

The Employment Agreement
Between
City and Borough of Sitka and Mark C. Gorman

This employment agreement, made and entered into this ____ day of _____, 2013, by and between the City and Borough of Sitka, State of Alaska, a municipal government, hereinafter called "the City," and Mark C. Gorman, hereinafter called "Employee," both of whom understand as follows.

Recitals

1. The City desires to employ the services of Employee as Administrator of the City; and
2. It is the desire of the City to provide certain benefits, establish certain conditions of employment, and set working conditions of Employee; and
3. Employee desires to accept employment as the Administrator of the City.

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

Section 1:
Employee Employment and Duties

The City hereby agrees to employ Employee as Administrator of the City to perform the function and duties specified in the Charter of the City and Borough of Sitka and the Sitka Municipal Code, and to perform such other legally permissible and proper duties and functions as the City and Borough Assembly shall from time to time assign.

Section 2:
Term, Discharge and Resignation

A. Term

This Employment Agreement shall have a term commencing October 21, 2013 and ending October 21, 2016, hereinafter the termination date. Employee agrees to remain in the exclusive employment of the City until said termination date unless this Employment Agreement is earlier terminated as hereinafter provided.

Should Employee continue working for the City after expiration of this contract without a new contract being signed or this contract being renewed, the Employee will be employed under the same terms and conditions as contained in this contract until the Employee relationship is severed.

Nothing in this Agreement prevents the parties from extending the term of this contract by mutual agreement

B. Discharge

The Employee agrees that he is an at-will employee—serving at the pleasure of the City and Borough of Sitka Assembly. He may be suspended or discharged without advance notice and without cause at any time during a lawfully scheduled meeting by a vote of at least four members of the Assembly. No disciplinary action, suspension or termination of the Administrator by the Assembly may be appealed to any adjudicating entity.

C. Resignation

Employee may terminate this Agreement for any reason, or no stated reason, upon giving sixty (60) calendar days written notice to the Employer. In the event the Employee voluntarily terminates employment, the City shall be under no obligation to the Employee except to pay salary and benefits, including accrued leave, to the date the resignation is effective, less the amount of any unpaid balance owed to the City by the Employee.

Section 3:
Severance Pay

In the event the Employee is terminated by the Assembly during such time as the Employee is willing and able to perform the duties of Administrator, the City shall give the Employee ninety (90) days of severance pay, unless Employee is terminated for commission of a crime or gross misconduct. Severance pay shall constitute a lump sum cash payment equal to the monetary value of all pay and benefits provided for the period of severance pay due, except that the City shall pay directly for the Employee's City-sponsored health insurance for sixty (60) calendar days after separation under COBRA. Employee shall be entitled to accrued leave as of the date of separation.

Non-renewal of this contract after expiration of its term shall not entitle the Employee to any severance pay.

Section 4:
Salary

During the term of the contract, the City agrees to pay Employee for services rendered pursuant hereto an annual base salary of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS AND NO CENTS FOR THE FIRST TWELVE MONTHS OF EMPLOYMENT (\$125,000). For the following years of the contract Employee will receive the same increases in salary as are approved by the Assembly for other employees during the annual budget process. (Generally, this is the two and one-half percent step increase indicated in the City Pay Schedule) This is payable in installments at the same time as other employees of the City are paid.

Section 5:
Performance Review

The City agrees to review Employee's performance annually.

Section 6:
Hours of Work

Employee is exempt from the provisions of the Fair Labor Standards act and shall not be bound to a workweek of any set number of hours. Employee is expected to work as many hours as the responsibilities of his position requires. As a result, Employee shall not be paid overtime or allowed to accrue compensatory time.

Section 7:
Vacation and Benefits

The City will provide 2 weeks (80 hours) annual leave in the bank to start, with an accrual thereafter at a rate of 12.67 hours per month of annual leave to the Employee for first year of employment. Following an overall satisfactory rating at the end of the first twelve months of employment, the employee shall be entitled to receive 25 days of annual leave. The terms and conditions of the leave are subject to the provisions of the City and Borough of Sitka Personnel Policies Handbook.

Employer shall provide Employee with sick leave and other applicable benefits as described in the City and Borough of Sitka Personnel Policies Handbook.

Employer shall provide Employee with the same Life Insurance, Health Insurance and Retirement benefits as other exempt employees as described in the City and Borough of Sitka Personnel Policies Handbook

The Employer shall provide the Employee with up to FIFTEEN THOUSAND DOLLARS AND NO CENTS (\$15,000) in moving expenses relating to the Employee beginning employment in Sitka. With such expenses to be paid upon the presentation of expense receipts that are satisfactory to the Employer.

Employer agrees to indemnify, defend and hold employee harmless from any suit or claim brought against him for any actions or claims brought because of, based on, or arising out of his employment by or service to the municipality.

Section 8:
Other Terms and Conditions of Employment

The City shall fix any such 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 *Employment Agreement*, the City Code or any other applicable law.

Section 9:
Conflicts of Interest

The Employee shall be sensitive to both conflicts of interest and the appearance of conflicts of interest between the duties of the Administrator and the Administrator's personal conduct and shall be sensitive to the activities of members of the Employee's immediate family that are within his control. When in doubt, the Employee should consult in advance of any problem coming up.

Section 10:
General Provisions

A. Assignments and Subcontracts

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

B. Applicable Law

This Employment 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 *Employment 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 *Employment Agreement* shall not affect the other provisions, and this *Employment Agreement* shall be construed in all respects as if such invalid or unenforceable provision or provisions were omitted.

E. Amendments

This *Employment 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 *Employment Agreement*, but shall not be utilized in interpretation, or construction of terms and conditions of it.

G. Merger

This *Employment Agreement* contains the entire and only understanding or agreement between the parties in relation to the subject matter therein. Any representations, provision, undertakings or conditions hereof not contained herein 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 City and Borough Assembly, has caused this *Employment Agreement* to be signed and executed in its behalf by its Mayor and duly attested by its Municipal Clerk, and the Employee has signed this *Employment Agreement*, on this _____ day of _____, 2013.

Mark C. Gorman

CITY AND BOROUGH OF SITKA

ATTEST:

Mim McConnell, Mayor

Colleen Ingman, Municipal Clerk

SEAL: