

EMPLOYMENT AGREEMENT

MARASKESHIA SMITH
CITY MANAGER

THIS AGREEMENT is made this tenth day of November, 2021 between the City of Santa Rosa (“City”) and Maraskeshia Smith (“City Manager”). The City and the City Manager shall be referenced collectively as the “Parties” and individually as a “Party.” This Agreement supersedes all prior employment agreements, whether oral or written, between the City and the City Manager.

1. **Appointment of City Manager.** Effective January 3, 2022 (“Effective Date”), the City Manager is hereby appointed as City Manager of the City of Santa Rosa subject to the terms and conditions of this Agreement.
2. **At-Will Employment.** The City employs the City Manager as an at-will employee to serve at the pleasure of the City subject to the terms and conditions set forth below. The City Manager’s employment with the City is for no specified term and is at the mutual consent of both the City Manager and the City. There are no express or implied agreements contrary to the foregoing. The City Manager understands and agrees that she has no constitutionally protected property or other interest in continued employment with the City. The City Manager understands that, notwithstanding any other applicable laws, resolutions, and policies, she has no right to pre- or post-disciplinary due process. The City Manager further understands and agrees that she works at the will and pleasure of the City and that she may be terminated at any time, with or without cause, subject to the provisions of Section 7, below.
3. **Term.** This Agreement shall commence on the Effective Date specified above and shall remain in effect until terminated.
4. **Salary.** The City Manager’s salary shall be \$270,000.00 annually, effective January 3, 2022. Thereafter, the City Manager shall receive cost of living increases in salary, in accordance with the cost of living increases subsequently provided to other Executive Management employees of the City pursuant to the City’s Compensation Plan for Executive Management employees. Said cost of living increases shall not exceed the annual California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations, unless expressly approved by the Santa Rosa City Council. In addition, upon completion of each annual performance evaluation as set forth in section 6, the City Council shall consider whether to provide a merit increase in the City Manager’s salary subject to the maximum salary range established for the City Manager classification. Whether to provide a merit increase, and the amount of any such increase, shall be in the exclusive discretion of the City Council.
5. **Duties.** The City Manager shall have the powers and shall perform the duties as prescribed by the City Charter and as further provided in the job description, attached hereto as

Attachment "A" and incorporated herein by reference. The City Manager shall also perform such additional or alternative responsibilities as may be lawfully assigned by the City Council.

6. **Evaluation.** Within a reasonable time after commencement of employment under this Agreement, the Mayor shall meet with the City Manager to establish a work plan and performance criteria that will be used in evaluating the City Manager. The City Council shall meet at least annually, and may meet at any time, to evaluate and discuss the performance of the City Manager. In connection with such evaluation, the City Council may, after consultation with the City Manager, revise the work plan and performance criteria as appropriate. The City Council's evaluation shall be in writing and a copy of the evaluation shall be given to the City Manager and a copy placed in her personnel file. The City Council shall meet and discuss the contents of the evaluation with the City Manager within a reasonable time after the City Manager has heard or received the evaluation. Evaluations of the City Manager shall be discussed by the City Council only in closed session. The City Council agrees to consider the use of a facilitator to assist with the evaluation if it believes it will be helpful to the process. Failure to evaluate shall have no effect on the rights, duties, and obligations of the Parties herein, nor shall it have any impact on the at-will nature of the City Manager's employment.

7. **Termination of Contract. Discipline.**
 - a. **Mutual Consent.** This Agreement may be terminated at any time by mutual consent of the City Manager and the City Council.

 - b. **Termination by City Manager /Retirement.** The City Manager may terminate this Agreement at any time by giving the City Council at least ninety (90) days prior written notice of the termination. If the City Manager retires from full-time public service with the City, the City Manager shall provide six (6) months' advance notice. The City Manager's actual retirement date will be mutually established.

 - c. **Termination by City Council.** The City Council may terminate this Agreement at any time by giving nine (9) months' notice or paying nine months' salary or any combination thereof, equivalent to nine months. The City shall not terminate this contract, except for cause as specified in subsection (d) below, within a three-month period prior to, or three months following, a Council election that results in one or more new Council Members being elected, unless the City Manager has been convicted of a crime involving an abuse of her office or position.

 - d. **Termination for Cause.** In addition to the methods of termination set forth in subsections (a), (b) and (c), the City Council may terminate this Agreement immediately for cause. Cause shall be defined to include, but shall not be limited to, any of the following:
 - (1) Breach of this Agreement;

- (2) Résumé fraud;
- (3) Absence without leave;
- (4) Conviction of a misdemeanor involving moral turpitude or a felony under California law or any crime involving an abuse of her office or position as defined under Government Code Section 53242.4;
- (5) Violation of the City's Anti-Harassment Policy and/or a finding of legally prohibited personal acts of harassment or discrimination against a City official or employee;
- (6) Use or possession of illegal drugs; or
- (7) Failure to meet job performance expectations.

The City Council may, at its sole option, place the City Manager on administrative leave with pay until resolution of charges brought against the City Manager for any crime identified under subsection (d)(4), or until a final judicial or administrative decision finding legally prohibited personal acts of harassment or discrimination against a city official or employee. The City Manager shall be required to reimburse the City within thirty (30) days for any salary paid to the City Manager while on paid administrative leave in the event that the City Manager is convicted of a crime involving an abuse of her office or position.

Prior to terminating this Agreement pursuant to this subsection (d), the City Council shall give the City Manager at least ten (10) days prior written notice of the charges/grounds for termination. Within the ten-day period, but not earlier than five days after the notice has been given, the City Council shall meet with the City Manager in closed session and give the City Manager an opportunity to address the City Council regarding the charges.

The City Manager may have a representative at the closed session with the City Council. After hearing the City Manager's response to the charges, the City Council shall decide whether to terminate this Agreement and shall inform the City Manager in writing of its decision. Other than as provided in this subsection, the City Manager expressly waives any other form of hearing or appeal of the City Council's decision.

Nothing in this subsection creates a property right in employment. Notwithstanding anything contained in this subsection, the City Manager remains an at-will employee serving at the pleasure of the Council.

- e. **Terminating Cash Payment.** Within fourteen (14) days of termination as provided in this section, the City Manager shall be paid in full for any severance payment due as provided herein and shall receive any compensation due for any remaining accrued, but unused leave balances in accordance with the provisions for the City's executive management employees.
- f. **Conviction of a Crime for Abuse of Office.** In accordance with the provisions of Government Code Section 53243 and 53243.2, the City Manager shall be required to reimburse the City for any severance pay or salary paid while on administrative leave if

the City Manager is convicted of a crime involving an abuse of her office or position as defined in Government Code Section 53243.4.

8. Vacation and Leave.

The City Manager shall be eligible for the following leaves:

- a. **Vacation.** The City Manager shall receive a vacation bank of one hundred sixty (160) hours with a beginning annual accrual rate that is based on 25 years of service with an accrual cap of 600 hours unless otherwise waived in writing by the City Council. The City Manager may sell back vacation annually in accordance with the policy adopted by the Human Resources Department.
 - b. **Sick Leave.** The City Manager shall receive a bank of ninety-six (96) hours of sick leave upon hire with an accrual rate as provided for the City's other executive management employees.
 - c. **Administrative Leave.** The City Manager shall receive a bank of eighty (80) hours of administrative leave upon commencement of employment and shall receive an additional eighty (80) hours each year on July 1 in accordance with the City's Administrative Leave Policy. Administrative Leave is not accruable from fiscal year to fiscal year and any unused time shall not be paid out upon retirement or termination.
 - d. **Holidays.** The City Manager shall receive all holidays granted to the City's Executive Management employees.
9. **Life Insurance.** The City shall provide the City Manager with a term life insurance policy in the amount of \$250,000 during the term of this Agreement. The City Manager shall have the option to purchase, at the City Manager's cost, supplemental life insurance or spousal coverage with the same terms and conditions as provided to the City's executive management employees.
10. **Benefits.** The City shall provide the City Manager with health, dental insurance, vision insurance, disability insurance, as provided to the City's Executive Management employees. Except where inconsistent with this Agreement, the City Manager shall receive all other benefits provided to the City's executive management employees. The City shall reimburse the City Manager for COBRA payments made for benefits for the period between her first day of employment with the City and the date City benefits are available to the City Manager.
- a. **401(a).** A 401(a) deferred compensation program shall be offered, and the City Manager shall have 30 days to decide if she wants to participate in the plan. The current contribution rate contracted with ICMA/RC is in a whole percentage of earnings amount between the range of 1% - 20%, up to the maximum allowable

contribution amount. The maximum allowable contribution amount for 2021 is \$58,000. Per the terms of the plan, should the City Manager decide to participate in this program, the contribution rate elected is eligible for a one-time adjustment. Any contribution shall be deducted from the City Manager's salary if she elects to participate as provided under the plan.

- b. **Retiree Health Savings Plan (RHS).** A Retiree Health Savings Plan (RHS) shall be provided with the same plan benefits as provided to other executive management employees. Participation is mandatory and currently requires the employee to make the following monetary contributions: (1) an ongoing contribution equal to 0.5% of base salary, (2) an annual contribution equal to 25% of sick leave that was earned but unused in the immediate past fiscal year, and (3) upon separation, a contribution equal to 50% of unused accrued vacation. Required contributions may change over time.
- c. **Pension Cost Sharing.** The City Manager qualifies for the California Public Employees' Retirement System (Cal PERS) Tier 3, which is a 2% @ 62, with a three-year average final compensation Benefit Formula. The plan calls for a mandatory, pre-tax employee contribution of seven percent (7%) of eligible compensation plus an additional mandatory contribution of one and one-half percent (1.5%) for Employer Cost Sharing, for a total pre-tax contribution of eight and one-half percent (8.5%) of eligible compensation.

11. **Deferred Compensation – 457 Plan.** Effective on the first day of the pay period following hire date, the City will contribute an amount equal to five and one-half percent (5.5%) of the City Manager's salary per pay period into a Deferred Compensation Program. For purposes of calculation of this benefit from the commencement date of this Agreement, the City will use the City Manager's original annual base pay of \$270,000. Subsequently, if a new base pay greater than the original base pay is set, the new base pay shall be used for the purposes of calculation of this benefit thereafter.

12. **Professional Meetings.** The City Manager is expected to attend appropriate professional meetings at local, state, and national levels and to periodically report to the City Council regarding meetings attended, and she shall be reimbursed for the expense of attending those meetings. The City agrees that these professional meetings shall include, but not be limited to ICMA, LOCC, CCMF, ILG, and CALED as well as similar trainings or meetings, mutually agreed to by the City.

13. **Expense Reimbursement.** The City shall reimburse the City Manager for actual and necessary expenses incurred by the City Manager within the scope of her employment in accordance with the City's reimbursement schedules and policies. The City Manager's expense claim shall be supported by appropriate written documentation verifying the contents of the report prior to authorization of reimbursement. Expenses include dues in professional organizations set forth above and such other organizations as agreed to by the Mayor on behalf of the City.

14. Automobile Expenses. To reimburse the City Manager for using her private vehicle for City business, the City Manager shall receive four hundred and fifty dollars (\$450) per month as transportation expenses incurred for travel within and outside the City. The City Manager shall personally be responsible for the purchase of an insurance policy required herein and shall annually provide the required insurance certificate to the City, and it shall be understood that the insurance required hereon shall be primary and cannot be canceled without giving the City thirty (30) days advance written notice.

15. Moving Expenses. The City agrees to provide the City Manager with a moving allowance to assist with the actual costs incurred by her in relocating her permanent residence to Santa Rosa. This may include a partial relocation at the date of commencement of duties with a final relocation to occur thereafter. This relocation assistance may contribute to the actual cost of temporary housing in addition to moving costs and shall not exceed ten thousand dollars (\$10,000). The City Manager agrees to obtain three (3) competitive bids for such services and utilize the lowest bid unless otherwise agreed by the City. Relocation assistance may include packing, shipping, insuring, and storage of household goods by commercial mover, packing materials, van rental, insurance, gasoline, storage, and other out-of-pocket expenses related to a self-service move, or a combination thereof, and transportation of vehicles. Payment of this relocation assistance shall be paid following submission of invoices from the City Manager evidencing such allowable costs.

16. Notices. Any notices required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given and deemed served upon the other party if sent by United States Postal Service, first-class postage prepaid, and addressed as follows:

TO CITY: Mayor
City of Santa Rosa
100 Santa Rosa Avenue, Room 10
Santa Rosa, CA 95404

TO EMPLOYEE: Maraskeshia S. Smith
City Manager
100 Santa Rosa Avenue, Room 10
Santa Rosa, CA 95404

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

17. General Provisions.

a. Governing Law and Venue. This Agreement, and the rights and obligations of the Parties shall be governed by and construed in accordance with the laws of the State of California. The Parties also agree that, in the event of litigation, the venue shall be the state court located in Sonoma County, California.

- b. **Entire Agreement.** This Agreement contains the entire agreement and understanding between the Parties. There are no oral understandings, terms, or conditions, and neither party has relied upon any representation, express or implied, not contained in this Agreement.
- c. **Amendments.** This Agreement may be amended at any time by mutual agreement of the City and the City Manager. Any amendments are to be negotiated, put in writing, and adopted by the City Council and shall be in accordance with the applicable provisions of the City Charter.
- d. **No Assignment.** The City Manager may not assign or transfer any rights granted, or obligations assumed under this Agreement.
- e. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both Parties.
- f. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the Agreement shall continue in full force and effect.

CITY

By: _____
 CHRIS ROGERS
 Mayor

Maraskeshia Smith
[Maraskeshia Smith \(Nov 23, 2021 14:52 PST\)](#)

 MARASKESHIA S. SMITH
 City Manager

APPROVED AS TO FORM:

Jane Ollaphu

 City Attorney

ATTACHMENT "A"

Job Description



City Manager

Class Code:
01A0

Bargaining Unit: Executive Management

CITY OF SANTA ROSA
Established Date: Nov 1, 1981
Revision Date: Oct 2, 2014

SALARY RANGE

\$0.00 - \$117.95 Hourly
\$0.00 - \$20,445.00 Monthly
\$0.00 - \$245,340.00 Annually

DEFINITION:

To coordinate the overall administrative activities and operations of the City; to advise and assist the City Council exercising independent judgment and initiative; and to serve as the City Clerk, Purchasing Agent, Personnel Director, and Emergency Services Director as provided by Charter.

DISTINGUISHING CHARACTERISTICS:

SUPERVISION RECEIVED AND EXERCISED:

Policy direction is provided by the City Council. Responsibilities include direct and indirect supervision of department heads and staff assigned to the City Manager's Office.

EXAMPLES OF DUTIES:

Duties may include, but are not limited to, the following:

- Direct and participate in the development and implementation of goals, objectives, policies and procedures;
- direct and participate, with department head cooperation, in the preparation and administration of the City Budget;
- prepare long-term plans of capital improvements with plans for their financing;
- confer with department heads concerning administrative and operational problems;

- make appropriate decisions or recommendations;
- prepare and submit to the City Council reports of finances and administrative activities, keep City Council advised of financial conditions, program progress, and present and future needs of the City;
- oversee the enforcement of all City ordinances;
- direct the preparation of plans and specifications for work which the City Council orders;
- interpret analyze and explain policies, procedures and programs;
- confer with residents, taxpayers, businesses and other individuals, groups and outside agencies having an interest or potential interest in affairs of City concern;
- respond to the most difficult complaints and requests for information;
- represent the City in the community and at professional meetings as required;
- coordinate City activities with other governmental agencies and outside organizations;
- select, supervise, train and evaluate staff;
- perform all duties as may be prescribed in the City code or by City Council action;
- perform related duties as assigned.

QUALIFICATIONS:

Knowledge of: Modern municipal administrative methods and procedures, organizations and functions; current social, political and economic trends and operating problems of municipal government; applicable federal and state laws, rules and regulations regarding local government operations; principles of effective public relations and interrelationships with community groups and agencies, private businesses and firms and other levels of government.

Ability to: Provide effective leadership and coordinate the activities of a large full service, municipal organization; analyze, interpret, summarize and present administrative and technical information and data in an effective manner; appraise situations and people accurately and quickly and adopt an effective course of action; serve effectively and the administrative agent of the City Council; select, supervise, train and evaluate staff.

Experience and Education: Any combination equivalent to experience and education that could likely provide the knowledge and abilities would be qualifying. A typical way to obtain the knowledge and abilities would be: Experience - Eight years of progressively responsible experience in administrative, managerial, or staff capacity in a large municipal organization, involving the responsibility for the planning, organization, implementation and supervision of varied work programs typically as a department head or assistant department head, to demonstrate possession of the knowledge and abilities listed above; Education - Equivalent to a Master's Degree from an accredited college or university with major course work in public or business administration or a closely related field.

LICENSE OR CERTIFICATE:

This classification requires the use of a personal or City vehicle while conducting City business. In order to drive, an incumbent must be physically capable of operating a vehicle safely and must possess an appropriate, valid California motor vehicle operator's license.

WORKING CONDITIONS:

Work is largely conducted indoors in an office setting, in meetings or traveling to other cities, which involves sitting for extended periods of time with the ability to move about at will. Incumbents in this classification communicate verbally in person, by telephone, in meetings and while making presentations. Incumbents read and comprehend written materials and draw inferences from their contents. A computer keyboard is used for word processing, spreadsheet and electronic mail applications, entering and retrieving data and producing written documents such as correspondence and reports requiring repetitive hand movements. When conducting site inspections, incumbents work outdoors with exposure to the elements, and walk over rough, uneven or rocky surfaces requiring the ability to bend at knees or waist. Incumbents occasionally lift and move reports or binders weighing up to 10 pounds and carry them for short distances.