

**AGREEMENT FOR TEMPORARY EMPLOYMENT
OF A RETIRED ANNUITANT**

THIS AGREEMENT, effective January 2, 2024, is between the CITY OF BRISBANE, a municipal corporation of the State of California, "City", and CLAYTON HOLSTINE, "Retired Annuitant."

RECITALS

WHEREAS, City requires extra help to perform work of a specialized skill for a limited duration; and

WHEREAS, Retired Annuitant served as City Manager of City for over 25 years and will utilize his expertise as a former City Manager which is critically important for the City until the Brisbane City Council appoints a new City Manager; and

WHEREAS, Retired Annuitant has significant experience as a long time City Manager making him well qualified to serve as an interim City Manager; and

WHEREAS, The Retired Annuitant is knowledgeable and skilled on matters related to the duties and functions of a City Manager and City wishes to have Retired Annuitant perform these necessary on-going duties and functions for a limited duration; and

WHEREAS, Section 21224 of the California Government Code authorizes the Retired Annuitant as a person with specialized skills needed in performing work of limited duration, provided, that (1) the appointment does not exceed a combined total of 960 hours per fiscal year, (2) the compensation does not exceed the maximum monthly base salary paid to other employees performing comparable duties based on an hourly rate, and (3) the retired annuitant does not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate; and

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

1. Effective Date and Term of Agreement: This Agreement shall be effective January 2, 2024 ("Effective Date"), and shall terminate automatically at midnight on June 30, 2024 provided, however, the parties may extend the term of this Agreement provided that such extension is permitted by law.
2. Compensation and Work Schedule:
 - a. Appointment and Scope of Services: Pursuant to this Agreement, Retired Annuitant shall temporarily perform the duties of City Manager as well as any key special assignments as may be necessary as determined by the Brisbane City Council. Such employment is "at will" and is subject to the terms of this Agreement. The Retired Annuitant shall perform said duties at the pleasure of and under the direct supervision of the Brisbane City Council.

- b. Rate of Pay: Retired Annuitant shall be paid at the rate of \$142 per hour, which represents hourly rate of City's current salary schedule for City Manager. Payments will be made on regularly scheduled City payroll dates, and shall be subject to all applicable payroll taxes and withholdings. Such compensation shall be the sole compensation for services under this Agreement.
- c. Work Schedule and 960-Hour Limitation:
Retired Annuitant is expected to devote the necessary time, within and outside normal business hours, to the business of the City. However, pursuant to Government Code section 21224, Retired Annuitant may work a maximum 960 hours per fiscal year for all public employers that contract with CalPERS for retirement benefits. The City Council retains the right to designate, reduce, change, or amend the number of hours assigned to Retired Annuitant consistent with workload and other needs. Retired Annuitant will be responsible for keeping track of hours worked. Retired Annuitant must submit a record of hours worked to the Finance Department according to the same schedule and procedures as other City Retired Annuitants. The City will provide Retired Annuitant with copies of the hours reports periodically submitted to CalPERS regarding hours worked under this Agreement.
- d. Status: Retired Annuitant shall serve at the pleasure of the City Council, subject to the terms and conditions hereof, and shall not acquire a property interest in employment or a right to continuing employment with the City. The terms, covenants, and conditions of Retired Annuitant's temporary employment with the City are expressly limited by and to the terms, covenants and conditions of this Agreement.
- e. Benefits: Retired Annuitant shall not be entitled to any benefits other than the hourly wage listed above.
- f. Duties: Retired Annuitant shall perform the duties of City Manager as directed by the Brisbane City Council.
- g. Termination: Either party may terminate this Agreement without cause upon giving the other party not less than two weeks prior written notice. Notwithstanding anything to the contrary, Retired Annuitant shall, upon City's Notice of Termination, deliver to City a written status report of all projects or matters in which Retired Annuitant is involved. In the event of termination, all rights and obligations of the parties hereto shall thereupon cease. The provisions of this paragraph shall not be deemed a limitation upon the respective rights or remedies of the parties hereto which may accrue to them.

3. Employment Status:

- a. Benefits: Other than the compensation described above in Section 2, Retired Annuitant will receive no other benefits, incentives, compensation in lieu of benefits, or any other form of compensation. Retired Annuitant understands and agrees that the Retired Annuitant is not, and will not be, eligible to receive any benefits from the City of Brisbane.

- b. No Property Right in Employment: Retired Annuitant understands and agrees that the terms of employment are governed only by this Agreement and that no right of regular employment for any specific term is created by this Agreement. Retired Annuitant further understands that the Retired Annuitant acquires no property interest in employment by virtue of this Agreement, that the employment is “at will” as defined by the laws of the State of California (meaning that employment may be terminated at any time for any reason or for no reason), and that the Retired Annuitant is not entitled to any pre- or post-deprivation administrative hearing or other due process upon termination or any disciplinary action.
 - c. Status: Retired Annuitant shall serve at the pleasure of the City Council, subject to the terms and conditions hereof, and shall not acquire a property interest in employment or a right to continuing employment with the City of Brisbane. The terms, covenants, and conditions of Retired Annuitant’s employment with the City are expressly limited by and to the terms, covenants and conditions of this Agreement.
 - d. Employment of a Retiree: Retired Annuitant understands that CalPERS retired annuitants may be employed by a CalPERS public agency employer, by temporary appointment not to exceed 960 hours in any fiscal year for all such employers*; either (1) during an emergency to prevent stoppage of public business, or (2) because the retired employee has skills needed in performing the work of limited duration.
4. Standard of Performance: All services to be performed by Retired Annuitant pursuant to this Agreement shall be performed in accordance with all applicable ordinances, policies, and rules and regulations of the City.
 5. Non-Assignment of Agreement: This Agreement is intended to secure the individual services of the Retired Annuitant and is not assignable or transferable by Retired Annuitant to any third party.
 6. Governing Law/Venue: This Agreement shall be interpreted according to the laws of the State of California. Venue for any action or proceeding regarding this Agreement shall be in San Mateo County.
 7. Entire Agreement and Modification: This Agreement constitutes the entire understanding of the parties hereto. This Agreement supersedes any previous contracts, agreements, negotiations or understandings, whether written or oral, between the parties. Retired Annuitant shall be entitled to no other compensation or benefits than those specified herein, and Retired Annuitant acknowledges that no representation, inducements or promises not contained in this Agreement have been made to Retired Annuitant to induce Retired Annuitant to enter into this Agreement.
 8. Enforceability: If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of

the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

9. Conflict of Interest: Retired Annuitant agrees that during the term of this Agreement, Retired Annuitant will not maintain any financial interest or engage in any other contract employment, occupation, work, endeavor or association, whether compensated for or not, that would in any way conflict with, or impair, Retired Annuitant's ability to perform the duties described in this Agreement.

10 Effect of Agreement on Retired Annuitant's CalPERS Retirement Benefits; Indemnification:

The City makes no representation on the impact, if any, this Agreement shall or may have upon Retired Annuitant's CalPERS retirement benefits, status, duties, and/or obligations. Retired Annuitant acknowledges that in entering into this Agreement, Retired Annuitant has not relied upon any such representations in assessing the CalPERS-related impact of this temporary employment. Retired Annuitant releases the City from any and all CalPERS-related claims or liabilities that may arise in connection with Retired Annuitant's employment pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BRISBANE:

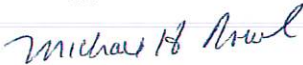
By:


Madison Davis, Mayor

RETIRED ANNUITANT:


Clayton Holstine

Approved as to form:



Michael H. Roush
Legal Counsel