

**INTERIM CITY ATTORNEY EMPLOYMENT AGREEMENT
LIMITED DURATION RETIRED ANNUITANT**

This INTERIM CITY ATTORNEY EMPLOYMENT AGREEMENT-LIMITED DURATION RETIRED ANNUITANT (“Agreement”) is effective on the 19th day of December 2024 and is made by and between the CITY OF MORRO BAY (“City”), a Municipal corporation, and ROBERT SCHULTZ (“Employee”), an individual. The City and Employee may be referred to individually as a “Party” or collectively as “the Parties.”

RECITALS

WHEREAS, the City of Morro Bay (“City”) desires to hire Employee as a temporary, at-will employee for a definite period of time to serve in the position of Interim City Attorney for the City of Morro Bay, California, which is a position that requires specialized skills, and Employee desires to perform and assume responsibility as the Interim City Attorney on a temporary basis subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the parties wish to have Employee perform the services of Interim City Attorney, while the City conducts its recruitment for a permanent City Attorney, and will terminate such services upon the City’s selection and hiring of a permanent City Attorney; and

WHEREAS, Government Code Sections 7522.56 and 21221(h) and 21224 permit retired annuitants under the California Public Employees’ Retirement System (“CalPERS”) to be employed without reinstatement from retirement upon appointment by a public agency to fill a vacant position on an interim basis during the recruitment to permanently fill the vacant position, if approved by the City Council; and

WHEREAS, Employee has served as a City Attorney with over twenty-five years of Municipal experience, and those specialized skills are necessary to support the continuing operations of the City during the recruitment; and

WHEREAS, the City wishes to establish the terms and conditions of Employee’s services to the City through this Agreement, in compliance with Government Code section 7522.56 and 21221(h) and 21224.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, City and Employee hereby agree as follows:

AGREEMENT

1.0 EMPLOYMENT & DUTIES

1.1 Duties. City hereby employs Employee as Interim City Attorney for the City to perform the functions and duties of the City Attorney contained in the City of Morro Bay Municipal Code, as otherwise provided by law, ordinance, or regulation, and such further lawful duties as directed by the City Council. Employee shall devote his best efforts to the performance of these duties.

1.2 Work Schedule. Employee will be required to keep accurate time records of his hours worked and be enrolled in the myCalPERS system as a retired annuitant to ensure that he does not exceed 960 hours worked within the fiscal years that occur during the term

of this Agreement. In the position of Interim City Attorney, work before or after normal business hours may be required. Employee shall attempt to flex his hours (starting late or ending early or scheduling time off during the week), so that he does not work over 40 hours in a workweek.

1.3 Employment Status. Employee shall serve at the will and pleasure of the City Council and understands he is an "at-will" employee subject to summary dismissal without any right of notice or hearing, including any "*Skelly*" hearing. The City may terminate the employment of the Employee at any time, as set forth in Section 2.2 below. Employee shall not be subject to the City's Personnel System Rules and Regulations and will not acquire a property interest in the position of Interim City Attorney. Employee is a temporary employee employed to perform specialized services in accordance with Government Code sections 7522.56 and 21221(h) and 21224.

2.0 TERM

2.1 Term. This Agreement is effective December 19, 2024. ("Commencement Date"). This Agreement shall expire as of the first of the following to occur: (i) within 30 days of the employment commencement date of a permanent City Attorney to allow for a transition period, but no later than September 30, 2025; (ii) upon Employee working 960 hours for fiscal year 2024-2025 or 960 hours in any subsequent fiscal year; or (iii) upon termination of the Agreement by either Employee or the City as provided below.

2.2 Termination by City or Employee. The City may terminate this Agreement at any time with or without cause and with or without notice. At the time of termination, Employee shall not be entitled to any pay or benefits, except that which is owed for those hours already worked. Additionally, Employee may terminate this Agreement at any time with or without cause, provided, however he shall reasonably provide the City with at least two (2) weeks' advance written notice prior to the effective date of termination, if practicable, unless a shorter period is acceptable to the City.

2.3 Transfer of Responsibilities. After Notice of Resignation, Termination, or selection of a permanent City Attorney, the Employee shall cooperate with the City, as requested by the City, to effect a transition of the Employee's responsibilities and duties and to ensure that the City is aware of all matters being handled by Employee.

2.4 No Reappointment or Extension of Term. In accordance with state law and the requirements of the PERL, the Employee may only be appointed to this position one time (single appointment).

2.5 No Severance Pay. Upon termination, Employee shall not be entitled to severance pay, payment of any benefits, or any other form of compensation, and Employee expressly waives any and all rights with respect to severance pay.

3.0 COMPENSATION AND REIMBURSEMENT

3.1 Compensation and Compensation Cap. For the services rendered pursuant to this Agreement, the City agrees to pay Employee as Employee's sole compensation, the amount of **\$107.17 per hour**, which amount is in conformance with the requirements of Government Code Section 7522.56(d). The hourly rate is not more than the maximum nor less than the minimum monthly base salary paid to other employees performing comparable duties, reflected as an hourly rate by dividing the monthly base pay by 173.333. Because the Employee

is paid on an hourly basis, and in accordance with the FLSA, if the Employee works over 40 hours per workweek, the Employee will be paid for additional hours at the legally required overtime rate.

3.2 Medicare. Employee shall pay his own required Medicare contributions.

3.3 No Other Benefits. Employee shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation.

3.4 Reimbursable Expenses. Employee shall be entitled to reimbursement of mileage for driving required in the course of his work (not commuting), in accordance with City policies for all employees. Employee shall not be entitled to reimbursement for any other costs or expenses incurred in the performance of Employee's duties under this Agreement unless said costs and expenses have received prior approval by the City Council and are supported by written documentation in accordance with the established policies and customary practices of the City.

4.0 ACKNOWLEDGMENT OF NO BENEFITS

4.1 Conflicts Prohibited. During the term of this Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this Agreement. Employee shall comply with all requirements of law, including but not limited to, Sections 87100 *et seq.*, Section 1090 and Section 1125 of the Government Code, and all other similar statutory and administrative rules.

4.2 Provision of Benefits Prohibited. Employee is a CalPERS retiree and will thus not be enrolled in CalPERS, other than as a retired annuitant solely for administrative recording keeping purposes (Employee will remain in retired status) and will report both the hours worked by Employee and pay pursuant to this Agreement. Employee understands and acknowledges that Government Code Section 21221(h) provides that a retired annuitant appointed to a vacant position pursuant to this subdivision shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate of compensation. Therefore, Employee will receive only the hourly wages described above, unless otherwise required by applicable law

5.0 ANNUITANT'S REPRESENTATIONS AND WARRANTIES

5.1 Employee warrants that he has been retired for service from state service, as defined in the Public Employees' Retirement Law, for at least 180 days and that he therefore is eligible to be employed as a retired annuitant by the City.

5.2 Employee represents that he is currently not employed by any other CalPERS employer.

5.3 Employee warrants that he has not received any unemployment insurance compensation arising out of prior public employment during the prior 12-month period prior to appointment.

6.0 BONDS AND INDEMNIFICATION

6.1 Indemnification. For the purposes of indemnification and defense of legal actions, Employee shall be considered an employee of the City and entitled to the same rights and subject to the same obligations as are provided for all other employees of the City, as required by the Government Code. Accordingly, to the extent mandated by the Government Code, the City shall defend, hold harmless, and indemnify Employee against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring within the course and scope of Employee's services under this Agreement, subject to the exceptions and exclusions provided by law.

6.2 Bonds. City shall bear the full cost of any fidelity or other bonds, which may be required in the performance of Employee's services under this Agreement.

7.0 NOTICES

Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party as sent by the United States Postal Service, postage prepaid and addressed as follows:

To City:

City Council
City of Morro Bay
595 Harbor Street.
Morro Bay, CA 90755

To Employee:

Robert Schultz
3940 Broad Street
Ste. 7-155
SLO, CA 93401

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.

8.0 GENERAL PROVISIONS

8.1 Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to Employee's employment by City and contains all of the covenants and agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promises not contained in this Agreement shall be valid or binding upon either party.

8.2 Assignment. This Agreement is not assignable by either the City or Employee.

8.3 Severability. In the event any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the Parties, the remainder of this Agreement shall remain in full force and effect unless the parts found to be illegal or void are wholly inseparable from the remaining portions of this Agreement.

8.4 Effect of Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be

deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

8.5 Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution. Any action to interpret or enforce the terms of this Agreement shall be held exclusively in a state court in San Luis Obispo County, California.

8.6 Interpretation. This Agreement shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

8.7 Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

IN WITNESS WHEREOF, the City of Morro Bay has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its officers thereunto duly authorized, and Employee has signed and executed this Agreement.

CITY OF MORRO BAY

Mayor, Carla Wixom

RETIRED ANNUITANT EMPLOYEE

Robert Schultz