

**EMPLOYMENT AGREEMENT
for
CITY ATTORNEY SERVICES**

This Agreement is entered into this 7th day of May, 2019, by and between the City Council of the City of Santa Maria, a municipal corporation, hereinafter referred to as "City," and Thomas T. Watson, an individual, hereinafter referred to as "Employee," with reference pursuant to the following:

WHEREAS, the City Council has conducted an extensive search for a City Attorney and desires to appoint the best qualified candidate to the position; and

WHEREAS, the City Council is committed to employing the best qualified individual to fulfill the duties and responsibilities of City Attorney; and

WHEREAS, the City Attorney shall be an "at-will" employee and shall serve at the pleasure of the City Council; and

WHEREAS, pursuant to Santa Maria Municipal Code section 2-4.02., the City Attorney shall be the department director of the City Attorney's Office department and the department shall be under the authority of the City Manager; provided, however, that the decision of the City Attorney shall be controlling as to all legal questions; and

WHEREAS, it is the desire of the City Council to provide inducement for Employee to remain in such employment; make possible full work productivity by assuring Employee's morale, health and peace of mind with respect to the future security of him and his family; assist in the maintenance of the health and well-being of Employee; provide a just means for terminating the services of Employee at such time as he may be unable to discharge fully his duties due to disability or when the City Council may desire to otherwise terminate his employment; act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee and against morally questionable personal financial dealings; and establish a clear and mutually understood system of compensating Employee.

NOW, THEREFORE, in consideration of the promises, terms and conditions contained in this Agreement, City and Employee agree as follows:

1. DUTIES

- A. City hereby agrees to employ Thomas T. Watson as City Attorney of the City and to perform the duties and functions of the position of City Attorney of the City as described by State law, the Municipal Code of the City, the job description of the position of City Attorney, and all other duties and functions as assigned by the City Manager from time to time.

B. Employee agrees to perform all such functions and duties to the best of his ability and in a competent and efficient manner. Employee agrees to focus his full professional time, ability, and attention to City business during the term of this Agreement and agrees not to engage in any other business pursuits whatsoever, or directly or indirectly render any services of a business, commercial or professional in nature to any other person or organization, whether for compensation, or otherwise, without the prior written consent of the City Council and with written notification to the City Manager.

2. TERM

A. Employee's status shall be "at-will" and shall serve at the pleasure of the City Council. Nothing in this Agreement or any other existing or future City document, not specifically amending this agreement, shall prevent, limit or otherwise interfere with the right of City to terminate the employment of said Employee at any time and for any reason, or for no reason, subject only to the provisions specified in Section 7 of this Agreement.

B. This Agreement is entered into on May 7, 2019, and shall be effective on Employee's first date of employment and unless otherwise terminated under the provisions of Section 7, shall remain in effect indefinitely.

C. Nothing in this Section shall or is intended to prevent, limit, or otherwise interfere with the right of the City, or the Employee, to terminate the employment of the Employee prior to the expiration of this Agreement, or any extension thereof, in accordance with Section 7 of this Agreement.

3. COMPENSATION

The City Attorney's compensation shall be adopted by resolution of the City Council. Salary upon adopting and execution of this agreement shall be set at \$201,875 annually.

The City agrees, to the extent it is financially able, to annually adjust the salary range of the Employee, based on merit and either the results of the salary survey or the amount given to the other non-represented management and confidential employees, whichever is greater.

For salary survey purposes, the top of the salary range of the Employee shall be set at the average of the mean and median of comparable positions in the following surveyed agencies: La Mesa, Livermore, Lompoc, Oxnard, Redding, Salinas, San Luis Obispo, Santa Barbara, and Ventura. For comparison

purposes, the salary survey will be based on the fifth step, "E" step or control point of other comparable positions in other cities, including retirement and the maximum monthly City-paid contribution toward health insurance.

- A. City agrees to review the salary and/or benefits of Employee in such amounts and to such extent as the Council may determine at its discretion, but no less frequently than the review of salary and benefit changes for other non-represented management and confidential employees of the City.
- B. The City Council and the City Attorney may set forth annually in writing certain goals and expectations. If, in the determination of the City, the Employee achieves the goals and is performing at an acceptable level, he may be entitled to receive compensation in the form of Performance Based Pay in addition to his regular salary and benefits. The City Council shall set forth the amount of additional compensation to which the Employee would be entitled pursuant to the Performance Based Pay guidelines, but shall not exceed ten percent (10%).
- C. The City agrees to provide an IRS approved 401(a) deferred compensation plan and will contribute two percent (2%) of salary per pay period toward the 401(a) plan.

4. BENEFITS

Employee shall receive no less than the benefit package payable to the non-represented management and confidential employees of the City of Santa Maria. Notwithstanding performance or disciplinary reasons, the City shall not, at any time during the term of this Agreement, reduce the salary, compensation or other financial benefits of Employee, except as may generally be applied to the City's management employees.

Given the importance of technological tools to the effective and efficient business of City government, the City shall provide a laptop computer, communications stipend, electronic calendar and other associated office software products, fax, copy machine and other similar devices to the City Attorney at the City's expense.

5. HOURS OF WORK

It is recognized that Employee must devote a great deal of time outside the normal office hours to business of the City, and to that end Employee will be allowed to take time off as he shall deem appropriate during said normal office hours.

6. CIVIC CLUB MEMBERSHIP

Employer recognizes the desirability of representation in and before local civic and other organizations, and Employee is authorized to be a member of one

nationally recognized service club in the City of Santa Maria, for which Employer shall reimburse Employee for necessary expenses for dues and meals. The City will not reimburse the employee for any service club-related fines or event costs (i.e. ticket purchases, auction items, etc.).

7. TERMINATION

Employee acknowledges and agrees that he is an "at-will" employee serving at the pleasure of the City Council and may be terminated without any right of appeal.

- A. The City Council may terminate this Agreement, upon written notice at any time, for "good cause." For purpose of this Agreement, "good cause" shall include, but is not limited to, any of the following:
1. A material breach of the terms of this agreement;
 2. Habitual neglect by the Employee of his employment duties;
 3. The continued incapacity on the part of the Employee to perform his duties;
 4. A failure to perform duties in a professional and responsible manner consistent with generally accepted standards of the profession;
 5. Engaging in personal conduct detrimental or prejudicial to public service; or
 6. Causes for discipline as defined in the City Administrative Memo (CAM) regarding Disciplinary Action (CAM 99-02).

"Good cause" shall not mean a mere loss of support or confidence by a majority of the Council. In the event that the Employee is terminated for cause, he shall not be entitled to severance pay or other compensation as delineated in Sections B and C below, other than the payment of accrued unused vacation, pro-rated management leave, and pro-rated floating holiday time.

- B. The City Council may terminate this Agreement at any time without cause upon sixty (60) days written notice. The City Council may place Employee on paid Administrative Leave at any time during these sixty (60) days upon written notice without cause. Prior to the end of the sixty (60) day period, the Employee will be entitled to be paid the compensation earned by him, including all unused accrued vacation, pro-rated accrued management leave, and pro-rated floating holiday time, on the payroll period prior to the effective date of termination or said benefits can be paid to the Employee on the final payroll and are then subject to the Post-Employment Health Plan. Should Employee decide to be paid all unused compensation (as previously described) prior to the final payroll, all leave accruals will cease in the last payroll period.

In the event that the Employee is placed on Administrative Leave without cause, but the Employee is subsequently convicted of: (1) any crime involving the abuse of his position while employed by the City; and/or (2) any crime against public justice (as set forth in Title 7 of the California Penal Code) while employed by the City, Employee shall reimburse the City for the payments received by the Employee from the City while on Administrative Leave.

At the end of the aforementioned sixty (60) day period, Employee's service will automatically terminate. Upon termination, the Employee shall be entitled to severance pay equal to twelve (12) months pay at the employee's current rate of pay. Said severance pay may be paid at the Employee's option as either a lump sum payment on the effective date of termination or on January 1st of the calendar year following his termination date. Employee may elect, in writing, prior to the end of the sixty (60) day period, to continue with medical coverage, paid by the City, for these twelve (12) months. This continued pay option does not include other benefits or salary increases (e.g. merit or COLA). Said severance pay will not be subject to the Post-Employment Health Plan.

In consideration of the above severance payment, Employee agrees that he shall not be entitled to any other payment or compensation of any kind from the City (unless otherwise mandated by law) in connection with the termination of his employment.

Employee acknowledges and agrees that if he is terminated pursuant to this Section he shall not be entitled to appeal his termination and both parties shall cooperate on a public account regarding the Employee's separation from the City.

- C. Employee may resign from his employment at any time for any reason by providing forty-five (45) calendar days prior written notice to the City Council, which may be reduced by the City Council. In the event that Employee provides such written notice, he shall be entitled to receive at the termination of his employment, only such accrued, unused and other such benefits as may be due and payable under applicable City rules, regulations or policies, and/or under applicable local, State or Federal law. Employee shall not, however, be entitled to any severance pay or other compensation as indicated in Section B as a result of his resignation.

8. INDEMNIFICATION

City shall defend, save harmless and indemnify Employee 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 Employee's duties as City Attorney. City will compromise and settle any such claim or suit or pay the amount of any settlement or judgment rendered thereon, subject to the laws of the State of California in that regard.

9. MODIFICATIONS

Modifications may only be made to the Agreement if made in writing and signed by both parties.

10. SEVERABILITY

Any term of this Agreement found to be invalid by a court of competent jurisdiction or made invalid by applicable State or Federal legislation is severable and shall not affect any other provision of the Agreement.

11. PROFESSIONAL DEVELOPMENT AND BAR DUES

A. The City agrees, to the extent it is financially able, to budget for and to pay for travel and subsistence expenses of Thomas T. Watson for professional and official travel, meetings, and occasions adequate to continue the professional development of Thomas T. Watson and to adequately pursue necessary official functions for the City, including but not limited to the annual City Attorney League Conference, the League of California Cities Annual Conference, and such other regional, state, and local governmental groups and committees.

B. The City agrees, to the extent it is financially able, to budget for and to pay for travel and subsistence expenses for Thomas T. Watson for short courses, institutes, and services that are necessary for his professional development and for the good of the City.

C. The City agrees to budget for and pay for professional dues and subscriptions of Thomas T. Watson necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the City.

CITY:

ALICE M. PATINO
Mayor

EMPLOYEE:

THOMAS T. WATSON
City Attorney

ATTEST:

Rhonda Garietz, Chief Deputy City Clerk

APPROVED AS TO FORM:

Interim City Attorney

