

**Employment Agreement
Between
City and Borough of Sitka
And
John Leach**

This Employment Agreement ("Agreement"), made and entered into this 23rd day of OCT, 2019, by and between the City and Borough of Sitka, Alaska, a home rule municipality ("the Municipality" or "Employer") and John Leach ("Employee").

Recitals

1. The Municipality desires to employ the services of Employee as Municipal Administrator serving at the pleasure of the Municipal Assembly; and
2. It is the desire of the Municipal Assembly to provide certain benefits and conditions of employment for the Employee; and
3. Employee desires to accept employment as the Municipal Administrator of the Municipality.

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

**Section 1
Employee Employment and Duties**

The Municipality employs Employee as Municipal Administrator to perform the function and duties specified in the Home Rule Charter of the City and Borough of Sitka ("Charter") and the Sitka General Code ("SGC"), and to perform other legal duties and functions as the Municipal Assembly shall from time-to-time assign.

**Section 2
Indefinite Term, Removal and Resignation**

A. **Indefinite Term.** In accordance with the Charter Section 4.01, Employee is appointed Municipal Administrator for an indefinite term, effective April 1, 2020, or an earlier date as mutually agreed by Employee and Mayor. Employee hereby acknowledges receipt of a copy and review of Charter Section 4.01, which is attached and hereby incorporated by reference.

B. **Removal; Suspension.** Employee understands that the Charter establishes that the Municipal Administrator shall serve at the pleasure of the Municipal Assembly. The Employee agrees that he is an at-will employee which means that he is serving at the pleasure of the Municipal Assembly. Employee further understands and agrees that he may be removed or suspended without cause. Employee further understands and agrees that any such removal or

suspension must be in accordance with the procedures found in Charter Section 4.02. Employee hereby acknowledges receipt of a copy and review of Charter Section 4.02, which is attached and hereby incorporated by reference.

C. **Resignation.** Employee may terminate this Agreement for any reason, or no stated reason, upon giving ninety (90) calendar days written notice to the Mayor. In the event the Employee terminates this Agreement under this paragraph, the Municipality shall pay the Employee his salary and accrued but unused vacation leave, to the date of the resignation (which means when Employee no longer works for Employer), less the amount of any unpaid balance owed to the Municipality by the Employee at the time of resignation.

Section 3 Salary

During the term of this Agreement, the Municipality agrees to pay Employee for services rendered an annual base salary of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$125,000.00), less applicable withholdings.

Section 4 Performance Review

The Municipality agrees to review Employee's performance quarterly, at regular or special meetings of the Municipal Assembly as set by the Mayor, for the first year of employment and, thereafter, as provided by the SGC or other applicable policy. Upon review, at the sole discretion of the Municipal Assembly, the Municipal Assembly may increase the Employee's salary and benefits.

Section 5 Hours of Work

As the Municipal Administrator, Employee is exempt from the provisions of the Fair Labor Standards Act ("FLSA") and shall not be paid overtime or be given compensatory time off for hours worked in excess of forty (40) per workweek. Employee shall not be bound to a workweek of any set number of hours. However, Employee is expected to work as many hours as the duties and responsibilities of his position requires.

Section 6 Vacation and Benefits

A. **Vacation Accrual.** Effective April 1, 2020, or first day of work, Employee shall have eighty (80) hours of vacation leave that may be used immediately upon hire. Employee shall accrue vacation leave thereafter at a rate of 8.67 hours per month. The terms and conditions of the leave are subject to the provisions of the City and Borough of Sitka Personnel Policies Handbook ("Handbook").

B. **Other Benefits and Insurance.** Employer shall provide Employee with sick leave, life insurance, health insurance, retirement, and other benefits provided to other exempt
Employment Agreement between CBS and John Leach

employees as described in the Handbook. Employer shall provide Employee with Public Officials Liability Insurance currently maintained by the Municipality.

C. **Membership dues** in professional organizations International City and County Management Association, and the Alaska Municipal League are also provided. Travel may be required for conferences and other duties at the expense of the Municipality.

Section 7 Indemnification

Employer agrees to defend and indemnify Employee in accordance with SGC Chapter 2.10, Defense And Indemnification Of Officers And Employees. Employee hereby acknowledges receipt of a copy and review of SGC Chapter 2.10, which is attached and hereby incorporated by reference.

Section 8 Other Terms and Conditions of Employment

The Municipal Assembly may fix any other terms and conditions of employment, as it may determine from time-to-time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any applicable federal, state or local laws. Such terms and conditions of employment, if approved by the Municipal Assembly, shall only be effective if in writing signed by the Mayor and the Employee.

Section 9 Conflicts of Interest

Employee understands and agrees that he is subject to Charter Section 17.01 and SGC Section 1.04.080 as to conflicts of interest. Employee hereby acknowledges receipt of a copy and review of Charter Section 4.02 and SGC 1.04.080, which are attached and hereby incorporated by reference. In addition, Employee shall be sensitive to both actual and perceived conflicts of interest as the Municipal Administrator and the Employee's personal conduct including activities of members of the Employee's immediate family that are within his control which could similarly result in an actual or perceived conflict of interest. When in doubt, the Employee should consult with the Mayor in advance of any potential conflict before proceeding on the matter.

Section 10 General Provisions

A. **Assignments and Subcontracts.** The Employee may assign any of the work to be performed under this Agreement to third parties, so long as he oversees such assignments and informs the Assembly of such assignments.

B. **Applicable Law.** This Agreement shall be deemed to have been entered into and shall be construed and governed, except with respect to conflict of laws, in accordance with the laws of the State of Alaska.

C. **Waivers.** Failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future exercise of such right, but the obligation of the other party with respect to such future performance shall continue in full force and effect.

D. **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or provisions were omitted.

E. **Amendments.** This Agreement may not be amended, modified, released, discharged, supplemented, interpreted, or changed in any manner except by written instrument signed by duly authorized representatives of both parties.

F. **Headings.** The headings utilized herein are provided as aids in referencing provisions of this Agreement, but shall not be utilized in interpretation, or construction of terms and conditions of it.

G. **Entire Agreement.** This Agreement contains the entire and only understanding or agreement between the parties in relation to the employment of the Employee as the Municipal Administrator. Any verbal or written representations, provision, undertakings or conditions hereof not contained in the wording of this Agreement shall be of no effect and shall not be binding on either party.

IN WITNESS THEREOF, the City and Borough of Sitka, on a vote of its Assembly on Tuesday, October 22, 2019, has approved this Agreement and directed it to be signed and executed on its behalf by its Mayor and duly attested by its Municipal Clerk, and the Employee has signed this Agreement on the dates written below.

[SIGNATURES AND ACKNOWLEDGEMENTS ON NEXT PAGE]

10/23/2019
Date

[Signature]
John Leach

STATE OF VA)
COUNTY OF Arlington) ss.

The foregoing instrument was acknowledged before me this 23 day of October, 2019, by John Leach.



[Signature]
Notary Public in and for the State of VA
My commission expires: 31 Jan 2022

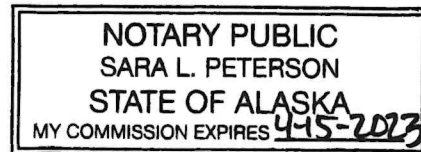
10-30-19
Date

[Signature]
CITY AND BOROUGH OF SITKA, ALASKA
By: Gary L. Paxton
Its: Mayor

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

The foregoing instrument was acknowledged before me this 30 day of October, 2019, by Gary L. Paxton, Mayor of the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality, on behalf of the municipality.

[Signature]
Notary Public in and for the State of Alaska
My commission expires: 4-15-2023



**FIRST AMENDMENT TO EMPLOYEE AGREEMENT
BETWEEN CITY AND BOROUGH OF SITKA
AND JOHN LEACH, DATED OCTOBER 30, 2019**

The City and Borough of Sitka ("CBS") and John Leach agree to amend John Leach's Employee Agreement of October 30, 2019, pursuant to Sections 10 (E) of the Agreement, as follows:

- (1) Amendment to Section 3 "Salary": Effective March 1, 2021, the Municipality agrees to pay Employee for services rendered an annual base salary of ONE HUNDRED FORTY THOUSAND DOLLARS AND NO CENTS (\$140,000.00), less applicable withholdings. In addition, Employee shall receive the annual 1.5% increase in pay provided to employees under the City and Borough of Sitka Personnel Policies Handbook.
- (2) Amendment to Section 6 (A) "Vacation Accrual": Effective November 10, 2020, Employee shall accrue vacation leave at a rate of 16.67 hours per month.
- (3) Amendment to Section 6 by adding subsection "D. Severance Pay": Effective November 10, 2020, as follows:

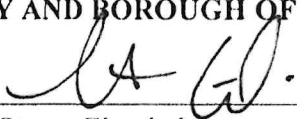
1. In the event the Employee is terminated by the Municipal Assembly during the first five (5) years of the indefinite term of this Agreement, the Municipality shall give the employee three (3) months of pay as severance. Severance pay shall be equal to the monetary value of all pay and benefits provided for the period of severance pay due. This section does not apply if employee is terminated for commission of a crime or gross misconduct as determined by the Assembly. Severance pay shall be paid in a lump sum payment, less applicable taxes.

2. The Municipality also agrees to pay the Employee's COBRA health insurance premium coverage for three (3) months after date of separation.

3. Employee shall be entitled to any accrued but unused vacation leave as of the date of separation.

All other terms and conditions of the Agreement shall remain in full force and effect during this extended term of the Agreement. This First Amendment to the Agreement was approved by the CBS Municipal Assembly on November 10, 2020.

CITY AND BOROUGH OF SITKA



By: Steven Eisenbeisz

Its: Mayor

CITY AND BOROUGH OF SITKA



By: John Leach

Its: Municipal Administrator

**SECOND AMENDMENT TO EMPLOYEE AGREEMENT
BETWEEN
CITY AND BOROUGH OF SITKA
AND
JOHN LEACH**

The City and Borough of Sitka ("CBS") and John Leach agree to amend John Leach's Employee Agreement of October 30, 2019 (the "Agreement"), pursuant to Sections 10 (E) of the Agreement, by amending Section 3, entitled "Salary," the following: "Effective April 19, 2022, Employee shall receive a 3.0% increase in pay, which replaces the 1.5% increase in pay for Fiscal Year 2023 provided in the First Amendment to Employee Agreement effective March 1, 2021."

All other terms and conditions of the Agreement, and amendments thereto, shall remain in full force and effect. This Second Amendment to the Agreement was approved by the CBS Municipal Assembly on April 19, 2022.

4/21/22
Date

CITY AND BOROUGH OF SITKA



By: Steven Eisenbeisz

Its: Mayor

4/21/2022
Date

CITY AND BOROUGH OF SITKA



By: John Leach

Its: Municipal Administrator


**THIRD AMENDMENT TO EMPLOYEE AGREEMENT
BETWEEN
CITY AND BOROUGH OF SITKA
AND
JOHN LEACH**

The City and Borough of Sitka ("CBS") and John Leach agree to amend John Leach's Employee Agreement of October 30, 2019 (the "Agreement"), pursuant to Sections 10 (E) of the Agreement, by amending Section 3, entitled "Salary," the following: "Effective April 18, 2023, Employee shall receive a 5.4% increase in pay, which replaces the 1.5% increase in pay for Fiscal Year 2024 provided in the First Amendment to Employee Agreement effective March 1, 2021."

All other terms and conditions of the Agreement, and amendments thereto, shall remain in full force and effect. This Third Amendment to the Agreement was approved by the CBS Municipal Assembly on April 18, 2023.

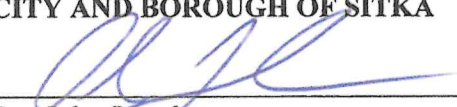
4/20/23
Date

CITY AND BOROUGH OF SITKA


By: Steven Eisenbeisz
Its: Mayor

4/19/2023
Date

CITY AND BOROUGH OF SITKA


By: John Leach
Its: Municipal Administrator

**FOURTH AMENDMENT TO EMPLOYEE AGREEMENT
BETWEEN CITY AND BOROUGH OF SITKA
AND JOHN LEACH, DATED APRIL 16, 2024**

The City and Borough of Sitka ("CBS") and John Leach agree to amend John Leach's Employee Agreement of October 30, 2019, pursuant to Section 10(E) of the Agreement by amending Section 6(D), entitled "Severance Pay" provided in the First Amendment to Employee Agreement effective March 1, 2021. Effective April 16, 2024, Section 6(D) shall be amended as follows:

1. In the event the Employee is terminated by the Municipal Assembly during the indefinite term of this Agreement, the Municipality shall give the employee twelve (12) months of pay as severance. Severance pay shall be equal to the monetary value of all pay and benefits provided for the period of severance pay due. This section does not apply if employee is terminated for commission of a crime or gross misconduct as determined by the Assembly. Severance pay shall be paid in a lump sum payment, less applicable taxes.
2. The Municipality also agrees to pay the Employee's COBRA health insurance premium coverage for three (3) months after date of separation.
3. Employee shall be entitled to any accrued but unused vacation leave as of the date of separation.

All other terms and conditions of the Agreement shall remain in full force and effect during this extended term of the Agreement. This Fourth Amendment to the Agreement was approved by the CBS Municipal Assembly on April 16, 2024.

CITY AND BOROUGH OF SITKA


By: Steven Eisenbeisz

Its: Mayor

CITY AND BOROUGH OF SITKA


By: John Leach

Its: Municipal Administrator



HOME RULE CHARTER of the CITY AND BOROUGH OF SITKA

* * *

ARTICLE IV ADMINISTRATOR – EXECUTIVE

Section 4.01 Appointment, Qualifications, Compensation

The assembly shall appoint a municipal administrator for an indefinite term and fix his compensation. The administrator shall serve at the pleasure of the assembly and be appointed solely on the basis of his executive and administrative qualifications. He/she need not be a resident of the municipality or state at the time of his/her appointment

Section 4.02 Removal; Suspension

The assembly may remove the administrator from office in accordance with the following procedures:

(a) **Preliminary Resolution.** The assembly shall adopt by affirmative vote of a majority of its members a preliminary resolution which must state the reasons for removal; and may suspend the administrator for a period of not to exceed 30 days. A copy of the resolution shall be delivered promptly to the administrator.

(b) **Public Hearing.** Within five days after a copy of the resolution is delivered, the administrator may file with the assembly a written request for a public hearing. The hearing shall be held at an assembly meeting not earlier than 10 days or later than 20 days after the request is filed. The administrator may file with the assembly a written reply not later than five days before the hearing.

(c) **Final Resolution.** If the administrator has not filed a request for public hearing, the assembly may adopt a final resolution of removal, which may be made effective immediately, by an affirmative vote of a majority of its members, at any time after five days from the date when a copy of the preliminary resolution was delivered to the Administrator. If a public hearing is requested, final resolution may be adopted any time thereafter.

(d) **Continuation of Salary.** The administrator shall continue to receive his/her salary until the effective date of a final resolution of removal. The action of the assembly shall not be subject to review by any court or agency.

* * *

Section 17.01 Personal Financial Interest

(a) **Prohibition.** No elected official may vote on any question on which he or she has a substantial financial interest. Any municipal officer, employee, or assembly member who has a substantial financial interest in any contract with the municipality or in the sale of any land, material, supplies or services to the municipality or to a contractor supplying the municipality shall make known that interest and shall refrain from participating in his capacity as a municipal officer, employee, or assembly member in the making of such sale or in the making or performance of such contract.

(b) **Punishment.** Any municipal officer, employee or assembly member who conceals such financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit his/her office or employment. Violation of this section with the knowledge expressed or implied of the person contracting with or making a sale to the municipality shall render the contract or sale to the municipality voidable by the administrator or the assembly.

(c) **Additional Rules.** The assembly by ordinance may prescribe additional rules and penalties to prevent conflicts of interest.

* * *

SITKA GENERAL CODE

* * *

1.04.080 Conflict of interest.

A. No member of the assembly, elected or appointed official, municipal employee or official may participate in official action in which the assembly person, elected official, employee or official has a substantial financial interest.

B. If a member of the assembly or other municipal board or commission has a substantial interest in an official action, that member shall declare the substantial financial interest and ask to be excused from the vote on the matter.

C. Upon a request made under subsection B of this section, the following procedure shall be followed:

1. The presiding officer shall rule on the request by a member to be excused from the vote.

2. The assembly, board or commission may override the decision of the presiding officer on the request to be excused by a majority vote.

D. As used in this section, "substantial financial interest" means an expectation of receiving a non-trivial pecuniary or material benefit. A substantial financial interest of a person includes any substantial financial interest of that person's immediate family. A person has a substantial financial interest in an organization in which that person has an ownership interest, or is a director, officer, or employee. A person has a substantial financial interest in a decision if a substantial financial interest of that person will vary with the outcome of the decision. A substantial financial interest does not include the following: a personal or financial interest which is not of the magnitude that would exert an influence on an average, reasonable person; a personal or financial interest of a type which is generally possessed by the public or a large class of persons to which that official or employee belongs; or an action or influence which would have an insignificant or conjectural effect on the matter in question.

E. As used in this section, "immediate family" of a person means anyone related to that person by blood, marriage, or adoption or who lives in that person's household.

* * *

Chapter 2.10

DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES

Sections:

<u>2.10.010</u>	Definitions.
<u>2.10.020</u>	Defense and indemnification.
<u>2.10.030</u>	Exclusions – Determination to defend and indemnify.
<u>2.10.040</u>	Conditions of defense and indemnification.
<u>2.10.050</u>	Disqualification.
<u>2.10.060</u>	Conflict with provisions of insurance policies.
<u>2.10.070</u>	Pending claims.
<u>2.10.080</u>	Union contracts.
<u>2.10.090</u>	Volunteer workers.

2.10.010 Definitions.

For the purpose of this chapter, the following words shall have the following meanings unless the context indicates otherwise:

- A. "Claim" means a claim or lawsuit.
- B. "Employee" means any person who is or has been employed in the service of the city and borough.
- C. "Official" means any person who is serving or has served as an elected official of the city and borough and any person who is serving or has served as an appointed member of any board, commission, agency, or committee of the city and borough.
- D. "Official duties" includes conduct, acts, and omissions done by an official or employee in the course and scope of their service to the city and borough.

2.10.020 Defense and indemnification.

Subject to the conditions and requirements of this chapter, the city and borough shall provide to an official or employee legal defense and indemnification, including protection from any expenses connected with the defense, settlement, or payment of monetary damages, related to any claim filed against the official or employee, arising out of the good faith performance, purported performance, or failure of performance of official duties. This defense and indemnification shall be a condition of employment with the city and borough and shall be provided by the municipal attorney or the municipal attorney's designee or through such insurance policy or self-insurance or similar program as the city and borough may establish.

2.10.030 Exclusions – Determination to defend and indemnify.

A. The obligation of the city and borough to provide defense and indemnification shall not apply to any act taken in bad faith or any act outside the scope of service or employment, or to any claim brought by or on behalf of the city and borough. The following are examples of acts which will normally be deemed to have been taken in bad faith:

- 1. An act committed with the willful intention of causing injury or harm, or which was reckless or malicious in nature.
- 2. An act committed in willful violation of law.
- 3. An act committed while under the influence of alcohol or a controlled substance.

B. The municipal attorney shall determine whether an official or employee was performing official duties in good faith, and whether an official or employee committed any act in bad faith. The municipal administrator shall make this determination regarding a claim against the municipal attorney.

C. If, at the time the claim is initiated, the known facts are insufficient to allow for the determination under subsection B of this section, the city and borough may elect initially to provide defense only, reserving any final determination until such time as sufficient facts are available.

D. The official or employee may appeal to the assembly an adverse determination under subsection B of this section.

2.10.040 Conditions of defense and indemnification.

The continued obligation of the city and borough to provide defense and indemnification shall be subject to the following conditions:

A. The official or employee shall cooperate fully with the city and borough and its counsel in handling or resisting the claim, including:

1. Providing the municipal attorney, as soon as practicable after receiving notice of a claim: written notice of the claim, specifying the names of the officials or employees involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses;
2. Cooperating with the city and borough and its counsel in making settlements of any lawsuits, and in enforcing any claim for subrogation against any persons or organizations that may be liable to the city and borough because of any damages or losses arising from the incident or conduct; and
3. Attending interviews, depositions, hearings, and trials as requested, and assisting in securing and giving evidence and obtaining the attendance of witnesses.

B. The city and borough reserves the sole right to control the defense of the claim and to compromise, settle, or defend the matter.

2.10.050 Disqualification.

If any official or employee fails or refuses to meet the requirements of this chapter or elects to provide his or her own representation on any claim, this chapter shall be inapplicable and of no force and effect with respect to that claim.

2.10.060 Conflict with provisions of insurance policies.

Nothing contained in this chapter shall be construed to modify or amend any provision of an insurance policy or any coverage through a self-insurance or joint insurance program. If there is a conflict between this chapter and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control.

2.10.070 Pending claims.

This chapter shall apply to any pending claim against an official or employee and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim.

2.10.080 Union contracts.

If a collective bargaining unit contract covers any of the terms and conditions of this chapter, all employees under the contract shall be governed by the provisions of the contract. If there is a conflict between the provisions of such contract and this chapter, the provisions of the contract shall control.

2.10.090 Volunteer workers.

The city and borough shall provide defense and indemnification to volunteer workers performing services on its behalf; provided, that such defense and indemnification:

- A. Shall be provided only to volunteer workers authorized in writing by the head of a municipal department to perform a particular scope of services to the city and borough;
- B. Shall cover only conduct, acts, and omissions undertaken in the course and scope of such authorized services; and
- C. Shall be subject to all other conditions and requirements of this chapter in the same manner as they apply to officials and employees.