

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into on this ____ day of February, 2017, by and between the Board of Supervisors on behalf of the County of San Benito, a political subdivision of the State of California (hereinafter "Employer") and Barbara Thompson (hereinafter "Employee"), pursuant to these terms and conditions:

WHEREAS, the Employer and Employee mutually desire to set forth herein certain procedures, benefits, and requirements regarding the employment of Employee by the Employer; and,

WHEREAS, the Employer desires to employ the services of Employee on the terms and conditions set forth herein as County Counsel of said County under the terms and conditions recited herein; and,

WHEREAS, Employee desires to accept employment as the County Counsel of said County under the terms and conditions recited herein.

NOW, THEREFORE, the Employer and Employee hereby mutually covenant and agree to the following:

1. SPECIFIED TERM: The Employer hereby hires Employee and Employee hereby accepts employment with Employer beginning the day after the retirement of the current County Counsel, Matthew Granger, (hereinafter "Effective Date"). In accordance with Government Code Section 27641, this Agreement is for a four-year term commencing on the Effective Date. At the end of the four year term, Employer may appoint Employee for a new four year term or may continue to employ Employee pursuant to this Agreement until a successor is appointed (hereinafter referred to as the "Renewal Period"). In the Renewal Period, this Agreement shall automatically continue on a year-by-year basis, renewing automatically on the anniversary of the Effective Date of

the Agreement, unless the Board of Supervisors notices Employee of its intent to terminate the Agreement at least six (6) months prior to the termination of the Agreement. During any Renewal Period, Employee may be released pursuant to notice and severance as set forth below, specifically with ninety (90) days prior notice and ninety (90) days severance as set forth in Section 10 to this Agreement.

2. TITLE AND DESCRIPTION OF DUTIES:

A. The Employee shall serve as County Counsel for the County of San Benito. In that capacity, Employee shall do and perform all duties, services, acts, or things necessary or advisable to fulfill the duties of County Counsel, including those duties and responsibilities set forth in Government Code sections 27640, et. seq., and shall at all times perform such duties in a professional manner that is both (1) satisfactory to the Board of Supervisors, and (2) consistent with the California Rules of Professional Conduct. As County Counsel, Employee shall bring to the Board's immediate attention any sensitive legal matters, including, but not limited to, facts and circumstances known to Employee that create, for the County, a significant exposure to liability. Employee shall comply with all laws and regulations, including all ordinances of the County of San Benito. Employee acknowledges that she shall be a "Designated Employee" required to file a Statement of Economic Interests (Form 700).

B. No later than six months after the Effective Date of this Agreement, and at least annually thereafter, Employer shall conduct a performance evaluation of Employee. The performance evaluation shall consider, amongst other things, the Performance Measures attached to this Agreement as Exhibit A. Any evaluation or review of the Employee's performance shall be

discussed with the Employee in closed session of the Board of Supervisors pursuant to Government Code §54957.

3. LOYAL AND CONSCIENTIOUS PERFORMANCE OF DUTIES: Employee agrees that to the best of her ability and experience she will at all times loyally and conscientiously perform all of the duties and obligations required of her either expressly or implicitly by the terms of this Agreement.

4. DEVOTION OF ENTIRE TIME TO EMPLOYER'S BUSINESS:

A. Employee shall devote her entire professional productive time, ability, and attention to the business of Employer during the term of this Agreement.

B. During the term of this Agreement, Employee shall not engage in any other business duties or pursuits whatsoever. Furthermore, during the term of this Agreement, Employee shall not, whether directly or indirectly, render any services of a commercial or professional nature to any other person or organization, or otherwise, without the prior written consent of the Board of Supervisors. However, the expenditure of reasonable amounts of time for educational, charitable, or professional activities, performed on Employee's time off shall not be deemed a breach of this Agreement if those activities do not materially interfere with the services required under this Agreement and shall not require the prior written consent of the Board of Supervisors.

C. This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement or present a conflict of interest.

5. COMPENSATION OF Employee:

A. Annual Salary: As compensation for the services to be rendered by Employee hereunder, Employer shall pay Employee at an annual salary at the rate set forth on the County's Department Head Salary Plan, for the County Counsel at Step "B", payable in pro rata installments at the same time as other Employees of the County are paid, and thereafter shall be granted such COLA's and all other benefits of employment granted to Appointed Department Heads employed by the County of San Benito, and shall receive step increases upon satisfactory performance reviews.

B. Automobile Insurance: Employee shall provide Employer a Certificate of Insurance showing comprehensive automobile liability coverage at amounts as may be established by County Policy. Employee shall be personally responsible for the purchase and maintenance of the insurance policy required herein and shall annually provide Employer the required insurance certificate.

C. Tax Withholding: Employer shall have the right to deduct or withhold from the compensation due to Employee hereunder any and all sums required for federal income and all state or local taxes now applicable or that may be enacted and become applicable in the future.

D. County Benefits: Employee shall be provided with all other County benefits provided to other County Appointed Department Heads, except as otherwise specified in this Agreement.

6. CUMULATIVE SICK LEAVE AND VACATION UPON TERMINATION:

A. Upon termination for any reason whatsoever, Employer shall compensate Employee for all accrued vacation leave and said compensation shall be based upon Employee's

salary as of the date of employment termination and in accordance with applicable County policy. In the event Employee retires from Employer's service, she shall receive service credit for retirement purposes for sick leave if allowed by applicable County policy for Appointed Department Heads and by CALPERS and/or shall be allowed to cash out sick leave as may be allowed by other Appointed Department Heads.

B. In the event the Employee voluntarily resigns or dies while employed by the County under this Agreement or any renewals thereof, the Employee or her beneficiaries or those entitled to her estate, shall be entitled to her earned salary and any other benefits as allowed by applicable County policy.

7. INSURANCE: Employer shall provide medical, dental, vision, and life insurance for Employee and Employee's spouse and eligible family members as otherwise provided by Employer for Appointed Department Heads.

8. RETIREMENT PLANS: The Employer shall pay for the costs of participation in the California Public Employee's Retirement System at the rates set forth for other Appointed Department Heads.

9. SEMINARS AND CONFERENCES AND MANDATORY CONTINUING LEGAL EDUCATION (MCLE): Employee may attend professional and official travel, meetings, and occasions to adequately pursue necessary official and other functions for the Employer, including but not limited to, annual and special conferences of the County Counsel's Association and the California State Association of Counties (CSAC), educational conferences, and such other regional and local governmental groups and committees on which Employee may serve as a member. These shall be consistent with the type and number of conferences previously attended

by previous County Counsels of the County. Employee shall be reimbursed for all travel expenses in accordance with the County's adopted travel policies.

10. TERMINATION OF EMPLOYMENT:

A. Termination by Employer: In accordance with the provisions of Government Code 27641, the Board of Supervisors may remove Employee from the office of County Counsel, and thereby terminate this Agreement, at any time for neglect of duty, malfeasance, or misconduct in office or other good cause shown.

B. During any Renewal Period of the Agreement, Employer may terminate Employee at any time with or without cause, upon ninety (90) days prior written notice to Employee. The parties hereby expressly waive any County Code provisions to the contrary, and/or any other County rules relating to notice of dismissal and to any rights to hearing or appeal thereon. In the event of such termination while the Employee is ready, willing, and able to perform the duties of County Counsel, in addition to the ninety (90) days prior notice, the County shall pay the Employee a cash severance payment equal to three (3) months' pay. The severance payment shall be based upon the following: (1) the Employee's salary at the time of termination, and (2) the monetary contribution paid by the County towards Employee's health insurance. At County's option, severance may be paid bi-weekly for the remainder of the notice period, or in one payment.

C. Termination by Employee: Employee may, at any time, for any reason whatsoever, terminate her employment with the Employer by providing sixty (60) days advance written notice of termination to Employer by personal delivery to the County Administrator or

certified or registered mail, return receipt requested. In the event of such termination, Employee shall not receive severance pay or unemployment.

11. COMPLIANCE WITH LAWS AND ORDINANCES: Employee shall perform all services pursuant to this Agreement in accordance with all applicable federal, state, county, and local laws, ordinances, regulations, titles, and departmental procedures.

12. NON-ASSIGNABLE: This Agreement is personal to Employee and is not assignable under any circumstances.

13. ENTIRE AGREEMENT: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties thereto with respect to the employment of Employee by Employer, and contains all of the covenants and agreements between the parties with respect to that employment in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party that are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

14. MODIFICATIONS: Any modification of this Agreement will be effective only if it is in writing signed by both parties.

15. EFFECT OF WAIVER: The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver of relinquishment of that right or power for all or any other times.

16. PARTIAL INVALIDITY: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

17. INDEMNIFICATION: In accordance with and subject to the California Tort Claims Act, Employer shall defend and indemnify Employee against any and all losses sustained by Employee as a direct consequence of the discharge of his duties on Employer's behalf for the period of his employment and beyond such period regardless of whether the notice of filing of a lawsuit occurs during or following employment. Employer shall defend, hold harmless and indemnify Employee against any tort, professional liability claim, demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of her duties as County Counsel.

18. LAW GOVERNING AGREEMENT: This Agreement shall be governed by and construed in accordance with the laws of the State of California.

19. CAPTIONS: The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of the Agreement or in any way affect it.

IN WITNESS WHEREOF, the County of San Benito has caused this Agreement to be signed and executed in its behalf by the Chair of the Board of Supervisors and duly attested by its Board Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.

///

Employer

By: _____
Jaime De La Cruz, Chair
San Benito Board of Supervisors

Employee

Barbara Thompson
Barbara Thompson

ATTEST:
Chase Graves, Clerk to the Board

By: _____
Chase Graves, Clerk

APPROVED AS TO FORM:
San Benito County Counsel

By: *Matthew W. Granger*

Matthew W. Granger, County Counsel

EXHIBIT A

PERFORMANCE MEASURES

1. Satisfactory interaction and communications with the Board of Supervisors.
2. Satisfactory interaction and communications with Department Heads and County staff.
3. Satisfactory effectiveness in and professionalism of the County Counsel's Office.
4. Satisfactory length of time required to respond and process legal assignments pending in County Counsel's Office.
5. Satisfactory interaction with the public and with persons who do business with the County.
6. Satisfactory management of outside counsel, including tracking of legal expenses and reporting to the Board of Supervisors regarding claims and litigation matters.