AGREEMENT FOR EMPLOYMENT OF CITY MANAGER

This Agreement for Employment of City Manager ("Agreement") is dated for reference purposes as of April 2, 2012, and is made by and between the City of Los Altos, a California general law municipal corporation, hereinafter referred to as "City" and Marcia Somers, hereinafter referred to as "SOMERS".

RECITALS

A. It is the desire of the City Council to establish the terms and conditions of employment of SOMERS to the position of City Manager of the City of Los Altos, including the duties, salary and benefits of employment.

B. SOMERS desires to accept employment as City Manager of the City of Los Altos under the terms set forth herein.

NOW, THEREFORE, in consideration of the respective and mutual covenants hereinafter contained and made, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and subject to all the terms and conditions hereof, the parties agree as follows:

1. Employment of City Manager. This Agreement establishes the terms and conditions of employment of SOMERS as the City Manager of the City of Los Altos.

2. Duties. SOMERS shall perform the functions and duties of the City Manager as specified under the laws of the State of California, the Los Altos Municipal Code, and the ordinances and resolutions of City, and perform such other duties and functions as the City Council may assign from time to time.

3. Term, Renewal. Commencing on the effective date of this Agreement, which the parties agree shall be April 2, 2012 ("Effective Date"), SOMERS agrees to perform those functions and duties specified in the Los Altos Municipal Code and the Government Code of the State of California, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign, for a period expiring five (5) years after the Effective Date ("Termination Date"), or until this Agreement is otherwise terminated pursuant to its terms.

This Agreement shall automatically renew for a one (1) year extension term as provided herein unless City gives SOMERS timely notice of non-renewal. The City must give SOMERS written notice of non-renewal at least six (6) calendar months prior to the initial Termination Date and any succeeding Termination Date. Unless such notice of non-renewal is timely given, this Agreement shall automatically renew on the terms and conditions set forth herein (as such may be amended from time to time) for an additional one (1) year term. The parties may agree to discuss the terms of any such renewal at any time prior to the actual renewal hereof.

12-09

4. Compensation.

(a) Base Salary. City shall pay SOMERS an annual base salary of One Hundred Ninety Six Thousand Dollars ($196,000) ("Base Salary"), subject to deductions for taxes, deferred compensation and other out-of-pocket benefits paid for by SOMERS as a City executive management employee. City shall pay SOMERS in bi-weekly installments at the same time as other employees of City are paid.

(b) Base Salary Deductions. Deductions from Base Salary for the Public Employees Retirement System costs shall be uniform with respect to all members within SOMERS' classification as a "local miscellaneous" member of City's work force, and may vary from time to time (currently seven percent (7%)).

(c) Management Benefits. Except as otherwise set forth in this Agreement, in addition to the benefits specified herein, SOMERS shall receive any and all employee benefits otherwise accorded City's executive management employees, including without limitation retirement benefits consistent with City policy through the Public Employees Retirement System and health and dental benefits, and as those benefits may be changed from time to time.

(d) Vacation. As of the Effective Date, SOMERS shall accrue vacation leave at the rate of four (4) weeks per year. SOMERS shall be entitled to use or redeem vacation leave in whatever manner is permitted pursuant to City policy, as same may be amended from time to time by action of the City Council. The City acknowledges that SOMERS anticipates taking a previously planned ten (10) working day vacation within the first six (6) months of employment, and that vacation absence is approved.

(e) Sick Leave. As of the Effective Date, SOMERS shall accrue sick leave at the rate of one (1) day per month. SOMERS shall be entitled to use or redeem sick leave in whatever manner is permitted pursuant to City policy, as same may be amended from time to time by action of the City Council.

(f) Management Leave. As of the Effective Date, SOMERS shall be credited with a prorated number of hours of Management Leave and shall thereafter be entitled to accrue Management Leave in the amount of eighty (80) hours per year. SOMERS shall be entitled to use Management Leave in whatever manner is permitted pursuant to City policy, as same may be amended from time to time by action of the City Council.

(g) Vehicle Allowance. SOMERS shall be paid a monthly vehicle allowance in the amount of Three Hundred Dollars ($300.00).

(h) Equipment. City shall provide SOMERS all necessary equipment to be productive at and away from the City Hall, including a laptop computer and "PDA" or similar device if requested by SOMERS.

(i) Compensation Changes. Should the City Council, upon completion of its annual review of SOMERS' performance pursuant to this Agreement, determine that SOMERS has met the City's performance expectations, the City Council shall consider an increase in SOMERS' compensation at least consistent with compensation increases granted to other City management

employees. SOMERS understands and agrees that she has no entitlement to an increase in compensation. Any decision to increase SOMERS' compensation shall be retroactive to the beginning of the pay period immediately preceding the most recent anniversary of the Effective Date unless Council explicitly directs otherwise.

5. Termination and Severance.

(a) Termination.

(i) City Termination Prior to End of Term. Notwithstanding anything to the contrary in this Agreement, including Section 3, herein, City may, by a majority vote of the City Council in attendance at any lawfully called meeting, terminate SOMERS at any time during the term of this Agreement upon thirty (30) days notice of such decision to terminate this Agreement, as provided by the provisions of the Ralph M. Brown Act (California Government Code §54950 et seq.). However, if such Termination is not "for cause" as defined in Sections 5(b) and 5(c) below, City shall be responsible to pay severance as set forth in Section 5(b), below. In addition, unless such Termination is "for cause" as defined in Sections 5(b) and 5(c), City may not deliver such notice of Termination prior to April 2, 2013.

(ii) SOMERS Termination Prior to End of Term. Due to the important nature of SOMERS' duties to the City, SOMERS shall not terminate this Agreement during the initial five (5) year Term of this Agreement, unless City agrees to such termination in writing. Thereafter, upon any one (1) renewal of this Agreement as provided for in Section 3, SOMERS must provide the City Council with thirty (30) days written notice prior to the date she ceases to perform her duties and responsibilities under this Agreement and the provisions of the City's Municipal Code.

(b) Severance. In the event SOMERS is terminated without cause pursuant to Section 5(a)(i), or resigns in lieu of termination, and SOMERS is willing and able to perform her duties under this Agreement and the City's Municipal Code, City shall provide SOMERS with a lump sum severance payment equal to six (6) months base salary in addition to any accrued leave balances that are compensable (per City policy) upon termination of employment. In the event of such termination, SOMERS shall retain the right to participate in City health programs at SOMERS' own and sole expense pursuant to the terms of COBRA. SOMERS shall be compensated for any unused vacation leave, holidays, and other benefits then accrued consistent with City policies. For purposes of this Agreement "without cause" shall refer to any termination not resulting from any of the occurrences set forth in Section 5(c) below. This Section 5(b) shall not apply to non-renewal of this Agreement as set forth in Section 3, above.

(c) Termination "For Cause". In the event SOMERS is terminated because of her conviction for (i) any felonious act, (ii) any other illegal act involving use of SOMERS' position for personal gain, or (iii) any crime involving moral turpitude, City shall have no obligation to pay the severance as set forth in this Agreement. Such termination shall herein be referred to as a termination "for cause". In the event that, at the time of termination, SOMERS is under investigation by any law enforcement agency for any of the foregoing reasons, City may withhold all or part of such severance pay until it is determined if charges will be filed, and if charges are filed, until final judgment is rendered.

(d) Termination Based on Disability or Death. In the event SOMERS is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health reasons for a period of three (3) consecutive months beyond any accrued sick leave, City may terminate this Agreement.

6. Professional Development. City agrees to pay for the professional dues, subscriptions, and other costs of SOMERS deemed necessary for her participation in national, state, regional, and local associations and organizations and in meetings, conferences, and training related thereto, including but not limited to the International City/County Management Association, League of California Cities, and County City Managers' Association, which are considered mutually desirable for her continued professional participation and growth and for the good of the City, subject to budgetary approval and City Council oversight.

7. Business Expenses. City shall reimburse SOMERS for all necessary and appropriate business expenses, including, but not limited to, the costs of business meetings, business meals, staff functions and special events attended in an official capacity, subject to any guidelines the City Council may impose. Expenses associated with SOMERS' use of her personal automobile shall be reimbursed by payment of the auto allowance pursuant to this Agreement, and shall not be reimbursed as a business expense.

8. Indemnification. City agrees to defend, hold harmless and indemnify SOMERS 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 SOMERS' duties. City is not required to indemnify SOMERS for any illegal acts committed by SOMERS, but may agree to do so, in its discretion.

9. Performance Review.

The intent of the parties is that there be open and constructive communication between the City Council and City Manager regarding the City Manager's performance and City Council expectations regarding such performance. As such, the City Council may:

(a) within thirty (30) days of the Effective Date, establish its performance expectations for SOMERS and update said performance expectations from time to time.

(b) conduct annual reviews of SOMERS' performance on or around the anniversary of the Effective Date. The objective of such review shall be to maintain an optimal working relationship and a mutual understanding and agreement on duties, responsibilities, and priorities between SOMERS and the City Council.

10. Bonding Requirements. City shall bear full cost of the fidelity bond required of SOMERS under any law or ordinance in connection with her duties hereunder. This Agreement shall be deemed void and of no effect if SOMERS is unable to qualify for any such fidelity bond prior to the Effective Date.

11. Other Terms and Conditions.

The Council, in consultation with SOMERS, shall fix any such other terms and conditions of employment as it may determine from time to time, relating to the performance of SOMERS, provided such terms and conditions are not inconsistent with or in conflict with the provision of this Agreement or State law.

All provisions of the City Code and regulations and rules of City relating to vacation and sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions pertaining to City Department Heads as they now exist or hereafter may be amended, except as otherwise set forth herein also shall apply to SOMERS.

12. Severability. If any provision, or portions thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable and shall remain in full force and effect.

13. Notices.

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

Mayor and City Council
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022

Marcia Somers, City Manager
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022

(b) Notices also may be personally served in the same manner as applicable to civil judicial practice.

(c) 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 course of transmission by the United States Postal Service.

(d) Either party hereto may change their respective address of record by providing written notice thereof in accordance with this Section.

14. General Provisions.

(a) The text herein shall constitute the entire Agreement between the parties.

(b) No provisions of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing by the City and SOMERS. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement shall be deemed a waiver of other provisions or conditions hereof.

(c) This Agreement contains the entire agreement and understanding between the parties and contains all of the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. SOMERS

acknowledges that she has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement.

(d) This Agreement shall be binding upon and shall inure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties, provided, however, that SOMERS may not assign her obligations hereunder.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of California, and venue for any action concerning this Agreement shall be limited to the Superior Court for the County of Santa Clara.

(f) 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.

(g) The parties hereto acknowledge and agree that, although this Agreement has been drafted by City's legal counsel, SOMERS has reviewed, or had an opportunity to review, the terms of this Agreement with her legal counsel. Consequently, the doctrine that ambiguities in an agreement should be resolved against the drafting party shall not be employed in connection with this Agreement and this Agreement shall be interpreted in accordance with its fair meaning.

(h) Unless provided for otherwise by this Agreement, all provisions of the City Code which are applicable to the City Manager shall remain in full force and effect.

MARCIA SOMERS:

Marcia Somers

CITY OF LOS ALTOS:

Valorie Cook Carpenter

By: Valorie Cook Carpenter, Mayor

ATTEST:

Lee Price

, City Clerk

Lee Price, MMC

APPROVED AS TO FORM:

Jolie Houston

Jolie Houston, City Attorney

AMENDMENT TO AGREEMENT FOR EMPLOYMENT OF CITY MANAGER

This amendment ("Amendment") to an agreement entitled "Agreement for Employment of City Manager" by and between the City of Los Altos, California ("City") and Marcia Somers ("SOMERS"), dated April 2, 2012, with reference to the following facts:

RECITALS

WHEREAS, on April 2, 2012, City and SOMERS entered into an agreement entitled "Agreement for Employment of City Manager" ("Agreement"); and

WHEREAS, as of April 2, 2012, the base salary for SOMERS was One Hundred Ninety Six Thousand Dollars ($196,000); and

WHEREAS, both parties now desire to amend the Agreement in order to set a new base salary for SOMERS of One Hundred Ninety Eight Thousand Dollars ($198,000); and

NOW THEREFORE, in consideration of the covenants, conditions and promises hereinafter contained, to be kept and performed by the parties hereto, City and SOMERS hereby agree that the following section of the aforesaid Agreement is amended to read as follows:

1. Revision to Section 4

Section 4, "Compensation" shall be amended to read as follows:

4. Compensation.

A. Base Salary. City shall pay SOMERS an annual base salary of One Hundred Ninety Eight Thousand Dollars ($198,000) ("Base Salary"), subject to deductions for taxes, deferred compensation and other out-of-pocket benefits paid for by SOMERS as a City executive management employee. City shall pay SOMERS in bi-weekly installments at the same time as other employees of City are paid.

2. Retroactive Compensation

The level of compensation set forth in this Section 4 shall be deemed to have commenced, retroactively, as of October 1, 2013.

3. General Provisions to Amendment

A. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

B. Except as modified hereby, the terms and provisions of the Agreement shall remain unmodified and in full force and effect.

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C. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Agreement.

D. In case of any conflict between any term or provision of this Amendment and any term of provision of the Agreement, the term or provision of this Amendment shall govern.

E. This Amendment shall be deemed to be made in, and construed in accordance with, the laws of the State of California. In the event suit is brought by either party hereunder, the Parties agree that venue for such action shall be vested in the state courts of California in the County of Santa Clara or in the United States District court in the Northern District of California.

F. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one agreement.

IN WITNESS WHEREOF, this Amendment has been executed as of the date set forth above.

SOMERS

Marcia Somers, City Manager

CITY OF LOS ALTOS:

By: Jarrett Fishpaw, Mayor

ATTEST:

Jon Maginot, City Clerk

APPROVED AS TO FORM:

Jolie Houston, City Attorney

FIRST AMENDED AND RESTATED AGREEMENT FOR EMPLOYMENT OF CITY MANAGER

This First Amended and Restated Agreement for Employment of City Manager ("Agreement") is dated for reference purposes as of April 2, 2012, and is made by and between the City of Los Altos, a California general law municipal corporation, hereinafter referred to as "City" and Marcia Somers, hereinafter referred to as "SOMERS".

RECITALS

WHEREAS, it is the desire of the City Council to establish the terms and conditions of employment of SOMERS to the position of City Manager of the City of Los Altos, including the duties, salary and benefits of employment; and

WHEREAS, on April 2, 2012, City and SOMERS entered into an agreement entitled "Agreement for Employment of City Manager" ("Agreement"); and

WHEREAS, as of April 2, 2012, the base salary for SOMERS was One Hundred Ninety Six Thousand Dollars ($196,000); and

WHEREAS, on October 22, 2013, the City amended the Agreement in order to set a new base salary for SOMERS of One Hundred Ninety Eight Thousand Dollars ($198,000) effective October 1, 2013; and

WHEREAS, both parties now desire to enter into this agreement entitled "First Amended and Restated Agreement for Employment of City Manager" in order to set a new base salary for SOMERS of Two Hundred Two Thousand Nine Hundred Fifty Dollars ($202,950), provide a bonus of Two Thousand Nine Hundred Seventy Dollars ($2,970), modify the terms contained in Section 4, Compensation Changes, and Section 9, Performance Review, and to incorporate required provisions of California Government Code Section 53243 et seq; and

NOW, THEREFORE, in consideration of the respective and mutual covenants hereinafter contained and made, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and subject to all the terms and conditions hereof, the parties agree as follows:

1. Employment of City Manager. This Agreement establishes the terms and conditions of employment of SOMERS as the City Manager of the City of Los Altos.

2. Duties. SOMERS shall perform the functions and duties of the City Manager as specified under the laws of the State of California, the Los Altos Municipal Code, and the ordinances and resolutions of City, and perform such other duties and functions as the City Council may assign from time to time.

3. Term Renewal. Commencing on the effective date of this Agreement, which the parties agree shall be April 2, 2012 ("Effective Date"), SOMERS agrees to perform those functions and duties specified in the Los Altos Municipal Code and the Government Code of the State of

California, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign, for a period expiring five (5) years after the Effective Date ("Termination Date"), or until this Agreement is otherwise terminated pursuant to its terms.

This Agreement shall automatically renew for a one (1) year extension term as provided herein unless City gives SOMERS timely notice of non-renewal. The City must give SOMERS written notice of non-renewal at least six (6) calendar months prior to the initial Termination Date and any succeeding Termination Date. Unless such notice of non-renewal is timely given, this Agreement shall automatically renew on the terms and conditions set forth herein (as such may be amended from time to time) for an additional one (1) year term. The parties may agree to discuss the terms of any such renewal at any time prior to the actual renewal hereof.

4. Compensation.

(a) Base Salary. City shall pay SOMERS an annual base salary of Two Hundred Two Thousand Nine Hundred Fifty Dollars ($202,950) ("Base Salary"), subject to deductions for taxes, deferred compensation and other out-of-pocket benefits paid for by SOMERS as a City executive management employee. City shall pay SOMERS in bi-weekly installments at the same time as other employees of City are paid. Base Salary is retroactive to July 1, 2014.

(b) Base Salary Deductions. Deductions from Base Salary for the Public Employees Retirement System costs shall be uniform with respect to all members within SOMERS' classification as a "local miscellaneous" member of City's work force, and may vary from time to time (currently seven percent (7%)).

(c) Management Benefits. Except as otherwise set forth in this Agreement, in addition to the benefits specified herein, SOMERS shall receive any and all employee benefits otherwise accorded City's executive management employees, including without limitation retirement benefits consistent with City policy through the Public Employees Retirement System and health and dental benefits, and as those benefits may be changed from time to time.

(d) Vacation. As of the Effective Date, SOMERS shall accrue vacation leave at the rate of four (4) weeks per year. SOMERS shall be entitled to use or redeem vacation leave in whatever manner is permitted pursuant to City policy, as same may be amended from time to time by action of the City Council.

(e) Sick Leave. As of the Effective Date, SOMERS shall accrue sick leave at the rate of one (1) day per month. SOMERS shall be entitled to use or redeem sick leave in whatever manner is permitted pursuant to City policy, as same may be amended from time to time by action of the City Council.

(f) Management Leave. As of the Effective Date, SOMERS shall be credited with a prorated number of hours of Management Leave and shall therefore be entitled to accrue Management Leave in the amount of eighty (80 hours per year. SOMERS shall be entitled to use Management Leave in whatever manner is permitted pursuant to City policy, as same may be amended from time to time by action of the City Council.

(g) Vehicle Allowance. SOMERS shall be paid a monthly vehicle allowance in the amount of Three Hundred Dollars ($300.00).

(h) Equipment. City shall provide SOMERS all necessary equipment to be productive at and away from the City Hall, including a laptop computer and "PDA" or similar device if requested by SOMERS.

(i) Compensation Changes. Should the City Council, upon completion of its annual review of SOMERS' performance pursuant to this Agreement, determine that SOMERS has met the City's performance expectations, the City Council shall consider an increase in SOMERS' compensation at least consistent with compensation increases granted to other City management employees. SOMERS understands and agrees that she has no entitlement to an increase in compensation. Any decision to increase SOMERS' compensation shall be retroactive to the beginning of the fiscal year (July 1st) unless Council explicitly directs otherwise.

(j) One Time Bonus. SOMERS is hereby granted a one-time bonus of 1.5% of prior base salary ($2,970) effective December 1, 2014.

5. Termination and Severance.

(a) Termination.

(i) City Termination Prior to End of Term. Notwithstanding anything to the contrary in this Agreement, including Section 3, herein, City may, by a majority vote of the City Council in attendance at any lawfully called meeting, terminate SOMERS at any time during the term of this Agreement upon thirty (30) days notice of such decision to terminate this Agreement, as provided by the provisions of the Ralph M. Brown Act (California Government code §54950 et seq.). However, if such Termination is not "for cause" as defined in Sections 5(b) and 5(c) below, City shall be responsible to pay severance as set forth in Section 5(b), below. In addition, unless such Termination is "for cause" as defined in Sections 5(b) and 5(c), City may not deliver such notice of Termination prior to April 2, 2013.

(ii) SOMERS Termination Prior to End of Term. Due to the important nature of SOMERS' duties to the City, SOMERS shall not terminate this Agreement during the initial five (5) year Term of this Agreement, unless City agrees to such termination in writing. Thereafter, upon any one (1) renewal of this Agreement as provided for in Section 3, SOMERS must provide the City Council with thirty (30) days written notice prior to the date she ceases to perform her duties and responsibilities under this Agreement and the provisions of the City's Municipal Code.

(b) Severance. In the event SOMERS is terminated without cause pursuant to Section 5(a)(i), or resigns in lieu of termination, and SOMERS is willing and able to perform her duties under this Agreement and the City's Municipal Code, City shall provide SOMERS with a lump sum severance payment equal to six (6) months base salary in addition to any accrued leave balances that are compensable (per City policy) upon termination of employment. In the event of such termination, SOMERS shall retain the right to participate in City health programs at SOMERS' own and sole expense pursuant to the terms of COBRA. SOMERS shall be compensated for any unused vacation leave, holidays, and other benefits that accrued consistent with City policies. For

purposes of this Agreement "without cause" shall refer to any termination not resulting from any of the occurrences set forth in Section 5(c) below. This Section 5(b) shall not apply to non-renewal of this Agreement as set forth in Section 3, above.

(c) Termination "For Cause". In the event SOMERS is terminated because of her conviction for (i) any felonious act, (ii) any other illegal act involving use of SOMERS' position for personal gain, or (iii) any crime involving moral turpitude, City shall have no obligation to pay the severance as set forth in this Agreement. Such termination shall herein be referred to as a termination "for cause". In the event that, at the time of termination, SOMERS is under investigation by any law enforcement agency for any of the foregoing reasons, City may withhold all or part of such severance pay until it is determined if charges will be filed, and if charges are filed, until final judgment is rendered.

(d) Termination Based on Disability or Death. In the event SOMERS is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health reasons for a period of three (3) consecutive months beyond any accrued sick leave, City may terminate this Agreement.

6. Professional Development. City agrees to pay for the professional dues, subscriptions, and other costs of SOMERS deemed necessary for her participation in national, state, regional, and local associations and organizations and in meetings, conferences, and training related thereto, including but not limited to the International City/County Management Association, League of California Cities, and County City Managers' Association, which are considered mutually desirable for her continued professional participation and growth and for the good of the City, subject to budgetary approval and City Council oversight.

7. Business Expenses. City shall reimburse SOMERS for all necessary and appropriate business expenses, including, but not limited to, the costs of business meetings, business meals, staff functions and special events attended in an official capacity, subject to any guidelines the City Council may impose. Expenses associated with SOMERS' use of her personal automobile shall be reimbursed by payment of the auto allowance pursuant to this Agreement, and shall not be reimbursed as a business expense.

8. Indemnification. City agrees to defend, hold harmless and indemnify SOMERS 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 SOMERS' duties. City is not required to indemnify SOMERS for any illegal acts committed by SOMERS, but may agree to do so, in its discretion.

9. Performance Review.

The intent of the parties is that there be open and constructive communication between the City Council and City Manager regarding the City Manager's performance and City Council expectations regarding such performance. As such,

(a) the City Council will establish its performance expectations for SOMERS annually and update said performance expectation from time to time.

(b) the City Council will conduct annual reviews of SOMERS' performance on a fiscal year basis. The objective of such review shall be to maintain an optimal working relationship and a mutual understanding and agreement on duties, responsibilities, and priorities between SOMERS and the City Council.

(c) either the City Council or SOMERS may request the involvement of an outside facilitator in such annual reviews. SOMERS will arrange for such services with a mutually agreed upon facilitator in a manner that ensures the completion of the review process by the second regular meeting in September.

10. Bonding Requirements. City shall bear full cost of the fidelity bond required of SOMERS under any law or ordinance in connection with her duties hereunder. This Agreement shall be deemed void and of no effect if SOMERS is unable to qualify for any such fidelity bond prior to the Effective Date.

11. Other Terms and Conditions.

The Council, in consultation with SOMERS, shall fix any such other terms and conditions of employment as it may determine from time to time, relating to the performance of SOMERS, provided such terms and conditions are not inconsistent with or in conflict with the provision of this Agreement or State law.

All provisions of the City Code and regulations and rules of City relating to vacation and sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions pertaining to City Department Heads as they now exist or hereafter may be amended, except as otherwise set forth herein also shall apply to SOMERS.

12. Severability. If any provision, or portion thereof, contained in the Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed servable and shall remain in full force and effect.

13. Notices.

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

Mayor and City Council
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022

Marcia Somers, City Manager
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022

(b) Notices also may be personally served in the same manner as applicable to civil judicial practice.

(c) 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 course of transmission by the United States Postal Service.

(d) Either party hereto may change their respective address of record by providing written notice thereof in accordance with this Section.

14. General Provisions.

(a) The text herein shall constitute the entire Agreement between the parties.

(b) No provisions of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing by the City and SOMERS. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement shall be deemed a waiver of other provisions or conditions hereof.

(c) This Agreement contains the entire agreement and understanding between the parties and contains all of the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. SOMERS acknowledges that she has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement.

(d) This Agreement shall be binding upon and shall inure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties, provided, however, that SOMERS may not assign her obligations hereunder.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of California, and venue for any action concerning this Agreement shall be limited to the Superior Court for the County of Santa Clara.

(f) 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.

(g) The parties hereto acknowledge and agree that, although this Agreement has been drafted by City's legal counsel, SOMERS has reviewed, or had an opportunity to review, the terms of this Agreement with her legal counsel. Consequently, the doctrine that ambiguities in an agreement should be resolved against the drafting party shall not be employed in connection with this Agreement and this Agreement shall be interpreted in accordance with its fair meaning.

(h) Unless provided for otherwise by this Agreement, all provisions of the City Code which are applicable to the City Manager shall remain in full force and effect.

(i) Required provisions of California Government Code 53243-53243.4 are hereby agreed to and expressly made a part of this Agreement.

MARCIA SOMERS

CITY OF LOS ALTOS:

By: Megan Satterlee, Mayor

ATTEST:

Jon Maginot, City Clerk

APPROVED AS TO FORM:

Jolie Houston, City Attorney

AMENDMENT NO. 1 TO THE FIRST AMENDED AND RESTATED AGREEMENT FOR EMPLOYMENT OF CITY MANAGER

This Amendment No. 1 to the First Amended and Restated Agreement for Employment of City Manager ("Agreement") entered into as of the 9th day of November 2015, by and between the City of Los Altos, a California general law municipal corporation, hereinafter referred to as "City" and Marcia Somers, hereinafter referred to as "SOMERS".

RECITALS

WHEREAS, it is the desire of the City Council to establish the terms and conditions of employment of SOMERS to the position of City Manager of the City of Los Altos, including the duties, salary and benefits of employment; and

WHEREAS, on April 2, 2012, City and SOMERS entered into an agreement entitled "Agreement for Employment of City Manager" ("Agreement"); and

WHEREAS, on November 25, 2014, City and SOMERS approved the First Amended and Restated Agreement for Employment of City Manager; and

WHEREAS, both parties now desire to amend the Agreement in order to set a new base salary for SOMERS and modify the terms contained in Section 5, Termination; and

NOW, THEREFORE, in consideration of the respective and mutual covenants hereinafter contained and made, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and subject to all the terms and conditions hereof, the parties hereby agree that the following sections of the aforesaid Agreement dated July 1, 2014 as follows:

1. Section 4(a), Compensation, Base Salary, is hereby deleted and replaced with the following new section:

   City shall pay SOMERS an annual base salary of Two Hundred Nine Thousand Forty Dollars ($209,040) ("Base Salary"), subject to deductions for taxes, deferred compensation and other out-of-pocket benefits paid for by SOMERS as a City executive management employee. City shall pay SOMERS in bi-weekly installments at the same time as other employees of City are paid. Base Salary is retroactive to July 1, 2015.

2. Section 5(a), Termination, is hereby amended to add a new subsection (iii) which reads:

   City Termination Subsequent to City Council Election. The City shall take no action to terminate the services of SOMERS, without cause, before the second Tuesday of April immediately following a regular election at which one (1) or more new members are elected to the City Council.

IN WITNESS WHEREOF, this Amendment has been executed as of the date set forth above.

MARCIA SOMERS

CITY OF LOS ALTOS:

By: Janis C. Pepper, Mayor

ATTEST:

Jon Maginot, City Clerk

APPROVED AS TO FORM:

Jolie Houston, City Attorney