AGENDA REPORT

Meeting Date: March 11, 2009

Item Number: F-12

To: Honorable Mayor & City Council

From: Laurence S. Wiener, City Attorney

Subject: AMENDED AND RESTATED EMPLOYMENT CONTRACT FOR RODERICK J. WOOD

Attachments: Contract

RECOMMENDATION

It is recommended that the City Council approve the Amended and Restated Contract for the City Manager.

INTRODUCTION

The City Council reviews the compensation and performance of the City Manager annually. Following the reviews, the City Council may approve changes to compensation and other terms and conditions of employment. This amendment to the City Manager's employment agreement implements changes proposed as a result of the 2009 process.

DISCUSSION

The terms and conditions of Rod Wood's employment by the City as City Manager are specified in an employment agreement between the City and Mr. Wood. The agreement provides that the City will review compensation and performance annually and may grant increases or make mutually agreeable changes to the agreement. Following this year's review, the City Manager agreed to forego any increase to compensation based on cost of living and also forego any performance payment. The following changes are proposed to the employment agreement:

- The vesting date for full retiree health benefits has been advanced to five years and retiree health coverage for a surviving spouse will be available for a contribution of ten dollars per month toward insurance costs.

- Accrued and unused sick leave will be paid in full upon termination of the employment agreement, rather than according to a graduated schedule.

- Upon termination, Mr. Wood will have an option to resell his home to the City for a fixed price under the conditions specified in the employment agreement.

The remainder of the agreement remains substantively unchanged. However, for ease of reference the entire agreement has been restated in full.

FISCAL IMPACT

There would be no fiscal impact to the City unless and until the date of Mr. Wood's separation of employment from the City. At that time, depending on the date of separation and the amount of unused sick leave, the City could pay an additional amount in retiree health benefits and sick leave payout. In addition, the City may purchase Mr. Wood's home pursuant to this amendment. The City would then be free to resell the home at any time. The fiscal impact of that transaction is unknown as it would depend on several factors, including whether the option is exercised and the City's subsequent decision regarding use of or disposition of the property.

Laurence S. Wiener, City Attorney

Deborah Halmon

Approved By

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This Amended and Restated Employment Agreement ("Agreement") is made as of March__, 2009; is entered into by and between the City of Beverly Hills, a California municipal corporation, ("Employer" or "City") and Roderick J. Wood, ("Employee") an individual; and fully amends, restates and replaces in its entirety that Amended and Restated Employment Agreement ("Employment Agreement"), dated April 15, 2008 identified as Agreement Number 116-08 as amended by Amendment No. 1, dated December __, 2008 identified as Agreement Number ___-08. Upon execution of this Agreement by the City and Employee, such Agreement Number 116-08 as described herein and as amended shall be superceded and of no further force or effect.

RECITALS

A. City and Employee entered into a written agreement, dated January 6, 2004, and identified as Agreement Number 2-04, describing the terms and conditions of Employee's employment with City as its City Manager.

B. City and Employee previously agreed to Amendment No. 1 to Agreement Number 2-04, executed March 15, 2005, and identified as Agreement Number 60-05; Amendment No. 2 to Agreement Number 2-04, executed May 17, 2005, and identified as Agreement Number 113-05; Amendment No. 3 to Agreement Number 2-04, executed March 7, 2006, and identified as Agreement Number 67-06; and Amendment No. 4 to Agreement Number 2-04, executed February 6, 2007, and identified as Agreement Number 36-07.

C. City and Employee entered into a written Amended and Restated Employment Agreement, dated August 21, 2007 identified as Agreement Number 350-07, which superseded Agreement 2-04 as amended.

D. City and Employee entered into a written Amended and Restated Employment Agreement, dated January 29, 2008 identified as Agreement Number 15-08, which superseded Agreement 350-07.

E. City and Employee entered into a written Amended and Restated Employment Agreement, dated April 15, 2008 identified as Agreement Number 116-08 and an Amendment No. 1 to that agreement dated December , 2008 identified as Agreement Number ___-08.

F. The parties desire to amend specific terms and conditions of the Employee's employment and to replace the Employment Agreement in its entirety by this Agreement to read as follows:

Section 1: Term

Unless sooner terminated, as provided in this Agreement, this Agreement shall remain in full force and effect from January 26, 2004, to and including June 30, 2011.

Section 2: Duties and Authority

Employer agrees to employ Employee as City Manager, and, at discretion of Employer, as Executive Director of any authority or agency created and staffed by Employer, to exercise the powers and authority and to perform the functions and duties specified in the Beverly Hills Municipal Code and all relevant resolutions, rules, regulations, procedures, applicable job description(s) and state codes, as they currently or may in the future exist. Employee shall exercise such power and authority and perform such other functions and duties, not inconsistent with this Agreement, as Employer, by its City Council, may legally assign.

Section 3: Compensation

A. Effective May 1, 2008, Employer agrees to pay Employee an annual base salary of $286,486 (Two Hundred Eighty-Six Thousand Four Hundred Eighty-Six and No/100 Dollars), subject to legally permissible or required withholding, prorated and paid on Employer's normal paydays.

B. Employer, by its City Council, will conduct an annual salary review. The City Council may, but is not required to, consider or approve cost of living increases, bonuses, incentives, merit increases, performance pay or other compensation enhancements in conjunction with the annual salary review. Employee will request and schedule such reviews, as appropriate, pursuant to City Council agenda procedures or as otherwise directed by City Council. Performance pay, if any, shall be in an amount as determined by the City Council, up to and including 10% of the annual base salary, based on the level of completion of goals identified by the City Council.

C. Effective May 1, 2008, Employee shall be entitled to special Management Compensation Pay at the rate of $415 per month, pro-rated and paid on Employer's normal paydays.

Section 4: Health, Disability and Life Insurance Benefits

A. Employer shall provide a medical health insurance program to Employee and his dependents, the cost of which shall be borne by the City. In the event Employee is on leave without pay as a result of an illness or injury and has exhausted 50% of vacation leave and all sick leave credit, the City shall pay the health insurance premium of Employee and dependents coverage to the limit of one month's coverage for each full year of Employee's City services. Employer shall pay the premium for Employee and dependents, if any, for hospital and medical benefits during the continuous periods of Employee's absence if caused by an injury or job related illness while on duty, at the following rate. The schedule of payment shall be at the rate of one month's premium

contribution for each year of service or major portion thereof. The payment of benefits toward this health insurance program will be through the administration of a flexible benefit package. Employer shall pay the minimum required under Government Code Section 22892 (b) or its successor on behalf of Employee. In addition to the minimum payment required under Government Code Section 22892 (b) or its successor, flexible benefits shall be provided as follows:

1. Employer shall pay the difference between the minimum required under Government Code Section 22892 (b) or its successor and the actual cost of medical insurance premiums up to the full family coverage of the PERSCare Plan.

2. Employer shall provide a retiree health insurance benefit as follows:

a. Employee must complete a minimum of 5 years of full time employment with the City of Beverly Hills; and

b. Receive a service retirement from the City of Beverly Hills; and

c. Remain continuously retired from the City of Beverly Hills without reinstatement to active status with PERS. To remain eligible for this benefit, Employee cannot work for another PERS contracting agency and make contributions to PERS to enhance his retirement and cannot be eligible for further PERS benefits.

If Employee meets these conditions, the City shall continue to pay the difference between the minimum required under Government Code Section 22892 (b) or its successor and the actual cost of medical insurance up to the two-party rate of the PERSCare Plan under PERS for Employee and Employee's spouse or surviving spouse. Provided, however, beginning April 1, 2009 and continuing through Employee's term of employment, as a condition of obtaining this coverage for a surviving spouse, Employee must contribute to the City's premium contributions above the statutory minimum at a cost of $10.00 per month paid by payroll deduction.

B. Employer shall provide a dental insurance plan to Employee, the cost of which shall be borne by the City. The cost of the coverage may vary, contingent upon the number of dependents and/or spouse or domestic partner enrolled. Upon retirement, Employee can continue in the City's dental plan, at his own expense to the extent and subject to the terms and conditions of the then-applicable plan document. The City reserves the right to modify or discontinue retiree dental insurance based on availability, market conditions and other factors.

C. Employee shall be entitled to a three hundred thousand dollar ($300,000) term life insurance policy under the City's life insurance program. The full premium for such policy shall be paid for by the City under the life insurance program of it's choosing. Employee shall have the option to purchase additional life insurance at the City's unit cost, if available. Employee shall name the beneficiary of the life insurance policy.

D. Employer shall provide to Employee extended disability base pay and benefits (less legally required deductions) continuance in the event that Employee sustains an

injury or illness causing long term disability. This continuance shall be up to 90 days, as approved by City Council, at its sole discretion. After this period, the City's Extended Disability Base Pay and Benefits Continuance shall stop. To qualify for this pay and benefits continuance, Employee must notify Human Resources in writing immediately upon becoming aware that an injury or illness may result in a long term disability. Human Resources, in consultation with the Risk Management Division, will contact the Employee's physicians and medical treatment centers as may be appropriate to determine the severity and scope of injury/illness and probable length of absence of Employee. Employee must also make himself available for examination by a City appointed physician (at City expense). Employee must file for disability insurance within the prescribed insurance required time-lines and provide the City with a written statement from a physician, satisfactory to the Assistant Director of Administrative Services-Human Resources after consultation with the Risk Management Division, detailing Employee's injury or illness and recommending disability leave.

No Extended Disability Base Pay and Benefits Continuance shall be granted for Employee if he does not follow the procedures as set forth in this Paragraph D, or does not qualify for disability insurance.

Employee shall not receive a monetary amount greater than he would normally receive if he had been working under normal conditions. Any disability indemnity received by Employee from the State of California for the purpose of insuring a weekly or monthly income as the result of the same work incurred injury for which Employee is receiving extended disability base pay and benefits continuance from the City shall be paid to the City.

E. Employer shall provide an optical insurance plan to Employee, the cost of which shall be paid for by the City up to a maximum of $32.00 per month. Upon retirement, Employee can continue in the City's optical plan, at his own expense to the extent and subject to the terms and conditions of the then-applicable plan document. The City reserves the right to modify or discontinue retiree optical insurance based on availability, market conditions and other factors.

Section 5: Vacation, Sick and Other Leave

A. Employee shall accrue vacation time at the rate of 160 hours annually, prorated and credited each pay period.

B. Employee shall be credited with 80 hours of administrative leave for calendar year 2004, available for immediate use. Employee will be granted 120 hours of Administrative Leave each calendar year pursuant to the following: Administrative Leave as provided herein is non cumulative between calendar years. At the end of each calendar year, upon Employee request, Employee will receive cash payment for up to 80 hours administrative leave earned but not taken as time off during the calendar year.

C. Vacation and other paid leaves susceptible to advance scheduling shall be scheduled with the City Council in advance. When a holiday falls within Employee's vacation leave, the leave time shall be extended or credited by the amount of the holiday time. Employee shall accumulate accrued vacation up to a maximum of 240 hours. The current year accrual shall not be included in the accumulation. At the end of each calendar year, upon Employee's request, Employee, if Employee has 240 hours or more, can receive cash payment for up to 80 vacation hours earned but not taken during the calendar year.

D. Employee shall accrue sick leave at the rate of 8 hours for each month of employment.

1. Job Connected Disability

Except as provided herein, Employee shall be entitled to use accumulated sick leave during any period for which he is entitled to receive temporary disability indemnity under Division 4 (Section 3201, et. seq.) of the Labor Code of the State. If Employee is entitled to receive such temporary disability indemnity, Employee may elect (for a period not to exceed twelve (12) months after he first makes such election) to use as much of his accumulated sick leave or accumulated vacation, so when added to his disability indemnity will result in a payment to him of not more than full base pay or wage.

2. Sick Leave Incentive

Employee, if he accumulates 72 hours or more of sick leave in any payroll year, may convert up to 24 hours of sick leave to cash during the month of January of the following year. The limit of payment shall be 24 hours per year.

E. Employee may use 40 hours of bereavement leave, per calendar year, in the event of the death of a family member, herein defined as a spouse, registered domestic partner, parent, brother, sister, child, grandparent, or in-law of Employee. In the event Employee needs additional time off for this leave, he may use up to 40 hours of sick leave per calendar year.

F. If Employee is required to serve as a witness pursuant to a lawful subpoena in any judicial or quasi judicial proceeding or is required to serve as a juror, Employee shall be allowed time off without loss of pay to perform such duties. However, Employee shall not be allowed time off without loss of pay if Employee is a party to the matter for reasons other than actions within the scope of Employee's current or past public employment. All fees to which Employee is entitled by law for such service shall be paid (less transportation allowance, if any) to the City.

G. Employee shall be entitled to the following paid holidays if Employee worked the regularly assigned work period the day before and the day after the holiday or was absent on authorized paid leave during said period:

New Year's Day	January 1
Martin Luther King Day	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Day after 4th Thursday in November
Christmas Day	December 25

If the following holidays (January 1, July 4, November 11, and December 25) fall on a Saturday, the preceding Friday shall be considered the holiday; if the holiday falls on a Sunday, the following Monday shall be considered the holiday.

H. Employee shall be entitled to two additional paid holidays each calendar year. Said holidays may be taken at Employee's discretion. Said holidays are non accruable and shall not be paid for if not taken.

Section 6:

Intentionally Left Blank

Section 7: Retirement and Reimbursement Plans

A. Employee shall be enrolled in Employer's retirement plan with the California Public Employees' Retirement System ("PERS"), subject to the applicable benefit formula, terms and conditions provided in the contract between Employer and PERS and also subject to applicable law and regulations.

B. Pursuant to Government Code section 20636(c)(4), Employer will pay the 8% employee's contribution to PERS for Employee and Employer will report the monetary value of those normal contributions paid by Employer on behalf of Employee (known as "employer paid member contribution") as compensation earnable.

C. Employee may participate in Employer's deferred compensation plan according to the terms and conditions of the applicable plan documents.

1. Any employer contributions made on behalf of executive or any other employees, under a compensation plan or otherwise, shall not be applicable to Employee.

2. Employer shall contribute an amount equal to six percent (6%) of the Employee's annual base salary on behalf of the Employee to the Employer's deferred compensation plan, prorated and credited each pay period.

3. Employee may convert accumulated sick leave to pay. The extra pay may only be used to fund "catch up" contributions to deferred compensation. The following restrictions apply to this sick leave conversion program:

a. Employee must have a minimum of 7 years of service with the City of Beverly Hills; and

b. Employee's sick leave accumulation cannot be reduced below 240 hours; and

c. The conversion is limited to the time period allowed by the IRS for "catch-up" provisions in 457, 401(k) and other plans as adopted by the City and the conversion can be used only for funding these deferred compensation "catch-ups"; and

d. A conversion of no more than $9,500 per calendar year is allowed.

D. Employee may participate in Employer's medical reimbursement, childcare reimbursement, retiree health savings and any similar plan based exclusively on employee contributions and according to the terms and conditions of the applicable plan documents.

Section 8: General Business Expenses

A. Subject to adjustment as provided in Paragraph E below, Employer agrees to budget and to pay not more than $2,500 per fiscal year for professional dues and subscriptions of Employee necessary for continuation and participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer. Employer recognizes that certain dues are assessed as a percent of salary. At the request of Employee, Employer may, in its sole discretion, consider an increase in the budget for the professional dues and subscriptions under this Paragraph in conjunction with any increase in compensation used as a base to calculate dues.

B. Subject to adjustment as provided in Paragraph E below, Employer agrees to budget and to reimburse or pay for reasonable costs, not to exceed $6,000 per fiscal year, for attendance and participation in meetings, institutes, training programs, conferences, conventions and similar gatherings related to Employee's duties or Employer's operations and held in the continental United States. For purposes of this Paragraph, reasonable expenses are limited to the reasonable and actual cost of registration, airfare (where applicable), ground transportation and meals. Reasonable expenses will also include the reasonable and actual cost of lodging for meetings outside of Los Angeles and Orange Counties. All expenses must otherwise be incurred and submitted according to Employer's normal expense reimbursement procedures, with documentation meeting Employer's normal requirements and within time limits established by Employer.

C. The expenses to be budgeted and paid in Section 8, Paragraphs A and B, above, are exclusive of reasonable expenses related to events or participation in organizations required by the City Council or attendance at events or meetings on behalf of the City as requested by a City Council member. Employer will separately budget and pay for membership and participation in community, civic or other organizations or events in which Employer requires Employee to participate. To the extent applicable and to the extent permissible under California law, Employer shall pay the reasonable cost of membership and participation by Employee's spouse.

D. Employer recognizes that Employee may incur certain expenses of a non-personal but job related nature. Employer agrees to reimburse or to pay such business expenses, which are incurred and submitted according to Employer's normal expense reimbursement procedures or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be supported by documentation meeting Employer's normal requirements and must be submitted within time limits established by Employer.

E. Commencing with the 2005/2006 fiscal year, the dollar amounts specified in this Section 8, Paragraphs A and B, above, shall be prospectively adjusted each fiscal year by a factor measured by the increase, if any, in the Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles-Riverside-Orange County statistical area, average, all items, 1982-84=100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, for January of each year and measuring the change, if any, for the preceding 12 months. If the 1982 base of the specified consumer price index is changed, the 1982 base shall be converted to the new base in accordance with tables issued by the Bureau. If the specified consumer price index is discontinued, the 1982 base cannot be so converted or the specified consumer price index otherwise cannot be used, the City may select an alternate index, in its discretion.

Section 9: At-Will Employment Relationship

A. Consistent with Beverly Hills Municipal Code Section 2-5.206 and California Government Code Section 36506, Employee is appointed by and serves at the pleasure of the City Council. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employer to terminate this Agreement and the employment of Employee at any time, with or without cause. Employer shall pay Employee for all services through the effective date of termination and Employee shall have no right to any additional compensation or payment, except as provided in Section 10, Severance, below.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign from his employment with Employer, subject only to Employee providing sixty (60) calendar days prior written notice to Employer.

Section 10: Severance and Benefit Payoff at Termination

A. If Employer terminates this Agreement (thereby terminating Employee's Employment) without cause, Employer shall pay Employee severance as follows:

1. If termination is effective on or before June 30, 2010, Employer shall pay Employee a lump sum severance benefit equal to nine (9) months of his then applicable base salary.

2. If termination is effective during the final year of this Agreement, following the period specified in Sub-Paragraph 1, above, and prior to June 30, 2011, Employer shall pay Employee a lump sum severance benefit equal to six (6) months of his then applicable base salary, subject to Paragraph F of this Section.

B. If Employer terminates this Agreement (thereby terminating Employee's Employment) with cause, Employee shall not be entitled to any severance. As used in this Agreement, cause shall mean any of the following:

1. Conviction of a felony;

2. Conviction of a misdemeanor arising out of Employee's duties under this Agreement and involving a willful or intentional violation of law;

3. Willful abandonment of duties;

4. A pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted policy decisions of the City Council made by the City Council as a body; and

5. Any other action or inaction by Employee that materially and substantially impedes or disrupts the performance of Employer or its organizational units, is detrimental to employee safety or public safety, violates properly established rules or procedures, adversely affects the reputation of City, its officers or employees, or has a substantial and adverse effect on Employer's interests.

C. Except as otherwise mutually agreed, any dispute as to whether severance is excused under Section 10, Paragraph B, Sub-Paragraphs 4 and 5, above, shall be referred to arbitration before a single neutral arbitrator selected from a list of seven (7) arbitrators requested from the California State Mediation and Conciliation Service. Employer will strike the first name and the parties will alternate striking names until one person is left who shall be designated as the arbitrator.

D. If Employee terminates this Agreement (thereby terminating Employee's Employment), Employee shall not be entitled to any severance.

E. At termination (regardless of reason), Employee shall be compensated for:

1. All accrued but unused vacation leave.

2. All accrued but unused sick leave.

3. A pro-rated amount of administrative leave unused during the calendar year of departure at the rate of 10 hours per month up to a maximum of 80 hours.

4. The rate of pay off for these benefits shall be based on the rate of base pay received by Employee at the time of termination.

F. Any other term of this Agreement notwithstanding, the maximum severance that Employee may receive under this Agreement shall not exceed the limitations provided in Government Code Sections 53260 – 53264 or other applicable law.

Section 11: Storage Space

Employer shall, at no expense to Employee, provide storage space for one recreational vehicle trailer not to exceed 22 feet in length at a City facility of Employer's choosing. Employee shall be responsible for insuring the trailer against damage or loss. Employee agrees to look exclusively to such insurance for recovery in the event of damage or loss to the trailer and hereby agrees to release and hold Employer harmless against damage or loss, whether insured or uninsured. Employer retains the right to make changes in its facilities and operations and to dispose of municipal property, as it considers appropriate. Employer may discontinue the grant under this Section if storage is no longer feasible or will result in extra cost to Employer. Employer may also change the location of the storage space from time to time. Employer is only granting Employee permission for the specified storage and makes no other representations or commitments with regard to the space or its suitability.

Section 12: Annual Performance Evaluation

The City Council shall conduct a performance evaluation after the first year of employment and annually thereafter. At the request of Employer or Employee, such evaluation shall be professionally facilitated by a facilitator approved by the City Council. Employee will request and schedule the evaluation, as appropriate under City Council agenda procedures, or as otherwise directed by City Council.

Section 13: Employee's Obligations and Hours of Work

Employee shall devote his full energies, interest, abilities and productive time to the performance of this Agreement and utilize his best efforts to promote Employer's interests. Employee's duties may involve expenditures of time in excess of the regularly established workday or in excess of a forty (40) hour workweek and may also include time outside normal office hours (including attendance at City Council meetings). Employee's base salary includes compensation for all hours worked and Employee shall be classified as an exempt employee for purposes of overtime and wage and hour law. In recognition of the significant time Employee will need to devote outside normal

office hours to business activities of Employer and the exempt, salaried nature of the employment, employee is permitted to exercise a flexible work schedule. However, consistent with this flexibility and Employee's participation in activities out of the office, Employee will generally be expected to keep office hours at City Hall, Monday through Friday during normal business hours.

Section 14: Outside Activities

Employee shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which is actually or potentially in conflict with or inimical to, or which materially interferes with his duties and responsibilities to Employer.

Section 15: Moving and Relocation Expenses

Intentionally left blank.

Section 16: Housing Aid

A. Employer shall provide a housing loan to Employee for the purchase of housing within the corporate limits of the City of Beverly Hills. The loan shall be subject to the following terms and conditions and other reasonable terms and conditions not inconsistent with this Agreement, in a form mutually agreeable to the City Attorney and Employee. Employee is free to secure housing outside the corporate limits of the City of Beverly Hills that is within a reasonable distance and response time of Beverly Hills, but such housing will not be eligible for housing aid under this Section, except as otherwise determined by the City Council.

1. Employee shall purchase a qualifying home and obtain the loan provided in this Agreement within a reasonable time after the effective date of this Agreement. A reasonable time, for purposes of this Sub-Paragraph is deemed to be January 1, 2005, or such later date as may be approved by Employer. As a condition for continuation of the loan, Employee shall, thereafter, continuously reside in such home during the term of this Agreement; but such requirement shall be a condition only to continue the housing loan and not a condition to his continued employment under this Agreement. Employee, at Employee's option and risk, may apply the loan to an otherwise qualifying home purchased prior to the effective date of this Agreement.

2. Employer shall provide to Employee a loan secured by a note and first deed of trust on the home purchased by Employee, not to exceed the lesser of $1,500,000, the actual purchase price or the appraised value of the home ("Permanent Loan"), unless a loan in excess of appraised value is otherwise approved by Employer. In addition, grant of the Permanent Loan is contingent on mutual approval of appraisal, title report and loan documents by Employer and Employee.

3. In the event Employee purchases a home using a Permanent Loan, any portion of the $1,500,000 limit available for the Permanent Loan that is not applied to the purchase of the home and closing costs may be drawn monthly for capital repairs and improvements to the home that add value to the home (the "Construction Loan"),

such monthly draws may be made through December 31, 2006, to pay for any qualifying capital repairs or improvements constructed pursuant to a contract executed on or before June 30, 2006 or for any qualifying expenses for capital repairs or improvements incurred through June 30, 2006, subject to normal construction loan disbursement conditions. Other improvements not financed by the Construction Loan shall be permitted, subject to prior written notice to Employer, compliance with applicable law, and Employer's confirmation that the improvements will not decrease the value of the home. Employee shall keep an accurate record of the cost of all such improvements.

City and Employee shall execute such new or amended notes, deeds of trust, escrow instructions, agreements, and other documents as the City Attorney may determine are reasonably necessary to effectuate the extension provided in this Section, in the form mutually determined by the City Attorney and Employee.

4. A first deed of trust securing the Loan(s) shall be recorded such that, other than real property taxes and assessments, the Loan's deed of trust has the highest lien priority. Employee shall not cause any other lien or mortgage to be recorded against the home except as expressly authorized in writing by Employer through its City Council. The City Council shall not unreasonably withhold permission for refinancing or equity loans that do not impair Employer's interest in the property.

5. The Loan shall be made at an interest rate of 10% per annum. Consistent with Sub-Paragraph 6, below, 2.5% of the 10% shall be paid monthly under the amortization schedule. An additional 2.5% of the 10% shall accrue and shall be computed as simple interest with this portion of the interest not itself bearing interest. The remaining 5% of the 10%, representing two-thirds (2/3) of the accrued interest, shall itself accrue interest at the rate of 10% per annum.

6. Equal Monthly payments on the Permanent Loan shall be based on a 40-year amortization schedule at a 2.5% annual interest rate with all outstanding principal and interest due at maturity. The remaining 7.5% of the interest shall accrue and shall be payable upon the earlier of the maturity of the loan or prepayment by sale or otherwise; provided that in the event of a sale of the home (other than a sale by foreclosure or by deed-in-lieu thereof), two-thirds (2/3) of the accrued interest, plus the compound interest on that amount, shall be reduced by the amount, if any, by which said two-thirds (2/3) plus compound interest exceeds forty percent (40%) of the difference between (A) the sum of the initial purchase price of the home plus the cost of capital improvements made to the home, and (B) its sales price (the "Cap"). (By way of example only, if the 7.5% of accrued interest amounted to $180,000 at the time the loan became due, and if there is an additional $10,000 of compound interest on the two-thirds of the accrued interest subject to compound interest, and if the home plus capital improvements cost $1,500,000 and was sold by Employee for $1,600,000, then (i) $60,000 of the accrued interest would be payable to Employer from the sales proceeds, (ii) $40,000 of the accrued interest would also be payable to Employer as the balance of accrued interest due and payable (the amount payable under this clause (ii) being limited to the Cap of 40% of the $100,000 appreciation), and (iii) the balance of

$80,000 of accrued interest and $10,000 of compound interest would not be payable by reason of the limitation in the preceding sentence.) Interest only at the rate of 2.5% per annum shall be paid on principal sums drawn under the construction loan portion, with the additional 7.5% accruing and payable as indicated above; provided, however, that upon the earlier of the completion of the improvements or 18 months after the purchase of the home (subject to extension as provided in Sub-Paragraph 3, above), the principal portion of the construction loan shall be added to the Permanent Loan and the monthly payments shall be adjusted based on a 40 year amortization schedule and the 2.5% interest payable currently. All outstanding principal and interest that is due and payable pursuant to the terms of this Agreement shall be due at prepayment or maturity (i.e., there will be a lump sum payment due that exceeds the amount of each monthly payment). For the purposes of this Sub-Paragraph 6, the Cap shall be reduced to thirty percent (30%) in calendar year 2009, twenty percent (20%) in calendar year 2010, and shall be ten percent (10%) beginning January 1, 2011 and thereafter. In addition, if Employee is terminated without cause after May 1, 2008, the Cap shall be reduced to ten percent (10%) upon the date of termination.

7. The Loan and all accrued but unpaid interest, shall be payable in its entirety upon its maturity date (which shall be forty (40) years after recordation of the Permanent Loan deed of trust), or within 18 (eighteen) months after termination of Employment with Employer (regardless of the reason), whichever occurs first.

8. The Loan may be repaid in whole or part, at any time, without penalty.

9. Employee shall pay all property taxes and insurance on the home without reimbursement from the Employer. Employee shall obtain and maintain in force, comprehensive homeowner's insurance including earthquake and, if applicable, flood coverage. Earthquake and flood coverage may include customary deductibles. Earthquake and, if applicable, flood coverage shall only be required if it is available at commercially reasonable rates, defined for purposes of this requirement as not more than one-half (1/2) of the cost of the basic homeowner's insurance for flood coverage and not more than twice the cost of the basic homeowner's insurance for earthquake coverage. If the cost of the applicable coverages exceeds these limits, Employee shall notify Employer at the earliest opportunity so that Employer may determine if it desires to pay the excess or waive the applicable coverage.

10. Employee shall maintain and repair the home in good condition and in accordance with applicable law. Employee shall be solely responsible for all maintenance and repair costs, including uninsured losses and deductibles.

11. Employee may not sell the home for less than an amount that will result in Employer receiving all principal and deferred interest owed except in a bona fide, arm's length transaction at prevailing market pricing and terms or as otherwise expressly authorized in writing by Employer.

12 Employer will bear its own attorneys' fees incurred in conjunction with processing the loan request(s) and preparing loan document(s). Employee will bear the

cost of recording, title insurance and escrow costs and all other costs normally paid by a borrower securing similar loans in the commercial market for residential real estate, provided that said costs shall be payable from the housing loan proceeds. Employer shall reimburse Employee for the reasonable cost of legal counsel to provide him with independent legal advice related to the purchase of a qualifying home and financing under this Section. Employer and Employee acknowledge that Employee has engaged attorney Kenneth A. Goldman and his law firm Reed Smith LLP for this purpose.

13. Notwithstanding anything to the contrary herein, the Permanent Loan (including the construction loan portion) shall be non-recourse to Employee and Employer shall look solely to the collateral secured by the first deed of trust for the repayment of principal, interest, any other sums due or owing thereunder, and any covenants or other obligations of Employee as borrower.

14. Notwithstanding anything to the contrary herein, within sixty days after cessation of Employee's employment with Employer (regardless of reason), Employee may elect, in writing, to sell to the City the home obtained with the Permanent Loan, which home is located at 265 S. La Peer Drive. The sale price shall be $1,637,000. The City shall deduct from this price the principal balance outstanding on the Permanent Loan and such deduction shall be considered full repayment of the Permanent Loan. No other deductions shall be made from this sales price, including no deduction for broker, escrow or other charges. Within ninety days after Employee's election to sell the home to the City, City shall purchase the home pursuant to this Paragraph provided that, as a condition of any closing, the sale price shall be sufficient to pay all sums secured by liens other than the City's lien.

B. Employer and Employee shall execute such notes, deeds of trust, escrow instructions, agreements, and other documents as are reasonably necessary to consummate and update the Loan in accordance with this Section, and as reasonably necessary to implement Sub-Paragraph A.14 above, in the form mutually determined by the City Attorney and Employee and executed by the Mayor on behalf of Employer.

Section 17: Indemnification

Employer will defend and indemnify Employee, using legal counsel of Employer's choosing, against legal liability for acts or omissions by Employee occurring in the course and scope of employment under this Agreement, in accord with California Government Code Sections 825, 995, and 995.2 – 995.8 and other applicable provisions of California law. In the event independent counsel is required for Employee, Employer may select and will pay the reasonable fees of such independent counsel.

Section 18: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 19: Other Terms and Conditions of Employment

Employer may fix other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or applicable law.

Section 20: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

(1) EMPLOYER: City of Beverly Hills
c/o City Clerk
455 N. Rexford Drive
Beverly Hills, California 90210

With a courtesy copy to:
City Attorney
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, California 90210

(2) EMPLOYEE: Roderick J. Wood
at the home address then shown in Employer's files

Alternatively, notice 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.

Section 21: General Provisions

A. **Integration:** This Agreement sets forth the final, complete and exclusive agreement between Employer and Employee relating to the employment of Employee by Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement. The foregoing notwithstanding, Employee acknowledges that, except as expressly provided in this Agreement, his employment is subject to Employer's generally applicable rules and policies pertaining to employment matters, such as those addressing equal employment opportunity, sexual harassment and violence in the workplace, as they currently or may in the future exist.

B. **Binding Effect**: This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

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

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

E. **Employee's Independent Review:** Employee acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Employee acknowledges that he has made an independent judgment upon the financial and legal effects of this Agreement and has not relied upon any representation of Employer, its officers, agents or employees other than those expressly set forth in this Agreement.

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

EMPLOYEE

Roderick J. Wood

RODERICK J. WOOD

CITY

CITY OF BEVERLY HILLS
A California Municipal Corporation

by: _____

Mayor of the City of
Beverly Hills, California

ATTEST:

_____(Seal)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney