



CITY OF SANTEE

MAYOR
John W. Minto

CITY COUNCIL
Ron Hall
Stephen Houlahan
Brian W. Jones
Rob McNelis

MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement ("Agreement") is made effective April 19, 2018 by and between the CITY OF SANTEE, a public entity ("City"), and Annette Ortiz, ("Employee").

1. City desires to employ the services of Employee in the position of City Clerk to perform the duties of that position.
2. In exchange for certain benefits as described below and severance compensation as described below, Employee agrees that this is the sole and entire Agreement between the City and Employee regarding the term of employment and the termination thereof, and that this Agreement can be terminated at any time by either party.
3. Employee desires to accept employment, on an at-will basis, as a City Clerk with the City of Santee.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENT HEREIN CONTAINED, IT IS HEREBY AGREED AS FOLLOWS:

1. Employee shall serve as a City Clerk during the term of this Agreement. Employee will perform such duties specified in the Santee Municipal Code, state law, the job description of the position subject to modification by the City Manager of the City of Santee ("City Manager") and/or City Council, and any additional duties which are assigned by the City Manager and/or City Council which are legally permissible and proper duties. Employee agrees to abide by all City policies and procedures. Where there is a conflict between those policies and procedures and specific terms of this Agreement, this Agreement shall prevail.
2. **Term:** City agrees to employ and Employee accepts employment with the City under the terms of this Agreement or until Employee's employment is terminated in accordance with this Agreement.
3. **Salary and Benefits:** Employee will receive a base annual salary of \$90,000 payable in installments at the same time as other employees of the City are paid. Employee shall receive a six month performance review and consideration of a salary increase by the City Council to be completed by October 31, 2018. Employee may also receive additional increases, if any, as determined by the City Manager and/or City Council. Employee is considered an Executive Management Employee in the Salary and Benefit Plan for Management for purposes of fringe benefits and salary adjustments. As such,

Employee shall be entitled to participate in all employee benefit programs and plans established, and as amended, by the City for Executive Management Employees.

Employee may also be eligible for increases in base salary and/or other benefits in such amounts and to such extent as the City Manager and/or City Council may determine based on the annual performance review of Employee. City may in its discretion, also provide Employee with any other additional benefits that it chooses to provide to Employee.

The following benefits are the current benefits which will be provided to Employee as Executive Management, which may be amended from time to time by the City Manager and/or City Council.

a. Vacation

The typical vacation accrual schedule for Executive Management is as follows:

EXECUTIVE MANAGEMENT	
0 – 9 years:	Fifteen working days *
9 – 14 years:	Twenty working days
14 – 19 years:	Twenty two working days
19 – 24 years:	Twenty four working days
24+ years:	Twenty five working days

b. Vacation Conversion to Cash

The Employee may have the ability to convert up to 40 hours of vacation to cash each fiscal year, per the City's Vacation Conversion to Cash Policy. The policy may be amended or suspended at any time.

c. Administrative Leave

64 hours per fiscal year

d. Tuition Reimbursement

Ability to receive up to \$2,500 per fiscal year based on the City's Tuition Reimbursement Policy.

e. Auto Allowance:

Shall receive \$350 per month

4. **Termination and Severance Pay:**

a. Termination.

The City Council may terminate this Agreement and Employee's employment at any time with or without cause and without notice. Employee may terminate this Agreement and Employee's employment at any time upon written notice to the City.

b. Severance.

(1) In the event that Employee's employment is terminated by the City without cause, while Employee is willing and able to perform the duties of City Clerk, after at least 90 days employment with the City, Employee shall be entitled to a lump sum cash settlement, equal to six (6) months base salary, exclusive of incentive or bonus pay, benefits and other non-cash remuneration, except health benefits which will be continued, at the same level of City contribution provided Executive Management employees for six (6) months or until the Employee begins other employment, whichever occurs first. To receive severance, Employee must execute a Settlement Agreement and General Release satisfactory to the City. In the event the Employee elects not to sign the Settlement Agreement and General Release, Employee will not be entitled to severance pay.

(2) Employee will not be entitled to severance if employment is terminated by the City at any time for cause, or if Employee resigns, retires, or is unable to perform the essential functions of the position with reasonable accommodations.

(a) Cause for termination shall be defined for purposes of this Agreement as (i) malfeasance, (ii) gross negligence, (iii) fraud, (iv) serious misconduct, or (v) conviction of a felony on the part of Employee. Conviction for purposes of this Agreement includes a judgment entered after a trial, plea of guilty or plea of nolo contendere.

(b) The promise and tender of payment to Employee, of any severance compensation payable herein, is in lieu of any damages which Employee might claim arising out of the termination of the employment relationship between the parties, including lost wages, breach of contract, express or implied, breach of covenant of good faith and fair dealing, emotional distress and anxiety, or any similar contractual and personal injury claims.

(c) This section is intended to comply with the provisions of Government Code section 53260, et seq. This agreement in no way affects Employee's rights to continue health insurance coverage as required under COBRA for Employee and Employee's eligible dependents.

5. **Withholding of Taxes:** City will withhold from any monies payable pursuant to this Agreement all federal, state, City or other taxes as may be required by any law, or governmental regulation or ruling.

6. **Hours of Work:**

- a. Employee is expected to conduct City business and perform Employee's duties for the City during the City's normal business hours. However, the City recognizes that Employee must devote a great deal of time outside normal office hours to the business of the City, and therefore Employee will be allowed to take reasonable time off during normal business hours.
- b. Except upon prior written consent of the City Manager, Employee, during the term of this Agreement and while employed by the City, shall not engage, directly or indirectly, in any other business, commercial, or professional activity (whether or not pursued for pecuniary advantage) that is or may be competitive with City, that might create a conflict of interest with City, or that otherwise might interfere with business of City, or any affiliated entity. Employee shall not spend more than ten (10) hours per week in teaching, consulting, or other non-City connected business without the express prior approval of the City Manager.

7. Professional Development:

- a. City recognizes and wishes to encourage professional development of Employee. To this end, Employee is encouraged to continue professional development through involvement with professional associations, organizations and such other national, regional, state, and local government groups and committees of which the employee may be a member. City agrees to budget and pay reasonable professional dues, subscriptions and related expenses of the Employee necessary for participation in such organizations. City agrees to budget and pay for reasonable travel and subsistence expenses of Employee in attending meetings, conferences, seminars, and classes which assist in Employee's professional advancement.
- b. The amount of funds budgeted for professional development is limited based on available resources as appropriated by the City Council and may vary each fiscal year. All requests for professional development as outlined above are subject to City Manager approval.

8. **Statutory Obligations; Abuse of Office or Position:** Pursuant to Government Code Section 53243, et seq. which became effective on January 1, 2012, if Employee is convicted of a crime involving an abuse of his/her office or position, all of the following shall apply: (1) if Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse such amounts paid; (2) if the City pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Employee shall be required to fully reimburse such amounts paid; and (3) if this Agreement is terminated, any cash settlement related to the termination that Employee may receive from the City shall be fully reimbursed to the City. For this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (2) a crime against public justice, including a crime described in Title 7 commencing with section 92 of the Penal Code.

9. **Waiver of Breach:** The waiver by either party, or the failure of either party to claim a breach of any provision of this Agreement, shall not operate or be construed as a waiver of any subsequent breach.
10. **Assignment:** The rights and obligations of the respective parties hereto under this Agreement shall inure to the benefit and shall be binding upon heirs, legal representatives, successors and assigns of the parties hereto; provided, however, that this Agreement shall not be assignable by either party without prior written consent of the other party. Any attempted assignment is void.
11. **Entire Agreement:** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said subject matter in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing and signed by both Employee and City Manager.
12. **Governing Law:** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California. Any action to interpret or enforce terms of this Agreement shall be held exclusively in the state court in San Diego County, California. Employee expressly waives any right to remove any such action from San Diego County otherwise permitted by the California Code of Civil Procedure section 394.
13. **Partial Invalidity:** If any provision of this Agreement is found to be invalid or unenforceable by any court, the remaining provisions hereof shall remain in effect unless such partial invalidity or unenforceability would defeat an essential business purpose of this Agreement.

IN WITNESS WHEREOF, The parties hereto have caused this Agreement to be duly executed on the dates noted below.

BY:




John W. Minto, Mayor



Date

BY EMPLOYEE:



Annette Ortiz

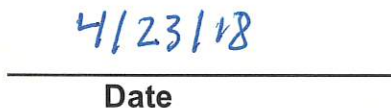


Date

APPROVED AS TO FORM:



Shawn Hagerty, City Attorney



Date