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Employment Agreement

Introduction

This Agreement, made and entered into this _____ day of May, 2013, by and between the City of Decatur, Georgia, a municipal corporation, (hereinafter called "Employer") and Peggy Merriss, (hereinafter called "Employee") an individual who has the education, training and experience in local government management and who, as a member of International City-County Management Association ("ICMA"), is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Term

The term of this agreement shall be for an initial period of two (2) years from January 7, 2013 to December 31, 2014. This Agreement shall automatically be renewed on January 1, 2015 for an additional two (2) year term unless notice that the Agreement shall terminate is given by either party at least 6 months before the expiration date ("Expiration Notice"). In the event the Expiration Notice is given, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns or Employee is terminated pursuant to Section 9 below.

Section 2: Duties and Authority

Employer agrees to employ Peggy Merriss as City Manager to perform the functions and duties specified in Section 4.11 of the City of Decatur Charter and to perform other legally permissible and proper duties and functions.

Section 3: Compensation

Base Salary: For the period from January 7, 2013 until December 31, 2015, the Employer agrees to pay Employee an annual base salary of \$162,000, payable in installments at the same time that the other employees of the Employer are paid.

Section 4: Health, Disability and Life Insurance Benefits

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 her dependents equal to that which is provided to all other employees of the City.

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 Employer agrees to provide and to pay the premiums due for term life insurance in the amount of at least two (2) 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.

D. The Employer shall provide travel insurance for the Employee while the Employee is traveling on the Employer's business, with the Employee to name beneficiary. 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

A. The Employee shall accrue vacation leave on an annual basis at the rate provided to any other City employees with similar length of service.

B. The Employee shall accrue sick leave at the rate provided to any other City employees up to a maximum cap of 520 hours. The cap is equal to half of the maximum cap allowed for other City employees and reflects the use by the Employee of a three-month credit towards determining years of service for calculating retirement benefits as provided for in rules of the City of Decatur Employees' Retirement System.

C. In the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation leave and accrued compensatory leave, but not sick leave.

Section 6: Automobile

The Employee's duties require exclusive and unrestricted use of an automobile to be mutually agreed upon and provided to the Employee at the Employer's cost.

The Employer shall be responsible for paying for liability, property damage, and comprehensive insurance, and for the operation, maintenance, and repair of the vehicle.

Section 7: Retirement

A. The Employer agrees to pay an amount equal to the maximum dollar amount (\$17,500 for 2013, plus \$5,500 in over 50 catch-up contribution) permissible under Federal and state law into the City's ICMA-RC 457 plan on the Employee's behalf, in equal proportionate amount each pay period.

B. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

Section 8: General Business Expenses

A. Employer agrees to budget for and to pay for professional dues and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, 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 for and to pay for reasonable travel and subsistence expenses of Employee for professional 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 municipal association, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.

C. Employer also agrees to budget for and to pay for reasonable 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. 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 a local civic club or organization.

Section 9: Termination

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

A. The majority of the City Commission votes to terminate the Employee at a duly authorized public meeting.

B. The City of Decatur Charter is amended in a manner that substantially changes the form of government relating to the position of City Manager, and Employee provides written notice to Employer, within thirty (30) days after the effective date of such amendment, that Employee considers such changes to constitute termination.

C. The Employer reduces the base salary, compensation or other financial benefit of Employee, and Employer fails to restore such reduction within fifteen (15) days of written notice from Employee of such improper reduction. Specifically excepted from this provision is any reduction that is applied in no greater percentage than an across-the-board reduction for all City department heads.

Section 10: Severance

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

If the Employee is terminated, the Employer shall provide a minimum severance payment equal to one-year salary plus deferred retirement contributions at the current rate of pay. This severance shall be paid in a lump sum. Or, if agreeable to the Employee shall be paid in equal installments during which installment period the Employee shall continue to receive medical insurance benefits. Other options may be agreed upon by the Employer and the Employee.

If the Employee is terminated because of a conviction of any illegal act involving personal gain to her, then the Employer is not obligated to pay severance under this section.

Section 11: Resignation

In the event that the Employee voluntarily resigns her position with the Employer, the Employee shall provide a minimum of thirty (30) days notice unless the parties agree otherwise.

Section 12: Performance Evaluation

Employer shall annually review the performance of the Employee in December subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

Section 13: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14: Outside Activities

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities 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 shall not constitute interference with or a reduced dedication to her responsibilities under this Agreement.

Section 15: Indemnification

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee 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 performance of Employee's duties as City Manager 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 representation at Employer's expense to defend such legal action and Employer may not unreasonably withhold approval of such representation. Legal representation, 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, 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 her duties. Any settlement of any claim must be

made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise and settle any indemnified claim. Unless the Employee is a party to the suit, Employee shall have no veto authority over the settlement of any indemnified claim. In the event Employee is required to be involved in litigation subsequent to the termination or expiration of this Agreement, as a party, witness or advisor to Employer, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any such litigation, including reasonable consulting fees and travel expenses.

Section 16: Bonding

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

Section 17: Other Terms and Conditions of Employment

The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City of Decatur, Georgia, Charter or any other law.

Section 18: Notices

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

(1) EMPLOYER:

Mayor
City of Decatur, Georgia
P.O. Box 220
Decatur, Georgia 30031

(2) EMPLOYEE:

Peggy Merriss
408-C Sycamore Drive
Decatur, Georgia 30030

Alternatively, notice 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 the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 19: General Provisions

A. Integration. This Agreement sets forth and establishes 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 parties are merged into and superseded by this Agreement. The parties by mutual written agreement, signed by both parties, 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 April __, 2013.

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 parties subsequent to the expungement or judicial modification of the invalid provision.

James A. Baskett
Mayor of Decatur

Peggy Merriss

ATTEST:

APPROVED AS TO FORM:

Notary

Bryan A. Downs
City Attorney