

COMMUNITY SERVICES DIRECTOR EMPLOYMENT AGREEMENT

BETWEEN

CITY OF GLENDORA AND JOHN ALFRED AGUIRRE

This COMMUNITY SERVICES DIRECTOR EMPLOYMENT AGREEMENT (the "AGREEMENT") is made and entered into this 28th day of May, 2019, by and between the CITY OF GLENDORA, a general law city and municipal corporation (hereinafter referred to as "CITY") and JOHN ALFRED AGUIRRE, an individual (hereinafter referred to as "EMPLOYEE") (collectively, the "PARTIES").

RECITALS

WHEREAS, it is the desire of CITY through the City Manager to secure and retain the services of EMPLOYEE as Community Services Director of CITY in accordance with the applicable provisions of the Glendora Municipal Code ("GMC"); and

WHEREAS, pursuant to GMC § 2.08.070(3), CITY's City Manager has the authority to appoint, remove, promote and demote all officers and employees of CITY under the jurisdiction of the City Manager, which includes the position of Community Services Director; and

WHEREAS, pursuant to GMC § 2.09.060, the appointment of "department heads, including the city clerk and city treasurer, shall be subject to ratification by the city council" of CITY; and

WHEREAS, the Community Services Director serves as the department head of CITY's Community Services Department; and

WHEREAS, the City Council of CITY ratified the appointment of EMPLOYEE as a department head at its duly noticed and regularly scheduled City Council meeting of May 14, 2019; and

WHEREAS, EMPLOYEE desires to be employed on a full-time basis as Community Services Director of CITY; and

WHEREAS, the duties of the Community Services Director position are set forth in Exhibit "A" to this AGREEMENT; and

WHEREAS, the PARTIES now wish to memorialize the terms and conditions of EMPLOYEE'S services to CITY and its related agencies through this AGREEMENT.

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

///

///

AGREEMENT

1.0 EMPLOYMENT & DUTIES

Pursuant to GMC § 2.09.060, the City Manager of CITY hereby appoints EMPLOYEE as Community Services Director of CITY, subject to ratification by the City Council of CITY, to perform the functions and duties of Community Services Director, including those functions and duties specified in the Job Description for the Community Services Director position, attached hereto as **Exhibit A**, and the Glendora Municipal Code and to perform such other legally permissible and proper functions and duties as the City Manager shall, from time-to-time, direct or assign. EMPLOYEE shall perform these functions and duties in an efficient, competent, and ethical manner and shall devote his best efforts and full-time attention thereto.

2.0 TERM AND CONDITIONS OF EMPLOYMENT

2.1 Commencement & Effective Date.

EMPLOYEE shall commence his services at 8:00 a.m., Pacific Daylight Savings Time, on June 6, 2019, which shall also be deemed the Effective Date of this AGREEMENT.

2.2 Hours of Work.

EMPLOYEE shall devote not less than forty (40) hours per week to assigned duties as Community Services Director of CITY. It is recognized EMPLOYEE is expected to engage in the hours of work that are necessary to fulfill the obligations of the position, must be available at all times, and must devote a great deal of time outside the normal office hours to the business of the CITY. EMPLOYEE acknowledges that proper performance of the duties of Community Services Director will require EMPLOYEE to generally observe normal business hours, as set by CITY and will also often require the performance of necessary services outside of normal business hours. Notwithstanding the foregoing, CITY will permit EMPLOYEE such reasonable "time off" as is customary for exempt employees of CITY, so long as the time off does not interfere with CITY's normal business. EMPLOYEE's compensation (whether salary or benefits or other allowances) is not based on hours worked, and EMPLOYEE shall not be entitled to any compensation for overtime because the Community Services Director job classification is an "exempt" classification and is not subject to the overtime provisions of the federal Fair Labor Standards Act ("FLSA").

2.3 At-Will Employment Status.

(A) Nothing in this AGREEMENT shall prevent, limit or otherwise interfere with the right of the City Manager of CITY to terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3, paragraphs A and B, of this AGREEMENT.

EMPLOYEE is an at-will employee serving at the pleasure of the City Manager, and subject to summary dismissal without any right of notice or hearing, including any

so-called "Skelly" meeting. Thus, the CITY may terminate EMPLOYEE's employment at any time, for any reason, with or without good cause, which does not violate a public policy of the State of California. Except as set forth herein, EMPLOYEE is excluded from the CITY's Personnel System and holds no property right in his employment.

(B) Nothing in this AGREEMENT shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign from his position with CITY at any time.

(C) EMPLOYEE agrees to remain in the exclusive employ of CITY commencing upon a date specific to be agreed upon between the PARTIES hereto contingent upon and after EMPLOYEE has successfully completed a physical examination and thereafter agrees to remain in full-time employ of CITY until termination of this AGREEMENT is effected as provided herein. The term "employed" shall not be construed to preclude EMPLOYEE from engaging in occasional teaching, writing, or consulting performed during EMPLOYEE's non-working hours, provided that such activities are undertaken with the knowledge and advance written approval of the City Manager.

2.4 FLSA Exempt Status.

EMPLOYEE agrees that EMPLOYEE'S position is that of an exempt employee for the purposes of the Fair Labor Standards Act ("FLSA").

2.5 Exclusion From Competitive Service and CITY's Personnel Ordinance and Rules Not Applicable.

Pursuant to GMC § 2.09.020, EMPLOYEE's position of Community Services Director is excluded from the CITY's personnel system and accordingly, the provisions of CITY's Personnel Rules and Ordinance shall not apply to this position, except those Personnel Rules relating to Attendance and Leaves, Authorization and Procedures for Expense Reimbursement and Assignment and Use of CITY Property.

2.6 Other Activities.

EMPLOYEE shall focus EMPLOYEE'S professional time, ability, and attention to the CITY's business during the term of this AGREEMENT. EMPLOYEE shall not engage, without the express prior written consent of the City Manager, in any other business duties or pursuits whatsoever, or directly or indirectly render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, that is or may be competitive with the CITY, that might cause a conflict-of-interest with the CITY, or that otherwise might interfere with the business or operation of the CITY or the satisfactory performance of the functions and duties of the Community Services Director.

2.7 CITY Documents.

All data, studies, reports and other documents prepared by EMPLOYEE while performing the duties of Community Services Director during the term of this AGREEMENT shall be furnished to and become the property of the CITY, without

restriction or limitation on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to EMPLOYEE in connection with the performance of this AGREEMENT shall be held confidential by EMPLOYEE to the extent permitted by applicable law, except as may be required by any governmental agency or court of competent jurisdiction. Such materials shall not be used by EMPLOYEE, without the prior written consent of the City Manager, for any purposes other than the performance of EMPLOYEE'S duties. Additionally, no such materials may be disclosed to any person or entity not connected with the performance of services under this AGREEMENT, except as required by (a) law, (b) any governmental agency, (c) subpoena, or (d) an order issued by a court of competent jurisdiction.

3.0 TERMINATION

3.1 Termination by Employee.

EMPLOYEE may terminate this AGREEMENT at any time, provided EMPLOYEE provides the City Manager with at least twenty (20) days' advance written notice. In the event EMPLOYEE terminates this AGREEMENT, EMPLOYEE expressly agrees that EMPLOYEE shall not be entitled to any severance pay.

3.2 Termination By City Manager.

CITY's City Manager may terminate this AGREEMENT at any time with or without cause, by providing written notice of the reason(s). The City Manager's right to terminate EMPLOYEE pursuant to this Section 3.3 shall not be subject to or in any way limited by the CITY's Personnel Ordinance and Rules or past CITY practices related to the employment, discipline or termination of its employees. EMPLOYEE expressly waives any rights provided for the Community Services Director under the CITY's Personnel Rules and Regulations, Municipal Code, or under other local, state or federal law to any other form of pre- or post-termination administrative hearing, appeal, or other administrative process pertaining to termination. Nothing herein, however, shall be construed to create a property interest, where one does not exist by rule of law, in the job or position of Community Services Director. EMPLOYEE shall remain an at-will employee serving at the pleasure of the City Manager.

In the event EMPLOYEE is terminated by CITY's City Manager without cause during such time EMPLOYEE is willing and able to perform the duties of Community Services Director, CITY agrees to pay a lump sum amount equal to EMPLOYEE's salary and benefits as a severance benefit for a period equal to six (6) months beyond the effective date of termination, as provided in section 4.1 of this AGREEMENT.

The severance rights provided hereunder shall constitute the sole and only entitlement of EMPLOYEE in the event of a non-cause involuntary termination, and EMPLOYEE expressly waives any and all other rights except as provided herein. Nothing in this paragraph shall be construed as precluding EMPLOYEE's right to contest the appropriateness of a for-cause termination in the Los Angeles Superior

Court or any court of competent jurisdiction or otherwise enforce the provisions of this AGREEMENT.

(A) For Cause Involuntary Termination.

CITY's City Manager may terminate this AGREEMENT at any time by providing EMPLOYEE with five (5) business days' written notice of the termination for cause and the facts and grounds constituting cause. "Cause" shall be defined to include any misconduct materially related to performance of official duties, including but not limited to any of the following:

- 1) Breach of this AGREEMENT;
- 2) Willful or persistent material breach of duties or inattention to duties as listed in the attached job description;
- 3) Résumé fraud or other acts of material dishonesty;
- 4) Unauthorized or excessive unexcused absence or leave;
- 5) Conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality) or abuse of position;
- 6) Conviction of a felony under California law;
- 7) Violation of the CITY's anti-harassment policies and/or a finding that legally prohibited personal acts of harassment against a CITY official or employee or legally prohibited personal acts of discrimination against a CITY official or employee has occurred;
- 8) Violation of the CITY's Municipal Code, ordinances, rules, and regulations, including but not limited to the CITY's Personnel Ordinance and Rules, and Administrative Procedures Manual;
- 9) Use or possession of illegal drugs;
- 10) Engaging in conduct tending to bring embarrassment or disrepute to CITY;
- 11) Any illegal or unethical act involving personal economic gain, including but not limited to conviction of theft or attempted theft;
- 12) Significant mismanagement of CITY finances;
- 13) Any pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted direction of the City Manager or the policy decisions of the City Council or City Manager;
- 14) Gross misfeasance or gross malfeasance; and
- 15) Any similar cause.

For any of the foregoing, CITY may, in its discretion, place EMPLOYEE on paid or unpaid administrative leave until resolution. If CITY's City Manager terminates this AGREEMENT for cause and the services of EMPLOYEE hereunder, CITY shall have no obligation to pay EMPLOYEE any severance.

(B) Termination by City Manager Without Cause.

By providing EMPLOYEE at least thirty (30) days' prior written notice thereof, CITY's City Manager may terminate EMPLOYEE from his position as Community Services Director without cause but rather based upon management reasons such as implementing CITY's goals or policies, including but not limited to: i) change of administration, and/or ii) incompatibility of management styles. In the event EMPLOYEE

is terminated without cause, EMPLOYEE expressly agrees that EMPLOYEE shall not be entitled to any severance pay as the result of the termination of this AGREEMENT **except as provided in Section 4.1 below.**

4.0 SEVERANCE

4.1 Severance Pay.

In the event EMPLOYEE is terminated without cause and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then CITY shall pay to EMPLOYEE severance in an amount equal to his monthly base salary and benefits then in effect, multiplied by six (6), less applicable deductions and excluding deferred compensation or the value of any other benefits.

Notwithstanding the foregoing, if such severance payment exceeds the amount authorized to be paid under Government Code § 53260, then the amount paid to EMPLOYEE shall be reduced in the amount necessary to comply with the same. (Government Code § 53260 provides that all contracts of employment with a city must include a provision limiting the maximum cash settlement for the termination of the contract to the monthly salary (excluding benefits) multiplied by the number of months left on the unexpired term, but not more than eighteen (18) months if the unexpired term exceeds 18 months.)

4.2 No Severance Pay if Termination for Cause or Initiated by Employee.

As provided in Section 3.2(A), should EMPLOYEE be terminated for cause, CITY shall have no obligation to pay the severance provided for in Section 4.1 above. As provided in Section 3.1, should EMPLOYEE initiate termination of this AGREEMENT, the CITY shall have no obligation to pay the severance provided for in Section 4.1 above.

4.3 Sole Rights.

The severance rights provided in this Section 4.0 shall constitute the sole and only entitlement of EMPLOYEE with respect to severance pay in the event of the termination, other than for cause. EMPLOYEE expressly waives any and all other rights with respect to severance pay except as provided herein. Any and all severance rights are conditioned upon and in consideration for execution of the standard "Agreement of Separation, Severance, and General Release" attached hereto as **Exhibit D**, which is hereby approved by the PARTIES as to form.

5.0 COMPENSATION

5.1 Salary.

CITY agrees to pay EMPLOYEE for services rendered pursuant to this AGREEMENT a monthly salary of \$11,807.72 (step 2), payable in installments at the same time as other employees of CITY are paid. Such salary shall be adjusted for payroll taxes, workers' compensation, and other payroll-related liability costs.

5.2 Annual Performance Evaluation.

CITY agrees that twelve (12) months following first employment, EMPLOYEE's performance shall be evaluated to date. If EMPLOYEE receives (1) a "meets standard" evaluation while at Steps 1 – 5, and (2) an "exceeds standard" evaluation while at steps 6 – 10, CITY agrees to increase EMPLOYEE's monthly compensation by the next available step within said position salary range should one exist.

Annually on the anniversary date of employment, EMPLOYEE shall receive a performance evaluation. The City Manager and EMPLOYEE agree to conduct an annual salary review concurrently with the annual performance evaluation.

5.3 Cost of Living Adjustment ("COLA").

EMPLOYEE shall receive any commensurate cost of living wage adjustment and/or market adjustment that any other non-sworn Department Heads of CITY may receive through an adopted City Council resolution. EMPLOYEE shall also be granted the same across-the-board benefit increases granted to other CITY Department Heads through an adopted City Council resolution.

6.0 BENEFITS

All provisions of the Glendora Municipal Code, regulations and rules of CITY, and any City Council resolution governing CITY and its Department Directors relating to vacation, sick leave, holidays, retirement system contributions and any other fringe benefits or working conditions as they now exist in **Exhibit C** attached and made a part hereto of this AGREEMENT or as they may hereafter from time to time be amended by the City Council, shall apply to EMPLOYEE as they would to other non-sworn Department Directors of CITY.

6.1 CITY-Provided Automobile Allowance.

EMPLOYEE shall receive a monthly automobile allowance of \$300, but in no case less than that granted to other Department Heads of CITY, during the term of this AGREEMENT. Such allowance shall be provided in exchange for making a vehicle available for his own use and for CITY-related business and/or functions during, before and after normal work hours. The automobile allowance is intended to reimburse for local and regional CITY-related travel; that is, travel within Los Angeles County.

City business-related travel may include travel destinations beyond the boundaries of Los Angeles County.

6.2 Medical, Dental, Vision and Other Insurance.

CITY shall provide EMPLOYEE with medical, dental, vision, long-term disability and life insurance benefits in an amount equal to and on the same terms and conditions as such insurance is provided to other non-sworn Department Heads of CITY via an adopted resolution by the City Council of CITY.

All Department Directors shall receive Flexible Benefit Plan benefits of \$820 + 1.5% salary monthly to be used to purchase mandatory health, dental and long term disability insurance. EMPLOYEE may receive the non-used required benefit amount in cash upon submittal of a waiver and proof of enrollment in an alternative group health plan. However, for Department Heads hired after January 1, 2017, the monthly cash-out amount shall be capped at \$650 per month.

CITY pays for a \$50,000 life insurance policy for EMPLOYEE, and bears ½ the cost of long term disability insurance.

6.3 California Public Employees Retirement System.

CITY shall provide membership in the California Public Employees Retirement System ("CalPERS") to EMPLOYEE on the same terms and conditions as apply to non-sworn Department Heads of CITY. For employees hired after April 30, 2012, and who are not "new" members to CalPERS, CITY contracts for a benefit commonly known as 2% at 60 formula. EMPLOYEE is a Classic employee within Tier 1 of the City's CalPERS retirement plan.

CITY's Employer's Paid Member Contributions will be reported to CalPERS as additional compensation per Government Code section 20636(c)(4) and Internal Revenue Service ("IRS") code section 414(h)(2).

In the event non-sworn Department Head employees begin paying an amount (as a percentage of salary) different than the 8% of salary employee cost, EMPLOYEE shall pay the same new percentage of salary as other such employees.

6.4 Deferred Compensation.

EMPLOYEE may participate in CITY's Deferred Compensation Program, at his sole cost and expense. EMPLOYEE acknowledges CITY does not provide any matching benefits or other payments toward the Deferred Compensation Program.

6.5 Holidays.

From and after the effective date of the AGREEMENT, EMPLOYEE shall be entitled to such paid holiday leave benefits as are provided via an adopted resolution by the City Council of CITY.

6.6 Sick Leave.

EMPLOYEE shall accrue sick leave hours at the same rate and under the same terms and conditions as non-sworn Department Heads of CITY (3.69 hours of paid sick leave per pay period). There is no cap on sick leave accumulation. Such accumulation shall be applied to the extended service credit contracted with CalPERS should EMPLOYEE retire while employed with CITY, presuming all other qualifications have been met. Should EMPLOYEE separate from CITY service for any other reason than service retirement, there shall be no payoff of the accumulated sick leave hours.

///

6.7 Vacation Leave.

Beginning the first day of the pay period following the AGREEMENT's effective date, EMPLOYEE shall accrue 6.46 hours of paid vacation leave per pay period, subject to the following provision.

EMPLOYEE shall not accrue more than 200 hours of vacation leave at any one time. EMPLOYEE may request to cash out up to eighty (80) hours of vacation leave annually during the beginning of any payroll period in the month of December.

7.0 PERFORMANCE EVALUATIONS

7.1 Purpose.

The performance review and evaluation process set forth herein is intended to provide review and feedback to EMPLOYEE so as to facilitate a more effective management of the CITY's Community Services Department. Nothing herein shall be deemed to alter or change the employment status of EMPLOYEE (as set forth in Section 2.0 above), nor shall this Section 7.0 be construed as requiring "cause" to terminate this AGREEMENT, or the services of EMPLOYEE as Community Services Director hereunder.

7.2 Annual Evaluation.

The City Manager shall endeavor to review and evaluate the performance of EMPLOYEE annually within thirty (30) days after each anniversary of the commencement of EMPLOYEE's employment with CITY. For the purposes of this Section, EMPLOYEE's Evaluation Date shall be defined as the first day of the month following the Effective Date of this AGREEMENT. In addition, EMPLOYEE shall submit for the City Manager's consideration at those times established by the City Manager, but at least annually, EMPLOYEE's proposed performance goals and objectives and incorporate the City Manager's suggestions. Such review and evaluation shall be conducted concurrently with an annual salary review, and in accordance with the purpose noted in Section 7.1 above.

7.3 Written Summary.

The City Manager may, at his or her sole discretion, elect to provide a written summary of each performance evaluation to EMPLOYEE within two (2) weeks following the conclusion of the review and evaluation process, and may, at his or her sole discretion, schedule at least one (1) City Council closed session with EMPLOYEE to deliver and discuss the evaluation.

8.0 DUES AND SUBSCRIPTIONS

8.1 Professional Dues and Subscriptions.

Within the limits of fiscal ability, CITY agrees to budget a reasonable amount as determined by the City Manager for the payment of professional dues and subscriptions necessary for EMPLOYEE's participation in national, regional, state and local

associations and organizations necessary for his continued professional growth and development and for the good of CITY.

8.2 Local Civic Service Club Membership.

Community participation is a vital and necessary part of EMPLOYEE's duties and as such, CITY shall pay necessary dues, fees and expenses for EMPLOYEE to belong to one local civic service club to be selected by EMPLOYEE with the approval of the City Manager of CITY.

9.0 PROFESSIONAL DEVELOPMENT

Within the limits of fiscal ability, CITY hereby agrees to budget a reasonable amount as determined by the City Manager and for the payment of travel and subsistence expenses of EMPLOYEE for educational courses, institutes and seminars that are necessary for EMPLOYEE's professional development and for the good of CITY and for official travel, meetings and occasions sufficient to continue the professional development of EMPLOYEE and to adequately pursue necessary official and other functions on behalf of CITY.

EMPLOYEE shall submit all such expenses to the City Manager for approval in accordance with the Administrative policies and procedures of CITY and subject to limitations specified therein.

10.0 BONDS AND INDEMNIFICATION

10.1 Indemnification.

To the extent mandated by the California Government Code, CITY shall defend, hold harmless, and indemnify EMPLOYEE against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of EMPLOYEE's services under this AGREEMENT. This section shall not apply to any intentional tort or crime committed by EMPLOYEE, to any action outside the course and scope of the services provided by EMPLOYEE under this AGREEMENT, or any other intentional or malicious conduct or gross negligence of EMPLOYEE.

10.2 Bonds.

CITY shall bear the full cost of any fidelity or other bonds, which may be required in the performance of EMPLOYEE's services under this AGREEMENT.

11.0 OTHER PROVISIONS OF EMPLOYMENT

11.1 Terms and Conditions of Employment.

City Manager of CITY shall fix any such other terms and conditions of employment, as he/she may determine from time to time, relating to the performance of EMPLOYEE, provided that such terms and conditions are not inconsistent with or in

conflict with the provisions of this AGREEMENT or duly enforceable City Council Resolution.

12.0 GENERAL PROVISIONS

12.1 Entire Agreement.

This AGREEMENT represents the entire agreement between the PARTIES and supersedes any and all other agreements, either oral or in writing, between the PARTIES with respect to EMPLOYEE's employment by CITY and contains all of the covenants and agreements between the PARTIES with respect to such 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 or promises not contained in this AGREEMENT shall be valid or binding upon either party.

12.2 Amendment.

This AGREEMENT may be amended at any time by the mutual consent of the PARTIES by an instrument in writing, which amendment shall require City Manager approval.

12.3 Notices.

Any notice required or permitted by this AGREEMENT shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party as sent by United States Postal Service, postage prepaid and addressed as follows:

To CITY:
City Manager
City of Glendora
116 E. Foothill Blvd.
Glendora, California 91741

To EMPLOYEE:
John Alfred Aguirre
[On file with Human Resources Dept.]

with copy to:
City Attorney
c/o Aleshire & Wynder, LLP
2361 Rosecrans Ave., Ste 475
El Segundo, CA 90245

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

12.4 Conflicts Prohibited.

During the term of this AGREEMENT, EMPLOYEE shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of EMPLOYEE's Community

Services Director duties under this AGREEMENT. EMPLOYEE shall comply with all requirements of law, including but not limited to, Government Code §§ 87100 *et seq.*, 1090, and 1125, and all other similar statutory and administrative rules.

12.5 Effect of Waiver.

The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this AGREEMENT by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

12.6 Partial Invalidity.

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

12.7 Governing Law.

This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution and delivery by each party hereto.

12.8 Government Code §§ 53243 - 53243.4.

Assembly Bill 1344, which was subsequently enacted as Government Code §§ 53243 - 53243.4, sought to provide greater transparency in local government and institute certain limitations on compensation paid to local government executives. These statutes also require that contracts between local agencies and its employees include provisions requiring an employee who is convicted of a crime involving an abuse of her office or position to provide reimbursement to the local agency for the following forms of payment: (i) paid leave salary; (ii) criminal defense costs; (iii) cash settlement payments; and (iv) any non-contractual settlement payments. These statutes are set forth in full in **Exhibit "B"** attached hereto and incorporated herein. Accordingly, the PARTIES agree that it is their mutual intent to fully comply with these Government Code sections and all other applicable law as it exists as of the date of execution of this AGREEMENT and as such laws may be amended from time to time thereafter. Specifically, the following Government Code sections are called out and hereby incorporated by this AGREEMENT:

- 1) § 53243. Reimbursement of paid leave salary required upon conviction of crime involving office or position.
- 2) § 53243.1. Reimbursement of legal criminal defense upon conviction of crime involving office or position.
- 3) § 53243.2. Reimbursement of cash settlement upon conviction of crime involving office or position.
- 4) § 53243.3. Reimbursement of non-contractual payments upon conviction or crime involving office or position.

5) § 53243.4. "Abuse of office or position" defined.

EMPLOYEE represents that EMPLOYEE has reviewed, is familiar with, and agrees to comply fully with each of these provisions if any of these provisions are applicable to EMPLOYEE, including that EMPLOYEE agrees that any cash settlement or severance related to the terms of this AGREEMENT involving compensation for termination that EMPLOYEE may receive from CITY shall be fully reimbursed to the local agency if EMPLOYEE is convicted of a crime involving an abuse of EMPLOYEE's office or position.

12.9 Independent Legal Advice.

CITY and EMPLOYEE represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this AGREEMENT, and CITY and EMPLOYEE further represent and warrant that each has carefully reviewed this entire AGREEMENT and that each and every term thereof is understood and that the terms of this AGREEMENT are contractual and not a mere recital. This AGREEMENT shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

[SIGNATURES ON THE NEXT PAGE]

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

IN WITNESS WHEREOF, the City of Glendora has caused this AGREEMENT to be signed and executed on its behalf by its City Manager, and duly attested by its officers thereunto duly authorized, and EMPLOYEE has signed and executed this AGREEMENT, all in triplicate.

CITY OF GLENDORA



ADAM RAYMOND, City Manager

EMPLOYEE



JOHN ALFRED AGUIRRE

APPROVED AS TO FORM:



WILLIAM W. WYNDER, City Attorney

[END OF SIGNATURES]

Exhibit A

CITY OF GLENDORA

COMMUNITY SERVICES DIRECTOR JOB DESCRIPTION

Exhibit B

GOVERNMENT CODE SECTIONS 53243-53243.4 and 53260(a)

53243. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides paid leave salary offered by the local agency to the officer or employee pending an investigation shall require that any salary provided for that purpose be fully reimbursed if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.1. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides funds for the legal criminal defense of an officer or employee shall require that any funds provided for that purpose be fully reimbursed to the local agency if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.2. On or after January 1, 2012, any contract of employment between an employee and a local agency employer shall include a provision which provides that, regardless of the term of the contract, if the contract is terminated, any cash settlement related to the termination that an employee may receive from the local agency shall be fully reimbursed to the local agency if the employee is convicted of a crime involving an abuse of his or her office or position.

53243.3. On or after January 1, 2012, if a local agency provides, in the absence of a contractual obligation, for any of the payments described in this article, then the employee or officer receiving any payments provided for those purposes shall fully reimburse the local agency that provided those payments in the event that the employee or officer is convicted of a crime involving the abuse of his or her office or position.

53243.4. For purposes of this article, "abuse of office or position" means either of the following:

(a) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority.

(b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

53260. (a) All contracts of employment between an employee and a local agency employer shall include a provision which provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract. However, if the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18.

EXHIBIT C
CITY OF GLENDORA
EMPLOYEE BENEFIT INFORMATION
DEPARTMENT DIRECTORS/EXECUTIVE MANAGEMENT

RESOLUTION CC 2016-29

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
GLENDDORA, CALIFORNIA, APPROVING COMPENSATION
ADJUSTMENTS FOR EXECUTIVE MANAGEMENT CONTRACT
EMPLOYEES.**

**THE CITY COUNCIL
City of Glendora, California**

**THE CITY COUNCIL OF THE CITY OF GLENDDORA DOES HEREBY
RESOLVE AS FOLLOWS:**

WHEREAS, Glendora Management Association (GMA) has reached a tentative agreement for the successor Memorandum of Understanding for a term beginning July 1, 2016 through June 30, 2019. The GMA MOU will provide adjustments to compensation and benefits through July 1, 2018.

WHEREAS, the City Council wishes to generally convey the similar compensation adjustments, to its Executive Management contract employees (Department Directors) listed in the attached Exhibit A, beginning with the specified below.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENDDORA,
CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The City Council approves and authorizes the City Manager to implement adjustments to the salary schedule for Executive Management contract employees (Department Directors) as follows:

1. COMPENSATION

- a. 2.0% salary increase effective first payroll period on or after July 1, 2016
- b. 1.5% salary increase effective first payroll period on or after July 1, 2017
- c. 2.0% salary increase effective first payroll period on or after July 1, 2018

2. BEREAVEMENT LEAVE

- a. 40 hours (5 days) of bereavement leave which is consistent with the GMA MOU new provision.

3. HOLIDAYS

- a. Christmas Eve and New Year's Eve – grant full day holiday consistent with other bargaining groups. Currently, it is half day holiday.

4. FLEXIBLE BENEFIT PLAN

- a. Flexible Benefit Plan for Directors hired on or after January 1, 2017, shall have a cap on the cash out reduced to no more than \$650.00 per month.

City of Glendora
Executive Management Benefit Schedule *

1. Social Security - No contributions are paid by the City or employee into Social Security
2. Medicare - 1.45% of salary paid by City and employee for a total of 2.9% (for employees hired after 4/1/86)
3. Employer Paid Member Contributions (PERS EPMC) - City's PERS Contribution will be reported to PERS as additional compensation per Government Code Section 20636(c)(4) and IRS code section 414(h)(2).
4. Employee CalPERS contribution rates which are statutorily set at eight (8) percent for Miscellaneous employees and nine (9) percent for Safety employees, shall be fully paid by the employee by reimbursing the City.
5. Flexible Benefit Plan - All Department Directors will receive \$820 + 1.5% of salary monthly. (Mandatory health, dental & LTD). Employee may receive non used/required benefit amount in cash upon submittal of waiver and proof of enrollment in an alternative group health plan. However, cash out may not be more than \$800 + 1.5% salary per month. Flexible Benefit Plan for Directors hired on or after January 1, 2017 shall have a cap on the cash out amount of \$650.00 per month.
6. Vision - City pays employee only coverage (dependent vision insurance can be purchased with flexible benefit plan).
7. Life Insurance - City pays for \$100,000 policy for Police Chief, Finance Director, City Clerk and Public Works Director and \$50,000 policy for Human Resources and Risk Management Director, Planning Director, Community Services Director and Library Director.
8. Long Term Disability - City pays ½ the cost.
9. Deferred Compensation - Available (no employer participation).

10. Holidays - The following ten (12) holidays are recognized.

New Year's Day	Veterans Day
Martin Luther King, Jr. Day	Thanksgiving Day
Presidents' Day	Friday following Thanksgiving Day
Memorial Day	Christmas Eve Day
Labor Day	Christmas Day
Independence Day	New Year's Eve Day

Christmas Eve and New Year's Eve will be designated as holidays except when Christmas and New Year's days fall on a Sunday or Monday. Employees scheduled to work on one or both of these holidays shall receive eight hours of holiday pay for each period worked in addition to regular compensation. Employees scheduled to work on one or both of these times but on an approved leave shall receive holiday pay in lieu of leave pay.

11. Sick Days per Calendar Year - 3.69 hours per pay period (no maximum accumulation).
12. Administrative Leave - See Contract for Department Directors hired prior to January 1, 2011. After that date, new Directors shall not be entitled to this benefit.
13. Vacation Leave - 6.46 hours per pay period
14. Auto Allowance - See Contract.
15. Tuition Reimbursement - Job related and at State University rates.
16. Bereavement Leave - 40 hours (8 additional if internment service is over 500 miles away)
17. Personal Emergency Leave -- 24 hours/year (to be taken out of sick leave)
18. Family Illness Leave -- 48 hours/year (to be taken out of sick leave)
19. Community Service Expense - See contract
20. City shall pay for a full physical every 2 years should the employee make the request. Employee shall make all arrangements through the Human Resources Department.
21. Employee Assistance Plan shall be extended to employee at no cost.

22. IRS 125 and 129 Flexible Spending Account available upon hire.
23. Retiree Medical Plan contribution - Retire age 55+ with a minimum of 10 years service (Miscellaneous) or retire age 50+ with a minimum of 15 years service (Safety) with the City of Glendora is \$300/month until age 65. If retired after age 60, will receive the contribution for a maximum of 5 years after receiving Medicare benefits.
24. Unused Sick Leave Credit - Sick leave is converted to service credit upon retirement when retirement date within four (4) months of employment separation or based on the current regulations promulgated by CalPERS at the time.
25. PERS contract amendments - include 1959 Survivors Benefit, level 2 (Section 21572) for Miscellaneous and level 4 (Section 21574) for Safety, and purchase Military Service Credit as Public Service (Section 21024)

*Benefits listed in this Exhibit shall govern unless stated otherwise in the Department Director's employment contract. If the City Council adopts a Council resolution subsequent to the effectiveness date of individual's most current employment contract, then that resolution shall govern when it comes to elements relating to Employee Benefits.

SECTION 2. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Resolution, shall enter the same into the Book of Original Resolutions and that this Resolution shall take effect and be in force on this date.

SECTION 3. The City Clerk is hereby directed to forward a copy of this Resolution to the Human Resources and Risk Management Director.

APPROVED and PASSED this 28th day of June, 2016.

City Council of Glendora, California

BY: 

GENE MURABITO, Mayor

APPROVED AS TO FORM:

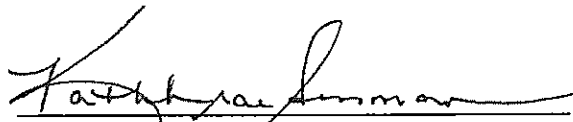


D. WAYNE LEECH, City Attorney

I, Kathleen R. Sessman, City Clerk of the City of Glendora, do hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Glendora at a regular meeting held on the 28th day of June, 2016, by the following vote:

AYES:	COUNCIL MEMBERS:	Davis, Nelson, Thompson, and Murabito
NOES:	COUNCIL MEMBERS:	Boyer
ABSENT:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None

Dated: July 1, 2016



KATHLEEN R. SESSMAN, City Clerk

Exhibit D

AGREEMENT OF SEPARATION, SEVERANCE, AND GENERAL RELEASE

1. PARTIES

This Agreement of Separation, Severance, and General Release (hereinafter referred to as the "AGREEMENT") is entered into by and between the CITY OF GLENDORA, a general law city and municipal corporation (hereinafter referred to as "CITY"), and JOHN ALFRED AGUIRRE, an individual (hereinafter referred to as "EMPLOYEE").

2. RECITALS

2.1. On _____, EMPLOYEE was hired as the at-will Community Services Director serving at the pleasure of the City Manager of CITY. Service pursuant to a written contract, a copy of which is attached hereto as Exhibit "A" ("CONTRACT") commenced effective _____.

EMPLOYEE is currently ___ years old.

2.2. CITY and EMPLOYEE desire that EMPLOYEE separate and enter into a severance agreement whereby EMPLOYEE receives severance compensation in exchange for executing a general release and waiver of any and all claims that EMPLOYEE may have against THE CITY, including but not limited to its elected and non-elected officials, employees, attorneys, and agents. Accordingly, the parties hereto intend by this AGREEMENT to mutually conclude any and all employment relationships between CITY and EMPLOYEE by means of EMPLOYEE's separation as of _____, 20____. This AGREEMENT sets forth the full and complete terms and conditions concluding EMPLOYEE's employment relationship with CITY and any obligations related thereto, including any provided under the CONTRACT.

2.3 In accordance with this AGREEMENT and with applicable state and federal laws, EMPLOYEE acknowledges that EMPLOYEE has been advised of EMPLOYEE's postemployment rights, including but not limited to, EMPLOYEE's rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), the Employee Retirement Income Security Act of 1974 ("ERISA"), and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

3. CONSIDERATION

3.1 EMPLOYEE shall receive payment at the time of separation of all earned salary, accrued fringe benefits as detailed in CONTRACT, and/or all other wage compensation/benefits owed to EMPLOYEE upon separation of employment, as required by law or CONTRACT or any other agreement with CITY.

3.2. In exchange for the waivers and releases set forth herein, CITY shall also cause to be paid to EMPLOYEE an additional compensatory payment by means of severance, settlement and release in the form of a lump sum amount of

_____ and ___ cents (\$_____.00), as set forth in THE CONTRACT in the form of a check made payable to EMPLOYEE to be mailed to EMPLOYEE at EMPLOYEE's home address via certified mail return receipt requested within thirty (30) business days after the EFFECTIVE DATE (as defined below) of this AGREEMENT.

3.3 In exchange for the severance payment provided for herein, EMPLOYEE, and on behalf of EMPLOYEE's spouse, heirs, representatives, successors, and assigns, hereby releases, acquits, and forever discharges CITY, and each of its predecessors, successors, assigns, officials, employees, representatives, agents, insurers, attorneys, and all persons and entities acting by, through, under, or in concert with any of them, and each of them (hereinafter referred to as "CITY PARTIES"), from any and all claims, charges, complaints, contracts, understandings, liabilities, obligations, promises, benefits, agreements, controversies, costs, losses, debts, expenses, damages, actions, causes of action, suits, rights, and demands of any nature whatsoever, known or unknown, suspected or unsuspected, which EMPLOYEE now has or may acquire in the future, or which EMPLOYEE ever had, relating to or arising out of any act, omission, occurrence, condition, event, transaction, or thing which was done, omitted to be done, occurred or was in effect at any time from the beginning of time up to and including EMPLOYEE's separation date of _____, _____ (hereinafter referred to collectively as "CLAIMS"), without regard to whether such CLAIMS arise under the federal, state, or local constitutions, statutes, rules or regulations, or the common law. EMPLOYEE expressly acknowledges that the CLAIMS forever barred by this AGREEMENT specifically include, but are not limited to, claims based upon any alleged breach of THE CONTRACT or any other agreement of employment, any demand for wages, overtime or benefits, any claims of violation of the provisions of ERISA, COBRA or HIPAA, any alleged breach of any duty arising out of contract or tort, any alleged wrongful termination in violation of public policy, any alleged breach of any express or implied contract for continued employment, any alleged employment discrimination or unlawful discriminatory act, or any claim or cause of action including, but not limited to, any and all claims whether arising under any federal, state or local law prohibiting breach of employment contract, wrongful termination, or employment discrimination based upon age, race, color, sex, religion, handicap or disability, national origin or any other protected category or characteristic, and any and all rights or claims arising under the California Labor Code or Industrial Welfare Commission Wage Orders, the Federal Fair Labor Standards Act, the California Fair Employment and Housing Act, California Government Code §§12, 900 et seq., the Americans With Disabilities Act, Title VII of the Civil Rights Act of 1964, the Public Safety Officers Procedural Bill of Right Act, and any other federal, state, or local human rights, civil rights, or employment discrimination or employee rights statute, rule, or regulation. Nothing herein shall be interpreted as a release or waiver of any workers' compensation claims or in any way prohibit or prevent EMPLOYEE from participating in any claims or administrative action brought by a state or federal agency.

///

///

4. **SPECIFIC ACKNOWLEDGMENT OF WAIVER OF CLAIMS UNDER ADEA AND OWBPA**

The Age Discrimination in Employment Act of 1967 (hereinafter referred to as the "ADEA") makes it illegal for an employer to discharge any individual or otherwise discriminate with respect to the nature and privileges of an individual's employment on the basis that the individual is age forty (40) or older. The Older Workers Benefit Protection Act (hereinafter referred to as the "OWBPA," 29 U.S.C. § 626, et seq., Pub L 101-433, 104 Stat. 978 (1990)) further augments the ADEA and prohibits the waiver of any right or claim under the ADEA, **unless the waiver is knowing and voluntary**. By entering into this AGREEMENT, EMPLOYEE acknowledges that she knowingly and voluntarily, for just compensation in addition to anything of value to which EMPLOYEE was already entitled, waives and releases any rights she may have under the ADEA and/or OWBPA. EMPLOYEE further acknowledges that EMPLOYEE has been advised and understands, pursuant to the provisions of the ADEA and OWBPA, that:

- 1) This waiver/release is written in a manner understood by EMPLOYEE;
- 2) EMPLOYEE is aware of, and/or has been advised of, EMPLOYEE'S rights under the ADEA and OWBPA, and of the legal significance of EMPLOYEE's waiver of any possible claims EMPLOYEE currently may have under the ADEA, OWBPA and/or similar age discrimination laws;
- 3) EMPLOYEE is entitled to a reasonable time of at least twenty-one (21) days within which to review and consider this AGREEMENT and the waiver and release of any rights EMPLOYEE may have under the ADEA, the OWBPA and similar age discrimination laws; but may, in the exercise of EMPLOYEE's own discretion, sign or reject this AGREEMENT at any time before the expiration of the twenty-one (21) days;
- 4) The waivers and releases set forth in this AGREEMENT shall not apply to any rights or claims that may arise under the ADEA and/or OWBPA **after** the EFFECTIVE DATE of this AGREEMENT;
- 5) EMPLOYEE has been advised by this writing that EMPLOYEE should consult with an attorney prior to executing this AGREEMENT;
- 6) EMPLOYEE has had an opportunity to discuss this waiver and release with, and to be advised with respect thereto by, EMPLOYEE's counsel of choice, and that EMPLOYEE does not need any additional time within which to review and consider this AGREEMENT;
- 7) EMPLOYEE has **seven (7) days following his execution** of this AGREEMENT to revoke the AGREEMENT;
- 8) Notice of revocation within the seven (7) day revocation period must be provided, in writing, to CITY pursuant to Paragraph 8.9 herein, and must state, "I hereby revoke my acceptance of our Agreement of Severance and General Release;" and
- 9) This AGREEMENT shall not be effective until all parties have signed the AGREEMENT and ten (10) days have passed since EMPLOYEE's execution ("EFFECTIVE DATE").

///

///

5. UNKNOWN CLAIMS

In relation to the release provisions of Paragraphs 3 and 4 above, EMPLOYEE understands that California Civil Code section 1542 reads as follows:

§ 1542 General release; extent

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

EMPLOYEE hereby waives the protection of California Civil Code section 1542.

6. WAIVER OF ADDITIONAL CLAIMS

EMPLOYEE hereby waives any provisions of state or federal law that might require a more detailed specification of the claims being released pursuant to the provisions of Paragraphs 3, 4, and 5 above.

7. REPRESENTATIONS AND WARRANTIES

Each of the parties to this AGREEMENT represents and warrants to, and agrees with, each other party as follows:

7.1. Advice of Counsel: The parties hereto have received independent legal advice from their respective attorneys concerning the advisability of entering into and executing this AGREEMENT or have been given the opportunity to obtain such advice. The parties acknowledge that they have been represented by counsel of their own choice in the negotiation of this AGREEMENT, that they have read this AGREEMENT; that they have had this AGREEMENT fully explained to them by such counsel, or have had such opportunity to do so and that they are fully aware of the contents of this AGREEMENT and of its legal effect.

7.2. No Fraud in Inducement: No party (nor any officer, agent, employee, representative, or attorney of or for any party) has made any statement or representation or failed to make any statement or representation to any other party regarding any fact relied upon in entering into this AGREEMENT, and neither party relies upon any statement, representation, omission or promise of any other party in executing this AGREEMENT, or in making the settlement provided for herein, except as expressly stated in this AGREEMENT.

7.3. Independent Investigation: Each party to this AGREEMENT has made such investigation of the facts pertaining to this settlement and this AGREEMENT and all the matters pertaining thereto, as it deems necessary.

7.4. Mistake Waived: In entering into this AGREEMENT, each party assumes the risk of any misrepresentation, concealment or mistake. If any party should subsequently

discover that any fact relied upon by it in entering into this AGREEMENT was untrue, or that any fact was concealed from it, or that its understanding of the facts or of the law was incorrect, such party shall not be entitled to any relief in connection therewith, including without limitation on the generality of the foregoing any alleged right or claim to set aside or rescind this AGREEMENT.

This AGREEMENT is intended to be, and is, final and binding between the parties, regardless of any claims of misrepresentation, promise made without the intent to perform, concealment of fact, mistake of fact or law, or any other circumstance whatsoever.

7.5. Later Discovery: The parties are aware that they may hereafter discover claims or facts in addition to or different from those they now know or believe to be true with respect to the matters related herein. Nevertheless, it is the intention of the parties that EMPLOYEE fully, finally and forever settle and release all such matters, and all claims relative thereto, which do now exist, may exist or have previously existed against CITY or CITY PARTIES. In furtherance of such intention, the releases given here shall be, and remain, in effect as full and complete releases of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.

7.6. Indemnification: EMPLOYEE agrees to indemnify and hold harmless CITY or CITY PARTIES from, and against, any and all claims, damages, or liabilities sustained by them as a direct result of the violation or breach of the covenants, warranties, and representations undertaken pursuant to the provisions of this AGREEMENT. EMPLOYEE understands and agrees that EMPLOYEE shall be exclusively liable for the payment of all taxes for which EMPLOYEE is responsible, if any, as a result of the receipt of the consideration referred to in Paragraph 3 of this AGREEMENT. In addition, EMPLOYEE agrees fully to indemnify and hold CITY PARTIES harmless for payment of tax obligations as may be required by any federal, state or local taxing authority, at any time, as a result of the payment of the consideration set forth in Paragraph 3 of this AGREEMENT.

7.7. Future Cooperation & Consultation fees: The parties shall execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this AGREEMENT. EMPLOYEE shall provide CITY with consultation services (including deposition or trial testimony) in any litigation involving CITY which is reasonably related to acts or occurrences transpiring during her employment. Said services shall be provided as needed by CITY and at a rate of One Hundred Dollars (\$100.00) per hour.

7.8. Return of Confidential Information and Property: Prior to the separation date, EMPLOYEE shall submit a written inventory of, and return to the City Clerk, all City keys, equipment, computer identification cards or codes, and other equipment or materials or confidential documents provided to or obtained by EMPLOYEE during the course of EMPLOYEE's employment with CITY.

7.9 No Pending Claims and/or Actions: EMPLOYEE represents that EMPLOYEE has not filed any complaints or charges against CITY or CITY PARTIES with any local, state

or federal agency or court; that EMPLOYEE will not do so at any time hereafter for any claim arising up to and including the EFFECTIVE DATE of this AGREEMENT; and that if any such agency or court assumes jurisdiction of any such complaint or charge against CITY or CITY PARTIES on behalf of EMPLOYEE, whenever or where ever filed, EMPLOYEE will request such agency or court to withdraw from the matter forthwith. Nothing herein shall be interpreted as a release or waiver of any workers' compensation claims or in any way prohibit or prevent EMPLOYEE from participating in any claims or administrative action brought by a state or federal agency.

7.10. Ownership of Claims: EMPLOYEE represents and warrants as a material term of this AGREEMENT that EMPLOYEE has not heretofore assigned, transferred, released or granted, or purported to assign, transfer, release or grant, any of the CLAIMS disposed of by this AGREEMENT. In executing this AGREEMENT, EMPLOYEE further warrants and represents that none of the CLAIMS released by EMPLOYEE thereunder will in the future be assigned, conveyed, or transferred in any fashion to any other person and/or entity.

7.11 Enforcement Fees and Costs: Should any legal action be required to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

7.12 Authority: Each party represents to the other that it has the right to enter into this AGREEMENT, and that it is not violating the terms or conditions of any other AGREEMENT to which they are a party or by which they are bound by entering into this AGREEMENT. The parties represent that they will obtain all necessary approvals to execute this AGREEMENT. It is further represented and agreed that the individuals signing this AGREEMENT on behalf of the respective parties have actual authority to execute this AGREEMENT and, by doing so, bind the party on whose behalf this AGREEMENT has been signed.

8. MISCELLANEOUS

8.1. No Admission: Nothing contained herein shall be construed as an admission by THE CITY of any liability of any kind. THE CITY denies any liability in connection with any claim and intends hereby solely to avoid potential claims and/or litigation and buy its peace.

8.2. Governing Law: This AGREEMENT has been executed and delivered within the State of California, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

8.3. Full Integration: This AGREEMENT is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This AGREEMENT may be amended only by a further agreement in writing, signed by the parties hereto.

8.4. Continuing Benefit: This AGREEMENT is binding upon and shall inure to the benefit of the parties hereto, their respective agents, spouses, employees, representatives, officials, attorneys, assigns, heirs, and successors in interest.

8.5. Joint Drafting: Each party agrees that it has cooperated in the drafting and preparation of this AGREEMENT. Hence, in any construction to be made of this AGREEMENT, the parties agree that same shall not be construed against any party.

8.6. Severability: In the event that any term, covenant, condition, provision or agreement contained in this AGREEMENT is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant, condition, provision or agreement shall in no way affect any other term, covenant, condition, provision or agreement and the remainder of this AGREEMENT shall still be in full force and effect.

8.7. Titles: The titles included in this AGREEMENT are for reference only and are not part of its terms, nor do they in any way modify the terms of this AGREEMENT.

8.8. Counterparts: This AGREEMENT may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one AGREEMENT, which shall be binding upon and effective as to all parties.

8.9. Notice: Any and all notices given to any party under this AGREEMENT shall be given as provided in this paragraph. All notices given to either party shall be made by certified or registered United States mail, or personal delivery, at the noticing party's discretion, and addressed to the parties as set forth below. Notices shall be deemed, for all purposes, to have been given on the date of personal service or three (3) consecutive calendar days following deposit of the same in the United States mail.

As to EMPLOYEE:

At EMPLOYEE's home address on file with CITY.

As to CITY:

City Manager
City of Glendora
116 E. Foothill Blvd.
Glendora, California 91741-3380

with copy to:
City Attorney
c/o Aleshire & Wynder, LLP
2361 Rosecrans Ave., Ste 475
El Segundo, CA 90245

IN WITNESS WHEREOF, THE CITY has caused this AGREEMENT to be signed and executed on its behalf by its City Manager and duly attested by its City Clerk, EMPLOYEE has signed and executed this Agreement, and the attorneys for CITY and EMPLOYEE, if any, have approved as to form as of the dates written below.

EMPLOYEE

DATED: _____

By: _____
John Alfred Aguirre

THE CITY

DATED: _____

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
William W. Wynder, City Attorney

[EMPLOYEE's LAW FIRM]

By: _____
[Counsel]