

ITEM 7 ATTACHMENT B
AT-WILL LIMITED DURATION EMPLOYMENT AGREEMENT
BETWEEN CITY OF CALABASAS AND
PHILIP S. LANZAFAME
INTERIM ASSISTANT CITY MANAGER

This At-Will Employment Agreement (“Agreement”) is entered into effective November 27, 2023, by and between the CITY OF CALABASAS, a municipal corporation, hereafter referred to the "City" and Philip S. Lanzafame, hereafter referred to as "EMPLOYEE."

WHEREAS, the City has commenced recruitment to fill the forthcoming vacancy in the position of Assistant City Manager. During the recruitment period the City has a vital need for an Interim Assistant City Manager to allow for organizational and operational continuity, to prevent the stoppage of public business until a permanent replacement can be appointed; and

WHEREAS, Employee is a retired annuitant who has been retired from public service for more than 180 days and who has served in Executive Management, as Community Development Director in Glendale, and most recently as contract Interim Public Works Director in Calabasas, has exceptional skills which make him qualified as an Interim Assistant City Manager, on a temporary basis while the City recruits for a permanent replacement to fill this vacancy; and

WHEREAS, the City Council wishes to appoint a CalPERS annuitant, Employee, to the position of Assistant City Manager on an interim basis, pursuant to Government Code Section 21221(h) and a written CalPERS Annuitant Employment Agreement; and

WHEREAS, Government Code section 21221(h) limits the number of hours a retired annuitant may work to 960 hours in a fiscal year; and

WHEREAS, Employee has worked 514.50 hours between July 1, 2023 and October 20, 2023 as a retired annuitant;

WHEREAS, Employee will not work more than 445.50 hours before June 30, 2024, as required under Government Code section 21221(h); and

WHEREAS, Employee has certified that he has not received unemployment insurance compensation within the 12-month period prior to his appointment.

NOW THEREFORE, in consideration of the above stated desires and the mutual covenants, terms and conditions, herein contained, the parties hereto mutually and

freely agree as follows:

SECTION 1 – EMPLOYMENT CONDITIONS AND DUTIES

- a. EMPLOYEE is appointed by the City Council and shall serve at the pleasure of the City Manager in a temporary capacity as the Interim Assistant City Manager during the City's recruitment for the Assistant City Manager position.
- b. EMPLOYEE acknowledges that this temporary position is an "at-will" position and that EMPLOYEE has no property interest in or expectation of continued employment or any due process right to a hearing before or after a decision by the City Council to terminate this position. Further, EMPLOYEE acknowledges that this Agreement and his temporary position is not a guarantee of continued employment.

SECTION 2 – EMPLOYMENT TERM

- a. The City agrees to employ EMPLOYEE as "Interim Assistant City Manager." Although Employee is required by Government Code Sections 21224(a) to be compensated on an hourly basis, Employee is an FLSA exempt employee and is not entitled to overtime, even if his work week exceeds 40 hours. Employee agrees to remain in this position from November 27, 2023 until March 31, 2024 or such time as the permanent appointment is made for an Assistant City Manager, pursuant to the City's ongoing recruitment for this position, whichever occurs first. The temporary position of Interim Assistant City Manager is an at-will position and EMPLOYEE has no property interest in his position.
- b. During the term of this Agreement, EMPLOYEE shall not serve other entities or development clients in other jurisdictions which would interfere with, or be incompatible or in conflict with the EMPLOYEE'S performance of the duties required under this agreement. The determination of incompatibility will be made by the City Council in their sole discretion and shall be final.
- c. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the rights of the City to terminate the services of the EMPLOYEE at any time during such employment term or any renewal thereof.
- d. Nothing in this Agreement shall prevent, limit, or otherwise interfere with EMPLOYEE'S right to resign at any time from this position with the City, subject to the provisions as set forth in this agreement.

SECTION 3 – COMPENSATION

- a. The City shall pay EMPLOYEE for all services rendered and worked pursuant to this agreement at an hourly rate of \$120.00 per hour, which represents the annual salary of

the Assistant City Manager position, divided by twelve months and divided again by 173.333, as required by Government Code Section 21224(a). This is an exempt position under the Fair Labor Standards Act. Employee's compensation will be paid in conformance with the City's established pay periods and pay days.

b. EMPLOYEE shall not receive nor be entitled to any benefits, incentives, or compensation in lieu of benefits under this agreement, including, but not limited to, medical, dental, vision, deferred compensation, holiday, vacation pay, management or administrative leave, sick leave, PERS contributions, severance, auto allowance, or any other incentives or benefits provided by CITY to permanent full or part time employees.

c. EMPLOYEE is a CalPERS retired annuitant and as such will be required to comply with CalPERS regulations limiting annuitant's post retirement employment. In addition, pursuant to Government Code section 21221(h) EMPLOYEE is filling a vacant position. EMPLOYEE has specialized skills needed to perform the work under this agreement. EMPLOYEE is further providing the City with specialized skills needed for the City's response to the current state of emergency and to maintain the City's essential services, under Government Code section 21224(a). EMPLOYEE desires that he not be reinstated from retirement and that he provides the aforementioned services without interruption of retirement benefits. This employment is intended by CITY and EMPLOYEE to take advantage of, and be in compliance with Government Code sections 21221(h) and 21224(a).

SECTION 4 – WORK HOURS

The EMPLOYEE shall coordinate the work schedule based upon needs of the City. EMPLOYEE'S work schedule will be as established by the City Manager and can be expected to exceed 40 hours per week, but not exceeding 960 hours in a fiscal year per Government Code section 21221(h), due to required attendance at City Council and Planning Commission and other meetings.

SECTION 5 – EMPLOYMENT TERMINATION

The City Manager may terminate or remove the EMPLOYEE with or without cause at any time. EMPLOYEE has no property interest in his position and understands that this is a temporary position of limited duration.

SECTION 6 – INDEMNIFICATION

City will defend and indemnify EMPLOYEE, using legal counsel selected by City or its insurers, against liability for acts or omissions by EMPLOYEE occurring in the course and scope of employment under this Agreement, in accordance with Government Code Sections 825, 995 and 995.2 through 995.8. In the event of a legal conflict as determined by city or its insurer which necessitates independent counsel, city or its insurer shall select and pay the reasonable fees of such counsel.

SECTION 7 – MISCELLANEOUS

- a. This agreement supersedes any and all other agreements between the parties hereto with respect to the employment of the EMPLOYEE by the City and contains all of the covenants and agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducement, promise, or agreements have been made by any party or anyone acting on behalf of any party orally or otherwise which are not embodied herein.
- b. No other agreement, statement or promise not contained in this Agreement shall be valid or binding or shall be used in interpreting the meaning of this Agreement.
- c. Amendments, modifications or changes may be made to this Agreement and shall become effective on the date contained therein when executed in writing and mutually signed by both parties to this Agreement.
- d. This Agreement and any amendments, modifications or changes thereto shall be binding upon the City during its term.
- e. This Agreement and any amendments, modifications or changes thereto shall be binding upon the EMPLOYEE and inure to the benefit of the heirs at law and executors of the EMPLOYEE.
- f. Except as otherwise provided in the Agreement, EMPLOYEE shall comply with all rules and regulations of the City, including the City's Personnel Rules and Regulations.
- g. EMPLOYEE shall not engage in any activity which is or may become a conflict of interest, a prohibited contract or which may create incompatibility of office as defined under California law.

SECTION 8 – SEVERABILITY

If any provision or any portion hereof is held to be unconstitutional invalid or unenforceable, the remainder to this Agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

"EMPLOYEE"

"CITY"

Philip S. Lanzafame

Kindon Meik, City Manager

ATTEST:

APPROVED AS TO LEGAL FORM:

Maricela Hernandez, City Clerk

Matthew T. Summers
Colantuono Highsmith & Whatley
City Attorney