

POSSIBLE MOTION

I MOVE TO approve the Employment Agreement between the City and Borough of Sitka and Municipal Attorney Brian Hanson.

Employment Agreement
Between
City and Borough of Sitka, Alaska
And
Brian E. Hanson

This Employment Agreement (“Agreement”), made and entered into this ____ day of _____, 2016, by and between the City and Borough of Sitka, State of Alaska, a municipal government, (“the Municipality”) and Brian E. Hanson (“Employee”).

Recitals

1. The Municipality desires to employ the services of Employee as Municipal Attorney 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 Attorney of the City and Borough of Sitka.

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 Attorney 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 other legal duties and functions as the Municipal Assembly shall from time-to-time assign.

Section 2
Term, Discharge and Resignation

A. Term

1. Desiring to establish a commitment by both parties for this Agreement, it is understood and agreed that this Agreement shall have a term commencing September 19, 2016 and ending September 19, 2019, hereinafter the termination date. Employee agrees to remain in the exclusive employment of the Municipality until said termination date unless this Agreement is earlier terminated as provided for below in paragraph B or C.
2. Should Employee continue working for the Municipality after expiration of this Agreement without a new agreement being signed or renewed, the Employee will be employed under the same terms and conditions as contained in this Agreement until the Employee relationship is severed.

3. Nothing in this Agreement prevents the parties from extending the term of this contract by mutual agreement in writing signed by the Mayor and Employee.

B. Discharge

Notwithstanding the term of this Agreement set forth above, the Employee understands that the Sitka Municipal Code establishes the Municipal Attorney as an at-will employee. Employee agrees that he is an at-will employee which means that he is serving at the pleasure of the Municipal Assembly. Consequently, Employee understands and agrees that he may be suspended or discharged without advance notice and without cause at any time based on the Code during a lawfully scheduled meeting by a vote of at least four (4) members of the Assembly.

C. Resignation

Likewise, 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, less the amount of any unpaid balance owed to the Municipality by the Employee at the time of resignation.

Section 3
Severance Pay

A. In the event the Employee is terminated by the Municipal Assembly during the 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.

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

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

D. Non-renewal of this Agreement after the expiration of its term shall not entitle the Employee to any severance pay or COBRA benefits paid by the Municipality.

Section 4
Salary

A. During the term of the 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.

B. Upon receipt of a satisfactory or better evaluation on or before September 19, 2017, the Employee's salary shall be increased to ONE HUNDRED THIRTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$135,000.00) less applicable withholdings.

C. Upon receipt of a satisfactory or better evaluation on or before September 19, 2018, Employee's salary shall be increased to ONE HUNDRED AND FORTY THOUSAND DOLLARS AND NO CENTS (\$140,000) less applicable withholdings so long as the Employee receives a satisfactory or better performance review.

Section 5
Performance Review

The Municipality agrees to review Employee's performance annually on or before September 19 of each calendar year of this agreement.

Section 6:
Hours of Work

As an attorney, 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). 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 7
Vacation and Benefits

1. Vacation Accrual: Effective September 19, 2016, the 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 12.67 hours per month. At the end of the first twelve (12) consecutive months of employment, the Employee shall receive an increased to his accrual rate of vacation leave to twenty (20) 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.

2. Other Benefits and Insurance: Employer shall provide Employee with sick leave, life insurance, health insurance, retirement, and other benefits provided to other exempt employees as described in the Personnel Policies Handbook.

Section 8 Indemnification

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 so long as the Employee's actions or decisions were within his scope of responsibilities and not gross negligence or malpractice.

Section 9 Other Terms and Conditions of Employment

The Municipality 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 shall only be effective if in writing signed by the Mayor and the Employee.

Section 10 Conflicts of Interest

The Employee shall be sensitive to both actual and perceived conflicts of interest as the Municipal Attorney 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 11 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 Attorney. 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 _____, 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 this _____ day of _____, 2016.

EMPLOYEE

Brian E. Hanson

CITY AND BOROUGH OF SITKA

ATTEST:

Mim McConnell, Mayor

Sara Peterson, Municipal Clerk

SEAL: