



Town of Moraga	Agenda Item
Ordinances, Resolutions, Requests for Action	10. A.

Meeting Date: March 8, 2023

TOWN OF MORAGA

STAFF REPORT

To: Honorable Councilmembers

From: Mayor Sos and Councilmember Shapiro, Ad Hoc Committee

Subject: Consider Resolution ____ - 2023 Appointing Scott Mitnick as Town Manager and Approving the Employment Agreement between the Town of Moraga and Scott Mitnick

Request

Consider Resolution Appointing Scott Mitnick as Town Manager and Approving the Employment Agreement Between Town of Moraga and Scott Mitnick.

Discussion

On October 4, 2022, Town Manager Cynthia Battenberg provided written notice to the Moraga Town Council of her plans to resign at the end of the calendar year. The Town Council promptly initiated a rigorous process for identifying and hiring a new Town Manager. To assist, the Council retained Gary Phillips of Bob Murray and Associates, an experienced search firm with extensive knowledge of and contacts in municipal government. The Council then solicited and received substantial public and stakeholder input into the desired attributes and characteristics of the new Town Manager. Against those criteria, the Council narrowed a large pool of qualified candidates, conducted two tiers of interviews, and ultimately selected Scott Mitnick as the candidate most qualified and best suited to perform the duties of the Town Manager.

The Council unanimously and enthusiastically selected Scott for a host of reasons, including the following:

First, throughout his over three decades in municipal government, including almost 20 years as a city manager, Scott has prioritized meaningful and consistent engagement with the communities in which he has served. He has shown that he is a city manager for the people – active and visible in the community, open to and welcoming of citizen input, and focusing on getting information out to constituents on a timely and accessible basis.

1 *Second*, Scott is drawn to Moraga not just as a place to work, but as a place to live. He
2 and his wife are attracted to this Town because of our semi-rural feel, our spirit and
3 tradition of volunteerism and citizen engagement, our sense of safety and community,
4 and our excellent public schools. Scott is an avid hiker and outdoorsman, and already
5 has explored our parks and trails, visited our farmers' market, and self-toured our
6 commercial centers.

7
8 *Third*, Scott has extensive experience not only in emergency and evacuation planning,
9 but in leading communities in the wake of actual disasters, including a county-wide
10 evacuation due to the failure of the Oroville dam. The residents of our Town are acutely
11 attuned to our risk of wildfire and the need to evacuate efficiently and effectively in the
12 event of an emergency. Given his hands-on experience and his many contacts with public
13 safety agencies at the state and regional level, Scott is uniquely positioned to work with
14 this community to keep it prepared and safe.

15
16 *Fourth*, Scott brings to Moraga demonstrated expertise at financial planning, fiscal
17 management, and providing high-quality services with limited resources and budget. He
18 has deep experience in public finance and has worked in the private sector as a
19 consultant to counties, cities, and special districts on economic development, community
20 planning, and land use issues. He has a compelling blend of public entity experience with
21 private sector perspective.

22
23 *Fifth*, Scott is a great colleague, collaborator, and manager. Throughout his career, he
24 has worked well as a member of a team, has effectively built partnerships and consensus,
25 and has been a capable leader, managing staff with respect, empathy, and commitment
26 to the success of each member of the organization. During his interviews, he spoke
27 authentically and enthusiastically about working with Saint Mary's College, the Chamber
28 of Commerce, and our businesses and property owners on revitalizing our commercial
29 centers. He will be a welcome addition to the Town offices, to the Council's public
30 meetings, and to the Moraga community.

31
32 In Scott, the Town has a rare opportunity: to hire an experienced city manager -- arguably
33 the most experienced in the Town's history -- who thrives on public service and who
34 understands, appreciates, and wants to be a part of our unique community. The Council
35 is excited at the prospect of working with Scott and of running into him in the aisles of the
36 Moraga Safeway or in line at SiSi's Café.

37
38 Scott's resume is included as Attachment C.

39
40 **Fiscal Impact**

41
42 The Council identified and selected Scott in an extremely active market for town and city
43 managers and in competition with neighboring jurisdictions. In addition, the economics
44 of the agreement with Scott had to accomplish two things: first, make it possible for him
45 ultimately to settle in Moraga; and second, acknowledge his almost 20 years of city
46 manager experience and other exceptional professional credentials.

1 The ad hoc committee of the Council recommends that the Council adopt the proposed
2 employment agreement that has been negotiated with Scott (Attachment B).

3
4 The key provisions of the agreement include an annual salary of \$285,000, with deferred
5 compensation (which does not count towards CalPers liability) of 5% annually. Because
6 Scott would be coming in as a CalPers PEPRA employee, the Town's annual CalPers
7 contribution will be approximately one-third of what the Town was contributing for the prior
8 Town Manager, who was a Classic employee.

9
10 In addition, starting in calendar year 2024, Scott will be entitled to any cost-of-living
11 percentage increase that is given to the Town's director-level staff. He will also receive
12 a starting balance of 100 vacation hours upon arrival, and vacation time will accrue at a
13 rate of 200 hours annually, with a maximum accrual of 360 vacation hours. He will also
14 receive a starting balance of 100 hours of sick leave. Scott will be entitled to other
15 employee benefits such as administrative leave, dental and vision insurance, and workers
16 compensation. Scott will also be provided a life insurance policy up to \$500,000. To
17 make permanent relocation to Moraga a possibility, Scott will receive a housing allowance
18 for a rental in Moraga of \$2,500 per month for a period of 6 months, and a relocation
19 allowance not to exceed \$10,000 for a move from Southern California to Moraga.

20
21 In sum, this employment package is comparable to and competitive with the city manager
22 agreements in Orinda and Lafayette, while also acknowledging Scott's rare blend of
23 public and private sector experience and his many years of able service as a city manager
24 in other California communities. Scott is eager to get to work, and has agreed to a start
25 date of April 10, 2023.

26
27 **Recommendation**

28
29 It is recommended that the Town Council adopt Resolution ____ - 2023 (Attachment A)
30 Appointing Scott Mitnick as Town Manager and Approving the Employment Agreement
31 between the Town of Moraga and Scott Mitnick (Attachment B).

32
33 **Attachments**

- 34
35 **A.** Resolution ____ - 2023 Appointing Scott Mitnick as Town Manager and Approving
36 the Employment Agreement between the Town of Moraga and Scott Mitnick
37 **B.** Employment Agreement between the Town of Moraga and Scott Mitnick
38 **C.** Resume of Scott Mitnick
39

ATTACHMENT A

Resolution ____ - 2023 Appointing Scott Mitnick as Town
Manager and Approving the Employment Agreement between the
Town of Moraga and Scott Mitnick

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

Appointing Scott Mitnick as Town)
Manager and Approving the At-Will)
Employment Agreement Between Town)
of Moraga and Scott Mitnick)

Resolution No. __ - 2023

WHEREAS, the Town Council of the Town of Moraga (“Town”) has a need to hire a Town Manager; and

WHEREAS, Scott Mitnick (“Manager”) has the skills and professional experience to perform all the duties of a Town Manager; and

WHEREAS, the Town desires to enter into an Employment Agreement to set forth the terms and conditions of Manager’s services as Town Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN that the Town hereby appoints Scott Mitnick as Town Manager and approves the Employment Agreement between the Town of Moraga and Scott Mitnick (“Employment Agreement”); and

BE IT FURTHER RESOLVED that the Mayor is authorized and directed to execute the Employment Agreement for and on behalf of the Town of Moraga, attached hereto as Exhibit A, with minor revisions that may be approved by the Mayor and the Town Attorney, and to execute any other necessary documents to effectuate the terms of the Employment Agreement.

PASSED, APPROVED AND ADOPTED by the Town Council at a regular meeting held on March 8, 2023 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Renata M. Sos, Mayor

Attest:

Yashin Abbas, Town Clerk

ATTACHMENT B

Employment Agreement between the Town of Moraga and Scott
Mitnick

EMPLOYMENT AGREEMENT

BETWEEN

THE TOWN OF MORAGA AND SCOTT MITNICK

This agreement (“Agreement”) is between the Town of Moraga (“TOWN”), a municipal corporation organized in the State of California, and Scott Mitnick (“MANAGER”). TOWN and MANAGER shall be collectively referred to as “Parties” or individually referred to as “Party”, “TOWN” or “MANAGER”.

RECITALS

WHEREAS, the TOWN requires the services of a Town Manager.

WHEREAS, MANAGER has represented that he has the necessary education, experience, skills, and expertise to serve in the capacity of Town Manager.

WHEREAS, in accordance with the terms of the Agreement, TOWN and MANAGER have agreed to memorialize their intent and the terms of employment by this Agreement.

NOW THEREFORE, it is hereby agreed by TOWN and MANAGER as follows:

1. EFFECTIVE DATE.

The effective date of this Agreement is March 8, 2023 (“Effective Date”).

2. PURPOSE.

The purpose of this Agreement is to provide for the employment of MANAGER as Town Manager of TOWN. TOWN agrees to employ MANAGER as Town Manager, subject to the terms, conditions, and provisions of this Agreement. MANAGER accepts such employment. MANAGER shall be “at will” and serve at the pleasure of the City Council. MANAGER shall start performance of his duties as Town Manager by April 10, 2023.

3. DUTIES.

- a. TOWN agrees to employ MANAGER as Town Manager of the Town of Moraga to serve as the Town's chief executive officer and to perform the functions and duties specified in California state law, Moraga Municipal Code (including, without limitation, those set forth in Chapter 2.08 of the Moraga Municipal Code, including provisions of Section 2.08.080-Council-Manager relations), ordinances and resolutions of the Town and to perform other legally permissible and proper duties and functions as the TOWN Council may from time to time reasonably assign.
- b. MANAGER shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession (including adhering to the International City/County Management Association [ICMA] Code of Ethics and Guidelines) and shall comply with all general rules and regulations established by TOWN.
- c. MANAGER shall not engage in any activity which is or may become a conflict of interest, breach of this Agreement, or which may create an incompatibility of office as defined under California law. Prior to performing any services under this Agreement and annually thereafter, MANAGER must complete financial interest disclosure forms, as required by law.

4. TERM.

- a. The term of this Agreement shall commence as of the Effective Date of this Agreement and shall continue until terminated by either Party in accordance

with the provisions set forth in Paragraph 7, or until terminated by the event of the death or permanent disability of MANAGER.

- b. MANAGER shall commence performance of his duties hereunder on-site at the Town Hall on April 10, 2023.
- c. MANAGER agrees to remain in the exclusive employment of TOWN during the term of this Agreement and not to be otherwise employed during the term of this Agreement. The term “employed,” or “employment,” however, shall not be construed to include occasional teaching, writing, speaking, service and membership in professional organizations, or consulting performed on personal time off.

5. DISABILITY.

The TOWN shall have the option to terminate this Agreement without further payment of compensation and benefits identified under Paragraph 6, or severance payment under Paragraph 7(c) if MANAGER is deceased, permanently disabled, or incapacitated, for a period of two (2) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a thirty (30) working day period.

6. COMPENSATION AND BENEFITS.

- a. Salary. TOWN agrees to pay MANAGER for his services rendered pursuant hereto as Town Manager the annual sum of Two Hundred Eighty-Five Thousand Dollars (\$285,000) (“Annual Salary”). The Annual Salary shall be payable in installments at the same time as other employees of the TOWN are paid, consistent with the Town’s payroll practices for employees. Commencing one year after the Effective Date of this Agreement and

annually thereafter, MANAGER shall be entitled to the same increase in the Annual Salary based on any Cost-of-Living Adjustments (“COLA”) that may be approved by the TOWN and provided to all Department Directors.

- b. Vacation Leave. MANAGER shall be entitled to a starting balance of one hundred (100) hours of Vacation Leave as of the Effective Date of this Agreement. Annual hours shall accrue at the same rate used for Department Directors, based on MANAGER’s total lifetime years of CalPERS service, which is currently 200 hours per year.

MANAGER may accrue a maximum of three hundred sixty (360) hours of Vacation Leave. Once the Maximum Vacation Leave Accrual Amount has been reached, no additional Vacation Leave hours shall be earned or accrued until the balance falls below the Maximum Vacation Leave Accrual Amount. MANAGER shall have the same annual Vacation Leave Cash-Out options as are available to the Department Directors.

Upon termination or separation of employment pursuant to Section 7, MANAGER shall have the option to do any of the following with accrued and unused Vacation Leave hours which are calculated as of the last date of MANAGER’S employment with the TOWN:

1. Be paid for accrued and unused Vacation Leave;

2. Convert the accrued and unused Vacation Leave to deferred compensation to the extent permitted by law (401a Plan, ICMA 457 Plan, HAS/HRA, and/or other allowed plan); and/or,
 3. Any other allowed uses of accrued and unused Vacation Leave provided to Department Directors.
- c. Administrative Leave. MANAGER shall receive the same rate of Administrative Leave as other Department Directors, commencing on the fiscal year of the Effective Date of this Agreement. MANAGER agrees that unused administrative leave will not be rolled over year to year and any Administrative Leave Cash-Out options shall be the same as the Department Directors.
- d. Sick Leave. Manager shall be entitled to a starting balance of one hundred (100) hours of Sick Leave as of the Effective Date of this Agreement. Annual Sick Leave shall accrue at the same rate used for Department Directors, which is currently eight (8) hours per month.
- e. Deferred Compensation. TOWN shall contribute a maximum of five percent (5%) of MANAGER'S Annual Salary ("Contribution Amount") into TOWN'S existing deferred compensation plan, and/or other similar plan (457 Plan or 401a Plan) in which the TOWN chooses to participate. The Contribution Amount will be divided and paid equally in the manner selected by the TOWN.
- f. Medical Insurance. TOWN shall pay the entire premium for "gold" level medical insurance coverage provided through Anthem Blue Cross

Preferred Provider Organization (“PPO”) for MANAGER and his eligible dependents (as defined under the health insurance plan or by operation of law) at the level of coverage selected by MANAGER (e.g., employee only, employee plus one family member, etc.). In the event that Anthem Blue Cross PPO-Gold level plan is discontinued or no longer available, the TOWN will offer a mutually agreeable plan equivalent to the Anthem Blue Cross PPO-Gold level.

- g. Dental and Vision Insurance. TOWN shall pay the entire premium for dental and vision insurance coverage provided through the insurance carrier of the TOWN’S choice for MANAGER and his eligible dependents (as defined under the health insurance plan or by operation of law) at the level of coverage selected by MANAGER (e.g., employee only, employee plus one family member, etc.) for a dental insurance coverage plan and a vision insurance coverage plan with the carrier of the TOWN’s choice.
- h. Life Insurance. TOWN shall provide a life insurance policy in the sum of up to Five Hundred Thousand Dollars (\$500,000) in MANAGER’S name for beneficiaries identified by MANAGER.
- i. Relocation Costs and Housing Allowance.
 - i. In the event MANAGER purchases a home in the Town of Moraga, TOWN shall reimburse MANAGER up to a maximum of Ten Thousand Dollars (\$10,000) for relocation costs. MANAGER shall submit evidence of moving costs paid by MANAGER as part of the relocation to the Finance Director and Town Attorney, and if

approved by the Town Attorney, the Finance Director shall issue reimbursement payment within thirty (30) days of submission.

ii. TOWN shall also pay to MANAGER a temporary housing allowance of Two Thousand Five Hundred Dollars (\$2,500) per month for a period of six months after MANAGER commences employment with the TOWN.

j. Automobile Allowance. TOWN shall provide MANAGER with an automobile allowance of Five Hundred Dollars (\$500) per month to reimburse MANAGER for use of his personal automobile and other associated costs relating to the use of his personal automobile for TOWN business, including but not limited to insurance costs, gas, maintenance, etc.

k. Professional Memberships. MANAGER shall propose and TOWN shall budget under the "Town Manager's Department" and shall pay for the cost of reasonable fees and memberships in professional organizations as well as the registration fees and travel and subsistence costs for professional and official meetings, conferences, and other functions pertaining to MANAGER'S duties.

l. Other Benefits. MANAGER shall receive other benefits not described in this Agreement that are provided to all other Department Directors of the TOWN, such as long-term disability insurance and workers compensation insurance. To the extent that any benefits described herein provide a lower level of benefits than those provided to the Department Directors, the terms of this Agreement shall prevail.

- m. Internal Revenue Code Compliance. All provisions of this Section 6 are subject to the provisions and limitations of the Internal Revenue Code and its related regulations as amended from time to time. No requirement of any provision of this Section 6 shall be effective if it would violate any provision of the Internal Revenue Code or its related regulations, and the inability of the TOWN to effectuate such requirements shall not constitute a breach of this Agreement.

7. RESIGNATION AND TERMINATION.

- a. MANAGER Voluntary Resignation. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of MANAGER to resign at any time from the position of Town Manager. MANAGER may terminate this Agreement by submitting written notice of resignation to TOWN. MANAGER shall give the TOWN two months' written notice of MANAGER'S intention to resign. If MANAGER resigns employment with the TOWN, MANAGER shall not be entitled to any severance pay, as described in Section 7(c) below, nor continued compensation and benefits, except as otherwise required under state or federal law.
- b. Termination by TOWN. MANAGER serves at the pleasure of the TOWN, and nothing herein shall be taken to prevent, limit, or otherwise interfere with the right of TOWN to terminate the services of MANAGER, with or without cause. There is no express or implied promise made to MANAGER for any form of continued employment as the Town Manager. This Agreement is the sole and exclusive basis for an employment relationship

between MANAGER and TOWN. It is expressly understood that termination may occur upon a majority vote of the TOWN Council, provided that, if termination occurs within ninety (90) days following a TOWN Council election, then a four-fifths (4/5) vote of the TOWN Council is required.

- c. Termination Without Cause. TOWN may terminate MANAGER without cause at any time by providing him with a written notice of termination in accordance with Moraga Municipal Code sections 2.08.110 through 2.08.160. In the event the TOWN terminates MANAGER'S employment without cause, MANAGER shall receive a severance payment of six months' annual salary and medical, dental, vision, and life insurance benefits, along with payment of all accrued leave as required under California state law.
- d. Termination For Cause. Notwithstanding the provisions of Moraga Municipal Code sections 2.08.110 through 2.08.160, MANAGER hereby agrees that TOWN may terminate MANAGER for cause at any time, which may be effective immediately. Termination "for cause," includes but is not limited to, the following as a bases for termination: a conviction, plea bargain, or adverse State Attorney General, Grand Jury, or Fair Political Practices Commission determination involving any felony, intentional tort, crime of moral turpitude, or violation of statute or law constituting forfeiture of office, misconduct in office, misuse of public funds, or conflict of interest; gross malfeasance; dereliction of duties; ongoing absence from employment without excuse; or acts of fraud. TOWN shall not be obligated

to pay any compensation, benefits, or severance under the provisions of this Agreement if MANAGER is terminated for cause. During the proceedings which may be necessary for TOWN to confirm the cause for termination hereunder, the TOWN may place MANAGER on unpaid administrative leave.

8. OWNERSHIP OF RECORDS; RETENTION OF RECORDS.

All reports, notes, plans, documents, records, computer data, and other material or certified copies of same prepared by MANAGER in the course and scope of his duties under this Agreement shall be delivered to, and become the property of the TOWN. MANAGER shall make such documents available for review and/or audit by TOWN and its representatives at all reasonable times during the term of this Agreement and for at least four (4) years from the date of expiration or termination of this Agreement.

9. PERFORMANCE EVALUATION.

TOWN Council shall conduct, in closed session, its first initial performance review of MANAGER after the completion of his first six months. TOWN Council shall provide input with respect to MANAGER'S initial performance and alignment with TOWN Council goals and objectives.

Commencing with the completion of the MANAGER'S first full year with the TOWN, the TOWN Council shall annually review and evaluate his performance and compensation in closed session. As part of each evaluation, the TOWN Council and MANAGER will set goals and objectives for MANAGER's performance for the following year.

10. CONFLICT OF INTEREST PROHIBITION.

- a. MANAGER shall not engage in any activity which is, or may become, a conflict of interest, enter into any contract that could create a conflict of interest, or which may create an incompatibility of office as defined under California law. MANAGER shall complete annual disclosure forms required by law.
- b. It is further understood and agreed that because of the duties of the Town Manager within and on behalf of the TOWN and its citizenry, MANAGER shall not, during the term of this Agreement, individually, as a partner, joint venture, officer, or shareholder, invest or participate in any business venture conducting business within the corporate limits of the TOWN, except for stock ownership in any company whose capital stock is publicly held and regularly traded without prior written consent of the TOWN. For and during the term of this Agreement, MANAGER further agrees, except for a personal residence used as his personal residence, not to invest in any other real estate or property improvements within the corporate limits of the TOWN, without the prior, written consent of the TOWN Council.

11. COMPLIANCE WITH GOVERNMENT CODE SECTIONS 53243-53244.

If MANAGER is convicted of a crime involving an abuse of his office or position, as defined in Government Code section 53243.4, the following restrictions will apply: (i) any paid leave given to MANAGER pending an investigation shall be fully reimbursed to TOWN, (ii) any funds expended by TOWN for the legal criminal defense of Employee shall be fully reimbursed to TOWN, (iii) any cash settlement paid to MANAGER shall be

fully reimbursed. Upon conviction of a covered felony under Government Code sections 7522.72 or 7522.74, MANAGER may forfeit the benefits in accordance with those sections.

12. INDEMNIFICATION.

TOWN shall defend, save harmless, and indemnify MANAGER against any tort, 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 MANAGER's duties as Town Manager. TOWN will compromise and settle any such claim or suit and the amount of any settlement or judgment rendered thereon. Said indemnification shall extend beyond termination of employment, and the expiration of this Agreement, to provide full and complete protection to MANAGER as described herein, for any acts undertaken or committed in his capacity as Town Manager, regardless of whether the notice of filing of a lawsuit for such tort, claim, demand, or other legal action occurs during or following MANAGER's employment with TOWN as Town Manager.

13. NON-LIABILITY OF OFFICIALS AND EMPLOYEES.

No official, employee, attorney, or agent of TOWN shall be personally liable for any term, condition, breach, default, or liability for breach of this Agreement.

14. WAIVER.

The waiver by either party of any term or condition of this Agreement or any breach of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

15. OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

The TOWN Council, by resolution, shall fix any other terms and conditions of

employment, as it may determine from time to time, relating to the performance of MANAGER, provided such terms and conditions are not inconsistent with provisions of this Agreement or law.

16. GENERAL EXPENSES.

TOWN recognizes and agrees to pay the job-related expenses incurred by MANAGER in the course of his duties as approved by the TOWN Council. These expenses include, but are not limited to, laptop, internet, cell phone, etc.

17. NOTICES.

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid. Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial proceedings. 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 course of transmission in the United States Postal Service to the addresses set out below or as subsequently communicated by one party to the other in writing:

TO TOWN: Town Council
 Town of Moraga
 329 Rheem Blvd.
 Moraga, CA 94556

TO MANAGER: Scott Mitnick
 [address on file with Human Resources]

18. ATTORNEY'S FEES.

In the event of any mediation, arbitration, or litigation to enforce any of the provisions of this Agreement, each party shall bear his or its own attorney's fees and costs.

19. FINAL AGREEMENT.

This Agreement is the final expression of the complete agreement of the parties with respect to the matters specified herein and supersedes all prior oral or written understandings. Except as prescribed herein, this Agreement cannot be modified except by written mutual agreement signed by the parties.

20. ASSIGNMENT.

This Agreement is not assignable by either TOWN or MANAGER.

21. SEVERABILITY.

In the event that any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the parties, the remainder of the Agreement shall remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of the Agreement.

22. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this Agreement.

23. INTERPRETATION.

This Agreement shall be interpreted as though prepared by both parties. Accordingly, the parties agree that any rule of construction of contracts which provides that any ambiguities shall be resolved against the drafting party shall be inapplicable to this Agreement.

24. CONSTRUCTION.

“Herein” and other similar compounds of the word “here” mean this entire instrument and not any particular provision. Section headings and numbers have been inserted for convenience of reference only and shall be given no legal effect. In the event of any conflict between any headings or numbers and the text of this Agreement, the text shall control.

25. COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which is considered an original, and all of which taken together are considered one and the same instrument. This Agreement may be signed electronically in accordance with the TOWN'S policy regarding electronic signatures.

26. WAIVER.

Waiver by either party of any term or condition of this Agreement or any breach is not a waiver of any other term or condition or breach of the Agreement.

27. EXECUTION AND APPLICABLE LAW.

This Agreement has been executed in California, and is to be governed in accordance with the laws of the State of California in every respect. The Parties agree that venue for any action arising out of this Agreement shall be in Contra Costa County.

* * SIGNATURES ON FOLLOWING PAGE * *

TOWN OF MORAGA

By: _____
Renata Sos, Mayor

Dated: _____

MANAGER:

By: _____
Scott Mitnick

Dated: _____

ATTEST:

Yashin Abbas, Town Clerk

APPROVED AS TO FORM:

Michelle Marchetta Kenyon,
Town Attorney

ATTACHMENT C

Resume of Scott Mitnick

Scott Mitnick



PROFESSIONAL EXPERIENCE

Kosmont Companies, El Segundo, CA – Senior Vice President (April 2022 to present)

Serve as a senior executive for a leading California local government consulting firm that provides land use, economic development, organizational development, and financial advisory services to counties, cities, special districts, and private sector clients. **Responsibilities:** Obtain and manage public sector and private sector client accounts, supervise staff, and assist in managing the firm's future direction and growth.

Accomplishments:

Helped cities and counties achieve successful outcomes, obtained new clients, increased firm's revenues, implemented internal project tracking systems, and improved staff performance and morale.

City of El Segundo, CA – City Manager (July 2019 to February 2022)

(17,000 Residents; 78,000 Daytime Workers; 350 City Employees; \$160 Million Annual Budget)

Served as Chief Executive Officer (CEO) for a complex, diverse, demanding, full-service California coastal city with a robust economy. **Responsibilities:** Implemented City Council direction and led day-to-day operations of 12 departments.

Accomplishments:

- Implemented Citywide reorganization (hired six department heads, including Police Chief and Fire Chief)
- Established Diversity, Equity, and Inclusion (DEI) Citizens Committee
- Diversified City's workforce
- Prepared Long-Term Financial Strategic Plan
- Implemented a variety of budget and financial actions to attain long-term General Fund financial stability
- Obtained \$82M in pension savings & achieved long-term retirement costs sustainability
- Obtained approval of five-year water & wastewater rate adjustments (resulting in long-term financial stability)
- Earned AA+ Bond Rating
- Simplified budget preparation process and converted to biennial budget format
- Negotiated 50-year contract with Topgolf for a "flagship" facility that provides \$2.9M in annual GF revenues
- Negotiated major LAX settlement agreement to provide over \$100M in public infrastructure benefits
- Negotiated LA Chargers Headquarters \$150M Development Project (with over \$10M in community benefits)
- Obtained \$5.3M LA Metro grant to fund design contract for \$100M+ Park Place Transportation Project
- Attained compliance with City's RHNA housing unit targets
- Updated and obtained a Certified Housing Element
- Established City's first Affordable Housing Program and hired City's first affordable housing services provider
- Successfully managed homeless issues
- Began Downtown Specific Plan Update process; Downtown is going through an exciting transformation
- Implemented improvements to City website, social media, and overall civic engagement effort
- Developed and maintained positive relationships with regional and local media
- Directed successful COVID-19 pandemic response w/o major financial impacts, layoffs, or salary reductions
- Improved Citywide employee morale

County of Sutter, CA – County Administrator (January 2017 to March 2019)

(100,000 Residents; 1,100 County Employees; \$325 Million Annual Budget)

Served as Chief Executive Officer (CEO) for a complex full-service, medium-size, Sacramento Valley county. **Responsibilities:** Implemented Board of Supervisors direction and led day-to-day operations of 20 departments.

Accomplishments:

- Established Annual Countywide Goals, Top Ten Priorities, and Board of Supervisors Norms
- Hired several first-rate executive and senior level managers and resolved multiple labor relations issues
- Proclaimed and managed Countywide evacuation during February 2017 Oroville Dam Failure Incident
- Simplified annual budget process and developed Countywide Ten-Year Financial Strategic Plan
- Successfully managed complex homeless issues
- Began process to consolidate over 30 County buildings into more efficient campus settings
- Obtained long-term lease to relocate over 400 health and human services employees into one facility
- Began infrastructure projects for a new city (50,000 population) located north of Sacramento Airport
- Led effort to merge Child Support Services Departments among Colusa, Sutter, and Yolo Counties
- Led discussions to merge Health & Human Services Departments among Sutter and Yuba Counties
- Improved relations with media (obtained recurring positive tv/radio/social media/print coverage)

City of Thousand Oaks, CA – Three positions (January 2000 to July 2016)

(130,000 Residents; 600 City Employees; \$200 Million Annual Budget; High quality of life, low density community)

City Manager (May 2005 to July 2016)

Served as CEO for a complex, medium-size city. **Responsibilities:** Implemented City Council direction and led day-to-day operations of all City functions, including Conejo Open Space Conservation Agency (COSCA).

Assistant City Manager (April 2003 to April 2005) / **Deputy City Manager** (January 2000 to March 2003)

Reported to City Manager and acted in his/her absence. Served as organization's Chief Operating Officer. **Responsibilities:** Managed City departments and supervised department managers. Directed support to City Council committees; Provided assistance to Councilmembers; and, represented City before media, citizen groups, etc.

Accomplishments:

- Transformed a divided City Council into a stable and forward-thinking governing body
- Empowered all employees to enable organization to evolve into one of Ventura County's most desirable employers
- Ensured that community remained one of the safest cities in US and California with a population over 100,000
- Weathered Great Recession of 2007-2009 with minimal impacts (reduced workforce by over 100 employees)
- Implemented one California's first Ten-Year Financial Strategic Plans to ensure long-term financial stability
- Maintained highly competitive bond ratings (including General Fund AAA rating)
- Implemented successful partnerships with CLU, School District, Park District, & other local agencies/non-profits
- Developed Thousand Oaks Blvd. Specific Plan
- Led effort to obtain federal/state funding for \$50M+ Highway 101/23 Freeway Interchange Project
- Obtained 100% self-sufficiency at City's Wastewater Treatment Plant
- Preserved former Redevelopment Agency funding for Thousand Oaks Blvd. Utilities Undergrounding Project
- Managed major remodel of regional Oaks Mall Renovation Project (including first Ventura County Nordstrom store)
- Led City's protest before CPUC to obtain 10% cost reduction for private water company ratepayers
- Completed Citywide Housing Opportunities Assessment Study & completed several affordable housing projects
- Oversaw preparation of a comprehensive Youth Master Plan
- Resolved long-standing complex day laborer issue (received special recognition by Ventura County Grand Jury)
- Maintained positive labor relations and sustained positive employee morale throughout my tenure

City of Yuba City, CA – Administrative Services Director (November 1996 to December 1999)

(55,000 Residents; 250 City Employees; \$55 Million Annual Budget; Full-service growing Sacramento Valley city)

Reported to City Manager and acted in his absence. Served as Assistant City Manager/Finance Director supervising four divisions: Finance, Treasury, Information Services, and General Services. **Responsibilities:** Functioned as City's CFO and Investment Officer. Responsible for City's accounting, budget, investments, risk management, accounts payable/receivable, payroll, utilities billing, assessment district management, debt management, labor relations, information technology, purchasing, vehicle maintenance, building maintenance, warehouse, etc.

Accomplishments:

- Reorganized the Administrative Services Department and developed a first-class management team
- Obtained approval of a Ten-Year Water & Wastewater Capital Improvement Plan with multi-year rate adjustments
- Selected & converted to a new Citywide computer system
- Played lead role in development of two Countywide flood protection half-cent sales tax measures
- Played major role in annexation negotiations and obtained successful County/City Annexation Agreements

City of Burbank, CA – Four positions (August 1989 to November 1996)

(100,000 Residents; 1,325 City Employees; \$500 Million Annual Budget; Built-out city with high service levels)

Budget Administrator (July 1994 to November 1996)

Reported to Finance Director and acted in his absence. Served as a Division Head supervising three sections: Budget/Revenue, Purchasing, and Support Services. **Responsibilities:** Prepared City's annual operating and CIP budget, oversaw City's purchasing system, managed internal service funds and revenue collections.

Assistant to the City Manager (July 1992 to June 1994)

Reported to City Manager. Served as chief assistant to Mayor and City Manager. Functioned as City Council/City Manager liaison to departments, media, community groups, and citizens. **Responsibilities:** Coordinated weekly City Council meetings; Oversaw Citywide annual work program (goals and objectives) and each department head's monthly projects; and, Managed legislative affairs program.

Project Manager – Community Development Department (July 1991 to June 1992)

Served as assistant to City Planner. **Responsibilities:** Provided support to Planning Board and Transportation Commission; Managed administrative and personnel functions of Community Development Department (80 employees); and, Served as Downtown Burbank Transportation Center Project Manager. Oversaw major US EPA Superfund clean-up effort to make way for Metrolink train service. Managed development of the Downtown Transportation Center Project (including a Metrolink Train Station). Commenced development of the Burbank Airport Amtrak Train Station.

Financial Analyst – Management Services Department (August 1989 to July 1991)

Reported to Finance Director. **Responsibilities:** Assisted in City budget process; estimated revenues for over 500 accounts; Negotiated union contracts; and, Prepared Finance Department Annual Reports. Developed comprehensive revenue estimation methodologies. Coordinated transition from annual budget to biennial budget format. Prepared a comprehensive fiscal impact analysis of a major growth control initiative. Developed Citywide Financial Policies.

PRIVATE SECTOR SHORT-TERM EXPERIENCE

KNN Public Finance, Oakland, CA – Director (March 2019 to June 2019)

Served in a senior leadership role for a leading California municipal financial advisory firm. Helped grow the company's business, managed projects, supervised staff, and performed related duties.

Stifel, Nicolaus & Company, Inc., Los Angeles, CA – Managing Director (Aug. 2016 to Dec. 2016)

Served as a senior investment banker and officer in a leading national public finance banking firm. Helped grow the company's business, managed projects, supervised staff, and performed related duties.

PROFESSIONAL AFFILIATIONS

- International City Management Association (ICMA) Member
- Guest speaker on city management, leadership, council/manager relations, finance, etc. (Will moderate panel discussion on Surplus Land Act impacts on cities at Feb. 2023 City Managers Conference)
- Registered Series 50 MSRB Municipal Financial Advisor License (August 2022 to present)
- South Bay City Managers Association President (2021-2022)
- El Segundo Economic Development Corporation Board of Governors Member (2021-2022)
- California Association of County Executives (CACE) Member (2017-2020)
- ICMA International Committee Member (2013-2020)
- Registered Series 52 MSRB Municipal Securities Representative License (2016-2019)
- League of CA Cities City Manager's Dept. Rep. for So. Cal. Cities with a population over 100,000 (2015-2016)
- Los Robles Regional Hospital Board of Trustees Board Member (2014-2016)
- KCLU National Public Radio Station Advisory Board Member (2011-2016)
- Cal-ICMA State Association President (2011-2012)
- Ventura County City Managers (VCCM) President (2006-2007)
- Government Finance Officers Association (GFOA) former Member & Guest Lecturer/Instructor
- GFOA & CSMFO Budget Reviewer (1988-2006)
- American Society of Public Administrators (ASPA) LA Chapter Member & Vice President (mid-1990s)
- League of CA Cities John H. Nail Memorial/Municipal Assistant Award Nominee (January 1996)
- Lecturer in/at China, Bristol (England), Syracuse University, Wisconsin, UCLA, USC, CSUN, CSUF, & CLU
- Author of several articles on local government management and public finance

EDUCATION

Master of Public Administration, Maxwell School, Syracuse University, New York, December 1989

Public Finance & Local Government Management Concentration
Graduate Research Fellowship, tuition scholarship, and private scholarships

Served as a research and teaching assistant to a professor who specialized in local government finance and budgeting. Prepared abstracts, studies, and class assignments. Authored a major study on "The Budgetary Impacts of Federal Court Orders to Alleviate Overcrowding in US Jails."

Bachelor of Arts, Honors, California State University, Fullerton, June 1987

Political Science Major; Various tuition and academic scholarships

Junior Year Abroad Program, University of Bristol, England, 1985-86

Political Philosophy & World Politics Major; Various tuition and academic scholarships