

## **AGREEMENT FOR SERVICES BETWEEN THE CITY OF LAKEPORT AND MARGARET SILVEIRA**

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This Agreement for Services, dated May 17, 2016, is between the City of Lakeport ("City"), by and through its duly elected City Council, and Margaret Silveira ("Silveira") for services to be performed by Silveira in the *at will* position of City Manager.

### **1. DUTIES**

Silveira shall perform the functions and duties specified in Section 2.10 *et seq.* of the Lakeport Municipal Code, State law, and other legally permissible and proper duties and functions as the City Council shall from time to time assign. During the term of this agreement, Silveira shall be exclusively employed by the City, unless prior authorization otherwise is received from the City Council, which authorization will not be unreasonably withheld.

### **2. TERM**

A. The term of this Agreement is from the date of this Agreement through May 30, 2021.

B. Nothing in this document shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of Silveira at any time, subject to the provisions of Section 3.

C. Nothing in this document shall prevent, limit or otherwise interfere with Silveira's right to resign at any time from her position with City, subject to the provisions of Section 3.

### **3. TERMINATION**

A. In the event Silveira's employment contract is not extended by the City Council past May 30, 2021, Silveira shall be paid for any unused sick or vacation time and her remaining salary due through May 30, 2021, or her termination date, and the employer/employee relationship between the parties shall automatically expire of its own accord without further liability to either party.

B. In the event Silveira is terminated by the City Council prior to May 30, 2021, and during such time Silveira is willing to perform her duties under this Agreement, the City shall, at Silveira's option:

(1) Pay Silveira six (6) months' compensation, excluding all other benefits except for her accrued paid leave, any unused sick or vacation time, and the required offer of COBRA benefits. At the option of Silveira, she may continue on the payroll or receive a lump

sum, except that all accrued leave will be paid at the time of separation without the accrual of health, vacation, or other benefits during said period; or

(2) Provide six (6) months' notice to Silveira during which time Silveira shall retain her position, perform all City Manager duties, including receipt of full salary and benefits. At the end of the six-month period, she will then separate from City service with no further liability to City except for her accrued paid leave, any unused sick or vacation time, and the required offer of COBRA benefits.

C. In the event at any time during the term of this Agreement, the City Council approves a motion to terminate Silveira in closed session, then, in that event, Silveira may, at her option, choose to resign her office instead of being terminated and be deemed "terminated" at the date of such resignation within the meaning and context of the severance pay provision in paragraph 3(B).

D. Consideration of Silveira's termination by the City Council may not occur within ninety (90) days after a General Municipal Election or Special Election wherein a new member or members are elected to the City Council. Any decision to terminate or not renew the Agreement shall be made in closed session and confirmed in a public meeting. If Silveira invokes the resignation option under paragraph 3(C), the public announcement as provided for in paragraph 3(D) will note Silveira has resigned and the provision of paragraph 3(C) remain applicable.

E. Silveira may voluntarily terminate her employment, by resignation or retirement, at any time during the term of this Agreement, subject to at least thirty days' written notice by Silveira to City, unless the City Council and Silveira agree otherwise. In such case, City shall have no further obligation to provide payments and benefits, including severance benefits, upon the effective date of termination of employment and the employer/employee relationship between the parties shall automatically expire of its own accord without further liability to either party, other than that Silveira shall be paid her accrued leave and any unused sick or vacation time. This paragraph does not apply if Silveira invokes the resignation option under paragraph 3(C).

F. In the event that termination is the result of an illegal act by Silveira, including but not limited to the acts described in F(1) through F(5) below, the provisions of paragraphs, 3(B) through 3 (E) shall not be applicable, unless otherwise determined by the City Council:

(1) Malfeasance, dishonesty for personal gain, or moral turpitude, willful or corrupt misconduct or conviction of any felony;

(2) Willfully causing damage to public property or willfully wasting public supplies;

(3) Specific acts or conduct which brings scandal or disrepute to the City;

(4) Insubordination, which shall mean the willful refusal to obey lawful directions of the City Council;

(5) Absence without leave

(6) Use of alcohol or drugs that impedes performance of duties; or

(7) Conviction of a felony or misdemeanor involving moral turpitude (a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed a conviction for this purpose).

G. In the event Silveira dies while employed by the City, her beneficiaries or those entitled to her estate shall be paid any earned salary and accrued leave at Silveira's pay rate on the date of death.

#### **4. SALARY**

The City Council will establish the initial salary for the City Manager by including same in the annual salary resolution. This initial annual salary for the City Manager position shall be the sum of \$115,000 payable in bi-monthly installments. If her contract is not renewed then Silveira is free to seek other employment, and Council shall have no further obligation to Silveira except as provided in this Agreement. Annual salary adjustments shall be based on her annual evaluations and be established as a percentage increase of her current salary or such other benefits as the parties may choose to negotiate.

#### **5. BENEFITS**

The City Manager shall be entitled to the following City benefits:

A. Cal PERS retirement at the 2.5%@ 55 formula with Silveira paying the full employee share of the retirement contribution and City paying the full Employer share.

B. Sick time accrued at the rate of one (1) day per month and vacation time at the rate of twenty (20) days per year per existing City policy. Vacation days may be accrued up to 400 hours and will accrue per standard City policy.

C. Two (2) weeks annual paid administrative leave with one week to be used with one week available to be cashed out within each fiscal year.

D. A car allowance of \$400.00 per month for travel within a 40-mile radius of City Hall. This allowance is in lieu of mileage reimbursement or other expenses that may be incurred by Silveira in connection with her use of her own automobile for City purposes. For travel beyond a 40-mile radius from City Hall for City business, City shall reimburse Silveira for mileage at the IRS rate then applicable or for the cost of a rental car, at Silveira's discretion. In consideration for said allowance/reimbursement, Silveira shall be responsible for all costs of maintenance and operation of her vehicle. Silveira shall at all times maintain automobile

liability insurance on any vehicle used by her in the course of City employment. Such insurance shall have coverage limits acceptable in form and amounts to City. Silveira shall provide a certificate or other evidence of such insurance to City. Silveira acknowledges that this allowance will be subject to payroll taxes unless she maintains the records required by law to permit other treatment of this allowance

E. A cell phone stipend of \$100.00 per month

F. A technology allowance of \$1,250 per year available on a reimbursement basis (not subject to income tax) or in a lump-sum cash payment (subject to income tax)

G. A signing bonus of \$1,500 paid annually on the last pay period in June; provided that no signing bonus shall be paid in any fiscal year in which Silveira receives a cost of living adjustment in her salary.

H. The City Manager shall be entitled to REMIF sponsored Health Insurance at the single rate with 76% paid by City and 24% paid by the employee. All other insurance benefits (life, disability, dental and vision) shall remain 100% paid by City per existing city policy.

## **6. PERFORMANCE EVALUATIONS**

The City Council shall review and evaluate the annual performance of the City Manager by May 30 of each year. Such review and evaluation shall be in accordance with the specific criteria developed by the City Council in consultation with the City Attorney and Silveira. The City Council may provide Silveira with their written comments and will discuss the review with Silveira, at the choice of either the City Council or the City Manager. The annual performance evaluation will also include a review of Silveira's salary. Annual salary adjustments shall be based on her evaluation and be established as a percentage increase of her current salary or such other benefits as the parties may choose to negotiate.

## **7. INDEMNIFICATION**

The City shall defend, hold harmless, and indemnify Silveira against any tort, professional liability claim, or demand, or civil rights or other legal action, arising out of any act, event or omission occurring in the performance of Silveira's professional duties as City Manager, except to the extent that her actions are the result of gross negligence or willful misconduct. The City will defend, compromise, or settle any such claim or suit, as appropriate, and pay the amount of any settlement or judgment rendered thereon. This indemnification shall extend beyond termination of employment or other expiration of this Agreement, to provide full and complete protection to Silveira for acts undertaken or committed by Silveira in her capacity as City Manager, regardless of whether receipt of notice or filing of any claim or lawsuit occurs during or following her employment with the City. The provisions of California State law may limit the extent of defense or indemnification.

**8. PROFESSIONAL DEVELOPMENT**

City Council agrees to budget for and pay reasonable professional dues, subscriptions, courses, institutes, seminars, and travel and subsistence expenses of Silveira for participation in professional activities required by law or necessary to continue her professional development including her annual ICMA dues. Participation in conferences sponsored by entities such as the California League of Cities, REMIF, and such other, state, regional and local government groups and committees in which participation is beneficial to the City of Lakeport to her profession is encouraged, and City agrees to budget and pay for reasonable travel, cell phone, and other reasonable expenses incurred in the performance of the job functions of City Manager.

**9. BINDING AGREEMENT**

The Agreement reflects the complete Agreement between the parties. The Agreement shall be binding and inure to the benefit of the heirs of the estate of Margaret Silveira.

**10. NOTICE**

Notices required pursuant to this Agreement shall be given by personal service upon the party to be notified or by delivery of same to the custody of the United States Postal Service, or its lawful successor, postage prepaid and addressed as follows:

CITY OF LAKEPORT  
City of Lakeport  
Attention: City Clerk  
225 Park Street  
Lakeport, CA 95453

With a courtesy copy to the City Attorney at the following address or the address then shown in the records of the City for the City Attorney:

David J. Ruderman, Esq.  
Lakeport City Attorney  
420 Sierra College Drive, Ste. 140  
Grass Valley, CA 95945

EMPLOYEE  
Margaret Silveira  
P.O. Box 1133  
Lakeport, CA 95453

**11. INTERPRETATION OF AGREEMENT**

Should interpretation of this Agreement or any portion thereof be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be

interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

**12. AMENDMENTS; WAIVERS**

This Agreement may not be amended except by an instrument in writing, signed by each of the parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless executed in writing by the party making the waiver.

**13. COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument. An authenticated facsimile signature shall be deemed equal to an original.

**14. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement of the parties considering the subject matter hereof and all prior agreements or understandings, oral or written, are hereby merged herein. This Agreement shall not be amended in any way except by a writing expressly purporting to be such an amendment, signed, and acknowledged by both of the parties thereto.

**15. SEVERABILITY**

If any provision of this Agreement, or its application to any person, place or circumstance, is held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement, and such provision as applied to other persons, places and circumstances, shall remain in full force and effect.

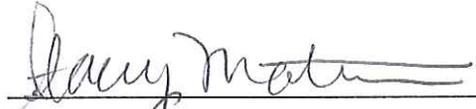
**16. GOVERNING LAW; VENUE**

This Agreement shall be construed under and governed exclusively by the laws of the State of California, and venue shall lie exclusively in Lake County, California.

The signatures of the parties below indicate that each has read and understood the Agreement and will abide by the terms stated herein.

The parties have executed this Agreement on the dates noted.

CITY COUNCIL OF THE CITY OF LAKEPORT



STACEY MATTINA, Mayor Pro Tem

Dated: 5/25/14

ATTEST:

  
KELLY BUENDIA, City Clerk  
MARGARET SILVEIRA, City Manager

Dated: 6/2/14