

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF DEL REY OAKS AND
JEFFREY HOYNE**

This agreement is made and entered into on the 1st day of October, 2018, by and between the City of Del Rey Oaks ("City"), and Jeffrey Hoyne, both of whom understand as follows:

RECITALS

WHEREAS, City desires to employ the services of Hoyne as its Police Chief;

WHEREAS, City desires to provide certain benefits, to establish certain conditions of employment, and to set working conditions for Hoyne; and

WHEREAS, Hoyne desires to accept employment as the Police Chief of City.

AGREEMENT

Now therefore, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties:

Starting October 1, 2018, City hereby agrees to employ Hoyne as Police Chief of City to perform the functions and duties as established by the City Manager, and such other legally permissible and proper duties and functions as the City Manager shall from time to time assign to him.

Hoyne shall serve at the pleasure of the City Manager, and report to and receive direction solely from the City Manager. In the event that it becomes necessary, Hoyne may be disciplined and/or placed on administrative leave by the City Manager. Hoyne shall not report to, receive direction from, or be evaluated by the City Council.

Section 2. Term; Termination; Severance Compensation:

- A. Hoyne agrees to remain in the exclusive employ of City until September 30, 2023 ("Expiration Date"), and to neither accept other employment nor to become employed by any other employer until the expiration date of this agreement, subject to the provisions of Subsection 2. B.
- B. If Hoyne resigns his position as Police Chief before the expiration date of the initial or any extended term of this agreement, then Hoyne shall give City no less than 60 days written notice in advance. In that event, Hoyne shall not be entitled to the severance compensation provided for in Section 2. C.
- C. As an "at will" employee serving at the pleasure of the City Manager, Hoyne's appointment may be terminated by the City Manager without cause at any time.

In the event that Hoyne is terminated by the City before the Expiration Date, other than as specified in subsection (D) herein, the City agrees to pay Hoyne a lump sum cash payment of six (6) months aggregate salary and continuation of the medical and dental plan in effect at the time of termination for six (6) months, or such other payout as may be mutually agreed upon. In addition, Hoyne shall be compensated for all vested accrued leave time, which is currently defined as all accumulated and unused vacation leave.

The severance rights provided in this section shall constitute the sole and only entitlement of Hoyne with respect to severance pay in the event of the termination, other than for cause. Hoyne expressly waives any and all other rights with respect to severance pay except as provided herein. Any and all severance rights are conditioned upon and in consideration for execution of the standard "General Release Agreement" attached hereto as Exhibit "A," which is hereby approved by the parties as to form.

- D. For cause termination. Hoyne may be terminated by the City Manager at any time upon five (5) business days' written notice of the termination for cause and the facts and grounds constituting cause. "Cause" shall be defined to include any misconduct materially related to performance of official duties, including but not be limited to any of the following: 1) Breach of this Agreement, 2) Willful or persistent material breach of duties, 3) Résumé fraud or other acts of material dishonesty, 4) Unauthorized leave, 5) Conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality), conviction of a misdemeanor DUI, or conviction of a felony under California law (the City may, in its discretion, place Hoyne on paid or unpaid administrative leave with pay until resolution of charges brought against Hoyne), 6) Violation of the City's anti-harassment policies and/or a finding that legally prohibited personal acts of harassment against a CITY official or employee or legally prohibited personal acts of discrimination against a CITY official or employee has occurred, 7) Violation of the City's Municipal Code, ordinances, rules, and regulations, including but not limited to the City's Personnel Manual or Ordinances, 8) Use or possession of illegal drugs, 9) Engaging in conduct tending to bring embarrassment or disrepute to the City, 10) Any illegal or unethical act involving personal economic gain, 11) A pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted direction of the City Manager or the policy decisions of the City Council, and 12) Gross misfeasance or gross malfeasance.

Should the City Manager terminate Hoyne for cause, the City shall have no obligation to pay any severance.

E. Death, Disability or Inability to Perform.

1. This Agreement shall also terminate immediately upon Hoyne's death or mental or physical incapacity to perform the duties of Chief of Police, subject to the City's accommodation obligations.
2. Unpaid Leave of Absence. The City reserves the right to place Hoyne on a disability leave of absence during the Term of this Agreement if

Hoyne suffers any physical or mental disability that would prevent him from safely performing his duties under this Agreement. The City will engage in an interactive process with Hoyne to identify and evaluate possible accommodations that would allow Hoyne to perform her duties under this Agreement. The City will provide reasonable accommodations in accordance with applicable law in the event Hoyne's disability renders him unable to perform the essential functions of his job. If an accommodation is identified that is reasonable and will not impose an undue hardship, the City will make the accommodation. If City is unable to make a reasonable accommodation, Hoyne's employment with the City will terminate, and this Agreement will terminate.

- F. Six months prior to expiration of this Agreement, Hoyne shall give written notice to City if he wishes to extend this agreement on the same terms and conditions for an additional period of time to be negotiated between the parties. Thereafter the City Manager shall determine, within 60 days, whether or not the City wishes to extend the agreement and shall give written notice to Hoyne of the decision. If the City approves such extension, the parties shall enter into a new, or amended, agreement. If the City disapproves such extension, this agreement shall terminate on the Expiration Date and Hoyne shall not be entitled to any compensation except for any vested accrued leave time.

Section 3. Non-Industrial Injury/Illness:

If Hoyne is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued leave, City shall have the option to terminate the agreement, subject to the severance pay provisions of Section 2. C.

Section 4. Salary and Compensation:

Hoyne shall receive an initial base salary of \$155,000 per year. Hoyne's salary will be reviewed annually and may be adjusted as determined by the City based on his performance, economic conditions, or other factors as may be determined by the City.

Hoyne shall be eligible to participate in any future Employee home incentive program that may be approved by the City Council during the development of City property on the former Fort Ord.

Section 5. Performance Evaluation:

A. The City Manager shall review and evaluate the performance of Hoyne annually after the commencement of this agreement. Upon a favorable or exemplary performance evaluation, the City may, but is not required to, provide Hoyne with an incentive payment. Such review and evaluation shall be in accordance with specific criteria developed jointly by the City Manager and Hoyne. Such criteria may be added to or deleted from, as the City Manager may from time to time determine, in consultation with Hoyne. Further, the City Manager shall provide Hoyne with a summary written statement of the evaluation and provide an adequate opportunity for

Hoyne to discuss the evaluation with him or her.

B. The City Manager and Hoyne shall define the criteria that they determine are necessary for the proper fulfillment of Hoyne's duties, as outlined above, and establish goals and objectives for Hoyne to fulfill, including the establishment of a relative priority among the goals and objectives. All such goals and objectives shall be reduced to writing. The goals and objectives shall be reasonably attainable within the time and budgetary resources allocated to Hoyne to achieve them.

Section 6. Hours of Work:

Hoyne shall be employed on a full-time basis and for optimal customer service, should generally perform such work during City's normal business hours. However, it is recognized that Hoyne shall be required to devote a great deal of time outside of normal office hours on business of City, and to that end he shall be allowed to establish an appropriate work schedule, with the approval of the City Manager, to meet the requirements of the position.

Section 7. Automobile Use:

City shall provide Hoyne with an unmarked automobile suitable for his use while performing his duties as Chief of Police in compliance with Internal Revenue Regulation Section 1.274-5 T(k)(6). All vehicle use by Hoyne pursuant to this Agreement must comply with the City's fleet management policy and procedures, which may be updated from time to time.

Section 8. Vacation and Sick Leave:

Hoyne shall be deemed to have accrued 120 hours of paid Sick Leave on the commencement of his employment. Thereafter Hoyne shall accumulate 120 hours per year during the term of this Agreement. If Hoyne does not use 120 hours by of paid sick leave by June 30, the unused hours will not carry over to the following year. Unused sick leave benefits will not be paid to Hoyne upon separation of employment.

Hoyne shall be deemed to have accrued 120 hours of Vacation Leave on the commencement of his employment. Hoyne shall be permitted to accumulate a maximum of 240 hours of Vacation Leave. Upon termination of employment Hoyne will be paid for unused Vacation Leave that has been earned through the last day of work up to a maximum of 240 hours.

Section 9. Bereavement Leave:

When compelled to be absent from work by reason of death of an immediate family member or where death appears imminent, Hoyne, after completing six (6) months of employment with the City shall be entitled to receive up to three (3) days Bereavement Leave, which shall not be charged against any other leave acquired by Hoyne. If Hoyne desires such leave, he shall notify, in writing, the City Manager of the time of absence needed and the expected date of return to work. Bereavement Leave

shall not accrue or roll over from year to year and shall have no cash value and may not be cashed out.

The immediate family is defined as spouse; natural, step or legal child; parent; brother; sister; grandparent; grandchild; mother-in-law or father-in-law.

Section 10. Medical, Dental, Vision, Insurance and Other Benefits:

Employee and dependent coverage is available from CalPERS at the employer's cost. Health Benefits are available on the date of hire. Dental coverage for employee and dependents is available at the employer's cost. Dental Benefits are available on the first day employment. Vision coverage for employee and dependents is available at employer cost. Vision benefits are available on the first day of employment.

Employee shall be provided, at the City's expense, a supplemental legal defense program through the California Peace Officers Association Legal Services Program during the term of his employment with the City at a cost not to exceed \$500 per year.

Section 11. Holidays: Hoyne is authorized to celebrate the following holidays:

1. New Year's Day
2. Martin Luther King Day
3. President's Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. The Day after Thanksgiving Day
10. The Day before Christmas Day
11. Christmas Day
12. Caesar Chavez Day
13. Floating Holiday

Notwithstanding the holidays delineated above, Hoyne may be required to work on a holiday, in which case, Hoyne shall be granted an alternate day, equal in time in which Hoyne was required to report to work during the holiday, after consultation with and as approved by the City Manager.

Section 12. Retirement:

The City shall pay the employer's required PERS contribution, and Hoyne shall pay the employee contribution as set forth in California statute. Hoyne shall receive retirement benefits at 2% at 57 years of age. The City shall provide for optimal conversion of accrued Sick Leave for Service Credit upon retirement, if available, subject to PERS regulations.

Section 13. Deferred Compensation Plan:

The City shall provide a Deferred Compensation Plan. The City shall not be required to make a contribution to any of Hoyne's Deferred Compensation Plan.

During the term of the agreement and any extensions thereof, Hoyne shall not accept any outside employment of any kind or character without having first obtained the prior approval of the City Manager.

Section 14. Dues and Subscriptions:

City agrees to budget for and to pay for professional dues and subscriptions of Hoyne necessary for his continuation and full participation in national, regional, state and local associations and organizations as are desirable for his continued professional participation, growth, and advancement, and for the good of the City; provided, however, the amount of such dues and subscriptions shall not exceed the amount appropriated therefore in the annual budget.

Section 15. Professional Development:

A. City agrees to pay for travel and subsistence expenses of Hoyne, with the advanced written approval of the City Manager, for professional and official travel, meetings, and occasions adequate to continue the professional development of Hoyne and to adequately pursue necessary official functions for City, and such other national, regional, state and local governmental groups and committees thereof which Hoyne serves as a member; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget. Hoyne shall not accept a leadership, executive, or other officer position in a related industry or trade group without the advance consent of the City.

B. City also agrees to pay for travel and subsistence expenses of Hoyne for short courses, institutes and seminars that are necessary for his professional

development and for the good of the City; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget.

C. Hoyne shall be allowed to pursue a Master of Arts Degree in Homeland Security from the Naval Post-graduate School's Center for Homeland Defense and Security in Monterey at no cost to the City.

Section 16. Indemnification:

In addition to the requirements of state and local law, City shall defend, save harmless, and indemnify Hoyne against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Hoyne's duties as Police Chief. However, the provisions of Section 2D and Section 20 shall prevail over this Section 16. The City shall have no obligations under this Section 16 for actions outside the course and scope of the services provided by Hoyne pursuant to this Agreement, or should Hoyne be terminated pursuant to Section 2D.

Section 17. Bonding:

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

Section 18. Other Terms and Conditions Employment:

A. The City may fix other terms and conditions of employment, as it may determine from time to time relating to the performance of Hoyne, following consultations with him, provided such terms and conditions are not inconsistent with or in conflict with the provisions of the agreement, the Ordinances of the City, the City's enabling act or any other law.

B. It is understood and agreed by City and Hoyne that Hoyne is an "at will" employee of the City. As such, Hoyne serves at the pleasure of the City Manager. Hoyne is subject to the provisions of the City's Personnel Rules and Regulations, provided they do not conflict with the terms of this Agreement, in which case, this Agreement shall control.

Section 19. Notices:

Notices pursuant to the agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

TO CITY:
City Manager,
650 Canyon Del Rey Blvd
Del Rey Oaks, CA 93940

TO HOYNE:
Jeffrey Hoyne (Address on file.)

Alternatively, notices required pursuant to the agreement may be personally served to the same persons 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 United States Postal Service.

Section 20. Government Code §§ 53243 – 53243.4.

Assembly Bill 1344, which was subsequently enacted as Government Code §§ 53243 - 53243.4, was enacted to provide greater transparency in local government and institute certain limitations on compensation paid to local government executives. These statutes also require that contracts between local agencies and its employees include provisions requiring an employee who is convicted of a crime involving an abuse of his office or position to provide reimbursement to the local agency. These statutes are set forth in full in Exhibit "B" attached hereto and incorporated herein.

Accordingly, the parties agree that it is their mutual intent to fully comply with these Government Code sections and all other applicable law as it exists as of the date of execution of this Agreement and as such laws may be amended from time to time thereafter. Specifically, for the purposes of this Agreement, "abuse of office or position" shall be defined as in California Government Code Section 53243.4. Notwithstanding any other provision in this Agreement and in accordance with California Government Code Sections 3511.1, 3511.2, 53243, 53243.1 and 53243.2, the following limitations apply to City's obligations to Hoyne:

- In the event Hoyne is placed on paid leave pending an investigation, Hoyne shall reimburse such pay to City if he is subsequently convicted of a crime that constitutes an abuse of office or position.
- In the event City pays for Hoyne's legal criminal defense, he shall fully reimburse such funds to the City if he is subsequently convicted of a crime that constitutes an abuse of office or position.
- If this contract is terminated, any cash settlement related to the termination that Hoyne may receive from City must be full reimbursed to City if he is subsequently convicted of a crime that constitutes an abuse of office or position.

Hoyne represents he has reviewed, is familiar with, and agrees to comply fully with each of these provisions if any of these provisions are applicable to Hoyne, including that Hoyne agrees that any cash settlement or severance related to the terms of this Agreement involving compensation for termination that Hoyne may receive from the City shall be fully reimbursed to the City.

Section 21. General Provisions:

A. Attorney's Fees. In the event either party to this Agreement brings a judicial proceeding to enforce or interpret any provision of this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and related expenses and costs, including but not limited to court costs, expert witness fees and expenses, and accountant fees and expenses. Recovery of these fees and costs shall be as additional costs awarded to the prevailing party, and shall not require initiation of a separate legal proceeding.

B. Dispute Resolution. In the event of a dispute arising out of the performance of this Agreement, both parties agree to make good faith efforts to informally resolve the dispute. If an informal settlement cannot be reached, the parties agree to mediate any disagreements in good faith. The parties shall split equally the costs of mediation. Should either party determine a dispute cannot be resolved in mediation, it is agreed that the dispute may be resolved in a court of law competent to hear the matter.

C. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Hoyne by City, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein, and that no other employment agreement, statement, or promise not contained in this Agreement shall be valid or binding upon either party.

D. Modifications. Any modifications to this Agreement shall be effective only if in writing and signed by both of the parties hereto.

E. Effect of Waiver. The failure of either party to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that, or any other, term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

F. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

G. Section Headings. All section headings in this Agreement are for the convenience of reference and are not intended to define or limit the scope of any provision of this Agreement.

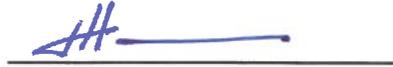
H. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

CITY OF DEL REY OAKS



Danial Pick, City Manager

JEFFREY HOYNE



Jeffrey Hoyne

APPROVED AS TO FORM:



Alex Lorca, City Attorney

Exhibit A

GENERAL RELEASE AGREEMENT

This General Release Agreement ("Release Agreement") is entered into by and between Jeff Hoyne ("Hoyne") and CITY ("City"), in light of the following facts:

1. Hoyne's employment with City concluded on: [DATE].
2. Certain disputes have arisen between City and Hoyne.
3. City and Hoyne each deny any liability whatsoever to the other.
4. City and Hoyne wish to fully and finally resolve any and all disputes they may have with each other,
5. Hoyne is hereby informed that he has twenty-one (21) days from receipt of this Agreement to consider it. City hereby advises Hoyne to consult with his legal counsel before signing this Agreement.
6. Hoyne acknowledges that for a period of seven (7) days following the signing of this Agreement ("Revocation Period"), he may revoke the Agreement. This Agreement shall not become effective or enforceable until the day the Revocation Period has expired.
7. Receipt of Salary Payment. Hoyne acknowledges receipt of a check or checks for all compensation owing to him, including salary, accrued benefit balances and reimbursed expenses ("Salary Payment") from City. The payment does not constitute consideration for this Agreement.
8. Severance. Within five (5) days following Hoyne's signing, delivering to the City, and not revoking this Agreement, City shall pay Hoyne the gross amount provided for in Section 2.C. of the attached Employment Agreement, less applicable deductions. Hoyne acknowledges that the Severance is in excess of all amounts due and owing him as a result of his employment by City.
9. General Release. In consideration of the Severance to be paid and provided to Hoyne, and other good and valuable consideration, Hoyne hereby releases and discharges City and its past and present City Council Members, employees, representatives and agents, from all rights, claims, causes of action, and damages, both known and unknown, in law or in equity, concerning and/or arising out of his employment by City which he now has, or ever had, including but not limited to any rights, claims, causes of action or damages arising under Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of 1973, the Employee Retirement Income Security Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers Benefits Protection Act, the Family and Medical Leave Act of 1993, the Domestic Partners Act of 2003, the California Labor Code, the

Private Attorneys General Act of 2004, the California Moore-Brown-Roberti Family Rights Act, the California Unruh Civil Rights Act, the California Fair Employment and Housing Act, any other federal, state, or local employment practice legislation, or any federal or state common law, including wrongful discharge, breach of express or implied contract, or breach of public policy.

Hoyne hereby waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of California. City Manager understands and acknowledges the significance and consequences of this specific waiver of Section 1542. Section 1542 of the Civil Code of California states as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of City and its past and present City Council Members, employees, representatives and agents, Hoyne expressly acknowledges that this General Release Agreement is intended to include in its effect, without limitation, all claims which he does not know or suspect to exist in his favor.

Hoyne further acknowledges that he has read this General Release and that he understands that this is a general release, and that he intends to be legally bound by the same.

10. Fees and Costs. Hoyne and City agree that in the event of litigation relating to this Release Agreement, the prevailing party shall be entitled to recover his/its reasonable attorneys' fees and costs.

Dated: _____

City of Del Rey Oaks

Dated: _____

Jeff Hoyne

Exhibit B
GOVERNMENT CODE SECTIONS 53243-53243.4 and 53260(a)

53243. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides paid leave salary offered by the local agency to the officer or employee pending an investigation shall require that any salary provided for that purpose be fully reimbursed if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.1. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides funds for the legal criminal defense of an officer or employee shall require that any funds provided for that purpose be fully reimbursed to the local agency if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.2. On or after January 1, 2012, any contract of employment between an employee and a local agency employer shall include a provision which provides that, regardless of the term of the contract, if the contract is terminated, any cash settlement related to the termination that an employee may receive from the local agency shall be fully reimbursed to the local agency if the employee is convicted of a crime involving an abuse of his or her office or position.

53243.3. On or after January 1, 2012, if a local agency provides, in the absence of a contractual obligation, for any of the payments described in this article, then the employee or officer receiving any payments provided for those purposes shall fully reimburse the local agency that provided those payments in the event that the employee or officer is convicted of a crime involving the abuse of his or her office or position.

53243.4. For purposes of this article, "abuse of office or position" means either of the following:

(a) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority.

(b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

53260. (a) All contracts of employment between an employee and a local agency employer shall include a provision which provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract. However, if the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18.

GOVERNMENT CODE SECTIONS 3511.1-3511.2

3511.1. As used in this chapter, the following definitions apply:

(a) "Compensation" means annual salary, stipend, or bonus, paid by a local agency employer to a local agency executive.

(b) "Cost-of-living" means the California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations.

(c) "Local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency.

(d) "Local agency executive" means any person employed by a local agency who is not subject to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500)), Chapter 5 (commencing with Section 45100) of Part 25 of Division 3 of Title 2 of the Education Code, or Chapter 4 (commencing with Section 88000) of Part 51 of Division 7 of Title 3 of the Education Code, and who meets either of the following requirements:

(1) The person is the chief executive officer, a deputy chief executive officer, or an assistant chief executive officer of the local agency.

(2) The person is the head of a department of a local agency.

(3) The person's position within the local agency is held by an employment contract between the local agency and that person.

3511.2. On or after January 1, 2012, any contract executed or renewed between a local agency and a local agency executive shall not provide for the following:

(a) An automatic renewal of a contract that provides for an automatic increase in the level of compensation that exceeds a cost-of-living adjustment.

(b) A maximum cash settlement that exceeds the amounts determined pursuant to Article 3.5 (commencing with Section 53260) of Chapter 2 of Part 1 of Division 2 of Title 5.