

**CITY OF SAN RAMON
SECOND AMENDMENT TO THE AGREEMENT
FOR EMPLOYMENT OF CITY ATTORNEY**

This Second Amendment to the Agreement for Employment of City Attorney ("Second Amendment") is made and entered into this 26th day of November, 2019 by and between the city of San Ramon ("City"), a charter city, and Martin Lysons ("Employee"), collectively referred to as "the Parties."

WHEREAS, the City of San Ramon entered into an Agreement for Employment of City Attorney ("Agreement") on September 13, 2017, appointing Martin Lysons as City Attorney; and

WHEREAS, the First Amendment to the Agreement for Employment of City Attorney was entered into on November 27, 2018, providing a three percent (3%) increase to annual salary, with a one percent (1%) contribution to the employer's share of pension cost.

WHEREAS, the City Council authorized the Second Amendment to the Agreement for Employment of City Attorney at the City Council meeting of November 26, 2019 by adopting Resolution No. 2019-111.

NOW THEREFORE, Section 1, Compensation and Term" of the original Agreement entered into on September 13, 2017, is hereby amended to read as follows:

Commencing September 25, 2019, the City agrees to compensate Employee at the rate of \$18,926.25 per month, which compensation may be adjusted annually as a result of the performance evaluation set out in paragraph 3 below. Employee shall also receive management incentive pay of \$500 per month.

The city will also pay the same portion of employee contribution to the Public Employees Retirement System as it pays to all other City Miscellaneous Department Head employees. Effective September 25, 2019, the Employee will contribute, in addition to the employee portion, two percent (2%) to the employers' share of CalPERS.

IN WITNESS THEREOF, the parties have executed this agreement on November 26, 2019.

CITY OF SAN RAMON



Bill Clarkson, Mayor

EMPLOYEE



Martin Lysons

ATTEST

FOR 
Renee Beck, Acting City Clerk

**CITY OF SAN RAMON
FIRST AMENDMENT TO THE AGREEMENT FOR EMPLOYMENT
OF CITY ATTORNEY**

This First Amendment to the Agreement for Employment of City Attorney ("First Amendment") is made and entered into this 27th day of November, 2018 by and between the city of San Ramon ("City"), a charter city, and Martin Lysons ("Employee"), collectively referred to as "the Parties."

Whereas the City of San Ramon entered into an Agreement for Employment of City Attorney ("Agreement") on September 13, 2017, appointing Martin Lysons as City Attorney; and

Whereas the City Council authorized this First Amendment at the City Council meeting of November 27, 2018 adopting Resolution No. 2018-123.

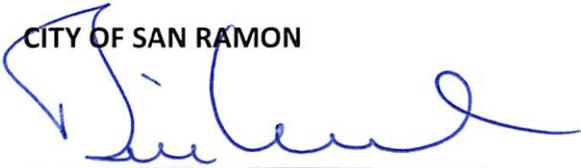
Now, therefore, Section 1, Compensation and Term" of the original Agreement entered into on September 13, 2017, is hereby amended to read as follows:

Commencing September 25, 2018, the City agrees to compensate Employee at the rate of \$18,025 per month, which compensation may be adjusted annually as a result of the performance evaluation set out in paragraph 3 below. Employee shall also receive management incentive pay of \$500 per month.

The city will also pay the same portion of employee contribution to the Public Employees Retirement System as it pays to all other City Miscellaneous Department Head employees.

IN WITNESS THEREOF, the parties have executed this agreement on November 27, 2018.

CITY OF SAN RAMON



Bill Clarkson, Mayor

EMPLOYEE



Martin Lysons

ATTEST



Renee Beck

**CITY OF SAN RAMON
AGREEMENT FOR EMPLOYMENT
OF CITY ATTORNEY**

This Employment Agreement ("Agreement") is made and entered into this 12th day of September, 2017 by and between the City of San Ramon ("City"), a Charter Law City, and Martin E. Lysons ("Employee"), collectively referred to as "the Parties."

WHEREAS, this Agreement provides for Employee services as City Attorney, performing the duties and functions specified in the City Charter and Municipal Code, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign subject always to the direction of the City Council; and

WHEREAS, the City and Employee have entered into this Agreement in recognition of the benefits accruing to each party; and

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. COMPENSATION AND TERM.

Commencing September 25, 2017, the City agrees to compensate Employee at the rate of \$17,500 per month, which compensation may be adjusted annually as a result of the performance evaluation set out in paragraph 3 below. Employee shall also receive management incentive pay of \$500 per month. Employee's appointment as City Attorney shall be effective on September 25, 2017.

The City will also pay the same portion of employee contribution to the Public Employees Retirement System as it pays to all other City Miscellaneous Department Head employees.

2. SEPARATION.

- A. Termination and Removal: Employee is an at-will employee serving at the pleasure of the City Council. The City Council may remove the Employee at any time, with or without cause, by a majority vote of its members.
- B. Resignation/Retirement: Employee may resign at any time and agrees to give the City thirty (30) days advance written notice of the effective date of the resignation. If Employee retires from full-time public services with the City, Employee shall provide sixty (60) days advance notice.
- C. Termination of Agreement upon Inability to Perform: This Agreement shall terminate upon the permanent disability and inability of the Employee to perform the essential duties of this position.
- D. Termination without Cause. The City Council may terminate Employee without cause at any time. If the Employee is terminated by the Council without cause

during such time that the Employee is willing and able to perform the City Attorney's duties under this Agreement, then the City agrees to pay the Employee a lump sum cash payment as follows: a) if the termination without cause is initiated before September 25, 2018 the payment shall be equal to twelve (12) months base salary then-in-effect, and payment of leave balances; or b) if the termination without cause is initiated on or after September 25, 2018, the payment shall be equal to nine (9) months base salary then-in-effect, and payment of leave balances.

E. Termination for Cause: Notwithstanding any other provision of this Agreement, the Employee may be terminated for cause. As used in this section "cause" shall mean one or more of the following:

1. Willful breach of this Agreement pursuant to Labor Code §2924 as that code section has been interpreted.
2. Habitual neglect of the duties required to be performed, as pursuant to Labor Code §2924 as that code section has been interpreted.
3. Any acts of dishonesty, fraud, or other acts of moral turpitude.
4. Conviction of any act which would constitute a crime, whether misdemeanor or felony, and which would bring disrespect to the Office of the City Attorney or the City.
5. Willful violations of City policies of a serious nature, including for example, but not limited to, the City's Harassment or Drug-Free Workplace policies.

If the Employee is terminated or suspended for cause, Employee shall have a written notice of the cause of his removal or suspension from duty, and shall have the opportunity to be heard on the cause of his removal or suspension before a public hearing of the City Council.

Termination or suspension for cause shall not trigger rights to any severance benefits provided for in section 2(E) above relating to "Termination without Cause."

3. PERFORMANCE EVALUATION.

The City Council shall review and evaluate the performance of the Employee annually within thirty (30) days of the mid-fiscal year. The performance evaluation shall be conducted by use of an outside professional facilitator with appropriate qualifications and experience in facilitating and coordinating the performance review of a city attorney. The facilitator will be chosen by the mutual agreement of the City Council and the Employee. The facilitator will have no role in the performance evaluation except to coordinate and facilitate the review and to assist the Parties in ensuring that the reviews are conducted in a timely fashion as set out in this Agreement. Any annual pay adjustments shall be based on the results of the Council's evaluation and effectuated by a written amendment to this

Agreement. Use of an outside facilitator may be waived by the mutual agreement of the City Council and Employee.

4. VACATION, SICK LEAVE, HOLIDAYS, BENEFITS.

Employee shall accrue vacation at a rate of 20 days of vacation per year with the same vacation accrual limits, discretionary, administrative leave, sick leave, holidays, health care, life insurance, and all other benefits as provided to all other Department Head Miscellaneous employees per the City's Rules. Also consistent with existing City Policies and CalPERS rules, vacation and sick leave cash payments at termination or retirement are not credited as employee contributions for benefits under the CalPERS retirement system.

5. PROFESSIONAL DEVELOPMENT.

The City acknowledges its interest in the continuing professional development of Employee and agrees to pay membership dues and to allow and pay all expenses associated with attendance at annual conferences of the League of California Cities, International Municipal Lawyers' Association, California Public Employers Labor Relations Association, and meetings of the Contra Costa County City Attorneys' Association. Further, the City agrees to pay the California Bar Association dues for the Employee. With the prior budgetary allowance and consent of the Council, the City agrees to allow Employee to attend and participate in such other professional associations and conferences as may be mutually agreeable to both parties. The City acknowledges the right of Employee to engage in other professional activities as long as they do not interfere or conflict with the Employee's duties as City Attorney. Such professional activities may include teaching, writing, and other compatible activities, so long as they do not raise conflicts of interest or incompatible office issues, or take away from the time necessary for Employee to fulfill the duties of the office of City Attorney.

6. INDEMNIFICATION.

To the extent permitted by law, the City shall defend, hold harmless and indemnify Employee against any tort, professional liability claim or demand or other civil legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring in the performance of Employee's duties to the City. In its sole discretion, the City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom. This duty to defend and indemnify shall not apply to criminal charges against the Employee, except at the sole discretion of the City Council based on a finding that it is in the public interest and in the best interests of the City to do so.

7. OTHER RIGHTS OF PARTIES.

Unless expressly set forth in this Agreement, nothing in this Agreement shall abrogate any rights, responsibilities, benefits or privileges to which either party would otherwise be entitled.

8. AMENDMENT OF AGREEMENT.

The Agreement may be amended only in writing by mutual agreement of the Parties.

9. STATE LAW AND JURISDICTION.

The right and obligation of the parties to this Agreement shall be governed by the laws of the State of California. Any appropriate state court in Contra Costa County or federal district court within the Northern District of California shall have exclusive jurisdiction over any case or controversy arising under or in connection with this Agreement.

10. RECITALS.

The recitals set forth above are incorporated by reference to this Agreement.

11. FAILURE TO ACT OR DELAY OF ACTION.

No failure to exercise and no delay in exercising any right, remedy or power set forth in this Agreement shall operate as a waiver to the exercise of that right, remedy, or power in the future.

12. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by either party to this Agreement.

13. SEVERABILITY.

Should any paragraph, subparagraph, sentence, clause, phrase or word included in this Agreement be found invalid by a court of competent jurisdiction, the balance of this Agreement shall remain in full force and effect.

7. OTHER RIGHTS OF PARTIES.

Unless expressly set forth in this Agreement, nothing in this Agreement shall abrogate any rights, responsibilities, benefits or privileges to which either party would otherwise be entitled.

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This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by either party to this Agreement.

13. SEVERABILITY.

Should any paragraph, subparagraph, sentence, clause, phrase or word included in this Agreement be found invalid by a court of competent jurisdiction, the balance of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed on the dates indicated below.

CITY OF SAN RAMON

EMPLOYEE


Bill Clarkson, Mayor 9/12/17
Date


Martin E. Lysons 09/02/17
Date

ATTEST:


Benée Beck, City Clerk 9/13/17
Date