

Agenda Report

July 28, 2008

TO: CITY COUNCIL

FROM: MAYOR

SUBJECT: APPROVAL OF AGREEMENT FOR EMPLOYMENT BETWEEN THE CITY OF PASADENA AND MARK JOMSKY

RECOMMENDATION

It is recommended that the City Council approve the attached Agreement for Employment between the City of Pasadena and Mark Jomsky for his services as City Clerk, effective July 26, 2008.

BACKGROUND

The attached agreement provides for the employment of Mark Jomsky in the position of City Clerk, effective July 26, 2008. In recent weeks discussions have been completed with Mr. Jomsky, and the attached represents the agreement reached between the parties.

FISCAL IMPACT

None. Adequate funds are included in the adopted FY 2009 budget, and no additional appropriations are necessary.

Respectfully Submitted,

BILL BOGAARD
Mayor

EMPLOYMENT AGREEMENT - CITY CLERK

Contract No. _____

This Agreement is entered into this 22nd day of July 2008, between the City of Pasadena, a municipal corporation ("CITY"), and Mark Jomsky, an individual ("JOMSKY").

RECITALS

WHEREAS, the CITY wishes to retain the services of JOMSKY as City Clerk and JOMSKY wishes to serve in that capacity; and

WHEREAS, the CITY is agreeable to provide certain compensation, establish certain conditions of employment and set certain working conditions of EMPLOYEE; and

WHEREAS, CITY and JOMSKY desire to enter into an agreement setting forth the terms and conditions of employment;

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

I. EMPLOYMENT

CITY hereby agrees to employ JOMSKY as City Clerk of the City of Pasadena to perform the functions and duties specified in the attached City Clerk job description (Attachment A hereto), State law, the City Charter, ordinances and resolutions of the CITY, and to perform such other legally permissible and proper duties and functions as the City Council may from time to time assign. JOMSKY'S functions and duties shall include the attached Performance Goals for City Clerk (Attachment B hereto), which have been mutually agreed by CITY and JOMSKY as primary goals during Fiscal Year 2009. The City Clerk job description is subject to change from time to time by the City, and the performance goals for the City Clerk will be established by mutual agreement annually or more often as appropriate.

II. TERM

The term of this Agreement shall commence on July 26, 2008, and shall remain in effect until terminated by either party in the manner provided in this Agreement.

III. COMPENSATION

A. CITY agrees to pay JOMSKY a base salary of \$130,000 annually. JOMSKY'S base salary shall be reviewed by the City Council after six months of service and again after twelve months of service, and thereafter shall be reviewed annually. Salary increases resulting from such reviews shall be at the sole discretion of the City Council, in consultation with JOMSKY.

B. JOMSKY shall be eligible for a bonus each year after the completion of twelve months of service for performance substantially above expectations, which shall be at the sole discretion of the City Council. The City Council will establish specific criteria as the basis of any bonus that may be awarded, and such criteria will be delivered in writing to JOMSKY within 60 days. JOMSKY and CITY agree that the City Council is not obligated to grant a bonus, and that no assurances have been given to JOMSKY that any bonus will be granted during the term of this Agreement.

C. In addition to the foregoing, JOMSKY shall be entitled to benefits that are generally applicable to non-safety department directors as of the date of this Agreement, and as they may be modified hereafter. For purposes of this Agreement, benefits include, but are not limited to medical insurance, life insurance, sick leave, disability insurance and salary continuation, professional development allowance and expenses, holidays, vacation, bereavement leave and retirement benefits through the California Public Employees Retirement System. As of the date of this Agreement, such benefits to which JOMSKY shall be entitled include the following:

1. Medical: CITY shall pay JOMSKY an option benefit fund contribution of \$1,018.86 per month, which he may use to pay health premiums and/or place into a deferred compensation account or to the available options under CITY'S flexible benefits plan.

2. Dental: CITY shall contribute 100% of JOMSKY'S premium for dental insurance, plus up to \$40 per month for dependent premium towards a dental care program as provided by the CITY.

3. Life Insurance: CITY shall provide JOMSKY without cost to him a life insurance policy providing a benefit of \$200,000. JOMSKY may purchase additional life insurance benefits at his own cost.

4. Long Term Disability: CITY shall provide JOMSKY with the long term disability policy that provides for a benefit of 66 2/3% of salary.

5. PERS Retirement Benefits: JOMSKY will be enrolled in the California Public Employees Retirement System (PERS) retirement plan, as such plan may be amended by the City Council. As of the date of this employment agreement, such plan includes the 2.5%@55 benefit formula, the City's payment of the employee's 8% contribution, the reporting of such 8% contribution as compensation, and the employee's reimbursement to the City for 3.6% of salary for the cost of retirement benefits.

6. Annual Medical Examination: JOMSKY is entitled to a comprehensive annual medical examination as provided through CITY at no cost to JOMSKY.

7. Vacation and Sick Leave: JOMSKY shall provide the City Council with reasonable notice prior to taking two or more consecutive vacation or administrative leave days off.

8. Other Leaves: In addition to any other leaves as provided for in CITY'S policies, JOMSKY shall be provided with four (4) paid management days each calendar year, to be administered in the manner as such leave is administered for department directors.

9. Car Allowance: CITY shall pay JOMSKY \$475 per month as reimbursement for the use of JOMSKY'S personal automobile for CITY business. JOMSKY shall normally use his personal automobile for CITY business, and will use CITY automobiles on an exceptional basis only. This provision does not in any way restrict JOMSKY from using his personal automobile for personal use.

10. Telephone, Mobile Phone, Computer, and Internet Access: CITY shall provide JOMSKY with a mobile phone and necessary computer equipment and support, and will pay JOMSKY'S monthly telephone, mobile phone and internet access expenses incurred for CITY business. JOMSKY will reimburse CITY for any personal use of said telephone, mobile phone or internet access.

IV. PROFESSIONAL DEVELOPMENT EXPENSES

A. In addition to the \$1,000 professional development allowance granted annually to department directors of CITY, CITY shall budget and pay up to \$1,000 annually for the professional dues and subscriptions necessary to JOMSKY'S participation in national, regional, state and local associations and organizations which are necessary and desirable for his continued professional participation, growth and advancement and for the good of CITY.

B. CITY agrees to budget and to pay for the reasonable travel and subsistence expenses of JOMSKY for professional and official travel and meetings to continue the professional development of JOMSKY and to adequately pursue necessary official and other functions for CITY, including but not limited to the League of California Cities and such other national, regional, state, and local government groups and/or committees thereof on which JOMSKY serves as a member.

V. PERFORMANCE EVALUATION OF EMPLOYEE

A. The City Council intends to conduct an evaluation of JOMSKY'S performance after completion of six months of service, after the completion of twelve months of service, and at least once per year thereafter, normally during the second quarter of each calendar year. Such evaluation shall be in accordance with the functions and duties of JOMSKY set forth in Section I

hereof. The City Council shall provide JOMSKY with an opportunity to discuss his evaluation with the City Council.

B. There may be additional discussions and/or evaluations of JOMSKY'S performance between the evaluations referenced in Section A, above, if CITY so desires.

VI. TERMINATION

A. CITY shall provide JOMSKY with no less than ninety (90) days notice of its intention to terminate JOMSKY'S employment. CITY may provide such notice at any time, except within the first forty-five (45) days after installation of City Council member(s) as the result of any municipal election or appointment by the City Council. Should CITY choose to dismiss JOMSKY at any time during the term of this Agreement, CITY shall pay JOMSKY severance pay in an amount equivalent to one year base salary and benefits in effect at the time of the dismissal. If JOMSKY is terminated before the expiration of the first forty-five (45) days after the installation of City Council member(s), JOMSKY'S severance pay will be increased by the amount of time between the notice and the expiration of the forty-five (45) day period. For example, if notice of termination is provided on the tenth day after said installation, the one year period would be increased by an additional thirty-five (35) days. Such severance pay shall be made within 30 calendar days upon separation.

B. Should JOMSKY voluntarily resign his employment with CITY, he shall provide the City Council with no less than ninety (90) days notice of his intention to resign his employment with CITY, and CITY will not be obligated to provide JOMSKY with any severance pay upon his termination from employment.

C. Should JOMSKY be convicted of a felony, or be found to have engaged in acts of malfeasance or misfeasance in the performance of his job as City Clerk, or commit acts of moral turpitude, CITY will not be obligated to provide JOMSKY with more than forty-eight (48) hours notice of its intention to terminate his employment and shall not be obligated to pay JOMSKY any severance pay upon his termination.

D. If CITY provides notice in accordance with paragraph VI (A), above, unless otherwise instructed in writing by the City Council, JOMSKY shall continue to work for CITY at his then base salary and benefits rates until his termination date. JOMSKY agrees to continue to use his best efforts and skills to perform his duties during this notice period until his termination date, and further agrees to cooperate fully with any successor that may be designated by the City Council.

VII. INDEMNIFICATION

CITY shall defend, hold harmless, and indemnify JOMSKY 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 course and scope of JOMSKY'S duties as City Clerk,

in accordance with the provisions of the California Government Code, including Government Code Section 825, and shall further provide JOMSKY a defense in accordance with the provisions of the California Government Code, including Government Code Section 995 et seq., subject to the limitations and qualifications contained in these or other applicable statutes. CITY may compromise and settle any such claim or suit and pay the amount of any settlement or judgment resulting therefrom. The obligation to defend and indemnify JOMSKY shall survive the termination or expiration of this Agreement as to liability incurred during the term hereof.

VIII. BONDING

CITY shall bear the full costs of any fidelity or other bonds required of JOMSKY under any law, ordinance, regulation, contract, or covenant in connection with his employment under this Agreement.

IX. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

The City Council, in its sole discretion but only after consultation with JOMSKY, may amend this Agreement from time to time to establish other terms and conditions of JOMSKY'S employment as it may deem reasonable or necessary and in the best interests of CITY, provided that such other terms and conditions are not inconsistent with or in conflict with any of the provisions of this Agreement, the City Charter, or any other law or regulation.

X. NOTICES

Any notice required or permitted by this Agreement shall be given in writing and by personal delivery or prepaid first class, registered, or certified mail, and addressed as follows:

TO CITY: Mayor
City of Pasadena
100 N Garfield Avenue
Pasadena, CA 91109

TO JOMSKY: Mark Jomsky
City Clerk
City of Pasadena
100 N. Garfield Avenue
Pasadena, CA 91109

If personally delivered, any such notices shall be deemed given upon delivery. If mailed, any such notices shall be deemed given upon receipt or upon the expiration of five (5) calendar days from the date of posting, whichever is earlier. Either one of the parties to this Agreement may change the address at which it or he desires to receive notices upon giving written notice of such request to the other party.

XI. GENERAL PROVISIONS

A. The text herein shall constitute the entire Agreement between the parties. It is not assignable by either party.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of JOMSKY.

C. This Agreement shall become effective after signing by both parties.

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

E. Any dispute between the parties regarding the interpretation or application of any provision of this Agreement shall be referred to mediation by a mutually acceptable mediator. Should said mediation fail to resolve such issues, they shall be arbitrated in accordance with the Rules of the American Arbitration Association.

IN WITNESS WHEREOF, CITY has caused this Agreement to be signed and duly executed on its behalf by its Mayor, and duly attested by its Assistant City Clerk, and JOMSKY has signed and executed this Agreement, on the day and year first above written.

CITY OF PASADENA,
A municipal corporation

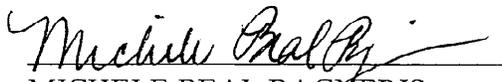
MARK JOMSKY

BILL BOGAARD, MAYOR

ATTEST:

SILVIA FLORES
Assistant City Clerk

APPROVED AS TO FORM:



MICHELE BEAL BAGNERIS
City Attorney

ATTACHMENT A

CITY OF PASADENA
Established Date: Aug 1, 2004
Class Code: 010021

CITY CLERK

DEFINITION:

Under policy direction, plans, organizes, coordinates and directs the operations of the City Clerk's department including the preparation and maintenance of official City documents and records; serves as Clerk of the Council; administers municipal elections; provides policy guidance and expert professional assistance to City departments in areas of responsibility; performs related work as assigned.

CLASS CHARACTERISTICS

This single position class is a City Council appointee who serves at the pleasure of the Council. The incumbent manages the overall policy development, program planning, fiscal management, administration and operations of the City Clerk's department. The incumbent manages programs and services including municipal elections, the administration and enforcement of state and federal laws regarding election and campaign financing disclosure, preparation of City Council minutes, maintenance and indexing of official City records, and a city-wide records management program; performs legislative analysis and enforces laws pertaining to elections, public records and conflict of interest. Many of the City Clerk functions and activities are prescribed by the City Charter, ordinances, and laws of the State of California.

ESSENTIAL FUNCTIONS:

These functions may not be present in all positions of this class.

When a position is to be filled, the essential functions will be noted in the announcement of position availability.

Plans, organizes, coordinates and directs the work of the City Clerk department; develops and directs the implementation of goals, objectives, policies, procedures and work standards for the department; prepares and administers the department's budget.

Works closely with the City Manager, City Council, City departments, other public and private entities and citizen groups, providing department information and services; analyzes and enforces a wide variety of laws pertaining to public records, municipal election, campaign financing and conflict of interest; advises the City Manager and City Council regarding the constraints of local and state legislation.

Attends all meetings of the City Council, Community Development Commission, Housing Authority, Parking Authority, and Surplus Property; publishes official notices, ordinances and contracts; ensures the preparation and authenticity of agendas and minutes, ordinances, resolutions, contracts, deeds, bonds, correspondence and reports.

Plans, organizes and directs the conduct of municipal elections and voter registration; ensures the legality of the proceedings in accordance with the City Charter, State Election

Code and campaign financing laws; tabulates and certifies the election results; receives and processes initiative petitions; manages the City-wide conflict of interest and campaign financing programs.

Monitors and processes all appointments, resignations, and terminations for all official boards/commissions/committees; administers oaths and affirmations; attests to proper execution of all public documents, including conveyances, contracts and agreements.

Plans, organizes, assigns, directs, evaluates and reviews the work of assigned staff and makes final decisions on difficult questions of regulation interpretation; selects or directs the selection of assigned personnel and provides for their training and professional development.

Maintains official custody of the City of Pasadena seal and shares signatory power for City contract administration; prepares a variety of reports and memoranda for submission to the City Manager, City Council and other agencies.

Plans, develops and implements a City-wide records management program for the systematic retention, transfer, retirement or disposal of records in all City departments; establishes and maintains the records management procedural manual and provides on-going training of City personnel in records management.

Confers with and provides professional assistance to members of City departments in areas of responsibility; conducts a variety of workshops regarding departmental and City-wide procedures; represents the City in meetings with representatives of governmental agencies, business, professional and community agencies and the public.

Monitors and maintains current knowledge of developments related to City Clerk matters; evaluates their impact upon City operations and recommends and implements policy and procedural improvements.

Maintains, indexes and files all City records, prepares certified copies of City documents for elected officials, staff and the public as required.

QUALIFICATION GUIDELINES:

Education and/or Experience

Any combination of education and/or experience that has provided the knowledge, skills, and abilities necessary for acceptable job performance. Example combinations include: Bachelor's degree in Public or Business Administration and five years of experience, including three years at a supervisory level.

Knowledge, Skills and Abilities

Extensive knowledge of principles and practices of administrative management, including records management and systems analysis and implementation; applicable ordinances and codes pertaining to records management, the conduct of municipal elections, appeals to the City Council and the Brown Act; goal setting, program and budget development, work planning and organization; effective employee supervision, including selection, training, work evaluation and discipline; contract administration and evaluation; business computer user applications including input/output concepts and information retrieval; equal employment/affirmative action guidelines and policies.

Ability to plan, organize, assign, direct, review, and evaluate staff; select, motivate and provide for staff training and development; analyze and interpret complex legal documents, contracts, administrative procedures and regulations; develop and implement goals, objectives, policies, procedures, work standards and internal controls; plan and conduct training sessions; analyze complex administrative problems, evaluating alternatives, and make creative recommendations; plan, organize and coordinate effective municipal elections; exercise sound, independent judgment within general policy guidelines; represent the department effectively in meetings, including making presentations; establish and maintain cooperative working relations with a variety of citizens, public and private organizations and businesses, commissions/committees, City Council and City staff; communicate effectively, both orally and in writing; meet the physical requirements established by the City.

CLASS DATA:

Status = At Will

FLSA = Exempt

EEO = Officials/Admin

UNIT = Executive

ATTACHMENT B

PERFORMANCE GOALS FOR CITY CLERK FISCAL YEAR 2009

1. Administer the Municipal and PUSD March and April 2009 elections.
2. Recruit and fill vacant positions within the City Clerk's Office.
3. Work with the City Manager and the Department of Finance on options for restructuring the Records Management Division budget.
4. Continue to work with the Records Management Division to reduce the size of the Records Center and reducing dependency on off-site storage.
5. Monitor developments related to the implementation of Instant Runoff Voting under consideration in the City of Los Angeles and provide an update to the City Council.
6. Investigate "green" alternatives for the agenda preparation process, including a paperless solution.