

CONTRACT ROUTING SHEET

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, it is NOT part of the contract.

General Information (Required)

Original Contract # (supplements only): _____ Supplement/Addendum #: _____

Assessor's Parcel Number(s): _____

Contract Effective Date: 12/11/2024 Contract Expiration Date (if applicable): _____

\$ Amount (Not to Exceed): \$ 300,000.00 Adjusted \$ Amount (+/-): _____

Other Party: Gary Loesch

Project Title: Settlement Agreement: Gary Loesch

Project #: _____ Bid/RFQ/RFP #: _____

City Council Approval: NO if YES, Council File ID#: _____

Contract Processing Contacts

Department: City Attorney Project Manager: Katherine Underwood

Contract Coordinator: Katherine Underwood Email: kunderwood@cityofsacramento.org

Department Review and Routing

Accounting: _____
(Signature) (Date)

Supervisor: _____
(Signature) (Date)

Division Manager: _____
(Signature) (Date)

Other: _____
(Signature) (Date)

Special Instruction/Comments (i.e. recording requested, other agency signatures required, etc.)

Recording Requested **Other Party Signature Required**

-----FOR CLERK & IT DEPARTMENTS ONLY - DO NOT WRITE BELOW THIS LINE-----



2025-0129

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS (“AGREEMENT”) is made and entered into by and between the CITY OF SACRAMENTO, its past or present council members, divisions, agencies, departments, programs, officers, managers, directors, employees, agents, predecessors, attorneys, affiliates, representatives, successors in interest and assigns and all persons acting by, through, under, or in concert with any of them (“the City”), on the one hand, and GARY LOESCH (“Loesch”), on the other. The City and Loesch may be referred to collectively as the “Parties” with respect to the following:

RECITALS

WHEREAS, Loesch was employed by the City as its Fire Chief from October 1, 2018 to May 26, 2022;

WHEREAS, Loesch filed a Verified Complaint (“Complaint”) against the City on or about September 13, 2022, in Sacramento County Superior Court, Case No. 34-2022-00326669;

WHEREAS, the Complaint alleges a single cause of action against the City for retaliation in violation of Government Code sections 3254(a), 3260(a);

WHEREAS, the City denies any liability whatsoever and maintains that all of the circumstances at issue in the Complaint were based on non-retaliatory reasons, and that all actions toward Loesch have always been legitimate and lawful; however, the City has been forced or may be forced to incur significant fees and costs at trial; therefore, it wishes to avoid incurring any additional litigation expenses; and

WHEREAS, the Parties wish to finally settle and compromise all disputes and controversies existing between them, whether known or unknown.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this AGREEMENT and other good and valuable consideration, receipt of which is hereby acknowledged by the execution of this AGREEMENT, and to avoid unnecessary fees and costs, it is agreed by and between the Parties as follows:

1. **No Precedent.** This AGREEMENT is in no way intended, and shall in no way be construed, to restrict rights guaranteed to the City under local, state or federal law, rule, policy or agreement or to establish a precedent in this or any other matter, now or in the future.

2. **No Admission of Liability.** This AGREEMENT shall not be construed as an admission by the City or Loesch of any unlawful or wrongful acts or other liability whatsoever, or as an admission by the City or Loesch of any violation of the rights of the City or Loesch or any person. Each party specifically disclaims any liability to, or wrongful acts against, the other.

This AGREEMENT cannot be used by either party to demonstrate any admission of liability on the part of the other.

3. Settlement Amount. In consideration for Loesch entering into this AGREEMENT and the conditions set forth herein, including Loesch's waiver and release of claims against the City, the City agrees to pay Loesch the total sum of THREE HUNDRED THOUSAND DOLLARS and NO CENTS (\$300,000.00) (the "Settlement Payment"). The City will cause to be delivered to Loesch's attorney, Lesley Beth Curtis of Langenkamp, Curtis, Price, Lindstrom & Chevedden, LLP, two settlement checks, as described below, on or before the 60th day, but no sooner than seven (7) full days, after the Effective Date and after counsel for the City, Jesse Maddox, receives the following: (a) this AGREEMENT executed by Loesch; (b) IRS Form W9s from Loesch and his attorneys; and (c) provided also that Loesch otherwise fulfills his obligations under this AGREEMENT. The Settlement Payment represents full, final, and complete settlement of all of Loesch's claims as specified in this AGREEMENT.

a. The first settlement check, for which the City will issue a Form 1099 as required by law, shall be made payable to "Langenkamp, Curtis, Price, Lindstrom & Chevedden, LLP." The amount shall be for TWO-HUNDRED THOUSAND DOLLARS and NO CENTS (\$200,000.00). This check represents a settlement by the Parties of Loesch's general and emotional distress damages allegedly incurred in connection with the Complaint, penalties, as well as his purported attorneys' fees and costs. This settlement check is not based upon contractual damages of any kind and is not compensation or wages (front or back pay). It is understood and agreed that the total amount of this settlement check shall not be subject to any withholdings or deductions.

b. The second settlement check shall be made payable to "Gary Loesch." The amount shall be for ONE-HUNDRED THOUSAND DOLLARS (\$100,000.00), and is for wages Loesch claims he lost as a result of the conduct alleged in the Complaint. The Parties agree that the City will deduct from this sum all appropriate payroll taxes and deductions, and issue Loesch a check for the remaining balance. The City will issue Loesch a Form W-2 for this payment, as required by law.

c. The Settlement Payment represents the full and complete settlement of all of Loesch's claims as specified in this AGREEMENT. The Settlement Payment represents a settlement by the Parties of all of Loesch's purported damages, including attorneys' fees and costs, allegedly incurred in connection with the Complaint. Loesch agrees the Settlement Payment shall constitute the entire consideration provided to him under this AGREEMENT, and he will not seek any further compensation for any claimed damages, costs, or attorneys' fees in connection with the matters encompassed herein.

d. Loesch acknowledges and agrees that the City has made no representations about the tax consequences of any amounts received by him under this

AGREEMENT. Loesch agrees to pay federal, state, or local taxes, if any, required by law to be paid with respect to the Settlement Payment.

4. Loesch's Dismissal of the Complaint. Upon receipt of the Settlement Payment, Loesch shall promptly sign and file a request for dismissal of the Complaint with prejudice, as to all claims, causes of action, and parties, each side to bear its own costs and attorneys' fees.

5. Release of All Claims and Potential Claims. As consideration for the payments and promises that make up this AGREEMENT, Loesch irrevocably and unconditionally waives, releases and forever discharges the City from any and all claims he may have against it.

Such claims include, but are not limited to:

a. Any and all charges, complaints, lawsuits, claims, liabilities, claims for relief, claims for punitive damages, obligations, promises, agreements, contracts, interests, controversies, injuries, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, liens, judgments, indebtedness, and expenses (including attorney's fees and costs actually incurred), of any nature whatsoever, whether in law or in equity, known or unknown, suspected or unsuspected, actual or potential, which Loesch now has, owns, or holds, or claims to have, own, or hold against the City (including but not limited to its past or present council members, directors, governing body, employees, agents, predecessors, attorneys, divisions, departments, representatives, insurers, successors in interest and assigns, and all persons acting by, through, under or in concert with any of them), at common law or under any statute, rule, regulation, order or law, whether federal, state, or local, or on any grounds whatsoever, with respect to any act, omission, event, matter, claim, damage, loss, or injury arising out of the City's employment of Loesch, and/or with respect to any other claim, matter, or event arising prior to the Effective Date of this AGREEMENT, including, but not limited to, the following:

- i. The Firefighters Procedural Bill of Rights Act (California Government Code §§3250 et seq.); the California Fair Employment and Housing Act ("FEHA") (California Government Code §§12940 et seq.), the California Family Rights Act (California Government Code §12945.2, 19702.3 et seq.), California Government Code § 11135, the Unruh and George Civil Rights Acts (California Civil Code § 51 et seq.), the California Labor Code, including, but not limited to, Labor Code section 1194 and any related Wage Orders or similar directives/authorities issued by any state authority having enforcement powers, the Fair Labor Standards Act and any related regulations, interpretive bulletins or similar directives/authorities issued by any federal authority having enforcement powers;

- ii. The Constitution of the United States, the Constitution of the State of California, Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.), the Equal Pay Act (29 U.S.C. § 206(d)), the Rehabilitation Act of 1973 (29 U.S.C. § 793 et seq.), the Family and Medical Leave Act (29 U.S.C. § 2901 et seq.), and/or Sections 1981, 1983, 1985, 1986 or 1988 of Title 42 of the United States Code, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.); and the Age Discrimination in Employment Act (29 U.S.C. §§ 621 et seq.);
- iii. Claims of Retaliation (California Labor Code §1102.5 et seq.), Claims of “Whistle-blowing,” claims for breach of any type of contract, including written, oral or implied contracts, breach of any covenant, promise, or representation pertaining to Loesch’s employment, whether express or implied, wrongful termination, discrimination of any type, interference with economic relations, failure to pay wages and/or benefits of any kind, fraud and/or misrepresentation of any kind, intentional infliction of emotional distress, slander, assault, battery, and/or any other claims arising under any other state or federal provision, act, ordinance, Constitution, law, common law, or arising under any contract or agreement, against the City.

b. This AGREEMENT does not limit Loesch’s ability to bring an administrative charge with an administrative agency, but Loesch expressly waives and releases any right to recover any type of personal relief from the City, including monetary damages or reinstatement, in any administrative action or proceeding, whether state or federal, and whether brought by Loesch or on Loesch’s behalf by an administrative agency, related in any way to the matters released herein. Furthermore, nothing in this AGREEMENT prohibits Loesch from reporting possible violations of law or regulation to any government agency or entity, including but not limited to the federal Equal Employment Opportunity Commission, the California Civil Rights Department, the Department of Labor and/or the Department of Justice, or making other disclosures that are protected under the whistleblower provisions of law. Loesch does not need prior authorization of the City to make any such reports or disclosures and is not required to notify the City that he has made such reports or disclosures.

c. The City irrevocably and unconditionally waives, releases and forever discharges Loesch from any and all claims which relate to his employment at the City, the Complaint, or his lawsuit against the City.

6. Release of Unknown Claims. For the purpose of implementing a full and complete release, the Parties expressly acknowledges that this AGREEMENT is intended to include in its effect, without limitation, all claims which each side does not know of or expect to exist in their favor at the time of the execution hereof, and the Parties agrees that this AGREEMENT contemplates the extinguishment of any such claim or claims occurring prior to the date of execution of this AGREEMENT.

In addition, the Parties waives any and all rights that they may have pursuant to California Civil Code section 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

a. The Parties hereby expressly waive the provisions of California Civil Code section 1542 and further expressly waive any right to invoke said provisions now or at any time in the future.

b. The Parties recognize and acknowledge that factors which have induced them to enter into this AGREEMENT may turn out to be incorrect or to be different from what they had previously anticipated, and they hereby expressly assume any and all of the risks thereof and further expressly assumes the risks of waiving the rights provided by California Civil Code section 1542.

7. Neutral Reference. Loesch agrees to direct prospective employers seeking references to the City's Human Resources Department. The City agrees to respond to any requests from prospective employers solely with Loesch's dates of employment, job title, and rank.

8. Each Party to Bear Own Fees and Costs. Each Party shall bear their own costs, expenses and attorneys' fees incurred in connection with the administrative and/or legal proceedings resulting/referenced in this AGREEMENT, or in connection with any other claims made or investigated by either Party against the other in any forum (civil, criminal, administrative or quasi-administrative), and each Party hereto expressly waives any claim for recovery of any such costs, expenses or attorneys' fees from the other Party. Neither party shall file any additional claim, action or motion for sanctions or for any other purpose related to the matters herein, excluding any actions necessary to enforce this AGREEMENT.

9. Age Discrimination Waiver. The Age Discrimination in Employment Act of 1967 ("ADEA") makes it illegal for an employer to discharge any individual or otherwise discriminate with respect to the nature and privileges of an individual's employment on the basis that the individual is age forty or older. The Older Workers Benefit Protection Act ("OWBPA"), 29 USC. §§ 626, et. seq. further augments the ADEA and prohibits the waiver of any right or claim under the ADEA unless the waiver is knowing and voluntary. By entering into this Agreement, Loesch acknowledges that he is knowingly and voluntarily, for just compensation in addition to anything of value to which Loesch is already entitled, waiving and releasing any rights he may have under the ADEA and/or OWBPA. Loesch further acknowledges that he has been advised and understands, pursuant to the provisions of the ADEA and OWBPA, that:

- a. This AGREEMENT is written in a manner understood by Loesch.
- b. By entering into this AGREEMENT, Loesch will receive consideration he would not receive if he were not to enter into this AGREEMENT.
- c. Loesch is aware of his rights under the ADEA, and of the legal significance of his waiver of any possible claims he may have under the ADEA or similar age discrimination laws.
- d. Loesch is entitled to a reasonable time of at least twenty-one (21) days to review and consider this AGREEMENT, and the waiver and release of any rights he may have under the ADEA or similar age discrimination laws, but he may, in his discretion, sign or reject this AGREEMENT any time before the twenty-one (21) day period.
- e. The waivers and releases set forth in this AGREEMENT shall not apply to any rights or claims that may arise after the effective date of this AGREEMENT.
- f. If Loesch signs this AGREEMENT, he shall have seven (7) non-waivable calendar days following the date he executes this Agreement to revoke it. If Loesch chooses to revoke this AGREEMENT, his counsel must provide written notice of his revocation to counsel for the City, Jesse Maddox of Liebert Cassidy Whitmore, prior to the expiration of the seven-day period.
- g. This AGREEMENT shall not be effective or enforceable and the consideration herein shall not be provided to Loesch until after the AGREEMENT is executed by him and after expiration of the seven-day revocation period set forth in the preceding subparagraph (the "Effective Date").

10. No Prior Assignments. Loesch represents and warrants that he has not sold, assigned, transferred, conveyed or otherwise disposed of any claim or demand covered by this AGREEMENT to any person not a party hereto and that he is fully entitled to compromise and settle the same. Loesch represents and warrants that any and all medical bills, costs, or liens resulting from or arising out of his alleged injuries, whether physical or emotional, related to the

allegations in the Complaint is Loesch's responsibility to pay. Loesch agrees to assume responsibility for satisfaction of any and all rights to payment, claims or liens, of any kind, that arise from or are related to payments made or services provided to or for Loesch's behalf, and any expenses, costs, or fees incurred in connection with the claims asserted by Loesch, related to his alleged injuries set forth in the Complaint, including, without limitation, all subrogation claims, liens, or other rights to payment relating to medical treatment or lost wages that have been or may be asserted by any health care provider, insurer, Medi-Cal, Medicare, or governmental entity. Loesch will hold the City harmless from any and all such legitimate claims, valid liens, and rights to payment, known or unknown. It is understood that this AGREEMENT and this paragraph do not in any way obligate Loesch to pay for or reimburse the Parties or the State of California (through the City) for any of his worker's compensation benefits, disability benefits or industrial retirement benefits. The Parties acknowledge that they cannot bind the State with this AGREEMENT, and that nothing in this provision shall prevent the Parties from fulfilling any legal requirements as it relates to State proceedings.

11. Right to Legal Defense. In entering into this AGREEMENT, Loesch does not waive any right he may have to have the City provide him with a legal defense and/or indemnify him, if required by law, for any lawsuit filed against him for alleged acts made in his capacity as the City's former Fire Chief.

12. Covenant to Effectuate Agreement. Loesch agrees to execute and deliver all instruments and documents necessary to fulfill and effect the provisions of this AGREEMENT.

13. No Other Terms. This AGREEMENT contains all of the terms and conditions agreed upon by the Parties hereto regarding the subject matter of this AGREEMENT. Any prior agreements, promises, negotiations, or representations, either oral or written, relating to the subject matter of this AGREEMENT, not expressly set forth herein, are of no force or effect.

14. Waiver of Terms of Agreement. No waiver by any Party of any breach of any term or provision of this AGREEMENT shall be construed to be, nor be, a waiver of any preceding, concurrent or succeeding breach of the same, or any other term or provision hereof. No waiver shall be binding unless in writing and signed by the Party to be charged or bound.

15. Interpretation. The language in this AGREEMENT shall be construed as a whole according to its fair meaning and not strictly for or against any of the Parties. The Parties further agree that this AGREEMENT was negotiated and executed in the State of California and shall be interpreted under the procedural and substantive laws of California as existing as of the date of execution, without regard to principles of conflict of laws.

16. Consultation with Representative/Counsel. The Parties represent and agree that they have carefully read and fully understand all of the provisions of this AGREEMENT, and that they are voluntarily, without any duress or undue influence on the part of or on behalf of

any Party, entering into this AGREEMENT. The Parties affirm that, prior to execution of this AGREEMENT, they have consulted with a representative or counsel of their choice concerning the terms and conditions set forth herein, and that the Parties agree to the terms and conditions.

17. Execution of Agreement. This AGREEMENT may be executed in one or more counterparts. All executed copies are duplicate originals are equally admissible in evidence. Delivery of a copy of this AGREEMENT by electronic means (such as by email with a PDF version attached) or fax, shall be acceptable to bind the Parties and shall not render the AGREEMENT invalid. The Parties agree that electronic signatures of the Parties shall have the same force and effect as original signatures.

18. Enforcement. The Parties agree that any disputes regarding this AGREEMENT shall be brought in Sacramento County Superior Court. In any action brought to enforce any provision of this AGREEMENT, each side shall bear their own attorneys' fees and costs.

19. Severability. In the event that any one or more provisions of this AGREEMENT shall be declared to be illegal, invalid, unenforceable, and/or void by a court of competent jurisdiction, such provision or portion of this AGREEMENT shall be deemed to be severed and deleted from this AGREEMENT, but this AGREEMENT shall in all other respects remain unmodified and continue in force and effect.

PLEASE READ CAREFULLY. THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE INCLUDES A RELEASE BY THE PARTIES OF ALL KNOWN OR UNKNOWN CLAIMS. THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND ARE VOLUNTARILY ENTERING INTO THIS AGREEMENT.

IN WITNESS WHEREOF, the Parties here have executed this AGREEMENT.

GARY LOESCH

Dated: 12-5-24


GARY LOESCH

CITY OF SACRAMENTO

Dated: 12/11/24


PATRICK FLAHERTY