

**RETIRED ANNUITANT EMPLOYMENT AGREEMENT BETWEEN THE CITY OF  
SOUTH PASADENA AND DONALD E. PENMAN**

This Retired Annuitant Employment Agreement ("Agreement") is made and entered into this 26th day of July 2024, by and between the City of South Pasadena, a California municipal corporation, ("City") and Donald E. Penman, an individual ("Penman"), on the following terms and conditions.

**RECITALS**

A. A vacancy exists in the Office of City Manager. The City has a posted and active recruitment for the permanent appointment of a City Manager and desires to secure the specialized services of a suitably qualified person to serve as Interim City Manager on a temporary, interim basis while City seeks to permanently fill the position of City Manager.

B. The Interim City Manager appointment is an appointment to a position of a limited duration and one requiring specialized skills, which is critically necessary to the ongoing duties and functions of the City. It is a temporary, provisional appointment, pending recruitment, selection and appointment of a successor City Manager or earlier termination as determined by the City Council.

C. Penman possesses the requisite education and specialized skills necessary to serve as Interim City Manager as a result of a long and distinguished career in municipal administration and city management and his significant experience as a City Manager and Interim City Manager over the course of 40 years in public service.

D. The City desires to have Penman serve as Interim City Manager and Penman desires to accept employment as Interim City Manager.

E. Penman is a retired annuitant under the California Public Employee Retirement System ("CalPERS") within the meaning of Government Code sections 7522.56 and 21221(h) and desires to retain his retirement status and benefits. The Public Employees' Retirement System Law, commencing at Government Code Section 20000, permits a retired person under CalPERS to serve in otherwise covered employment without reinstatement from retirement and without loss or interruption of retirement benefits, provided certain conditions exist and, with limited exceptions, all employment for the retired person does not exceed 960 hours in any fiscal year.

F. Penman represents that his CalPERS retirement date became effective at least 180-days prior to the effective date of this Agreement.

G. City and Penman wish to enter into an Employment Agreement that sets forth the rights and obligations of the parties and that will supercede all prior negotiations, discussions or agreements.

**NOW, THEREFORE,** for and in consideration of the mutual covenants and conditions herein contained, City and Penman agree as follows:

1. **TERM.** Unless sooner terminated, as provided in this Agreement, the term of this Agreement shall be from the July 29, 2024 ("Effective Date") to the earlier of the date on which (a) a duly appointed person assumes the office of City Manager, (b) Penman reaches 960 hours of service as a retired annuitant in a fiscal year for all CalPERS covered employers, or (c) the Agreement is terminated by either City or Penman as provided in Section 7 of this Agreement. Penman shall only be appointed once to this vacant position and shall not be eligible for reappointment or for an extension of the specified term.

2. **DUTIES AND AUTHORITY.** Penman is appointed Interim City Manager. Penman shall, on an interim basis, exercise the full powers and perform the duties of the position of City Manager of the City of South Pasadena, as set forth in the South Pasadena Municipal Code; personnel and departmental rules, regulations and procedures; the City Manager job description (if any) and under state law, as each of them currently or may in the future exist. Penman shall exercise such other powers and perform such other duties as the City Council may from time to time assign. As determined by the City Council, Penman shall serve as representative to any agency or organization to which the City Council may make appointments. Except as otherwise determined by the City Council, Penman shall serve as Interim Executive Director to any agency, authority or similar entity staffed by City.

3. **EMPLOYEE'S OBLIGATIONS.** Penman shall devote his best efforts to the performance of this Agreement and to the promotion of City's interests. Penman 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 City or presents a reasonable likelihood that Penman will be required by state law to recuse himself from discussions or decisions regarding City business. Penman as the Interim City Manager shall be exempt from the overtime pay provisions of California law and federal law and as such is expected to engage in those hours of work that are necessary to fulfill the obligations of the Interim City Manager position.

4. **WAGE RATE AND BENEFITS.**

A. **Base Wage.** Consistent with applicable provisions of California retirement law, the compensation paid to Penman will not be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, as listed on a publically available pay schedule for the vacant position of City Manager. Commensurate with the established salary range for a City Manager, a monthly salary of \$19,958.18 will be divided by 173.333 to equal an hourly rate of \$115.14. City shall pay

Penman for all hours actually worked at the hourly rate of \$115.14, subject to legally permissible or required withholding, paid on City's normal paydays. Penman agrees to comply with all applicable CalPERS regulations governing employment after retirement. Accordingly, Penman shall accurately track and report all hours worked for City to CalPERS as may be required.

B. Employment Benefits. Penman acknowledges and agrees that he will not be eligible for and shall not receive any benefits, including health and welfare benefits, automobile allowance, deferred compensation, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate, except as expressly required by law.

(1) Group Medical and Dental Insurance. Penman acknowledges and agrees that he (including his dependents) will not be eligible for and hereby waives entitlement to health and welfare benefits and group insurance, including, without limitation, medical, life, dental, optical, and disability coverage. However, nothing in this Agreement is intended to waive or to otherwise interfere with retiree health insurance coverage available to Penman as a retired annuitant.

(2) Vacation and Leave. Penman acknowledges and agrees that he shall not be provided or accrue any personal time off, vacation, sick leave, management leave, paid holidays or similar leave benefits.

(3) Retirement Plan. Penman shall remain a retired person under CalPERS and shall not be eligible to participate under the CalPERS Plan applicable to other employees of City. As a retired annuitant and to the extent provided by law, Penman will not be subject to mandatory social security coverage.

(4) Expenses. City recognizes that Penman may incur certain expenses of a non-personal and job-related nature. City agrees to reimburse or to pay such business expenses which are incurred and submitted according to City's normal expense reimbursement procedures. To be eligible for reimbursement, all expenses must be supported by documentation meeting City's normal requirements and must be submitted within the time limits established by City.

(5) Bonding. City shall bear the full costs of any fidelity or other bonds required of Penman under any law or ordinance by virtue of his employment as Interim City Manager.

5. APPOINTMENT. As an interim appointment, Penman's appointment is temporary and provisional, qualifying only for the compensation provided under this Agreement and ineligible for benefits applicable to regular executive appointments, except as otherwise provided in this Agreement.

6. **INDEMNIFICATION.** City will defend and indemnify Penman, using legal counsel of City's choosing, against legal liability for acts or omissions by Penman occurring in the course and scope of employment as Interim City manager under this Agreement, in accord with California Government Code Sections 825 and 995 through 996.6, and other applicable provisions of California law. In the event independent counsel is required for Penman, City may select and will pay the reasonable fees of such independent counsel.

7. **AT-WILL EMPLOYMENT RELATIONSHIP.** Under the terms of this appointment, Penman serves as an "at-will" employee. Consistent with South Pasadena Municipal Code section 2.18 and Government Code section 36506, the City Council shall be the appointing authority for Penman and Penman is employed at the pleasure of the City Council. The City Council may terminate this Agreement and the employment relationship at any time with or without cause. Nothing in this Agreement or in the South Pasadena Municipal Code shall prevent, limit or otherwise interfere with the right of the City to terminate the employment of Penman. The parties acknowledge and agree that any limitations on removal or related notice requirements contained in the South Pasadena Municipal Code are not applicable to this interim appointment. Penman may terminate this Agreement and the employment relationship upon 30 calendar days written notice, unless the parties mutually agree to waive or alter the time required for such notice.

8. **CONFIDENTIALITY.** Penman shall maintain the confidentiality of all information and records received in the course of his employment, in accordance with applicable federal and state laws and regulations. Penman shall only disclose confidential information as is, or may be, necessary to perform his job responsibilities under this Agreement. This requirement shall extend beyond the effective termination or expiration date of this Agreement. This Section shall not be construed as prohibiting either party from disclosing information to the extent required by law, regulation, or court order, provided such party notifies the other promptly after becoming aware of such obligations and permits the other party to seek a protective order or otherwise challenge or limit such required disclosure if so desired.

9. **SEVERANCE.** City shall pay Penman for all services through the effective date of termination and Penman shall receive no other compensation or payment or any severance if so terminated. Since Penman is not eligible for paid leave, payment for unused leave time will not be applicable.

10. **INTEGRATION OF AGREEMENT.** This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning Penman's employment as Interim City Manager with the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are

not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

11. **METHOD OF AMENDMENT.** No amendments to this Agreement may be made except by a writing signed and dated by the parties.

12. **NOTICES.** Any notice to City under this Agreement shall be given in writing to City, either by personal service or by registered or certified mail, postage prepaid, addressed to the Mayor and City Council at City's then principal place of business. A courtesy copy shall be given to the City Attorney in a like manner. Any such notice to Penman shall be given in a like manner and, if mailed, shall be addressed to Penman at his home address then shown in City's files. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of delivery, if served personally on the party to whom notice is to be given, or (b) on the third calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this section.

13. **GENERAL PROVISIONS.**

A. 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.

B. This Agreement sets forth the final, complete and exclusive agreement between City and Penman relating to the employment of Penman by City. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The foregoing notwithstanding, Penman acknowledges that, except as expressly provided in this Agreement, his employment is subject to City's generally applicable rules and policies pertaining to employment matters, such as those addressing equal employment opportunity, sexual harassment and violence in the workplace.

C. 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. Penman acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Penman 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 City, its officers, agents or employees other than those expressly set forth in this Agreement.


**PENMAN:**



DONALD E. PENMAN

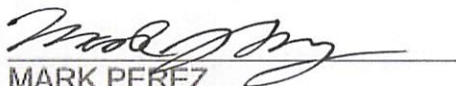
**CITY:**

City of South Pasadena.  
A California Municipal Corporation

By: 


EVELYN G. ZMEIMER, Mayor  
City of South Pasadena

**ATTEST:**



MARK PEREZ  
Deputy City Clerk

**APPROVED AS TO FORM:**

  
ROXANNE DIAZ  
City Attorney