

EMPLOYMENT AGREEMENT NO. 23-68

BETWEEN CITY OF MONTCLAIR AND EDWARD C. STARR

PREAMBLE. This EMPLOYMENT AGREEMENT, Agreement No. 23-68 (hereinafter referred to as "Agreement"), made and entered into this 2nd day of January, 2023, by and between the CITY OF MONTCLAIR, a Municipal Corporation and general law city of the State of California, as body corporate and politic as governed by the Montclair City Council and Board of Directors for the Montclair Successor Redevelopment Agency, Montclair Successor Housing Authority, Montclair Housing Corporation and Montclair Community Foundation (together, hereinafter called or referred to as "EMPLOYER", "City of Montclair", "City" or "COUNCIL") and EDWARD C. STARR, as City Manager and Executive Director, Montclair Successor Redevelopment Agency, Montclair Successor Housing Authority, Montclair Housing Corporation and Montclair Community Foundation (hereinafter called or referred to as "EMPLOYEE"), both of whom understand and agree as follows:

RECITALS

WHEREAS, EMPLOYER desires to continue to employ the services of EMPLOYEE as City Manager for the City of Montclair and Executive Director of the City of Montclair Successor Redevelopment Agency, Montclair Successor Housing Authority, Montclair Housing Corporation and Montclair Community Foundation (hereinafter referred to as CITY MANAGER) in accordance with the City of Montclair *Municipal Code, Government Code of the State of California, and California Community Redevelopment Law* as that law is affected by ABX1 26 (2011); and

WHEREAS, it is the desire of EMPLOYER to provide certain benefits, establish certain conditions of employment, and set working conditions of said EMPLOYEE; and

WHEREAS, EMPLOYER desires as follows:

1. To continue retaining the services of EMPLOYEE and to provide inducement for EMPLOYEE to remain in such employment;
2. To make possible full work productivity by assuring EMPLOYEE'S morale and peace of mind with respect to future security; and
3. Provide equitable means for EMPLOYEE'S separation of services should EMPLOYER desire to terminate EMPLOYEE'S services; and

WHEREAS, EMPLOYEE desires to continue an agreement for employment as CITY MANAGER for EMPLOYER.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION I. Employment. Duties.

- A. EMPLOYER hereby agrees to retain EMPLOYEE as CITY MANAGER to perform the duties specified in: (1) the *Montclair Municipal Code*; (2) the *California Government Code*; (3) *California Redevelopment Law* as that law is affected by ABX1 26 (2011); and (4) such other duties as EMPLOYER from time-to-time assigns; and EMPLOYEE hereby accepts such employment and agrees to faithfully perform the duties he hereby undertakes by this Agreement.

SECTION II. Term.

- A. **Term of Agreement.** Except as otherwise indicated in this Section, the term of this Agreement shall be effective January 2, 2023, through December 31, 2026. Thereafter, this Agreement and any and all provisions, attachments, exhibits, and amendments hereto shall automatically remain in full force and effect in twelve-month (12-month) intervals, with each December 31 serving as the anniversary date until and unless otherwise altered or superseded by any successor agreement negotiated and agreed upon by and between EMPLOYEE and EMPLOYER; or until and unless terminated by EMPLOYER and/or EMPLOYEE as specified herein.
- B. **Right of Employer to Terminate.** EMPLOYEE is an at will employee and nothing contained in this Agreement shall prevent, limit, or otherwise interfere with the right of EMPLOYER to terminate the services of EMPLOYEE pursuant to terms, conditions, and/or provisions set forth in this Agreement.
- C. **Employee to Remain in Hire of Employer; Employee Right to Engage in Private Business.** Except as otherwise provided pursuant to provisions of this Agreement including, but not limited to, Paragraphs "D.", "E." and "G." of this Section, EMPLOYEE agrees to remain in the hire of EMPLOYER from December 31, 2022, through December 31, 2026. It is further provided that nothing in this Agreement shall prohibit EMPLOYEE from concurrently engaging in any private business investment and/or partnership or other economic activity(ies) where such participation (i) does not interfere with EMPLOYEE'S principal duties as EMPLOYEE of EMPLOYER, (ii) is not a violation of law, and (iii) where such participation does not present a direct conflict of interest with EMPLOYEE'S duties and legal, ethical and fiduciary responsibilities to EMPLOYER.

- D. Right of Employee to Resign.** Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of EMPLOYEE to resign at any time and for any purpose during the term of this Agreement by giving proper notice thereof; nor shall such resignation serve to deny benefits otherwise eligible to EMPLOYEE as contained in this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.
- E. Right of Employee to Seek New Employment.** Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of EMPLOYEE to actively seek new employment with another entity not directly associated with EMPLOYER during the term hereof, provided such action does not interfere with EMPLOYEE'S duties and legal, ethical and fiduciary responsibilities to EMPLOYER; nor shall such acceptance of new employment serve to deny benefits otherwise provided to EMPLOYEE as contained in this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.
- F. Right of Employee to Pursue/Accept Elected or Appointed Office.** Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of EMPLOYEE to actively pursue and/or accept elected or appointed office with another public, nonprofit, or private agency not directly associated with EMPLOYER during the term hereof; provided, however, such position shall not present a direct conflict of interest with EMPLOYEE'S duties and legal, ethical, and fiduciary responsibilities to EMPLOYER nor represent a violation of law; nor shall EMPLOYEE'S pursuit or acceptance of an elected or appointed office with another public, nonprofit, or private agency serve to deny benefits otherwise provided to EMPLOYEE as contained in this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.
- G. Right of Employee to Retire.** Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of EMPLOYEE to retire at any time during the term of this Agreement by giving proper notice; nor shall EMPLOYEE'S decision to retire serve to deny benefits otherwise provided to EMPLOYEE as contained in this Agreement, or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.
- H. Automatic Extension.** Twelve (12) months prior to expiration of this Agreement, EMPLOYER shall notify EMPLOYEE, in writing, if the Agreement with EMPLOYEE is not to be renewed or otherwise extended. If said written notice is not given to EMPLOYEE, this Agreement shall automatically renew as provided for in Section "II.A." herein. During the twelve (12) month period prior to expiration of this Agreement, EMPLOYEE may request to meet with EMPLOYER to negotiate in good faith terms and conditions of renewal or extension of this Agreement, or terms and conditions of a successor agreement; or, upon mutual agreement, EMPLOYER and EMPLOYEE may

consider automatic one-year extensions of the Agreement and all terms and conditions herein plus any wage and benefit adjustments agreed to.

SECTION III. Termination Without Cause. Severance Pay.

- A. Termination Without Cause.** EMPLOYER may terminate the services of EMPLOYEE at any time without cause with four affirmative votes of the Montclair City Council as governing board of the City of Montclair. Upon such termination, and notwithstanding any other separate settlement agreement between EMPLOYEE and EMPLOYER, EMPLOYEE shall be entitled to severance pay in an amount equal to the maximum cash settlement as provided in Section "III.B." of this Agreement. Except as otherwise provided for in any other separate settlement agreement between EMPLOYEE and EMPLOYER, and except as otherwise provided for under Federal and/or State law, the severance payment shall be EMPLOYEE'S sole remedy for a termination without cause. The severance payment shall be paid as directed by EMPLOYEE after EMPLOYEE executes a separation agreement prepared by the City Attorney. Notwithstanding provisions of this Paragraph or any other provision of this Agreement, EMPLOYEE, in lieu of termination, has the option and right to elect to retire from EMPLOYER with full benefits provided to EMPLOYEE by this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER. In the event EMPLOYEE exercises this retirement option, EMPLOYEE remains entitled to severance pay as set forth in this Paragraph and Section "III.B." herein.
- B. Maximum Severance.** As required by Government Code §53260, and except as otherwise provided for in any other separate settlement agreement between EMPLOYEE and EMPLOYER, in the event this Agreement and any extension and/or automatic extension/renewal hereof is terminated, the maximum cash settlement that EMPLOYEE may receive shall be an amount equal to the monthly salary of EMPLOYEE multiplied by the number of months left on the unexpired term of this Agreement or any extension hereof, not to exceed a multiplier of 12; for example, if the unexpired term of the contract is 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of EMPLOYEE multiplied by 12.
- C. Right to Healthcare, Other Benefits.** Should EMPLOYEE be terminated pursuant to Section "III.A." herein, EMPLOYEE shall be entitled to the healthcare benefits as set forth herein in Section "IX.", *et seq.* and any other rights and benefits pursuant to law, this Agreement or other agreement between EMPLOYEE and EMPLOYER.
- D. Failure to Reach Terms, Employee's Right to Severance and Other Benefits.** Subject to Paragraph "III.E." of this Section, should the parties fail to reach agreement regarding renewal or extension of this Agreement pursuant to Section "II.H." herein, EMPLOYER shall pay to EMPLOYEE severance pay pursuant to Section "III.A." and "III.B." herein, and EMPLOYEE

shall be entitled to all other separation rights and benefits provided pursuant to this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.

- E. Favorable Terms, No Entitlement to Severance.** Should the parties fail to reach agreement regarding renewal or extension of this Agreement pursuant to Section "II.H." herein, and, when each negotiated term offered by EMPLOYER when considered in total is more favorable to the EMPLOYEE than the terms and conditions of employment then in effect EMPLOYEE shall not be entitled to be paid severance pay. In relation to the wage component, "more favorable" shall mean an amount greater than the value of EMPLOYEE'S authorized salary at the time of separation, increased by the U.S. Department of Labor Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the Los Angeles-Riverside-Orange County area for the twelve (12) months immediately preceding the month of separation, but in no event less than five percent (5%), exclusive of the benefits package EMPLOYEE is then entitled. The purpose of this provision is to prevent EMPLOYEE from creating an entitlement to severance pay by negotiating for contract terms significantly more favorable than this Agreement. EMPLOYEE shall, however, be entitled to any accumulated rights and payments under any other provisions of this Agreement.
- F. Termination Without Cause, Entitlement to Retire With Severance, Other Benefits.** EMPLOYER'S termination of EMPLOYEE, or request by EMPLOYER of EMPLOYEE to resign, without cause shall be sufficient cause for EMPLOYEE to be entitled to retire and receive severance pay from EMPLOYER pursuant to the terms of Section "III.A." and "III.B." of this Agreement, and any other accumulated rights, benefits, and payments pursuant to this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.
- G. Change to Governance.** In the event the Montclair Municipal Code is amended by EMPLOYER action, where such action eliminates or significantly alters the Council-Manager form of Government, EMPLOYEE shall be entitled to severance pay pursuant to the terms of Section "III.A." and "III.B." of this Agreement and any other accumulated rights, benefits, and payments pursuant to this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.

SECTION IV. Termination With Cause.

- A.** EMPLOYER may terminate the services of EMPLOYEE at any time with legal cause, provided, however, that such termination is based upon a ground or grounds set forth in "Exhibit A" to this Agreement, which is incorporated herein by reference. In the event EMPLOYEE is terminated for legal cause, EMPLOYEE shall not be entitled to any severance pay. Notwithstanding this Section "IV.A.", EMPLOYEE, at EMPLOYEE'S sole option, may elect to resign or

retire with full benefits as provided for pursuant to provisions of this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER; and the exercise of this option to resign or retire shall be inviolate and solely at EMPLOYEE'S discretion.

SECTION V. Voluntary Resignation. Retirement.

- A. In the event EMPLOYEE intends to voluntarily resign or retire from EMPLOYEE'S position with EMPLOYER before or upon expiration of this Agreement EMPLOYEE shall, to the extent possible, provide to EMPLOYER a minimum of ninety (90) days prior written notice of such planned resignation/retirement. EMPLOYER may elect to relieve EMPLOYEE of EMPLOYEE'S responsibilities at any time prior to the expiration of the ninety (90) day notice period, or other period of notice, by paying to EMPLOYEE salary and benefits for the time remaining of the ninety (90) day period or other period. Except as otherwise provided in Section "III.A." of this Agreement, if EMPLOYEE voluntarily resigns/retires he shall not be entitled to any severance pay whatsoever; provided, however, in the event of retirement, EMPLOYEE shall receive all retirement benefits due and provided under terms of this Agreement or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.

SECTION VI. Wages.

- A. **Monthly Base Rate of Pay.** Effective July 3, 2023, EMPLOYER shall pay EMPLOYEE for services rendered pursuant to this Agreement a monthly base pay rate of twenty-five thousand three hundred and seventy-six dollars (\$25,376), payable in installments at the same time and in the same manner as other employees of EMPLOYER are paid.
- B. **Performance Evaluation.** In addition to the base salary provided for in Paragraph "A." of this Section, EMPLOYER may, from time to time, consider and approve future salary increases during the term of this Agreement as determined by EMPLOYER after EMPLOYER undertakes a written evaluation of EMPLOYEE'S job performance as set forth in Section "VII." of this Agreement, and such job performance meets performance criteria with an average rating at least equal to standard/satisfactory as provided for in Section "VII." of this Agreement.
- C. **No Performance Evaluation, Alternative Wage Adjustment.** If EMPLOYER does not undertake the periodic performance appraisal as set forth in Paragraph "B." of this Section, EMPLOYER may elect to adjust EMPLOYEE'S salary from time to time by the greater of: (i) the average rate of salary adjustment for such fiscal year received by all recognized bargaining units of EMPLOYER; or (ii) by adjusting EMPLOYEE'S salary by the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban

Consumers (CPI-U) for the Los Angeles-Riverside-Orange County area published for the twelve-month period immediately preceding the proposed effective date for the wage adjustment.

- D. Wage Adjustment Based on Market Survey.** It is not the intent or desire of EMPLOYER and EMPLOYEE to use market surveys as a basis for determining compensable wages, including any wage adjustment as provided for in Paragraphs "B." and "C." of this Section. However, in the event EMPLOYER determines a market survey is required or desirable for the purpose of determining or establishing a comparable wage, the market survey cities shall jointly be determined by EMPLOYER and EMPLOYEE, and the salary to be paid to EMPLOYEE shall be not less than the mean salary adjustment of that market survey. The survey shall be of the current base salaries of the City Administrators and/or City Managers of the cities comprising the market survey, which salaries are then in effect on July 1 of the calendar year in which the market survey is conducted.
- E. Earliest Effective Date of Wage Adjustments.** Except as otherwise provided for in Paragraph "A." of this Section, any other salary adjustment implemented pursuant to this Section shall take effect no sooner than the first day of the first pay period beginning with Fiscal Year 2024-25, and may be considered by EMPLOYER annually thereafter.
- F. Preservation of Rights.** Nothing in this Section shall interfere with the rights of EMPLOYEE to any other provisions, rights, privileges, and/or entitlements contained elsewhere in this Agreement or any part herein, or as are EMPLOYEE'S rights pursuant to law or other agreement between EMPLOYEE and EMPLOYER.

SECTION VII. Performance Review.

- A.** EMPLOYER may review and evaluate the performance of EMPLOYEE from time to time during the term of this Agreement. Any such review and appraisal shall be in accordance with criteria developed in consultation with the City Attorney. Further, in relation to said review, EMPLOYER shall provide EMPLOYEE with a written summary of the performance review and, at EMPLOYEE'S request, provide an adequate opportunity for EMPLOYEE to discuss EMPLOYEE'S appraisal with EMPLOYER in Closed Session or another format agreed to by EMPLOYER AND EMPLOYEE. Provided, however, nothing in this Section compels EMPLOYER to conduct an annual or periodic performance review if EMPLOYER and EMPLOYEE, either by their mutual silence or consent, agree to forego the conduct of such review.

SECTION VIII. Automobile Allowance.

- A. EMPLOYER agrees to provide EMPLOYEE a one thousand dollar (\$1,000) monthly automobile allowance as reimbursement for the purchase/lease, maintenance, repair, replacement, and use of an automobile for employment-related purposes during EMPLOYEE'S employment with EMPLOYER. The automobile acquired, maintained and insured by EMPLOYEE shall be for EMPLOYEE'S exclusive and unrestricted use at all times during EMPLOYEE'S employment with EMPLOYER. Said automobile shall be of a make and model of EMPLOYEE'S choice and registered to EMPLOYEE, and such automobile shall not be required to display an exempt license plate or otherwise be required to display any logo or other marking emblematic of EMPLOYEE'S status as employee to EMPLOYER. EMPLOYEE shall be responsible for purchasing fuel and providing liability, property damage, and comprehensive insurance in coverage amounts as determined adequate by EMPLOYEE. EMPLOYEE may, however, be entitled to reimbursement for fuel expenditures pursuant to EMPLOYER'S formally approved travel policy. In the event automobile insurance is not available to EMPLOYEE due to primary use of the vehicle for employment-related purposes, EMPLOYER may provide insurance through its general liability insurance provider for automobiles, and EMPLOYEE shall fully reimburse EMPLOYER for all insurance-related costs. The Automobile Allowance is subject to taxation and is not PERSable; i.e., it is not reported to CalPERS as income for purposes of determining EMPLOYER'S compensation at any time, or for any employment- or retirement-related benefit or purpose.

SECTION IX. Healthcare Insurance Benefits.

- A. **Employer-Provided Healthcare Insurance Coverage.** EMPLOYER makes available to EMPLOYEE and EMPLOYEE'S dependents a choice of group medical, dental, and optical insurance healthcare plans including, but not limited to, medical, dental and optical health care (hereafter, "healthcare benefit(s)"). The nature and extent of healthcare insurance coverage provided may be reviewed periodically by EMPLOYEE and EMPLOYER, subject to mutual agreement between the Parties. EMPLOYER shall fully pay the cost of healthcare insurance premiums for EMPLOYEE and Dependents. City-paid healthcare insurance premiums are not PERSable; i.e., they are not reported to CalPERS as income for purposes of determining EMPLOYER'S compensation at any time, or for any employment- or retirement-related benefit or purpose.
- B. **Employer-Paid Healthcare Insurance Coverage.** EMPLOYER shall fully pay the cost of healthcare insurance premiums for EMPLOYEE for whatever healthcare benefit plan(s) EMPLOYEE and any Dependents is/are enrolled in, including upon and during EMPLOYEE'S retirement from EMPLOYER for EMPLOYEE and one Dependent as provided for in Paragraphs "D." and "E." of this Section. EMPLOYER'S monthly contribution for healthcare insurance

coverage will be directed to EMPLOYEE'S selected healthcare benefit plans sponsored, provided, or made available by EMPLOYER, or as otherwise provided for in this Section.

C. Employer-Paid Healthcare Insurance Premiums Not Limited to City-Provided Plans. Premium payments for healthcare benefits for EMPLOYEE and any Dependents shall, at all times, be fully paid by EMPLOYER regardless of the City-provided healthcare benefit plan, or other plan enrolled in by EMPLOYEE in lieu of City-provided healthcare benefit plan(s), up to the premium limits provided for in this section.

D. Continuation of City-Provided Healthcare Benefits Upon Separation. As used in Paragraphs "D." and "E." of this Section, EMPLOYEE shall also mean EDWARD C. STARR as a person retired from EMPLOYER'S service. Upon separation of EMPLOYEE under provisions of Sections "III.", "IV." and "V." of this Agreement, including retirement in lieu of termination, EMPLOYEE shall be entitled to continuation of all City-provided healthcare benefits received at the time of separation, or the equivalent thereof as provided for in this Agreement, to be paid for by EMPLOYER as provided for in this Agreement.

(i) Upon EMPLOYEE'S retirement and thereafter, EMPLOYER shall, for the remainder of EMPLOYEE'S life, pay the monthly healthcare insurance premiums for EMPLOYEE and up to one dependent (including a child, adopted child, spouse, domestic partner or other qualifying dependent as defined by the Internal Revenue Code—hereafter, "Dependent")—for City-provided healthcare benefit plans enrolled in by EMPLOYEE or EMPLOYEE and Dependent. EMPLOYER shall pay up to the then current maximum monthly healthcare insurance premiums for healthcare benefit plans offered by EMPLOYER for employee and dependent healthcare insurance coverage; provided, however, nothing in this paragraph shall entitle EMPLOYEE to receive any payment or payout of monies that represents the difference between the healthcare plan enrolled in by EMPLOYEE or EMPLOYEE and Dependent, and the maximum monthly insurance premiums otherwise available to EMPLOYEE for healthcare benefit plans provided by EMPLOYER for employee or employee and dependent healthcare insurance coverage.

(ii) Healthcare benefits and healthcare insurance payments provided to EMPLOYEE under provisions of this Agreement shall be portable and continue to be provided by EMPLOYER to EMPLOYEE if EMPLOYEE, during retirement, elects to live in an area of California, a state other than California, or a country other than the United States where other than City-provided healthcare benefit plans are available to

EMPLOYEE. Under this portability provision, Employer shall continue to pay the monthly healthcare benefit insurance premiums for EMPLOYEE or EMPLOYEE and Dependent, up to the then maximum premiums that would otherwise be available to EMPLOYEE through City-provided healthcare plans. EMPLOYEE and Dependent shall be eligible to re-enter City-provided health care benefit plans at any time.

- (a) In the event alternative healthcare insurance/benefit plans, including federal- or state-sponsored healthcare insurance/benefit plans are provided by EMPLOYER to its employees as the only available EMPLOYER-provided healthcare benefit option, EMPLOYEE may, at EMPLOYEE'S discretion, (i) opt for similar or compatible federal- or state-sponsored healthcare benefits coverage available at EMPLOYEE'S place of domicile; (ii) receive from Employer direct monthly healthcare premium benefit payments as provided for pursuant to paragraph "D.(i)" of this Section; or (iii) otherwise maintain healthcare benefits through the private health insurance marketplace; provided that each option in this paragraph shall be paid by EMPLOYER as provided for in this Section.

- (b) In the event EMPLOYEE'S place of domicile makes it impractical for EMPLOYEE to obtain, receive, or otherwise enroll in an insurance plan for healthcare benefits pursuant to the portability provisions of Paragraph "D.(ii)" of this Section, EMPLOYEE may, at EMPLOYEE'S option, elect to receive from EMPLOYER the then current cash value of monthly healthcare benefit premiums as provided for pursuant to provisions of this Section for EMPLOYEE or EMPLOYEE and Dependent, as a direct monthly payment to EMPLOYEE, or as payment into a Health Savings Account (HSA) as determined and selected by EMPLOYEE.

- (iii) In the event EMPLOYEE'S Dependent survives EMPLOYEE, employee and dependent healthcare insurance premium payments made and provided by EMPLOYER shall end upon EMPLOYEE'S death. EMPLOYEE'S surviving Dependent may continue to participate in any City-provided healthcare benefit plan for up to twenty-one (21) years following EMPLOYEE'S death; provided, however, EMPLOYEE'S surviving Dependent shall fully pay monthly healthcare benefit insurance premiums. Failure by EMPLOYEE'S Dependent to timely pay or timely reimburse to City

healthcare benefit insurance premiums when due shall be cause for City discontinuing EMPLOYEE'S Dependent's participation in any City-provided healthcare benefit plan or other healthcare plan pursuant to provisions of this Section.

- E. Medicare Enrollment/Integration.** If EMPLOYEE is required by state or federal law to enroll or integrate EMPLOYEE'S or EMPLOYEE'S and Dependent's healthcare benefits with Medicare, and monthly or periodic Medicare insurance premiums are required, EMPLOYER shall fully pay for EMPLOYEE'S or EMPLOYEE'S and Dependent's Medicare insurance premiums and healthcare insurance premiums for supplemental healthcare benefit plans provided through Medicare, the City, or the private marketplace, up to the maximum limits provided pursuant to provisions of this Section. City-paid Medicare insurance benefit plans may include Part A (less any amount that may be paid through Part A Medicare credits earned by EMPLOYEE and/or EMPLOYEE'S Dependent, if any, and if eligible), Medicare Part B, Medicare Part C, Medicare Part D, and/or any other supplemental healthcare benefit plan EMPLOYEE or EMPLOYEE and Dependent may be enrolled in pursuant to provisions of this Section. If EMPLOYEE'S Dependent, if any, is not eligible for, or required to enroll in, Medicare, EMPLOYER shall pay for monthly healthcare benefit plan insurance premiums for EMPLOYEE'S Dependent pursuant to provisions of this Section. Nothing in this Paragraph requires EMPLOYEE, or EMPLOYEE and Dependent, to integrate with, or enroll in Medicare at any time.
- F. Annual Physical Exam.** While an active employee of EMPLOYER, EMPLOYER agrees to provide EMPLOYEE with an annual physical exam, administered by a doctor or health/medical center designated by EMPLOYER.

SECTION X. Life Insurance.

- A. Life Insurance.** EMPLOYER agrees to provide EMPLOYEE with life insurance and accidental death and dismemberment insurance at a benefit equal to twice the EMPLOYEE'S annual base salary, rounded up to the nearest one thousand dollars. City-paid life insurance premiums are not PERSable i.e., they are not reported to CalPERS as income for purposes of determining EMPLOYER'S compensation at any time, or for any employment- or retirement-related benefit or purpose.
- (i) Except as otherwise indicated by its use in this subparagraph, EMPLOYEE shall mean EDWARD C. STARR as a person retired from EMPLOYER'S service. Upon EMPLOYEE's retirement, EMPLOYER agrees to continue providing and paying for EMPLOYEE'S life insurance through the available City plan for life insurance, equal to the maximum life insurance coverage benefit provided to EMPLOYEE during EMPLOYEE'S final twelve (12) months of employment with

EMPLOYER; provided, however, EMPLOYEE, at EMPLOYEE'S expense, may augment the EMPLOYER-provided life insurance benefit to increase the maximum life insurance benefit provided to EMPLOYEE beyond the City-provided benefit. The EMPLOYER-provided life insurance benefit shall cease upon EMPLOYEE'S death, at which time the life insurance benefit shall be dispersed to EMPLOYEE'S beneficiary(ies) as provided for under terms of the EMPLOYER-provided life insurance policy, or as provided for by EMPLOYEE'S Trust or Last Will and Testament, if any, or by separate agreement between EMPLOYEE and the life insurance provider. At EMPLOYEE'S option, EMPLOYER'S monthly, quarterly, or annual life insurance payment made on behalf of EMPLOYEE during EMPLOYEE'S retirement may be converted, in full or any portion thereof, to a monthly, quarterly, or annual payment for long-term care insurance or long-term care in lieu of life insurance or any portion thereof. In the event EMPLOYER is unable to continue life insurance coverage for EMPLOYEE under an EMPLOYER-provided life insurance plan, EMPLOYEE may substitute Employer-provided life insurance coverage with life insurance through a private provider, and EMPLOYER shall pay for the full cost of the premium up to the maximum premium amount otherwise paid for through City-provided life insurance coverage.

SECTION XI. Long-Term Disability, Illness, Injury Income Continuance.

- A. EMPLOYER provides long-term disability (LTD) income insurance for EMPLOYEE to provide long-term income when off work due to a disability, injury, or illness. Pursuant to EMPLOYER'S LTD policy provisions, LTD benefits are payable after sixty (60) consecutive calendar days of disability (i.e., "the benefit waiting period") up to a maximum of seventy percent (70%) of EMPLOYEE'S then current base salary, subject to maximum LTD benefit amounts under the City's LTD policy. Prior to the start of the LTD insurance benefit, EMPLOYER agrees to provide to EMPLOYEE income continuance in the amount of sixty-six and two-thirds percent (66 2/3rd%) based on EMPLOYEE'S then current rate of pay for the forty-first (41st) through the sixtieth (60th) calendar days that EMPLOYEE is off work due to nonoccupational-related disability, injury, or illness. During the first forty (40) consecutive days of long-term disability, EMPLOYEE shall use available sick leave (or other available leave time) for income continuance. During the forty-first (41st) through the sixtieth (60th) calendar days and during the period EMPLOYEE is eligible to receive LTD insurance benefits, EMPLOYEE shall use available sick leave (or other available leave time) to supplement the LTD benefit at full salary continuance. LTD insurance premiums are paid by EMPLOYER; therefore, income received by EMPLOYEE related to LTD benefits received is taxable. The maximum benefit period is defined in EMPLOYER'S LTD insurance policy; otherwise, EMPLOYEE'S income and benefits shall continue

as provided for herein until such time that EMPLOYEE returns from long-term disability. Notwithstanding any other statement or provision in this Agreement, LTD benefits are defined in EMPLOYER'S LTD insurance policy and, in the event that any provision contained in this Section is not consistent with provisions of the LTD insurance policy, terms contained in the LTD policy shall supersede the provisions contained herein.

SECTION XII. Sick Leave.

A. Sick Leave Accrual. EMPLOYEE shall earn and accrue sick leave at a rate of ninety-six (96) hours per fiscal year, with a maximum accrued cap not to exceed one thousand five hundred (1,500) hours.

B. Sick Leave Holiday Conversion. EMPLOYEE may annually exercise the following sick leave holiday conversion option once a year (this option to be exercised automatically by the City unless otherwise advised by EMPLOYEE):

- (i) EMPLOYEE may, during the month of December of each calendar year, convert one-half of the unused sick leave hours accrued between December 1 and November 30 (hereinafter the "accrual period")—up to a maximum of 48 hours—to cash, computed using the base salary rate then in effect pursuant to provisions of Section "VI." of this Agreement. The balance of remaining sick leave time will be credited to EMPLOYEE'S' sick leave accrual account. At EMPLOYEE'S option, such payment for sick leave provided for in this Paragraph may be paid into EMPLOYEE'S City-provided 457(b) and/or 40(a) deferred compensation account(s), up to the maximum allowed by law. The conversion of sick leave benefits to a cash value is subject to taxation and does not result in a PERSable obligation; i.e., the cash value of the conversion is not reported to CalPERS as income for any employment- or retirement-related benefit or purpose.

C. Sick Leave Conversion At or Prior to Retirement. EMPLOYER agrees to pay EMPLOYEE for accrued sick leave at time of retirement as follows:

- (i) One hundred percent (100%) of accrued unpaid sick leave, not to exceed a maximum payout equal to one thousand five hundred (1,500) hours of accrued sick leave, such leave to be redeemed at EMPLOYEE'S base hourly rate then in effect pursuant to provisions of Section "VI." of this Agreement (hereinafter the "current value"); provided, however, such payment for sick leave may, at EMPLOYEE'S option, be paid in up to three (3) annual payments, the first

payment to be made on or about the time of separation from EMPLOYER, and subsequent payments to be made in January of each year that such payment(s) is/are deferred to at EMPLOYEE'S discretion. Alternatively, EMPLOYEE may elect to have all or a portion of the cash converted value of accrued sick leave deposited in EMPLOYEE'S 457(b) and/or 401(a) deferred compensation account(s), up to the maximum provided by law. In the event EMPLOYEE is terminated for any of the causes defined in "Exhibit A" attached hereto, EMPLOYER shall have no obligation to pay the accrued sick leave designated in this Section; provided, however, in lieu of termination, EMPLOYEE may elect, and shall have the right to retire pursuant to Section "III.A." of this Agreement, in which case the sick leave redemption provided for in this subsection shall be redeemed to EMPLOYEE pursuant to provisions of this subsection.

SECTION XIII. Vacation Leave.

A. Vacation Accrual. EMPLOYEE shall earn and accrue vacation leave at a rate of two hundred eighty (280) hours per fiscal year, with a total accrual cap not to exceed one thousand (1,000) hours. EMPLOYEE shall be entitled to participate in the City-offered vacation leave redemption program and is eligible to convert up to two hundred eighty (280) hours of accrued vacation leave each fiscal year, such leave redeemed at the current value of EMPLOYEE'S hourly rate of pay. City-provided-vacation leave hours are reportable to the Internal Revenue Service. When EMPLOYEE converts vacation leave to reportable compensation, a written authorization must be forwarded to the Finance Department for conversion of vacation leave. Only that portion of EMPLOYEE'S total accrued vacation that is in excess of his annual accrual rate of two hundred eighty (280) hours can be converted to reportable compensation. At any time during each fiscal year, EMPLOYEE may also elect to have all or a portion of the cash converted value of accrued vacation leave earned annually deposited in EMPLOYEE'S 457(b) and/or 401(a) deferred compensation account(s), up to the maximum provided by law. The conversion of vacation leave benefits to a cash value is subject to taxation and does not result in a PERSable obligation; i.e., the cash value of the conversion is not reported to CalPERS as income for any employment- or retirement-related benefit or purpose.

B. Vacation Leave Payment at Retirement. EMPLOYER agrees to pay EMPLOYEE for accrued vacation leave at time of separation or retirement as follows:

- (i) One hundred percent (100%) of accrued vacation leave, not to exceed a maximum payout of one thousand (1,000) hours, paid at EMPLOYEE'S hourly rate of pay at the then current value; provided, however, such payment for vacation leave may, at EMPLOYEE'S option, be paid in up to three (3)

annual payments, the first payment to be made on or about the time of separation from EMPLOYER, and subsequent payments to be made in January of each year that such payment(s) is/are deferred to at EMPLOYEE'S discretion. EMPLOYEE may also elect to have all or a portion of the cash converted value of accrued vacation leave deposited in EMPLOYEE'S 457(b) and/or 401(a) deferred compensation account(s), up to the maximum provided by law.

SECTION XIV. Management Leave.

A. EMPLOYER agrees to provide EMPLOYEE with one hundred (100) hours of management leave for each fiscal year period. In the last pay period of June of each year EMPLOYER agrees to pay EMPLOYEE the converted cash value for any unused, accrued management leave based on EMPLOYEE'S hourly rate of pay at time of conversion and payment. EMPLOYEE may elect to have all or a portion of the cash converted value of accrued management leave deposited in EMPLOYEE'S 457(b) and/or 401(a) deferred compensation account(s), up to the maximum provided by law. The conversion of management leave benefits to a cash value is subject to taxation and does not result in a PERSable obligation; i.e., the cash value of the conversion is not reported to CalPERS as income for any employment- or retirement-related benefit or purpose.

- (i) Upon separation or retirement, one hundred percent (100%) of accrued unpaid management leave shall be paid to EMPLOYEE at EMPLOYEE'S then current hourly rate of pay at time of retirement. EMPLOYEE may elect to have all or a portion of the cash converted value of accrued administrative leave deposited in EMPLOYEE'S 457(b) and/or 401(a) deferred compensation account(s), up to the maximum provided by law.

SECTION XV. Holiday Leave.

Holiday leave is provided by the City to allow Employee the opportunity to celebrate recognized holidays. Holiday leave shall be earned as holidays occur, shall be used in the fiscal year it is earned, and shall not be carried over to the following fiscal year.

A. **Recognized Holidays.** EMPLOYER agrees to provide EMPLOYEE with one hundred four (110) hours of Holiday Leave for each fiscal year period, as follows:

- New Year's Day (10 hours earned)

- Martin Luther King, Jr.'s Birthday (10 hours earned)
- Presidents Day (10 hours earned)
- Memorial Day (10 hours earned)
- Independence Day (10 hours earned)
- Labor Day (10 hours earned)
- Veterans Day (10 hours earned)
- Thanksgiving Day (10 hours earned)
- Christmas Eve Day (10 hours earned)
- Christmas Day (10 hours earned)
- New Year's Eve Day (10 hours earned)

In the event any of these holidays fall on a Sunday, the following Monday shall be considered as the holiday. If a scheduled holiday should fall on a Friday or Saturday, the preceding Thursday shall be considered as the holiday, or applicable, unused hours shall be credited to EMPLOYEE'S holiday bank.

If, for work-related reasons, EMPLOYEE works on a City-recognized holiday, earned holiday hours shall be credited to the EMPLOYEE'S holiday accrual bank. Hours credited to the holiday accrual bank shall be equal to the actual time worked by EMPLOYEE, but not greater than the maximum number of hours earned for the holiday.

- B. Conversion of Accrued Holiday Leave.** In the last pay period of June of each year, EMPLOYER agrees to pay EMPLOYEE the converted cash value for any unused, accrued holiday leave based on EMPLOYEE'S hourly rate of pay at time of conversion. EMPLOYEE may elect to have all or a portion of the cash converted value of accrued holiday leave deposited in EMPLOYEE'S 457(b) and/or 401(a) deferred compensation account(s), up to the maximum provided by law. The conversion of holiday leave benefits to a cash value is subject to taxation and does not result in a PERSable obligation; i.e., the cash value of the conversion is not reported to CalPERS as income for any employment- or retirement-related benefit or purpose.

- (i) Upon separation or retirement, one hundred percent (100%) of accrued unpaid holiday leave shall be paid to EMPLOYEE at EMPLOYEE'S current hourly rate of pay at time of retirement—the "current value. EMPLOYEE may elect to have all or a portion of the cash converted value of accrued holiday leave deposited in EMPLOYEE'S 457(b) and/or 401(a) deferred compensation account(s), up to the maximum provided by law.

Section XVI. Bereavement Leave.

- A. Use of Bereavement Leave.** EMPLOYER agrees to provide EMPLOYEE up to forty (40) hours of bereavement leave for each incident of death in EMPLOYEE'S immediate family, with full pay and benefits, to attend the funeral of a family member and/or make arrangements regarding the funeral. Bereavement leave need not be used over consecutive days, but must be used within thirty (30) days of first use per incident of death.
- B. Immediate Family.** Members of "immediate family" shall be defined as any lawful relative, by blood, marriage, domestic partnership, or legal status (including adoption or guardianship) who is currently a member of EMPLOYEE'S household (those who legally dwell together under the same roof as a family)—provided no judicial decree has divested EMPLOYEE of his statutory relationship to any member of the household; the parent, grandparent, child, grandchild, or sibling of EMPLOYEE by blood or legal status, regardless of residence—provided no judicial decree has divested EMPLOYEE of his statutory relationship to any of the aforementioned; or the parent, grandparent, child, grandchild, or sibling of EMPLOYEE'S current legal spouse/domestic partner, by blood or legal status, regardless of residence—provided no judicial decree has divested the spouse/domestic partner of his/her statutory relationship to any of the aforementioned.

Section XVII. Jury Duty

- A.** If ordered to serve on jury duty, EMPLOYEE shall notify the City Council of the court-ordered requirement. While serving on jury duty, EMPLOYEE shall receive regular wages and benefits from the City and shall remit to the City all per-diem compensation received as a result of serving on jury duty. In appropriate cases, EMPLOYEE may request to be excused from jury duty because EMPLOYEE'S duties are such that it would be in the best interests of the City to request such an exemption.

Section XVIII. Family and Medical Care Leave

- A.** EMPLOYEE shall be eligible for Family and Medical Care Leave and California Family Rights Leave in accordance with the Federal Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), and policies adopted by the City to provide family and medical care leave and military family leave as defined in the City personnel policies and practices.

SECTION XIX. Service Award Program.

- A. EMPLOYER agrees to provide EMPLOYEE with a service award program to honor EMPLOYEE'S continuous service to EMPLOYER and the community and to recognize EMPLOYEE'S meritorious service. For each five-years of continuous service, based on a minimum thirty-five (35) years of completed and continuous service to the City, EMPLOYEE is prospectively eligible to receive a four thousand five hundred dollar (\$4,500) service award, to be paid on the anniversary date of EMPLOYEE'S employment with EMPLOYER (i.e., on the 35-year, 45-year, or 45-year anniversary date). EMPLOYER shall include the service award on a payroll in the month following EMPLOYEE'S anniversary date, or as soon as practical thereafter. If EMPLOYEE leaves full-time employment, for whatever reason, prior to EMPLOYEE'S eligible anniversary date for a service award, EMPLOYEE shall be ineligible to receive the service award for the five-year period just completed (i.e., the 35-year, 40-year, or 45-year anniversary date). Payment of the Service Award benefit is subject to taxation and does not result in a PERSable obligation; i.e., the cash value of the service award is not reported to CalPERS as income for any employment- or retirement-related benefit or purpose.

SECTION XX. Retirement System.

- A. **CalPERS.** EMPLOYER is a member of the California Public Employees' Retirement System (CalPERS). All regular, full-time employees of the City are required to become members of the system.
- B. **CalPERS Benefit Formula.** EMPLOYEE is covered by the CalPERS "3% @ 60" benefit formula as a classic employee. The 3% @ 60 benefit formula provides three percent of pay at age 60 for each year of service credited with EMPLOYER. EMPLOYER shall annually pay one hundred percent (100%) of the employer rate (or normal rate) portion of the 3% @ 60 pension formula as defined and determined by CalPERS.
- C. **CalPERS Unfunded Liability.** EMPLOYER annually pays the required full value of the CalPERS unfunded or unfunded liability cost component for the City Manager classification.
- D. **CalPERS Member Contribution.** Except as may otherwise be provided for and required by law, EMPLOYEE annually pays six percent of the eight percent Member Contribution rate component of the normal service cost range (formerly the Employer Paid Member Contribution/EPMC) and the EMPLOYER pays the remaining two percent of the eight percent Member Contribution rate plus the cost of administration. EMPLOYER may also be liable for any additional member or EMPLOYER rate which may or may not be incorporated into the normal rate pursuant to CalPERS policy. EMPLOYEE'S contribution shall be withheld from his salary up to the amount required

pursuant to provisions of this Section. Pursuant to agreement between the EMPLOYER and CalPERS, EMPLOYER shall report the full value of the eight percent Member Contribution rate component (the six percent EMPLOYEE contribution and the two percent EMPLOYER contribution) as additional compensation for purposes of calculating EMPLOYEE'S retirement annuity.

- E. CalPERS Contractual Obligations.** EMPLOYER'S agreement with CalPERS provides for a retirement allowance based on EMPLOYEE'S 12 highest-paid consecutive months of service with EMPLOYER. CalPERS determines the age and vesting requirements that establish when an employee is eligible to retire from EMPLOYER with benefits as provided for under the CalPERS public employee pension system, either under a normal service or industrial disability retirement. EMPLOYEE is fully vested in the CalPERS public employee pension system. EMPLOYER shall, at all times, comply with the contractual obligations, requirements and provisions as guaranteed and/or provided for under agreement between the City and CalPERS as they relate to EMPLOYEE'S employment with EMPLOYER, and EMPLOYER shall guarantee those rights, benefits and privileges provided to EMPLOYEE, both as an employee and CalPERS annuitant/retiree of EMPLOYER, including under contractual provisions provided through the CalPERS Replacement Benefit Fund (RBF). Section 415(b) of the Internal Revenue Code (IRC) places a dollar limit on the annual retirement benefit allowance that a member can receive from a tax-qualified pension plan. Members who exceed the annual limit are paid from both the Public Employee's Retirement Fund (PERF) and the Replacement Benefit Fund (RBF). The purpose of the RBF is to restore retirement benefits earned by CalPERS members that are limited by IRC Section 415(b).
- F. Other CalPERS Benefits.** In addition to the CalPERS-related benefits provided for in this section, the following CalPERS-related benefits are made available to EMPLOYEE:
1. EMPLOYER provides EMPLOYEE with the optional 'Increased Level 1959 Survivor Benefits.'
 2. When EMPLOYEE separates under a normal service retirement, EMPLOYEE may elect to receive credit for unused sick leave pursuant to provisions of the agreement between EMPLOYER and CalPERS.
 3. EMPLOYEE may purchase up to four years of service credit for any continuous active military or merchant marine service completed prior to employment.
 4. EMPLOYEE may elect to purchase prior years of service previously refunded to EMPLOYEE upon past separation from CalPERS.

SECTION XXI. Deferred Compensation.

- A. EMPLOYER agrees to contribute, on behalf of EMPLOYEE, into an EMPLOYER-designated 457(b) public employer deferred compensation plan at the maximum annual contribution amount allowable for EMPLOYEE under Federal Tax Law. EMPLOYER shall also provide for EMPLOYEE contributions to a 401(a) deferred compensation plan and EMPLOYEE contributions toward any annual 457(b) and 401(a) annual “catch up” as provided for under provisions of the Internal Revenue Code. EMPLOYER contribution shall be made annually in a lump sum each July during the term of this Agreement; or twice annually at EMPLOYEE’S discretion, in July and January of each fiscal year. Nothing in this Agreement shall prohibit EMPLOYEE from making EMPLOYEE’S own contribution to City-sponsored deferred compensation plan(s). Deferred compensation contributions are made on a pre-tax basis and do not result in a PERSable obligation; i.e., the cash value of EMPLOYER’S contribution to EMPLOYER-sponsored/provided deferred compensation plans is not reported to CalPERS as income for any employment- or retirement-related benefit or purpose.

SECTION XXII. Bonding.

- A. EMPLOYER shall bear the full cost of any fidelity or other bonds required of EMPLOYEE under any law or ordinance.

SECTION XXIII. Dues and Subscriptions.

- A. **Dues and Subscriptions.** EMPLOYER agrees to pay for those professional dues and subscriptions of EMPLOYEE where it is determined by EMPLOYER to be necessary and desirable for EMPLOYEE’S continued professional participation, growth, and advancement for the good of the EMPLOYER.
- B. **Professional Organizations.** EMPLOYEE recognizes the desirability of the EMPLOYEE’S representation of the City in and before local civic and professional organizations. EMPLOYER agrees to budget and pay for EMPLOYEE dues for membership in such organizations and, subject to budget constraints and approval of EMPLOYER, to pay expenses and allow City time for EMPLOYEE attendance at conferences, meetings and selected training opportunities.

SECTION XXIV. Employee Purchase Program.

- A. EMPLOYEE is eligible to participate in the City-sponsored “Employee Purchase Program” for electronic equipment. EMPLOYEE is responsible for all costs associated with purchase of electronic equipment and materials acquired

through the Employee Purchase Program. EMPLOYEE may use and apply as payment accrued leave in all leave accrual programs available to EMPLOYEE for purchase of electronic equipment and materials acquired through the Employee Purchase Program. Employee participation in the Employee Purchase Program does not result in a PERSable obligation; i.e., the cash value of the conversion of any leave time is not reported to CalPERS as income for any employment- or retirement-related benefit or purpose.

SECTION XXV. General Expense.

- A. EMPLOYER recognizes that certain expenses of a non-personal and job-affiliated nature are incurred by EMPLOYEE in conjunction with EMPLOYEE'S responsibilities hereunder, and EMPLOYER shall reimburse or pay said general expenses following review and approval by the Mayor or Mayor Pro Tem of expense reports or reimbursement requests. Such general expenses subject to reimbursement or payment may include, but are not limited to:
- (i) Attendance at conferences, including registration, hotel, travel-related expenses, food, fuel, parking and other miscellaneous expenses related to EMPLOYEE'S service to EMPLOYER.
 - (ii) Up to \$2,500 in educational costs for professional development related to EMPLOYEE'S service to EMPLOYER.
 - (iii) Professional training classes related to EMPLOYEE'S service to EMPLOYER.
 - (iv) Hosting meetings for programs and activities related to EMPLOYEE'S service to EMPLOYER.
 - (v) Tools, equipment, electronic devices, and other miscellaneous materials related to EMPLOYEE'S service to EMPLOYER.
 - (vi) Other miscellaneous expenses related to EMPLOYEE'S service to EMPLOYER.

SECTION XXVI. General Provisions.

- A. **Entire Agreement.** This Agreement, including “**Exhibit A**,” attached hereto and by reference incorporated herein, shall constitute the entire Agreement between the parties.

- B. **Agreement Binding.** This Agreement shall be binding upon, and shall inure to the benefit of the heirs at law and executors of EMPLOYEE.

- C. **Effective Date of Agreement.** This Agreement shall become effective January 2, 2023.

- D. **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.

SECTION XXVII. Attorneys' Fees.

- A. In the event a legal action is commenced to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees.

SECTION XXVIII. Residency Not Required.

- A. During all times EMPLOYEE is serving EMPLOYER under this Agreement, there shall be no requirement that EMPLOYEE maintain permanent full-time physical residence within the City limits of the City of Montclair.

SECTION XXIX. Indemnification.

- A. To the extent specified in the California *Government Code*, EMPLOYER 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 hereunder and will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom.

SECTION XXX. Arbitration.

- A. Settlement of Claims by Arbitration.** EMPLOYEE and EMPLOYER mutually consent to resolution by arbitration of all claims or controversies, whether or not arising out of EMPLOYEE'S employment (or EMPLOYEE'S termination), that EMPLOYEE may have against EMPLOYER including administrators, employees or agents, or against its governing body or any members thereof, or that EMPLOYER may have against EMPLOYEE.
- B. Covered Claims.** Claims covered by this provision include, but are not limited to, claims for wages or other compensation due; claims for breach of any contract or covenant (express or implied); tort claims; claims for discrimination or harassment including, but not limited to, race, color, ancestry, national origin, religion, sex, disability, age (40 and older), citizenship status, genetic information, sex, disability (physical or mental), age (40 and older), genetic information, marital status, sexual orientation, gender identity and gender expression, AIDS/HIV, medical condition, political activities or affiliations, military or veteran status, and status as a victim of domestic violence, assault or stalking; claims for benefits (except where an EMPLOYEE benefit or pension plan specifies that its claims procedure shall culminate in an arbitration procedure different from this one); and claims for violation of any federal, state, or other governmental law, statute, regulation, or ordinance, except for claims EMPLOYEE may have for Workers' Compensation or unemployment compensation benefits.
- C. American Arbitration Association.** EMPLOYEE and EMPLOYER agree that any arbitration shall be in accordance with the then current model employment arbitration procedures of the American Arbitration Association ("AAA") before an arbitrator who is licensed to practice law in California. The arbitration shall take place in San Bernardino, California, or other agreed upon location, within ninety (90) days of the date of EMPLOYEE'S separation, and shall be governed by the California Arbitration Act, Sections 1280 through 1294.2 of the *California Code of Civil Procedure*.

IN WITNESS WHEREOF, EMPLOYER has caused this Agreement to be signed and executed on its behalf by its Mayor/Chairman and duly attested to by its City Clerk, and EMPLOYEE has signed and executed this Agreement, both in duplicate, on this _____ day of _____, 2023.

SIGNATURES ON FOLLOWING PAGE

EMPLOYER:

CITY OF MONTCLAIR
SUCCESSOR REDEVELOPMENT AGENCY
MONTCLAIR HOUSING AUTHORITY
MONTCLAIR HOUSING CORPORATION
MONTCLAIR COMMUNITY FOUNDATION

EMPLOYEE

EDWARD C. STARR

Javier J. Dutrey
Mayor/Chairperson
City/Agency/Authority/Corporation/Foundation

Edward C. Starr

ATTEST:

Andrea Myrick
City Clerk/Secretary
City/Agency/Authority/Corporation/Foundation

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney/Counsel
City/Agency/Authority/Corporation/Foundation

EXHIBIT A

GROUNDINGS FOR TERMINATION FOR CAUSE

1. Incompetency, such as failure to comply with the minimum standards for EMPLOYEE'S position for a significant period of time.
2. Neglect of duty, such as failure to timely perform the duties required of EMPLOYEE.
3. Addiction to, or habitual use of, alcoholic beverages, narcotics, or any habit-forming drug that interferes with the performance of EMPLOYEE'S duties.
4. Repeated absence without excuse.
5. Conviction of a felony or any crime or conduct involving moral turpitude.
6. Falsification of any EMPLOYER report or record or of any report or record required to be or filed by EMPLOYEE.
7. Breach of EMPLOYEE'S Employment Agreement.
8. Failure to perform the duties of a City Manager and/or an Executive Director as specified in the *Montclair Municipal Code*; failure to perform the duties of a City Manager and/or Executive Director as specified in the *California Government Code*; failure to perform the duties assigned to EMPLOYEE from time to time by EMPLOYER.