



**Agenda Item A.5**  
**CONSENT CALENDAR**  
**Meeting Date: December 2, 2008**

---

**TO:** Mayor and Council Members  
**FROM:** Tim W. Giles, City Attorney  
**CONTACT:** Tim W. Giles, City Attorney  
**SUBJECT:** Amendment of City Manager Contract

**RECOMMENDATION:**

Authorize Amendment No.3 to the Agreement for Employment of the City Manager.

**BACKGROUND:**

As a result of recurrent performance evaluation meetings with the City Manager, the City Council has negotiated changes to the City Manager's current employment agreement. Those changes are:

1. Increase automobile allowance from the current level of \$600 per month to \$700 per month.
2. Increase telephone allowance from the current level of \$100 per month to \$150 per month to cover the cost of technology charges incurred by the City Manager while conducting City business.
3. Increase in the deferred compensation contribution provided by the City from the current level of \$8,000 annually to \$8,250 annually.

**DISCUSSION:**

The changes in the City Manager's employment agreement primarily adjust the City Manager's compensation package without changing the basic terms of his employment agreement.

This staff report has been prepared at the direction of the City Council. The amendments are intended to allow the City Manager to keep pace with other professionals of comparable skill and ability in the region.

**ALTERNATIVES:**

Take no action on this matter.

**FISCAL IMPACTS:**

The fiscal impacts associated with the proposed amendments to the Agreement for Employment of City Manager can be absorbed within the existing budget for FY 2008-2009. No additional appropriation of funds is required.

Submitted By:

Reviewed By:

Approved By:

---

Tim W. Giles  
City Attorney

---

Michelle Greene  
Administrative  
Services Director

---

Daniel Singer  
City Manager

**ATTACHMENTS:**

1. Third Amendment to Agreement for Employment of City Manager
2. Agreement for Employment of City Manager

# **ATTACHMENT 1**

Third Amendment to Agreement for Employment of City Manager

**THIRD AMENDMENT TO  
AGREEMENT FOR EMPLOYMENT OF CITY MANAGER**

This Third Amendment to the Agreement for Employment of City Manager entered into the 15th day of August, 2005 and taking effect on September 12, 2005, by and between the CITY OF GOLETA (the "CITY"), a general law City, and DAN SINGER ("SINGER" or "City Manager") as amended by the First Amendment to Agreement for Employment of City Manager dated November 20, 2006 and the Second Amendment to Agreement for Employment of City Manager dated October 15, 2007 (collectively the "Agreement") is made this 2nd day of December 2008.

In consideration for the mutual covenants contained herein, the parties agree as follows:

**SECTION I.            AMENDMENT:**

Pursuant to the provisions of Section VI (H) of the Agreement, the following provisions of the Agreement are hereby amended to read as set forth herein:

- A.     Section III (C)(5) is hereby amended to read as follows:

**"5.     Automobile Allowance.**

The City Manager shall have the use of a City automobile or an allowance of \$700.00 per month as compensation for all automobile and mileage costs."

- B.     Section III (C) 8 is hereby amended to read as follows:

**"8.     Deferred Compensation.**

The City shall pay the City Manager \$8,250.00 per year to be applied to deferred compensation."

- C.     Section III (C)(15) is hereby amended to read as follows:

**"15.   Telephone Allowance.**

The City Manager shall receive \$150 monthly to cover the cost of telephone charges incurred on City business. "

**SECTION II.           REMAINING TERMS AND CONDITIONS**

All other provisions, terms and conditions of the Agreement not specifically amended by this Amendment remain in full force and effect as originally set forth.

**IN WITNESS WHEREOF**, the CITY has caused the Agreement to be signed and executed in its behalf by its Mayor and duly attested to by its City Clerk, and the City Manager has signed and executed the Agreement, both in duplicate, the day and year first above written.

**CITY MANAGER**

**CITY OF GOLETA**

\_\_\_\_\_  
DAN SINGER

By: \_\_\_\_\_  
Michael T. Bennett, Mayor

**ATTEST:**

\_\_\_\_\_  
Deborah Constantino, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Tim W. Giles, City Attorney

# **ATTACHMENT 2**

Agreement for Employment of City Manager

**AGREEMENT FOR EMPLOYMENT OF CITY MANAGER**

The Agreement is made and entered into the 15<sup>th</sup> day of August, 2005, by and between the CITY OF GOLETA (the "CITY"), a general law City, and DANIEL SINGER ("SINGER" or "City Manager"). The agreement (the "Agreement") shall have an effective date of September 12, 2005. In consideration for the mutual covenants contained herein, the parties agree as follows:

**SECTION I. EMPLOYMENT:**

**A. Appointment of City Manager.**

**1. Appointment.**

The City Council of the CITY OF GOLETA hereby appoints SINGER to the position of City Manager to perform the functions and duties specified under the laws of the State of California, the Municipal Code of the CITY, and the Ordinances and Resolutions of the CITY, and to perform such other duties and functions as the City Council shall from time to time assign. SINGER shall serve at the pleasure of the City Council.

**2. Commencement of Duties**

SINGER shall commence his duties as City Manager at 7:30 a.m. September 12, 2005. It is anticipated, however, that SINGER will use his best efforts to be available prior to his appointment date at the request of the City Council for transition purposes.

**B. Term of Agreement.**

**1. Term.**

The term of the Agreement, unless terminated earlier as provided in Section V below, shall be for an initial term of three (3) years, commencing at 7:30 a.m. September 12, 2005, and expiring on September 12, 2008 unless otherwise extended by mutual written agreement of the parties.

**2. Right to Terminate.**

Nothing in the Agreement shall prevent, limit or otherwise interfere with the right of the CITY to terminate the Agreement at any time, or the right of SINGER to resign at any time from his position, as set forth below.

**SECTION II. POWERS, DUTIES, AND RESPONSIBILITIES:**

**A. Employment Duties.**

SINGER shall function as the City Manager of the CITY and shall be vested with the powers, duties, and responsibilities set forth in Section 2-86 of the Goleta Municipal Code, the terms of which are incorporated by reference herein. In addition, SINGER shall perform such other duties as may be assigned by the City Council, and which are consistent with the position of City Manager, without additional compensation.

**B. Hours of Work.**

City Manager is expected to devote necessary time outside normal office hours to business of the CITY. To that end, City Manager shall be allowed flexibility in setting his own office hours.

**C. Outside Professional Activities.**

The City Manager agrees to devote his productive time, ability, and attention to the CITY's business during the term of the Agreement. City Manager may, however, undertake limited outside activities, including (a) coaching youth sports, (b) serving as an officer of the California League of Cities, (c) serving as a board member of the California City Managers' Foundation, (d) teaching, subject to City Council approval, up to fifteen (15) hours per month devoted to said activity, and/or (e) other related activities, provided that such activities do not in any way interfere with or adversely affect his employment as City Manager or the performance of his duties as provided herein.

**SECTION III. COMPENSATION OF CITY MANAGER**

**A. Salary.**

SINGER shall be employed at an annual salary of \$156,000.00. The salary will be paid in increments as established from time to time for CITY employees who are currently paid semi-weekly. At the end of the City Manager's first six months of employment with the CITY, the City Council will conduct a performance evaluation predicated on goals and objectives to be established by the City Council and SINGER within the first three (3) months of employment. Salary adjustment at that time and thereafter shall be determined by the City Council in its discretion.

**B. Salary Adjustments.**

In the event that the CITY, at any time during the term of the Agreement, reduces the salary or other financial benefits of City Manager in a greater percentage than



an applicable across-the-board reduction for all employees of the CITY, or in the event the CITY refuses, following thirty (30) days' written notice, to comply with any provision of the Agreement benefiting City Manager, then, the City Manager may, at his option, be deemed to be "terminated" by the City Council within the meaning of Section V of the Agreement as of the date of such reduction or refusal to comply.

**C. Vacation, Holiday, Sick Leave, and Compensatory Time and other benefits.**

**1. Vacation.**

The City Manager shall receive three (3) weeks (15 working days) vacation per year accrued in the same manner as other management personnel. City manager shall begin accruing vacation time upon commencement of employment.

**2. Sick Leave.**

The City Manager shall accrue the equivalent of twelve (12) days sick leave per year which will be earned at the rate of one (1) day per month and will have no accrual limitation.

**3. Holidays.**

The City Manager may celebrate the same holidays as celebrated by CITY, which currently include:

- |     |                               |                                 |
|-----|-------------------------------|---------------------------------|
| 1.  | January 1                     | (New Year's Day)                |
| 2.  | Third Monday in January       | (Martin Luther King's Birthday) |
| 3.  | Third Monday in February      | (President's Day)               |
| 4.  | The last Monday in May        | (Memorial Day)                  |
| 5.  | July 4                        | (Independence Day)              |
| 6.  | The First Monday in September | (Labor Day)                     |
| 7.  | November 11                   | (Veterans Day)                  |
| 8.  | Thanksgiving                  |                                 |
| 9.  | Friday after Thanksgiving     |                                 |
| 10. | December 25                   | (Christmas)                     |
| 11. | One (1) Floating Holiday      |                                 |

**4. City Manager Management Leave.**

The equivalent of ten (10) working days of City Manager management leave shall be credited to City Manager effective upon employment which must be used or lost prior to June 30, 2006. Thereafter, on the commencement of the City's fiscal year on July 1<sup>st</sup>, ten (10) days of management leave shall be credited to City Manager.

Management Leave may not be accrued or carried over into the next fiscal year, but must be used in the fiscal year in which it is granted.

5. **Automobile Allowance.**

The City Manager shall have the use of a City automobile or an allowance of \$600.00 per month as compensation for all automobile and mileage costs.

6. **Health, Dental and Vision.**

The City Manager shall be provided the same health, dental, and vision coverage that is presently provided other management employees covering the City Manager and all dependent family members. The CITY shall pay the same flexible benefit allowance as paid to other management personnel.

7. **Retirement.**

The CITY shall pay the City Manager's contribution to the Public Employees Retirement System ("PERS") with the 2% at 55 Retirement Plan.

8. **Deferred Compensation.**

The City shall match contributions made by the City Manager to a deferred compensation fund to a maximum amount of \$7,000.00 per year.

9. **Life Insurance.**

The CITY shall pay 100% of the premium for term life insurance for the City Manager with a benefit equal to one year's salary together with 100% of the premium for long-term disability insurance as provided for all other management personnel.

10. **Associations and Subscriptions.**

The CITY shall budget and pay for the professional dues and subscriptions of the City Manager necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional growth and advancement, including, without limitation, the annual League of California Cities Conference, the annual League of California Cities City Managers' Conference and the annual ICMA Conference.

**11. Professional Development.**

The CITY shall budget for and pay the travel and subsistence expenses of the City Manager for professional official travel, meetings, and occasions adequate to continue the professional development of the City Manager and to adequately pursue necessary official and other functions for the CITY and such other national, regional, state, and local governmental groups and committees thereof of which the City Manager may serve as a member.

**12. Reimbursement Expenses.**

The City Manager will receive reimbursement for all sums necessarily incurred and paid by him in the performance of his duties. The City Manager shall submit a claim form to the CITY in the form and manner required by the Goleta Municipal Code.

**13. Jury Duty.**

The City Manager will receive full pay and benefits while serving on a trial jury. Any compensation for such jury duty (except travel pay) shall be returned to the CITY.

**14. Other Benefits.**

The City Manager shall be entitled to all other benefits afforded all other employees of the City.

**D. Moving and Relocation Expenses.**

CITY shall pay the City Manager's moving expenses for ordinary household items based upon the lowest of three competitive bids submitted by SINGER to City.

**E. Indemnification.**

The CITY shall defend, hold harmless, and indemnify the City Manager against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring during SINGER'S tenure and in the course and scope of his duty as City Manager, including, without limitation, claims arising out of personnel actions taken by City Manager. The CITY shall defend compromise and settle any such claim or suit, and shall pay the amount of any settlement or judgment rendered thereon.

**F. Bonding.**

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

**SECTION IV. PERFORMANCE EVALUATION.**

**A. Setting of Goals and Objectives.**

In order to identify performance evaluation criteria and expectations for the City Manager, within ninety (90) working days of the employment date, the City Council and the City Manager shall define in writing such goals and performance evaluation-objectives and expectations as the City Council determines necessary for the proper operation of the CITY. Thereafter, prior to October 15th of each calendar year, the City Council will conduct a new goal setting with the City Manager to revisit its earlier goals and to establish a relative priority among those various goals and objectives for the coming year. The goals and objectives established shall form part of the basis of the City Council's performance evaluation of the City Manager. This does not preclude the City Council or City Manager from requesting an earlier evaluation.

**B. Written Summary.**

The City Council shall provide the City Manager with a summary written statement of the findings of the City Council, within fifteen (15) working days of the City Council's evaluation of the City Manager. The City Council shall provide adequate opportunity for the City Manager to discuss his evaluation with the City Council in closed session. That closed session shall take place within fifteen (15) working days of the receipt of the written summary of the City Manager's evaluation.

**C. Closed Session Review.**

The City Manager will timely cause to be placed on the City Council agenda for each year a "closed session" for the purpose of the performance evaluation.

**SECTION V. TERMINATION OF EMPLOYMENT.**

**A. Termination By Council.**

The City Council may terminate this Agreement with or without cause at the option of the City Council upon ten (10) working days' written notice in accord with the terms of this section.

**B. Termination Without Cause/ Severance.**

If the CITY terminates City Manager without cause within the first twelve (12) months of employment, then City Manager shall be entitled to a lump sum severance payment equal to six (6) months' base salary, together with all accumulated management leave and vacation time.

After the first twelve (12) months of employment, City Manager shall accrue on each anniversary date one additional month's salary as severance up to a maximum of nine (9) months salary together with all accumulated management leave and vacation time. Severance shall not apply if the CITY elects not to renew or extend the original term of this Agreement.

The following severance schedule, together with all accumulated management leave and vacation time applies:

9/12//06 – 9/12/07	Severance due - Seven (7) month's salary
9/12/07 - 9/12/08	Severance due - Eight (8) month's salary
9/12/08 – 9/12/09	Severance due - Nine (9) month's salary
9/12/09 & thereafter	No severance due unless Agreement extended If Agreement is extended, nine (9) months' salary

CITY will cash out the accumulated management and vacation time upon termination. The lump sum severance payment will be reduced by applicable federal and state taxes, employment taxes. The severance pay will be excluded from retirement deductions and from any calculations of retirement benefits.

Severance pay as set forth in this section is intended to provide an appropriate time for City Manager to secure other employment upon termination. In the event that City Manager secures other employment during the period of time covered by the lump sum severance payment, City Manager agrees to repay the City the proportional share of the severance payment. i.e., if the City Manager is terminated in the first twelve (12) months of employment and secures re-employment two (2) months thereafter, he shall repay the City ten (10) months salary at the rate used to determine the lump sum payment.

**C. Request for Resignation.**

If a majority of the City Council requests the resignation of City Manager, then City Manager may, at his option, deem himself terminated within the meaning of Section V (A).

**D. Termination with Cause**

City may terminate City Manager for cause. Cause shall include, but not be limited to the following:

1. Failure to perform the duties of the City Manager as set forth in the Goleta Municipal Code in a manner satisfactory to the City Council
2. Violation of state or federal law exposing the City to liability
3. Conviction on a misdemeanor or felony charge

In order to determine whether cause for termination exists, the City shall investigate any charges brought forward by a member of the City Council and provide City Manager with an opportunity to be heard prior to taking any action. In the event that the City Manager is terminated for cause, no severance pay will be due to the City Manager.

**E. Voluntary Resignation.**

City Manager may terminate the Agreement by giving the CITY sixty (60) days' written notice in advance of termination, at the end of which period the Agreement will terminate, unless the CITY and City Manager otherwise agree. Upon termination, whether voluntary or otherwise, City Manager shall be paid for all accrued, but unused, vacation and holiday time at his highest hourly rate earned during his tenure with City.

**F. Full Hourly Rate.**

As used in the Agreement the term "full hourly rate" or hourly rate" will mean Manager's management range and step multiplied by 12 and divided by 2080, i.e., the starting salary in the Agreement is the amount of \$156,000 per annum would be divided by 2080 to equal a base hourly salary of \$75.00.

**G. Waiver of Rights.**

City Manager hereby waives any and all rights provided under the Goleta Municipal Code relevant to notice and a redress of grievances during a public hearing prior to termination from the CITY.

**SECTION VI. MISCELLANEOUS PROVISIONS:**

**A. Entire Agreement.**

The text herein shall constitute the entire Agreement between the parties.

**B. Notices.**

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

- (1) CITY OF GOLETA  
130 Cremona Drive, Suite B  
Goleta, California 93117  
Attention: Mayor
- (2) CITY MANAGER  
DANIEL SINGER  
910 Park Road  
Ojai, California 93023

Alternatively, notices required pursuant to his Agreement may be personally served in the same manner as is applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or as of the third day following the date of deposit of such written notice in the course of transmission in the United States Postal Service, with postage fully prepaid.

**C. Heirs and Executors.**

The Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of City Manager.

**D. Severability.**

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

**E. Legal Fees.**

In the event that either party to the Agreement brings a lawsuit to enforce or interpret any provisions of the Agreement, the prevailing party shall be entitled to recover their reasonable attorneys' fees and related expenses and costs.

**F. Governing Law.**

The Agreement shall be governed by the laws of the State of California.

**G. Interpretation of Agreement.**

The parties agree that any ambiguity in the Agreement shall not be construed or interpreted against, or in favor of either party.

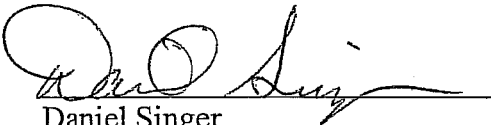
**H. Amendment.**

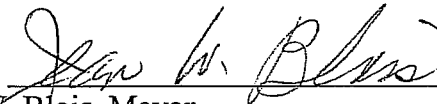
The Agreement contains the full agreement of the parties. Any modification or change in the Agreement shall not be binding on either party unless such change or modification is in writing and signed by both parties.

**IN WITNESS WHEREOF**, the CITY has caused the Agreement to be signed and executed in its behalf by its Mayor and duly attested to by its City Clerk, and the City Manager has signed and executed the Agreement, both in duplicate, the day and year first above written.

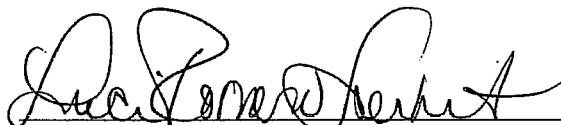
**CITY MANAGER**

**CITY OF GOLETA**


  
Daniel Singer

By:   
Jean W. Blois, Mayor

**ATTEST:**

  
Luci Romero Serlet, Interim City Clerk

**APPROVED AS TO FORM:**

  
Julie Hayward Biggs, City Attorney



**FIRST AMENDMENT TO**  
**AGREEMENT FOR EMPLOYMENT OF CITY MANAGER**

This First Amendment to the Agreement for Employment of City Manager entered into the 15<sup>th</sup> day of August, 2005, by and between the CITY OF GOLETA (the "CITY"), a general law City, and DAN SINGER ("SINGER" or "City Manager") which had an effective date of September 12, 2005 (the "Agreement") is made this 20<sup>th</sup> day of November 2006.

In consideration for the mutual covenants contained herein, the parties agree as follows:

**SECTION I.**            **AMENDMENT:**

Pursuant to the provisions of Section IV (H) of the Agreement, the Agreement is hereby amended to read as set forth herein:

- A. Section I (B) of the Agreement is hereby amended to read in its entirety as follows:

“B. **Term of Agreement.**

1. **Term.**

The term of the Agreement shall be set as an annually renewing (3) year term, renewing automatically immediately following the City Manager's annual performance review whenever that review is conducted unless at that time, written notice is given that the three year term will not be renewed, but will be let to expire. Upon such notice that the three year term will be permitted to expire, the term shall continue for the remaining two years of the term, unless further action is taken by the City Council to further extend the term.

Nothing in this provision shall be construed as limiting or modifying the right of the City Council to terminate this contract under the provisions of Section V of the original Agreement.”

- B. Section III (A) is hereby amended to read as follows:

“A. **Salary Review.**

The City shall review the salary of the City Manager annually in conjunction with his performance review and shall provide annual salary increases equal to at least the amount of increase given to all general employees of the City as annual cost of living adjustments.”

- C. Section III (B) is hereby amended to read as follows:



**SECOND AMENDMENT TO  
AGREEMENT FOR EMPLOYMENT OF CITY MANAGER**

This Second Amendment to the Agreement for Employment of City Manager entered into the 15th day of August, 2005 and taking effect on September 12, 2005, by and between the CITY OF GOLETA (the "CITY"), a general law City, and DAN SINGER ("SINGER" or "City Manager") as amended by the First Amendment to Agreement for Employment of City Manager dated November 20, 2006 (collectively the "Agreement") is made this 15<sup>th</sup> day of October 2007.

In consideration for the mutual covenants contained herein, the parties agree as follows:

**SECTION I. AMENDMENT:**

Pursuant to the provisions of Section IV (H) of the Agreement, the following provisions of the Agreement are hereby amended to read as set forth herein:

A. Section III A is hereby amended to read in its entirety as follows:

**"A. Salary Adjustment.**

**1. Annual Cost of Living Increases.**

The City Manager shall be entitled to any annual cost of living increase granted across the board to other City employees as authorized by the annual budget resolution.

**2. Annual Salary Review.**

In addition to any annual cost of living increase that may be awarded to employees across the board, the City shall review the salary of the City Manager annually in conjunction with his performance review and shall consider annual salary increases that, if approved, shall commence on September 12<sup>th</sup> of each annual renewal year (the "annual renewal date"). In the event the City Manager's annual salary review is delayed past the annual renewal date of any year, any salary increase subsequently granted under this provision shall apply prospectively from the date of approval of the increase. In the event that such a delay in salary review occurs, the City Council may add a one time salary adjustment to compensate for any increased amount that would

otherwise have been due had the salary review occurred in a timely manner for the period between the annual renewal date and the approval of the annual increase.”

B. A new Section III (C)(15) is hereby added to the Agreement to read as follows:

**“15. Telephone Allowance.**

The City Manager shall receive \$100 monthly to cover the cost of telephone charges incurred on City business.”

B. Section III (C) 8 is hereby amended to read as follows:

**“8. Deferred Compensation.**

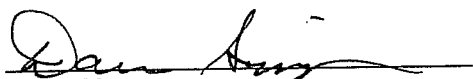
The City shall pay the City Manager \$8,000.00 per year to be applied to deferred compensation.”

**SECTION II. REMAINING TERMS AND CONDITIONS**

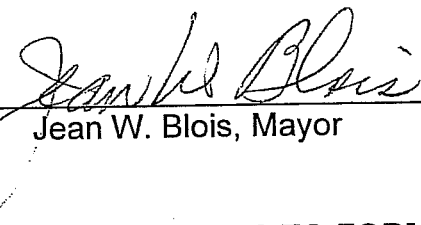
All other provisions, terms and conditions of the Agreement not specifically amended by this Amendment remain in full force and effect as originally set forth.

**IN WITNESS WHEREOF**, the CITY has caused the Agreement to be signed and executed in its behalf by its Mayor and duly attested to by its City Clerk, and the City Manager has signed and executed the Agreement, both in duplicate, the day and year first above written.

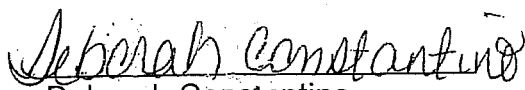
**CITY MANAGER**

  
Dan Singer

**CITY OF GOLETA**

By:   
Jean W. Blois, Mayor

**ATTEST:**

  
Deborah Constantino  
City Clerk

**APPROVED AS TO FORM:**

  
Julie Hayward Biggs  
City Attorney