

**AMENDED AND RESTATED
AGREEMENT OF EMPLOYMENT BETWEEN
THE CITY OF THOUSAND OAKS AND
THE CITY ATTORNEY**

THIS AMENDED AND RESTATED EMPLOYMENT AGREEMENT is made this 26 day of June, 2007, between Amelia Ann Albano and the City Of Thousand Oaks, hereinafter referred to as the "City".

Recitals

- A. The City employed the services of Amelia Ann Albano as the City Attorney of the City pursuant to Employment Agreement dated December 14, 2004 (Original Agreement).
- B. Original Agreement established certain conditions of employment, provided certain compensation and benefits, and set working conditions for such employment, which was authorized by the City Council and accepted by Amelia Ann Albano.
- C. Original Agreement was amended in 2005 increasing the City Attorney's annual salary and granting administrative leave and amended in 2006 increasing the annual salary.
- D. City and City Attorney desire to once again amend the Original Agreement as Amended to provide changes to salary and other benefits. To effectuate these changes, the Original Agreement as Amended by which Amelia Ann Albano undertook the position of City Attorney is being amended and restated as set forth therein.

Agreement

Now therefore City and Amelia Ann Albano agree as follows:

Section 1. Duties; Exclusive Employment

The City agrees to employ Amelia Ann Albano, (hereinafter "City Attorney") to perform the duties and functions specified in (1) the Thousand Oaks Municipal Code, (2) certain City resolutions, (3) City Attorney job classification and/or performance plan, and (4) such other legally permissible duties and functions as the City Council may from time to time hereafter assign.

The City Attorney agrees that she will at all times be employed exclusively by the City to perform all of the duties and obligations required either expressly or implicitly by this Agreement, and may not be employed

in any other capacity while employed by the City. Employee shall focus her professional time, ability, and attention to City business during the term of this Agreement.

Employee shall not engage in any other business duties or pursuits whatsoever or, directly or indirectly, render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, without the prior consent of the City Council, except that: The expenditure of reasonable amounts of time not in conflict with the City's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

Section 2. At-Will Employee Status

This Agreement shall become effective on January 10, 2005. Inasmuch as employee serves at the will of the City Council, there is no term to this Agreement. It shall remain in force and effect unless or until terminated as provided in Section 3.

The City Attorney serves as an "at will" employee (as defined in California Labor Code Section 2922), serving at the pleasure of the City Council, and nothing in this Agreement shall require cause for removal, or prevent, limit or otherwise interfere with the right of the City Council to terminate the services of the City Attorney at any time, subject only to the provisions set forth in Section 3, paragraph A, of this Agreement.

Section 3. Termination and Severance Pay

A. The City Council may terminate the services of the City Attorney at any time with a written notice to the City Attorney, and the date of such termination shall be the date set forth in that notice. If the City Attorney is terminated because she is insubordinate, dishonest, mishandles public funds, falsifies City records, is convicted of any misdemeanor concerning an act amounting to improper conduct as the City Attorney, or involving moral turpitude, or is convicted of a felony, the City shall have no obligation to pay any severance pay as provided for in this Agreement.

In the event the City Attorney is terminated by the City Council during such time that she is willing and able to perform the duties under this Agreement, the City agrees to pay the City Attorney pursuant to Government Code Sections 53260-53264 as follows:

- i. a cash payment equaling one year of her annual salary (with no benefits), if such termination is prior to January 10, 2007; or
- ii. a cash payment equal to nine months of her annual salary (with no benefits), if such termination is prior to January 10, 2009; or

iii. a cash payment equal to six (6) months of her annual salary (with no benefits), if such termination is after January 9, 2009.

B. In the event the City Attorney voluntarily resigns her position with the City, she shall give the City Council written notice. The Council may, at its discretion, ask for as much as forty-five (45) days notice, i.e., that City Attorney provides up to 45 days advance notice of the effective date of her resignation.

C. If City Attorney resigns following a suggestion, whether informal or formal, by City Council that she resign, then City Attorney may, at her option, be deemed "terminated" at the date of such request to resign. Being deemed "terminated" as described in this paragraph triggers the right to severance pay set forth at Section 3. A above.

Section 4. Salary

A. The City agrees to pay the City Attorney for her services rendered pursuant hereto an annual salary as set forth in a resolution adopted by City Council pursuant to Thousand Oaks Municipal Code Section 2-1.502, payable in the normal payroll installments at the same time as other management employees of the City are paid. The City Council shall review the City Attorney's initial salary in 6 months and may adjust the annual compensation. The City Council shall review the City Attorney's salary annually as part of her performance evaluation as explained in Section 5.

B. City agrees to contribute an additional amount equal to ten percent (10%) of current salary (to be included and construed for all legal purposes as normal salary) into a separate compensation account with said amounts to be managed by City and on December 31 of each year to distribute that annual amount as directed by the City Attorney. If the City Attorney is separated from City employment prior to December 31 in any given year, then upon such separation City shall distribute the then accrued amount as directed by City Attorney.

C. City grants City Attorney 100 hours of paid administrative leave per fiscal year. All such administrative leave hours must be taken during the fiscal year in which they are granted and there shall be no carry over, or cash out during the fiscal year or upon separation from employment.

Section 5. Performance Evaluation

A. The City Council shall annually review and evaluate the performance of the City Attorney. Said review and evaluation shall be in accordance with specific criteria provided by the City Council which it can

ask the City Attorney to develop. Further, the City shall provide the City Attorney with a summary of the performance findings of the City Council and provide an adequate opportunity for the City Attorney to discuss that evaluation with the City Council in closed session.

B. An initial performance evaluation under this Agreement shall be conducted in six (6) months of the employment date of the City Attorney and annually thereafter. On an annual basis, the City Council and the City Attorney shall define such goals and performance objectives which the City Attorney determines are necessary for the proper operation of the City, and those also needed to attain the City Council's policy goals, and she shall further establish a relative priority among those various goals.

Section 6. Hours of Work

It is expected the City Attorney will work a work schedule between Monday and Friday and will work the appropriate number of hours to successfully run the City Attorney's Office.

Section 7. Benefits

Benefits provided for herein are addressed in Appendix A.

Section 8. Professional Development

The City expects that the City Attorney will continue to develop professionally and, to that end, will utilize part of the budget provided for in the City Attorney's Office for her own professional development. It is expected that the City Attorney will keep up with all changes in the law to adequately protect the City.

Section 9. Bonding

The City shall bear the full cost of any fidelity or other bonds required of the City Attorney under any law or ordinance.

Section 10. Notices

Notices pursuant to the agreement shall be given by deposit such in the custody of the United States Postal Service, postage prepaid and addressed to City Attorney at her home address, or to the City Council:

Care of City Attorney
Civic Center
2100 E. Thousand Oaks Boulevard
Thousand Oaks, CA 91362

Alternatively, notices required pursuant to the Agreement may be personally served in the same manner as is applicable to civil judicial practice. 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 United States Postal Service.

Section 11. General Provisions

A. All of the City Attorney's writings, reports and other documentations generated as a result of her employment shall be the property of the City, including, but not limited to, at termination of the Agreement.

B. This Agreement is for professional personal services, which are personal to the City, and this Agreement is not assignable by the City Attorney.

C. The provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Where required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

D. This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California.

E. The text herein shall constitute the entire Agreement between the parties and supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of these services, compensation or benefits. Any modifications of this Agreement will be effective only if it is in writing and signed by both parties.

F. This Agreement shall inure to the benefit of the heirs at law and executor(s) of the City Attorney.

G. The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

H. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable by a Court, the remainder of this Agreement or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

I. This Agreement supersedes any and all other agreements, either oral or in writing, between the City Attorney and the City of Thousand Oaks. This Agreement contains all of the covenants and agreements between the parties with respect to the City Attorney's employment with the City of Thousand Oaks in any manner whatsoever.

J. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding on either party.

K. The parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties, and this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement. Therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.


IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF THOUSAND OAKS:



Andrew P. Fox, Mayor

CITY ATTORNEY:



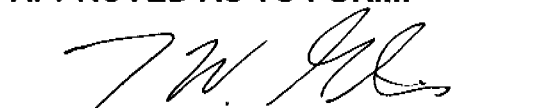
Amelia Ann Albano

ATTEST:



Linda D. Lawrence, City Clerk

APPROVED AS TO FORM:



Tim W. Giles, Assistant City Attorney

**APPENDIX A
CITY OF THOUSAND OAKS
CITY ATTORNEY BENEFITS**

Benefits will be provided as follows:

1. **Health/Medical Insurance:** The City will make required premium payments for the City Attorney and her eligible dependents for insurance policies for disability income benefits dental vision accident and medical. City Attorney may choose any of the health plans offered by the City.
2. **Retirement:** The City pays seven (7) percent of the City Attorney's employee PERS retirement contribution in addition to the normal employer contribution. The City will report as compensation to PERS the seven percent City-paid-member contribution. This benefit is known as the Employer Paid Member Contribution. If at any time other executive management employees of the City receive a larger percentage of City paid employee retirement contribution, then this amount paid by the City on behalf of the City Attorney shall be increased accordingly. Final compensation is based on the employee's average monthly pay rate for the highest 12 months of employment. The City contracts for the fourth level of 1959 Survivor Benefits. The City provides 2% at 55. City Attorney may buy back military service credit prior to retirement.
3. **Deferred Compensation:** City Attorney is eligible to participate in the City's 457 Plan. There is no City contribution to this plan.
4. **Life Insurance:** Pay for the cost equal to two times annual salary up to a maximum of \$300,000 plus dependent life policy. A \$250,000 travel life provision is also included.
5. **Long Term Disability:** 66 2/3 of salary once eligibility requirement (a thirty (30) day waiting period) is met. Pursuant to the provisions of the City's insurance plan.
6. **Holidays:** City Hall is closed on these holidays: New Year's Day, Martin Luther King's Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.
7. **Annual Leave:** City Attorney's annual leave accrual is based on 200 hours per year for the first three years of hire and, thereafter, annual leave hours will increase in accordance with executive management benefits. Maximum annual leave accrual is 1440 hours. If 1440 hours are reached, annual leave will not continue to accrue until leave is used. Annual leave will only be cashed out at the termination of this Agreement. Annual leave can be used for sick or vacation leave. The City Attorney will be credited with two weeks of annual leave upon date of hire.

8. **Automobile Allowance**: The City will pay up to \$30,000 to Bank Of America to pay off the City Attorney's car loan for a 2004 Acura TL (VIN 19UUA66264A040854) and upon payment City Attorney shall sign title of said car over to City. Thereafter the City shall be responsible for the operation, maintenance, repair, and the provision of liability and other essential insurance for said automobile. The City Attorney may use said automobile for personal use without restriction. At the City Attorney's option, she may pay the yearly registration for said automobile.
9. **Section 125 Plan**: Employee will be eligible to enroll in the City's Section 125 Plan. The City will pay the administrative fee.
10. **Employee Assistance Program**: The City will pay for the full cost of the employee assistance program for employee and dependents.
11. **Tuition Reimbursement and PC Loan Program**: The City Attorney is eligible to participate in both of these employee benefit programs, as provided for in the Senior Management Association MOU.
12. **Annual Physical Exam**: The City Attorney shall be permitted to have an annual physical examination and City will reimburse for any out-of-pocket expenses (not covered by the City's Health Plan).
13. **California Bar Dues**: The City will pay for the City Attorney's State of California Bar Dues and Ventura County Bar Association dues.
14. **Employee Discretionary Contribution**: City agrees to provide \$400 per year to be used at the employee's discretion for such purposes, but not limited to, medical expenses through 125 Plan, directly incurred medical costs, medical insurance premiums, deferred compensation, health club membership for physical and mental wellness, Personal Digital Assistant (PDA) equipment for increased employment productivity, or direct cash disbursement