

Employment

Agreement

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ICMA advances professional local government worldwide. Its mission is to create excellence in local governance by developing and advancing professional management of local government. ICMA, the International City/County Management Association, provides member support; publications, data, and information; peer and results-oriented assistance; and training and professional development to more than

9,000 city, town, and county experts and other individuals and organizations throughout the world. The management decisions made by ICMA’s members affect 185 million individuals living in thousands of communities, from small villages and towns to large metropolitan areas.

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**iv** ICMA MODEL EMPLOYMENT AGREEMENT 2012

**Introduction**

This Agreement, made and entered into this [date], by and between the [local government] of [state], [town/ city/county] a municipal corporation, (hereinafter called ”Employer”) and [name], (hereinafter called

“Employee”) an individual who has the education, train-

ing and experience in local government management and who, as a member of the International City/County Management Association (ICMA), is subject to the

ICMA Code of Ethics, both of whom agree as follows:

**Section 1: Term**

Recommended Language

A. This agreement shall remain in full force and effect from [date] until terminated by the Employer

or Employee as provided in Section 9, 10 or 11 of this agreement.

Option 1

The term of this agreement shall be for an initial period of [#] years from [date] to [date]. This Agree- ment shall automatically be renewed on its anniver- sary date for a [#] year term unless notice that the Agreement shall terminate is given at least [#] months

(12 months recommended) before the expiration date. In the event the agreement is not renewed, all com- pensation, benefits and requirements of the agreement shall remain in effect until the expiration of the term

of the Agreement unless Employee voluntarily resigns.

In the event that the Employee is terminated, as defined in Section 9 of this agreement, the Employee shall be entitled to all compensation including sal- ary, accrued vacation and sick leave, car allowance paid in lump sum or in a continuation of salary on

the existing [biweekly/monthly] basis, at the Employ- ee’s option, plus continuation of all benefits for the remainder of the term of this agreement.

**Section 2: Duties and Authority**

Recommended Language

A. Employer agrees to employ [name] as [title] to perform the functions and duties specified in [legal reference] of the [local government] charter and/or by ordinance (#) dated [legal reference] of the [local govern- ment] code and to perform other legally permissible and proper duties and functions without interference.

B. Employee is the chief executive officer of the Employer and shall faithfully perform the duties as prescribed in the job description as set forth in the Employer’s charter and/or ordinances and as may be lawfully assigned by the Employer and shall comply with all lawful governing body directives, state and federal law, Employer policies, rules and ordinances as they exist or may hereafter be amended.

C. Specifically, it shall be the duty of the Employee to employ on behalf of the Employer all other employees of the organization consistent with the policies of the governing body and the ordinances and charter of the Employer.

D. It shall also be the duty of the Employee to direct, assign, reassign and evaluate all of the employees of the Employer consistent with policies, ordinances, charter, state and federal law.

E. It shall also be the duty of the Employee to orga- nize, reorganize and arrange the staff of the Employer and to develop and establish internal regulations, rules and procedures which the Employee deems neces-

sary for the efficient and effective operation of the Employer consistent with the lawful directives, poli- cies, ordinances, state and federal law.

F. It shall also be the duty of the Employee to accept all resignations of employees of the Employer consis- tent with the policies, ordinances, state and federal law, except the Employee‘s resignation which must be accepted by the governing body.

G. The Employee shall perform the duties of (city, county or town) manager of the Employer with rea- sonable care, diligence, skill and expertise.

H. All duties assigned to the Employee by the govern- ing body shall be appropriate to and consistent with the professional role and responsibility of the Employee.

I. The Employee cannot be reassigned from the posi- tion of (city, county or town) manager to another posi- tion without the Employee’s express written consent.

J. The Employee or designee shall attend, and shall be permitted to attend, all meetings of the governing

body, both public and closed, with the exception of those closed meetings devoted to the subject of this Agreement, or any amendment thereto or the Employ- ee’s evaluation or otherwise consistent with state law.

K. The governing body, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints and suggestions called to their attention to the Employee for study and/or appropriate action.

**Section 3: Compensation**

Recommended Language

A. Base Salary: Employer agrees to pay Employee an annual base salary of [$ amount], payable in install- ments at the same time that the other management employees of the Employer are paid.

B. This agreement shall be automatically amended

to reflect any salary adjustments that are provided or required by the Employer’s compensation policies to include all salary adjustments on the same basis as applied to the executive classification of employees.

C. In addition, consideration shall be given on an annual basis to an increase in compensation.

Options for Section 3. C Compensation

Option 1

The Employer agrees to increase the compensation of the Employee dependent upon the results of the per- formance evaluation conducted under the provisions of Section 12 of this Agreement. Increased compen- sation can be in the form of a salary increase and/or

performance incentive and/or an increase in benefits.

Option 2

The Employer agrees to increase the compensation of the Employee dependent upon the results of the per- formance evaluation conducted under the provisions of Section 12 of this Agreement in addition to provid- ing a fixed annual increase in the Employee’s salary

based on an agreed upon economic indicator, such as the Consumer Price Index.

Option 3

The Employer agrees to increase the compensation by

[ %] each year.

Option 4

The Employer agrees to increase the compensation each year by at least the average across the board increase granted to other employees of the Employer.

D. At any time during the term of the Agreement, Employer may, in its discretion, review and adjust the salary of the Employee, but in no event shall the

Employee be paid less than the salary set forth in Sec- tion 3.A. of the Agreement except by mutual written agreement between Employee and Employer. Such adjustments, if any, shall be made pursuant to a law- ful governing body action. In such event, Employer and Employee agree to provide their best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.

E. Except as otherwise provided in this Agreement, the Employee shall be entitled, at a minimum, to the highest level of benefits enjoyed by and/or available to other employees, department heads or general employ- ees of the Employer as provided by the Employer’s policies, Charter, ordinances, or personnel rules and regulations or other practices.

**Section 4: Health, Disability and Life Insurance Benefits**

Recommended Language

A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents, at a minimum, equal to that which is provided to all other employ- ees of the [local government]. In the event no such plan exists, Employer agrees to provide coverage for the Employee and dependents in a manner mutually agreed upon by Employer and Employee.

B. The Employer agrees to put into force and to make required premium payments for short term and long term disability coverage for the Employee.

C. The Employee may elect to submit once per calen- dar year to a complete physical examination, including a cardio-vascular examination, by a qualified physi- cian selected by the Employee, the cost of which shall be paid by the Employer.

D. The Employer shall pay the amount of premium due for term life insurance in the amount of three (3) times the Employee’s annual base salary, including

all increases in the base salary during the life of this agreement. The Employee shall name the beneficiary of the life insurance policy.

Option 1

A. The Employer agrees to provide for full health, hos- pitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her depen- dents on an equivalent basis to that which is provided to all other employees of the [local government]. and Employer shall pay all premiums for the Employee and the Employee’s dependents. In the event no such plan exists, Employer agrees to provide full coverage for the

Employee and dependents in a manner mutually agreed upon by Employer and Employee.

B. The Employer agrees to put into force and to make required premium payments for short term and long term disability coverage for the Employee.

C. The Employee may elect to submit once per calen- dar year to a complete physical examination, including a cardio-vascular examination, by a qualified physi- cian selected by the Employee, the cost of which shall be paid by the Employer.

D. The Employer shall pay the amount of premium

due for term life insurance in the face amount of three (3) times the Employee’s annual base salary, including all increases in the base salary during the life of this agreement. If such coverage is not available through the Employer’s insurance carrier or the Employee elects to obtain coverage through a different insurance car- rier, the Employer shall reimburse the Employee for the cost of the premiums in an amount equal to the same value as that provided by the Employer’s insurance car- rier. The Employee shall own the life insurance policy and the life insurance policy shall be in the name of

the Employee and the Employee shall have the right to name the beneficiary of the life insurance policy.

Option 2

E. The Employer shall provide business travel insur- ance for the Employee while the Employee is traveling on the Employer’s business, and the Employee shall name the beneficiary thereof. Should the Employee die while on travel for the Employer, the Employer shall cover the full cost of retrieving and transporting the Employee’s remains back to the custody of the Employee’s family.

**Section 5: Vacation, Sick, and Military Leave**

Recommended Language

A. Upon commencing employment, the Employee shall be credited with [ # ] accrued sick leave hours and [ # ] accrued vacation leave hours. In addition, beginning the first day of employment, Employee shall accrue sick leave and vacation leave on an annual basis, at a minimum, at the highest rate provided or

available to any other employees, under the same rules and provisions applicable to other employees.

Option 1

Beginning the first day of employment, Employee shall accrue sick leave and vacation leave on an annual

basis equivalent to the number of years served in the profession.

B. Upon commencing employment, the Employee shall have access to a bank of 180 sick days to be used in the case of serious medical conditions. This leave can only be used to provide coverage during the waiting period

between the onset of illness or disability and the point at which short or long term disability coverage takes effect and may be renewed after each occurrence.

C. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee’s employment is terminated, either voluntarily or

involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, executive leave, and other benefits to date.

D. The Employee shall be entitled to military reserve leave time pursuant to state law and [local govern- ment] policy.

Option 2

E. The Employee shall annually be credited with five

(5) days of executive leave.

**Section 6: Automobile**

Recommended Language

The Employee’s duties require exclusive and unre- stricted use of an automobile to be mutually agreed upon and provided to the Employee at the Employer’s cost, subject to approval by Employer which shall not be withheld without good cause. It shall be mutu-

ally agreed upon whether the vehicle is purchased by the Employer, provided under lease to the Employer or to the Employee, or provided through a monthly allowance.

Option 1—Monthly Vehicle

Allowance

The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of [dol- lar amount] per year, payable monthly, as a vehicle allowance to be used to purchase, lease, or own, oper- ate and maintain a vehicle. The monthly allowance shall be increased annually by [% or $] amount. The

Employee shall be responsible for paying for liability, property damage, and comprehensive insurance cover- age upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee

at the IRS standard mileage rate for any business use of the vehicle beyond the greater [local government] area. For purposes of this Section, use of the car within the greater [local government] area is defined as travel to locations within a mile (recom- mended one hundred (100) mile) radius of the local government limits.)

Option 2—Employer Provided

Vehicle

The Employer shall be responsible for paying for liability, property damage, and comprehensive insurance, and for the purchase (or lease), operation, maintenance, repair, and regular replacement of a full-size automobile.

**Section 7: Retirement**

Recommended Language

The Employer agrees to enroll the Employee into the applicable state or local retirement system and to

make all the appropriate contributions on the Employ- ee’s behalf.

In addition to the Employer’s payment to the state or local retirement system (as applicable) referenced above, Employer agrees to execute and keep in force all neces-

sary agreements provided by ICMA Retirement Corpo- ration [ICMA-RC] or any other Section 457 deferred compensation plan for Employee’s [continued] participa- tion in said supplementary retirement plan. In addition

to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to [percentage of Employee’s base salary, fixed dollar amount of [ $ ]

, or maximum dollar amount permissible under Federal and state law into the designated plan on the Employee’s

behalf, in equal proportionate amount each pay period. The Employer and Employee shall fully disclose to each other the financial impact of any amendment to the terms of Employee’s retirement benefit.

In lieu of making a contribution to a Section 457 deferred compensation plan, the dollar value of this contribution may be used, at the Employee’s option, to purchase previous service from another qualified plan.

Option 1

Recognizing that effective service with the community is based in part on the stability provided through a long-term relationship, the Employer shall provide a retirement annuity, as directed by the Employee, at a rate of [dollar amount], payable at the completion of each quarter of the fiscal year. This annuity serves as a retirement contribution and does not require further action of the Employer.

Option 2

The Employer shall adopt a qualified 401(a) defined con- tribution plan offered through ICMA Retirement Corpora- tion for the Employee in the form of a money purchase plan to which the Employer shall contribute [%] of com-

pensation annually. The 401(a) plan shall be established as an employer paid plan with non-discretionary contri- butions by the Employer and the Employee shall have no right to receive such contributions in cash. The 401(a) plan shall be established under a written plan document that meets the requirements of the IRS Code and such document is hereby incorporated herein by reference.

The funds for the 401(a) plan shall be invested in such investment vehicles as are allowable under the IRS Code and the Employee shall make the sole determination as to how the funds are invested.

Option 2 A: The Employee shall be required to con- tribute [ % ] of base salary or [dollar amount] annu- ally on a pre-tax basis as a condition of participation.

Option3

The Employer shall adopt a qualified 401(a) profit- sharing plan offered through ICMA Retirement Cor- poration for the Employee in the form of a money purchase plan to which the Employer shall contribute [% ] of all performance bonuses annually.

Option 3 A: The Employee shall be required to con- tribute [ % ] of base salary or [dollar amount] annu- ally on a pre-tax basis as a condition of participation.

**Section 8: General Business Expenses**

Recommended Language

A. Employer agrees to budget and pay for professional dues, including but not limited to the International City/ County Management Association, and subscriptions of the Employee necessary for continuation and full par- ticipation in national, regional, state, and local associa- tions, and organizations necessary and desirable for the Employee’s continued professional participation, growth, and advancement, and for the good of the Employer.

B. Employer agrees to budget and pay for travel and subsistence expenses of Employee for profes- sional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities,

and such other national, regional, state, and local gov- ernmental groups and committees in which Employee serves as a member.

C. Employer also agrees to budget and pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee’s professional development and for the good of the Employer.

D. Employer recognizes that certain expenses of a non-personal but job related nature are incurred by Employee, and agrees to reimburse or to pay said gen- eral expenses. Such expenses may include meals where Employer business is being discussed or conducted and participation in social events of various organizations when representing the Employer. Such expenditures are subject to annual budget constraints as well as state

and Employer ethics and purchasing policies. The finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

E. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer

shall pay for the reasonable membership fees and/ or dues to enable the Employee to become an active member in local civic clubs or organizations.

F. Recognizing the importance of constant communi- cation and maximum productivity, Employer shall pro- vide Employee, for business and personal use, a laptop computer, software, internet connection at Employee’s permanent residence, mobile phone/personal digital assistant and/or tablet computer for business and

personal use, and pager for business and personal use required for the Employee to perform their duties and to maintain communication with Employer’s staff and officials as well as other individuals who are doing business with Employer. Upon termination of Employ- ee’s employment, the equipment described herein

shall become the property of the Employee and at the discretion of the Employee any mobile phone number shall be transferred to the Employee.

**Section 9: Termination**

Recommended Language

A. For the purpose of this agreement, termination shall occur when:

1. The majority of the governing body votes to termi- nate the Employee in accordance with (cite applicable local law) at a properly posted and duly authorized public meeting.

2. If the Employer, citizens or legislature acts to amend any provisions of the [charter, code, enabling legisla- tion] pertaining to the role, powers, duties, author-

ity, responsibilities of the Employee’s position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

3. If the Employer reduces the base salary, compensa- tion or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination.

4. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, then the

Employee may declare a termination as of the date of the suggestion.

5. Breach of contract declared by either party with a

30 day cure period for either Employee or Employer. Written notice of a breach of contract shall be pro- vided in accordance with the provisions of Section 20.

Option 1

A. In the event the Employee is terminated by the Employer during the six (6) months immediately fol- lowing the seating and swearing-in of one or more new governing body members, and during such time

that Employee is willing and able to perform his duties under this Agreement, then, Employer agrees to pay Severance in accordance with Section 10 plus salary and benefits in accordance with Section 10 for any portion of the six months not worked.

**Section 10: Severance** Severance shall be paid to the Employee when employment is terminated as defined in Section 9.

A. If the Employee is terminated, the Employer shall provide a minimum severance payment equal to twelve (12) months salary at the then current rate of pay. This severance shall be paid in a lump sum or

in a continuation of salary on the existing [biweekly/

monthly] basis, at the Employee’s option,

B. The Employee shall also be compensated for all sick leave, vacation leave, and all paid holidays.

The Employer agrees to make a contribution to the Employee’s deferred compensation account on the value of this compensation calculated using the then current annual salary of Employee at the date of termination divided by two thousand and eighty

(2080) hours. If the amount of the contribution under this Section exceeds the limit under the Code for a contribution to the Deferred Compensation plan, the remainder shall be paid to the Employee in a lump sum as taxable compensation.

C. For a minimum period of one year following termi- nation, the Employer shall pay the cost to continue the following benefits:

1. Health insurance for the employee and all depen- dents as provided in Section 4A, after which time, Employee will be provided access to health insurance pursuant to the Consolidated Omnibus Budget Recon- ciliation Act (“COBRA”).

2. Life insurance as provided in Section 4D

3. Short-term and long-term disability as provided in

Section 4B

4. Car allowance or payment of lease, or provide option to buy Employer’s vehicle at depreciated value

5. Out placement services should the employee desire

them in an amount not to exceed [$10,000 to $15,000 recommended], and

6. Any other available benefits.

D. If the Employee is terminated because of a felony conviction, then the Employer is not obligated to pay severance under this section.

E. The termination and severance of Employee shall be in accordance with the “Separation Agreement” agreed to by Employer and Employee. A template for such agreement is provided by ICMA, and is incorpo- rated herein by reference.

*\*Provisions for severance and severance related ben- efits may be governed by state and/or local law. Before entering into negotiations, both parties should be knowledgeable about relevant legal provisions.*

**Section 11: Resignation**

In the event that the Employee voluntarily resigns his/

her position with the Employer, the Employee shall

provide a minimum of 30 days notice unless Employer and Employee agree otherwise.

**Section 12: Performance Evaluation**

A. Employer shall annually review the performance of the Employee in [month] subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee.

The annual evaluation process, at a minimum, shall include the opportunity for both parties to: (1) conduct a formulary session where the governing body and the Employee meet first to discuss goals and objectives of both the past twelve (12) month performance period as well as the upcoming twelve (12) month performance period, (2) following that formulary discussion, prepare a written evaluation of goals and objectives for the past and upcoming year, (3) next meet and discuss the written evaluation of these goals and objectives, and (4) present a written summary of the evaluation results to the Employee.

The final written evaluation should be completed and delivered to the Employee within 30 days of the initial formulary evaluation meeting.

B. Unless the Employee expressly requests otherwise in writing, the evaluation of the Employee shall at all times be conducted in executive session of the govern- ing body and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Employer or Employee from sharing the content of the Employee’s evaluation with their respective legal counsel.

C. In the event the Employer deems the evaluation instrument, format and/or procedure is to be modified by the Employer and such modifications would require new or different performance expectations, then the Employee shall be provided a reasonable period of

time to demonstrate such expected performance before being evaluated.

D. In the event the Employee is an ICMA Credentialed Manager, the multi-rater evaluation tool will be uti- lized at a minimum of every five years.

**Section 13: Hours of Work** It is recognized that the Employee must devote a great deal of time outside the normal office hours on busi-

ness for the Employer, and to that end Employee shall

be allowed to establish an appropriate work schedule.

The schedule shall be appropriate to the needs of the Employer and shall allow Employee to faithfully per- form his or her assigned duties and responsibilities.

**Section 14: Ethical Commitments**

Employee will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto and incorporated herein. Specifically, Employee shall not endorse candidates, make financial contribu- tions, sign or circulate petitions, or participate in fund- raising activities for individuals seeking or holding elected office, nor seek or accept any personal enrich- ment or profit derived from confidential information

or misuse of public time.

Employer shall support Employee in keeping these

commitments by refraining from any order, direction or request that would require Employee to violate the ICMA Code of Ethics. Specifically, neither the govern- ing body nor any individual member thereof shall request Employee to endorse any candidate, make any financial contribution, sign or circulate any petition,

or participate in any fund-raising activity for individu- als seeking or holding elected office, nor to handle

any matter of personnel on a basis other than fairness, impartiality and merit.

**Section 15: Outside Activities**

The employment provided for by this Agreement shall be the Employee’s primary employment. Recognizing that certain outside consulting or teaching opportuni- ties provide indirect benefits to the Employer and the community, the Employee may elect to accept limited

teaching, consulting or other business opportunities with the understanding that such arrangements must neither constitute interference with nor a conflict of interest with his or her responsibilities under this Agreement.

**Section 16: Moving and Relocation Expenses**

Recommended Language

Employee agrees to establish residence within the cor- porate boundaries of the local government, if required, within [number] months of employment, and thereaf- ter to maintain residence within the corporate bound- aries of the local government.

A. Employer shall pay directly for the expenses of moving Employee and his/her family and personal property from [location name] to [location name]. Said moving expenses include packing, moving, storage costs, unpacking, and insurance charges.

The Employee shall provide evidence of actual mov- ing expenses by securing quotations from three (3) companies. The Employee shall submit these quotes to the Employer who, in consultation with the Employee, shall select the moving company.

B. Employer shall reimburse Employee for actual lodging and meal expenses for his/her family in route from [loca- tion name] to [location name]. Mileage costs for moving two personal automobiles shall be reimbursed at the cur- rent IRS allowable rate of [cents amount] per mile.

C. Employer shall pay Employee an interim housing supplement of [dollar amount] per month for a period commencing [date], and shall continue for a maxi- mum of [# ] months, or until a home is purchased

and closed on, within the corporate limits of the [local government name], whichever event occurs first.

D. Employer shall reimburse Employee for a total of [number] round trip air fares for Employee and his/ her family [amount of total tickets] at any time during

the first year of service to assist with house hunting and other facets of the transition and relocation process. The

Employee and his/her family may utilize and distribute the total [enter number] individual round trip tickets

in any combination of individual members making the trips. The Employee shall be reimbursed for actual lodg- ing and meal expenses incurred by Employee or his/her family members on any trips conducted prior to reloca- tion, as detailed herein.

E. The Employee shall be reimbursed, or Employer may pay directly, for the expenses of packing and moving from temporary housing to permanent hous-

ing during the first year of this agreement. The cost of this move shall not exceed (dollar amount).

F. The Employer shall pay the Employee’s tax liability on all Employer provided benefits for relocation and housing.

Option 1

The Employer shall pay a lump sum payment of [$] to the Employee to cover relocation costs.

**Section 17: Home Sale and Purchase Expenses**

Recommended Language

A. Employee shall be reimbursed for the direct costs associated with the sale of Employee’s existing per- sonal residence, said reimbursement being limited to real estate agents’ fees, and other closing costs that

are directly associated with the sale of the house. Said reimbursement should not exceed the sum of [$ ].

B. Employee shall be reimbursed for the costs inciden- tal to buying or building a primary residence within the [local government], including real estate fees, title insurance, and other costs directly associated with the purchase or construction of the house, said reimburse- ment not to exceed the sum of [$].

Option 1

Employer shall reimburse Employee for up to three discount points within thirty (30) days following pur- chase of a home within the corporate limits of [local government name], in an effort to minimize mortgage rate differentials.

Option 2

Employer shall provide Employee with a [fixed-interest, variable-interest, interest-only] loan to purchase a house. The amount of the loan shall not exceed $ . The loan shall be repaid in

full to the Employer upon the occurrence of either of the following events: (i) the home, or the Employee’s interest in the home, is sold, transferred, or conveyed, or (ii) the Employee’s employment with the Employer, for any reason, is terminated. The Employer and Employee shall execute any and all documents neces- sary to document this transaction.

Option 3

Employer agrees to provide the Employee a loan for the purchase of a home in an amount not to exceed [dollar amount]. Employee shall pay Employer a monthly mort- gage payment of [dollar amount] for interest, which is equal to the amount currently being paid in principle and interest for the current residence. Employee shall accrue equity at a rate of [% ] per month.

Upon termination of employment with the Employer, Employee shall have a maximum of six months to

sell the home while continuing to reside in it under the terms and conditions here. Should the home

sell during the time period, Employer shall receive

100% of the proceeds minus the percentage of equity accrued by Employee as described above, and minus the amount of equity originally invested by Employee. Said accrued equity and original equity shall both

be payable to Employee upon closing. Said original equity invested shall be calculated as an amount equal to the percentage of original purchase price, repre- sented by the original equity investment by Employee, and adjusted to be the same percentage of equity in

the current sale price of the home. All closing costs borne by the seller shall be split between Employer and Employee in a proportion equal to the equity share described above. Should the house fail to sell within the allotted six month time period, Employer has the option of allowing the previous arrangement to continue in place or to purchase equity, calcu- lated as provided above, plus the original cost of all improvements made to the property.

Option 4

A. Employer shall provide a residence for Employee

at no cost to Employee other than the monthly cost of all utilities and services. Should Employee choose to not accept the housing no additional housing incentive shall be provided to Employee.

B. Upon separation, voluntary or involuntary, Employee shall vacate the residence with six (6) months of date of separation.

Option 5

Employee shall place their current residence on the mar- ket and make every reasonable attempt to sell residence. If after six (6) months, Employee has not sold or agreed to sell their residence the Employer shall purchase the residence from Employee at ninety percent (90%) of current list price or appraised value whichever is less. Employer shall then place the residence on the market with all proceeds of any sale to Employer.

**Section 18: Indemnification**

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any obligation to pay money or perform or no perform action, including without limitation, any and all losses, damages, judg- ments, interests, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit

or proceeding, whether civil, criminal, administrative, arbitrative or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee’s duties as [job title] or resulting from the exercise of judgment

or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal rep- resentation at Employer’s expense and Employer may not unreasonably withhold approval. Legal representa- tion, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer

shall indemnify Employee against any and all losses,

damages, judgments, interest, settlements, penal-

ties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon,

or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settle- ment of any claim must be made with prior approval of the Employer in order for indemnification, as pro- vided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise and unless the Employee is a party to the suit which Employee shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a per- sonal nature to Employee. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee’s service to the Employer as long

as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation.

**Section 19: Bonding** Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

**Section 20: Other Terms and Conditions of**

**Employment**

A. The Employer, only upon agreement with Employee, shall fix any such other terms and condi- tions of employment, as it may determine from time to time, relating to the performance of the Employee, pro- vided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agree- ment, the [local government] Charter, local ordinances or any other law.

B. Except as otherwise provided in this Agreement, the Employee shall be entitled, at a minimum, to the highest level of benefits that are enjoyed by or offered to other [appointed officials, appointed employees, department

heads or general employees] of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Option 1—Appropriation

The Employer has appropriated, set aside and encum- bered, and does hereby appropriate, set aside, and encumber, available and unappropriated funds of the municipality in an amount sufficient to fund and pay all financial obligations of the Employer pursuant to this Agreement, including but not limited to, the Sev- erance and other benefits set forth in Section10.

**Section 21: Notices**

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, and addressed as follows:

(a) EMPLOYER: City of ( ) address city,state,zip

(b) EMPLOYEE: name address

city, state zip

Notice shall be deemed given as of the date of per- sonal service or as the date of deposit of such writ- ten notice in the course of transmission in the United States Postal Service.

**Section 22: General Provisions**

A. **Integration.** This Agreement sets forth and estab- lishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions

or representations by or between the Employer and Employee are merged into and rendered null and void by this Agreement. The Employer and Employee by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. **Binding Effect.** This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. **Effective Date.** This Agreement shall become effective on , .

D. **Severability.** The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both

Employer and Employee subsequent to the expunge- ment or judicial modification of the invalid provision.

E. **Precedence.** In the event of any conflict between the terms, conditions and provisions of this Agreement and the provisions of Council’s policies, or Employer’s ordinance or Employer’s rules and regulations, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of Council’s policies, or Employer’s ordinances, or Employer’s rules and regulations or any such permissive law during the term of this Agreement.

Name of Employer

By: Governing Body Representative

Executed this the (number) day of (month), (year).

Employee

Signature: Executed this the (number) day of (month),(year).

**Appendix 1**

**SEPARATION OF EMPLOYMENT AND GENERAL RELEASE**

This Separation of Employment and General Release Agreement (“Agreement”) is made by and between the [local government] (“Employer”) and

(“Employee”).

**WHEREAS,** Employer has employed Employee as its

; however, the parties wish

of all obligations due and owing Employee, Employer shall:

a. Pay Employee an amount equal to ( ) months of his current salary, subject to customary payroll deductions—to include Employee’s portion of health, dental and vision insurance premiums for

to enter into a voluntary agreement to terminate their ( ) months.

employment relationship and to resolve any actual or potential claims that either party may have against the other by reason of Employee’s employment or termi- nation thereof.

**WHEREAS,** The parties desire to set forth the terms and conditions governing Employee’s separation of employment and to provide for the settlement and release of any and all disputes or controversies that have arisen, or which may hereafter arise, between Employer and Employee, including without limitation, any and all claims arising out of or in any way related to Employee’s employment with or separation from

the Employer.

**NOW THEREFORE,** in consideration of the mutual covenants herein contained and the mutual benefits to be derived therefrom, the sufficiency of which consid- eration is hereby acknowledged by the undersigned, Employer and Employee agree and state:

1. **TERMINATION OF EMPLOYMENT.** Upon their mutual agreement, Employee’s employment

shall terminate on ,

20 , which shall be Employee’s final date of employment.

2. **NO ADMISSION OF LIABILITY.** This Agreement is not an admission by Employee or Employer of any wrongful conduct whatsoever. Both parties deny and disclaim any liability to or wrongful conduct against the other or any third party.

3. **PAYMENT AND BENEFITS.** Employee shall receive his/her regular paycheck for the pay period ending , 20 on or before , 20 . Employee shall receive on or before , 20 an additional payment to compensate for his accumulated leaves (vacation and floating holidays) and comp time, subject to customary payroll deductions.

As consideration for this Agreement and the release contained within, and in full and complete satisfaction

b. Continue, and pay for, Employer’s current health, dental and vision insurance coverages for ( ) months, ending on , 20 .

[C. INCLUDE ANY OTHER CONSIDERATION, SUCH AS AGREEING NOT TO CONTEST UNEMPLOYMENT, ALLOWING THE EMPLOYEE TO PURCHASE HIS WORK LAPTOP, ETC.]

3. **SURRENDER AND VACATION OF EMPLOYER’s PROPERTY.** Upon execution of this Agreement, Employee shall deliver all Employer’s property in his/her possession and further, shall vacate Employer’s property.

4. **RELEASE AND WAIVER OF CLAIMS.** In con- sideration of the benefits to be provided to Employee pursuant to this Agreement, Employee—including his heirs and assigns—hereby irrevocably and uncondi- tionally releases, acquits and discharges Employer and each of its past, present and future elected officials, department heads, officers, employees, agents, rep- resentatives and attorneys from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys’ fees and costs actually incurred), of any nature whatsoever, whether known

or unknown, arising out of any act, omission, or event from the beginning of time up to the execution of this Agreement. Employee specifically acknowledges and agrees that he is releasing and giving up any right that he may now have under federal or state law or politi- cal subdivision thereof and any claims that he may now have or could have asserted against Employer.

Employee specifically agrees to release all claims that against Employer under many different laws, including but not limited to: ***the Age Discrimination in Employ- ment Act, the Older Workers Benefit Protection***

***Act, and Executive Order 11141, which prohibit age discrimination in employment;*** Title VII of the Civil Rights Act of 1964, Section 1981 of the Civil Rights Act

of 1866, and Executive Order 11246, which prohibit discrimination based on race, color, national origin, religion, or sex; the Americans with Disabilities Act and Sections 503 and 504 of the Rehabilitation Act of

1973, which prohibit discrimination based on disabil- ity; any other federal, state, or local laws prohibiting employment or wage discrimination; the Fair Labor Standards Act of 1938 and state laws that regulate wage and hour matters; the Family and Medical Leave Act of 1993; the Employee Retirement Income Security Act of 1974; any federal, state, or local laws providing workers’ compensation benefits, prohibiting retalia- tory or wrongful discharge, otherwise restricting an employer’s right to terminate employees, or otherwise regulating employment; claims for breach of con-

tract, promissory estoppel, defamation, slander, or libel; claims for termination pay, severance, or other benefits; and any other federal, state, or local tort or contract claim. Employee expressly waives all rights that he might have under any law that is intended to protect him from waiving unknown claims.

Employer hereby irrevocably and unconditionally releases, acquits and discharges Employee from any and all from any and all charges, complaints, claims,

liabilities, obligations, promises, agreements, controver- sies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys’ fees and costs actually incurred), of any nature whatsoever, whether known or unknown, aris- ing out of any act, omission, or event from the begin- ning of time up to the execution of this Agreement.

5. **REFERENCES AND NON-DISPARAGEMENT.** If it is necessary for Employer to provide a reference

to a prospective employer, Employee agrees that he will direct the prospective employer to contact

. Additionally, Employee and the elected officials agree that they shall not disparage or make negative comments about each other; provided that this Section shall not apply to comments made to any other governmental entity or as required by law.

6. **REPRESENTATIONS AND WARRANTIES.** The undersigned parties hereby represent and warrant the following to the other:

a. Employee represents and warrants that: he/

she is legally and mentally competent to sign this Agreement; he/she is the sole owner of any claims against the Employer; he/she has the requisite capacity and authority to make this Agreement, and no portion of any existing or potential claims has

been sold, assigned or pledged to any third party; and he/she presently possesses the exclusive right to receive all of the consideration paid in exchange for this Agreement.

b. Employee represents and warrants that he/she has not and will not file any complaints, charges or law- suits against Employer or any of its past, present and future elected officials, department heads, officers, employees, agents, representatives or attorneys with any governmental agency or any court, including without limitation, any claim or matter of any nature whatsoever related to or arising out of his employ- ment with or separation of his/her employment, except Employee expressly reserves the right to file a claim for unemployment benefits. Employee further agrees to indemnify and hold Employer harmless from any and all loss, costs, damages or expenses, including reasonable attorney fees incurred by Employer, arising out of any claim concerning the separation of employment that may hereafter be made by the Employee or any other party.

c. Employer represents and warrants that it has not and will not file any complaints, charges or lawsuits against Employee with any governmental agency

or any court, including without limitation, any claim or matter of any nature whatsoever relating to or arising out of Employee’s employment with

Employer or the separation of his employment from

Employer. Employer further agrees to indemnify and hold the Employee harmless from any and all loss, costs, damages or expenses, including reason- able attorney fees incurred by Employee, arising

out of any claim arising from the separation of his employment that may hereafter be made by Employer or any other party.

d. Each party is fully aware of the contents of this Agreement and of its legal effect and understands that it should obtain legal advice regarding this Agreement as they deem appropriate. The parties hereto and each of them, have carefully read this Agreement and know the contents thereof, and they signed the same freely and voluntarily.

e. This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter herein. No waiver of a breach of any provision of this Agree- ment shall be construed to be a waiver of any breach of any other provision of this Agreement or

of any succeeding breach of the same provision.

No delay in acting with regard to any breach of any provision of this Agreement shall be construed to

be a waiver of such breach. If any provision in this Agreement is found to be unenforceable, all other provisions will remain fully enforceable.

f. No promise or inducement has been made or offered, except as herein expressly set forth, and this Agreement is executed without reliance upon any statement or representation by any of the released parties or their representatives.

g. 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 party.

h. This Agreement and any amendments hereto may be executed in multiple counterparts by the parties. Each counterpart shall be deemed an origi-

**carefully read the Agreement and the Release included herein; (c) fully understands it; and (d)**

**is entering into it voluntarily. Employee represents that Employer encouraged him/her to discuss this Agreement with an attorney of choice before sign- ing it. This Agreement shall not become effective or enforceable until the seven-day revocation period has expired without Employee having revoked acceptance of it.**

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the respective dates set forth below and each hereby acknowledge receipt of an executed copy of this Agreement.

On behalf of the Employer of

, :

nal, but all counterparts together shall constitute

one and the same instrument

7. **JURISDICTION.** This Agreement shall be gov- erned by the laws of the State of , and the

County District Court shall have exclu- sive jurisdiction of any disputes arising under this Agreement.

8. **BINDING EFFECT.** This Agreement shall be bind- ing upon and shall accrue to the benefit of the parties hereto, their respective personal representatives, suc- cessors in interest and assigns.

9. ***REVIEW & REVOCATION.* The parties acknowl- edge that Employee may revoke his/her acceptance and execution of this Agreement at any time within seven (7) days of the date of his/her execution of it. Any revocation shall be in writing and shall be effec- tive upon timely receipt by the Employer’s Attorney.**

**If the revocation is submitted by mail, the revoca- tion must be postmarked before the expiration of the seven (7)-day revocation period, and must be sent by overnight mail or other method so that it is received at the above address no later than the next business day immediately following the expira-**

**tion of the seven (7)-day period. Further, Employee represents that, before accepting and executing**

**this Agreement, he/she was given a review period of twenty-one (21) days in which to consider it. Employee further represents that he/she: (a) took advantage of as much of this period as required**

**to consider this Agreement before signing it; (b)**

Employer Date Attested by:

Employer’s Representative

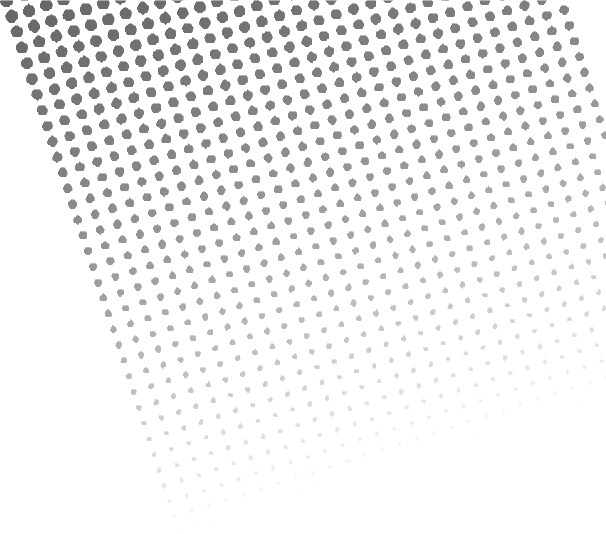
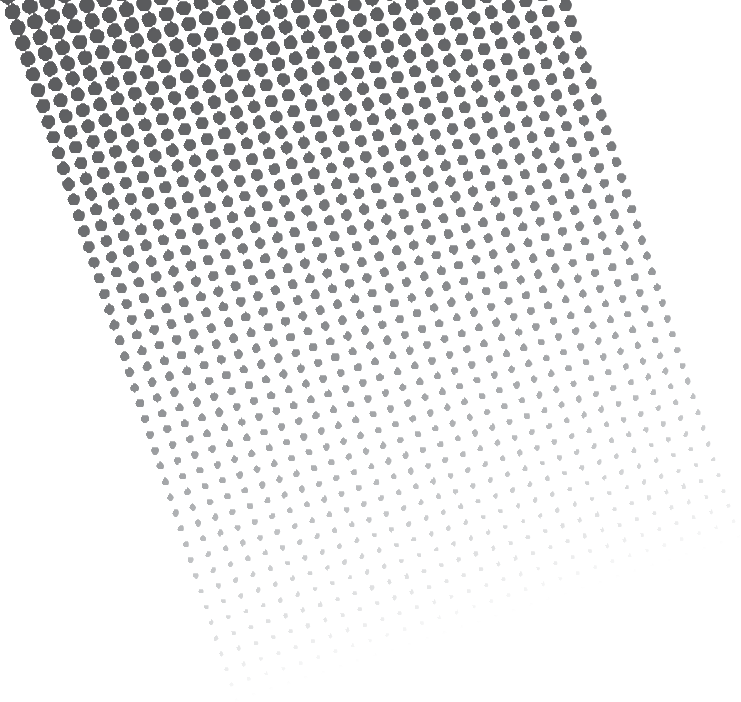
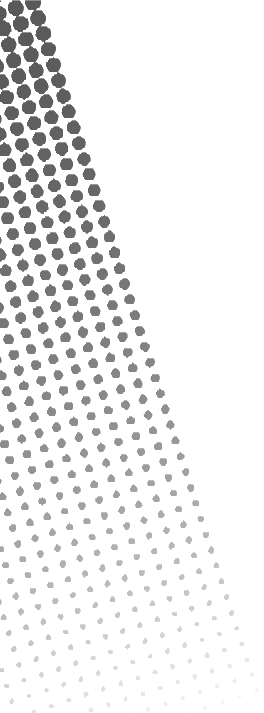
Date

On behalf of Employee:

Date

I N T E R N A T I O N A L C I T Y / C O U N T Y M A N A G E M E N T A S S O C I A T I O N

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