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## EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ( Agreement ), is made and entered into this 14th day of September, 2020, by and between the City of West Linn, an Oregon municipal corporation ( City ), and Jerry Gabrielatos ( Manager ), collectively the Parties .

### RECITALS:

Whereas, the City wishes Manager to serve as City Manager and Manager wishes to serve as City Manager for City.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

### TERMS OF AGREEMENT:

#### SECTION 1. EMPLOYMENT, DUTIES AND AUTHORITY

City agrees to employ Manager as City Manager. Manager agrees to serve as City Manager and to be responsible for administrative actions of the City exercising the authority given to the City Manager by state law, the City Charter and Code, and as otherwise delegated by the City Council to the City Manager. The authority of Manager, consistent with state law, City Charter or ordinance, shall include, but not be limited to the following:

1. The overall management, administration, and direction of City operations;
2. The selection, hiring, discipline, and termination of all City employees, not including positions which by Charter are City Council appointments;
3. The negotiation, execution, and administration of City contracts within budget appropriations pursuant to City policy and ordinance; and
4. Providing policy advice to the City Council and maintaining open communication with the community to foster responsive and courteous public service.

#### SECTION 2. TERM

The term of this Agreement shall commence on September 14, 2020 and shall continue until August 31, 2022. Should the City decide to not renew this Agreement, the City will notify the Manager on or before March 1, 2022. Nothing in this section prevents termination of this

Agreement by mutual agreement or as otherwise provided in this Agreement.

### SECTION 3.                    TERMINATION AND SEVERANCE

#### A.       Termination Without Cause.

This Agreement may be terminated by the City or Manager at any time without cause. City or Manager may terminate this Agreement for any reason by providing to the other thirty (30) days written notice of the intent to terminate.

#### B.       Termination for Cause.

This Agreement may be terminated by the City immediately for Manager s willful negligence, dishonesty, fraud or commission of any criminal act, willful failure or refusal to comply with the City Charter, ordinances, policies or rules of the City as are established and amended from time to time; failure to perform any provision of this Agreement or to perform the duties and responsibilities assigned to Manager; or failure to be bondable at normal rates. However, before any final decision is made to terminate employment under this subsection, Manager shall be given prior written notice of the cause(s) for termination and shall be provided an opportunity to respond in person or in writing to such cause(s). Severance Compensation as referenced under subsection 3(C) shall not be paid to Manager if Manager is terminated pursuant to this subsection.

#### C.       Severance Compensation

In the event of termination of this Agreement by the City pursuant to subsection 3(A) following a successful probationary period of six (6) months, Manager shall receive three (3) months salary and COBRA continuation coverage as severance compensation, provided Manager signs a full and final release of all claims, known and unknown, arising out of Manager s employment or termination of employment, as a condition precedent to receiving severance compensation. City will pay the full premium for health insurance coverage for Manager and Manager s dependents, if any, unless otherwise provided by law. In the event of termination of this Agreement by Manager pursuant to subsection 3(A), this subsection shall not apply.

### SECTION 4.                    SALARY

A.       City agrees to pay Manager for services rendered as City Manager an annual base salary of \$145,000, payable at the same intervals and on the same dates as other management personnel of City are paid. The City may deduct from pay such amounts as are required or permitted by law to be deducted from pay.

B.       City Council shall conduct a salary review of the Manager following a successful probationary period of six (6) months. Thereafter, a salary review will be conducted annually in June and may provide a salary and/or benefit increase to Manager based on that review. The salary review may be combined with the performance review provided for in Section 6. At its discretion, City Council may review and adjust salary and benefits any time.

SECTION 5.                    HOURS OF WORK

A.        It is recognized that Manager shall devote Manager s full time and attention to employment referred to herein and shall have no other employment. Manager may set their own schedule as needed to fully discharge the duties under this Agreement. Manager shall keep the Administration Office Staff aware of office schedule.

B.        Manager shall provide reasonable written notice to the City Council when Manager anticipates an absence from the City for three (3) or more business days. Manager shall keep time records indicating the amount of time not working on behalf of the City, sufficient to inform the Human Resources Department of leave taken in conformance with exempt employee time record keeping laws.

SECTION 6.                    PERFORMANCE EVALUATION

A.        The City Council shall conduct a performance evaluation of Manager five (5) months after hire date and then at least annually in June thereafter. The evaluation process shall be based on the process set forth within the International City/County Management Association ( ICMA ) and any additional process, form, criteria, or format mutually agreed upon the City Council and Manager. The initial review shall take the place of the normal annual review for 2021, unless the parties agree to also hold a June 2021 performance evaluation.

B.        The evaluation process, at a minimum, shall include the opportunity for both parties to: (1) conduct a formulary session where City Council and Manager 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 the 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 Manager. The final written evaluation should be completed and delivered to Manager within thirty (30) days of the initial formulary evaluation meeting.

C.        Unless Manager expressly requests otherwise in writing, the evaluation of the Manager shall at all times be conducted in executive session of the governing body and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the City or Manager from sharing the content of the Manager s evaluation with their respective legal counsel.

D.        In the event the City deems the evaluation instrument, format and/or procedure is to be modified by the City and such modifications would require new or different performance expectations, then the Manager shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

E.        City Council shall provide a mechanism for public input into the evaluation of the Manager and shall consider such public input in its evaluation of the performance and tenure of the Manager, in accordance with Section 21 of the City Charter.

F.        The Parties agree that the performance evaluation process defined herein is designed to ensure that the parties regularly communicate effectively on matters which relate to

the conduct of City business. It is understood by the Parties that any determination by the City Council that the Manager has met or exceeded expectations does not bar, in any way, the City's right to decide not to renew or terminate this Agreement.

SECTION 7. COUNCIL GOALS

The City Council and Manager shall define such mutual City goals and Manager performance objectives which they determine necessary for the proper operation of the City and attainment of the City Council's policy objectives. The parties shall further establish a relative priority among those goals and objectives. The goals and objectives will be reduced to writing by the Manager upon approval by the City Council. Manager will provide a report on progress toward addressing the goals and objectives as requested by City Council. The City Council and Manager shall meet at least once per year to define and modify the goals and objectives.

SECTION 8. VACATION, MANAGEMENT AND SICK LEAVE

A. Manager shall accrue vacation leave of 120 hours (15 business days) annually. The accrual and administration of vacation benefits shall be on the same terms as other City management employees. Manager is eligible to receive a cash payout for unused vacation leave in the event of termination of this Agreement pursuant to subsection 3(A) or contract expiration.

B. Manager shall receive 40 hours (5 days) of management leave per calendar year (prorated for fiscal year), to be taken consistent with City personnel policies as applied to management employees. Management leave is on a use-it-or-lose-it basis, which means unused management leave shall not carry over into subsequent calendar years. Manager has no right to payment for unused management leave at the time of resignation, termination, contract expiration or at any other time.

C. Manager shall be entitled to earn and accrue sick leave benefits on the same terms as other City management employee. Manager is not eligible to receive any cash payout or retirement credit for unused sick leave at the time of resignation, termination, contract expiration or at any other time.

SECTION 9. RETIREMENT AND INSURANCE

A. City agrees to contribute into the Public Employee's Retirement System, on Manager's behalf, an amount equal to that same percentage of salary contributed for City's other management employees, including the PERS Pickup. Manager is subject to the mandatory PERS waiting period.

B. City agrees to provide coverage and to make required premium payments at 90% for Manager and dependents for comprehensive medical and dental insurance, long-term disability insurance, and life insurance on the same basis as provided to other management employees. Manager shall be responsible for the remaining 10% of the premium. Manager shall be governed by the coverage waiting periods required by the City's policies.

SECTION 10.            VEHICLE ALLOWANCE

A.        Manager is entitled to a monthly vehicle allowance of \$500.00 to defray the cost of furnishing Manager s own vehicle for City use within a 30-mile radius of the City, with mileage reimbursed at IRS standard mileage rate for any business use of the vehicle beyond this radius. Manager shall responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair and regular replacement of vehicle.

B.        The Parties acknowledge that this benefit is part of Manager s total compensation package.

SECTION 11.            DUES AND SUBSCRIPTIONS, PROFESSIONAL DEVELOPMENT AND GENERAL EXPENSES

A.        City agrees to pay for the professional dues and subscriptions necessary for the Manager s membership in national, regional, state and local associations and organizations necessary for Manager's continued professional participation, growth and advancement, and for the good of the City, subject to approval of the annual budget.

B.        City encourages the professional growth and development of Manager and acknowledges that participation in professional conventions, short courses, seminars, and conferences can contribute to professional growth and development. Manager s attendance shall be subject to the approval of the annual budget. City shall permit a reasonable amount of time for Manager to attend. City shall also permit a reasonable amount of time for Manager to attend upper-level college courses.

C.        Other job-related expenses incurred by Manager on behalf of the City not described in this Agreement may be reimbursed; however, expense reimbursements shall be limited to those funds designated within City s approved annual budget and which comply with the City s employment policies and procedures. The City s Finance Director is hereby authorized to disburse such monies upon Manager s submission of a duly executed expense report or petty cash vouchers, receipts, statements or personal affidavits.

SECTION 12.            CELL PHONE

As part of Manager s compensation, City shall provide Manager with the use of a City-issued cell phone for work purposes only, as detailed in the City s Personnel Policy No. 12, beginning with the effective date of this Agreement. Manager may select the make and model of the cell phone to be used, subject to approval by the City. City approval shall not be withheld without good cause; however, the cell phone must be compatible with the City s computer system and other electronics used by City employees.

SECTION 13.            RELOCATION

As part of Manager s compensation, City shall provide up to a \$20,000 reimbursement for approved relocation expenses, on the condition that Manager moves to the City of West Linn. An itemized, but not exhaustive, list of approved relocation expenses is attached hereto as Exhibit A.

SECTION 14.            MEDIATION

The Parties mutually agree that any dispute that may arise under this Agreement will be submitted to a mediator agreed to by both Parties as soon as such dispute arises, but in any event prior to the commencement of litigation. Such mediation shall occur in Clackamas County, Oregon, and the mediation fee and expenses shall be paid by the City. The Parties agree to exercise their best efforts in good faith to resolve all disputes in mediation.

SECTION 15.            INDEMNITY

City agrees to defend, hold harmless, and indemnify Manager, to the extent permitted by law, from any and all demands, claims, suits, actions, and legal proceedings brought against Manager in Manager's individual capacity, or in Manager's official capacity as agent and employee of the City, as to any actions of Manager within the scope of the employment.

SECTION 16.            WAIVER OF BREACH

Waiver by the City or Manager of any breach of any provision of this Agreement shall not operate nor be construed as a waiver of any subsequent breach or a waiver of this provision.

SECTION 17.            BONDING

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

SECTION 18.            OTHER TERMS AND CONDITIONS OF EMPLOYMENT

A.     The parties may, from time-to-time, agree to modify the terms of this Agreement, provided that the amendment is reduced to writing and made a part of this Agreement.

B.     All provisions of the City Charter and Code, and regulations and rules of the City relating to holidays, deferred compensation, and other fringe benefits and working conditions, as they now exist or hereafter may be amended, also shall apply to Manager as they would to other management employees of City, in addition to the benefits provided in this Agreement. The City will provide Manager with deferred compensation at a rate of up to 5%, subject to a one-to-one match from Manager. In the event of a discrepancy between the City's generally applicable standards or policies and a provision of this Agreement, this Agreement shall control.

SECTION 19.            REPRESENTATION

At all times, the City has been represented by Timothy V. Ramis of the firm of Jordan Ramis PC. At all time, the Manager has had the right to and the availability of independent counsel of the Manager's own choosing in regard to this Agreement.

SECTION 20.            SEVERABILITY

If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, it shall be severed from this Agreement. The remainder of this Agreement shall not be affected and shall remain in full force and effect.

SECTION 21.            NOTICES

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, by certified mail, postage prepaid, addressed as follows:

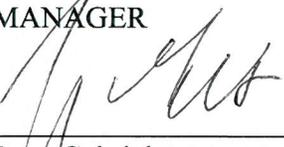
City:                            City Council  
                                      City of West Linn  
                                      22500 Salamo Road  
                                      West Linn, Oregon 97068

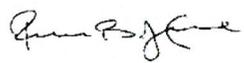
And

Timothy V. Ramis, City Attorney  
Jordan Ramis PC  
Two Centerpointe Drive, 6<sup>th</sup> Floor  
Lake Oswego, Oregon 97035

Manager:                      Jerry Gabrielatos  
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Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service. City and Manager may modify the addresses for such notices provided such modification is given in writing under the provisions of this section.

MANAGER  
  
\_\_\_\_\_  
Jerry Gabrielatos  
Date: 9.10.20

CITY OF WEST LINN, OREGON  
  
\_\_\_\_\_  
Russell B. Axelrod, Mayor  
Date: 8-10-20

APPROVED AS TO FORM  
  
\_\_\_\_\_  
City Attorney