

CITY ADMINISTRATOR EMPLOYMENT AGREEMENT

DATE: November 12, 2008

PARTIES: City of North Bend, Coos County, Oregon,
an Oregon Municipal Corporation (City)

[EMPLOYEE NAME]
(Administrator)

RECITAL: The purpose of this agreement is to establish the mutual and respective responsibilities, terms, and conditions under which Administrator will serve the City as its Administrator. Therefore, the parties agree as follows:

1. DUTIES AND RESPONSIBILITIES. The City agrees to employ the Administrator as Administrator of the City of North Bend, Coos County, Oregon, to perform the functions and duties specified in the Charter of the City of North Bend, the Ordinances of City of North Bend, the resolutions of the City of North Bend, and as required by the state and federal laws, and to perform other legally permissible and proper duties and functions as the City Council shall assign from time to time.

2. LENGTH OF EMPLOYMENT.

2.1 The length of this contract shall be for a period of two (2) years, commencing on November 12, 2008 and ending on November 11, 2010.

2.2 In the event written notice is not given by either party to this agreement prior to its termination date, as herein above provided, this agreement shall be extended on the same terms and conditions as herein provided, for an additional period of one (1) year. The contract shall continue to renew thereafter for one (1) year periods unless either party hereto gives written notice to the other party that the noticing party does not wish to extend this agreement for an additional one (1) year period.

2.3 Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the services of the Administrator at any time, subject only to the provisions set forth in Section 3, subparagraph 3.1 and 3.2 of this agreement.

2.4 Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Administrator to resign at any time from her position with City, subject only to the provisions set forth in paragraph 3.4 of this agreement.

3. TERMINATION AND SEVERANCE PAY.

3.1 In the event Administrator is terminated by the City before expiration of her term of employment under this agreement, and during such time as the Administrator is willing and able to perform her duties under this agreement, then, the City agrees to pay the Administrator a lump sum payment equal to six (6) months of her aggregate salary, benefits and deferred compensation as defined in Sections 4, 6, and 7 herein. For purposes of determining the lump sum payment, the benefits described in the following paragraphs do not apply: 7.4, 7.5, 7.6, 7.7, 7.8 and 7.9.

3.2 In the event Administrator is terminated because she willfully and repeatedly fails or refuses to comply with the policies, rules, regulations, and standards established by the Council in accordance with the City Charter and which have been communicated to her, or because she commits any felony or other acts of willful misconduct connected with her employment, the City shall be relieved of any responsibility to pay the severance pay referenced in section 3.1 above.

3.3 In the event Administrator voluntarily resigns her position while this agreement is in effect, then the Administrator shall not be entitled to severance pay in accordance with this section.

3.4 In the event Administrator voluntarily resigns her position with City before expiration of the term of her employment under this agreement, then Administrator shall give City three (3) months notice in advance, unless the parties agree otherwise in writing.

3.5 If Administrator is permanently disabled or is otherwise unable to perform her duties without reasonable accommodation because of sickness, accident, injury, mental incapacity or health for a period of twelve (12) successive weeks, City shall have the option to terminate this agreement, subject to the severance pay requirements of this section.

4. SALARY.

City agrees to pay Administrator for her services rendered pursuant hereto a monthly base salary of \$8,185.00 (City Pay Grade 20, Step 6), payable in installments at the same time as other City employees are paid. In addition, City agrees to review the salary range, the base salary, and other benefits of the Administrator at the annual performance review which shall be conducted in May of each year. Any adjustment in salary made during the life of this agreement shall be in the form of a written amendment and shall become a part of this contract. The Administrator shall be eligible for cost of living raises as received by the general service employees of the City during the term of this agreement.

5. HOURS OF WORK.

It is understood and agreed that the Administrator must devote a great deal of time outside of normal office hours to the business of the City, and Administrator is, therefore, entitled to take time off to such extent as she deems appropriate during normal office hours, provided the same do not interfere unduly with performance of the Administrator duties. Such hours shall not exceed eighty (80) hours per fiscal year which shall be recorded on monthly time sheets as paid administrative leave filed with the City Recorder.

6. VACATION, HOLIDAYS AND SICK LEAVE.

6.1 Holidays. Administrator shall be entitled to paid legal holidays.

6.2 Vacation. Administrator shall be entitled to receive three (3) weeks of paid vacation annually, exclusive of legal holidays, during her first three (3) years of service. In all years of service thereafter she will be entitled to four (4) weeks per year of paid vacation annually, exclusive the legal holidays. Unused vacation days shall accumulate beyond the year of entitlement up to a maximum of four (4) weeks. Any unused vacation time in excess of four (4) weeks that is accumulated in beyond the year of entitlement shall be paid to the administrator rather than continue to accumulate.

6.3 Sick Leave. Administrator shall be entitled to 1 day of sick leave monthly. Unused sick leave may accumulate in accordance with City policies applying to other non-bargaining unit employees of the City up to a maximum of ninety (90) days.

7. BENEFITS.

7.1 Insurance Benefits. The Administrator shall be entitled to receive all insurance benefits provided to other non-represented employees of the City. The City shall pay the same premium that is paid for non-represented employees of the City.

7.2 Public Employees Retirement System. Administrator shall be entitled to the same retirement benefit as other non-represented employees.

7.3 Changes in Benefits. Any changes in fringe benefits, specifically any increase or decreases as may be developed through bargaining or provided on any other basis to City non-represented employees, will automatically apply to the Administrator.

7.4 Automobile Expense. City agrees to pay Administrator the sum of \$375.00 per month as a vehicle allowance for travel and other business expenses related to the operation of an automobile in the discharge of her duties.

7.5 Cell Phone Expense. City agrees to pay Administrator the sum of \$30.00 per month for use of her personal cell phone in the discharge of her duties.

7.6 Civic Membership. City recognizes the desirability of representation in and before local civic and other organizations, and the Administrator is authorized to become a member of the Coos Bay - North Bend Rotary, the North Bend Kiwanis, and Lions Clubs, for which City shall pay membership expenses including the cost of meals. Administrator shall determine which civic organizations that she shall become a member of based on the benefits to the City and her duties. She will report her decision to the City for approval.

7.7 Professional Development. City agrees to budget and pay the registration, travel, and subsistence expenses of the Administrator for professional and official travel, meetings, and occasions deemed necessary or desirable to continue the professional development of the Administrator and to adequately pursue necessary official functions of the City. The Administrator shall make periodic reports to the council on such activities.

7.8 General Expenses. City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by the Administrator and hereby agrees to reimburse her for expenses incurred upon receipt of duly executed expense vouchers, receipts, statements, or personal affidavits in accordance with federal, and state law as specified in the prevailing policy of the City. Examples of such expenses include meals during which City business is conducted or where the Administrator is requested to attend to represent the City, purchases for materials for recognition of employees or volunteers, and all travel and lodging incurred in the conduct of City business.

7.9 Due and Subscriptions. City agrees to budget and pay the professional dues and subscriptions of the Administrator appropriate for her continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for her continued professional participation, growth, and advancement, and to improve her performance in her duties as City Administrator of the City.

7.10 The Administrator shall file an itemized statement of the expenses outlined in paragraphs 7.6 - 7.9 with the finance office after such expense has been approved by the Mayor or the council.

8. PERFORMANCE EVALUATION.

8.1 Annual Evaluation. The council shall meet annually, no later than the 1st day of May of each year, with the Administrator to discuss Administrator-Council relationships, to assess the Administrator's job performance and to adjust the

annual salary. Said meeting shall be an executive session. Such evaluation shall be made in reference to the position description of the Administrator and goals and objectives established for the Administrator for that year of evaluation. The purposes of the evaluation are to improve administrative leadership, maintain open lines of communication, and to enhance relations between the Council and Administrator. The Administrator shall be entitled to meet with the Council to review its evaluation and supply any information that she may deem pertinent. The Council shall prepare a written document suitable for public disclosure which accurately reflects the character of the Administrator's evaluation.

9. NOTICES.

9.1 Any notice or other communication required or permitted to be given under this agreement shall be in writing and shall be mailed by Certified Mail, Return Receipt Requested, postage prepaid, addressed to the parties as follows:

Mayor, City of North Bend
P.O. Box B
North Bend, Oregon 97459

with a copy to

Mike R. Stebbins
Attorney at Law
P. O. Box 1006
North Bend, OR 97459

Janet Willis
P.O. Box 44
North Bend, OR 97459

9.2 Any notice or other communication shall be deemed to be given at the expiration of the 2nd day after the date of deposit in the United States Mail. The addresses to which notices or other communication shall be mailed may be changed from time to time by giving written notice to the other party.

10. ATTORNEY FEES

In the event any action, suit, arbitration or other proceeding shall be instituted by either party to this Agreement to enforce any provision of this Agreement or any matter arising therefrom or to interpret any provision of this Agreement, including any proceeding to compel arbitration, the prevailing party shall be entitled to recover from the other a reasonable attorney fee to be determined by the Court or Arbitrator(s). In addition to recovery of a reasonable attorney fee, the prevailing party shall be entitled to recover from the other costs and disbursements, including all costs of Arbitration and the Arbitrator(s) fees, and expert witness fees, as fixed by the Court or tribunal in which the case is heard. In the event any such action, suit, arbitration or other proceeding is appealed to any higher court or courts, the prevailing party shall recover from the other a reasonable attorney fee for prosecuting or defending such appeal or appeals, in addition to the reasonable attorney fees in the lower court or courts or arbitration proceeding, such fee to be determined by the appellate court or lower court or arbitrator, as the appellate court may determine. In addition to recovery of a reasonable attorney

fee on appeal, the prevailing party shall be entitled to recover from the other costs and disbursements and expert witness fees as fixed by the appellate court. All costs and disbursements which may be awarded pursuant to this paragraph shall bear interest at the maximum legal rate from the date they are incurred until the date they are paid by the losing party.

11. AMENDMENTS

This Agreement may be amended only by an instrument in writing executed by all the parties.

12. HEADINGS

The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

13. ENTIRE AGREEMENT

This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

14. SEVERABILITY

If any provision of this Agreement shall be invalid or unenforceable in respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

15. WAIVER

A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.

16. GOVERNING LAW

This agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

17. ARBITRATION

17.1 Any controversy or claim arising out of or relating to this Agreement, including without limitation, the making, performance, or interpretation of this Agreement shall be settled by arbitration. If Administrator or City disagree whether either is legally entitled to recover damages under this Agreement then either Administrator or City may make a written demand for arbitration. The parties agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. The party seeking arbitration shall give written notice to that effect to the other and shall, in that notice, select an arbitrator. Within fifteen (15) days thereafter, the other party shall by written notice either agree to the arbitrator selected or suggest another person to act as arbitrator. If the parties cannot agree within thirty (30) days to the selection of a single arbitrator after the election to arbitrate, either party may request that the selection of an arbitrator be made by a judge of the Circuit Court for Coos County, Oregon. Administrator and City will pay their own costs of arbitration, and, unless costs are awarded by the arbitrator to the prevailing party, each are obligated to pay one half of the arbitrator's fee.

17.2 Unless otherwise agreed the arbitration shall be conducted in Coos County, Oregon. If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided for by the Oregon Rules of Civil Procedure both in advance of and during recess of the arbitration proceedings. ORS 183.450 (1) through (4), where applicable, shall control the admission of evidence at the hearing in any arbitration conducted hereunder, provided however no error by the arbitrator in application of the statute shall be grounds as such for vacating the arbitrator's award. Each party shall be entitled to present evidence and argument to the arbitrator. The arbitrator shall give written notice to the parties stating the arbitration determination and shall furnish to each party a signed copy of such determination and judgment so the award may be entered in any court having jurisdiction over the parties.

17.3 If arbitration is commenced, this contract shall be governed by and construed in accordance with the laws of the State of Oregon. The parties agree that the arbitrator shall have no jurisdiction to render an award or judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a judgment may be entered on the arbitrator's award. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law. Unless otherwise inconsistent herewith, the provisions of ORS chapter 36 shall apply to any arbitration hereunder. In the event of arbitration under the provisions of this agreement, the prevailing party shall be awarded reasonable attorney fees and related costs, disbursements and expert witness fees as provided for in this contract.

17.4 The duty to arbitrate shall survive the cancellation or termination of this Contract.

IN WITNESS WHEREOF, City, pursuant to the authority of its City Council, by motion duly and regularly adopted on the 12th day of November, 2008, has caused two duplicate originals of this Contract to be signed in the name of the City by the Mayor, and the Administrator has also signed this Contract on the date and year hereinabove mentioned.

City of North Bend

By _____
Rick Wetherell, Mayor

[NAME], Administrator

Attest: _____
Joann Thompson, City Recorder