

**AMENDED AND RESTATED
CITY CLERK EMPLOYMENT AGREEMENT**

THIS AMENDED AND RESTATED CITY CLERK EMPLOYMENT AGREEMENT ("Agreement") is made and entered into in South San Francisco, California, this ____ day of _____, 2023 ("Effective Date"), by and between the CITY OF SOUTH SAN FRANCISCO, a municipal corporation, hereinafter referred to as "CITY", and ROSA GOVEA ACOSTA, an individual, hereinafter referred to as "ACOSTA" (collectively referred to herein as "Parties") :

WITNESSETH:

WHEREAS, ACOSTA is the duly elected City Clerk of the City and has served in this role since December 11, 2018. CITY and ACOSTA entered into a City Clerk Employment Agreement effective March 13, 2019. ACOSTA was reelected to the position of City Clerk at the November 2022 General Municipal Election. The City Council recognizes that ACOSTA is an individual who has the education, training, and experience in local government management to serve in the position of City Clerk; and

WHEREAS, CITY and ACOSTA desire to enter into this AMENDED AND RESTATED CITY CLERK EMPLOYMENT AGREEMENT to outline the compensation and benefits that ACOSTA will continue to receive from CITY in exchange for her service as City Clerk; and

WHEREAS, ACOSTA desires to accept the compensation and benefits under the terms and conditions 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:

SECTION 1. EMPLOYMENT:

Pursuant to her election by the voters of CITY, ACOSTA serves as the City Clerk of CITY and carries out all of the duties, powers and responsibilities of City Clerk, specifically prescribed in State law, including California Government Code Sections 40800, and the Municipal Code.

SECTION 2. TERM:

The term of this Agreement shall commence on December 13, 2022 and shall remain in place for as long as ACOSTA is the duly elected City Clerk or until the office becomes vacant in accordance with California Government section 36502.

SECTION 3. SALARY:

A. CITY agrees to pay ACOSTA an annual base salary of one hundred sixty-one thousand seven hundred and sixty-one dollars (\$161,761) payable in installments at the same time as other employees of the CITY in the Executive Management Unit.

No later than March 1, 2023 the City shall conduct a total compensation survey for the City Clerk position utilizing the parameters and benchmark cities used for Executive Management Unit. Adjustments to base salary shall be take into consideration both market position and internal alignment. The results of the survey will be presented to the City Council by March 8, 2023. Any agreed compensation adjustments shall be approved by City Council and retroactive to December 13, 2022.

B. Consistent with Article 2 of the Executive Management Compensation Plan, ACOSTA shall receive the same across-the board base salary increases, and one-time recognition payments, if any, as provided to the Executive Management Unit for the duration of her term as City Clerk.

SECTION 4. RETIREMENT:

A. As of February 1, 2001, ACOSTA has been covered by the retirement program (i.e., Public Employees' Retirement System - P.E.R.S.) by which all other "Miscellaneous Employees" of the CITY are covered.

B. ACOSTA is enrolled in the CalPERS retirement system as a classic Miscellaneous Employee first hired by the City prior to April 24, 2010, which provides that ACOSTA is entitled to receive benefits in accordance with the 2.7% at 55 formula. ACOSTA's contribution shall be calculated in accordance with PERS laws and regulations and CITY's contract with CALPERS.

C. CITY participates in Social Security and Medicare. ACOSTA shall have her statutory contribution to Social Security and Medicare deducted from her paycheck for her share and the CITY will pay its share of Social Security and Medicare.

D. Subject to the terms and conditions of the CITY's Deferred Compensation Plan and IRS rules, ACOSTA may participate in the CITY's section 457 Deferred Compensation Plan and 125 Flexible Benefit Plan.

E. As ACOSTA began her employment with the City in 2001, ACOSTA is entitled to retiree medical benefits as provided to other eligible Executive

Management Group members in accordance with the terms of the Executive Management Group Compensation Plan Section 4.10 at the same level and on the same terms as exist now or may be applicable in the future for all other retirees.

SECTION 5. OTHER BENEFITS:

A. ACOSTA shall be entitled to and shall receive the same employment benefits as provided in the Executive Management Compensation Plan,. The City agrees to provide the same vision, dental and comprehensive medical insurance as is provided in the Executive Management Compensation Plan.

B. The City shall maintain and make required premium payments on behalf of ACOSTA for the same short term and long-term disability coverage as provided in the Executive Management Compensation Plan.

C. The City shall provide ACOSTA with the same Life and Accidental Health and Dismemberment Insurance, Retirement Health Savings and Executive Wellness, Executive Management Professional Development Allowance, Education Expense Reimbursement Program benefits as is provided in the Executive Management Compensation Plan.

D. ACOSTA shall be entitled to accrue Holiday, Vacation, Administrative, floating holiday, and sick leave set forth and at the rate specified. ACOSTA's tenure in public service has been considered to determine the vacation accrual rate. As a result, vacation accrual rate shall start at the accrual rate equal to that of an employee with 19 years of City service, as specified in the Executive Management Compensation Plan, which is currently 200 hours per year, 7.69 hours accrued incrementally each pay period. Rates of accrual, accrual caps, forfeiture and payouts of unused leave time shall be as provided in the Executive Management Compensation Plan. in the Executive Management Compensation Plan.

E. ACOSTA shall be entitled to administrative leave as provided pursuant to the Executive Management Compensation Plan, which is currently eighty (80) hours per year..

F. ACOSTA is entitled to receive a monthly automobile allowance as specified in the Executive Management Compensation Plan.

G. CITY shall pay for the professional dues and subscriptions of ACOSTA necessary for her continuation and full participation in appropriate professional organizations, subject to available budgeted funds.

H. CITY shall pay for the professional memberships of various professional and service organizations. In addition, other organizations sponsor and

offer short courses, institutes, seminars, and the like, which would be beneficial to ACOSTA'S professional development. ACOSTA'S travel, subsistence, and other related expenses shall be reimbursed consistent with applicable City policy and available budgeted funds.

I. Benefits as outlined above shall continue to be in effective from the first day of employment, December 11, 2018 and re-election, November 8, 2022.

SECTION 6. INDEMNIFICATION AND BONDING:

A. CITY shall defend, hold harmless and indemnify ACOSTA 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 ACOSTA's duties in accordance with the provisions of California Government Code section 825. ACOSTA's conviction for a felony or misdemeanor shall be a basis for CITY'S exemption of this indemnification. CITY may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom.

B. CITY shall bear the full cost of any fidelity or other bonds required of ACOSTA under any law or ordinance.

SECTION 7. NOTICES:

Notices pursuant to this Agreement shall be given by deposit in the United States Postal Service, postage prepaid, addressed as follows:

- | | |
|-------------|--|
| (1) CITY: | Mayor
City of South San Francisco
P.O. Box 711 - 400 Grand Avenue
South San Francisco, California 94083 |
| (2) ACOSTA: | Rosa Govea Acosta, MMC
City Clerk
P.O. Box 711 - 400 Grand Avenue
South San Francisco, California 94083 |

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the United States Postal Service.

SECTION 8. ATTORNEY'S FEES:

In the event it becomes necessary for either CITY or ACOSTA to bring a lawsuit to enforce any of the provisions of this Agreement, the parties agree that a court of competent jurisdiction may determine and fix a reasonable attorney's fee to be paid the prevailing party.

SECTION 9. GENERAL PROVISIONS:

- A. The text herein shall constitute the entire Agreement between the Parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of ACOSTA.
- C. This Agreement shall become effective commencing on the Effective Date.
- D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect. Further, the parties shall meet and confer in good faith to devise alternative language to replace the unconstitutional, invalid or unenforceable term and shall amend this Agreement in writing to include such new term.
- E. This Agreement may only be amended in writing upon mutual agreement of the Parties.

[Signatures on the following page]

IN WITNESS THEREOF, the City of South San Francisco has caused this Agreement to be signed and executed on its behalf by the Mayor and duly attested by its Assistant City Clerk, and ACOSTA has signed and executed this Agreement.

CITY OF SOUTH SAN FRANCISCO

ROSA GOVEA ACOSTA

By: _____
Flor Nicolas, Mayor,
City of South San Francisco

By: _____
Rosa Govea Acosta, MMC
City Clerk

ATTEST:

Assistant City Clerk

APPROVED AS TO FORM:

City Attorney

5255537.6