 25% of her base salary hourly rate.

C. Vacation Leave. Employee shall receive vacation leave benefits in the amount of 136 hours annually (5.23 hours per pay period). Employee shall be entitled to 8 additional hours of vacation leave benefits annually on October 20, 2011, her anniversary date. On her anniversary date in the following years of this contract, Employee shall be entitled to an additional 8 hours of vacation leave benefits. Vacation leave shall be scheduled with the City Council at least two weeks in advance, unless otherwise arranged with the Mayor. Once each calendar year, Employee may elect to sell back up to 80 hours of accumulated vacation leave benefits and receive cash compensation therefor at her then existing base salary hourly rate. The maximum vacation leave that can be accumulated is 320 hours. When Employee's accumulated vacation leave balance reaches the maximum, Employee shall cease earning additional vacation leave benefits until her accumulated vacation leave balance drops below the maximum accumulation limit.

D. Administrative Leave. Employee shall be entitled to 48 hours of administrative leave per fiscal year. Administrative leave hours may neither be carried forward to succeeding years nor converted to cash payment.

E. Health Insurance Coverage. Employee shall be provided an opportunity to participate in City's group hospital, medical and dental insurance plan. City shall contribute to the cost of medical coverage for Employee and her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) minimum contribution.

F. Cafeteria Plan. Employee shall participate in City's full flex cafeteria plan. City currently provides Employee with a \$955 monthly flex dollar allowance to be used for the purchase of benefits under the full flex cafeteria plan. A portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. Each year, the City shall increase the contribution amount above by the percentage of increase for basic plans published in the CalPERS circular letter setting health insurance premiums for the coverage year. Employee shall be required to pay any premium amounts in excess of the above City contribution. Such amounts will be deducted from Employee's payroll check on the first two pay periods of each month.

G. Automobile.

(1) City shall provide to Employee a monthly automobile allowance of \$500. Such amount is designed to reimburse Employee for all costs associated with the use of Employee's automobile for City business, including but not limited to all applicable costs of automobile liability insurance, maintenance, operating expenses, depreciation and interest.

(2) Employee shall maintain all records required by applicable California and federal law concerning use of such automobile, including without limitation records to substantiate personal and City-related use of such automobile.

(3) Employee currently has an automobile liability insurance policy with \$250,000/\$500,000/\$100,000 maximum coverage, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. Unless otherwise required by the City, Employee will maintain a policy with such coverage and limits throughout the term of this Agreement. If City requires Employee to secure and maintain an insurance policy with greater coverage than said coverage set forth in the insurance policy currently insuring Employee, and as a result of such requirement, Employee's premium cost for such policy containing greater coverage is higher than the premium cost of her insurance policy, City shall pay the difference. Employee shall name City, and its Council members, officials and employees as additional insured on her policy; and deliver to City copies of such insurance endorsements and certificate of insurance. Such insurance policy shall provide that the insurance coverage shall not be canceled, reduced or otherwise modified by Employee or by Employee's insurance carrier without at least 30 days prior written notice, served on City personally by said insurance company.

H. Retirement Plan. Employee is required to participate in City's California Public Employees' Retirement System (CalPERS) retirement program and to make an employee contribution toward the program in the amount of seven percent (7%) of her compensation earnable. The City will pay, on behalf of Employee, a portion of the required employee contribution to CalPERS, as follows. City shall contribute the following amounts toward the required employee contribution to CalPERS: seven percent (7%) of Employee's compensation earnable in fiscal year 2011-12 and four percent (4%) of Employee's compensation earnable in fiscal year 2012-13. Thereafter, Employee shall make the entire required employee contribution to CalPERS.

I. Bereavement Leave. Employee shall be eligible for bereavement leave as generally available to other executive management employees of City.

J. Mobile Phone. City shall provide Employee with a \$100 per month allowance for mobile phone charges incurred in the performance of her official City business and duties.

K. Life Insurance and Income Continuation Policy. City shall provide Employee with a term life insurance policy and income continuation policy with the same terms as generally provided to other executive management employees of City.

L. Professional Expenses and Dues. Provided the City Council has previously budgeted for such expenses, City shall pay all reasonable and necessary business expenses, including dues and subscriptions in local civic organizations, regional organizations, state organizations and national organizations upon Employee's submittal of invoices in accordance with City's standard reporting practice.

M. Professional Development. City shall pay all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred in continuing education within the state in accordance with the Municipal Code, as amended from time to time, City Resolutions and state law applicable to charter cities.

N. Reasonable and Necessary Expenses Incurred in the Performance of Official Duties. Pursuant to the City Charter and AB 1234, if applicable to charter cities, City shall reimburse Employee all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred in connection with the performance of her official duties. Upon prior board approval, the Agency shall pay all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred to attract, maintain and retain development to locate in or relocate to the City.

O. Bonding. City shall bear the full costs of any fidelity or other bonds required of Employee under any law, City Charter provision, City ordinance or Agency resolution by virtue of her employment as City Manager or Executive Director.

P. Deferred Compensation Plan. Employee shall be entitled to participate in the City's deferred compensation plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall contribute \$307.69 per pay period to the plan on behalf of Employee for a total of \$8,000 per year.

Q. Designation of Recipients Pursuant to Government Code Section 53245. Employee may file with the City a designation of a person who, notwithstanding any other provision of law, shall, on the death of Employee, be entitled to receive all warrants or checks that would have been payable to Employee had she survived. Employee may change the designation from time to time. Any person so designated shall claim such warrants or checks from the City. On sufficient proof of identity, the City shall deliver the warrants or checks to the claimant. A person who receives a warrant or check pursuant to Government Code Section 53245 is entitled to negotiate it as if he or she were the payee.



6. **ANNUAL EVALUATIONS AND SALARY REVIEW.** On or before December 15, 2011, and, thereafter, June 30 of each year, the City Council shall conduct an evaluation of Employee's performance. During that evaluation, City Council and Employee shall mutually establish performance goals and objectives to be met by Employee during the following year. In addition, the City Council shall review Employee's salary and benefits as part of the evaluation process and may do so at any other time.

7. **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 her duties under this Agreement.

8. **TERMINATION.**

A. **Termination by City without Cause.** Employee is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council may terminate this Agreement and the employment relationship at any time without cause. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the employment of Employee. City shall pay Employee for all services through the effective date of termination. In addition, Employee shall receive severance to the extent provided in Section 9 and shall receive no other compensation or payment.

B. **Termination by City with Cause.** City may terminate this agreement and Employee's employment with the City if:

(1) Employee refuses or fails to perform the powers and duties of the City Manager as specified in Sections 2 and 3 of this Agreement, the City Charter or Municipal Code or the powers and duties of the Executive Director of the Agency as specified in the Agency By-Laws or any Agency Resolution;

(2) Employee has engaged in: corrupt or willful misconduct in office, any illegal act involving personal gain or willful malfeasance constituting grounds for removal from office due to an indictment of the grand jury; any act of dishonesty; actions that have or may have a substantial and adverse effect on City's interest; or is convicted of any felony or any misdemeanor involving moral turpitude. In no event shall a minor traffic offense or moving violation be considered a misdemeanor involving moral turpitude. In the event Employee is under investigation for any of the foregoing reasons, City may withhold part or all of any severance payment, until it is determined if charges will be filed, and if charges are filed, until final judgment is rendered. If charges are not filed, or if Employee is found innocent, City shall pay any severance to which Employee is entitled; or

(3) Employee breaches this Agreement, including, without limitation, any provision set forth in Section 2, "Duties and Authority," of this Agreement.

C. Termination during First Six Months of Contract. Either party may elect to terminate this Agreement on or before December 31, 2011 without cause by providing 15 days prior notice. In that event, City will return Employee to her prior position as Assistant City Manager, and Employee shall not be entitled to any severance damages. Employee's annual salary as the Assistant City Manager will be \$155,280. City cannot terminate Employee without cause during the one-year period immediately after the Employee returns to the Assistant City Manager position.

D. Employee initiated Termination. Employee may terminate this agreement by providing the City 90 days prior written notice.

E. City Charter Section 607 and Municipal Code Section 3.15.020.

(1) Prior to City initiated termination, City shall substantially comply with the provisions in City Charter Section 607 and Municipal Code Section 3.15.020.

(2) Pursuant to Charter Section 607, the City may not terminate Employee during the 90-day period immediately after a councilmanic election.

(3) Notwithstanding subsections (1) and (2), City may terminate Employee if Employee has engaged in corrupt or willful misconduct in office or any illegal act involving personal gain or is convicted of any felony or any misdemeanor involving moral turpitude. In such case, the effective date of the termination is the date upon which City serves the notice of termination upon Employee.

## 9. SEVERANCE.

A. If City terminates this Agreement (thereby terminating Employee's employment with City) without cause pursuant to Section 8A, City shall:

(1) Pay Employee an amount equal to her then-monthly base salary for a period of 6 months, less interim compensation to which Employee becomes entitled to during the 6-month period following her termination. Employee shall use her best efforts and due diligence to secure employment with, become an independent contractor for, or otherwise provide services for compensation, for, any person, organization or entity, other than City; and

(2) Provide at no cost to Employee the medical and dental insurance benefits provided by Section 5E herein and the deferred compensation provided by Section 5P herein for 6 months, or until Employee secures other employment, whichever occurs first.

B. Notwithstanding any other provision or the term of this Agreement, the maximum severance and health benefits that Employee may receive under this Agreement as a result of termination, shall not exceed the limitations provided in Government Code §§ 53260–53264.

C. As used in this Agreement, the term “interim compensation” shall include, but not be limited to: compensation, in any form, to which Employee is entitled from employment other than employment with City; compensation, in any form, to which Employee is entitled to as an independent contractor; and compensation, in any form, from any source, including, without limitation, unemployment and disability insurance, from any person, entity or source, to which Employee is otherwise entitled. Interim compensation shall not include retirement benefits or any payment received from the California Joint Powers Insurance Authority (“CJPIA”). Upon City’s request, Employee shall promptly provide City with documentary evidence of interim compensation.

D. In addition, City is a member of the CJPIA. The CJPIA provides to its members an Unemployment Protection Payment, as that term is defined in that certain Memorandum of Liability Coverage (“MOLC”) effective July 1, 2010, under which Employee can receive up to 6 monthly payments, subject to the terms and conditions set forth in the MOLC.

E. Employee shall not be entitled to severance pay:

- (1) If Employee terminates this Agreement;
- (2) Either party terminates this Agreement pursuant to Section

8C; or

(3) If City terminates this Agreement for cause for any of the reasons set forth in Section 8B.

**10. INTEGRATION OF AGREEMENT.** This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning Employee’s employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

**11. METHOD OF AMENDMENT.** Amendments to this Agreement are effective only upon City Council and Employee written approval.

**12. NOTICES.** All notices pertaining to this Agreement shall be sent to:

EMPLOYEE: Jill Ingram,  
City of Seal Beach  
211 Eighth Street  
Seal Beach, California 90740

CITY: City Clerk, City of Seal Beach  
211 Eighth Street  
Seal Beach, California 90740

Such notice shall be deemed made when personally delivered, transmitted by facsimile, or when mailed, 48 hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

**13. GENERAL PROVISIONS.**

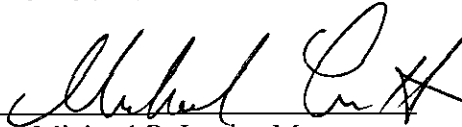
A. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect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

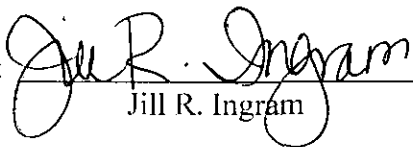
B. This Agreement shall be interpreted and construed pursuant to and in accordance with the City Charter, applicable laws of the State of California and all applicable City Codes, Ordinances and Resolutions.

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

CITY OF SEAL BEACH

EMPLOYEE

By:   
Michael P. Levitt, Mayor

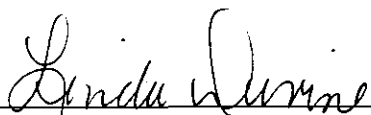
By:   
Jill R. Ingram


Date: June 13, 2011

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM

By:   
Linda Devine, City Clerk

By:   
Quinn Barrow, City Attorney

RESOLUTION NUMBER 6139

A RESOLUTION OF THE SEAL BEACH CITY COUNCIL  
APPOINTING JILL R. INGRAM AS CITY MANAGER AND  
APPROVING AN EMPLOYMENT AGREEMENT BETWEEN THE  
CITY AND MS INGRAM

THE CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council hereby appoints Jill R. Ingram as City Manager and approves that certain employment agreement ("Agreement") dated July 1, 2011 between the City and Ms Ingram.

SECTION 2. Pursuant to Seal Beach City Charter § 603, and Gov. Code § 36506 if applicable to charter cities, the City Council hereby establishes the compensation of the City Manager in the amount set forth in Section 4 of the Agreement.

SECTION 3. The Mayor shall execute the Agreement on behalf of the City.

SECTION 4. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED AND ADOPTED by the Seal Beach City Council at a regular meeting held on the 13th day of June, 2011 by the following vote:

AYES: Council Members Quaten, Switt, Miller, Shanks, Sloan  
NOES: Council Members None  
ABSENT: Council Members None  
ABSTAIN: Council Members None

[Signature]  
Mayor



ATTEST:

[Signature]  
City Clerk

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } SS  
CITY OF SEAL BEACH }

I, Linda Devine, City Clerk of the City of Seal Beach, do hereby certify that the foregoing resolution is the original copy of Resolution Number 6139 on file in the office of the City Clerk, passed, approved, and adopted by the City Council at a regular meeting held on the 13th day of June, 2011.

[Signature]  
City Clerk

# PROFESSIONAL SERVICES AGREEMENT

between



City of Seal Beach  
211 - 8th Street  
Seal Beach, CA 90740

and

Patrick P. Importuna  
2408 Wisconsin Dells Drive  
Henderson, NV 89044

**This AGREEMENT ("Agreement") is made and entered into this 3rd day of January, 2011, by and between the CITY OF SEAL BEACH, a charter city (hereinafter "City"), and PATRICK P. IMPORTUNA, an individual.**

## RECITALS

WHEREAS, City desires to engage the services of a person to serve on an interim basis in the position of Interim City Manager; and

WHEREAS, Patrick P. Importuna has served as a City Manager prior to his retirement, and is thus fully familiar with proper administration of all affairs of a city.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, City and Patrick P. Importuna hereby agree as follows:

1.0 Functions & Duties. City hereby engages the services of Patrick P. Importuna (hereinafter "ICM") as Interim City Manager. ICM shall exercise the powers and perform the duties of the position of City Manager and Executive Director of the Seal Beach Redevelopment Agency as set forth in the City Charter, City Municipal Code, Agency by-laws, personnel rules, regulations and procedures and City Manager and Executive Director job descriptions, as each of them currently or may in the future exist. ICM shall exercise such other powers and perform such other duties as City's City Council may from time to time assign. ICM is "at-will" and serves at the pleasure of the City Council.

2.0 Commencement & Effective Date. ICM shall commence his services on January 3, 2011.

3.0 Termination. The City's City Council or ICM may terminate this Agreement at any time, with or without cause, upon seven days' advance written notice to the other party.

4.0 Compensation. City will pay ICM for services rendered at the rate of \$100 for each actual hour of service worked. In the event the ICM is on personal time and not physically on duty no additional compensation will be paid to the ICM for any form of work through the use of technology, such as telephone, fax, texting, email, etc., to and from City Council members, the City Attorney and City staff. ICM shall complete City time sheets documenting each hour ICM renders services pursuant to this Agreement. City's payments to ICM shall be subject to withholding and other applicable taxes, including PARS. City will pay ICM at the same time as City employees. ICM shall be exempt from the overtime pay provisions of California and federal law.

5.0 Benefits. With the exception of FICA, PARS and Medicare coverage, ICM will not accrue or receive any City benefits, including, but not limited to, life, medical, vision and dental insurance, holidays, vacation, administrative or sick leave accruals, or any other benefits afforded City employees.

6.0 Expenses. City shall reimburse ICM all reasonable and necessary expenses incurred in connection with ICM's performance of official City business, within 15 days of ICM's submittal of a City reimbursement form in accordance with City's standard reporting practice and AB1234.

7.0 Bonding. City shall bear the full cost of any fidelity or other bonds required of the City Manager by the Council or as required under any law or ordinance.

8.0 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 ICM arising out of an act or omission by ICM occurring in the course and scope of ICM's performance of his duties under this Agreement.

9.0 Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes other agreements, either oral or in writing, between the parties with respect to the employment of ICM by City and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement of promises not contained in this Agreement shall be valid or binding upon either party.

10.0 Amendments. Amendments to this Agreement are effective only upon City Council written authorization and ICM's written concurrence.

11.0 Notices. All notices pertaining to this Agreement shall be sent to:

ICM: Patrick P. Importuna  
2408 Wisconsin Dells Drive  
Henderson, NV 89044

CITY: City Clerk  
City of Seal Beach  
211 - 8th Street  
Seal Beach, CA 90740

Such notice shall be deemed made when personally delivered, transmitted by facsimile, or when mailed, 48 hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.



12.0. General Provisions.

12.1 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.

12.2 This Agreement shall be interpreted and construed pursuant to and in accordance with applicable laws of the State of California, and the Seal Beach Charter, City Municipal Code, Ordinances and Resolutions.

12.3 This Agreement may be executed in multiple counterparts each of which shall be deemed an original for all purposes.

Executed by the parties as of the date below at Seal Beach.

CITY OF SEAL BEACH

  
\_\_\_\_\_  
Michael P. Levitt, Mayor

ICM

  
\_\_\_\_\_  
Patrick P. Importuna

Dated: FD 12-21-10

Dated: 12-21-10

ATTEST:

  
\_\_\_\_\_  
Linda Devine - City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Quinn M. Barrow - City Attorney

[END OF SIGNATURES]

## **AMENDMENT NO. 1**

### **TO EMPLOYMENT AGREEMENT BETWEEN THE CITY OF SEAL BEACH AND DAVID CARMANY**

#### **RECITALS**

- A. Pursuant to that certain "EMPLOYMENT AGREEMENT BETWEEN THE CITY OF SEAL BEACH AND DAVID CARMANY" ("CONTRACT" hereinafter), David Carmany ("EMPLOYEE" hereinafter) commenced working for the City of Seal Beach and the Seal Beach Redevelopment Agency (collectively "CITY" hereinafter) on June 4, 2007. Pursuant to Section 4.A of the CONTRACT, CITY paid EMPLOYEE an initial monthly salary of \$14,583.
- B. Among other benefits, the CONTRACT provides that CITY shall pay EMPLOYEE such additional benefits, including cost of living adjustments ("COLA") to compensation, if any, as are afforded Management employees by resolution of Council from time to time. The CONTRACT also provides that CITY shall contribute \$288.46 per pay period to the CITY's deferred compensation plan on behalf of EMPLOYEE for a total of \$7,500 per year and that EMPLOYEE may convert all or a portion of such deferred compensation to salary.
- C. The parties now desire to amend the CONTRACT to memorialize each salary adjustment for bookkeeping and reference purposes.
- D. Effective July 1, 2007, the City increased EMPLOYEE's monthly salary to \$15,750 per the Executive and Mid-Management Terms/Conditions of Employment ("2006 Management Agreement") dated July 24, 2006, which provided to management a 4% COLA + 4% Market Equity Adjustment.
- E. Effective July 1, 2008, the City increased EMPLOYEE's monthly salary to \$16,333 per the 2006 Management Agreement, which provided to management a CPI Adjustment, minimum of 3%, capped at 5%, for Fiscal Year 2008-2009.
- F. On October 15, 2008, EMPLOYEE elected to convert his monthly deferred compensation of \$625 to salary. Due to this conversion, EMPLOYEE's monthly salary increased to \$16,958.
- G. On April 13, 2009, the City Council adopted Resolution No. 5853 approving the "Terms and Conditions of Employment Between the City of Seal Beach and Executive Management and Mid-Management Employees ("2009 Management Agreement") which included among other adjustments for other employees, an

adjustment of EMPLOYEE's salary to a level equal to the salaries provided by other comparable cities to their respective city managers. Such adjustment increased EMPLOYEE's monthly salary to \$17,340 excluding deferred compensation.

- H. Section 18.B of the 2009 Management Agreement provides to management a CPI adjustment, capped at 4%, effective the first payroll period in July 2010. Using the applicable index, the City increased the City Manager's monthly salary by 1.9% to \$17,669 excluding deferred compensation, effective July 2010.
- I. Section 18.C of the 2009 Management Agreement provides to management a CPI adjustment, capped at 4%, effective the first payroll period in July 2011.

**NOW, THEREFORE,** for and in consideration of the mutual covenants and conditions herein contained, CITY and EMPLOYEE agree as follows:

- 1. All of the above recitals are true and correct.
- 2. Section 4 A. of the CONTRACT shall be amended to read as follows:
  - A. Base Salary.
    - (1) CITY paid EMPLOYEE an initial annual base salary of \$175,000 (monthly salary of \$14,583).
    - (2) During Fiscal Year 2007-2008, CITY paid EMPLOYEE a monthly salary of \$15,750.
    - (3) From July 1, 2008 to October 14, 2008, CITY paid EMPLOYEE a monthly salary of \$16,333.
    - (4) By memorandum dated October 9, 2008, EMPLOYEE elected to convert his monthly deferred compensation of \$625 into salary. For the period from October 15, 2008 to April 12, 2009, CITY paid EMPLOYEE a monthly salary of \$16,958.
    - (5) Effective April 13, 2009, CITY adjusted EMPLOYEE's salary to \$17,340 excluding deferred compensation.
    - (6) For Fiscal Year 2010-2011, CITY will pay EMPLOYEE a monthly salary of \$17,669 excluding deferred compensation.
    - (7) Effective the first payroll period in July 2011, CITY will provide to EMPLOYEE a CPI adjustment, capped at 4%.
    - (8) At its sole discretion, the City Council shall consider merit adjustments commensurate with Employee's performance in accordance with the evaluation process pursuant to Section 5 of this Agreement. Employee's salary shall be subject to withholding and other applicable taxes, and shall be payable to Employee at the same time as other employees of CITY are paid. Employee shall be exempt from the overtime pay provisions of California and federal law.

3. Except as amended herein, the terms and provisions of the CONTRACT shall remain in full force and effect.

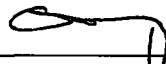
**TO EFFECTUATE THIS AMENDMENT NO. 1**, the parties have caused their duly authorized representatives to execute this agreement on the date set forth below.

CITY OF SEAL BEACH:

  
\_\_\_\_\_  
Mayor

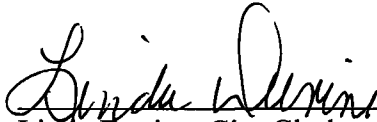
8-16-10  
\_\_\_\_\_  
Date

EMPLOYEE:

  
\_\_\_\_\_  
David Carmany

8-3-10  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Linda Devine, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Quinn M. Barrow, City Attorney

RESOLUTION NUMBER 6036

A RESOLUTION OF THE SEAL BEACH CITY COUNCIL APPROVING AMENDMENT NUMBER 1 TO THE CITY MANAGER EMPLOYMENT AGREEMENT TO MEMORIALIZE CHANGES TO THE CITY MANAGER'S SALARY IN ACCORDANCE WITH THAT CERTAIN CONTRACT DATED APRIL 23, 2007

WHEREAS, On April 23, 2007, the City and David Carmany executed an employment agreement ("Contract") for City Manager services; and

WHEREAS, The City Council wishes to amend the Contract to memorialize salary adjustments per the Contract.

NOW THEREFORE, the Seal Beach City Council hereby resolves:

SECTION 1. The City Council hereby approves Amendment No. 1 to the Employment Contract between the City and David Carmany, dated August 9, 2010.

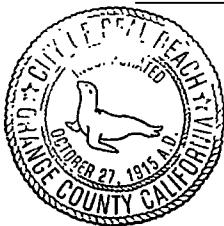
SECTION 2. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED and ADOPTED by the Seal Beach City Council at a regular meeting held on the 9th day of August, 2010 by the following vote:

AYES: Council Members Livett, Shanker, Sloan  
NOES: Council Members Anten, Miller  
ABSENT: Council Members None  
ABSTAIN: Council Members None

David Sloan  
Mayor

ATTEST:  
Linda Devine  
City Clerk



STATE OF CALIFORNIA }  
COUNTY OF ORANGE } SS  
CITY OF SEAL BEACH }

I, Linda Devine, City Clerk of the City of Seal Beach, do hereby certify that the foregoing resolution is the original copy of Resolution Number 6036 on file in the office of the City Clerk, passed, approved, and adopted by the Seal Beach City Council at a regular meeting held on the 9th day of August, 2010.

Linda Devine  
City Clerk

**EMPLOYMENT AGREEMENT  
BETWEEN THE CITY OF SEAL BEACH AND DAVID CARMANY**

**RECITALS**

- A. The City of Seal Beach ("City") desires to hire a City Manager and Executive Director for the Seal Beach Redevelopment Agency ("Agency").
- B. David Carmany ("Employee") represents that he is qualified to perform the duties of City Manager for the City and Executive Director for the Agency.
- C. City and Employee wish to enter into an Employment Agreement that sets forth the rights and obligations of the parties.

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

1. **TERM.** Employee shall commence his service on June 4, 2007 which shall also be deemed the effective date of this Agreement. The term of this Agreement shall be indeterminate, subject to Section 7 of this Agreement.

2. **DUTIES AND AUTHORITY.** Employee shall exercise the powers and perform the duties of the position of City Manager and Executive Director of the Seal Beach Redevelopment Agency as set forth in the City Charter, City Municipal Code, Agency by-laws, personnel rules, regulations and procedures and City Manager and Executive Director job descriptions, as each of them currently or may in the future exist. Employee shall exercise such other powers and perform such other duties as City, by the City Council, may from time to time assign.

3. **EMPLOYEE'S OBLIGATIONS.** Employee shall devote his full energies, interest, abilities and productive time to the performance of this Agreement, and utilize his best efforts to promote 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 materially interferes, with his duties and responsibilities to City.

#### 4. SALARY AND BENEFITS.

A. Base Salary. City shall pay Employee an annual base salary of \$175,000.00. At its sole discretion, the City Council shall consider merit adjustments commensurate with Employee's performance in accordance with the evaluation process pursuant to Section 5 of this Agreement. Employee's salary shall be subject to withholding and other applicable taxes, and shall be payable to Employee at the same time as other employees of City are paid. Employee shall be exempt from the overtime pay provisions of California and federal law.

B. Employment Benefits. In addition to base salary, City shall provide to Employee the following benefits:

(1) Holidays. Employee shall be entitled to the holidays generally available to other exempt employees of City. Employee's salary includes holiday pay. Accordingly, Employee shall not be entitled to any additional salary or compensation for working on a holiday.

(2) Sick Leave. As of the effective date of this Agreement, the Employee shall be deemed to have accrued forty (40) hours of sick leave with City. Employee shall receive the same sick leave benefits, under the same terms and conditions, as are generally applicable to other management employees.

(3) Vacation Leave. As of the effective date of this Agreement, the Employee shall be deemed to have accrued eighty (80) hours of vacation leave with City. Employee shall receive the same vacation leave benefits, under the same terms and conditions, as are generally applicable to other management employees with 10 years of service. Vacation leave shall be scheduled with the City Council at least two weeks in advance. Once each calendar year, Employee may elect to receive cash compensation equal to his then current base salary rate in lieu of up to a maximum of 80 hours of accrued but unused vacation leave.

(4) Group Medical, Life and Dental Insurance. During the term of his employment, Employee and his eligible dependents shall participate in the City's group medical, life and dental insurance plans in accordance with the terms and conditions of such plans as they now exist or as they may be changed from time-to-time in the future. The City shall pay 100% of all premiums on behalf of Employee and his eligible dependents.

(5) Automobile.

a. City shall provide to Employee a monthly automobile allowance of \$500.00. Such amount is designed to reimburse Employee for all costs associated with the use of Employee's automobile for City business, including but not limited to all applicable costs of automobile liability insurance, maintenance, operating expenses, depreciation and interest.

b. Employee shall maintain all records required by applicable California and federal law concerning use of such automobile, including without limitation records to substantiate personal and City-related use of such automobile.

c. Employee currently has an automobile liability insurance policy with

\$100,000/300,000/50,000 maximum coverage, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. Unless otherwise required by the City, Employee will maintain a policy with such coverage and limits throughout the term of this Agreement. If City requires Employee to secure and maintain an insurance policy with greater coverage than said coverage set forth in the insurance policy currently insuring Employee, and as a result of such requirement, Employee's premium cost for such policy containing greater coverage is higher than the premium cost of his insurance policy, City shall pay the difference. Employee shall name City, and its Council members, officials and employees as additional insured on his policy; and deliver to City copies of such insurance endorsements and certificate of insurance. Such insurance policy shall provide that the insurance coverage shall not be canceled, reduced or otherwise modified by Employee or by Employee's insurance carrier without at least 30 days prior written notice, served on City personally by said insurance company.

(6) Retirement Plan. Employee shall be covered by the Public Employees Retirement System Plan applicable to miscellaneous employees of City in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall pay 100% of Employee's retirement contribution.

(7) Bereavement Leave. Employee shall be eligible for bereavement leave as generally available to other management employees of City.

(8) Laptop Computer; Cellular Phone and Internet Service. At no cost to Employee, City shall provide Employee with the use of a City-owned laptop computer. In addition, City shall provide Employee with a \$150 per month allowance for cell phone and Internet charges incurred in the performance of his official city business and duties.

(9) Long Term Disability Insurance. City shall provide Employee with a term life insurance policy, accidental death insurance and long-term disability insurance with the same terms provided to other management employees.

(10) Expenses and Dues. Provided the City Council has previously budgeted for such expenses, City shall pay all reasonable and necessary business expenses, including dues and subscriptions in local civic organizations, upon Employee's submittal of invoices in accordance with City's standard reporting practice.

(11) Professional Development and Business Promotion. City shall pay all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred in continuing education within the state in accordance with the Municipal Code, as amended from time to time, City Resolutions and state law applicable to charter cities. Upon prior City Council approval, City shall pay all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred outside the state. Upon prior board approval, the Agency shall pay all reasonable and necessary business expenses, including travel, conference, meals, lodging and meeting expenses incurred to



attract, maintain and retain development to locate in or relocate to the City.

(12) Bonding. City shall bear the full costs of any fidelity or other bonds required of Employee under any law, City Charter provision, City ordinance or Agency resolution by virtue of his employment as City Manager or Executive Director.

(13) Deferred Compensation Plan. Employee shall be entitled to participate in the City's deferred compensation plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall contribute \$288.46 per pay period to the plan on behalf of Employee for a total of \$7500.00 per year. At the sole discretion of Employee, this contribution may be increased with a corresponding decrease in Employee's salary, or decreased with a corresponding increase in Employee's salary, each on a dollar for dollar conversion.

(14) Designation of Recipients Pursuant To Government Code Section 53245. Employee may file with the City a designation of a person who, notwithstanding any other provision of law, shall, on the death of Employee, be entitled to receive all warrants or checks that would have been payable to Employee had he survived. Employee may change the designation from time to time. Any person so designated shall claim such warrants or checks from the City. On sufficient proof of identity, the City shall deliver the warrants or checks to the claimant. A person who receives a warrant or check pursuant to this section is entitled to negotiate it as if he or she were the payee.

(15) Additional Benefits. Unless otherwise specified to the contrary in this Agreement, City shall pay Employee such additional benefits, including cost of living adjustments ("COLA") to compensation, if any, as are afforded Management employees as the same may be modified for all Management employees by resolution of Council from time to time.

(16) Relocation Allowance. As a result of accepting the position as City Manager with the City of Seal Beach, Employee will have to relocate from his current residence in Ohio. In consideration for said relocation, the City agrees to pay Employee a one-time payment of \$15,000 for relocation on the first day of residence at his new home.

C. No Reduction in Benefits. City shall not at any time during the term of this Agreement reduce the salary or benefits of Employee, except to the degree of such reduction across-the-board for other management employees of the City.

5. ANNUAL EVALUATIONS. On or before June 30 of each year, the City Council may conduct an evaluation of Employee's performance. During that evaluation, City Council and Employee shall mutually establish performance goals and objectives to be met by Employee during the following year. In addition, the City Council may, but is not required, to review Employee's salary and benefits as part of the evaluation process or at any other time.

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 duties under this Agreement.

7. **AT-WILL EMPLOYMENT RELATIONSHIP.**

A. Employee is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council may terminate this Agreement and the employment relationship at any time without cause. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the employment of Employee. City shall pay Employee for all services through the effective date of termination. In addition, Employee shall receive severance to the extent provided in Section 8 and shall receive no other compensation or payment.

B. Prior to termination, City shall substantially comply with City Charter Section 607 and provide Employee written notice of termination at least 30 days before the effective date of the termination pursuant to Seal Beach Municipal Code Section 3.15.015, unless Employee has engaged in corrupt or willful misconduct in office or any illegal act involving personal gain or is convicted of any felony or any misdemeanor involving moral turpitude. In such case the effective date of the termination is the date upon which City serves the notice of termination upon Employee.

8. **SEVERANCE.**

A. If City terminates this Agreement (thereby terminating Employee's employment with City) without cause during the term of this Agreement, City shall:

(1) Pay Employee an amount equal to his then-monthly base salary for a period of twelve months, less interim compensation to which Employee becomes entitled to during the twelve-month period following his termination. Employee shall use his best efforts and due diligence to secure employment with, become an independent contractor for, or otherwise provide services for compensation, for, any person, organization or entity, other than City; and

(2) Provide at no cost to Employee the medical and dental insurance benefits provided by Section 4. B (4) herein and the deferred compensation provided by Section 4. B (13) herein for twelve months, or until Employee secures other employment, whichever occurs first.

B. Notwithstanding any other provision or the term of this Agreement, the maximum severance and health benefits that Employee may receive under this Agreement as a result of termination, shall not exceed the limitations provided in Government Code §§ 53260-53264.

C. As used in this Agreement, the term "interim compensation" shall include, but not be limited to: compensation, in any form, to which Employee is entitled from employment other than employment with City; compensation, in any form, to which Employee is entitled to as an independent contractor; and compensation, in any form, from any source, including, without limitation, unemployment and disability insurance, from any person, entity or source, to which Employee is otherwise entitled. Interim compensation shall not include retirement benefits or any payment received from the California Joint Powers Insurance Authority. Upon City's request, Employee shall promptly provide City with documentary evidence of interim compensation.

D. Employee shall not be entitled to severance pay:

- (1) If Employee terminates this Agreement; or
- (2) If City terminates this Agreement for cause for any of the following reasons:

a. Employee refuses or fails to perform the powers and duties of the City Manager as specified in the City Charter or Municipal Code or the powers and duties of the Executive Director of the Agency as specified in the Agency By-Laws or any Agency Resolution;

b. Employee has engaged in: corrupt or willful misconduct in office, any illegal act involving personal gain or willful malfeasance constituting grounds for removal from office due to an indictment of the grand jury; or is convicted of any felony or any misdemeanor involving moral turpitude. In no event shall a minor traffic offense or moving violation be considered a misdemeanor involving moral turpitude. In the event Employee is under investigation for any of the foregoing reasons, City may withhold part or all of any severance payment, until it is determined if charges will be filed, and if charges are filed, until final judgment is rendered. If charges are not filed, or if Employee is found innocent, City shall pay any severance to which Employee is entitled; or

c. Employee breaches this Agreement, including, without limitation, any provision set forth in Section 2, "Duties and Authority," of this Agreement.

**9. INTEGRATION OF AGREEMENT.** This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning Employee's employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

**10. METHOD OF AMENDMENT.** Amendments to this Agreement are effective only upon City Council and Employee written approval.

**11. NOTICES.** All notices pertaining to this Agreement shall be sent to:

EMPLOYEE: David Carmany  
5680 Loch Broom Circle

Dublin, Ohio 43017

CITY:

City Clerk  
City of Seal Beach  
211 8th Street  
Seal Beach, California 90740

Such notice shall be deemed made when personally delivered, transmitted by facsimile, or when mailed, 48 hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

**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 shall be interpreted and construed pursuant to and in accordance with the local laws of the State of California and all applicable City Codes, Ordinances and Resolutions.

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

City of Seal Beach

EMPLOYEE

By: John H. Larson  
Mayor

[Signature]

Date: 4-23-07

4-23-07

ATTEST: [Signature]  
City Clerk

APPROVED AS TO FORM

By: Quinn M. Barrow  
Quinn M. Barrow, City Attorney

# David N. Carmany City Manager

## 2009 Goals

### **Manage the day-to-day operations of the city, economically and efficiently**

- 1) Continue to emphasize customer service/follow up
- 2) Computer applications including web page
- 3) Implement class/comp study
- 4) Bargain with two employee groups
- 5) Resolve zoning ordinance issue
- 6) Prepare new Housing Element of City General Plan
- 7) Prepare Local Coastal Plan
- 8) Prepare plan for community pool
- 9) Review jail utilization
- 10) ?

### **Improve delivery of public safety programs:**

- 1) Emphasize disaster preparedness/notification
- 2) Address recruitment difficulties in PD
- 3) Fire station construction
- 4) Mobile digital/video for police cars
- 5) ?

## **Improve awareness and knowledge about Seal Beach:**

- 1) New Web page, user-friendly, efficient and informative
- 2) Press releases & articles
- 3) City newsletter?
- 4) State of the City Address & luncheon?
- 6) ?

## **Work on intergovernmental projects:**

- 1) Make sure that land use planning and transportation projects that cross jurisdictional lines work out to everyone's advantage
- 2) Request that U.S. Army Corps of Engineers revise the Federal beach funding formula
- 3) Build closer relationships with residents, neighboring cities and other governments
- 4) Transportation projects including Studebaker off-ramp, Lampson barrier, SB Blvd bridge
- 5) ?

## **Help the city improve housekeeping/conservation:**

- 1) tree trimming program
- 2) urban design efforts
- 3) Main Street sidewalk cleaning
- 4) Sidewalk/concrete repairs
- 5) Utility aggregation?
- 6) ?

# David N. Carmany City Manager

## 2008 Accomplishments

### **Helped city get a handle on its unfunded liabilities, financial and capital:**

- 1) Quantified unfunded liabilities for retiree health care and pension; addressed requirements of GASB 45 by joining CalPERS trust for health care
- 2) Bargained 3-year contract with the Seal Beach Police Officers Association
- 4) Saved net-present-value \$810,000 by issuing pension obligation bonds.
- 5) Arranged favorable privately-placed financing for fire station

### **Raised revenue/obtained grants/reduced expenditures:**

- 1) Negotiated an agreement with Energy Tubulars generating ongoing additional sales tax revenue of approximately \$1 million dollars per year, plus retro of \$887,000
- 2) Reduced the city's unfunded liability for retiree health care from \$12.3 million to \$6.7 million dollars (a 50% reduction)
- 3) Obtained \$10 million dollar 0% loan from State revolving fund for sewer projects
- 4) Obtained several grants including
  - a. \$5.7 million dollar grant from the OCTA for street improvements
  - b. \$2 million dollar grant from the Rivers and Mountains Conservancy for rehabilitation of the Rivers End parking lot and bike path

**Worked on a number of capital projects:**

- 1) Completed the West End pump station to help prevent flooding in the Old Town neighborhood
- 2) Finalized CIP and master plans of pavement management and drainage
- 3) Remodeled and reopened the city jail
- 4) Completed the annual slurry seal and street overlay project
- 5) Fire station planned and out to bid

**Worked on internal city issues:**

- 1) Established open door policy in City Manager's office
- 2) Reorganized Departments as needed including the Engineering Division of the Public Works Department & CM office
- 3) Negotiated contracts where missing, expired, or poorly managed
- 4) Handled embezzlement; successfully recouped \$267,000 of stolen city funds/reorganized City Finance Department
- 5) Tightened up procedures (Human Resources, agendas, contracts, office hours for city attorney) as needed
- 6) Emphasized customer service with city staff
- 7) Installation of new telephone system
- 8) Installation of backbone computer system
- 9) Improved relations with PD; monthly ride-along etc.



## **Represented the city externally:**

- 1) Attended, and encouraged Department heads to attend, numerous meetings (Planning Commission, Parks and Recreation, League of California Cities, Historical Society, Chamber of Commerce, neighboring city council meetings, etc.)
  - 2) Prepared/disseminated several press releases
  - 3) Worked closely with offices of local elected officials (Assemblyman, State Senator, Congressman) on city projects
- \*Received an award from the GFOA (Government Finance Officers Association) for Excellence in Financial Reporting
- \*Established a free door-to-door collection program for e-waste (TV's, computers, cell phones, etc.)
- \*Assisted efforts of Gordon Shanks for Governor's appointment to San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy Governing Board.

## PROFESSIONAL SERVICES AGREEMENT FOR INTERIM CITY MANAGER SERVICES

THIS AGREEMENT ("Agreement") is entered into February 20, 2007, by and between the City of Seal Beach ("City") and Greg Beaubien ("Contractor").

### RECITALS

A. City desires to contract with Contractor to perform the services of Interim City Manager until such time the City appoints a City Manager. Contractor has no desire to be appointed City Manager.

B. Contractor represents that he is qualified to perform the duties and responsibilities of Interim City Manager.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter contained the parties agree as follows:

1. Duties. Contractor shall perform the functions and duties of the City Manager as specified in the Seal Beach City Charter and other legally permissible and proper duties and functions as may be, from time to time, assigned to Contractor (collectively "Services"). Contractor agrees not to perform services for other entities while this Agreement is in effect without the prior written approval of the Seal Beach City Council. In addition, Contractor shall use his best efforts to assist the City in locating and hiring a qualified City Manager.

2. Hours. Contractor's Services may involve expenditures of time in excess of the normal business working hours, and may also include time outside normal office hours, including attendance at meetings of the City Council, City Commissions, City Committees or community organizations or other groups. Contractor shall not be entitled to additional compensation for any work performed in excess of eight hours per day, forty hours per week or the City's normal office hours. Contractor is not an employee for purposes of overtime, the Fair Labor Standards Act or any law or order. Contractor shall be entitled to three (3) personal leave days per month.

3. Commencement and Termination. Contractor shall commence the Services on February 20, 2007. The City may terminate this Agreement at any time, with or without cause or advance notice. Contractor may terminate this Agreement at any time, with or without cause upon ten days prior written notice to City. Contractor shall be paid for all Services performed through the effective date of termination.

4. Compensation. City shall pay Contractor on an 80-hour bi-weekly basis at a per hour rate based on monthly salary of \$13,549. Contractor will be paid a base hourly rate for any portion of a bi-weekly period worked.

5. Expenses. City shall reimburse Contractor for actual and necessary expenses incurred in the performance of his official duties that are supported by expense receipts in accordance with AB 1234 and any applicable City ordinances, resolutions, rules, policies or procedures.

6. Contractor's Responsibility for Contributions, Payments, or Withholding. Contractor shall be solely responsible for all contributions, payments, or withholdings normally made on behalf of an employee including but not limited to, state and federal income taxes, federal social security contributions, California State disability insurance taxes, and unemployment insurance contributions.

7. Relationship Between the Parties. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. Consultant may act as an agent of City only to the extent necessary to perform the duties and obligations required herein. Neither City nor any of its agents shall have control over the means of service or means of production of Consultant. Consultant shall not, at any time, or in any manner, represent that he/she is an Contractor of City, provided, however, that nothing contained in this provision shall be construed or interpreted so as to deprive Consultant of any and all defenses or immunities available to public officials acting in their official capacities. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify the hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. Contractor shall not be considered an agent or Contractor of City and shall not be entitled to the benefits provided by City to its Contractors, including but not limited to workers' compensation insurance, health/medical insurance, dental insurance, life insurance, deferred compensation, disability insurance, unemployment insurance, retirement contribution, sick leave, vacation leave or similar benefits.

8. Insurance. Contractor shall procure and maintain in effect a policy of automobile insurance for use of his/her private vehicle. Such insurance shall not be subject to cancellation, modification or lapse without City first receiving ten days advance written notice.

9. Mutual Indemnity

A. City agrees to indemnify, defend, and hold harmless Contractor from and against any and all claims, actions, proceedings, suits, or damages, including costs and attorneys' fees, resulting from physical harm or damage to persons or property which harm arise out of or is in any way caused

by the acts, omissions, negligence or misconduct of City, its officials, officers, agents or Contractors.

B. Contractor agrees to indemnify, defend, and hold harmless City, its elected and appointed officials, officers, agents and Contractors against any claims, actions, proceedings, suits, or damages, including costs and attorneys' fees, resulting from physical harm or damage to persons or property which harm arise out of or is in any way caused by the acts, omissions, negligence or misconduct of Contractor, its officers, agents or Contractors.

C. The provisions of this Mutual Indemnity Clause (Section 9) shall survive the termination or expiration of this Agreement.

10. This Agreement shall constitute the entire agreement between the parties.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

CITY

By: John L. Lippman  
Mayor

ATTEST:

Linda Lemme  
City Clerk

CONTRACTOR

Greg Beaubien  
Greg Beaubien

APPROVED AS TO FORM:

Zim Bar  
City Attorney

**EXHIBIT "A"**

**AMENDMENT NO. 5  
TO EMPLOYMENT CONTRACT  
BETWEEN CITY OF SEAL BEACH  
AND JOHN B. BAHORSKI**

**RECITALS**

- A. On January 22, 2001, the City of Seal Beach ("CITY" hereinafter), and John Bahorski ("BAHORSKI" hereinafter) entered into that certain Employment Contract ("CONTRACT" hereinafter).
- B. On March 11, 2002, the CITY and BAHORSKI entered into that certain "Amendment No. 1" to the CONTRACT.
- C. On March 10, 2003, the CITY and BAHORSKI entered into that certain "Amendment No. 2" to the CONTRACT.
- D. On January 27, 2004, the CITY and BAHORSKI entered into that certain "Amendment No. 3" to the CONTRACT.
- E. On June 15, 2005, the CITY and BAHORSKI entered into that certain "Amendment No. 4" to the CONTRACT.
- F. Pursuant to the CONTRACT, the City Council evaluated BAHORSKI's performance and performed its annual review to determine whether adjustments would be appropriate.
- G. CITY and BAHORSKI wish to amend the CONTRACT to adjust his salary to a level equal to the salaries provided by other comparable cities to their respective city managers, as follows:
  - FY 06-07** - Effective July 1, 2006: 4% COLA + 4% Market Equity Adjustment
  - FY 07-08** - Effective July 1, 2007: 4% COLA + 4% Market Equity Adjustment
  - FY 08-09** - Effective July 1, 2008: CPI Adjustment, minimum of 3%, capped at 5%.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, CITY and BAHORSKI agree as follows:

- 1. Subsection i. of Section 3A of the CONTRACT relating to base salary is hereby amended to read as follows:

"i. Base Salary. CITY shall pay BAHORSKI base salary for services rendered in accordance with the following schedule:

- Initial rate: \$122,500 (\$10,208.34 monthly)
- Between July 1, 2002 and June 14, 2005: \$129,850 (\$10,820.84 monthly)
- Between June 14, 2005 and July 1, 2006: \$150,541 (\$12,545 monthly)
- Fiscal Year 2006-2007: \$162,588 (\$13,549 monthly)
- Fiscal Year 2007-2008: \$175,596 (\$14,633 monthly)
- Fiscal Year 2008-2009: \$175,596 (\$14,633 monthly), plus a CPI adjustment equal to a minimum of 3% and a maximum of 5%.


For the purposes of this CONTRACT, "CPI" means the Consumer Price Index [All Urban Consumers] for the California CMSA in which the City of Seal Beach is located (base year 1982-84 = 100), published by the United States Department of Labor, Bureau of Labor Statistics (BLS). If the base is changed, the CPI used shall be converted according to the conversion factor provided by the BLS.

BAHORSKI's salary shall be subject to withholding and other applicable taxes, and shall be payable to BAHORSKI at the same time as other employees are paid. BAHORSKI shall be exempt from the overtime pay provisions of California and federal law. The City Council may adjust BAHORSKI's base salary at any time. In addition, the City Council shall annually review BAHORSKI's base salary and may adjust the base salary as deemed appropriate."

2. Except as amended herein, the terms and provisions of the CONTRACT, as previously amended, shall remain in full force and effect.

**TO EFFECTUATE THIS AMENDMENT NO. 5**, the parties have caused their duly authorized representatives to execute this agreement on the date set forth below.

City of Seal Beach:

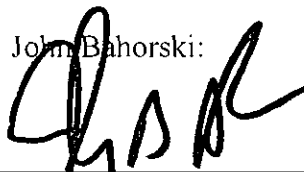
  
\_\_\_\_\_

Mayor

7-26-06  
\_\_\_\_\_

Date

John Bahorski:

  
\_\_\_\_\_

John Bahorski

7/26/06  
\_\_\_\_\_

Date

ATTEST:

  
\_\_\_\_\_

Linda Devine, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_

Quinn M. Barrow, City Attorney

**AMENDMENT NO. 4 TO EMPLOYMENT CONTRACT  
BETWEEN CITY OF SEAL BEACH AND JOHN BAHORSKI**

**RECITALS**

- A. On January 22, 2001, the City of Seal Beach ("CITY" hereinafter), and John Bahorski ("BAHORSKI" hereinafter) entered into that certain Employment Contract ("CONTRACT" hereinafter).
- B. On March 11, 2002, the CITY and BAHORSKI entered into that certain "Amendment No. 1" to the CONTRACT.
- C. On March 10, 2003, the CITY and BAHORSKI entered into that certain "Amendment No. 2" to the CONTRACT.
- D. On January 27, 2004, the CITY and BAHORSKI entered into that certain "Amendment No. 3" to the CONTRACT.
- E. Pursuant to the CONTRACT, the City Council evaluated BAHORSKI's performance and performed its annual review to determine whether adjustments would be appropriate.
- F. CITY and BAHORSKI wish to amend the CONTRACT to: provide the same sick leave benefits provided to management and mid-management employees; and adjust salary to a level equal to the salaries provided by other comparable cities to their respective city managers.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, CITY and BAHORSKI agree as follows:

- 1. Subsection i of Section 3A of the CONTRACT relating to base salary is hereby amended to read as follows:

"i. Base Salary. Base salary of \$122,500 annually (\$10,208.34 monthly) for services rendered for the period between February 26, 2001 and June 30, 2002. Base salary of \$129,850 (\$10,820.84 monthly) for services rendered for the period between July 1, 2002 and June 14, 2005. Base salary of \$150,541 (\$12,545 monthly) for services rendered beginning on June 15, 2005. BAHORSKI's salary shall be subject to withholding and other applicable taxes, and shall be payable to BAHORSKI at the same time as other employees are paid. BAHORSKI shall be exempt from the overtime pay provisions of California and federal law. The City Council may adjust BAHORSKI's base salary at any time. In addition, the City Council shall annually review BAHORSKI's base salary and may adjust the base salary as deemed appropriate."

2. Section 3A iii of the CONTRACT relating to salary is hereby re-numbered to be Section 3A iv.
3. Section 3A of the CONTRACT relating to salary is hereby amended by adding a new section iii to read as follows:  
  
 "iii. In addition to the annual evaluation set forth in subsection ii, the City Council shall meet prior to November 30, 2005 to consider increasing BAHORSKI's salary an additional 6%."
4. Section 3B vi of the CONTRACT relating to sick leave is hereby amended to read as follows:  
  
 "vi. Sick Leave. BAHORSKI shall receive the same sick leave benefits, under the same terms and conditions, as are generally applicable to the Management employees."
5. Except as amended herein, the terms and provisions of the CONTRACT, as previously amended, shall remain in full force and effect.

**TO EFFECTUATE THIS AMENDMENT NO. 4**, the parties have caused their duly authorized representatives to execute this agreement on the date set forth below.

City of Seal Beach

John Bahorski

By: *Charles Ants*  
 Mayor

*[Signature]*  
 John Bahorski  
6/16/05

Date: 6-15-05

ATTEST: *Linda Devine*  
 Linda Devine, City Clerk

APPROVED AS TO FORM:

By: *Qm Bar*  
 Quinn M. Barrow, City Attorney



**AMENDMENT NO. 3 TO EMPLOYMENT CONTRACT  
BETWEEN CITY OF SEAL BEACH AND JOHN BAHORSKI**

**RECITALS**

A. On January 22, 2001, the City of Seal Beach ("CITY" hereinafter), and John Bahorski ("BAHORSKI" hereinafter) entered into that certain Employment Contract ("CONTRACT" hereinafter).

B. On March 11, 2002, the CITY and BAHORSKI entered into that certain "Amendment No. 1" to the CONTRACT.

C. On March 10, 2003, the CITY and BAHORSKI entered into that certain "Amendment No. 2" to the CONTRACT.

D. Pursuant to the CONTRACT, the City Council evaluated BAHORSKI's performance and performed its third annual review to determine whether adjustments would be appropriate.

E. CITY and BAHORSKI wish to amend the CONTRACT to: alleviate salary compaction between BAHORSKI and certain employees in the Police Department; provide greater severance in the event of termination without cause; and extend the term of the CONTRACT.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, CITY and BAHORSKI agree as follows:

1. Section 2 of the Employment Contract relating to term is hereby amended to extend the term to June 30, 2009 as follows:

**"2. TERM, TERMINATION AND AT-WILL STATUS.** This Employment Contract, as amended ("CONTRACT" hereinafter), commenced on February 26, 2001 and shall remain in effect until June 30, 2009, unless terminated or extended pursuant to the provisions herein. Nothing in this CONTRACT or elsewhere shall prevent, limit or otherwise interfere with the right of the CITY to terminate the services of BAHORSKI at any time, subject only to the provisions set forth in Section 4 of the CONTRACT. BAHORSKI is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council or BAHORSKI may terminate this CONTRACT and the employment relationship at any time without cause. CITY shall provide BAHORSKI with thirty (30) days notice of its decision to terminate this CONTRACT and shall comply with applicable provisions of the Ralph M. Brown Act, California Government Code Section 54950 et seq. prior to termination. Due to the important nature of BAHORSKI's duties to the CITY, BAHORSKI must provide the City Council with at least thirty (30) days written notice prior to the date he ceases to perform his duties and responsibilities set forth in this CONTRACT, the City Charter and the City Code."

2. Section 3A of the CONTRACT relating to salary is hereby amended by adding a new section iii to read as follows:

“iii. Commencing July 1, 2004, the base salary provided in this Section 3A shall be maintained at all times at the greater of at least ten percent (10%) above the top step of the base salary of the Seal Beach Police Chief and fifteen percent (15%) above the top step of the base salary (including longevity pay) of the highest paid Police Captain. BAHORSKI’s base salary will automatically be adjusted to maintain the agreed differential under this paragraph without the need for further action by the City Council.”

3. Section 4Ai of the Employment Contract relating to severance pay is hereby amended to increase the period of severance pay from 12 months to 18 months as follows:

“i. Severance Pay. If BAHORSKI is terminated without cause at any time by a majority vote of the City Council in attendance at any lawfully called meeting, CITY shall pay BAHORSKI severance pay equal to eighteen months of the base salary to which BAHORSKI is entitled upon the effective date of termination, less payroll deductions, and less interim compensation to which BAHORSKI is entitled during the eighteen-month period following his termination pursuant to this subsection.”

4. Section 4Aiv of the Employment Contract relating to insurance benefits upon termination without cause is hereby amended to increase the period of CITY paid insurance benefits from 12 months to 18 months as follows:

“iv. Insurance Benefits. If BAHORSKI is terminated without cause and is therefore entitled to severance pay pursuant to Section 4Ai, in addition to the severance pay provided thereby, CITY shall provide at no cost to BAHORSKI the same medical and dental insurance or its equivalent then in effect, to the extent permitted by such medical insurance plans, for BAHORSKI and his then eligible dependents for up to eighteen months, or such shorter period of time if BAHORSKI secures employment with, becomes an independent contractor for, or otherwise provides services for, any person, organization or entity, other than the CITY, and BAHORSKI is eligible for medical insurance provided by or sponsored by such person, organization or entity. ”

5. Except as amended herein, the terms and provisions of the CONTRACT, as previously amended, shall remain in full force and effect.

TO EFFECTUATE THIS AMENDMENT NO. 3, the parties have caused their duly authorized representatives to execute this agreement on the date set forth below.

City of Seal Beach

By: Patty Campbell  
Patty Campbell, Mayor

John Bahorski  
John Bahorski

Date: January 27, 2004

ATTEST: Joanne Yeo  
Joanne Yeo, City Clerk

APPROVED AS TO FORM:

By: Quinn M. Barrow  
Quinn M. Barrow, City Attorney

**AMENDMENT NO. 2 TO EMPLOYMENT CONTRACT  
BETWEEN CITY OF SEAL BEACH AND JOHN BAHORSKI**

**RECITALS**

- A. On January 22, 2001, the City of Seal Beach ("CITY" hereinafter), and John Bahorski ("BAHORSKI" hereinafter) entered into that certain Employment Contract ("CONTRACT" hereinafter).
- B. On March 11, 2002, the CITY and BAHORSKI entered into that certain "Amendment No. 1" to the CONTRACT.
- C. Pursuant to the CONTRACT, the City Council evaluated BAHORSKI's performance and performed its second annual review to determine whether adjustments would be appropriate.
- D. CITY and BAHORSKI wish to amend the CONTRACT to increase his rate of vacation accrual and increase his maximum accrual.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, CITY and BAHORSKI agree as follows:

- 1. Section 3B vii. Vacation Leave of the CONTRACT relating to benefits is hereby amended to read as follows:

BAHORSKI shall be credited with 120 hours of vacation leave time effective on the first day of employment with the City. BAHORSKI shall accrue vacation leave at the rate of 7 hours per pay period (22.75 days per calendar year). Leave shall not accrue during any period when BAHORSKI is on a leave of absence without pay. BAHORSKI may accumulate a maximum of 400 hours' vacation leave (50 days). Upon accumulating this maximum amount of vacation leave, BAHORSKI shall cease accumulating additional vacation leave. In lieu of additional paid vacation leave accumulation, City shall pay BAHORSKI compensation at his then-current hourly rate for any vacation leave accrued in excess of 400 hours. Such additional vacation accrual shall be paid to BAHORSKI the pay period following the pay period in which such vacation leave is accrued. If BAHORSKI uses vacation leave to the extent that accumulated vacation leave falls below the maximum which may be accumulated, BAHORSKI shall resume accruing vacation leave from that date forward until BAHORSKI's accumulated vacation leave again reaches the maximum amount set forth herein. BAHORSKI may not use more than twenty (20) days of vacation leave in any one calendar year and may not use more than ten (10) days vacation leave in any single increment without the prior written consent of the City Council.

2. Except as amended herein, the terms and provisions of the CONTRACT, as previously amended, shall remain in full force and effect.

**TO EFFECTUATE THIS AMENDMENT NO. 2**, the parties have caused their duly authorized representatives to execute this agreement on the dates set forth below.

City of Seal Beach

By: John Larson  
John Larson, Mayor

John Bahorski  
John Bahorski

Date: MARCH 10, 2003

ATTEST: Joanne Yeo  
Joanne Yeo, City Clerk

APPROVED AS TO FORM:

By: Quinn M. Barrow  
Quinn M. Barrow, City Attorney

**AMENDMENT NO. 1 TO EMPLOYMENT CONTRACT  
BETWEEN CITY OF SEAL BEACH AND JOHN BAHORSKI**

**RECITALS**

- A. On January 22, 2001, the City of Seal Beach ("CITY" herein), and John Bahorski ("BAHORSKI" herein) entered into that certain "Employment Contract."
- B. Pursuant to the Employment Contract, the City Council evaluated BAHORSKI's performance and performed an annual review to determine whether a salary adjustment would be appropriate.
- C. CITY and BAHORSKI wish to amend the Employment Contract.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, CITY and BAHORSKI agree as follows:

- 1. Section 2 of the Employment Contract relating to term, termination and at-will status is hereby amended to read as follows:

**"2. TERM, TERMINATION AND AT-WILL STATUS.** This Employment Contract, as amended ("CONTRACT" hereinafter), commenced on February 26, 2001 and shall remain in effect until March 11, 2006, unless terminated or extended pursuant to the provisions herein. Nothing in this CONTRACT or elsewhere shall prevent, limit or otherwise interfere with the right of the CITY to terminate the services of BAHORSKI at any time, subject only to the provisions set forth in Section 4 of the CONTRACT. BAHORSKI is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council or BAHORSKI may terminate this CONTRACT and the employment relationship at any time without cause. CITY shall provide BAHORSKI with thirty (30) days notice of its decision to terminate this CONTRACT and shall comply with applicable provisions of the Ralph M. Brown Act, California Government Code Section 54950 et seq. prior to termination. Due to the important nature of BAHORSKI's duties to the CITY, BAHORSKI must provide the City Council with at least thirty (30) days written notice prior to the date he ceases to perform his duties and responsibilities set forth in this CONTRACT, the City Charter and the City Code."

- 2. Subsection i of Section 3A of the CONTRACT relating to base salary is hereby amended to read as follows:

"i. Base Salary. Base salary of \$122,500 annually (\$10,208.34 monthly) for

services rendered for the period between February 26, 2001 and June 30, 2002. Base salary of \$129,850 (\$10,820.84 monthly) for services rendered beginning on July 1, 2002. BAHORSKI's salary shall be subject to withholding and other applicable taxes, and shall be payable to BAHORSKI at the same time as other employees are paid. BAHORSKI shall be exempt from the overtime pay provisions of California and federal law. The City Council may adjust BAHORSKI's base salary at any time. In addition, the City Council shall annually review BAHORSKI's base salary and may adjust the base salary as deemed appropriate."

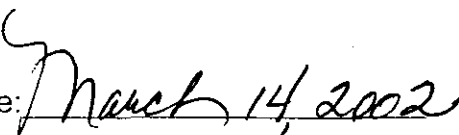
3. Except as amended herein, the terms and provisions of the CONTRACT shall remain in full force and effect.

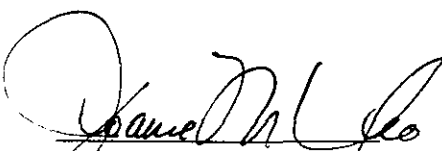
**TO EFFECTUATE THIS AMENDMENT**, the parties have caused their duly authorized representatives to execute this agreement on the dates set forth below.

City of Seal Beach

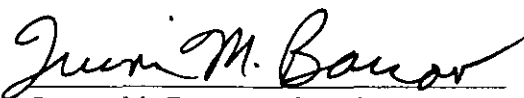
By:   
William Doane, Mayor

  
John Bahorski

Date: 

ATTEST:   
Joanne Yeo, City Clerk

APPROVED AS TO FORM:

By:   
Quinn M. Barrow, City Attorney

EMPLOYMENT CONTRACT

THIS EMPLOYMENT CONTRACT, hereinafter referred to as "CONTRACT", is made and entered into this 22 day of January, 2001 by and between the CITY OF SEAL BEACH, a municipal corporation, hereinafter referred to as "CITY", and John B. Bahorski, hereinafter referred to as "BAHORSKI".

WITNESSETH

WHEREAS, CITY is a municipal corporation, the operation of which involves securing the services of a qualified professional City Manager; and,

WHEREAS, John B. Bahorski represents that he can provide the services and possesses the professional skills required by CITY and is available to CITY; and,

WHEREAS, it is the desire of the City Council of CITY to retain the services of John B. Bahorski as City Manager; and,

WHEREAS, it is the desire of the City Council of CITY to provide certain benefits, establish certain conditions of employment, set certain working conditions, and provide an equitable means of terminating John B. Bahorski's employment; and,

WHEREAS, the arrangement set forth in this contract represents an efficient and economical procedure to accomplish CITY's goal;

NOW, THEREFORE, CITY AND BAHORSKI, in consideration of the mutual covenants and agreements herein contained, agree as follows:

**1. POSITIONS AND DUTIES.** The CITY hereby agrees to employ John B. Bahorski as City Manager of the City of Seal Beach and Executive Director of the Seal Beach Redevelopment Agency to perform, on a full-time basis, the duties and functions specified in CITY's Charter, City Code, ordinances, resolutions, policies, and City Manager Job Description, in the Redevelopment Agency's By-Law's, and as required by the Government Code of the State of California, and to perform other legally permissible duties and perform such functions as the City Council shall from time to time assign. The City Council of CITY shall have the authority to determine the specific duties and functions which BAHORSKI shall perform under this contract and the means and manner by which BAHORSKI shall perform those duties and functions. BAHORSKI agrees to devote all of his business time, skill, attention, and best efforts to the discharge of the duties and functions assigned to him by the City Council during his employment. BAHORSKI 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 materially interferes, with his duties and responsibilities to City.

**2. TERM, TERMINATION AND AT WILL STATUS.** This CONTRACT shall commence on February 26, 2001, and shall remain in effect for a period of three



years. Nothing in this CONTRACT shall prevent, limit or otherwise interfere with the right of the CITY to terminate the services of BAHORSKI at any time, subject only to the provisions set forth in section 4. BAHORSKI is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council or BAHORSKI may terminate this CONTRACT and the employment relationship at any time without cause. CITY shall provide BAHORSKI with thirty (30) days notice of its decision to terminate this CONTRACT, and as provided by the provisions of the Ralph M. Brown Act, California Government Code Section 54950 et seq. Due to the important nature of BAHORSKI's duties to the City, if BAHORSKI terminates this CONTRACT, BAHORSKI must provide City Council with thirty (30) days written notice prior to the date he ceases to perform his duties and responsibilities under this CONTRACT and the provisions of the City's Charter and City Code.

3. SALARY AND BENEFITS.

A. CITY agrees to provide the following compensation to BAHORSKI:

i. Base Salary. Base salary of \$122,500 annually (\$10208.34 monthly) for services rendered beginning on February 26, 2001. BAHORSKI's salary shall be subject to withholding and other applicable taxes, and shall be payable to BAHORSKI at the same time as other employees of City are paid. BAHORSKI shall be exempt from the overtime pay provisions of California and federal law. Said compensation may be increased pursuant to approval of a majority of the City Council. In addition, the City Council shall annually review BAHORSKI's salary and may make salary adjustments as deemed appropriate.

ii. Merit Bonus. During the <sup>semi-</sup> ~~initial~~ first year of employment, BAHORSKI will be evaluated <sup>2MB</sup> ~~bi~~annually. Within one month of BAHORSKI's employment the City Council shall engage in a goal setting session with a facilitator to establish citywide goals. These goals shall be the criteria used to determine the level of performance incentive awarded to BAHORSKI up to 10% of current base salary. Thereafter, BAHORSKI will be evaluated annually with the opportunity to receive a performance incentive up to 10% of then-current base salary. Performance goals shall be established by the City Council as generally agreed to by BAHORSKI.

B. CITY agrees to provide the following benefits to BAHORSKI:

i. Retirement Benefits. The CITY shall enroll BAHORSKI in the Public Employee's Retirement system (PERS). The City will pay on behalf of BAHORSKI the full cost of the PERS 2% at 55 formula. This includes BAHORSKI's share of said plan and BAHORSKI's contribution to such retirement system.

- ii. Deferred Compensation. Employee shall be entitled to participate in the ICMA Deferred Compensation Plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. As additional compensation, the CITY shall contribute the maximum amount allowable under the law of BAHORSKI's base salary into the CITY's deferred compensation plan on behalf of BAHORSKI. In the event the maximum amount allowable by law increases, the CITY shall automatically increase its contribution to an amount equal to the maximum amount allowable under the law.
- iii. Car Allowance. The CITY shall provide BAHORSKI a car allowance of \$500 per month. BAHORSKI shall maintain all records required by applicable California and federal law concerning use of his automobile, including without limitation records to substantiate personal and City-related use of such automobile. BAHORSKI shall secure and maintain at all times and at BAHORSKI's expense a policy or policies of Comprehensive Public Liability Insurance, with an insurance carrier approved by City, with minimum limits of One Million Dollars (\$1,000,000) or a lesser minimum limit approved by the City Council, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. BAHORSKI shall name City, and its Council members, officials and employees as additional insured on such policy or policies; and deliver to City copies of such insurance endorsements and certificates of insurance. Such insurance policies shall provide that the insurance coverage shall not be canceled, reduced or otherwise modified by BAHORSKI or by BAHORSKI's insurance carrier without at least thirty (30) days' prior written notice, served on City personally by said insurance company.
- iv. Computer Equipment. The CITY shall reimburse BAHORSKI up to \$2000 for the purchase of a computer and printer upon Employee's submittal of invoices in accordance with City's standard reporting practice. This computer and printer will be for BAHORSKI's use at home and will be owned by BAHORSKI.
- v. Internet Access and Cellular Phone. The CITY shall provide BAHORSKI with a monthly allowance of \$250 for Internet and cellular phone charges.
- vi. Sick Leave. BAHORSKI shall be credited with 96 hours of sick leave effective on the first day of employment with the City and thereafter BAHORSKI shall accrue sick leave at the rate of 3.692 hours per pay period (12 days per year). Leave shall not accrue during any period when BAHORSKI is on leave of absence without pay. BAHORSKI may accumulate a maximum of 320 hours' (40 days) sick leave. Whenever BAHORSKI accumulates this maximum amount of sick leave,

BAHORSKI shall cease accruing additional sick leave. If BAHORSKI uses sick leave to the extent that accumulated sick leave falls below the maximum that may be accumulated, BAHORSKI shall resume accruing sick leave from that date forward until BAHORSKI's accumulated sick leave again reaches the maximum amount set forth herein. There shall be no payment for unused accumulated sick leave upon termination of BAHORSKI's employment with City.

- vii. Vacation Leave. BAHORSKI shall be credited with 120 hours of vacation leave time effective on the first day of employment with the City. BAHORSKI shall accrue vacation leave at the rate of 4.615 hours per pay period (15 days per calendar year). Leave shall not accrue during any period when BAHORSKI is on a leave of absence without pay. BAHORSKI may accumulate a maximum of 240 hours' vacation leave (30 days). Upon accumulating this maximum amount of vacation leave, BAHORSKI shall cease accumulating additional vacation leave. In lieu of additional paid vacation leave accumulation, City shall pay BAHORSKI compensation at his then-current hourly rate for any vacation leave accrued in excess of 240 hours. Such additional vacation accrual shall be paid to BAHORSKI the pay period following the pay period in which such vacation leave is accrued. If BAHORSKI uses vacation leave to the extent that accumulated vacation leave falls below the maximum which may be accumulated, BAHORSKI shall resume accruing vacation leave from that date forward until BAHORSKI's accumulated vacation leave again reaches the maximum amount set forth herein. BAHORSKI may not use more than twenty (20) days of vacation leave in any one calendar year and may not use more than ten (10) days vacation leave in any single increment without the prior written consent of the City Council.
- viii. Administrative Leave. BAHORSKI will be advanced five administrative leave days effective on the first day of employment. In addition, BAHORSKI shall be entitled to 5 administrative leave days each fiscal year during the term of his employment. Such leave may not be accumulated and carried forward to succeeding fiscal years, and shall not be paid to BAHORSKI if not used.
- ix. Holidays. BAHORSKI shall be entitled to the holidays generally available to other exempt employees of City. BAHORSKI's salary includes holiday pay. Accordingly, BAHORSKI shall not be entitled to any additional salary or compensation for working on a holiday.
- x. Bereavement Leave. Employee shall be eligible for bereavement leave as generally available to other exempt employees of City.
- xi. Group Medical, Dental and Life Insurance. During the term of his employment BAHORSKI and his eligible dependents shall participate in

the City's group medical, life and dental insurance plans in accordance with the terms and conditions of such plans as they now exist or as they may be changed from time-to-time in the future. The CITY shall fully pay all premiums for BAHORSKI and his eligible dependents. Insurance shall be effective upon first day of employment.

- xii. Additional Life Insurance. BAHORSKI shall receive a \$50,000 life insurance policy paid by the CITY. Insurance shall be effective upon first day of employment.
- xiii. Long Term Disability Insurance. BAHORSKI shall participate in the City's long term disability insurance plan in accordance with the terms and conditions of such plan as it now exists or as it may be changed from time-to-time in the future.
- xiv. Business Expenses. City shall pay all reasonable and necessary business expenses, upon BAHORSKI's submittal of invoices in accordance with City's standard reporting practice.
- xv. Management Benefits. Unless otherwise specified in this CONTRACT, BAHORSKI shall receive at a minimum the same benefits as the management and mid-management employee group. BAHORSKI's benefits will automatically be adjusted upward to reflect any changes to the management and mid-management benefits. Under no circumstances will BAHORSKI's benefits be decreased as a result of a decrease to the management and mid-management benefits.
- xvi. Professional Dues and Travel Expenses. The CITY agrees to pay for the professional dues, subscription fees and other costs for BAHORSKI's participation in National, State and Local Professional Associations and Organizations and the cost and travel expenses of attendance at meetings, conferences and training, upon BAHORSKI's submittal of invoices in accordance with City's standard reporting practice.
- xvii. Relocation Allowance. As a result of accepting the position of City Manager with the City of Seal Beach, BAHORSKI will have to relocate from his current residence. In consideration for said relocation, the CITY agrees to pay BAHORSKI a one-time payment of \$10,000 for relocation on the first day of residence at his new home.

#### 4. TERMINATION.

##### A. Without Cause.

- i. Severance Pay. If Employee is terminated without cause at any time by a majority vote of the City Council in attendance at any

lawfully called meeting, City shall pay Employee severance pay equal to twelve months of the salary to which Employee is then entitled under this CONTRACT, less payroll deductions, and less interim compensation to which BAHORSKI is entitled during the twelve-month period following his termination pursuant to this subsection.

- ii. Installment Payments. If BAHORSKI is entitled to severance pay pursuant to subsection i. of this Section, City may pay the amount due, without interest, over a term of 1 year payable in 12 equal successive monthly installments. The first installment shall be paid on the effective date of termination, and successive monthly installments shall be paid on the same day of each succeeding calendar month until all such payments have been made.
- iii. Interim Compensation. As used in this CONTRACT, the terms "interim compensation" shall include, but not be limited to, compensation, in any form, to which BAHORSKI is entitled from employment other than employment with City; compensation, in any form, to which BAHORSKI is entitled to as an independent contractor, and compensation, in any form, from any source, including, without limitation, unemployment and disability insurance, from any person, entity or source, to which BAHORSKI is otherwise entitled. Upon City's request, BAHORSKI shall promptly provide City with documentary evidence of interim compensation.
- iv. Insurance Benefits. If BAHORSKI is terminated without cause, in addition to severance pay provided herein, the City shall provide at no cost to BAHORSKI the same medical and dental insurance or its equivalent then in effect, to the extent permitted by such medical insurance plans, for BAHORSKI and his eligible dependents for up to twelve months, or such shorter period of time if BAHORSKI secures employment with, becomes an independent contractor for, or otherwise provides services for, any person, organization or entity, other than City, and BAHORSKI is eligible for medical insurance provided by or sponsored by such person, organization or entity.

B. No Severance Pay.

BAHORSKI shall not be entitled to severance pay:

- i. If BAHORSKI terminates this CONTRACT; or
- ii. If City terminates this CONTRACT for cause as determined in good faith by the City Council for any of the following reasons:

- a). BAHORSKI refuses or fails to perform the powers and duties of the City Manager as specified in the City Charter or the powers and duties of the Executive Director of the Agency as specified in the Agency By-Laws;
- b). BAHORSKI acts in any way that has or may have a substantial and adverse effect on City's interest, including but not limited to committing any act of dishonesty of a substantial and serious nature;
- c). BAHORSKI breaches this CONTRACT; or
- d). BAHORSKI is convicted of any illegal act involving a felony, personal gain, or moral turpitude.

C. Payment of Unused Vacation Leave Upon Termination.

Should BAHORSKI's employment with City terminate, BAHORSKI shall be entitled to be paid at the time of termination for unused vacation leave not to exceed the maximum amount which may be accumulated as set forth in this CONTRACT.

Accumulated vacation leave shall be calculated by first multiplying BAHORSKI's then monthly salary by 12. The product, the annual salary, is then divided by two thousand eighty (2080) hours. (Monthly salary x 12 ÷ 2080 hours per year = 1 hour paid vacation leave.)

5. INDEMNIFICATION. CITY shall defend, hold harmless, and indemnify BAHORSKI against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of this CONTRACT, or any alleged act or omission occurring in the course and scope of performance of BAHORSKI'S duties in accordance with the provisions of the California Government Code section 825.

6. BONDING. CITY shall bear the full cost of any fidelity or other bonds required of BAHORSKI under any law or ordinance.

7. ENTIRE CONTRACT. This CONTRACT is the complete and final expression of the parties' CONTRACT. This CONTRACT contains the entire agreement and understanding between the parties and contains all of the terms and conditions of the parties' CONTRACT. This CONTRACT supersedes all prior or contemporaneous oral or written negotiations, discussions, representations, or agreements between the parties, if any.

No amendment, alteration, extension, or modification of this CONTRACT shall be binding unless in writing and signed by CITY, in accordance with City Council action, and BAHORSKI.

8. GOVERNING LAW. This CONTRACT will be governed and construed in accordance with the laws of the State of California.

9. NO WAIVER. No party's failure to enforce any provision(s) of this CONTRACT will be construed in any way as a waiver of such provision(s), nor prevent that party from enforcing each and every other provision of this CONTRACT.

10. PARTIAL INVALIDITY. The invalidity or unenforceability of any provision(s) of this CONTRACT will not affect the validity or enforceability of the other provision(s) of the CONTRACT.

11. HEADINGS. Paragraph headings used in this CONTRACT are for convenience only and shall not be considered part of the terms of the CONTRACT.

DATED: January 22, 2001

Patricia L. Campbell  
MAYOR

ATTEST:

Jeanne M. Leo  
CITY CLERK

APPROVED AS TO FORM

John M. Bahr  
CITY ATTORNEY

John B. Bahorski  
JOHN B. BAHORSKI

## EXHIBIT B

1) ) Effective the first payroll period in July, 2004, an 8% inequity adjustment for the Chief of Police and a 3% cost of living adjustment across the board was approved as follows:

### Executive Management

Chief of Police		8852	9294	9759	10247	10759
Director of Public Works/City Engineer	70C	7590	7970	8369	8787	9227
Director of Development Services	67D	7084	7438	7810	8201	8611
Director of Administrative Services	66D	6911	7257	7620	8001	8401
Assistant City Manager	64B	6512	6838	7180	7539	7916
Director of Parks, Rec. & Com Serv	63E	6450	6772	7111	7467	7840
City Clerk	54C	5113	5369	5637	5919	6215

### Mid-Management

Assistant City Engineer	62C	6231	6543	6870	7213	7573
Accounting Manager	58A	5590	5869	6162	6470	6793
Maintenance Services Manager	56E	5426	5697	5982	6281	6595
Lifeguard Captain*	56B	5345	5612	5893	6188	6497
Associate Engineer**	56B	5345	5612	5893	6188	6497
Senior Planner***	54C	5113	5369	5637	5919	6215
Administrative Assistant	50A	4587	4816	5057	5310	5575
Human Resource Analyst	49D	4543	4770	5008	5258	5521
Associate Planner	39B	3514	3690	3874	4068	4271

\*Lifeguard Captain formerly classified as Lifeguard Chief.

\*\*Associate Engineer positions approved 10/13/03.

\*\*\*Senior Planner position approved 4/26/04.



# City of Seal Beach



CITY HALL • 211 EIGHTH STREET  
SEAL BEACH, CALIFORNIA 90740-6879  
(562) 431-2527

## PRESS RELEASE

**John B. Bahorski** has been appointed as City Manager of the City of Seal Beach and will begin his employment on February 26, 2001.

With over fourteen years of experience in municipal government, Mr. Bahorski has worked for the cities of Grover Beach, Calistoga, Del Mar and most recently served as City Manager of Dana Point. He has a clear understanding of the dynamics involved with managing coastal communities and is familiar with Orange County issues and concerns. His diverse background reflects his efforts in working with the community to make government more accessible. With a strong work ethic and commitment to excellence, Mr. Bahorski will be an asset to our community. Mayor Patricia Campbell recently stated that "the City Council is looking forward to Mr. Bahorski's arrival in Seal Beach. Based on Mr. Bahorski's proven leadership, experience and background -- we will be able to provide exemplary services to our community."

Mr. Bahorski graduated with a Master's Degree in Public Administration from Ohio State University and received a Bachelor's of Public Affairs from Wayne State University, Detroit, Michigan.

Dan Dorsey  
Assistant to City Manager  
January 22, 2001

**Linda Devine**

---

**From:** tsaavedra@ocregister.com  
**Sent:** Monday, January 10, 2005 5:58 PM  
**To:** Linda Devine  
**Subject:** OC Register Salary Survey



sealbeachemail.xls

As you know, the Register has been collecting the total compensation for city managers throughout Orange County. This is what we have for John Bahorski. Please respond immediately to acknowledge receipt and then confirm that the numbers are accurate and complete.

Thanks,  
Tony Saavedra  
Investigations Team  
Orange County Register  
(714) 796-6930

(See attached file: sealbeachemail.xls)

<u>Agency</u>	<u>Last</u>	<u>First</u>	<u>Total Compensation</u>	<u>Year hired</u>	<u>Base salary</u>	<u>Doctorate stipend</u>	<u>Longevity stipend</u>
Seal Beach c	Bahorski	John	\$ 190,682.12	2001	\$142,000.00	No	No

<u>Medical benefits</u>	<u>Life insurance</u>	<u>Car allowance</u>	<u>Expenses</u>	<u>Retirement</u>	<u>Deferred compensation</u>	<u>Per diem rate</u>
\$13,944.00	\$179.64	\$6,000.00	3000	\$12,558.48	13000	\$546.15
					2005 (max) 14000	

<u>City-paid auto</u>	<u>Auto type</u>	<u>Vac days</u>	<u>Admin leave</u>	<u>Sick leave</u>
no	N/A	22.75	5	12

## AGREEMENT

This Agreement is entered into by and between Keith Till ("Manager") and the City of Seal Beach, a municipal corporation, as of the date set forth below.

### Recitals

A. Manager is employed as the City Manager for the City of Seal Beach and Executive Director for the City Redevelopment Agency pursuant to an employment agreement dated October 30, 1995 and subsequently amended twice. On November 10, 1998, the City and Redevelopment Agency (collectively "City") and Manager entered into an agreement which superseded the October 30, 1995 employment agreement and each of its amendments. The November 10, 1998 agreement shall hereinafter be referenced as the "Employment Agreement."

B. Manager has requested, and the City has granted his request, for paid administrative leave of absence, effective July 10, 2000.

C. Manager has tendered his resignation, effective August 3, 2000.

D. The City has accepted his resignation.

E. Any claims Manager may have against the City will be resolved by this agreement.

NOW THEREFORE, in consideration of the above recitals and of the mutual promises set forth below, the parties hereby agree:

### 1. Conclusion of Employment.

A. By their signatures below, Manager and the City conclude Manager's employment relationship effective 5:30 p.m. August 3, 2000, and Manager hereby resigns his employment with City as of that date. It is agreed that City and Manager have taken all necessary steps prerequisite to concluding Manager's employment as City Manager and Executive Director (collectively "Manager") as set forth herein. The City accepts Manager's resignation and agrees that Manager's resignation shall be in good standing. Notwithstanding the resignation in good standing, Manager expressly and irrevocably waives re-employment, reinstatement and future employment rights, if any.

B. The City, on the one hand, and the Manager, on the other hand, have each provided the other party with all legally required notices pursuant to the Employment Agreement, City Charter, and City Code. Further, the City has taken all necessary steps prerequisite to terminating the Employment Agreement and terminating Manager's employment as City Manager.

### 2. Severance Benefits.

Notwithstanding Manager's resignation, and in accordance with Section 10 of

the Employment Agreement, the City agrees to provide to Manager the following pay and benefits:

A. City shall pay Manager severance pay, less payroll deductions, and less interim compensation to which Manager is or becomes entitled during the twelve-month period following his resignation, over a term of one year payable in 12 equal successive monthly installments of \$9,134. The first installment shall be paid on September 5, 2000, and successive monthly installments shall be paid on the fifth day of each succeeding calendar month until all such payments have been made. Manager shall use his best efforts and due diligence to secure appropriate employment with, become an independent contractor for, or otherwise provide services for compensation, for any person, organization or entity, other than City.

B. As used in this Agreement, the term "interim compensation" shall include, but not be limited to, compensation, in any form, to which Manager is entitled from employment other than employment with City; compensation, in any form, to which Manager is entitled to as an independent contractor, and compensation, in any form, from any source, including, without limitation, unemployment and disability insurance, from any person, entity or source, to which Manager is otherwise entitled. Manager shall promptly provide City with documentary evidence of interim compensation within ten working days of City's request for such information.

C. In addition to severance pay provided herein, the City shall pay Manager's cost for COBRA medical insurance continuation coverage, provided Manager remains eligible for such coverage, for up to twelve months after the date of this Agreement, or such shorter period of time if Manager secures employment with, becomes an independent contractor for, or otherwise provides services for, any person, organization or entity, other than City, and Manager is then eligible for medical insurance provided by or sponsored by such person, organization or entity. After the twelve month period has expired, Manager may, thereafter, continue COBRA medical insurance continuation coverage to the extent provided by the applicable insurance plan or law at Manager's expense. Except as provided in this Agreement or otherwise required by law, Manager shall not be eligible to continue any other insurance coverages or fringe benefits at City expense.

D. Manager shall continue to receive all of the salary and benefits which he currently earns (including PERS contributions) through August 9, 2000.

E. On or before August 9, 2000, Manager shall be paid unused vacation leave in the amount of \$12,122.52 for 230.0725 hours (as of 8/9/00) of accrued vacation leave. Such hours do not exceed the maximum amount of 240 which may be accumulated as set forth in the Employment Agreement. Pursuant to the Employment Agreement, accumulated vacation leave has been calculated by first multiplying Manager's current monthly salary of \$9,134 by 12. The product of \$109,608, the annual salary, was divided by two thousand eighty (2080) hours. ( $\$9,134 \times 12 \div 2080$  hours per year = 1 hour paid vacation leave of \$52.69) The hourly rate of \$52.69 was then multiplied by the accrued hours of 230.0725. For illustrative purposes only, attached hereto as Exhibit A is a print out of the City's calculations of Manager's unused vacation leave as of July 18, 2000.

3. Mutual Releases.

A. Manager's Release

1) In consideration of the performance of the provisions contained in this Agreement, Manager hereby forever relieves, releases and discharges City, its Council members, Agency boardmembers, its officers, employees and agents ("Releasees") from any and all claims, debts, obligations, causes of action, demands, liabilities, costs or expenses of whatsoever kind or nature, whether known or unknown, suspected or unsuspected, arising from or relating to Manager's employment with Employer and the termination of that employment. Manager further agrees that he will not institute any action or actions, causes of action (in law or in equity), suits, debts, liens, claims, demands, known or unknown, in state or federal court, or with any state, federal or local government agency arising from or attributable to any employment practice of the Employer, its agents, and all persons acting by, through, under, or in concert with the City, relating in any way to Manager's employment or the termination of that employment, or the manner by which the employment was terminated. Manager shall not file any actions against the City or the Releasees in any state or federal court, state or federal governmental administrative agency (including, without limitation, the California Workers' Compensation Appeals Board), or private organization. It is understood that this Agreement is a bar to any such action or proceeding.

2) Manager specifically acknowledges that he is aware of, and familiar with, the provisions of California Civil Code Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Manager, being aware of this Statute and its meaning and effect, expressly waives and relinquishes all rights and benefits he may have as well as any other rights or benefits derived from any statutes or common law principles of similar effect arising out of his employment with City and/or the termination of his employment with the City and of the Employment Agreement.

3) Manager is fully aware of and understands all of his rights under the Age Discrimination and Employment Act of 1967 (29 U.S.C. Sections 621-634) ("ADEA").

Being fully aware of any potential claims he may have against Releasees based upon the provisions of the ADEA, Manager knowingly and voluntarily releases Releasees from any and all claims he may have against them based upon any aspect of his employment with City including the termination of his employment.

Manager has been given the opportunity to take twenty-one (21) calendar days to review and consider the terms and effects of this Agreement prior to executing it and hereby waives that opportunity. Manager understands that the terms of this Agreement are not effective until eight (8) calendar days after its execution. Manager may revoke this Agreement within seven (7) calendar days of its execution. Revocation shall not be effective unless it is

communicated in writing to the City within seven (7) calendar days after the execution of this Agreement. If Manager revokes this Agreement, City shall be relieved all of its obligations under this Agreement.

4) The releases contained in this Section do not apply to the obligations of the City created by this Agreement.

B. City's Release

In consideration of the performance of the provisions contained in this Agreement, City hereby forever relieves, releases and discharges Manager from any and all claims, debts, obligations, causes of action, demands, liabilities, costs or expenses of whatsoever kind or nature, whether known or unknown, suspected or unsuspected, arising from or relating to Manager's employment with City. City further agrees that it will not institute any action or actions, causes of action (in law or in equity), suits, debts, liens, claims, demands, known or unknown, in state or federal court, or with any state, federal or local government agency arising from or attributable to or relating in any way to Manager's employment. It is understood that this Agreement is a bar to any such action or proceeding.

City specifically acknowledges that it is aware of and familiar with the provisions of California Civil Code Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

City, being aware of this Statute and its meaning and effect, expressly waives and relinquishes all rights it may have as well as any other rights derived from any statutes or common law principles of similar effect arising out of Manager's employment with City.

Notwithstanding the foregoing, the City does not waive any rights provided by Government Code Sections 825, 825.6 and 995 et seq.

4. Advice and Expense of Counsel.

A. Manager acknowledges that he has been advised to consult an attorney prior to executing this Agreement.

B. City agrees to reimburse Manager the sum of \$<sup>2</sup>1,000 for attorney's fees incurred in connection with this Agreement, payable in a lump sum within ten (10) days of execution of this Agreement by way of a check made payable to Scott & Whitehead Client Trust Account. That payment aside, each of the parties hereto agrees to bear its own costs and attorneys' fees with respect to all matters leading to and including the negotiation and execution of this Agreement.

5. Representations and Warranties.

A. Manager acknowledges that he has read this Agreement carefully, fully understands its terms, nature and effect and is executing this Agreement freely, knowingly and voluntarily. In executing this Agreement, Manager does not rely on any inducements, promises, or representations by City or any person other than the terms and conditions of this Agreement.

B. The parties acknowledge and agree that the facts with respect to this Agreement may hereafter turn out to be other than or different from the facts now known to them or believed by them to be true and the parties therefore expressly assume the risk of the facts being different and agree that this Agreement shall be in all respects effective and not subject to termination or rescission by reason of any such different facts.

C. Manager acknowledges and warrants that as of the date of this Agreement he is in good physical and mental condition, that he is fully competent to manage his business affairs and that he is not suffering from any physical or mental disability of any type.

D. The parties represent and warrant that each of them is the sole and lawful owner of all right, title and interest in and to every claim, right and other matter which each party releases herein, and that each party has not otherwise heretofore assigned or transferred, or purported to assign or transfer, to any person or entity, any claims or other matters herein released. Manager further represents and warrants that he has not heretofore created or given rise to any lien or other right by which any other party may claim all or any part of the monies to be paid by City pursuant to Section 2 of this Agreement, and Manager agrees to indemnify, defend and hold harmless City from any claim by any third party to all or any portion of said monies.

E. The parties and individuals executing this Agreement represent and warrant that each of them has the authority to execute this Agreement on behalf of the party on whose behalf said person is purporting to execute this Agreement.

F. Manager represents and warrants that no action of any kind is currently pending against City in any federal or State court or before any administrative agency relative to Manager's employment or the termination of that employment.

G. Each party agrees that such party will not take any action which would interfere with the performance of this Agreement by any other party hereto or which would adversely affect any of the rights provided for herein.

H. City shall not exercise its option, pursuant to Section 10B of the Employment Agreement, to employ Manager on a consulting basis.

6. Mutual Cooperation.

A. On or before end of business on August 4, 2000 Manager shall vacate his office and return all keys, documents, files, equipment, and property belonging to City.

B. Upon request of City, Manager shall promptly prepare and provide a written summary concerning all business activities pending as of the date of separation.

C. Manager shall cooperate with City as may be reasonably necessary in the

transition of his responsibilities. Prior to August 10, 2000, he shall be available by telephone during normal business hours to answer questions and provide information about City operations. After August 10, 2000 Manager shall be available for such purposes as his schedule permits.

D. Subject to Government Code Sections 825 and 825.6, and Government Code Sections 995 et seq., and upon written request, City shall defend and indemnify Manager for good faith acts taken by him in the course and scope of employment in any action filed against him, provided that Manager cooperates in good faith with the defense of such action.

E. In response to inquiries from prospective employers, City shall verify Manager's last held position, responsibilities, dates of employment, amount of final salary and that he resigned from his employment.

F. The City and Manager agree that their deliberations concerning the factual circumstances leading to the execution of this Agreement are confidential. Except as may be agreed upon, the Manager and the City Council, and each of them in his or her personal or official capacity, agree to refrain from public comment on or disclosure to any third party of the factual circumstances leading to the execution of this Agreement, except as may be required by lawful judicial process. Manager and the City Council, and each of them in his or her personal or official capacity, agree to refrain from making any public statements regarding this Agreement and the contents thereof. Further, the Manager agrees to keep the terms of this Agreement confidential, including but not limited to, disclosure of the moneys paid herein, except that he may disclose the terms to his immediate family, his attorneys, and to his accountant, but he shall make all reasonable efforts to insure that these people do not release information to any other parties. Similarly, City agrees to keep the terms of this Agreement confidential, and shall not disclose the terms of this Agreement to any third parties except those who have a strict business reason to know or unless otherwise compelled by law, including the Public Records Act or Brown Act. Upon inquiry by any third party concerning the relationship between them, the parties hereto shall respond only by saying words to the effect of, "All matters have been resolved to the satisfaction of all concerned." Manager and City acknowledge that neither party shall make any written or oral statements to members of the public or the press concerning Manager's resignation except in the form of a joint press release which is mutually agreeable to both parties; provided, however, that either party may verbally repeat the substance of such press releases in response to inquiries by members of the press or public. Notwithstanding anything in this subparagraph F, members of the City Council may provide positive recommendations to prospective employers regarding Manager and his performance.

7. Repayment of City Loan for Housing Assistance. The City lent Manager \$75,000 in connection with Manager's purchase of his residence. Manager shall repay the principal of such loan by submitting to the City the amount of \$75,000 within 120 days after Manager becomes employed, and, in no event, later than February 10, 2001. Manager shall pay to the City the monthly interest payment of \$437.50 accruing on such loan until such time as the principal of the loan is paid in full. The first interest payment shall be due on September 5, 2000. At the City's sole discretion, the City may offset such amount (\$437.50) from each of the monthly payments set forth in Section 2A above, until such time as the principal of the loan is paid in full.

8. Pending Litigation. There is currently pending litigation in which the City and Manager are named as defendants. Subject to the requirements and provisions of Government



Code Sections 825, 825.6 and 995 et seq., the City shall defend and indemnify Manager in that litigation.

9. Written Modifications. This Agreement supersedes any prior written or verbal adjustment of this matter and constitutes a complete resolution of all claims or potential claims by Manager against the City. There shall be no modification of this Agreement except in writing signed by both parties.

10. Binding Effect. This Agreement is binding upon, and shall inure to the benefit of Manager's heirs, administrators, executors, successors and assignees.

11. Attorney's Fees to Enforce Agreement. In the event suit is initiated by either party to enforce the terms of this Agreement, or for damages for breach of the terms of this Agreement, the prevailing party shall be entitled to actual attorney's fees and costs.

12. No Admission of Liability. It is understood and agreed that this Agreement shall not constitute or be construed as an admission of liability on the part of the parties herein released.

13. Governing Law. This Agreement and the rights and obligations created by this Agreement shall be governed by the laws of the State of California.

14. Superseding Effect of Agreement. This Agreement, and the rights conferred to Manager herein, shall replace and supersede the terms and provisions of the Employment Agreement, which Agreement is hereby declared terminated, unless otherwise specified herein.

15. No Right to Reinstatement. Manager waives any and all rights to reinstatement to his former position.

16. Agreement Binding. This Agreement is binding upon, and shall inure to the benefit of, the heirs, executors, administrators, representatives, successors and assigns of the respective parties hereto and each of them.

17. Integration. This Agreement constitutes a single integrated written contract expressing the entire agreement of the parties hereto relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any party hereto, except as specifically set forth in this Agreement. All prior discussions and negotiations have been and are merged and integrated into, and are superseded by, this Agreement.

18. Severability. In the event that any provision or partial provision of this Agreement should be held to be void, voidable, or unenforceable, the remaining portions hereof shall nevertheless remain in full force and effect.

DATED: Aug 9, 2000

CITY OF SEAL BEACH

*Patricia Campbell*

Patricia Campbell, Mayor

(signatures continue)

ATTEST:

*Joan M. Lee*  
\_\_\_\_\_  
City Clerk

DATED *Aug 3*, 2000

MANAGER

*Keith Till*

Keith Till

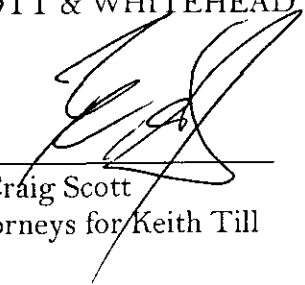
APPROVED AS TO FORM  
on Behalf of the City

RICHARDS, WATSON & GERSHON

by *Quinn Barrow*  
\_\_\_\_\_  
Quinn Barrow  
City Attorney  
City of Seal Beach

APPROVED AS TO FORM  
on behalf of Keith Till

SCOTT & WHITEHEAD

  
by \_\_\_\_\_  
R. Craig Scott  
Attorneys for Keith Till

MEMORANDUM

August 4, 2000

**TO:** CITY OF SEAL BEACH EMPLOYEES  
**FROM:** KEITH TILL *Keith*  
**SUBJECT:** ANNOUNCEMENT OF RESIGNATION AS CITY MANAGER

After a very rewarding career with the City of Seal Beach, I have decided to move on to other professional pursuits and have tendered my resignation effective August 3, 2000. I have spent a lot of time considering different opportunities and am now looking forward to new challenges in the times ahead.

I want to personally thank the employees of the City who have made possible the many remarkable achievements we've celebrated over the last five years. Without your dedication, commitment and perseverance, the City could not be the accomplished and respected organization that it is today.

You are a great group, and I have truly enjoyed working with you.

EMPLOYMENT AGREEMENT BETWEEN THE CITY OF SEAL BEACH AND  
CITY MANAGER KEITH TILL

This Employment Agreement ("Agreement") is entered into this 10th day of November, 1998, by and between the City of Seal Beach, California, a Municipal Corporation ("City"), and Keith Till ("Manager").

R E C I T A L S

A. On October 30, 1995, City and Manager entered into that certain Employment Agreement ("October 30, 1995 Agreement") whereby the City engaged the services of Manager to perform the services of City Manager and Executive Director of the Redevelopment Agency.

B. The October 30, 1995 Agreement has been amended twice to change the provisions with respect to compensation.

C. The October 30, 1995 Agreement will expire on November 12, 1998. This Employment Agreement between the City and Manager, shall supersede the October 30, 1995 Agreement and each of its amendments.

D. The parties hereto wish to extend the term of the employment for an additional two years, with an option for two years, with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the above recitals and of the mutual promises set forth below, the parties hereby agree:

1. TERM. Unless terminated earlier or extended, as set forth in this Agreement, the term of this Agreement shall be two years, commencing on November 13, 1998, and ending on November 12, 2000. The term shall be automatically extended for successive periods of one year unless either party provides written notice of not less than forty-five (45) days prior to the termination date of intent not to renew. The City may, with employee concurrence, extend the term for a period of two years, or such other term as may then be deemed appropriate by the City Council, under the same terms and provisions set forth herein by providing written notice on or before September 28, 2000.

2. DUTIES AND AUTHORITY. Manager shall exercise the powers and perform the duties of the position of City Manager and Executive Director of the Seal Beach Redevelopment Agency ("Agency") as set forth in the City's Charter, Code and Ordinances and Resolutions; and in the City Manager and Executive Director of the Agency job descriptions, as they currently or may in the future exist. Manager shall exercise such other powers and perform such other duties as City, by the City Council, may from time to time assign.

3. EMPLOYEE'S OBLIGATIONS. Manager shall devote his full energies, interest, abilities and productive time to the performance of this Agreement, and utilize his best efforts to promote City's interests. Manager 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 materially interferes, with his duties and responsibilities to City.

4. PERFORMANCE STANDARDS. The City Council has set the following goals which will be used to measure Manager's performance:

- a. Promote team-building and communications with City employees with the goals of improving employee support for achieving Council established goals and objectives;
- b. Develop business plan addressing taxation issues and cost-efficiency;
- c. Implement Capital Improvement Plan in a timely fashion and without substantial cost overruns;
- d. Initiate and implement redevelopment programs (e.g., Housing Rehabilitation Program); and
- e. Develop programs to contain and reduce City's liability for Worker's Compensation and other personnel-related claims.

5. SALARY.

A. Initial Rate. Commencing November 13, 1998, the City shall pay Manager a salary based on a monthly rate of EIGHT THOUSAND, NINE HUNDRED AND FIFTY FIVE DOLLARS (\$8,955).

B. Subsequent Years. In or before November, 1999, and in or before every November thereafter during the term of the employment, the City Council shall evaluate Manager's performance during the prior twelve-month period. Based on that evaluation and other information which the City Council may gather, the City Council, in the exercise of its discretion, may change Manager's monthly salary following the evaluation. In determining the magnitude of a salary increase, if any, the City Council may consider factors such as, but not limited to, Manager's performance during the prior twelve-month period, the City's anticipated revenues and expenditures, and anticipated increases in the cost-of living during the following twelve-month period.

C. Manager's monthly salary shall be subject to withholding and other applicable taxes, and shall be payable to Manager at the same time as other employees of City are paid. Manager shall be exempt from the overtime pay provisions of California and federal law.

D. The City shall not reduce Manager's salary below a monthly rate of EIGHT THOUSAND, NINE HUNDRED AND FIFTY FIVE DOLLARS (\$8,955), except to the degree that such a reduction is across-the-board for all exempt employees of the City.

E. In addition to the salary received pursuant to this Section 5, City shall pay to Manager an amount equal to the amount of interest received by the City from Manager pursuant to Section 6, subsection K(2).

6. EMPLOYMENT BENEFITS. City shall also provide to Manager the following:

A. Holidays. Manager shall be entitled to the holidays generally available to other exempt employees of City. Manager's salary includes holiday pay. Accordingly, Manager shall not be entitled to any additional salary or compensation for working on a holiday.

B. Paid Sick Leave.

(1) On November 13, 1995, City provided Manager a credit of 80 hours paid sick leave.

(2) Rate of Accrual. As of July 12, 1996, Manager's sick leave has been accruing, and shall continue to accrue at the rate of 3.692 hours per pay period (12 days per year). Sick leave shall not accrue during any period when Manager is on a leave of absence without pay.

(3) Maximum Amount of Sick Leave Which May Be Accumulated. Manager may accumulate a maximum of 320 hours (40 days) sick leave. Whenever Manager accumulates this maximum amount of sick leave, Manager shall cease accruing additional sick leave. If Manager uses sick leave to the extent that accumulated sick leave falls below the maximum which may be accumulated, Manager shall resume accruing sick leave from that date forward until Manager's accumulated sick leave again reaches the maximum amount set forth herein.

(4) No Payment of Unused Sick Leave Upon Termination of Employment. There shall be no payment for unused accumulated sick leave upon termination of Manager's employment with City.

C. Paid Vacation Leave.

(1) On November 13, 1995, City provided Manager a credit of 80 hours paid vacation leave.

(2) Rate of Accrual. As of July 12, 1996, Manager's vacation leave began accruing, and shall continue to accrue at the rate of 4.615 hours per pay period (15 days per calendar year). Vacation leave shall not accrue during any period when Manager is on a leave of absence without pay.

(3) Maximum Amount of Vacation Leave Which May Be Accumulated. Manager may accumulate a maximum of 240 hours' vacation leave (30 days). Upon accumulating this maximum amount of vacation leave, Manager shall cease accumulating additional vacation leave. In lieu of additional paid vacation leave accumulation, City shall pay Manager compensation at his then-current hourly rate for any vacation leave accrued in excess of 240 hours. Such additional vacation accrual shall be paid to Manager the pay period following the pay period in which such vacation leave is accrued. If Manager uses vacation leave to the extent that accumulated vacation leave falls below the maximum which may be accumulated, Manager shall resume accruing vacation leave from that date forward until Manager's accumulated vacation leave again reaches the maximum amount set forth herein.

(4) Manager may not use more than twenty (20) days of vacation leave in any one calendar year and may not use more than ten (10) days vacation leave in any single increment without the prior written consent of the City Council.

(5) Payment of Unused Vacation Leave Upon Termination.

(a) Should Manager's employment with City terminate, Manager shall be entitled to be paid at the time of termination for unused vacation leave not to exceed the maximum amount which may be accumulated as set forth in this Section.

(b) Calculation of Payment for Paid Vacation Leave. Accumulated vacation leave shall be calculated by first multiplying Manager's then monthly salary by 12. The product, the annual salary, is then divided by two thousand eighty (2080) hours. (Monthly salary x 12 ÷ 2080 hours per year = 1 hour paid vacation leave.) For example, if Manager receives the salary set forth in Section 4.A. of this Agreement at the time of termination, one (1) hour paid vacation leave would be determined as follows: \$8,955 x 12 months ÷ 2080 hours per year = \$51.66 per hour.

D. Group Medical, Life and Dental Insurance.

During the term of his employment, Manager and his eligible dependents shall participate in the City's group medical, life and dental insurance plans in accordance with the terms and conditions of such plans as they now exist or as they may be changed from time-to-time in the future. The City shall pay all premiums on behalf of Manager and his eligible dependents.

E. Automobile.

(1) City shall provide to Manager a monthly automobile allowance of FOUR HUNDRED DOLLARS (\$400).

(2) Manager shall maintain all records required by applicable California and federal law concerning use of such automobile, including without limitation records to substantiate personal and City-related use of such automobile.

(3) Manager shall secure and maintain at all times and at Manager's expense a policy or policies of Comprehensive Public Liability Insurance, with an insurance carrier approved by City, against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. Manager shall name City, and its Council members, officials and employees as additional insured on such policy or policies; and deliver to City copies of such insurance endorsements and certificates of insurance. Such insurance policies shall provide that the insurance coverage shall not be canceled, reduced or otherwise modified by Manager or by Manager's insurance carrier without at least thirty (30) days' prior written notice, served on City personally by said insurance company.

(4) Manager currently has an insurance policy with \$100,000/\$300,000 maximum coverage. City, in its sole discretion, may require Manager to secure and maintain an insurance policy or insurance policies with greater coverage than said coverage set forth in the insurance policy currently insuring Manager. If, as a result of such requirement, Manager's



premium cost for such policy or policies containing greater coverage is higher than the cost on the open market of an insurance policy with \$100,000/\$300,000 maximum coverage, City shall pay the difference between the premium cost of the required insurance and the cost on the open market of an insurance policy with \$100,000/\$300,000 maximum coverage.

F. Retirement Plan. Manager shall be covered by the Public Employees' Retirement System Plan applicable to miscellaneous employees of City in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall pay 100% of Manager's retirement contribution.

G. Bereavement Leave. Manager shall be eligible for bereavement leave as generally available to other exempt employees of City. The current bereavement leave policy is set forth in section 4 of Resolution Number 4120, adopted January 27, 1992.

H. Deferred Compensation Plan. Manager shall be entitled to participate in the ICMA Deferred Compensation Plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. Manager, at his sole discretion, may elect to defer any portion of his salary, according to the rules and procedures of the plan and up to the limits permitted by law.

I. Administrative Leave. Manager shall be entitled to 6 days administrative leave each fiscal year during the term of his employment. Such leave may not be accumulated and carried forward to succeeding fiscal years, and shall not be paid to Manager if not used.

J. Long Term Disability Insurance. Manager shall participate in the City's long term disability insurance plan in accordance with the terms and conditions of such plan as it now exists or as it may be changed from time-to-time in the future.

K. City Loan for Housing Assistance.

(1) To assist Manager in purchasing housing ("Manager's residence" or "the property") within the City of Seal Beach, the City lent Manager \$75,000. Title to Manager's residence is and shall be in the Manager's name. Manager is and shall be responsible for all mortgage payments, taxes, insurance and all costs to maintain Manager's residence.

(2) The loan to Manager is and shall be evidenced by a promissory note payable interest only at the rate of 7% per annum in equal monthly installments. The promissory note shall mature in 30 years. The promissory note shall be in a form approved by City. There shall be no pre-payment penalty. The promissory note is and shall be secured by a deed of trust encumbering the property. The City's trust deed may be subordinate to a first purchase money deed of trust securing a promissory note that does not exceed, when added to the principal amount of the City's loan, the fair market value of the property.

(3) The City's note and deed of trust shall provide that the City shall receive the greater of (a) \$75,000, or (b) 25% of the net proceeds of the sale of the property, in the event Manager's employment with the City is terminated or Manager sells the property. For purposes of this Agreement, the term "net proceeds" means the gross sale price minus (i) the

original principal amount of a first purchase money deed of trust, (ii) reasonable and customary closing costs and expenses (including a reasonable brokerage commission not to exceed 6%), and (iii) the amount attributable to the increase in value described in subsection (4), below, on account of a substantial remodeling or improvement. Within 90 days of the termination of Manager's employment with the City, the property shall be listed for sale. The parties may agree to extend this 90 day period to provide Manager additional time to Manager to list for sale the property.

(4) If Manager causes substantial remodeling of or improvements to the property, and an appraiser selected by the City provides the opinion that such remodeling or improvements increases the sale price of the property, Manager shall receive 100% of the proceeds attributed to that increase in value. For example, if the sale price for the property is \$750,000, and the City-approved appraiser provides an opinion that new improvements or remodeling increased the value of the property by \$150,000, Manager shall receive 100% of the added value of \$150,000, and the City shall receive \$150,000, 25% of the balance ( $\$750,000 - \$150,000 = \$600,000$ . 25% of  $\$600,000 = \$150,000$ .)

(5) Manager may purchase the City's 25% interest in the net proceeds at any time by paying to the City the greater of (a) \$75,000, or (b) 25% of the amount the net proceeds would have been had a sale actually occurred at that time.

L. Expenses and Dues. City shall pay all reasonable and necessary business expenses, including dues in civic organizations, upon Manager's submittal of invoices in accordance with City's standard reporting practice.

7. 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 Manager arising out of an act or omission by Manager occurring in the course and scope of Manager's performance of his duties under this Agreement.

8. AT-WILL EMPLOYMENT RELATIONSHIP. Manager is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council or Manager may terminate this Agreement and the employment relationship at any time without cause.

9. TERMINATION OF AGREEMENT WITH CAUSE. City may terminate Manager's employment and this Agreement with cause if:

A. Manager refuses or fails to perform the powers and duties of the City Manager as specified in the City Charter or the powers and duties of the Executive Director of the Agency as specified in the Agency By-Laws;

B. Manager acts in any way that has or may have a substantial and adverse effect on City's interest, including but not limited to committing any act of dishonesty of a substantial and serious nature;

C. Manager breaches this Agreement, including, without limitation, any provision set forth in Section 3, "Manager's Obligations", of this Agreement.

10. SEVERANCE PAY. If City terminates Manager's employment with City and this Agreement without cause, fails to exercise its option under Section 1 to extend this Agreement or, in the event this Agreement is extended as provided under Section 1, fails to offer a subsequent renewal Agreement upon expiration of this Agreement, Manager shall be entitled to severance pay as follows:

A. City shall pay Manager severance pay equal to twelve months of his salary at the time of termination, less payroll deductions, less any compensation received by Manager as a consultant pursuant to paragraph B, and less interim compensation to which Manager is entitled during the twelve-month period following his termination pursuant to this subsection. Manager shall use his best efforts and due diligence to secure employment with, become an independent contractor for, or otherwise provide services for compensation, for any person, organization or entity, other than City.

B. City may at its sole option continue to employ Manager on a consulting basis, and pay Manager at the same hourly rate of salary he was receiving one day before the effective date of termination, less payroll deductions, until the first day that Manager has commenced employment with, become an independent contractor for, or otherwise begins to provide services for like compensation, for any person, organization or entity, other than City. City and Manager agree to the scope of services, including assistance in the transition to a new City Manager and litigation matters. During the period Manager may serve as a consultant under this section, Manager shall not accept any work that will create a conflict or a potential conflict with his obligations under this section, unless he first secures a written waiver from City. In no event shall City employ Manager, or pay for any post-termination consulting services, after the one year anniversary of the effective date of termination.

C. In addition to severance pay provided herein, the City shall pay Manager's cost for COBRA medical insurance continuation coverage, provided Manager remains eligible for such coverage, for up to twelve months, or such shorter period of time if Manager secures employment with, becomes an independent contractor for, or otherwise provides services for, any person, organization or entity, other than City, and Manager is eligible for medical insurance provided by or sponsored by such person, organization or entity. Manager may, thereafter, continue COBRA medical insurance continuation coverage to the extent provided by the applicable insurance plan or law and at Manager's expense. Except as expressly provided in this Agreement or as otherwise required by law, Manager shall not be eligible to continue any other insurance coverages or fringe benefits at City expense.

D. Manager shall not be entitled to severance pay:

- (1) If Manager terminates this Agreement; or
- (2) If City terminates this Agreement for cause as determined in good faith by the City Council for any reason set forth in Section 8 of this Agreement.

E. If Manager is entitled to severance pay pursuant to subsection A of this Section, City shall pay the amount due, without interest, subject to offsets for consulting services and interim compensation, over a term of 1 year payable in 12 equal successive monthly installments. The first installment shall be paid on the first calendar day of the month following the month in which Manager is terminated, and successive monthly installments shall be paid on the first calendar day of each succeeding calendar month, for a maximum of twelve months.

F. Upon City's request, Manager shall promptly provide City with documentary evidence of interim compensation.

G. As used in this Agreement, the terms "interim compensation" shall include, but not be limited to, compensation, in any form, to which Manager is entitled from employment other than employment with City; compensation, in any form, to which Manager is entitled to as an independent contractor, and compensation, in any form, from any source, including, without limitation, unemployment and disability insurance, from any person, entity or source, to which Manager is otherwise entitled.

11. INTEGRATION OF AGREEMENT. This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties. Furthermore, unless otherwise set forth herein, this Agreement supersedes any Ordinance or Resolution pertaining to compensation, including salary and benefits, for City employees including the position of City Manager. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

12. METHOD OF AMENDMENT. No amendments to this Agreement may be made except by a writing signed and dated by City, in accordance with City Council action, and Manager.

13. NOTICES. Any notice to City under this Agreement shall be given in writing to City, either by personal service or by registered or certified mail, postage prepaid, addressed to City Clerk at City's then principal place of business. Any such notice to Manager shall be given in a like manner and, if mailed, shall be addressed to Manager at his home address then shown in City's files. 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 fourth calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this section.

#### 14. GENERAL PROVISIONS.

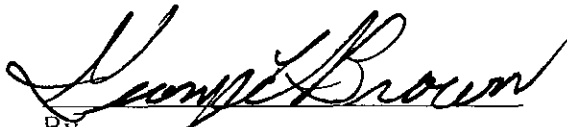
A. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect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


B. This Agreement shall be interpreted and construed pursuant to and in accordance with the local laws of the State of California and all applicable City Codes, Ordinances and Resolutions.

Executed by the parties as of the date first above written at Seal Beach, California.

  
BY MANAGER, KEITH R. TILL

CITY OF SEAL BEACH  
A Municipal Corporation  
("City")

  
By  
George Brown  
Mayor

ATTEST:  
  
Joanne Yeo, City Clerk

## EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is entered into this 30th day of October, 1995, by and between the City of Seal Beach, California, a Municipal Corporation ("City"), and Keith Till ("Employee").

### R E C I T A L S

- A. City seeks to fill the position of City Manager;
- B. Employee represents that he has knowledge and experience in municipal matters and is qualified to serve as the City Manager for the City; and
- C. The City desires to hire Employee and Employee desires to become employed by City pursuant to the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the above recitals and of the mutual promises set forth below, the parties hereby agree:

1. TERM. Unless terminated earlier or extended, as set forth in this Agreement, the term of this Agreement shall be three years, commencing on November 13, 1995, and ending on November 12, 1998. The initial term shall be automatically extended for successive periods of one year unless either party provides written notice of not less than forty-five (45) days prior to the termination date of intent not to renew.
2. DUTIES AND AUTHORITY. Employee shall exercise the powers and perform the duties of the position of City Manager and Executive Director of the Seal Beach Redevelopment Agency

("Agency") as set forth in the City's Charter, Code and Ordinances and Resolutions; and in the City Manager and Executive Director of the Agency job descriptions, as they currently or may in the future exist. Employee shall exercise such other powers and perform such other duties as City, by the City Council, may from time to time assign.

3. EMPLOYEE'S OBLIGATIONS. Employee shall devote his full energies, interest, abilities and productive time to the performance of this Agreement, and utilize his best efforts to promote 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 materially interferes, with his duties and responsibilities to City.

4. SALARY.

A. Initial Rate. Commencing November 13, 1995, the City shall pay Employee a salary based on a monthly rate of SEVEN THOUSAND, FIVE HUNDRED AND EIGHTY THREE DOLLARS (\$7,583).

B. Subsequent Years. In November, 1996, and every November thereafter during the term of the employment, the City Council shall evaluate Employee's performance during the prior twelve-month period. Based on that evaluation and other information which the City Council may gather, the City Council, in the exercise of its discretion, may change Employee's monthly salary following the evaluation. In determining the magnitude of a salary increase, if any, the City Council may consider factors

such as, but not limited to, Employee's performance during the prior twelve-month period, the City's anticipated revenues and expenditures, and anticipated increases in the cost-of living during the following twelve-month period.

C. Employee's monthly salary shall be subject to withholding and other applicable taxes, and shall be payable to Employee at the same time as other employees of City are paid. Employee shall be exempt from the overtime pay provisions of California and federal law.

D. The City shall not reduce Employee's salary below a monthly rate of SEVEN THOUSAND, FIVE HUNDRED AND EIGHTY THREE DOLLARS (\$7,583), except to the degree that such a reduction is across-the-board for all exempt employees of the City.

E. In addition to the salary received pursuant to this Section 4, City shall pay to Employee an amount equal to the amount of interest received by the City from Employee pursuant to subsection (2) of Section K.

5. EMPLOYMENT BENEFITS. City shall also provide to Employee the following:

A. Holidays. Employee shall be entitled to the holidays generally available to other exempt employees of City. Employee's salary includes holiday pay. Accordingly, Employee shall not be entitled to any additional salary or compensation for working on a holiday.

B. Paid Sick Leave.

(1) Effective November 13, 1995, City shall



provide Employee a credit of 80 hours paid sick leave.

(2) Rate of Accrual. Commencing on July 12, 1996, Employee shall accrue sick leave at the rate of 3.692 hours per pay period (12 days per year). Leave shall not accrue during any period when Employee is on a leave of absence without pay.

(3) Maximum Amount of Sick Leave Which May Be Accumulated. Employee may accumulate a maximum of 320 hours' (40 days) sick leave. Whenever Employee accumulates this maximum amount of sick leave, Employee shall cease accruing additional sick leave. If Employee uses sick leave to the extent that accumulated sick leave falls below the maximum which may be accumulated, Employee shall resume accruing sick leave from that date forward until Employee's accumulated sick leave again reaches the maximum amount set forth herein.

(4) No Payment of Unused Sick Leave Upon Termination of Employment. There shall be no payment for unused accumulated sick leave upon termination of Employee's employment with City.

C. Paid Vacation Leave.

(1) Effective November 13, 1995, City shall provide Employee a credit of 80 hours paid vacation leave.

(2) Rate of Accrual. Commencing on July 12, 1996, Employee shall accrue vacation leave at the rate of 4.615 hours per pay period (15 days per calendar year). Leave shall not accrue during any period when Employee is on a leave of absence without pay.

(3) Maximum Amount of Vacation Leave Which May Be Accumulated. Employee may accumulate a maximum of 240 hours' vacation leave (30 days). Upon accumulating this maximum amount of vacation leave, Employee shall cease accumulating additional vacation leave. In lieu of additional paid vacation leave accumulation, City shall pay Employee compensation at his then-current hourly rate for any vacation leave accrued in excess of 240 hours. Such additional vacation accrual shall be paid to Employee the pay period following the pay period in which such vacation leave is accrued. If Employee uses vacation leave to the extent that accumulated vacation leave falls below the maximum which may be accumulated, Employee shall resume accruing vacation leave from that date forward until Employee's accumulated vacation leave again reaches the maximum amount set forth herein.

(4) Employee may not use more than twenty (20) days of vacation leave in any one calendar year and may not use more than ten (10) days vacation leave in any single increment without the prior written consent of the City Council.

(5) Payment of Unused Vacation Leave Upon Termination.

(a) Should Employee's employment with City terminate, Employee shall be entitled to be paid at the time of termination for unused vacation leave not to exceed the maximum amount which may be accumulated as set forth in this Section.

(b) Calculation of Payment for Paid Vacation Leave. Accumulated vacation leave shall be calculated by

first multiplying Employee's then monthly salary by 12. The product, the annual salary, is then divided by two thousand eighty (2080) hours. (Monthly salary x 12 ÷ 2080 hours per year = 1 hour paid vacation leave.) For example, if Employee receives the salary set forth in Section 4.A. of this Agreement at the time of termination, one (1) hour paid vacation leave would be determined as follows: \$7,583 x 12 months ÷ 2080 hours per year = \$43.75 per hour.

D. Group Medical, Life and Dental Insurance.

During the term of his employment, Employee and his eligible dependents shall participate in the City's group medical, life and dental insurance plans in accordance with the terms and conditions of such plans as they now exist or as they may be changed from time-to-time in the future. The City shall pay all premiums on behalf of Employee and his eligible dependents.

E. Automobile.

(1) City shall provide to Employee a monthly automobile allowance of FOUR HUNDRED DOLLARS (\$400).

(2) Employee shall maintain all records required by applicable California and federal law concerning use of such automobile, including without limitation records to substantiate personal and City-related use of such automobile.

(3) Employee shall secure and maintain at all times and at Employee's expense a policy or policies of Comprehensive Public Liability Insurance, with an insurance carrier approved by City, with minimum limits of One Million Dollars

(\$1,000,000) or a lesser minimum limit approved by the City Council, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. Employee shall name City, and its Council members, officials and employees as additional insured on such policy or policies; and deliver to City copies of such insurance endorsements and certificates of insurance. Such insurance policies shall provide that the insurance coverage shall not be canceled, reduced or otherwise modified by Employee or by Employee's insurance carrier without at least thirty (30) days' prior written notice, served on City personally by said insurance company.

(4) Employee currently has an insurance policy with \$100,000/\$300,000 maximum coverage. If City requires Employee to secure and maintain an insurance policy or insurance policies with greater coverage than said coverage set forth in the insurance policy currently insuring Employee, and as a result of such requirement, Employee's premium cost for such policy or policies containing greater coverage is higher than the cost on the open market of an insurance policy with \$100,000/\$300,000 maximum coverage, City shall pay the difference between the premium cost of the required insurance and the cost on the open market of an insurance policy with \$100,000/\$300,000 maximum coverage.

F. Retirement Plan. Employee shall be covered by the Public Employees' Retirement System Plan applicable to miscellaneous employees of City in accordance with the terms and

conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall pay 100% of Employee's retirement contribution.

G. Bereavement Leave. Employee shall be eligible for bereavement leave as generally available to other exempt employees of City. The current bereavement leave policy is set forth in section 4 of Resolution Number 4120, adopted January 27, 1992.

H. Deferred Compensation Plan. Employee shall be entitled to participate in the ICMA Deferred Compensation Plan in accordance with the terms and conditions of that plan as it now exists or as it may be changed from time-to-time in the future. City shall contribute 5% of Employee's salary per pay period to the plan on behalf of Employee. At the sole discretion of Employee, this contribution may be increased with a corresponding decrease in Employee's salary, or decreased with a corresponding increase in Employee's salary, each on a dollar for dollar conversion.

I. Administrative Leave. Employee shall be entitled to 5 days administrative leave each fiscal year during the term of his employment. Such leave may not be accumulated and carried forward to succeeding fiscal years, and shall not be paid to Employee if not used.

J. Long Term Disability Insurance. Employee shall participate in the City's long term disability insurance plan in accordance with the terms and conditions of such plan as it now exists or as it may be changed from time-to-time in the future.

K. City Loan for Housing Assistance.

(1) In the event Employee purchases housing ("Employee's residence" or "the property") within the City of Seal Beach, City shall lend Employee 25% of the total purchase price. In no event shall the amount of the loan exceed the lesser of (i) \$75,000 or (ii) the difference between the fair market value of the encumbered property as determined by an appraisal approved by the City, and the amount of any loan which will be secured by a first purchase money trust deed encumbering the property. Title to Employee's residence shall be in the Employee's name. Employee shall be responsible for all mortgage payments, taxes, insurance and all costs to maintain Employee's residence.

(2) The loan to Employee shall be evidenced by a promissory note payable interest only at the rate of 7% per annum in equal monthly installments. The promissory note shall mature in 30 years. The promissory note shall be in a form approved by City. There shall be no pre-payment penalty. The promissory note shall be secured by a deed of trust encumbering the property. The City's trust deed may be subordinate to a first purchase money deed of trust securing a promissory note that does not exceed, when added to the principal amount of the City's loan, the fair market value of the property.

(3) The City's note and deed of trust shall provide that the City shall receive the greater of (a) \$75,000, or (b) 25% of the net proceeds of the sale of the property, in the event Employee's employment with the City is terminated or Employee

sells the property. For purposes of this Agreement, the term "net proceeds" means the gross sale price minus (i) the original principal amount of a first purchase money deed of trust, (ii) reasonable and customary closing costs and expenses (including a reasonable brokerage commission not to exceed 6%), and (iii) the amount attributable to the increase in value described in subsection (4), below, on account of a substantial remodeling or improvement. Within 90 days of the termination of Employee's employment with the City, the property shall be listed for sale. The parties may agree to extend this 90 day period to provide Employee additional time to Employee to list for sale the property.

(4) If Employee causes substantial remodeling of or improvements to the property, and an appraiser selected by the City provides the opinion that such remodeling or improvements increases the sale price of the property, Employee shall receive 100% of the proceeds attributed to that increase in value. For example, if the sale price for the property is \$750,000, and the City-approved appraiser provides an opinion that new improvements or remodeling increased the value of the property by \$150,000, Employee shall receive 100% of the added value of \$150,000, and the City shall receive \$150,000, 25% of the balance (\$750,000-\$150,000 = \$600,000. 25% of \$600,000 = \$150,000.)

(5) Employee may purchase the City's 25% interest in the net proceeds at any time by paying to the City the greater of (a) \$75,000, or (b) 25% of the amount the net proceeds

would have been had a sale actually occurred at that time.

L. Expenses and Dues. City shall pay all reasonable and necessary business expenses, including dues in civic organizations, upon Employee's submittal of invoices in accordance with City's standard reporting practice.

M. Relocation Expenses. City shall reimburse Employee up to \$4,000 for excludable moving expenses which meet the requirements of Internal Revenue Code section 132. City shall pay such reimbursement on November 13, 1995.

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 duties under this Agreement.

7. AT-WILL EMPLOYMENT RELATIONSHIP. Employee is employed at the pleasure of the City Council, and is thus an at-will employee. The City Council or Employee may terminate this Agreement and the employment relationship at any time without cause.

8. TERMINATION OF AGREEMENT WITH CAUSE. City may terminate Employee's employment and this Agreement with cause if:

A. Employee refuses or fails to perform the powers and duties of the City Manager as specified in the City Charter or the powers and duties of the Executive Director of the



Agency as specified in the Agency By-Laws;

B. Employee acts in any way that has or may have a substantial and adverse effect on City's interest, including but not limited to committing any act of dishonesty of a substantial and serious nature;

C. Employee breaches this Agreement, including, without limitation, any provision set forth in Section 3, "Employee's Obligations", of this Agreement.

9. SEVERANCE PAY. If City terminates Employee's employment with City and this Agreement without cause, Employee shall be entitled to severance pay as follows:

A. If Employee is terminated without cause at any time during the initial twenty-four months after this Agreement's commencement date, and subject to the provisions of this Agreement, City shall continue to pay Employee his then-monthly salary, less all other interim compensation and less required payroll deductions, for a period of time equal to the term of this Agreement remaining after such termination. For example, if City terminates this Agreement without cause after sixteen months, City shall continue to pay Employee his then-monthly salary, less interim compensation and less mandated payroll deductions, for twenty months. Employee shall use his best efforts and due diligence to secure employment with, become an independent contractor for, or otherwise provide services for compensation, for, any person, organization or entity, other than City.

B. If Employee is terminated without cause at any

time after working for the City a minimum of twenty-four months and one day, or if City elects not to renew this Agreement as provided in Section 1, and subject to the terms and conditions of this Agreement, City shall pay Employee severance pay equal to twelve months of the salary to which Employee is then entitled under this Agreement, less payroll deductions, and less interim compensation to which Employee is entitled during the twelve-month period following his termination pursuant to this subsection.

C. If Employee is terminated without cause, in addition to severance pay provided herein, the City shall provide at no cost to Employee the same medical insurance or its equivalent then in effect, to the extent permitted by such medical insurance plan, for up to eighteen months, or such shorter period of time if Employee secures employment with, becomes an independent contractor for, or otherwise provides services for, any person, organization or entity, other than City, and employee is eligible for medical insurance provided by or sponsored by such person, organization or entity.

D. Employee shall not be entitled to severance pay:

- (1) If Employee terminates this Agreement; or
- (2) If City terminates this Agreement for cause as determined in good faith by the City Council for any reason set forth in Section 8 of this Agreement.

E. If Employee is entitled to severance pay pursuant to subsection A or B of this Section, City may pay the

amount due, without interest, over a term of 1 year payable in 12 equal successive monthly installments, based upon a good faith determination that the City's financial status warrants an installment payment schedule. The first installment shall be paid on the first calendar day of the month following the month in which Employee is terminated, and successive monthly installments shall be paid on the first calendar day of each succeeding calendar month until all such payments have been made.

F. Upon City's request, Employee shall promptly provide City with documentary evidence of interim compensation.

G. As used in this Agreement, the terms "interim compensation" shall include, but not be limited to, compensation, in any form, to which Employee is entitled from employment other than employment with City; compensation, in any form, to which Employee is entitled to as an independent contractor, and compensation, in any form, from any source, including, without limitation, unemployment and disability insurance, from any person, entity or source, to which Employee is otherwise entitled.

10. INTEGRATION OF AGREEMENT. This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties. Furthermore, unless otherwise set forth herein, this Agreement supersedes any Ordinance or Resolution pertaining to compensation, including salary and benefits, for City employees including the position of City Manager. Each party to this Agreement acknowledges that no representations, inducements,

promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

11. METHOD OF AMENDMENT. No amendments to this Agreement may be made except by a writing signed and dated by City, in accordance with City Council action, and Employee.

12. NOTICES. Any notice to City under this Agreement shall be given in writing to City, either by personal service or by registered or certified mail, postage prepaid, addressed to City Clerk at City's then principal place of business. Any such notice to Employee shall be given in a like manner and, if mailed, shall be addressed to Employee at his home address then shown in City's files. 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 fourth calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this section.

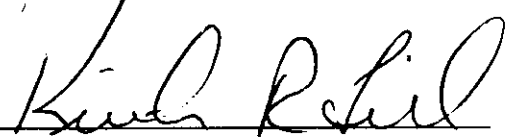
13. GENERAL PROVISIONS.

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.

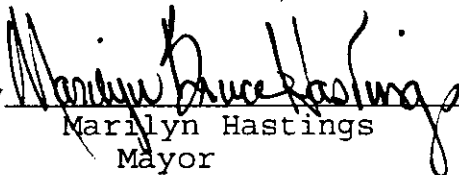
B. This Agreement shall be interpreted and construed pursuant to and in accordance with the local laws of the State of California and all applicable City Codes, Ordinances and Resolutions.

Executed by the parties as of the date first above written at Seal Beach, California.

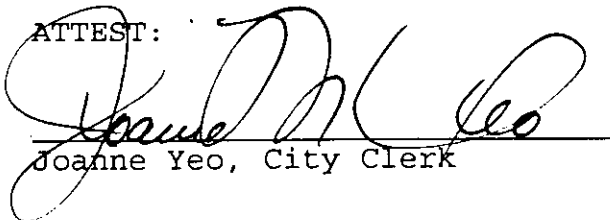
EMPLOYEE

  
\_\_\_\_\_

CITY OF SEAL BEACH  
A Municipal Corporation  
("City")

By   
Marilyn Hastings  
Mayor

ATTEST:

  
Joanne Yeo, City Clerk

PROMISSORY NOTE SECURED BY DEED OF TRUST  
(Shared Appreciation)

\$75,000.00

Seal Beach, California  
January 31, 1996

For value received, the undersigned, Keith R. Till and Cathleen Sargent-Till (jointly, "Borrower"), promises to pay to the order of the City of Seal Beach, a municipal corporation ("Lender"), at 211 8th Street, Seal Beach, California 90740 or at any other place that may be designated in writing by Lender, the principal sum of Seventy Five Thousand and no/100 Dollars (\$75,000.00), with interest as set forth in this Note (calculated on the basis of a 360-day year). All sums due are payable in lawful money of the United States of America. The principal amount of this Note will bear regular interest at the rate of Seven Percent (7%) per annum and contingent interest, as hereinafter provided.

This Note is secured by, among other things, the Deed of Trust with Assignment of Rents of the same date as this Note, executed by Borrower, as trustor, in favor of Lender, as beneficiary ("Deed of Trust"), and encumbering the real property described in the Deed of Trust ("Property"). The holder of this Note will be entitled to the benefits of the security provided by the Deed of Trust and will have the right to enforce the covenants and agreements of Borrower contained in the Deed of Trust.

Borrower will pay to Lender the principal amount of this Note, and accrued interest, as follows:

This Note shall be payable in 360 equal monthly installments of regular interest, which will be in the amount of \$437.50 each, and will be due on the first day of the second month after the date of recordation of the Deed of Trust and the first day of each succeeding month after that. The final payment of this Note, which will be in an amount equal to the entire outstanding principal balance of this Note, together with all accrued and unpaid regular interest and any contingent interest, will be due on the date the 360th monthly interest payment of regular interest falls due ("Maturity Date").

In the event that the unpaid balance of the indebtedness evidenced by this Note is declared immediately due and payable due to (i) a default hereunder or under the Deed of Trust securing this Note, or (ii) pursuant to paragraph B(10) or paragraph B(11) of said deed of trust (which are reproduced

hereinbelow), Borrower will also pay to Lender, as contingent interest, the amount, if any, by which 25% of the "net proceeds from sale of the Property" exceeds \$75,000.00. For purposes hereof, the term "net proceeds from sale of the Property" means the gross sales price of the Property (based on a good faith, arm's length transaction, unless provided herein to the contrary), less (i) \$337,567.00, being aggregate of the original principal amount of the purchase money obligations (other than this Note) incurred by Borrower in connection with the purchase of the Property, (ii) reasonable and customary closing costs and expenses (including a reasonable brokerage commission not to exceed six percent (6%) of the sales price), and (iii) any amount attributable to an increase in value of the Property by reason of any substantial remodeling of or capital improvements to the Property accomplished by or at the instance of Borrower. Such increase in value, if any, shall be determined by an appraiser approved by Lender, which appraiser shall be either an M.A.I. or an S.R.A.

Borrower will have the right, at any time, to pay, without penalty or premium, the entire unpaid principal balance of this Promissory Note, provided that Borrower shall also pay at such time all accrued unpaid regular interest and all contingent interest, if any. In the event of such a prepayment without sale of the Property, the amount of the "gross proceeds" utilized in determining the contingent interest shall be deemed to be the fair market value of the Property, as determined by an appraiser approved by Lender, which appraiser shall be either an M.A.I. or an S.R.A.

If Borrower fails to make any required payment on or before the tenth day following the date on which it becomes due, Borrower will pay, at Lender's option, a late charge equal to five percent (5%) of the amount of the unpaid payment.

From and after the Maturity Date, or an earlier date on which all sums owing under this Note become due by acceleration or otherwise, all sums owing under this Note will bear interest until paid in full at a rate of ten percent (10%) per annum ("Default Rate").

All payments on this Note will be applied first to the payment of any costs, fees, late charges, or other charges incurred in connection with the indebtedness evidenced by this Promissory Note; next, to the payment of accrued interest; then to the reduction of the principal balance; or in any other order that Lender requires.

If (i) Borrower fails to pay when due any sums payable under this Note; or (ii) Borrower fails or neglects to perform any other duty or obligation of Borrower hereunder or under the Deed of Trust; or (iii) any other event or condition occurs that, under the terms of the Deed of Trust, gives rise to a right of acceleration of sums owing under this Note, then Lender, at its

sole option, will have the right to declare all sums owing under this Note immediately due and payable.

Borrower will pay to Lender all sums owing under this Note without deduction, offset, or counterclaim of any kind. The relationship of Borrower and Lender under this Note is solely that of borrower and lender, and the loan evidenced by this Note and secured by the Deed of Trust will in no manner make Lender the partner or joint venturer of Borrower.

If any attorney is engaged by Lender to enforce or construe any provision of this Note, the Deed of Trust, or as a consequence of any event of default, with or without the filing of any legal action or proceeding, then Borrower will immediately pay to Lender on demand all attorney fees and other costs incurred by Lender, together with interest from the date of the demand until paid at the Default Rate.

No previous waiver or failure or delay by Lender in acting with respect to the terms of this Note or the Deed of Trust will constitute a waiver of any breach, default, or failure of condition under this Note or the Deed of Trust. A waiver of any term of this Note or the Deed of Trust must be made in writing and will be limited to the express written terms of the waiver. If there are any inconsistencies between the terms of this Note and the terms of the Deed of Trust, the terms of this Note will prevail.

All notices required or permitted in connection with this Note will be in writing and will be given at the place and in the manner provided in the Deed of Trust for the giving of notices.

If this Note is executed by more than one person or entity as Borrower, the obligations of each person or entity will be joint and several. No person or entity will be a mere accommodation maker, but each will be primarily and directly liable. Borrower waives presentment; demand; notice of dishonor; notice of default or delinquency; notice of acceleration; notice of protest and nonpayment; notice of costs, expenses, or losses and interest; notice of interest on interest and late charges; and diligence in taking any action to collect any sums owing under this Note or in proceeding against any of the rights or interests to properties securing payment of this Note. Time is of the essence with respect to every provision of this Note. This Note will be construed and enforced in accordance with California law, except to the extent that Federal laws preempt state law, and all persons and entities in any manner obligated under this Note consent to the jurisdiction of any Federal or State Court within California having proper venue and also consent to service of process by any means authorized by California or Federal law.

This Promissory Note is secured by a Deed of Trust in favor of Pacific Title Guaranty Company, as Trustee. Said deed of

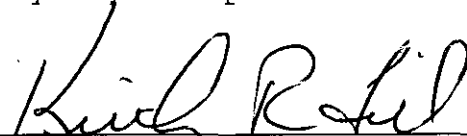


trust provides, inter alia:

(10) Irrespective of any Maturity Date expressed in the Note secured hereby, Beneficiary shall have the right, at its option, to declare any indebtedness and obligations secured hereby, immediately due and payable, if, without the prior written consent of Beneficiary, Trustor or any successor in interest, shall sell, convey, enter into a contract of sale, the above-described real property or any part thereof or any interest therein or suffers his or her title to said real property or any part thereof or any interest therein to be divested, whether voluntarily or involuntarily, or leases the real property or any part thereof for a term of more than three (3) years or with an option to purchase.

(11) Beneficiary shall further have the right to, at its sole option, to declare any indebtedness and obligations secured hereby immediately due and payable by giving ninety (90) days notice in writing, which notice may be given at any time after Keith R. Till ceases to be an employee of Beneficiary.

(12) If, for any reason, either of the foregoing provisions shall be or become unenforceable, then the interest rate called for in the Promissory Note secured hereby shall, at the option of Beneficiary, be increased to Ten Percent (10%) per annum and the unpaid balance of the Promissory Note shall thereupon become payable in sixty (60) equal monthly installments of principal and regular interest, from and after the later of (a) the date Beneficiary gives Trustor written notice of such change, or (b) the date upon which such indebtedness would have become due and payable but for the unenforceability of such provisions.

  
\_\_\_\_\_  
Keith R. Till

  
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Cathleen Sargent Till