

EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF SAN MARCOS, TEXAS AND ELIZABETH TREVINO
FOR THE POSITION OF CITY CLERK

AGREEMENT made and entered into this 16th day of August, 2022, by and between the City of San Marcos, Texas, a municipal corporation, hereinafter called "City," and Elizabeth Trevino, hereinafter called "Employee," Both of whom understand as follows:

WHEREAS, City desires to employ the services of Employee as City Clerk, as provided by Sec. 4.04 of the City Charter; and

WHEREAS, it is the desire of the City's governing body, hereinafter called "City Council," to provide for the compensation and other terms and conditions of Employee's employment; and

WHEREAS, Employee desires to accept employment by the City on the terms indicated;

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1: Duties

The City hereby agrees to employ Employee, and Employee hereby accepts employment, as City Clerk, to perform the functions and duties specified in said Sec. 4.02 of the City Charter and applicable provisions of the City Code and to perform other legally permissible and proper duties and functions as the City Council shall assign.

Section 2: Residency

Per City Charter, Sec. 4.02, the city clerk shall establish her or her principal physical residence in the city, or in Hays County, or in the city's extraterritorial jurisdiction, within 90 days after appointment, and shall have her or her principal physical residence in the city, or in Hays County, or in the city's extraterritorial jurisdiction continuously thereafter while holding that office.

Section 3: Term

This Agreement commences on August 16, 2022, and shall continue in effect until terminated by City or Employee in accordance with Section 13. Nothing contained in this Agreement shall change or alter the fact that employee serves at the will of the City Council.

Section 4: Best Efforts

Employee agrees to devote her best efforts, energies, and skill to the discharge of the duties and responsibilities attributable to her position, and to this end, he will devote her full time and attention exclusively to the business and affairs of the City. Employee agrees that he may not derive any personal advantage or gain, either directly or indirectly, with respect to any business transaction in which the City engages, and that he will promptly disclose in writing to the City Council all facts that are material to any such potential profit or gain.

Section 5: Salary

All compensation shall be payable in installments at the same time as other employees of the City unless otherwise noted. The City agrees to pay Employee for her services rendered pursuant hereto:

- A. An initial base salary of \$105,000 per year
- B. A car allowance of \$550 per month (\$6,600/year).
- C. A phone or phone allowance will be provided at the option of the employee.
- D. In consideration of the charter requirement which requires the Employee to relocate, the city will also provide:
 - a. Payment of up to \$2,500 for relocation expenses.
 - b. A one-time relocation incentive of \$5,000.
 - c. The IRS requires that the payments in this section are paid through payroll and subject to deductions, withholding and income tax. The City will provide additional compensation to offset tax and benefit deductions and the Employee is responsible for paying income taxes.
- E. The City Council may increase the salary of the Employee from time to time, at its discretion.

Section 6: Performance Evaluation

- A. The City Council shall review and evaluate the performance of the Employee at such times as are determined appropriate by the City Council. Such review and evaluation shall be in accordance with specific criteria developed jointly by the City and Employee, and in accordance with the provisions of Section 2.021 of the San Marcos City Code. Said criteria may be added to or deleted from as the City Council may from time to time determine, in consultation with the Employee. Further, the Mayor of the City of San Marcos shall provide the employee with a summary written statement of the findings of the City Council and provide an adequate opportunity for the Employee to discuss her evaluation with the City Council
- B. The City Council and Employee shall define such goals and performance objectives that they determine necessary for the proper operation of the City and the attainment of the City Council's policy objectives.
- C. Merit consideration will be provided once each year or more often if the City Council so indicates. Such salary increases, if given, will be based upon satisfactory or better performance during each year of employment.
- D. Employee will obtain the Texas Municipal City Clerks Certification within two years of this agreement. The City will provide professional development funds as outlined in section 11 of this agreement. Once obtained, employee agrees to meet the requirements to maintain this certification over this life of this agreement.

Section 7: Vacation, Sick, and Military Leave

- A. Employee shall accrue and have credited to her personal account, vacation, and sick leave at the same rate as general employees of the City.
- B. Employee shall be entitled to military leave, and any other leaves, pursuant to Federal or State law and City policies for general employees.

Section 8: Employee Benefits

The City shall provide for Employee's participation in the City of San Marcos retirement plan through the Texas Municipal Retirement System in a manner consistent with all other employees of the City. The City

agrees to provide employee benefits for medical, dental, life insurance, and disability in accordance with normal City policy for general employees unless otherwise provided in this document.

Section 9: Outside Activities

Employee shall not spend more than 10 hours per week in teaching, consulting or other no City connected business without the prior approval of the City Council.

Section 10: Dues and Subscriptions

The City agrees to budget and to pay for professional dues and subscriptions of Employee necessary for her continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for her continued professional participation, growth, and advancement, and for the good of the City.

Section 11: Professional Development

The City agrees to budget for and to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for her professional development and for the good of the City.

Section 12: Indemnification

The City shall provide for indemnification and defense of the Employee in accordance with the provisions found in the San Marcos City Code, Section 2.374. The City shall bear the full cost of any fidelity or other bonds, or other insurance required of the Employee under law or ordinance by virtue of this employment.

Section 13: Termination

- A. Termination without Cause: The City may terminate this Agreement at any time without cause. For the purpose of this Agreement, termination shall occur when:
 - 1. The majority of the governing body votes to terminate the Employee at a duly authorized public meeting.
 - 2. The City reduces the base salary, compensation, or any other financial benefits of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads.
- B. Termination for Cause: The City may terminate the Employee for cause. Such termination shall require the majority vote of the City Council and shall be preceded by notice to Employee. For purposes of this Agreement, "cause" shall include, without limitation, the following:
 - 1. Misconduct in connection with the performance of any of Employee's duties, including, without limitation, misappropriation of funds or property of the City, securing or attempting to secure any personal profit or commercial advantage in connection with any transaction entered into by the City, any falsification or misrepresentation of fact, or any violation of law or regulation to which the City is subject.
 - 2. Conviction of a felony offense, or of a misdemeanor involving moral turpitude, whether committed within or outside the scope of Employee's employment hereunder.

- C. Notice to the Employee of proposed termination: Employee shall be given written notice of the Council's intent to terminate Employee and the date of a hearing to be conducted in an executive session of the Council at least ten (10) calendar days prior to such hearing and termination. Employee shall be given the opportunity to present evidence at the hearing in response to such proposed termination. Employee's failure to appear at such hearing does not prohibit the Council from taking action to terminate Employee. Employee shall have the option to request a public hearing.
- D. Resignation by Employee, In the event Employee voluntarily resigns her position with the City during the term of this Agreement, then Employee shall give the City 30 days' notice in advance, unless the parties agree otherwise in writing.

Section 14: Severance

- A. Termination without cause:
 - 1. The City will pay Employee a lump sum cash payment for all salary, earned unused vacation (the same as general employees), earned unused sick leave (up to 45 days), and other benefits that were earned but unused as of the last day of active employment.
 - 2. The City will pay the Employee a lump sum cash payment equal to six (6) months' salary. This payment is contingent upon a waiver and release of all claims against the City in a form acceptable to the City.
- B. Termination for cause: In the event Employee is terminated for cause, as defined in this document, the City shall have no obligation to pay the severance pay and severance benefits designated in this Agreement.
- C. Resignation by Employee. The City will pay Employee a lump sum cash payment for all salary, earned unused vacation (the same as general employees) and other benefits available for general employees as of the last day of active employment.

Section 15: Notices

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

- 1. CITY: Mayor
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666
- 2. EMPLOYEE: Elizabeth Trevino
City Clerk's Office,
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666

Alternatively, notices required pursuant to this Agreement may be personally delivered. Notice shall be deemed given as of the date of personal delivery.

Section 16: Arbitration

Any and all disputes arising out of or relating to this Agreement, or the Employee's employment with the City or the termination thereof, shall be resolved solely by arbitration in San Marcos, Texas under the then existing rules of the American Arbitration Association for employment dispute resolution. Judgment upon the award rendered may be entered in any court of competent jurisdiction. The cost of such arbitration shall be borne equally by the parties. Arbitration shall be in accordance with the Federal Arbitration Act ("FAA ") or, if the FAA is found to be inapplicable, then in accordance with the Texas General Arbitration Act.

Section 17: General Provisions

- A. This Agreement replaces and supersedes all prior Agreements between parties, whether written or oral. The text herein shall constitute the entire Agreement between the parties with respect to the subject matter hereof.
- B. This Agreement shall be binding upon and inure to the benefit of heirs at law and executors of Employee.
- C. 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.

IN WITNESS WHEREOF, the City Council of San Marcos, Texas, has authorized the City's Mayor to execute this Agreement, and the same has been duly attested to by its City Clerk, and signed by the Employee, in duplicate, the day and year first written above.

CITY OF SAN MARCOS, TEXAS

Jane Hughson, Mayor

ATTEST:

EMPLOYEE:

Lucia Cordova,
Deputy City Clerk