

City of Los Alamitos

Agenda Report Consent Calendar

August 19, 2013
Item No: 8D

To: Mayor Warren Kusumoto & Members of the City Council

From: Gregory D. Korduner, City Manager
Cary S. Reisman, City Attorney

Subject: Amended Salary Resolution for Non-Represented Employees

Summary: This Resolution amends the Salary Resolution to increase the non-represented safety employees' CalPERS contributions to 9% of salary instead of 8%, and to increase salaries of such employees by 10% instead of 9%, to cover the costs. This Resolution also amends the form agreements for Middle Management and Confidential employees to remove the references to at-will employment.

Recommendation: Adopt Resolution No. 2013-21, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS AMENDING RESOLUTION 2013-02 RELATING TO SALARIES AND BENEFITS FOR NON-REPRESENTED EMPLOYEES".

Background and Discussion

The Salary Resolution (2013-02) and Employment Agreements approved by the City Council in January, 2013 contained some errors in need of correction. 1) The actual PERS contribution for non-represented safety employees is 9% rather than 8%. Because the City Council intended to transfer the responsibility for payment of PERS contributions to the employees, and to grant a wage increase 1% higher than the PERS contributions, their Agreements should provide that the employees will pay 9%, and the salary schedule should be amended to increase their salaries by 10%. 2) The approved documents stated that Middle Management and Confidential employees (including the position of Police Captain) are subject to dismissal without cause. The City Council did not intend to change the nature of those employees' relationship with the City. The Chief's and Captain's agreements were also modified to reflect the impact of California Labor Code section 4850 on their use of sick leave.

Fiscal Impact

There is an increase of approximately \$750 which can be absorbed in the operating budget.

Submitted By:



Cary S. Reisman
City Attorney

Approved By:



Gregory D. Korduner
City Manager

- Attachments:
1. Resolution No. 2013-21
 2. Agreement for Chief of Police
 3. Agreement for Police Captain
 4. Agreement for Executive Staff
 5. Agreement for Middle Management and Confidential Employees

RESOLUTION NO. 2013-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS AMENDING RESOLUTION 2013-02 RELATING TO SALARIES AND BENEFITS FOR NON-REPRESENTED EMPLOYEES

WHEREAS, the City of Los Alamitos adopted Resolution No. 2013-02 relating to the rights and benefits of non-represented employees in the City of Los Alamitos; and

WHEREAS, the Resolution approved agreement forms for non-represented employees and the Chief of Police and Captain of the Police Department; and

WHEREAS, the form agreements contained certain terms and provisions which the City Council did not intend to include as written,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS
DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. Section 5, Salary Ranges, Subsection A of Resolution No. 2013-02 is hereby amended to read as follows:

- A. The salary steps and ranges of all classifications governed by this Resolution shall be as specified in Exhibits A1 and A2 attached hereto and incorporated by reference.

SECTION 2. Section 25, Retirement, Subsection D, Employee Share Contribution of Resolution No. 2013-02 is hereby amended to read as follows:

D. Employee Share Contribution. The City in past years has also paid the full employee share of the CalPERS retirement contribution as Employer Paid Member Contribution ("EPMC"). Effective upon City Council approval of this Resolution the City shall not pay the employee's share as EPMC but rather the employees will be responsible to pay the employee's share in the amount of 9% for safety members and 8% for non-safety members. Such payment shall be deducted from Employees' pay and remitted to CalPERS.

SECTION 3. The Form Contract Agreements for Middle Management and Confidential Employees, including the Police Captain, copies of which were attached as Attachment 2 to the January 22, 2013, City Council Staff Report, Item 10A, are hereby amended to remove references to at-will employment, and to read as attached hereto (Exhibit B).

SECTION 4. Certification. The City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 19th day of August, 2013.

Warren Kusumoto
Mayor

ATTEST:

Windmera Quintanar, CMC
City Clerk

APPROVED AS TO FORM:

Cary S. Reisman
City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LOS ALAMITOS)

I, Windmera Quintanar, CMC, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 19th day of August, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Windmera Quintanar, CMC
City Clerk

**CITY OF LOS ALAMITOS NON-REPRESENTED EMPLOYEES
SALARY SCHEDULE
Effective August 19, 2013**

EXHIBIT A1

CLASS CODE	CLASSIFICATION TITLE	RANGE NO.	EMPLOYMENT CATGY./FLSA						
				STEP A	STEP B	STEP C	STEP D	STEP E	
310	Benefits Coordinator/Executive As	322	C - E	HOURLY	32.91	34.56	36.29	38.10	40.00
				BI-WEEKLY	2,633	2,765	2,903	3,048	3,200
				MONTHLY	5,704	5,990	6,290	6,604	6,933
				ANNUAL	68,453	71,885	75,483	79,248	83,200
320	Deputy City Clerk	332	C - E	HOURLY	30.21	31.72	33.31	34.98	36.73
				BI-WEEKLY	2,417	2,538	2,665	2,798	2,938
				MONTHLY	5,236	5,498	5,774	6,063	6,367
				ANNUAL	62,837	65,978	69,285	72,758	76,398
330	Assistant to the City Manager	333	C - E	HOURLY	37.30	39.17	41.13	43.19	45.35
				BI-WEEKLY	2,984	3,134	3,290	3,455	3,628
				MONTHLY	6,465	6,789	7,129	7,486	7,861
				ANNUAL	77,584	81,474	85,550	89,835	94,328
350	Community Services Manager	350	MM - E	HOURLY	37.45	39.32	41.29	43.35	45.52
360	Public Services Superintendent	350	MM - E	BI-WEEKLY	2,996	3,146	3,303	3,468	3,642
				MONTHLY	6,491	6,815	7,157	7,514	7,890
				ANNUAL	77,896	81,786	85,883	90,168	94,682
				380	Support Services Manager	369	MM - E	HOURLY	45.35
				BI-WEEKLY	3,628	3,810	4,000	4,200	4,410
				MONTHLY	7,861	8,254	8,667	9,100	9,556
				ANNUAL	94,328	99,050	104,000	109,200	114,670
				390	Police Captain	395	MM - E	HOURLY	56.72
				BI-WEEKLY	4,538	4,765	5,003	5,254	5,517
				MONTHLY	9,831	10,324	10,840	11,383	11,953
				ANNUAL	117,978	123,885	130,083	136,594	143,437

Employment Category

A = At Will
C = Confidential
MM = Mid-Management

Fair Labor Standards Act Classification

NE = Non Exempt from overtime
E = Exempt from overtime

**LOS ALAMITOS EXECUTIVE MANAGEMENT
SALARY SCHEDULE
Effective August 19, 2013**

EXHIBIT A2

CLASS CODE	CLASSIFICATION TITLE	RANGE NO.	EMPLOYMENT CATGY./FLSA						
				STEP A	STEP B	STEP C	STEP D	STEP E	
370	City Clerk	357	A - E	HOURLY	38.16	40.07	42.07	44.17	46.38
				BI-WEEKLY	3,053	3,206	3,366	3,534	3,710
				MONTHLY	6,614	6,945	7,292	7,656	8,039
				ANNUAL	79,373	83,346	87,506	91,874	96,470
400	Administrative Services Director	E1	A - E	HOURLY	51.66	56.82	61.99	66.46	72.31
405	Finance Director	E1	A - E	BI-WEEKLY	4,133	4,546	4,959	5,317	5,785
410	Community Development Director	E1	A - E	MONTHLY	8,954	9,849	10,745	11,520	12,534
420	Public Works Director	E1	A - E	ANNUAL	107,453	118,186	128,939	138,237	150,405
430	Recreation & Community Services I	E1	A - E						
440	Police Chief	E2	A - E	HOURLY	60.15	66.16	72.17	82.04	84.20
				BI-WEEKLY	4,812	5,293	5,774	6,563	6,736
				MONTHLY	10,426	11,468	12,509	14,220	14,595
				ANNUAL	125,112	137,613	150,114	170,643	175,136
450	Assistant City Manager	E3	A - E	HOURLY	63.85	70.24	76.63	83.01	89.39
				BI-WEEKLY	5,108	5,619	6,130	6,641	7,151
				MONTHLY	11,067	12,175	13,283	14,388	15,494
				ANNUAL	132,808	146,099	159,390	172,661	185,931
500	City Manager	E4	A - E	HOURLY	66.16	72.78	79.40	86.00	92.62
				BI-WEEKLY	5,293	5,822	6,352	6,880	7,410
				MONTHLY	11,468	12,615	13,763	14,907	16,054
				ANNUAL	137,613	151,382	165,152	178,880	192,650

Employment Category

A = At Will

Fair Labor Standards Act Classification

E = Exempt from overtime

CITY OF LOS ALAMITOS
EMPLOYMENT AGREEMENT
FOR
NON-REPRESENTED EMPLOYEE
(EXECUTIVE MANAGEMENT)

1. PARTIES AND DATE.

This Agreement (hereinafter referred to as the "Agreement") is made and entered into this 23rd day of January, 2013 by and between the CITY OF LOS ALAMITOS, a municipal corporation (hereinafter referred to as "City") and Todd Mattern (hereinafter referred to as "Employee"), in order to provide in writing the terms and conditions of employment for Police Chief services. City and Employee are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 City.

City desires to employ the services of Employee as Police Chief for the City of Los Alamitos, and Employee desires to accept employment as Police Chief. It is the desire of the Parties through this Agreement to provide for certain benefits, establish conditions of employment, and to set working conditions for Employee.

3. TERMS.

3.1 Duties.

3.1.1 Designated Duties. City hereby agrees to employ Employee as Police Chief of City to perform the functions and duties in accordance with applicable state law, the City's Charter and Municipal Code, as well as the approved City job description for the position. Employee shall also perform other legally permissible and proper duties and functions as the City Manager shall from time-to-time assign.

3.1.2 Control and Supervision. Employee shall serve at the will and pleasure of the City Manager pursuant to the terms and limitations of this Agreement, and will be under the day-to-day supervision and direction of the City Manager.

3.1.3 City Council Meetings. Employee shall attend all City Council meetings, unless excused or directed otherwise.

3.1.4 Moonlighting. Employee will focus his/her professional time, ability, and attention on City business during the term of this Agreement. To the extent consistent with applicable law, Employee shall not engage 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, without the prior consent of the City Council, except that:

(1) The expenditure of reasonable amounts of time not in conflict with the City's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement or create conflicts of interest.

3.1.5 City Documents. All data, studies, reports and other documents prepared by Employee while performing his/her duties 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. Such materials shall not, without the prior written consent of the City Manager, be used by Employee for any purposes other than the performance of his/her duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

3.2 Term; Termination; Severance Pay.

3.2.1 Term. This Agreement shall become effective on January 27, 2013 ("Effective Date"), and shall continue for twenty-eight (28) months thereafter through January 1, 2016.

3.2.2 Termination. The Parties understand and agree that the employment relationship created by this Agreement is "at-will" and that the Employee shall serve at the will and pleasure of the City Manager, and may be terminated at any time, without notice and with or without cause, but subject to the terms of this Agreement. Nothing in this Agreement, any statute, ordinance, or rule, shall prevent, limit or otherwise interfere with the right of the City Manager to terminate, without cause or right of appeal or grievance, except for those rights set forth in Section 3.2.4 and Section 3.2.6 below, the services of the Employee at any time during the Term of this Agreement. Employee agrees that this Agreement sets forth the only terms and conditions applicable to the termination of his/her employment.

3.2.3 Automatic Termination. This Agreement, and Employee's employment, shall automatically terminate and Employee shall not be entitled to any severance payment, except for compensation for accrued and unused vacation and administrative leave, upon the happening of any of the following events:

(1) Upon mutual agreement in writing by both Parties to terminate this Agreement.

(2) Upon resignation by Employee.

(3) Upon the death of Employee.

(4) Except to the extent provided for in Government Code Section 4850, when Employee has been unable to perform all or substantially all of the essential functions of his/her position, with or without reasonable accommodation, due to illness or other disability for a period of three (3) months, provided, however, whenever required by applicable law, Employee shall be entitled to use accrued but unused sick leave before this three (3) month period begins to run.

(5) Upon the natural expiration of the Term of this Agreement, as provided for herein.

3.2.4 Termination Without Cause; Severance. This Agreement, and Employee's employment, may be terminated without prior notice at any time, with or without cause, by the City Manager. In the event Employee is terminated without cause at such time as Employee is willing and able to perform his/her duties under this Agreement, other than under an Automatic Termination instance as provided for in Section 3.2.3, the City agrees to pay Employee a severance payment equal to the lesser of: (1) six (6) months base salary (as described in Section 3.3 below); or, (2) the unexpired Term of this Agreement (as described in Section 3.2.1 above) ("Severance Payment"); or, (3) alternatively, the Employee can elect to remain employed with the City's Police Department at the rank of Sergeant (with base pay at the top step for that position) with all salary, rights and benefits provided to that position pursuant to any applicable Memorandum of Understanding with the Los Alamitos Police Officers Association, ordinance and/or resolution governing that position ("Reassignment").

Employee shall notify the City Manager of his choice of the Severance Payment or Reassignment not more than seven (7) business days following the City Manager's notice of termination. The Severance Payment or Reassignment, whichever is selected, shall be Employee's sole remedy for termination without cause; provided, however, that if Employee fails to make an election within the seven (7) days, the Severance Payment shall be his sole and exclusive remedy. Upon termination, with or without cause, Employee shall also be entitled to compensation for accrued and unused vacation leave. The Severance Payment and vacation leave cash-out shall be paid by the City in one lump sum on the effective date of the termination.

3.2.5 Notice for Resignation. In the event Employee voluntarily resigns his/her position with City, then Employee shall give City three (3) weeks notice in advance, unless the Parties otherwise agree. Upon voluntary resignation, Employee shall be entitled to accrued vacation and administrative leave benefits, but not to the Severance Payment described in Section 3.2.4 above.

3.2.6 Termination for Cause; Procedure. Except as provided in Subsection (6) below, in the event Employee is terminated for cause, City shall have no obligation to pay the Severance Payment described in Section 3.2.4 above. The following procedures shall apply to any termination for cause:

(1) At least thirty (30) calendar days before the effective date of any termination for cause, the City shall deliver to Employee a written specification of the charges or other reasons upon which "cause" is alleged, as well as the specific effective date of termination. After furnishing Employee with written notice of his/her intended termination for cause and without the need to wait for the thirty (30) day appeal/hearing period discussed below to expire, the City Manager may suspend him/her from duty, but his/her base salary shall continue for thirty (30) days from the effective date of suspension, regardless of the effective date of termination. Upon termination for cause, the City shall deliver to Employee a written specification of the charges or other reasons upon which "cause" is alleged. For purposes of this Agreement, "cause" shall consist of an act or omission that may constitute any felony or a misdemeanor involving acts of moral turpitude.

(2) Employee shall then have seven (7) calendar days from notice of termination to challenge such termination for cause by delivery of a written response to such specifications. Within such seven (7) day period, Employee may also demand a hearing upon the specifications. Failure to submit a written response or demand a hearing within the seven (7) calendar day period shall constitute a waiver of such right, and the City Manager's determination shall be final.

(3) If a hearing is demanded, such hearing shall be held before an independent hearing officer to be mutually agreed between the Parties, or if no agreement can be reached within ten (10) calendar days, the hearing officer shall be selected from a list provided by JAMS. The list shall consist of five (5) hearing officers who are experienced in public employee labor law issues. Employee shall strike the first name from the list, and the Parties shall then take turns eliminating names from the list until one remains. The remaining name shall then be the selected hearing officer. The fees of the hearing officer shall be advanced, in full, by the City. The decision of the hearing officer shall be binding and without right of appeal.

(4) The issues to be determined in the hearing shall be whether the specification(s) alleged constitute "cause" pursuant to this Agreement and whether the specifications are supported by a preponderance of the evidence.

(5) The Parties acknowledge that a requested hearing for cause shall be held at the earliest possible date, and to that extent, they shall cooperate in selecting a date for the hearing which shall be no later than sixty (60) days following the City's notice of termination for cause.

(6) In the event the hearing officer concludes in favor of Employee that no cause exists, Employee shall be entitled to those options available to him under Section 3.2.4 above. Employee shall provide notice of such election within seven (7) business days following the hearing officer's decision; provided, however, that if Employee fails to make an

election within the seven (7) days, the Severance Payment shall be his sole and exclusive remedy.

(7) If a written response is submitted, but no hearing is demanded, the City Manager shall review his/her decision based upon Employee's written response. However, any determination by the City Manager after reviewing such written response (where no hearing has been demanded) shall be final and without right of appeal.

3.3 Salary.

City shall compensate Employee at an annual base salary equal to Step E of Range E-2 of the Resolution 2013-02 Regarding Salary and Benefits for Non-Represented Employees ("Salary and Benefits Resolution"). The salary shall be payable bi-weekly at the same time as other employees of City are paid, and may be modified from time-to-time by the City Manager pursuant to the Salary and Benefits Resolution.

3.4 Fringe Benefits.

Except as otherwise set forth herein, Employee shall be entitled to those benefits, including holidays, bereavement, temporary disability, jury duty, vacation, sick leave, disability, health and life insurance, and retirement, provided for Executive Management employees in the Salary and Benefit Resolution.

3.4.1 Auto Allowance. City agrees to provide those auto benefits provided for Employee's classification in the Salary and Benefit Resolution.

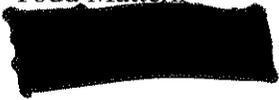
3.4.2 Retiree Medical Insurance - Supplemental Benefits. Employee shall be entitled to supplemental retiree medical benefits, as provided for in the Salary and Benefit Resolution, if he retires from the City at age fifty (50) or higher, with at least then (10) years of continuous employment with the City.

3.5 Notices.

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage pre-paid, addressed as follows:

CITY: City of Los Alamitos
3191 Katella Avenue
Los Alamitos, CA 90720
ATTN: City Manager

EMPLOYEE: Todd Mattern



Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of

the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

3.7 General Provisions.

3.7.1 Entire Agreement. The text herein shall constitute the entire agreement between the Parties.

3.7.2 Severability. 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.

3.7.3 Salary and Benefit Resolution for Non-Represented Employees. The terms and provisions of the Salary and Benefits Resolution, as it now exists on the Effective Date of this Agreement, shall be applicable to Employee only to the extent not inconsistent with this Agreement, and this Agreement therefore shall take precedence over the Salary and Benefits Resolution with respect to any inconsistencies in its interpretation or enforcement.

3.7.4 Bonding. If applicable, the City shall bear the full cost of any fidelity or other bonds required of Employee in the performance of his/her duties as Police Chief.

3.7.5 Modification. Any modification of this Agreement will be effective only if it is in writing and signed by both Parties.

3.7.6 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.

3.7.7 Assignment. Neither this Agreement, nor any right, privilege or obligation of Employee hereunder shall be assigned or transferred by him/her without the prior written consent of the City Manager. Any attempt at assignment or transfer in violation of this provision shall, at the option of the City Manager, be null and void and may be considered a material breach of this Agreement.

3.7.8 Law Governing Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Orange County, California.

3.7.9 No Presumption of Drafter. The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the Parties, and this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any Party to be the drafter of this Agreement and, therefore, no

presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

3.7.10 Assistance of Counsel. Each Party to this Agreement warrants to the other Party that it has either had the assistance of counsel in negotiation for, and preparation of, this Agreement or could have had such assistance and voluntarily declined to obtain such assistance.

[SIGNATURES ON NEXT PAGE]

CITY OF LOS ALAMITOS

By: _____
Gregory D. Korduner, Interim City Manager

Attest: _____
Windmera C. Quintanar, CMC, City Clerk

EMPLOYEE

By: _____
Todd Mattern, Police Chief

APPROVED AS TO FORM:

Cary S. Reisman, City Attorney

CITY OF LOS ALAMITOS
EMPLOYMENT AGREEMENT
FOR
NON-REPRESENTED EMPLOYEE
(MIDDLE MANAGEMENT AND CONFIDENTIAL EMPLOYEES)

1. PARTIES AND DATE.

This Agreement (hereinafter referred to as the "Agreement") is made and entered into this 23rd day of January, 2013 by and between the CITY OF LOS ALAMITOS, a municipal corporation (hereinafter referred to as "City") and Bruce McAlpine (hereinafter referred to as "Employee"), in order to provide in writing the terms and conditions of employment for Police Captain services. City and Employee are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 City.

City desires to employ the services of Employee as Police Captain for the City of Los Alamitos, and Employee desires to accept employment as Police Captain. It is the desire of the Parties through this Agreement to provide for certain benefits, establish conditions of employment, and to set working conditions for Employee.

3. TERMS.

3.1 Duties.

3.1.1 Designated Duties. City hereby agrees to employ Employee as Police Captain of City to perform the functions and duties in accordance with applicable state law, the City's Charter and Municipal Code, as well as the approved City job description for the position. Employee shall also perform other legally permissible and proper duties and functions as Employee's supervisor or superiors shall from time-to-time assign.

3.1.2 Control and Supervision. Employee will be under the day-to-day supervision and direction of the Chief of Police.

3.1.3 City Council Meetings. Employee shall attend all City Council meetings, unless excused or directed otherwise.

3.1.4 Moonlighting. Employee will focus his/her professional time, ability, and attention on City business during the term of this Agreement. To the extent consistent with

applicable law, Employee shall not engage 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, without the prior consent of the City Council, except that:

(1) The expenditure of reasonable amounts of time not in conflict with the City's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement or create conflicts of interest.

3.1.5 City Documents. All data, studies, reports and other documents prepared by Employee while performing his/her duties 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. Such materials shall not, without the prior written consent of the City Manager, be used by Employee for any purposes other than the performance of his/her duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

3.2 Termination, Transfer and Discipline.

3.2.1 Applicability of Personnel Rules. Except as otherwise provided in this Agreement, termination, transfer and discipline shall be governed by the Personnel Rules applicable to employees in the competitive service.

3.2.2 Automatic Termination. This Agreement, and Employee's employment, shall automatically terminate and Employee shall not be entitled to any severance payment, except for compensation for accrued and unused vacation and administrative leave, upon the happening of any of the following events:

(1) Upon mutual agreement in writing by both Parties to terminate this Agreement.

(2) Upon resignation by Employee.

(3) Upon the death of Employee.

(4) Except to the extent provided for in Government Code Section 4850, when Employee has been unable to perform all or substantially all of the essential functions of his/her position, with or without reasonable accommodation, due to illness or other

disability for a period of three (3) months, provided, however, whenever required by applicable law. Employee shall be entitled to use accrued but unused sick leave before this three (3) month period begins to run.

3.2.3 Notice for Resignation. In the event Employee voluntarily resigns his/her position with City, then Employee shall give City three (3) weeks notice in advance, unless the Parties otherwise agree. Upon voluntary resignation, Employee shall be entitled to accrued vacation and administrative leave benefits..

3.3 Salary.

City shall compensate Employee at an annual base salary equal to Step E of Range 395 of the Resolution 2013-02 Regarding Salary and Benefits for Non-Represented Employees ("Salary and Benefits Resolution"). The salary shall be payable bi-weekly at the same time as other employees of City are paid, and may be modified from time-to-time by the City Manager pursuant to the Salary and Benefits Resolution.

3.4 Fringe Benefits.

Except as otherwise set forth herein, Employee shall be entitled to those benefits, including holidays, bereavement, temporary disability, jury duty, vacation, sick leave, disability, health and life insurance, and retirement, provided for Middle Management and Confidential employees in the Salary and Benefit Resolution.

3.5 Notices.

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage pre-paid, addressed as follows:

CITY: City of Los Alamitos
3191 Katella Avenue
Los Alamitos, CA 90720
ATTN: City Manager

EMPLOYEE: Bruce McAlpine


Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

3.7 General Provisions.

3.7.1 Entire Agreement. The text herein shall constitute the entire agreement between the Parties.

3.7.2 Severability. 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.

3.7.3 Salary and Benefit Resolution for Non-Represented Employees. The terms and provisions of the Salary and Benefits Resolution, as it now exists on the Effective Date of this Agreement, shall be applicable to Employee only to the extent not inconsistent with this Agreement, and this Agreement therefore shall take precedence over the Salary and Benefits Resolution with respect to any inconsistencies in its interpretation or enforcement.

3.7.4 Bonding. If applicable, the City shall bear the full cost of any fidelity or other bonds required of Employee in the performance of his/her duties as Police Captain.

3.7.5 Modification. Any modification of this Agreement will be effective only if it is in writing and signed by both Parties.

3.7.6 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.

3.7.7 Assignment. Neither this Agreement, nor any right, privilege or obligation of Employee hereunder shall be assigned or transferred by him/her without the prior written consent of the City Manager. Any attempt at assignment or transfer in violation of this provision shall, at the option of the City Manager, be null and void and may be considered a material breach of this Agreement.

3.7.8 Law Governing Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Orange County, California.

3.7.9 No Presumption of Drafter. The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the Parties, and this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any Party to be the drafter of this Agreement and, therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

3.7.10 Assistance of Counsel. Each Party to this Agreement warrants to the other Party that it has either had the assistance of counsel in negotiation for, and preparation of, this Agreement or could have had such assistance and voluntarily declined to obtain such assistance.

[SIGNATURES ON NEXT PAGE]

CITY OF LOS ALAMITOS

By: _____
Gregory D. Korduncr, City Manager

Attest: _____
Windmera C. Quintanar, CMC, City Clerk

EMPLOYEE

By: _____
Bruce McAlpine, Police Captain

APPROVED AS TO FORM:

Cary S. Reisman, City Attorney

CITY OF LOS ALAMITOS

EMPLOYMENT AGREEMENT

FOR

NON-REPRESENTED EMPLOYEE

(EXECUTIVE MANAGEMENT)

1. PARTIES AND DATE.

This Agreement (hereinafter referred to as the "Agreement") is made and entered into this ___ day of January, 2013 by and between the CITY OF LOS ALAMITOS, a municipal corporation (hereinafter referred to as "City") and _____ (hereinafter referred to as "Employee"), in order to provide in writing the terms and conditions of employment for _____ services. City and Employee are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 City.

City desires to employ the services of Employee as _____ for the City of Los Alamitos, and Employee desires to accept employment as _____. It is the desire of the Parties through this Agreement to provide for certain benefits, establish conditions of employment, and to set working conditions for Employee.

3. TERMS.

3.1 Duties.

3.1.1 Designated Duties. City hereby agrees to employ Employee as _____ of City to perform the functions and duties in accordance with applicable state law, the City's Charter and Municipal Code, as well as the approved City job description for the position. Employee shall also perform other legally permissible and proper duties and functions as the City Manager shall from time-to-time assign.

3.1.2 Control and Supervision. Employee shall serve at the will and pleasure of the City, and will be under the day-to-day supervision and direction of the City Manager.

3.1.3 City Council Meetings. Employee shall attend all City Council meetings, unless excused or directed otherwise.

3.1.4 Moonlighting. Employee will focus his/her professional time, ability, and attention on City business during the term of this Agreement. To the extent consistent with applicable law, Employee shall not engage 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, without the prior consent of the City Council, except that:

(1) The expenditure of reasonable amounts of time not in conflict with the City's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement or create conflicts of interest.

3.1.5 City Documents. All data, studies, reports and other documents prepared by Employee while performing his/her duties 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. Such materials shall not, without the prior written consent of the City Manager, be used by Employee for any purposes other than the performance of his/her duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

3.2 Term; Termination; Severance Pay.

3.2.1 Term. This Agreement shall become effective on January 1, 2013 ("Effective Date"), and shall continue for thirty-six (36) months thereafter through January 1, 2016.

3.2.2 Termination. The Parties understand and agree that the employment relationship created by this Agreement is "at-will" and that the Employee shall serve at the will and pleasure of the City Manager, and may be terminated at any time, without notice and with or without cause, but subject to the terms of this Agreement. Nothing in this Agreement, any statute, ordinance, or rule, shall prevent, limit or otherwise interfere with the right of the City Manager to terminate, without cause or right of appeal or grievance, except for those rights set forth in Section 3.2.6 below, the services of the Employee at any time during the Term of this Agreement. Employee agrees that this Agreement sets forth the only terms and conditions applicable to the termination of his/her employment.

3.2.3 Automatic Termination. This Agreement, and Employee's employment, shall automatically terminate and Employee shall not be entitled to any severance payment, except for compensation for accrued and unused vacation and administrative leave, upon the happening of any of the following events:

(1) Upon mutual agreement in writing by both Parties to terminate this Agreement.

(2) Upon resignation by Employee.

(3) Upon the death of Employee.

(4) When Employee has been unable to perform all or substantially all of the essential functions of his/her position, with or without reasonable accommodation, due to illness or other disability for a period of three (3) months, provided, however, whenever required by applicable law, Employee shall be entitled to use accrued but unused sick leave before this three (3) month period begins to run.

(5) Upon the natural expiration of the Term of this Agreement, as provided for herein.

3.2.4 Termination Without Cause; Severance. This Agreement, and Employee's employment, may be terminated without prior notice at any time, with or without cause, by the City Manager. In the event Employee is terminated without cause at such time as Employee is willing and able to perform his/her duties under this Agreement, other than under an Automatic Termination instance as provided for in Section 3.2.3, the City agrees to pay Employee a severance payment equal to the lesser of: (1) three (3) months base salary (as described in Section 3.3 below); or (2) the unexpired Term of this Agreement (as described in Section 3.2.1 above) ("Severance Payment"). The Severance Payment shall be Employee's sole remedy for a termination without cause. The Severance Payment shall be paid in one lump sum on the effective date of termination. Upon termination, with or without cause, Employee shall also be entitled to compensation for accrued and unused vacation and administrative leave pursuant to City policy.

3.2.5 Notice for Resignation. In the event Employee voluntarily resigns his/her position with City, then Employee shall give City three (3) weeks notice in advance, unless the Parties otherwise agree. Upon voluntary resignation, Employee shall be entitled to accrued vacation and administrative leave benefits, but not to the Severance Payment described in Section 3.2.4 above.

3.2.6 Termination for Cause; Procedure. Except as provided in Subsection (6) below, in the event Employee is terminated for cause, City shall have no obligation to pay the Severance Payment described in Section 3.2.4 above. The following procedures shall apply to any termination for cause:

(1) At least thirty (30) calendar days before the effective date of any termination for cause, the City shall deliver to Employee a written specification of the charges or other reasons upon which "cause" is alleged, as well as the specific effective date of termination. After furnishing Employee with written notice of his/her intended termination for cause and without the need to wait for the thirty (30) day appeal/hearing period discussed below to expire, the City Manager may suspend him/her from duty, but his/her base salary shall continue for thirty (30) days from the effective date of suspension, regardless of the effective date of termination.

(2) Employee shall then have seven (7) calendar days from notice of termination to challenge such termination for cause by delivery of a written response to such specifications. Within such seven (7) day period, Employee may also demand a hearing upon the specifications. Failure to submit a written response or demand a hearing within the seven (7) calendar day period shall constitute a waiver of such right, and the City Manager's determination shall be final.

(3) If a hearing is demanded, such hearing shall be held before the City Manager, unless the Parties agree to an alternative procedure or alternative hearing body or officer. No hearing shall be held in public unless requested by Employee. Regardless of the date issued, the decision of the City Manager or other hearing body or officer shall be binding, final as of the effective date of termination provided for in the notice under Subsection (1) above, and without right of further appeal.

(4) The issues to be determined in the hearing shall be whether the specification(s) alleged constitute "cause" pursuant to this Agreement and whether the specifications are supported by a preponderance of the evidence.

(5) The Parties acknowledge that a requested hearing for cause shall be held at the earliest possible date, and to that extent, they shall cooperate in selecting a date for the hearing which shall be no later than sixty (60) days following the City's notice of termination for cause.

(6) In the event the City Manager or other hearing body or officer concludes in favor of Employee that no cause exists, Employee shall be entitled only to the appropriate amount of severance pay and benefits as he/she would have received if terminated without cause pursuant to Section 3.2.4 above. Employee shall not have any reinstatement rights.

(7) If a written response is submitted, but no hearing is demanded, the City Manager shall review his/her decision based upon Employee's written response. However, any determination by the City Manager after reviewing such written response (where no hearing has been demanded) shall be final and without right of appeal.

3.3 Salary.

City shall compensate Employee at an annual base salary equal to Step ___ of Range ___ of the Resolution 2013-02 Regarding Salary and Benefits for Non-Represented Employees ("Salary and Benefits Resolution"). The salary shall be payable bi-weekly at the same time as other employees of City are paid, and may be modified from time-to-time by the City Manager pursuant to the Salary and Benefits Resolution.

3.4 Fringe Benefits.

Except as otherwise set forth herein, Employee shall be entitled to those benefits, including holidays, bereavement, temporary disability, jury duty, vacation, sick leave, disability, health and life insurance, and retirement, provided for Executive Management employees in the Salary and Benefit Resolution. Employee shall be responsible for payment of the entire employee share of the CalPERS retirement contribution as Employer Paid Member Contribution. Such payment shall be deducted from Employee's pay and remitted to CalPERS.

3.5 Notices.

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage pre-paid, addressed as follows:

CITY: City of Los Alamitos
3191 Katella Avenue
Los Alamitos, CA 90720
ATTN: City Manager

EMPLOYEE:

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

3.7 General Provisions.

3.7.1 Entire Agreement. The text herein shall constitute the entire agreement between the Parties.

3.7.2 Severability. 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.

3.7.3 Salary and Benefit Resolution for Non-Represented Employees. The terms and provisions of the Salary and Benefits Resolution, as it now exists on the Effective Date of this Agreement, shall be applicable to Employee only to the extent not inconsistent with this Agreement, and this Agreement therefore shall take precedence over the Salary and Benefits Resolution with respect to any inconsistencies in its interpretation or enforcement.

3.7.4 Bonding. If applicable, the City shall bear the full cost of any fidelity or other bonds required of Employee in the performance of his/her duties as _____.

3.7.5 Modification. Any modification of this Agreement will be effective only if it is in writing and signed by both Parties.

3.7.6 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.

3.7.7 Assignment. Neither this Agreement, nor any right, privilege or obligation of Employee hereunder shall be assigned or transferred by him/her without the prior written consent of the City Manager. Any attempt at assignment or transfer in violation of this provision shall, at the option of the City Manager, be null and void and may be considered a material breach of this Agreement.

3.7.8 Law Governing Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Orange County, California.

3.7.9 No Presumption of Drafter. The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the Parties, and this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any Party to be the drafter of this Agreement and, therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

3.7.10 Assistance of Counsel. Each Party to this Agreement warrants to the other Party that it has either had the assistance of counsel in negotiation for, and preparation of, this Agreement or could have had such assistance and voluntarily declined to obtain such assistance.

[SIGNATURES ON NEXT PAGE]

CITY OF LOS ALAMITOS

By:

Gregory Korduner
Interim City Manager

Attest:

_____, City Clerk

EMPLOYEE

By:

APPROVED AS TO FORM:

Cary S. Reisman, City Attorney

CITY OF LOS ALAMITOS
EMPLOYMENT AGREEMENT
FOR
NON-REPRESENTED EMPLOYEE
(MIDDLE MANAGEMENT AND CONFIDENTIAL EMPLOYEES)

1. PARTIES AND DATE.

This Agreement (hereinafter referred to as the "Agreement") is made and entered into this ___ day of January, 2013 by and between the CITY OF LOS ALAMITOS, a municipal corporation (hereinafter referred to as "City") and _____ (hereinafter referred to as "Employee"), in order to provide in writing the terms and conditions of employment for _____ services. City and Employee are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 City.

City desires to employ the services of Employee as _____ for the City of Los Alamitos, and Employee desires to accept employment as _____. It is the desire of the Parties through this Agreement to provide for certain benefits, establish conditions of employment, and to set working conditions for Employee.

3. TERMS.

3.1 Duties.

3.1.1 Designated Duties. City hereby agrees to employ Employee as _____ of City to perform the functions and duties in accordance with applicable state law, the City's Charter and Municipal Code, as well as the approved City job description for the position. Employee shall also perform other legally permissible and proper duties and functions as Employee's supervisor or superiors shall from time-to-time assign.

3.1.2 Control and Supervision. Employee shall serve under the day-to-day supervision and direction of the [Director of _____/City Manager/City Council].

3.1.3 City Council Meetings. Employee shall attend all City Council meetings, unless excused or directed otherwise.

3.1.4 Moonlighting. Employee will focus his/her professional time, ability, and attention on City business during the term of this Agreement. To the extent consistent with applicable law, Employee shall not engage 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, without the prior consent of the City Council, except that:

(1) The expenditure of reasonable amounts of time not in conflict with the City's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement or create conflicts of interest.

3.1.5 City Documents. All data, studies, reports and other documents prepared by Employee while performing his/her duties 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. Such materials shall not, without the prior written consent of the City Manager, be used by Employee for any purposes other than the performance of his/her duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

3.2 Termination, Transfer and Discipline.

3.2.1 Applicability of Personnel Rules. Except as otherwise provided in this Agreement, termination, transfer and discipline shall be governed by the Personnel Rules applicable to employees in the competitive service.

3.2.2 Automatic Termination. This Agreement, and Employee's employment, shall automatically terminate and Employee shall not be entitled to any severance payment, except for compensation for accrued and unused vacation and administrative leave, upon the happening of any of the following events:

(1) Upon mutual agreement in writing by both Parties to terminate this Agreement.

(2) Upon resignation by Employee.

(3) Upon the death of Employee.

(4) When Employee has been unable to perform all or substantially all of the essential functions of his/her position, with or without reasonable accommodation, due to illness or other disability for a period of three (3) months, provided, however, whenever required by applicable law, Employee shall be entitled to use accrued but unused sick leave before this three (3) month period begins to run.

3.2.3 Notice for Resignation. In the event Employee voluntarily resigns his/her position with City, then Employee shall give City three (3) weeks notice in advance, unless the Parties otherwise agree. Upon voluntary resignation, Employee shall be entitled to accrued vacation and administrative leave benefits..

3.3 Salary.

City shall compensate Employee at an annual base salary equal to Step ___ of Range ___ of the Resolution 2013-02 Regarding Salary and Benefits for Non-Represented Employees ("Salary and Benefits Resolution"). The salary shall be payable bi-weekly at the same time as other employees of City are paid, and may be modified from time-to-time by the City Manager pursuant to the Salary and Benefits Resolution.

3.4 Fringe Benefits.

Except as otherwise set forth herein, Employee shall be entitled to those benefits, including holidays, bereavement, temporary disability, jury duty, vacation, sick leave, disability, health and life insurance, and retirement, provided for Middle Management and Confidential employees in the Salary and Benefit Resolution. Employee shall be responsible for payment of the entire employee CalPERS retirement contribution. Such payment shall be deducted from Employee's pay and remitted to CalPERS.

3.5 Notices.

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 Los Alamitos, CA 90720
 ATTN: City Manager

EMPLOYEE:

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3.7.3 Salary and Benefit Resolution for Non-Represented Employees. The terms and provisions of the Salary and Benefits Resolution, as it now exists on the Effective Date of this Agreement, shall be applicable to Employee only to the extent not inconsistent with this Agreement, and this Agreement therefore shall take precedence over the Salary and Benefits Resolution with respect to any inconsistencies in its interpretation or enforcement.

3.7.4 Bonding. If applicable, the City shall bear the full cost of any fidelity or other bonds required of Employee in the performance of his/her duties as _____.

3.7.5 Modification. Any modification of this Agreement will be effective only if it is in writing and signed by both Parties.

3.7.6 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.

3.7.7 Assignment. Neither this Agreement, nor any right, privilege or obligation of Employee hereunder shall be assigned or transferred by him/her without the prior written consent of the City Manager. Any attempt at assignment or transfer in violation of this provision shall, at the option of the City Manager, be null and void and may be considered a material breach of this Agreement.

3.7.8 Law Governing Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Orange County, California.

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[SIGNATURES ON NEXT PAGE]

CITY OF LOS ALAMITOS

By:

Gregory Korduner
Interim City Manager

Attest:

_____, City Clerk

EMPLOYEE

By:

APPROVED AS TO FORM:

Cary S. Reisman, City Attorney