

EMPLOYMENT AGREEMENT
for
INTERIM CITY MANAGER SERVICES

This Agreement is entered into this ____ day of June, 2024, by and between the City Council of the City of Santa Maria, a municipal corporation, hereinafter referred to as "City," and Alex Posada, an individual, hereinafter referred to as "Employee," with reference pursuant to the following:

WHEREAS, on September 14, 2023, the City Council of the City of Santa Maria appointed Employee as the Interim City Manager, effective September 23, 2023, through June 30, 2024; and

WHEREAS, the City Council needs to establish a new contract for the dates of July 1 through September 30, 2024; and

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

WHEREAS, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment, and set working conditions of said Employee; and

WHEREAS, it is the desire of the City Council to: provide inducement for Employee to remain in such employment for the term of this Agreement; 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; and

WHEREAS, Employee wishes to serve the City Council as its Interim City manager;

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

1. DUTIES

City hereby agrees to employ Alex Posada as Interim City Manager of the City and to perform the duties and functions specified in the Santa Maria Municipal Code, Sections 2-3.04 through 2-3.16, inclusive, and to perform such other legally permissible duties as the City Council shall from time-to-time assign.

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 shall be effective as of July 1, 2024, and unless otherwise terminated under the provisions of Section 7, shall remain in effect until September 30, 2024, whichever comes sooner. It is understood at the end of this term the Employee may return to his current position.
- 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

- A. The Interim City Manager's annual compensation shall be \$277,232 paid bi-weekly for the term of this Agreement.
- B. The City Council and the Interim City Manager may set forth in writing certain goals and expectations. If, in the determination of the City, the Employee achieves the goals and performed at acceptable level during the term of this agreement, he may be entitled to receive compensation in the form of Performance Based Pay in addition to his regular salary and benefits at the conclusion of this Agreement. 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%) of the Employee's annual salary, prorated for the length of the interim appointment term.
- 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. In addition, the maximum amount of vacation accumulation at any one time shall be 480 hours for said Employee. 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 Interim City Manager at the City's expense, both at the Interim City Manager's office and at the Interim City Manager's option, his residence.

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 a local service club, 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

- 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. The hiring of an individual to fill the permanent role of City Manager.
 2. A material breach of the terms of this agreement;
 3. Habitual neglect by the Employee of his employment duties;
 4. The continued incapacity on the part of the Employee to perform his duties;
 5. A failure to perform duties in a professional and responsible manner consistent with generally accepted standards of the profession;
 6. Engaging in personal conduct detrimental or prejudicial to

public service;

7. 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 Interim City Manager. 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. CITY COUNCIL COMMITMENTS

- A. The City Council sets policy for the governance and administration of the City, and it implements its policies through the Interim City Manager.
- B. Except for the purpose of inquiry, the City Council and its members shall deal with all subordinate City employees, officers, contractors,

and consultants solely through the Interim City Manager or the Interim City Manager's designee, and neither the City Council nor any member thereof shall give orders to any subordinate of the Interim City Manager, either publicly or privately.

- C. The City Council agrees none of its individual members will order the appointment or removal of any person to any office or employment under the supervision and control of the Interim City Manager.
- D. The City Council agrees that any criticism of a City staff member shall be done privately through the Interim City Manager.
- E. Neither the City Council nor any of its members shall interfere with the execution of the powers and duties of the Interim City Manager. The Interim City Manager shall take orders and instructions from the City Council only when it is sitting as a body in a lawfully held meeting.

12. ICMA CODE OF ETHICS

- A. The Parties mutually desire that the Interim City Manager be subject to and comply with the ICMA Code of Ethics (Attachment A).
- B. The Interim City Manager commits to comply with the ICMA Code of Ethics.
- C. The City Council agrees that neither the City Council nor any of its members will give the Interim City Manager any order, direction, or request that would require the Interim City Manager to violate the ICMA Code of Ethics.

CITY OF SANTA MARIA

EMPLOYEE

ALICE M. PATINO, MAYRO

ALEX POSADA

ATTEST:

APPROVED AS TO FORM:

Alexandra Valadez, Assistant City Clerk

Thomas T. Watson, City Attorney

Exhibit A: ICMA Code of Ethics With Guidelines

The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership by the ICMA Executive Board in 1972, and most recently revised in June 2023.

Tenet 1

We believe professional management is essential to effective, efficient, equitable, and democratic local government.

Tenet 2

Affirm the dignity and worth of local government services and maintain a deep sense of social responsibility as a trusted public servant.

Guideline

Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities in order to uphold local government professionalism.

Tenet 3

Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public.

Guidelines

Public Confidence. Members should conduct themselves so as to maintain public confidence in their position and profession, the integrity of their local government, and in their responsibility to uphold the public trust.

Length of Service. For chief administrative/executive officers appointed by a governing body or elected official, a minimum of two years is considered necessary to render a professional service to the local government. In limited circumstances, it may be in the best interests of the local government and the member to separate before serving two years. Some examples include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or significant personal issues. It is the responsibility of an applicant for a position to understand conditions of employment, including expectations of service. Not understanding the terms of employment prior to accepting does not justify premature separation. For all members a short tenure should be the exception rather than a recurring experience, and members are expected to honor all conditions of employment with the organization.

Appointment Commitment. Members who accept an appointment to a position should report to that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time. However, once a member has accepted a formal offer of employment, that commitment is considered binding unless the employer makes fundamental changes in the negotiated terms of employment.

Credentials. A member's resume for employment or application for ICMA's Voluntary Credentialing

Program shall completely and accurately reflect the member's education, work experience, and personal history. Omissions and inaccuracies must be avoided.

Professional Respect. Members seeking a position should show professional respect for persons formerly holding the position, successors holding the position, or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity.

Reporting Ethics Violations. When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report possible violations to ICMA. In reporting the possible violation, members may choose to go on record as the complainant or report the matter on a confidential basis.

Confidentiality. Members shall not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.

Seeking Employment. Members should not seek employment for a position that has an incumbent who has not announced his or her separation or been officially informed by the appointive entity that his or her services are to be terminated. Members should not initiate contact with representatives of the appointive entity. Members contacted by representatives of the appointive entity body regarding prospective interest in the position should decline to have a conversation until the incumbent's separation from employment is publicly known.

Relationships in the Workplace. Members should not engage in an intimate or romantic relationship with any elected official or board appointee, employee they report to, one they appoint and/or supervise, either directly or indirectly, within the organization. This guideline does not restrict personal friendships, professional mentoring, or social interactions with employees, elected officials and Board appointees.

Influence. Members should conduct their professional and personal affairs in a manner that demonstrates that they cannot be improperly influenced in the performance of their official duties.

Conflicting Roles. Members who serve multiple roles - either within the local government organization or externally - should avoid participating in matters that create either a conflict of interest or the perception of one. They should disclose any potential conflict to the governing body so that it can be managed appropriately.

Conduct Unbecoming. Members should treat people fairly, with dignity and respect and should not engage in, or condone bullying behavior, harassment, sexual harassment or discrimination on the basis of race, religion, national origin, age, disability, gender, gender identity, or sexual orientation.

Tenet4

Serve the best interests of all community members.

Guidelines

Effects of Decisions. Members should inform the appropriate elected or appointed official(s) of a decision's anticipated effects on community members.

Promote Equity. Members should ensure fairness and impartiality in accessing programs and services and in the enforcement of laws and regulations. Members should assess and propose solutions to strive to eliminate disparities.

Tenet 5

Submit policy proposals to elected officials; provide them with facts, and technical and professional advice about policy options; and collaborate with them in setting goals for the community and organization.

Tenet 6

Recognize that elected representatives are accountable to their community for the decisions they make; members are responsible for implementing those decisions.

Tenet 7

Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

Guidelines

Elections of the Governing Body. Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not participate in an election campaign on behalf of or in opposition to candidates for the governing body.

Elections of Elected Executives. Members shall not participate in the election campaign of any candidate for mayor or elected county executive.

Running for Office. Members shall not run for elected office or become involved in political activities related to running for elected office, or accept appointment to an elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

Elections. Members share with their fellow citizens the right and responsibility to vote. However, in order not to impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

Elections relating to the Form of Government. Members may assist in preparing and presenting materials that explain the form of government to the public prior to a form of government election. If assistance is required by another community, members may respond.

Presentation of Issues. Members may assist their governing body in the presentation of issues involved in referenda such as bond issues, annexations, and other matters that affect the government

entity's operations and/or fiscal capacity.

Personal Advocacy of Issues. Members share with their fellow citizens the right and responsibility to voice their opinion on public issues. Members may advocate for issues of personal interest only when doing so does not conflict with the performance of their official duties.

Tenet 8

Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

Guidelines

Self-Assessment. Each member should assess his or her professional skills and abilities on a periodic basis.

Professional Development. Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of ICMA.

Tenet 9

Keep the community informed on local government affairs. Encourage and facilitate active engagement and constructive communication between community members and all local government officials.

Guideline

Engagement. Members should ensure community members can actively engage with their local government as well as eliminate barriers and support involvement of the community in the governance process.

Tenet 10

Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

Guideline

Information Sharing. The member should openly share information with the governing body while diligently carrying out the member's responsibilities as set forth in the charter or enabling legislation

Tenet 11

Manage all personnel matters with fairness and impartiality.

Guideline

Diversity and Inclusion. It is the member's responsibility to recruit, hire, promote, retain, train, and support a diverse workforce at all levels of the organization.

Tenet 12

Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

Guidelines

Gifts. Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.

The term "Gift" includes but is not limited to services, travel, meals, gift cards, tickets, or other entertainment or hospitality. Gifts of money or loans from persons other than the local government jurisdiction pursuant to normal employment practices are not acceptable.

Members should not accept any gift that could undermine public confidence. De minimus gifts may be accepted in circumstances that support the execution of the member's official duties or serve a legitimate public purpose. In those cases, the member should determine a modest maximum dollar value based on guidance from the governing body or any applicable state or local law.

The guideline is not intended to apply to normal social practices, not associated with the member's official duties, where gifts are exchanged among friends, associates and relatives.

Investments in Conflict with Official Duties. Members should refrain from any investment activity which would compromise the impartial and objective performance of their duties. Members should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict of interest, in fact or appearance, with their official duties.

In the case of real estate, the use of confidential information and knowledge to further a member's personal interest is not permitted. Purchases and sales which might be interpreted as speculation for quick profit should be avoided (see the guideline on "Confidential Information"). Because personal investments may appear to influence official actions and decisions, or create the appearance of impropriety, members should disclose or dispose of such investments prior to accepting a position in a local government. Should the conflict of interest arise during employment, the member should make full disclosure and/or recuse themselves prior to any official action by the governing body that may affect such investments.

This guideline is not intended to prohibit a member from having or acquiring an interest in or deriving a benefit from any investment when the interest or benefit is due to ownership by the member or the member's family of a de minimus percentage of a corporation traded on a recognized stock exchange even though the corporation or its subsidiaries may do business with the local government.

Personal Relationships. In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual, spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization. For example, if the member has a relative that works for a developer doing business with the local government, that fact should be disclosed.

Confidential Information. Members shall not disclose to others, or use to advance their personal interest, intellectual property, confidential information, or information that is not yet public knowledge, that has been acquired by them in the course of their official duties.

Information that may be in the public domain or accessible by means of an open records request, is not confidential.

Private Employment. Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest, or impair the proper discharge of their official duties. Prior notification of the appointing authority is appropriate in all cases of outside employment.

Representation. Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

Endorsements. Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, marketing materials, social media, or other documents, whether the member is compensated or not for the member's support. Members may, however, provide verbal professional references as part of the due diligence phase of competitive process or in response to a direct inquiry.

Members may agree to endorse the following, provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.