

## **EMPLOYMENT AGREEMENT**

This agreement is entered into as of September 3, 2015, between San Diego County Employees Retirement Association (“SDCERA”), and David B. Wescoe (“Employee”).

### **1. EMPLOYMENT**

**1.1 Duties.** SDCERA employs Employee and Employee accepts employment as Chief Executive Officer of SDCERA to render and perform such duties and services as may from time to time be directed and designated by the Board of Retirement (“Board”) of SDCERA.

**1.2 Full-Time.** Employee shall devote Employee's entire productive time, ability and attention to the business of SDCERA during the term of this agreement. Employee shall render services to SDCERA on a full-time basis, without regard to office hours or SDCERA's normal hours of operation. Nevertheless, Employee is generally expected to be present at Employee's office during Employee's normal working hours, which SDCERA will establish from time to time in its sole discretion. The expenditure of reasonable amounts of time for personal and unrelated business, investments and charitable, civic and fraternal activities that do not interfere with Employee's performance under this agreement shall not be a breach of this agreement.

**1.3 Loyal and Conscientious Performance.** Employee shall serve SDCERA faithfully and diligently to the best of Employee's ability and experience and shall loyally and conscientiously perform all the duties and obligations expressly or impliedly required under this agreement. Employee shall use Employee's best efforts to promote the business interests of SDCERA.

**1.4 Exempt Employee.** As an exempt employee, Employee is required to exercise Employee's specialized expertise, independent judgment and discretion to provide high-quality services to SDCERA. Employee is required to follow office policies and procedures adopted from time to time by the SDCERA.

## 2. COMPENSATION AND BENEFITS

So long as Employee is not in breach of this agreement, SDCERA shall cause Employee to be paid the compensation and cause Employee to be provided the employment related benefits set forth below:

Annual Salary: \$249,745.00  
Benefits: As attached hereto as Exhibit A and incorporated by this reference  
Auto Allowance: \$675/month

## 3. TERM AND TERMINATION OF EMPLOYMENT

**3.1 Term.** The term of this agreement shall commence on September 18, 2015, and shall continue on an “at will” basis. Either SDCERA or Employee has the absolute and unconditional right to terminate Employee’s employment at any time for any reason whatsoever, with or without cause upon not less than [10] days prior written notice to the other.

**3.2 Termination By SDCERA for Cause.** SDCERA may terminate this agreement immediately for “cause” by delivering written notice to Employee or Employee's legal representative specifying the cause or causes for such termination. The following events shall constitute “cause”:

(a) Employee's breach of this agreement or failure to perform Employee’s duties under this agreement to the satisfaction of SDCERA, or to carry out instructions by the Board, which breach or failure is not cured by Employee to the satisfaction of SDCERA within [(30)] days after SDCERA gives Employee written notice identifying the manner in which SDCERA believes that Employee has breached or failed to perform;

(b) Willful gross misconduct by Employee that is detrimental to SDCERA;

(c) Employee's commission of any act of theft, dishonesty, gross dereliction of duty, fraud, embezzlement;

(d) Employee's unauthorized use or misappropriation of any funds or properties of SDCERA;

(e) Employee's death.

**3.3 Effect of Termination and Severance.** Upon termination of this agreement by SDCERA, Employee shall be entitled to Employee's then current base salary and employment related fringe benefits computed on a pro rata daily basis up to and including the date of termination, together with severance pay in an amount equal to one (1) year's then annual salary (exclusive of benefits and auto allowance) provided SDCERA terminates this Agreement on or before September 1, 2020. After that date, no such severance payment shall be due to Employee. In the event of Termination for Cause, at any time, as defined in paragraph 3.2 hereof, no such severance payment shall be due. In the event Employee voluntarily resigns, no such severance payment shall be due to Employee.

#### **4. RESOLUTION OF DISPUTES**

All controversies, claims, disputes or counterclaims arising out of, relating to or in connection with this agreement, whether it involves a disagreement about meaning, interpretation, application, performance, breach, termination, enforceability or validity and whether based on statute, tort, contract, common law or otherwise including, without limitation all claims of race, sex, religion, age, disability, medical condition, marital status, veteran status, sexual orientation or national origin discrimination under Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act of 1990, as amended, the Age Discrimination in Employment Act, as amended, the Family and Medical Leave Act, the Family Rights Act, the California Fair Employment and Housing Act, the Equal Pay Act, the Rehabilitation Act of 1973, the Employee Retirement Income Security Act of 1974, the Racketeer Influenced and Corrupt Organizations Act and/or Section 1981 of Title 42 of the United States Code, or any other federal, state or local laws ("Dispute"), shall be resolved by binding arbitration as set forth in this paragraph 4.

**4.1 Arbitration.** At any time, any party may commence this binding arbitration procedure. Arbitration of the Dispute shall be conducted in accordance with the Judicial Arbitration & Mediation Services (JAMS) pursuant to the JAMS Rules for Employment Arbitration. The arbitration shall be conducted in San Diego, California, and the proceedings shall be governed by California law. The arbitration proceeding shall be completed within 60 days after appointment of the arbitrator, unless the parties otherwise agree.

The arbitrator shall have jurisdiction over the Dispute, and the decision of the arbitrator shall be final and binding upon the parties. Depositions may be taken and discovery may be conducted as directed by the Arbitrator. The cost of the arbitrator's fees, including the costs of the facility and the administration of the arbitration shall be borne by SDCERA. The attorneys' fees and costs incurred by the parties shall be paid by the parties in the manner determined by the arbitrator. Judgment upon the arbitration award may be entered in any court having jurisdiction, or application may be made by either party to such court for a judicial acceptance of the award and an order of enforcement, as applicable.

**4.2 Provisional or Ancillary Remedies.** The arbitrator shall have the power to grant provisional or ancillary remedies, including, without limitation, temporary protective or restraining orders, preliminary and permanent injunctions, and such other provisional relief as the arbitrator may deem appropriate before, during or after the pendency of the arbitration proceedings under this agreement and may modify any previously granted provisional or ancillary remedies.

## **5. GENERAL PROVISIONS**

**5.1 Notices.** All notices, requests, demands and other communications required or permitted under this agreement shall be in writing and shall be deemed duly given and received (i) on the date of delivery if personally delivered, or if delivered by facsimile with electronic confirmation of receipt, (ii) on the day specified for delivery if sent by nationally recognized overnight courier service (*e.g.*, UPS, Federal Express, *etc.*), or (iii) 3 business days after depositing with the United States Postal Service if mailed by certified mail, postage prepaid, return receipt requested, to the parties at their addresses set forth on the signature page of this

agreement, or such other address as may be designated from time to time in writing by any party to all other parties.

**5.2 Effect of Headings and Exhibits.** The subject headings of the paragraphs of this agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. All exhibits to this agreement are incorporated into and made part of this agreement as if set forth in their entirety in this agreement.

**5.3 Amendment and Waiver.** No provision of this agreement may be altered, amended or repealed in whole or in part other than by the written consent of all the parties to this agreement. No waiver shall be binding unless executed in writing by the party granting the waiver. Neither the failure nor delay on the part of any party to exercise any right, remedy, power, privilege or provision under this agreement shall operate as a waiver of such right, remedy, power, privilege or provision. Waiver of any right, remedy, power, privilege or provision under this agreement shall not be deemed or constitute a waiver of any other right, remedy, power, privilege or provision under this agreement, whether or not similar, nor shall such waiver constitute a continuing waiver.

**5.4 Assignment.** Neither party hereto shall have the right to assign or delegate any of its rights or obligations under this agreement.

**5.5 Successors and Assigns.** This agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, beneficiaries, legal representatives, successors and assigns.

**5.6 Further Assurances.** The parties shall execute such other and further instruments and documents and shall take such further action as may be required to implement and carry out this agreement.

**5.7 Entire Agreement.** This agreement represents the entire agreement between the parties with respect to the subject matter set forth in this agreement and supersede all prior

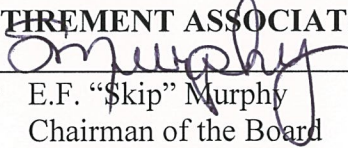
and contemporaneous oral and written agreements, communications, representations, commitments or understandings of the parties.

**5.8 Counterparts.** This agreement may be executed in any number of counterparts by original or facsimile signature, and each such counterpart shall be deemed to be an original instrument as to the party whose signature appears on such counterpart, and all of which together shall constitute one and the same instrument.

**5.9 Time.** Time is of the essence under this agreement.

**5.10 Construction.** This agreement has been negotiated at arms length and each party has been given the opportunity to be represented by legal counsel and to the extent each party has deemed necessary, each party has consulted with independent legal counsel with respect to such party's rights and obligations under this agreement. Accordingly, any rule of law (including without limitation California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this agreement against the party drafting it is not applicable and is waived. The provisions of this agreement shall be interpreted in a reasonable manner to effect the intent of the parties and the purpose of this agreement.

**SAN DIEGO COUNTY EMPLOYEES  
RETIREMENT ASSOCIATION:**

  
By: E.F. "Skip" Murphy  
Its: Chairman of the Board

Address: 2275 Rio Bonito Way, Ste. 200  
San Diego, CA 92108-1685

**EMPLOYEE:**

  
David B. Wescoe

Address: 6909 Fairway Road  
La Jolla, CA 92037

**EXHIBIT A**

**County of San Diego Summary of Executive Benefits**

**SDCERA – Unclassified Benefit Program (RTU)**



**COUNTY OF SAN DIEGO  
SUMMARY OF EXECUTIVE BENEFITS**

**SDCERA - UNCLASSIFIED BENEFIT PROGRAM  
(RTU)**

Employees in classifications designated as NA and NE are eligible for basic and executive benefits in accordance with Section 5.1.2 of the County Compensation Ordinance.

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**VACATION** (Section 4.2.1 - Compensation Ordinance)

Accruals are credited on a biweekly basis and available for use as it is accrued: 15 days (1 through 4 years of service), 20 days (5 through 14 years of service), 25 days (15 years of service and over). Year to year carry-over accruals are limited to 2<sup>1/2</sup> times the employee's annual rate.

**SICK LEAVE** (Section 4.2.2 - Compensation Ordinance)

At time of hire, an employee is credited ten days reserve sick leave pending normal accrual during the first year of employment. Thereafter, accruals are credited on a biweekly basis and available for employee use once credited. Employees accrue 13 days of sick leave each year.

**HOLIDAYS** (Section 5.9.1 & 5.9.2 - Compensation Ordinance)

There are eleven regular holidays annually: New Years Day, Martin Luther King Day, Cesar Chavez Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving (2 days), Christmas Day. Employees who have paid service during the second pay period of the fiscal year will receive 16 hours of floating holiday hours to use at their discretion (with supervisory approval). A maximum of 24 floating holiday hours may be accrued.

**MISCELLANEOUS PAID LEAVE** (Sections 4.2.3; 4.2.4; 4.2.5 & 4.2.6 - Compensation Ordinance)

Injury Leave - 75% of normal salary when unable to work due to work related injury; Military Leave - 30 days/fiscal year to report for active or inactive duty; Bereavement Leave - 3 days for the death and/or funeral of immediate family member; Jury Duty - when required by court order to act as juror/prospective juror.

**FLEXIBLE BENEFIT PLAN** (Section 5.1.2 - Compensation Ordinance)

The County's flexible benefit program gives you the freedom to choose from a menu of benefits. These benefits are paid on a pre-tax basis (excluding supplemental life insurance). The twice-monthly benefit credits paid by the County are:

Employee Only	Employee + 1 Dependent	Employee + 2 or More Dependents
\$293.00	\$425.00	\$595.00

**MEDICAL INSURANCE** (Section 5.1.6 - Compensation Ordinance)

Employees may elect coverage under any of the health plans offered by: Anthem Blue Cross or Kaiser Permanente. There is also a health insurance waive option for those employees who have coverage elsewhere. Eligible dependents are covered through the end of the month in which they turn age 26.

**DENTAL INSURANCE** (Section 5.1.6 - Compensation Ordinance)

Employees may elect coverage under one of two dental plans offered by Delta Dental: PPO or the DHMO plan. Eligible dependents are covered through the end of the month in which they turn age 26.

**VISION INSURANCE** (Section 5.1.6 - Compensation Ordinance)

Employees may elect coverage under Vision Service Plan (VSP) freedom of choice of providers. Eligible dependents are covered through the end of the month in which they turn age 26.

**DEFERRED COMPENSATION**

Employees may elect to defer a portion of their compensation to a 457 Plan and/or a 401A Plan. The administrator of both plans is Nationwide Retirement Solutions. Contact Deferred Compensation at (619) 531-5840 for additional information.



**PLAN COSTS (Section 5.1.6 - Compensation Ordinance)**

Listed below are the twice-monthly costs of each plan offered by the County of San Diego:

	Plan Name	Employee Only	Employee +1 dependent	Employee +2 or more dependents
<b>Medical</b>	Anthem Blue Cross PPO (Prudent Buyer)	\$435.97	\$871.92	\$1,233.77
	Anthem Blue Cross California Care/Full Access HMO	\$654.65	\$1,309.29	\$1,852.67
	Anthem Blue Cross Select HMO	\$294.54	\$588.99	\$833.39
	Anthem Blue Cross High Deductible Plan	\$299.99	\$599.99	\$848.98
	Kaiser HMO	\$214.05	\$428.10	\$605.75
	Kaiser High Deductible Plan	\$167.09	\$334.18	\$472.87
<b>Dental</b>	Delta Dental DHMO	\$6.84	\$12.36	\$15.83
	Delta Dental PPO	\$21.47	\$42.93	\$61.31
<b>Vision</b>	VSP	\$4.45	\$10.28	\$13.93

**LIFE INSURANCE (Section 5.3.1 & 5.4.1 - Compensation Ordinance)**

The County provides a basic policy of two-times annual salary with a minimum of \$50,000 and a maximum of \$500,000 for each employee. There is also a \$2,000 benefit for legal spouse and each child from birth to 26 years of age. Additional employee life insurance coverage of 1, 2, or 3 times annual salary is available under the County's flexible benefit plan. These plans are underwritten by MetLife.

**ACCIDENTAL DEATH & DISMEMBERMENT (Section 5.4.1 - Compensation Ordinance)**

The County provides a basic policy of two-times annual salary with a minimum of \$50,000 and a maximum of \$500,000 for each employee. Additional employee life insurance coverage of 1, 2, or 3 times annual salary is available under the County's flexible benefit plan. Family coverage is also available at the same level of coverage. These plans are underwritten by MetLife.

**FLEXIBLE SPENDING ACCOUNTS (FSA) (Section 5.1.6 - Compensation Ordinance)**

Employees can pay for certain health care and dependent day care expenses with tax-free dollars under the County's flexible benefit plan. The Health Care FSA is used to pay for medical, dental and vision expenses that are not covered by a health plan. The Dependent Day Care FSA is used to pay for child care or care for other dependent family member(s).

**HEALTH SAVINGS ACCOUNT (HSA)**

Employees can open an HSA account to pay for or reimburse qualified health expenses and save for medical and retiree health expenses on a tax-free basis. Funds roll over and accumulate year to year if not spent. Can only be selected with a high deductible plan.

**LIMITED PURPOSE FLEXIBLE SPENDING ACCOUNT (LPFSA)**

Employees can use a LPFSA in conjunction with a Health Savings Account (HSA). The program allows you to put away money on a tax-free basis to pay for dental and vision expenses not covered by insurance.

**LONG TERM DISABILITY (Section 5.4.1 - Compensation Ordinance)**

Plan pays 66<sup>2/3</sup>% of monthly salary with a maximum benefit of \$12,000 per month. Benefits start 30 days after disability commences and continues to either age 65 or until disability ends. This plan is underwritten by MetLife and is paid by the County.

**RETIREMENT (Section 5.6.1 & 5.6.2 - Compensation Ordinance)**

The San Diego County Employees Retirement Association (SDCERA) provides a defined benefit pension plan. Permanent employees automatically become members and contribute to their benefit from each biweekly paycheck. The County may pay a portion of the employee's contribution, depending on their tier. Contact SDCERA at (619) 515-6800 or visit [www.sdcera.org](http://www.sdcera.org) for additional information.

**AUTOMOBILE ALLOWANCE (Section 496 - County Administrative Code)**

Executive employees with appointing authority receive a monthly allowance for use of a non-County vehicle to conduct County business. (Note: Assistant department heads and deputy directors are not eligible for an automobile allowance. However, they are eligible for mileage reimbursement.)

**RELOCATION ALLOWANCE** (Section 472 - County Administrative Code)

Expenses up to a limit of \$10,000 (for unclassified management) and \$15,000 (for executive management) may be reimbursed for personal transportation, moving expenses for household goods and/or temporary housing. This benefit requires prior approval by the Board of Supervisors or Chief Administrative Officer.

**TRANSIT PASS PROGRAM** (Section 495 - County Administrative Code)

County contributes up to \$85 monthly towards purchase of a bus, trolley or Coaster Pass.