

AGREEMENT FOR PERSONAL SERVICES - CITY ADMINISTRATOR

FRED WILSON

THIS AGREEMENT is entered into by and between the CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California, herein called "CITY," and FRED WILSON, herein called "EMPLOYEE."

WITNESSETH

WHEREAS, it is the desire of CITY to retain the services of EMPLOYEE as City Administrator; and

It is the desire of CITY to provide certain benefits, establish certain conditions of employment and to set certain working conditions of EMPLOYEE; and

It is the desire of CITY to: (1) provide inducement for EMPLOYEE to continue as the City Administrator and remain in CITY'S employment; (2) make possible full work productivity by providing EMPLOYEE with assurances regarding his employment; and (3) provide an equitable means for terminating EMPLOYEE'S services if that should occur.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND CONDITIONS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **EMPLOYMENT.** CITY hereby agrees to employ EMPLOYEE as City Administrator of the City of Huntington Beach to perform the functions and duties specified in the City Charter, and to perform other legally permissible duties and functions as the City Council shall from time to time assign. EMPLOYEE is a Charter Officer and possesses the powers and is subject to the limitations of the Charter, including Sections 400 and 401.

EMPLOYEE will accept no other employment during the term of this Agreement without the express prior approval of the City Council of CITY.

2. **TERM.** EMPLOYEE'S first day of work pursuant to this Agreement shall be September 22, 2008. This Agreement shall remain in effect until terminated by either party as provided in Paragraph 8.

3. **COMPENSATION.**

A. CITY agrees to pay EMPLOYEE a base annual salary of \$240,000, in installments at the same time as other employees of CITY are paid. EMPLOYEE shall receive the same percentage salary adjustment, if any, conferred upon the CITY'S Non-Associated Employees.

B. In addition to the foregoing benefits, EMPLOYEE shall also receive all such other benefits that are generally applicable to non-associated employees (department heads) hired after December 27, 1997, as set forth in CITY'S Non-Associated Employee Benefits Resolution, a copy of which is attached hereto as Attachment No. 1.

C. The CITY will pay an auto allowance of \$600.00 per month as reimbursement for the use of EMPLOYEE'S personal auto on CITY business. EMPLOYEE will primarily use EMPLOYEE'S personal auto for CITY business, and will use CITY vehicles on an exception basis only. This provision does not in any way restrict EMPLOYEE'S use of his personal automobile for personal use. This auto allowance will increase only upon specific Council action, or when department head auto allowances exceed \$600.00 per month, in which case EMPLOYEE'S auto allowance will be adjusted equally.

The CITY will also provide a car cellular telephone and will pay the monthly expenses incurred for CITY business; EMPLOYEE will reimburse the CITY for personal use.

D. **BUSINESS EXPENSES.** EMPLOYEE shall be reimbursed all reasonable business expenses, with comprehensive administrative oversight in place.

E. **MOVING EXPENSES.** CITY will reimburse EMPLOYEE his temporary rental housing expenses incurred prior to March 22, 2009, and reasonable moving expenses in an amount not to exceed \$20,000.

F. **OTHER BENEFITS.** As an incentive to encourage EMPLOYEE to reside within the City of Huntington Beach and to remain employed by City for a number of years, EMPLOYEE will be eligible for a one-time, real estate secured loan of an amount not to exceed Two Hundred Thousand Dollars ("the Loan"). The Loan shall be subject to the following terms and conditions:

a. The Loan shall be fundable in full upon EMPLOYEE'S execution of a loan agreement. The loan agreement shall be approved as to form by the City Attorney. The City Attorney is authorized and empowered to execute the loan agreement on behalf of the City any and all documents as may be required to effectuate the Loan.

b. The Loan shall be secured by EMPLOYEE's primary residence in Huntington Beach. The Loan may be subordinate to a pre-existing first mortgage and a pre-existing second as a line of credit; a minimum loan to value ratio shall be maintained to secure the loan.

c. No loan repayment shall be made while employed by City as City Administrator; the Loan shall be forgiven in increments of \$28,571.43 per year for each subsequent year of EMPLOYEE's employment with the City. If separation occurs mid year, the amount of forgiveness for that year shall be prorated on a monthly basis for time employed within that year.

d. The loan balance at time of separation of employment with the City, if any, shall be paid with interest at either the market interest rate at the time of loan repayment or at a composite market interest rate for each year that the Loan was outstanding; the loan balance shall be paid in full with applicable interest within six months of separation from the city.

e. In the event of work-related death or injury that would prevent EMPLOYEE's continuation of work as City Administrator, the Loan will be retired in full with no repayment. If death results from a non-work related cause, survivor rights will be conveyed to EMPLOYEE's surviving spouse with full interest conversion at market rate to be paid upon sale of home or within six months of death, whichever occurs first.

f. EMPLOYEE shall be responsible for payment of any and all applicable taxes on the loan.

g. The City Attorney may establish such other terms and conditions of the Loan as may be convenient or necessary.

4. PERFORMANCE EVALUATION.

A. EMPLOYEE will be evaluated at least once annually by the Council on or before his anniversary date. EMPLOYEE'S evaluation, at a minimum, will consist of written comments submitted by each Councilmember and may include individual or joint meetings with the Councilmembers. Said review and evaluation shall be in accordance with specific criteria developed jointly by the City Council and EMPLOYEE. Said criteria may be added to or deleted from as the City Council may from time to time determine after consultation with EMPLOYEE. The City Council shall provide an adequate opportunity for EMPLOYEE to discuss his evaluation with the City Council.

B. Annually, the City Council and EMPLOYEE shall define, in writing, such goals and performance objectives which they determine are necessary for the proper operation of CITY. The goals and obligations must be attainable within the time limitations agreed to by CITY and EMPLOYEE and within the fiscal constraints of the annual operating and capital budgets and appropriations approved by CITY. Any unforeseen circumstances which may arise which would affect the achievement of the goals and objectives shall be identified in the consideration of EMPLOYEE'S annual evaluation and compensation.

C. The Council and/or EMPLOYEE may desire additional performance evaluations between anniversary dates. Such evaluations shall be less formal without the requirement of written comments or reports.

5. **RETIREMENT.** EMPLOYEE will be entitled to PERS Retirement Plan benefits received by the CITY'S miscellaneous employees (non-public safety department heads), and such benefits will comply with all PERS regulations.

6. **GENERAL AND EXECUTIVE LEAVE.** EMPLOYEE will be credited 160 hours of General Leave and 80 hours of Executive Leave upon his first day of employment. Thereafter, EMPLOYEE shall accrue General Leave in accordance with the General Leave accrual provisions applicable to department heads of CITY, and EMPLOYEE shall be credited 80 hours of Executive Leave on January 1 of each calendar year. Executive Leave must be used in the same calendar year it is credited; unused Executive Leave may not be carried forward to the next calendar year. EMPLOYEE shall provide all Councilmembers with reasonable notice prior to taking two or more General or Executive leave days off.

7. **PROFESSIONAL DEVELOPMENT EXPENSES.**

A. CITY agrees to budget and to pay for the professional dues and subscriptions necessary to EMPLOYEE'S participation in national, regional, state and local

associations and organizations necessary and desirable for his continued professional participation, growth and advancement and for the good of the CITY.

B. CITY agrees to budget and to pay for the travel and subsistence expenses of EMPLOYEE for professional and official travel, meetings and occasions adequate to continue the professional development of EMPLOYEE and to adequately pursue necessary official and other functions for CITY, including but not limited to the Annual Conference of the International City Management Association, the League of California Cities, and such other national, regional, state and local government groups and committees thereof on which EMPLOYEE serves as a member. EMPLOYEE shall pay for all expenses of his spouse if she accompanies him on such trips.

C. CITY agrees to budget and to pay for the travel and subsistence expenses of EMPLOYEE for short courses, institutes and seminars that are necessary for EMPLOYEE'S professional development and for the good of the CITY.

8. TERMINATION AND SEVERANCE PAY.

A. CITY may only terminate EMPLOYEE as provided at Section 400(d) of the Charter of the City of Huntington Beach.

B. Should the Council choose to dismiss EMPLOYEE with less than 6 month's notice, CITY shall compensate EMPLOYEE with an amount equivalent to 6 months' salary and benefits. Should EMPLOYEE voluntarily resign or be convicted of a felony or other crime of moral turpitude, or otherwise be terminated for good cause, CITY will not be obligated to pay any severance pay.

C. Should EMPLOYEE decide to terminate his employment with CITY, he shall provide notice to the Council with at least 60 days' written notice.

9. **INDEMNIFICATION.** CITY shall defend, hold harmless and indemnify EMPLOYEE against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of EMPLOYEE'S duties in accordance with the provisions of *California Government Code* Section 825 and provide a defense in accordance with *Government Code* Section 995. CITY may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom.

10. **BONDING.** CITY shall bear the full costs of any fidelity or other bonds required of EMPLOYEE under any law or ordinance.

11. **OTHER TERMS AND CONDITIONS OF EMPLOYMENT.**

A. The City Council, in consultation with EMPLOYEE, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of EMPLOYEE, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

B. All provisions of the City Charter and Municipal Code, and regulations and rules of CITY relating to General and Executive Leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended, also shall apply to EMPLOYEE as they would to non-associated employees (department heads) of CITY in addition to said benefits enumerated specifically for the benefit of EMPLOYEE except as herein provided.

C. Such other benefits as the City Council may authorize and grant in the future shall be included within the terms of this Agreement as if specifically amended into this Agreement.

12. **NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given and deemed served upon the other party if sent by United States Postal Service, first-class postage prepaid, and addressed as follows:

TO CITY:
City Clerk
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

TO EMPLOYEE:
Fred Wilson
City Administrator
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

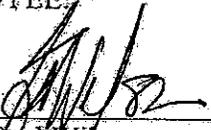
Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

13. **GENERAL PROVISIONS.**

- A. The text herein shall constitute the entire Agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.
- C. This Agreement shall become effective upon execution.
- D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

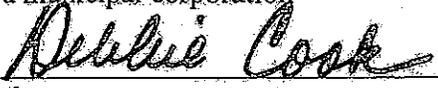
IN WITNESS WHEREOF, CITY has caused this Agreement to be signed and duly executed on its behalf by its Mayor and its City Clerk, and EMPLOYEE has signed and executed this Agreement, on AUGUST 04, 2008.

EMPLOYEE:



Fred Wilson

CITY OF HUNTINGTON BEACH,
a municipal corporation



Mayor

and



City Clerk

APPROVED AS TO FORM:



Jennifer McGrath, City Attorney 7.31.08