

PART-TIME SALARY EMPLOYMENT AGREEMENT

This agreement (“Agreement”) is made this _____ day of October, 2023, at the City of San Luis, County of Yuma, State of Arizona, between the City of San Luis, Arizona, (“City”), a municipal corporation of the State of Arizona, 1090 E. Union Street., San Luis, Arizona, and Glenn Gimbut (“Assistant City Attorney.”) This Agreement takes the place of the Employment Agreement between the City and Assistant City Attorney dated June 28, 2017. In consideration of the mutual covenants, agreements and promises provided herein, the sufficiency of which is expressly acknowledged, City and Assistant City Attorney agree as follows:

SECTION I

TERM AND NATURE OF EMPLOYMENT

This Agreement is for a specific and limited duration. The Assistant City Attorney shall be employed by the City of San Luis as an Assistant City Attorney effective October, October 21, 2023 (which is a start of a pay period) until October 15, 2025, (the “Agreement Period”), unless the Assistant City Attorney’s employment is terminated at an earlier date pursuant to Section V below.

SECTION II

PART-TIME SALARY EMPLOYMENT

A. During the Agreement Period, the Assistant City Attorney shall be a part-time employee on salary, classified as exempt from overtime payment. He agrees to work a minimum of 900 hours annually during the term of this Agreement. He shall submit an exempt time sheet to his supervisor for the payroll system and separate timeslips for use of his supervisor to see that he is on track for the minimum 900 hours annual work. The timeslips shall itemize the hours worked during the pay period and provide running total for the fiscal year, which the supervise shall verify. It is understood that the annual work will track the annual anniversary of this Agreement and not necessarily the fiscal year of City.

B. The Assistant City Attorney shall devote time, attention, and energies to the performance of his duties as Assistant City Attorney of the City of San Luis, Arizona. The City agrees that the Assistant City Attorney may perform private legal consultation services that do not conflict with his duties under this Agreement.

SECTION III

DUTIES

A. During the Agreement Period, the Assistant City Attorney shall represent the City in its legal affairs and provide legal advice and counsel to the City of San Luis. The Assistant City Attorney shall serve the City diligently and according to his best professional and personal abilities in all respects, and generally do all things for the best interests of the City that is usually done by persons occupying his position as a legal officer of a political subdivision.

B. The Assistant City Attorney shall report to and be under the supervision of the City Attorney. The Assistant City Attorney shall be subject to the direction and control the City Attorney. The City Attorney may review, evaluate, and complete the evaluation of the performance of the Assistant City Attorney from time to time during the term of this

Agreement.

C. The City Council may designate another City staff person to provide the supervision described in this Section III. Said designee must be an employee of the City and cannot be a sitting San Luis Council Member.

SECTION IV RATE OF COMPENSATION

A. **Annual Salary:** The salary of the Assistant City Attorney shall be an annual base salary of \$65,000.00 payable biweekly on the City's payroll schedule in equal increments of \$2,500.00. The salary is compliant with the minimum required annual pay required by the federal Fair Labor Standards Act and its regulations ("FLSA") for exempt employees.

B. **Annual Sick Leave Accrual:** Part-time employees accrue one hour of sick leave for every 30 hours worked capped at 40 hours in a fiscal year under A.R.S. § 23-372(A) and the City of San Luis Personnel Policies, Section HR-4-05(A)(2) as amended by Resolution No. 2012. The Assistant City Attorney shall accrue a maximum of 30.33 hours of sick leave per fiscal year under this Agreement. The 30 hours per fiscal year rate of accrued sick hours is calculated considering the minimum 900 hours in Section II. The 900 hours are divided by 26 pay periods in a fiscal year which equals 34.61 hours per pay period, rounded up to 35 hours per pay period. 35 hours worked divided by 30 hours for every one sick hour accrued equals 1.16 hours per pay period accrued. 1.16 sick hours times 26 pay periods equals 30.33 hours accrued per year. In mathematical formula it is as follows:

Accrual = 1 sick hour/30 hours worked.

900 hours/year /26 pay periods/year = 34.61 (rounded up to 35 hours)

35 hours/ pay period /30 hours /1 hour sick = 1.16 sick hours/ pay period

26 pay periods x 1.16 sick hours/ pay period = 30.33 sick hours per year.

The sick hours accrued under the above formula shall be counted toward and part of the minimum 900 total hours paid by the \$65,000.00 salary. In other words, the Assistant City Attorney taking of sick time is to be credited against his pledged 900 minimum work hours per year.

C. Under this Agreement, the Assistant City Attorney does not lose previously accrued and unused sick time under his employment agreement with the City dated June 28, 2017.

D. The City agrees to budget and pay for the professional dues and subscriptions of the Assistant City Attorney as the City deems necessary for his continuation and participation in national, regional, state, and local associations and organizations necessary for his continued professional participation, growth, and advancement, and for the good of the City. This shall include any continuing legal education requirements of the State Bar of Arizona. The City agrees to provide Assistant City Attorney with a cell phone, remote access to the City's internet system, and any other devices the City would provide to a City department head for work performed other than on the premises of City by policy or practice.

E. Unless otherwise stated herein, the Assistant City Attorney shall be entitled to all other employment benefits provided for other part-time employees of the City. The Assistant City Attorney shall not be eligible to participate in any health insurance program. If the Assistant City Attorney experiences a qualifying event under the federal Family Medical Leave Act and its regulations and binding interpretation (“FMLA”), and he is eligible to apply for FMLA, he may apply for FMLA job protection. Under A.R.S. 38-766.02(A), the City is required to pay approximately \$8,000.00 into the Arizona State Retirement System for an alternate contribution rate for employed retired members, but the Assistant City Attorney as a retired member, receives no benefit from this required payment.

F. It is recognized by the City Council that the Assistant City Attorney must devote the time necessary to his duties involving both normal office hours and time outside these hours. As previously stated, this is a part-time position with a minimum of 900 working hours a year. The taking of personal time off should be in line with this premise, and rests in the discretion of and with the approval of the City Attorney or City Council’s designee under Section III. Since the minimum pledged annual hours are 900, there is sufficient ability to schedule personal time off with the Assistant City Attorney’s supervisor, given the needs of the Office of the City Attorney.

SECTION V TERMINATION OF EMPLOYMENT

A. The City expressly agrees that it shall not take any action to terminate this Agreement or otherwise discharge Assistant City Attorney from his employment during the Agreement Period except as expressly provided for herein. The Assistant City Attorney’s employment may be terminated by a majority vote of the City Council as provided by San Luis City Code §.2.15.030.

B. In the event that the City terminates this Agreement or discharges Assistant City Attorney during the Agreement Period, the City shall pay to the Assistant City Attorney severance the total sum of \$32,500.00, less applicable withholdings (which is equivalent to six (6) months of pay). A condition precedent to this severance payment, Assistant City Attorney shall execute a release of any and all claims he may have against the City, in the form attached hereto as Appendix A. The City shall make the severance payment no later than ten (10) business days following the effective date of the required release. In addition, the Assistant City Attorney shall be entitled to his accrued salary including sick leave taken to the effective date of termination. In addition to this compensation and/or any other rights to compensation or benefits to which Assistant City Attorney may have under this Agreement or law. Upon termination and satisfaction of the above condition precedent (in this Section V(B)), the Assistant City Attorney shall have no further legal duty or obligation under this Agreement.

C. Notwithstanding the foregoing, if the Assistant City Attorney is terminated because of a conviction relating to any felony or loss of license to practice law in the State of Arizona, the City shall have no obligation to make any severance payment pursuant to Section V(B) above. The City reserves the right to suspend any severance pay payment pursuant to the above Section V(B) during any proceedings while felony charges are

pending or other proceedings which could result in the loss of the license to practice law in the State of Arizona.

D. The Assistant City Attorney may resign from his employment at any time upon the giving of at least thirty (30) days' written notice to the City Attorney, the City Manager, his City Council's designated supervisor if any, the Mayor, and Council, unless the parties agree to a different notice period.

E. Upon termination under Section V(C) or V(D) above, the Assistant City Attorney shall only be entitled to compensation earned to the effective date of termination. and any other rights to compensation or benefits to which Assistant City Attorney may have under this Agreement or by law.

SECTION VI
CONTRACT TERMS TO BE EXCLUSIVE

This Agreement (including Appendix A) contains the sole and entire agreement between the parties and shall supersede any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement nor any representations inducing its execution and delivery except such representations as are specifically set forth in this writing and the parties acknowledge that they have relied on their own judgment in entering into the same. The parties further acknowledge that any statements or representations that may have been made by either of them to the other are void and of no effect and that neither of them has relied on such statements or representations in connection with its dealings with the other.

SECTION VII
WAIVER OR MODIFICATION INEFFECTIVE
UNLESS IN WRITING

It is agreed that no waiver or modification of this Agreement or of any covenant, condition, or limitation contained in it shall be valid unless it is in writing and duly executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this Agreement, or the rights or obligations of any party under it, unless such waiver or modification is in writing, duly executed as above. The parties agree that the provisions of this paragraph may not be waived except by a duly executed writing.

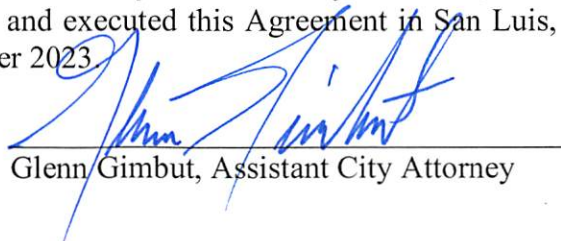
SECTION X
CONTRACT GOVERNED BY LAW OF
STATE OF ARIZONA

A. The parties agree that it is their intention and covenant that this Agreement and performance under it and all suits and special proceedings relating to it be construed in accordance with and under and pursuant to the laws of the State of Arizona and that in any action, special proceeding, or other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of Arizona shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

B. In the event that the City adopts as a policy a program of settling employment claims or suits by binding arbitration and adopts a form of agreement for new employees to sign during the course of this Agreement, Assistant City Attorney agrees to sign said agreement and be bound by the same.

C. This Agreement shall be subject to the cancellation provisions of ARS §38-511.

In witness whereof, the City of San Luis, Arizona has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested to by its Clerk, and Glenn Gimbut, Assistant City Attorney, has signed and executed this Agreement in San Luis, Yuma County, Arizona on the ____ day of October 2023.



Glenn Gimbut, Assistant City Attorney

Nieves Riedel, Mayor

ATTEST:

Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

Kay Marion Macuil, City Attorney

Appendix A

**SEVERANCE AGREEMENT
AND GENERAL RELEASE**

THIS SEVERANCE AGREEMENT AND GENERAL RELEASE (hereinafter this "Agreement") is entered into by and between Glenn Gimbut ("GIMBUT"), on the one hand, and the City of San Luis (the "CITY"), on the other hand.

WHEREAS, GIMBUT was employed by the CITY as Assistant City Attorney;

WHEREAS, GIMBUT and the CITY entered into an Employment Agreement (the "Employment Agreement");

WHEREAS, the CITY terminated GIMBUT's employment prior to the expiration of the Employment Agreement;

WHEREAS, the Employment Agreement requires the CITY to pay severance to GIMBUT based on the early termination of the Employment Agreement for a non-disqualifying reason; and

WHEREAS, as a condition precedent to the receipt of severance pay, the Employment Agreement requires GIMBUT to release any and all claims he may have against the CITY.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the CITY and GIMBUT voluntarily and knowingly agree as follows:

1. **Definitions.** For the purposes of this entire Agreement, the term "CITY" includes the City of San Luis and, to the extent applicable, as direct, intended and third party beneficiaries hereof, its past, present, and future officers, employees, representatives, trustees, administrators, fiduciaries, attorneys, insurers, agents, subsidiaries, affiliated entities, elected officials, councilmembers, predecessors, successors, heirs, and assigns, jointly and severally, in both their personal and official capacities (collectively, the "Released Parties").

For the purposes of this entire Agreement, the term "GIMBUT" shall refer to Glenn Gimbut, his marital community, and his heirs and assigns.

2. **Severance Payment.** Within ten (10) business days of the effective date of this Agreement, the CITY shall provide GIMBUT with severance pay in the amount of \$37,500, less applicable withholdings. The payment shall be made by check payable to "Glenn Gimbut" or by direct deposit to GIMBUT's bank account on file with the CITY.

3. **Release by GIMBUT.** GIMBUT hereby irrevocably and unconditionally releases and discharges the CITY and all other Released Parties from any and all claims, demands, liens, agreements, covenants, actions, suits at law or equity, obligations, debts, damages, judgments, liabilities, attorneys' fees, costs, and expenses of whatever kind, known or unknown, suspected or unsuspected, which he had or has based on any matter or thing occurring prior to his execution

of this Agreement, including but not limited to claims that arise from or relate to GIMBUT's employment with the CITY or the termination of the employment relationship. The released claims include any claims arising under the Age Discrimination in Employment Act, the Arizona Civil Rights Act, the Arizona Wage Payment Act, or Title VII of the Civil Rights Act of 1964. The released claims further include, but are not limited to, all claims for breach of contract, wrongful discharge or layoff, constructive discharge, retaliatory discharge, impairment of economic opportunity, intentional or negligent infliction of emotional distress, or any other tort, including but not limited to defamation, invasion of privacy, intentional interference with contract or prospective advantage, violation of any constitutional right, sex discrimination, race discrimination, disability discrimination, age discrimination or any other form of employment discrimination or retaliation, and any and all claims arising from any alleged violations by or on behalf of the CITY or any other Released Party under every applicable federal, state, or local law, rule, regulation, ordinance, public policy or common law, including under the Arizona Employment Protection Act, the Arizona Peace Officer Bill of Rights, the Arizona Fair Wages and Healthy Families Act, the Civil Rights Act of 1991, the Equal Pay Act, the Americans with Disabilities Act, or the Family and Medical Leave Act. GIMBUT also waives and releases any appeal or grievance rights pursuant to the CITY's personnel policies or municipal code.

GIMBUT understands and acknowledges that this release forever bars him from suing or otherwise asserting a claim against the CITY or any of the other Released Parties on the basis of any event occurring through his execution of this Agreement, whether the facts are now known or unknown, and whether the legal theory upon which such claim might be based is now known or unknown. GIMBUT further agrees and acknowledges that the Released Parties are intended third party beneficiaries of this release of claims.

4. **Waiver of Right to Recovery and No Inducement.** GIMBUT expressly waives any right to monetary recovery should any administrative agency pursue any released claim on his behalf.

5. **Consultation with Legal Counsel.** GIMBUT acknowledges that this Agreement constitutes written notice from the CITY that it advises him to seek legal counsel before signing this Agreement.

6. **Notice of Time for Reflection and Waiver.** GIMBUT acknowledges that he has fully discussed all aspects of this Agreement with his attorney to the extent he wishes to do so. GIMBUT agrees that he has carefully read and fully understands all of the provisions of this Agreement and that he is voluntarily entering into this Agreement. GIMBUT agrees that, as part of this Agreement, he has been provided with consideration in addition to anything of value to which he is already entitled. GIMBUT is advised that, prior to waiving claims he may have under the Age Discrimination in Employment Act, he may take up to twenty-one (21) calendar days to consider this Agreement before signing, and he may revoke this Agreement within seven (7) calendar days after he signs the Agreement. If GIMBUT wishes to revoke the Agreement, he must do so by delivering written notification of the revocation before the expiration of the revocation period to Stephen B. Coleman at Pierce Coleman PLLC, 7730 E. Greenway Road, Suite 105, Scottsdale, AZ 85260. In the event this Agreement is signed prior to the expiration of 21 days, GIMBUT acknowledges that he has voluntarily and knowingly agreed to waive him entitlement to take 21 days to consider this Agreement for the purpose of expediting his receipt of the consideration outlined in Section 3.

7. **Effective Date of Agreement.** This Agreement will be effective upon execution by both parties and the expiration of the seven-day revocation period outlined in Section 6 above without revocation by GIMBUT.

8. **Full Consideration.** The parties agree that compliance with the above-described terms constitutes full and sufficient legal consideration for the promises and covenants set forth in this Agreement.

9. **No Admission of Wrongdoing.** The parties each agree that nothing in this Agreement shall be construed as an admission by any of them of any wrongdoing or violation of any applicable law, and that nothing in this Agreement shall be so construed by any other person.

10. **Bar.** GIMBUT specifically agrees that this Agreement may be pled by the CITY or any of the other Released Parties as an absolute bar to any released claim.

11. **Complete Agreement.** This Agreement sets forth all of the terms and conditions of the agreement between the parties and shall be considered and understood to be a contractual commitment and not a mere recital, except that it shall be read in conjunction with the Employment Agreement between the parties. This Agreement shall be binding upon the CITY and its successors and assigns and GIMBUT and his respective agents, marital community, heirs, executors, representatives, and assigns.

12. **Fees and Costs.** Each party shall bear and pay his or its own costs and attorneys' fees with regard to this Agreement and any matters covered herein. However, in an action to enforce any term or terms of this Agreement or to seek damages for breach of this Agreement, the prevailing party in that action shall be entitled to recover reasonable attorney's fees.

13. **Waiver and Amendment.** A waiver of any right under this Agreement must be in writing to be effective. This Agreement may be amended only by a writing signed by the parties. Any oral representation or modification concerning this Agreement shall be of no force or effect.

14. **Choice of Law.** The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either of the parties. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona, except to the extent that federal laws apply.

[AGREEMENT CONTINUES ON NEXT PAGE]

15. **Acknowledgement.** GIMBUT acknowledges that in executing this Agreement, he does not rely on any inducements, promises or representations made by the CITY other than those expressly stated herein. Further, GIMBUT declares that he has read this Agreement and fully understands its terms and contents, including his rights and obligations hereunder, and freely, voluntarily and without coercion enters into this Agreement. GIMBUT agrees and acknowledges that the waiver and release of all rights or claims he may have under any local, state, or federal law is knowing and voluntary.

CITY OF SAN LUIS

By _____

Its _____

Dated: _____

GLENN GIMBUT

Dated: _____