

Evaluation of Municipal Attorney Brian Hanson

POSSIBLE MOTIONS

Step 1

I MOVE TO go into executive session under the statutory categories of discussing subjects that 1) may tend to prejudice the reputation and character of an individual, and, 2) may have an adverse effect upon the finances of the City and Borough of Sitka and invite Brian Hanson in when ready. In addition, I move to exclude the Municipal Administrator and Municipal Clerk.

Notes:

- *In accordance with SECTION 4B. SALARY: of his contract... "Upon receipt of a satisfactory or better evaluation on or before September 19, 2018, the Employee's salary shall be increased to \$140,000 less applicable withholdings."*
- *Pursuant to customary practice, the Municipal Clerk has included in the motion, the exclusion of the Municipal Administrator and Municipal Clerk from this evaluation.*

Step 2

I MOVE TO reconvene as the Assembly in regular session.

Step 3

I MOVE TO approve a salary adjustment to \$140,000 effective _____ in accordance with the Municipal Attorney's contract.

OR

I MOVE TO request an evaluation be scheduled prior to September 19, 2018 to address "SECTION 4B. SALARY" of the Municipal Attorney's contract.

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

This Employment Agreement ("Agreement"), made and entered into this 19 day of September, 2016, by and between the City and Borough of Sitka, 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 General 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 General 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.

Section 5 Performance Review

The Municipality agrees to review Employee's performance annually on or before September 19th 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 increase 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 (including the payment of bar dues) 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 9.13.16, 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 19 day of September, 2016.

EMPLOYEE

Brian E. Hanson
Brian E. Hanson

CITY AND BOROUGH OF SITKA

Mim McConnell
Mim McConnell, Mayor

ATTEST:

Sara Peterson
Sara Peterson, Municipal Clerk

SEAL:

City and Borough Sitka, Alaska

Class Specification

Class Title	Municipal Attorney
Class Code Number	1040
FLSA Designation	Exempt
Pay Grade and Range	41
Effective Date	September 2010

General Statement of Duties

Serves as the City and Borough of Sitka's legal counsel, responsible for legal matters involving the City and Borough of Sitka; performs related work as required.

Distinguishing Features of the Class

The principal function of an employee in this class is to serve as legal counsel and to provide legal advice to the Assembly, Administrator and municipal personnel on legal matters involving the City and Borough of Sitka. The Municipal Attorney prepares ordinances, resolutions, contracts, agreements, property documents, court filings, and other legal documents. The Municipal Attorney also prosecutes violations of municipal ordinances not handled directly by the Police Department, and related legal matters, including certain criminal charges. The Municipal Attorney also defends the City and Borough of Sitka in court and adjudicatory cases. The work is performed under the direct supervision of the Assembly, but extensive leeway is granted for the exercise of independent judgment and initiative. Direct supervision is exercised over the work of employee(s) in the class of Legal Assistant or Paralegal. An employee in this class performs the duties of other employees in the City and Borough's Administration as required or as assigned by supervisory personnel. In the absence of the Administrator or designee, an employee in this class will temporarily assume full responsibility for duties of this position. The principal duties of this class are performed in a general office environment.

Examples of Essential Work (Illustrative Only)

- Plans, organizes and directs the organization, structure, activities and operations of the Legal Department;
- Advises the City and Borough Assembly, Mayor, Administrator and all departments on legal matters;
- Prepares municipal ordinances, resolutions, contracts, agreements, property documents, court documents, and related legal documents in coordination with the Administrator, Mayor and City and Borough Assembly;
- Prosecutes and defends all civil actions involving the City and Borough;
- Manages department work, project and personnel activities of the Legal Department;
- Maintains the confidentiality of privileged matters, balanced by the public's rights regarding Open Meetings Act and Public Records Act;
- Serves as Parliamentarian for Assembly meetings;

- Directs the strategic planning, policy development and data collection and reporting activities of the Legal Department;
- Confers with municipal department heads, other supervisory personnel, and municipal staff or officials as needed to discuss, identify and assess legal services needs and provide appropriate advice and counsel;
- Performs legal research on legal matters impacting or involving the City and Borough;
- Assists with the state, federal and municipal legislation affecting the City and Borough;
- Develops recommendations for enhancing the municipal legal service operations in collaboration with the Mayor and Assembly members;
- Prepares Legal Department budget;
- Prepares and supervises the preparation of formal and informal legal opinions upon request of the City and Borough Assembly and Mayor, or as appropriate;
- Attends meetings with the Mayor, Assembly, Administrator, department and division heads, other City and Borough employees, and members of boards, commissions and committees, in which the legal matters of the City and Borough are or may be implicated, including matters relating to personnel, unions, equal employment opportunity, planning, zoning, economic, law enforcement, civil rights, public health and safety, environmental protection and remediation and similar issues;
- Hires and works with outside counsel on such specialized issues as municipal bond issues, Assembly conflict issues, initiatives/referendums, public utilities regulation, and litigation;
- Drafts or reviews the drafting of all contracts, deeds, leases, other property documents, releases, agreements, memorandums of understanding, franchises and other legal documents for the City and Borough as requested;
- Decides major legal questions in litigation, claims, contracts, property matters and other legal matters;
- Attends meetings, conferences, workshops and training sessions and reviews publications and audio-visual materials to become and remain current on the principles, practices and new developments in assigned work areas;
- The nature of the work performed requires that an employee in this class establish and maintain effective working relationships with other Departments and municipal employees and officials, State and Federal Officials, outside legal counsel and the public.
- Municipal Attorney does not provide direct legal advice to the public or citizens, but handles such inquiries through members of the Assembly, boards/commissions/committees, Administrator, Departments, or municipal employees;
- Trains, assigns, prioritizes, supervises, motivates and evaluates the work of assigned employees;
- Communicates and coordinates regularly with appropriate others to maximize the effectiveness and efficiency of interdepartmental operations and activities;
- Performs other related duties as assigned.

Required Knowledge and Abilities

- Comprehensive knowledge of City and Borough ordinances, resolutions and administrative decisions;
- Comprehensive knowledge of legal practices and procedures;
- Comprehensive knowledge of appellate practices and procedures;
- Comprehensive knowledge of local and State laws and procedures regarding misdemeanors and violations handled by the Municipal Attorney;
- Comprehensive knowledge of municipal law, litigation, torts, contracts, civil rights, administrative processes, collective bargaining, and real property;
- Comprehensive knowledge of the principles, practices, methods, materials and references utilized in legal research, including electronic legal research;
- Comprehensive knowledge of State and Federal statutes and regulations pertaining to municipal governments;
- Thorough knowledge of the practices, procedures and operations of the City and Borough's departments and divisions;
- Ability to negotiate and to persuade others, including both individuals and groups;

- Ability to communicate well with others, both orally and in writing, using both technical and non-technical language;
- Ability to understand and follow oral and/or written policies, procedures and instructions;
- Ability to prepare and present accurate and reliable reports containing findings and recommendations;
- Ability to operate or quickly learn to operate a personal computer using standard or customized software applications appropriate to assigned tasks, including Excel and Word,;
- Ability to use logical and creative thought processes to develop solutions according to written specifications and/or oral instructions;
- Ability to perform a wide variety of duties and responsibilities with accuracy and speed under the pressure of time-sensitive deadlines;
- Ability and willingness to quickly learn and put to use new skills and knowledge brought about by rapidly changing information and/or technology;
- Integrity, ingenuity and inventiveness in the performance of assigned tasks.

Acceptable Experience and Training

- Graduation from an accredited college or university with a Law Degree; and
- Extensive experience in public law practice.

Required Special Qualifications

- Alaska Bar membership;
- Continuing Legal Education preferred.

Essential Physical Abilities

- Sufficient clarity of speech and hearing, with or without reasonable accommodation, which permits the employee to communicate effectively;
- Sufficient vision, with or without reasonable accommodation, which permits the employee to review a wide variety of written correspondence, reports and related material in both electronic and hardcopy form;
- Sufficient manual dexterity, with or without reasonable accommodation, which permits the employee to operate a keyboard and produce hand-written materials and notations;
- Sufficient personal mobility, with or without reasonable accommodation, which permits the employee to visit various and other work stations in the City and Borough and attend a wide variety of meetings within the City and Borough and out of the area.

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Attorney-Municipal

Can be either a salaried employee of the city, or on retainer and used as needed

FY18 AML Salary & Benefit Survey

Municipality	Population	Specific Working Title	Job Match	# of Employees	Union or Nonunion	Work Week Hours	Lowest Wage Range	Highest Wage Range	Note:
Municipality of Anchorage	298,908	Municipal Attorney	Same	1	Non	40	\$86,381.70	\$137,625.90	Annual Wage 86,381 - 137,625
Matanuska-Susitna Borough	102,598	Borough Attorney	Same	1	Non	40	\$0.00	\$74.39	Contract 154,731
Fairbanks North Star Borough	97,972	Borough Attorney	Same	1	Non	40	\$51.58	\$73.76	107,286 - 153,421
Kenai Peninsula Borough	58,060	Attorney	Same	3	Non	40	\$38.44	\$63.95	Plus Car Allowance 79,955 - 133,016
City & Borough of Juneau	32,739	City/Borough Attorney	More	1	Non	40.0	\$0.00	\$73.07	Determined by the Assembly 151,985
City & Borough of Juneau	32,739	Assistant Attorney III	More	2	Non	37.5	\$50.46	\$80.58	104,957 - 167,606
Ketchikan Gateway Borough	13,825	Attorney-Municipal	Same	1	Non	40	\$0.00	\$67.35	140,088
City & Borough of Sitka	9,061	Municipal Attorney	Same	1	Non	40	\$60.09	\$64.90	124,987 - 134,992
City of Kenai	7,247	Attorney	More	1	Non	40	\$0.00	\$0.00	Contract
City of Bethel	6,205	City Attorney	Same	1	Non	40-OT Ex.	\$0.00	\$61.54	128,003
City of Palmer	6,135	Attorney-Municipal	Same	1	Non	Varies	\$0.00	\$0.00	Contract
City of Soldotna	4,319	Attorney	Same	1	Non	Contract	\$0.00	\$0.00	FY17 wage Info. FY18 not available at time of print
City of Kotzebue	3,153	City Attorney	Same	1	Non	Varies	\$0.00	\$150.00	
Haines Borough	2,466	Borough Attorney	Same	1	Non	Varies	\$0.00	\$0.00	Contracted services
City of North Pole	2,198	Attorney on Contract	Same	1	Non	Varies	\$0.00	\$0.00	\$265.00/hour