RESOLUTION NO. 59-22 (CM)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE
APPOINTING RENE MENDEZ AS CITY MANAGER AND APPROVING
CONTRACT FOR EMPLOYMENT AS CITY MANAGER; AND
AUTHORIZING THE MAYOR TO EXECUTE THE EMPLOYMENT
CONTRACT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF

WATSONVILLE, CALIFORNIA, AS FOLLOWS:

1. That Rene Mendez be and is hereby appointed City Manager, and he
shall have all the powers and authority granted the City Manager in Sections 703 and
704 of the Charter of the City of Watsonville.

2. That the Contract between the City of Watsonville and Rene Mendez for
employment as City Manager of the City of Watsonville, a copy of which Contract is
attached hereto and incorporated herein by this reference, is fair and equitable and is
hereby approved.

3. That the Mayor be and is hereby authorized and directed to execute the
Contract for and on behalf of the City of Watsonville.

BE IT FURTHER RESOLVED that this appointment shall become effective July
1, 2022.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Watsonville, held on the 12th day of April, 2022, by Mayor Pro Tempore Montesino, who moved its adoption, which motion being duly seconded by Member García, was upon roll call carried and the resolution adopted by the following vote:

AYES: COUNCIL MEMBERS: Dutra, Estrada, García, Hurst, Montesino, Quiroz-Carter, Parker

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

I, Irwin I. Ortiz, City Clerk of the City of Watsonville, do hereby certify that the foregoing Resolution No. 59-22 (CM) was duly and regularly passed and adopted by the Watsonville City Council at a meeting thereof held on the 12th day of April, 2022, and that the foregoing is a full, true and correct copy of said Resolution.
AT-WILL EMPLOYMENT AGREEMENT

OF

RENE L. MENDEZ

This agreement is between the CITY OF WATSONVILLE ("City"), a municipal corporation organized in the State of California, and RENE L. MENDEZ ("Employee") ("Agreement"). City and Employee shall be collectively referred to as “Parties” or individually referred to as “Party”, “Employee” or “City”.

RECITALS

WHEREAS, Employee has been gainfully employed as City Manager of the City of Gonzales, California, and Executive Director/Director of the Gonzales Redevelopment Agency/Successors Agency to the Gonzales Redevelopment Agency since 2005; and

WHEREAS, the City has completed a recruitment process and has determined that the City desires to offer the position of City Manager to Employee; and

WHEREAS, Employee has indicated he desires to serve in the capacity of City Manager; and

WHEREAS, In accordance with the terms of the Agreement, City and Employee have agreed to memorialize their intent and the terms of employment by this Agreement.

NOW THEREFORE, it is hereby agreed by City and Employee as follows:

1. Effective Date

The effective date of this Agreement is July 1, 2022.

2. Appointment as City Manager and Start Date

The City agrees to employ Employee as City Manager for the City, subject to the terms, conditions and provisions of this Agreement. Employee accepts such employment. Employee shall be “at will” and serve at the pleasure of the City Council. Employee shall start performance of his duties as City Manager on July 1, 2022.

Employee’s employment with the City shall be subject to all requirements of the City’s Personnel Rules ("Rules") unless contradicted by some provision of this Agreement. Employee shall perform all duties consistent with the City’s Rules and comply, at all times, with the City’s Personnel Rules.

3. Term of Agreement

The term of this Agreement shall ("Term") be for a period of five (5) years, commencing on July 1, 2022 to July 1, 2027, unless terminated earlier by either Party pursuant to Section 5 below. Employee is an at will employee who may be terminated at any time, with or without cause, and shall serve at the pleasure of the City Council. Employee may resign at any time for any reason by providing notice in accordance with Section 5 to City Council.
4. **Duties and Responsibilities**

   a. Employee will perform the functions and duties specified in the laws of the United States and the State of California and in Article VII of the City’s Charter, as well as the City’s Municipal Code, the Personnel Rules, ordinances and resolutions of City, and to perform other legally permissible and proper duties and functions of the City Council may, from time to time, assign.

   b. Employee shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession, comply with all general rules and regulations established by the City, and obey all State and Federal laws.

   c. Employee agrees to devote his productive time, ability and attention to the City's business during the term of this Agreement. Employee shall not hold secondary employment, and shall be employed exclusively by the City. The City and Employee recognize that Employee is expected to devote necessary time outside normal office hours to perform business of the City. Since Employee's position is "exempt" under the Fair Labor Standards Act, Employee shall not receive overtime or extra compensation for work performed outside normal business hours.

   d. Employee shall not engage in any activity, which is or may become a conflict of interest, prohibited by contract, or which may create an incompatibility of office as defined under California law. Prior to performing any services under this Agreement and annually thereafter, the Employee must complete disclosure forms as required by law.

5. **Resignation and Termination**

   a. Resignation: Employee may resign at any time with or without cause and agrees to give City at least sixty (60) days advance written notice of the effective date of his resignation, unless the parties mutually agree otherwise.

   b. Termination by City: City may terminate Employee, with or without cause, at any time, consistent with the requirements of Section 701 of the City’s Charter, which provides that the City Council may remove the City Manager by a resolution adopted by at least four (4) affirmative votes.

      i. Termination without Cause: City may terminate Employee without cause by providing him with a written notice of termination. If City terminates employee without cause, City shall provide Employee sixty (60) days written notice of such termination, unless the parties mutually agree otherwise. If the City, at the request of a majority of the City Council, requests Employee’s resignation without cause, then Employee shall be deemed terminated without cause. If the Employee is terminated without cause, then the employee is entitled to receive severance as detailed in section eight (8) below.

      ii. Termination for Cause: City may terminate Employee for cause by providing him with a written notice of termination. Such termination may be effective immediately. The following are sufficient basis for termination for cause:

         A. Employee engages in illegal activities;
         B. Gross malfeasance;
C. Dereliction of duties;
D. Absence from employment without a good cause;
E. Failure to perform duties and responsibilities under this Agreement, as defined in the City’s Charter, or as specified in the City Manager’s job description.
F. Resume fraud or other acts of material dishonesty;
G. Violation of the City’s Rules, including but not limited to, the City’s rule against harassment, discrimination, and retaliation;
H. Use or possession of illegal drugs;
I. Engaging conduct tending to bring embarrassment or disrepute to the City;
J. Conviction of any felony or any criminal offense involving moral turpitude; or
K. An abuse of his office or position” as that term is defined in Government Code Section 53243.4.

c. Termination by Reduction of Salary or Benefits: If City at any time during this Agreement reduces the salary of City Manager in a greater percentage than an applicable across-the-board reduction for other “at will” employees, as defined in the City’s Compensation and Benefits Plan for at-will employees (“Plan”), the Employee may, at his option, be deemed to be “terminated” without cause at the date of such reduction.

d. Termination by Employee: In the event Employee voluntarily resigns his position with City at any time during the term of this Agreement, then Employee shall give City no less than sixty (60) days written notice, unless the parties otherwise agree. Failure of Employee to give the required sixty (60) days' written notice of resignation will result in a pro-rata reduction in benefits normally payable to resigning City employees, such as, but not limited to, accrued vacation payment, and the like. Voluntary resignation by Employee will result in a loss of all Severance Pay from City.

e. Affirmation of “At-Will” status: The parties recognize and affirm that: 1) Employee is an "at-will" employee whose employment may be terminated by the City Council at any time; and 2) there is no express or implied promise made to Employee for any form of continued employment as City Manager or any other position of employment with City. This Agreement is the sole and exclusive basis for an employment relationship between Employee and the City. Nothing in this Agreement shall be construed to create a property interest for Employee in the position of City Manager.

6. Salary

a. Effective July 1, 2022, City agrees to pay Employee $240,000 in base salary per year ($20,000 per month) during the term of this Agreement for his services. All salary payments to Employee shall be payable in installments at the same time as other employees of the City are paid and subject to the customary withholding.

b. Employee may be entitled to receive a salary increase, commencing in July, 2023 and every year thereafter for cost of living adjustment. The City Council shall review and determine whether to grant a cost of living adjustment and the appropriate rate of adjustment at the time of performance review.
C. City agrees to review Employee’s performance in the second quarter of 2023 in accordance with Section 9 of this Agreement. In the Council’s discretion, it may provide Employee an additional salary increase at that time. Thereafter, the Council will review Employee’s performance and compensation on an annual basis. The City, in its sole discretion, may increase Employee’s salary based on Employee’s performance review.

7. Supplemental Benefits

a. Economic Benefits: Except as otherwise provided in this Agreement, Employee shall receive the same economic benefits as other employees in the City’s Compensation and Benefits Plan for Executive Team, currently and as it may be amended by the City from time to time. Employee shall not receive the salary increases provided for in the Plan, as Employee will negotiate any salary increase with the Council upon receiving a performance review.

b. Deferred Compensation: City shall contribute a maximum of $10,000 annually into either an International Capital Market Association (ICMA-RC)/MissionSquare Retirement deferred compensation plan, or other similar plan in which the City participates. The annual amount will be divided and paid equally amongst Employee’s pay periods.

c. Housing Allowance: Upon providing proof of residency, as explained further below, City will pay to Employee $2,000 per month for six (6) months for a maximum amount of $12,000. This Housing Allowance shall be contingent upon Employee establishing residency in the City of Watsonville’s geographic boundaries within one year of the Effective Date of this Agreement.

d. Vacation Accrual: City agrees to provide Employee a maximum vacation accrual of twenty (20) days per year, in recognition of his years of public service.

e. Professional Development: City shall pay for professional dues and subscriptions during the term of this Agreement necessary for Employee’s continuation and full participation in the following organizations:

   International City/County Management Association (ICMA); and
   California City Management Foundation (CCMA).

8. Severance

a. Employee shall serve at the will and pleasure of the City Council, and his employment may be terminated by the City Council at any time. Termination of Employee’s employment shall not require any showing of cause or justification, nor shall Employee be entitled to any internal administrative appeal of the decision of the City Council, beyond any process required by law.

b. In the event of Employee’s involuntary termination for reasons other than his resignation, death, disability, or termination with cause as provided in section 5(b)(ii) above, Employee shall be paid severance pay as provided in section 8(e) below. Employee shall not receive severance if, at the end of the five year Term, the Council determines not to renew this Agreement.

c. In accordance with state law, Employee shall be entitled to receive all compensation earned, but unpaid, for actual work performed and accrued unused vacation time as of the date of termination.
d. If Employee is paid severance pay as provided in section 8(e), below, payment of such severance shall be conditioned upon Employee’s signature on written waiver, attached hereto as Exhibit A, of any claims, grievances or causes of action against City, its employees, agents, officers, and City Council arising out of or concerning this Agreement, Employee’s employment with City, or the termination of his employment with the City. If Employee does not agree to waive such claims, grievances or causes of action, the City shall not pay Employee severance pay.

e. If Employee’s employment is terminated, and severance pay is applicable pursuant to the terms stated above, City agrees to pay Employee a cash payment equal to six (6) months of base salary, minus any required withholding. Such payment shall release City from any further obligations under this Agreement.

9. Annual Performance Evaluation

a. Annually, the City Council will define reasonable goals and performance objectives, within the scope of Section 703 of the City’s Charter that the City Council determines necessary for the proper operation of the City. City Council will consider input from Employee when developing the above goals and performance objectives.

b. The City Council will provide Employee with an annual review as detailed in section 6(c) above based on Employee’s performance of assigned duties as detailed in this Agreement.

10. Indemnification

The City shall defend, hold harmless and indemnify Employee against any tort, civil rights, personnel, discrimination, 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 in accordance with the provisions of California Government Code section 825. The City shall provide a defense in accordance with California Government Code section 995. The City may decline to defend and/or indemnify Employee only as permitted by the California Government Code. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment therefrom.

11. Bonding

City shall bear the full cost of any fidelity or other bonds the City Council requires of Employee under any law or ordinance or otherwise.

12. Notices

Any notices required by this Agreement shall be in writing and either given in person or by first class mail with the postage prepaid and addressed as follows:

TO CITY: Mayor
City of Watsonville
275 Main St., 4th Floor
Watsonville, CA 95076

TO EMPLOYEE: Rene Mendez
[Most recent address on file with human resources]
13. **Abuse of Office**

California Government Code Sections 53243, 52431.1, 53243.2 and 52431.3 are incorporated by reference as if fully set forth herein.

If this contract is terminated, any cash settlement related to the termination that Employee may receive from City shall be fully reimbursed to the City if Employee is convicted of a crime involving an abuse of his or his office or position.

14. **Entire Agreement**

a. This Agreement and its attachments and exhibit are the final expression of the complete agreement of the parties with respect to the matters specified herein and supersedes all prior oral and written understandings and agreements, and, except as prescribed herein, this Agreement cannot be modified except by written mutual agreement signed by the parties. The Parties agree that the recitals identified in this Agreement are true and correct and are incorporated into the terms of this Agreement.

b. The following exhibit is incorporated by reference to this Agreement:
   Exhibit A - Form of Written Waiver

15. **Severability, Applicable, Law, and Interpretation**

In the event that any provision of this Agreement is held 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 void are wholly inseparable from the remaining portion of this Agreement. Any dispute concerning this Agreement shall be governed by the laws of the State of California. The parties consent to the jurisdiction of the California courts with venue in Santa Cruz County.

16. **Informed Agreement.**

This Agreement has been negotiated between the City Council, on behalf of City, and Rene Mendez as Employee. City and Employee acknowledge that they have each contributed to the making of this Agreement and that in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. City and Employee acknowledge that they have each had an adequate opportunity to consult with their own legal counsel in the negotiation and preparation of this Agreement.

[Signatures on Following Page]
IN WITNESS WHEREOF, the City has caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by the City Clerk. It has also been executed by the Employee.

EMPLOYEE

RENE L. MENDEZ

CITY OF WATSONVILLE

Ari Parker, Mayor

ATTEST:

Irwin Ortiz, City Clerk

APPROVED AS TO FORM:

Samantha W. Zutler, City Attorney
EXHIBIT A
SEPARATION AGREEMENT
SEPARATION AGREEMENT

1. PARTIES

This Separation Agreement (hereinafter referred to as the “AGREEMENT”) is entered into by and between the City of Watsonville, a California municipal corporation and general law city (hereinafter referred to as “CITY”), and Rene Mendez, an individual (hereinafter referred to as “EMPLOYEE”).

2. RECITALS

2.1. EMPLOYEE was hired by CITY as its permanent City Manager, to serve at the pleasure of the City Council, pursuant to an Employment Agreement for the Position of City Manager made and entered into April _____. 2022 (“EMPLOYMENT AGREEMENT”).

2.2. CITY and EMPLOYEE desire that EMPLOYEE resign and enter into this AGREEMENT whereby EMPLOYEE receives severance compensation in exchange for executing this AGREEMENT including a general release and waiver of any and all claims that EMPLOYEE may have against CITY, including but not limited to its elected and non-elected officials, employees, attorneys, and agents. Accordingly, the parties hereto intend by this AGREEMENT to mutually conclude any and all employment relationships between CITY and EMPLOYEE by means of EMPLOYEE’s voluntary separation as of __________. This AGREEMENT sets forth the full and complete terms and conditions concluding EMPLOYEE’s employment relationship with the CITY and any obligations related thereto, including any provided under the EMPLOYMENT AGREEMENT.

2.3. In accordance with this AGREEMENT and with applicable state and federal laws, EMPLOYEE acknowledges that EMPLOYEE has been advised of EMPLOYEE’s postemployment rights, including but not limited to, EMPLOYEE’s rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), the Employee Retirement Income Security Act of 1974 (“ERISA”), and the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

3. CONSIDERATION

3.1. EMPLOYEE shall receive payment at the time of his voluntary separation all earned salary, accrued fringe benefits as detailed in the EMPLOYMENT AGREEMENT, and/or all other wage compensation/benefits owed to EMPLOYEE upon separation of employment, as required by law or the EMPLOYMENT AGREEMENT or any other agreement with CITY.

3.2. In exchange for the waivers and releases set forth herein, CITY shall also cause to be paid to EMPLOYEE an additional compensatory payment by means of
severance, settlement and release in the form of a lump sum amount of _______________ and __ cents ($______.00), as set forth in the EMPLOYMENT AGREEMENT in the form of a check made payable to EMPLOYEE to be mailed to EMPLOYEE at EMPLOYEE’s home address via certified mail return receipt requested within thirty (30) business days after the EFFECTIVE DATE (as defined below) of this AGREEMENT.

3.3. In exchange for the severance payment provided for herein, EMPLOYEE, and on behalf of EMPLOYEE’s spouse, heirs, representatives, successors, and assigns, hereby releases, acquits, and forever discharges CITY, and each of its predecessors, successors, assigns, officials, employees, representatives, agents, insurers, attorneys, and all persons and entities acting by, through, under, or in concert with any of them, and each of them (hereinafter referred to as “CITY PARTIES”), from any and all claims, charges, complaints, contracts, understandings, liabilities, obligations, promises, benefits, agreements, controversies, costs, losses, debts, expenses, damages, actions, causes of action, suits, rights, and demands of any nature whatsoever, known or unknown, suspected or unsuspected, which EMPLOYEE now has or may acquire in the future, or which EMPLOYEE ever had, relating to or arising out of any act, omission, occurrence, condition, event, transaction, or thing which was done, omitted to be done, occurred or was in effect at any time from the beginning of time up to and including __________ _, __ (hereinafter referred to collectively as “CLAIMS”), without regard to whether such CLAIMS arise under the federal, state, or local constitutions, statutes, rules or regulations, or the common law. EMPLOYEE expressly acknowledges that the CLAIMS forever barred by this AGREEMENT specifically include, but are not limited to, claims based upon any alleged breach of THE CONTRACT or any other agreement of employment, any demand for wages, overtime or benefits, any claims of violation of the provisions of ERISA, COBRA or HIPAA, any alleged breach of any duty arising out of contract or tort, any alleged wrongful termination in violation of public policy, any alleged breach of any express or implied contract for continued employment, any alleged employment discrimination or unlawful discriminatory act, or any claim or cause of action including, but not limited to, any and all claims whether arising under any federal, state or local law prohibiting breach of employment contract, wrongful termination, or employment discrimination based upon age, race, color, sex, religion, handicap or disability, national origin or any other protected category or characteristic, and any and all rights or claims arising under the California Labor Code or Industrial Welfare Commission Wage Orders, the Federal Fair Labor Standards Act, the California Fair Employment and Housing Act, California Government Code sections 12900 et seq., the Americans With Disabilities Act, Title VII of the Civil Rights Act of 1964, the Public Safety Officers Procedural Bill of Right Act, and any other federal, state, or local human rights, civil rights, or employment discrimination or employee rights statute, rule, or regulation.

4. SPECIFIC ACKNOWLEDGMENT OF WAIVER OF CLAIMS UNDER ADEA AND OWBPA

The Age Discrimination in Employment Act of 1967 (hereinafter referred to as the “ADEA”) makes it illegal for an employer to discharge any individual or otherwise discriminate with
With respect to the nature and privileges of an individual’s employment on the basis that the individual is age forty (40) or older. The Older Workers Benefit Protection Act (hereinafter referred to as the “OWBPA,” 29 U.S.C. § 626, et seq., Pub L 101-433, 104 Stat. 978 (1990)) further augments the ADEA and prohibits the waiver of any right or claim under the ADEA, unless the waiver is knowing and voluntary. By entering into this AGREEMENT, EMPLOYEE acknowledges that he knowingly and voluntarily, for just compensation in addition to anything of value to which EMPLOYEE was already entitled, waives and releases any rights he may have under the ADEA and/or OWBPA. EMPLOYEE further acknowledges that he has been advised and understands, pursuant to the provisions of the ADEA and OWBPA, that:

(a) This waiver/release is written in a manner understood by EMPLOYEE;

(b) EMPLOYEE is aware of, and/or has been advised of, his rights under the ADEA and OWBPA, and of the legal significance of his waiver of any possible claims he currently may have under the ADEA, OWBPA and/or similar age discrimination laws;

(c) EMPLOYEE is entitled to a reasonable time of at least twenty-one (21) days within which to review and consider this AGREEMENT and the waiver and release of any rights he may have under the ADEA, the OWBPA and similar age discrimination laws; but may, in the exercise of his own discretion, sign or reject this AGREEMENT at any time before the expiration of the twenty-one (21) days;

(d) The waivers and releases set forth in this AGREEMENT shall not apply to any rights or claims that may arise under the ADEA and/or OWBPA after the EFFECTIVE DATE of this AGREEMENT;

(e) EMPLOYEE has been advised by this writing that he should consult with an attorney prior to executing this AGREEMENT;

(f) EMPLOYEE has discussed this waiver and release with, and been advised with respect thereto, by his counsel of choice, and that he does not need any additional time within which to review and consider this AGREEMENT;

(g) EMPLOYEE has seven (7) days following his execution of this AGREEMENT to revoke the AGREEMENT;

(h) Notice of revocation within the seven (7) day revocation period must be provided, in writing, to THE CITY pursuant to Paragraph 8.7 herein, and must state, “I hereby revoke my acceptance of our Agreement of Severance and General Release;” and
This AGREEMENT shall not be effective until all parties have signed the AGREEMENT and ten (10) days have passed since EMPLOYEE’s execution (“EFFECTIVE DATE”).

5. UNKNOWN CLAIMS

In relation to the release provisions of Paragraphs 3 and 4 above, EMPLOYEE understands that California Civil Code section 1542 reads as follows: “General Release-Claims Extinguished”:

“...A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

EMPLOYEE hereby waives the protection of California Civil Code section 1542.

6. WAIVER OF ADDITIONAL CLAIMS

EMPLOYEE hereby waives any provisions of state or federal law that might require a more detailed specification of the claims being released pursuant to the provisions of Paragraphs 3, 4, and 5 above.

7. REPRESENTATIONS AND WARRANTIES

Each of the parties to this AGREEMENT represents and warrants to, and agrees with, each other party as follows:

7.1. Advice of Counsel: The parties hereto have received independent legal advice from their respective attorneys concerning the advisability of entering into and executing this AGREEMENT or have been given the opportunity to obtain such advice. The parties acknowledge that they have been represented by counsel of their own choice in the negotiation of this AGREEMENT, that they have read this AGREEMENT; that they have had this AGREEMENT fully explained to them by such counsel, or have had such opportunity to do so and that they are fully aware of the contents of this AGREEMENT and of its legal effect.

7.2. No Fraud in Inducement: No party (nor any officer, agent, employee, representative, or attorney of or for any party) has made any statement or representation or failed to make any statement or representation to any other party regarding any fact relied upon in entering into this AGREEMENT, and neither party relies upon any statement, representation, omission or promise of any other party in executing this AGREEMENT, or in making the settlement provided for herein, except as expressly stated in this AGREEMENT.
7.3. Independent Investigation: Each party to this AGREEMENT has made such investigation of the facts pertaining to this settlement and this AGREEMENT and all the matters pertaining thereto, as it deems necessary.

7.4. Mistake Waived: In entering into this AGREEMENT, each party assumes the risk of any misrepresentation, concealment or mistake. If any party should subsequently discover that any fact relied upon by it in entering into this AGREEMENT was untrue, or that any fact was concealed from it, or that its understanding of the facts or of the law was incorrect, such party shall not be entitled to any relief in connection therewith, including without limitation on the generality of the foregoing any alleged right or claim to set aside or rescind this AGREEMENT. This AGREEMENT is intended to be, and is, final and binding between the parties, regardless of any claims of misrepresentation, promise made without the intent to perform, concealment of fact, mistake of fact or law, or any other circumstance whatsoever.

7.5. Later Discovery: The parties are aware that they may hereafter discover claims or facts in addition to or different from those they now know or believe to be true with respect to the matters related herein. Nevertheless, it is the intention of the parties that EMPLOYEE fully, finally and forever settle and release all such matters, and all claims relative thereto, which do now exist, may exist or have previously existed against CITY or CITY PARTIES. In furtherance of such intention, the releases given here shall be, and remain, in effect as full and complete releases of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.

7.6. Indemnification: EMPLOYEE agrees to indemnify and hold harmless CITY or CITY PARTIES from, and against, any and all claims, damages, or liabilities sustained by them as a direct result of the violation or breach of the covenants, warranties, and representations undertaken pursuant to the provisions of this AGREEMENT. EMPLOYEE understands and agrees that he shall be exclusively liable for the payment of all taxes for which he is responsible, if any, as a result of his receipt of the consideration referred to in Paragraph 3 of this AGREEMENT. In addition, EMPLOYEE agrees fully to indemnify and hold the CITY PARTIES harmless for payment of tax obligations as may be required by any federal, state or local taxing authority, at any time, as a result of the payment of the consideration set forth in Paragraph 3 of this AGREEMENT.

7.7. Future Cooperation and Consultation fees: EMPLOYEE shall execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this AGREEMENT. EMPLOYEE shall provide CITY with consultation services (including deposition or trial testimony) in any litigation involving CITY which is reasonably related to acts or occurrences transpiring during his employment. Said services shall be provided as needed to CITY at a rate of $100.00 per hour.

7.8. Return of Confidential Information and Property: Prior to the separation date, EMPLOYEE shall submit a written inventory of, and return to the City Clerk, all City keys, equipment, computer identification cards or codes, and other equipment or
materials or confidential documents provided to or obtained by EMPLOYEE during the course of his employment with CITY.

7.9. No Pending Claims and/or Actions: EMPLOYEE represents that he has not filed any complaints or charges against CITY or CITY PARTIES with any local, state or federal agency or court; that he will not do so at any time hereafter for any claim arising up to and including the EFFECTIVE DATE of this AGREEMENT; and that if any such agency or court assumes jurisdiction of any such complaint or charge against CITY or CITY PARTIES on behalf of EMPLOYEE, whenever or where ever filed, he will request such agency or court to withdraw from the matter forthwith.

7.10. Ownership of Claims: EMPLOYEE represents and warrants as a material term of this AGREEMENT that EMPLOYEE has not heretofore assigned, transferred, released or granted, or purported to assign, transfer, release or grant, any of the CLAIMS disposed of by this AGREEMENT. In executing this AGREEMENT, EMPLOYEE further warrants and represents that none of the CLAIMS released by EMPLOYEE thereunder will in the future be assigned, conveyed, or transferred in any fashion to any other person and/or entity.

7.11. Enforcement Fees and Costs: Should any legal action be required to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys’ fees and costs in addition to any other relief to which that party may be entitled.

7.12. Authority: Each party represents to the other that it has the right to enter into this AGREEMENT, and that it is not violating the terms or conditions of any other AGREEMENT to which they are a party or by which they are bound by entering into this AGREEMENT. The parties represent that they will obtain all necessary approvals to execute this AGREEMENT. It is further represented and agreed that the individuals signing this AGREEMENT on behalf of the respective parties have actual authority to execute this AGREEMENT and, by doing so, bind the party on whose behalf this AGREEMENT has been signed.

8. MISCELLANEOUS

8.1. No Admission: Nothing contained herein shall be construed as an admission by CITY of any liability of any kind. THE CITY denies any liability in connection with any claim and intends hereby solely to avoid potential claims and/or litigation and buy its peace.

8.2. Governing Law: This AGREEMENT has been executed and delivered within the State of California, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of California.
8.3. Full Integration: This AGREEMENT is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This AGREEMENT may be amended only by a further agreement in writing, signed by the parties hereto.

8.4. Joint Drafting: Each party agrees that it has cooperated in the drafting and preparation of this AGREEMENT. Hence, in any construction to be made of this AGREEMENT, the parties agree that same shall not be construed against any party.

8.5. Severability: In the event that any term, covenant, condition, provision or agreement contained in this AGREEMENT is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant, condition, provision or agreement shall in no way affect any other term, covenant, condition, provision or agreement and the remainder of this AGREEMENT shall still be in full force and effect.

8.6. Counterparts: This AGREEMENT may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one AGREEMENT, which shall be binding upon and effective as to all parties.

8.7. Notice: Any and all notices given to any party under this AGREEMENT shall be given as provided in this paragraph. All notices given to either party shall be made by certified or registered United States mail, or personal delivery, at the noticing party’s discretion, and addressed to the parties as set forth below. Notices shall be deemed, for all purposes, to have been given on the date of personal service or three (3) consecutive calendar days following deposit of the same in the United States mail.

As to EMPLOYEE: At EMPLOYEE’s home address on file with THE CITY.

As to THE CITY: Mayor
City of Watsonville
275 Main St., 4th Floor
Watsonville, California 95076

[Signatures on Following Page]
IN WITNESS WHEREOF, THE CITY has caused this AGREEMENT to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk or deputy City Clerk, EMPLOYEE has signed and executed this Agreement, and the attorneys for CITY and EMPLOYEE, if any, have approved as to form as of the dates written below.

Dated: ______________________  EMPLOYEE

By: ______________________

Rene Mendez

Dated: ______________________  CITY

By: ______________________  Mayor

ATTEST:

By: ______________________  City Clerk

APPROVED AS TO FORM

By: ______________________  City Attorney