

## CITY ATTORNEY EMPLOYMENT AGREEMENT

**THIS AGREEMENT**, made and entered into at Vacaville, California, this 29<sup>th</sup> day of April, 2016, by and between the CITY OF VACAVILLE, a municipal corporation, hereinafter referred to as "EMPLOYER", and MELINDA C. H. STEWART, an individual, hereinafter referred to as "EMPLOYEE".

### RECITALS

**WHEREAS**, EMPLOYER has utilized the services of EMPLOYEE as a Deputy City Attorney I, a Deputy City Attorney II, and an Assistant City Attorney since December 1, 1995; and

**WHEREAS**, EMPLOYER has undertaken a recruitment for the position of City Attorney and has selected EMPLOYEE for that position. Following that preliminary selection, EMPLOYER has reviewed and considered the terms and conditions of employment provided by comparable cities and public agencies for the position of City Attorney; and

**WHEREAS**, EMPLOYER acting by and through its City Council, desires to employ the services of EMPLOYEE as City Attorney of the City of Vacaville and assure the continuous service of EMPLOYEE in such official capacity as provided for under the Municipal Code of the City of Vacaville by establishing herein certain salary and fringe benefits and other terms and conditions of employment; and

**WHEREAS**, EMPLOYEE desires to undertake employment as City Attorney of the City of Vacaville under the terms and conditions of employment as set forth herein.

**NOW, THEREFORE**, in consideration of this Agreement, and the mutual promises, covenants and stipulations herein contained, the parties hereto agree as follows:

### AGREEMENT

#### **1. EMPLOYMENT.**

EMPLOYER hereby appoints and employs EMPLOYEE as City Attorney of the City of Vacaville, under this Agreement and conferring upon and delegating to EMPLOYEE all of the duties, powers, and responsibilities of City Attorney as the same are specifically prescribed and set forth in the State law, the Vacaville Municipal Code, and the ordinances, resolutions, policies, rules and regulations as from time to time existing thereunder including, but not limited to, acting as General Counsel to the Successor Agency to the Vacaville Redevelopment Agency, the Vacaville Housing Authority, and the Vacaville Public Financing Authority, and all subordinate boards and commissions of EMPLOYER. Further, EMPLOYEE shall undertake or defend litigation involving EMPLOYER, the Successor Agency to the Vacaville Redevelopment Agency, the Vacaville Housing Authority, and the Vacaville Public Financing Authority, and all subordinate boards and commissions of EMPLOYER and shall direct and oversee any outside special counsel deemed necessary and appropriate for specific legal services. EMPLOYEE accepts continued employment as City Attorney of the City of Vacaville and the other named agencies and agrees to loyally perform these duties to the best of her ability at all times.

#### **2. TERM; SEVERANCE PAY.**

A. The initial term of employment shall run from August 1, 2016 until July 31, 2018 ("Initial Term"). Thereafter, the term of employment shall continue until the date specified in a notice of termination given by either party to the other pursuant to the terms herein.

B. If EMPLOYER terminates this Agreement during the Initial Term, EMPLOYER shall pay severance to EMPLOYEE in an amount equal to nine (9) months' salary and benefits following the separation of EMPLOYEE from service to EMPLOYER.

C. If EMPLOYER terminates this Agreement during any other time, EMPLOYER shall pay severance to EMPLOYEE in an amount equal to six (6) months' salary and benefits following the separation of EMPLOYEE from service to EMPLOYER.

D. EMPLOYEE shall not be entitled to severance in the event of EMPLOYEE'S death; permanent incapacity due to injury or illness, whether physical or mental; dismissal for willful misconduct in office or dishonesty in office; dismissal following EMPLOYEE'S conviction of a felony or misdemeanor involving moral turpitude; or EMPLOYEE'S voluntary resignation or retirement.

**3. VOLUNTARY RESIGNATION OR RETIREMENT.**

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from her position as City Attorney or to retire from public service. In the event that EMPLOYEE voluntarily resigns her position, or retires, prior to the expiration of the term of this Agreement, EMPLOYEE shall give EMPLOYER three (3) months' notice in advance, unless the parties agree otherwise. In the case of a voluntary resignation or retirement, no severance will be paid to EMPLOYEE.

**4. EXCLUSIVE EMPLOYMENT.**

EMPLOYEE agrees to give full attention to her duties and will not engage in any outside employment or business activities, which might conflict with those duties. This limitation shall not include occasional teaching, writing, or consulting performed during EMPLOYEE'S vacation or other time off.

**5. EVALUATION.**

EMPLOYER shall conduct an annual performance and compensation (i.e. merit step increase) evaluation of City Attorney, each year on or before the anniversary date of this Agreement.

**6. SALARY.**

The agreed upon beginning compensation shall be Two Hundred and Two Thousand Dollars (202,000.00) a year. For the second year of this Agreement (commencing August 1, 2017) EMPLOYEE shall receive a five percent (5%) increase in compensation, contingent upon receiving a satisfactory performance evaluation from EMPLOYER. The base salary shall automatically include any other adjustments that may be authorized in the future.

**7. DEFERRED COMPENSATION.**

EMPLOYER agrees to contribute an amount equal to two percent (2%) of salary for use by EMPLOYEE in a Deferred Compensation Plan. EMPLOYEE is required to contribute a one percent (1%) match. Such amounts shall be adjusted in accordance with the benefits provided to other Department Heads.

**8. VACATION.**

EMPLOYER agrees to provide EMPLOYEE twenty-five (25) paid vacation days per year. Up to seven hundred twenty (720) hours of vacation may be accrued by EMPLOYEE. The maximum allowed to remain on the books is seven hundred (720) twenty hours as of June 18, 2018. The provisions of vacation caps will be the same as those provided to the Department Heads.

EMPLOYEE shall have the right, at any time prior to or upon EMPLOYEE's retirement date, to redeem accrued vacation or administrative leave hours in an amount determined by EMPLOYEE.

**9. PROFESSIONAL FEES AND INSURANCE.**

EMPLOYER agrees to pay all American, State and County Bar Association dues, professional liability insurance, and other professional membership dues or insurance as may from time to time be necessary for the continued practice in good standing by the City Attorney before any judicial tribunal.

**10. MEETINGS AND CONFERENCES.**

EMPLOYER recognizes the responsibility of the EMPLOYEE to participate in professional national, regional, state, and local associations, organizations, and continuing educational programs for the maintenance of her professional growth and the direct benefit to the EMPLOYER therefrom. The EMPLOYER therefore agrees to budget and to pay for EMPLOYEE'S expenses while attending such meetings or programs.

**11. INDEMNIFICATION.**

Save and except for matters of willful misconduct or criminal acts by EMPLOYEE, EMPLOYER shall defend, hold harmless, and indemnify the EMPLOYEE against any suits, claims or demands, arising out of an alleged act or omission occurring in the performance of EMPLOYEE'S duties.

**12. GENERAL BENEFITS AND WORKING CONDITIONS.**

Unless otherwise specified herein, all other working conditions and benefits currently in existence or as may be adjusted by the EMPLOYER for all other Department Heads shall apply to EMPLOYEE unless specifically provided for by this Agreement to the contrary in which case the provisions of this Agreement shall prevail. EMPLOYEE shall also be entitled to receive cost of living adjustments as granted by EMPLOYER to other Department Heads from time to time.

**13. RETIREMENT.**

EMPLOYER agrees to continue participation in the P.E.R.S. 414H2 and PARS retirement plans equivalent to two and seven tenths percent (2.7%) at 55 formula. EMPLOYER's contribution shall be in accordance with the contributions made for other Department Heads, as such contributions may be modified from time to time.

**14. AUTOMOBILE EXPENSES.**

EMPLOYER shall provide EMPLOYEE an automobile allowance in the amount of two hundred dollars (\$200.00) per month and such amount shall be increased in the same amount as an across-the-board increase as may be granted to other Department Heads from time to time.

**15. HEALTH INSURANCE; DEATH/DISABILITY PAYMENT.**

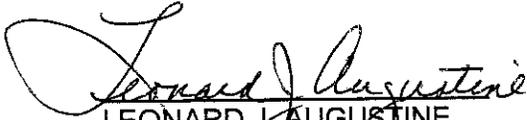
EMPLOYER agrees to pay all costs of medical, dental, vision, life and long-term disability insurance for EMPLOYEE and her dependents in accordance with the plans provided by EMPLOYER. However, EMPLOYER's payment of the cost of medical insurance shall not exceed the amount charged for the Kaiser Health Plan. Employer's contribution shall be in accordance with the contribution made for other Department Heads, as such contribution may be modified from time to time. In addition to other insurance and benefits, EMPLOYER agrees to pay four (4) calendar months of salary in the event of EMPLOYEE'S non self-inflicted death or disability, which renders EMPLOYEE incapable of performing the duties required by this Agreement.

**16. CHANGES IN TERMS AND CONDITIONS OF EMPLOYMENT.**

EMPLOYER may amend this Agreement and fix such other terms and conditions of employment as they deem appropriate and timely, provided that said terms and conditions are not inconsistent or in conflict with the provisions of this Agreement.

IN WITNESS WHEREOF, EMPLOYER, the City of Vacaville, caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by its City Clerk, and Melinda C. H. Stewart, EMPLOYEE, has signed and executed this Agreement on behalf of herself, both on the day and year first above written.

EMPLOYER BY:

  
LEONARD J. AUGUSTINE  
Mayor, City of Vacaville

APPROVED AS TO FORM:

  
GERALD L. HOBRECHT  
City Attorney

EMPLOYEE BY:

  
MELINDA C. H. STEWART

ATTEST:

  
MICHELLE THORNBROUGH  
City Clerk