

CITY OF CHARLOTTESVILLE EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of July, 2018, by and between the City of Charlottesville, Virginia, a municipal corporation ("City") acting by and through its City Council, and Mike Murphy ("Employee").

WHEREAS it is the desire of the City and Employee to set forth their mutual understanding as to the terms of their employment relationship;

SECTION 2. TERM

(A) *Interim Appointment*-By approval of this Agreement, Council appoints Employee as City Manager for a temporary ("Interim") period of time. Employee's term of employment shall begin on August 1, 2018, which date shall also be the effective date of this Agreement ("Commencement Date"). The term of the appointment shall be for a period of up to one year ending no later than August 1, 2018. During the interim appointment the City may terminate this agreement, with or without cause, in accordance with the provision of Section 2(B) herein. This appointment shall be referred to as the "Interim City Manager".

(B) *Separation from Interim Appointment* --Employee's employment as Interim City Manager shall be for the period of time, not to exceed one year, required to allow a full time permanent City Manager to commence employment with the City of Charlottesville. The term of employment shall not exceed a one year term in accordance with the provisions of Va. Code Ann. § 15.2-1503 without the adoption and approval of a new Interim Appointment Agreement. Employee may be separated from his employment as the Interim City Manager for any reason, or for no reason (without cause) under the following terms:

1. Either the City or the Employee may terminate this Agreement and Employee's appointment to the position of Interim City Manager at any time, after giving forty-five (45) calendar days' advance written notice to the other. If this Agreement is terminated by the City, the Employee will be paid at the compensation level in Section 4 only for work and services performed through the date of separation from employment in the position of Interim City Manager.

If the City elects to terminate the Employee's appointment as Interim City Manager, then the Employee shall be entitled to return to his previous position of Assistant City Manager with all the benefits provided to Employee as Assistant City Manager and subject to and reporting to then-current Interim or permanent City Manager.

Should the Employee terminate this Agreement, then the provisions of Section 5 shall not vest to the benefit of the Employee.

2. In the event of a termination of this Agreement, and/or in the event of a subsequent termination of the Employee's employment with the City as an

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Assistant City Manager (or other employment position or status), Employee shall be entitled to the following:

- i. severance pay equal to six (6) months' salary, payable as a lump sum payment to be due on or after the service date specified in Section 5 paragraph 4 at the rate of pay in effect on the effective date of the termination;
- ii. performance of the requirements of Section 5 herein relating to the termination of employment.

SECTION 3. DUTIES OF THE EMPLOYEE

- (A) City is employing the Employee to perform services as the Interim City Manager.
- (B) Employee shall have the powers, duties and authority referenced for the City Manager, within the Charter of the City of Charlottesville, the Charlottesville City Code (Chapter 2, Article III), any applicable provisions of state law, as set forth within the Virginia Code, and in accordance with the current job description for the City Manager.
- (C) Employee shall be responsible for proper administration and management of the budget for the City of Charlottesville.
- (D) The Employee acknowledges that the proper performance of the duties as Interim City Manager will require the Employee to generally observe normal business hours and will also often require the performance of necessary services outside of normal business hours. The Employee agrees to devote such additional time as is necessary for the full and proper performance of the Employee's duties and that the compensation provided in this Agreement includes compensation for the performance of all such services.
- (E) The Employee will devote full time and effort to the performance of the duties as Interim City Manager, and shall remain in the exclusive employ of the City during the term(s) of this Agreement.
- (F) Employee will perform such additional duties, as may be required by the City, acting by and through its City Council. All duties assigned by the City Council shall be appropriate to and consistent with the Employee's role and responsibilities as Interim City Manager.
- (G) Employee shall be subject to and shall comply with the rules and standards of conduct specified within the City's Personnel Regulations which are not inconsistent with this Agreement, including, but not limited to, City policies regarding sexual harassment, non-discrimination, and fraud.

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- (H) Employee shall read and familiarize himself with the Virginia State and Local Government Conflict of Interests Act, set forth within Virginia Code Title 2.2, Chapter 31, Sec. 2.2-3100 et seq.

SECTION 4. COMPENSATION AND ALLOWANCES

- (A) The City agrees to pay the Employee an annual salary for the one year interim appointment in the amount of \$ 152,475.12 ("Salary"). payable by direct-deposit to the Employee in bi-weekly installments for 26 pay periods per year, payable at the same time other employees' paychecks are issued and due exclusively for the duration of the interim appointment.
- (B) Pursuant to this Agreement, both the City and Employee agree that the City's Personnel Policies Change in Duties Provision under Chapter 15 is not applicable to this contractual, interim appointment. The City and Employee agree that this interim appointment is a separate and distinct appointment requiring a reclassification of the Employee to the position of City Manager for the term of this agreement.
- (C) On July 1, 2019, Employee's Salary as Interim City Manager shall increase by the same percentage as any across-the-board cost of living or other pay increases approved by City Council within its operating budget for all regular full-time City Employees, if this Agreement is in effect on that date. The City will deduct or withhold any taxes, FICA, or other deductions which the Employee is legally required to pay.
- (D) The Employee is an at-will employee, subject to the terms of this Agreement, and is classified as being exempt from the overtime pay requirements of the Fair Labor Standards Act. Employee shall not be entitled to compensatory time and/or any overtime pay, regardless of the number of hours worked in any work period.
- (E) The City, at its sole expense, will provide the Employee with equipment customary and necessary for the performance of Employee's duties, including, without limitation: a computer and mobile phone, as required for the Employee to perform Employee's duties. The Employee shall reimburse the City for any charges incurred by the City as a result of non-work use of computers, mobile phones, internet services or other City equipment.
- (F) The City will support the professional development of the Employee. The City shall provide a reasonable budget for, and will pay reasonable amounts of the Employee's reasonable costs for tuition or registration, travel, per diem and incidental expenses, in accordance with applicable City policies, for: (i) activities that will further develop his knowledge, skills and abilities as a law enforcement administrator, including annual professional training conferences each year; and (ii) professional dues and subscriptions for the Employee, reasonably required by law or necessary for full

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participation in relevant national, regional, state, and local professional associations and organizations.

SECTION 5. BENEFITS

- (A) The Employee shall continue to be eligible to participate in the City's standard employee benefits, which offer the Employee a choice among various insurance and retirement plan benefits. The Employee shall receive paid holidays the same as other City employees, as well as vacation, sick, and administrative leave, all as provided within the City's Personnel Policy as applicable to department heads. All benefits offered by the City to its employees, including department heads, are subject to modification at any time.
- (B) The City agrees that it shall not at any time during the term of this Contract reduce the salary, compensation or benefits of the Employee, except to the extent that such reduction is evenly applied across-the board for all employees of the City.
- (C) The following provisions within this paragraph are exempt from the Virginia Freedom of Information Act, pursuant to Va. Code §2.2-3705.1(1) and shall not be publicly disclosed:
1. The City shall contribute an additional 2% per pay period pro-rated and based on the compensation under Section 4(A) herein to Employee's 457 retirement account during the term of this Agreement;
 2. The City shall provide one thousand dollars (\$1000.00) on August 1, 2018 as a vehicle allowance for parking expenses incurred during the performance of Employee's duties under this Agreement;
 3. The City agrees that the Employee shall be entitled to separate from service as if he obtained his normal retirement date under the terms of this Agreement and may retire [REDACTED] or at any time thereafter, with the authority to access Employee's capped pension benefit as vested in 2015 as well as all other benefit entitlements accruing to the Employee on the effective date of his retirement;
 4. Upon expiration or termination of this Agreement the City agrees to allow Employee to remain in City service until [REDACTED] as an Assistant City Manager, under (i) at least the terms and conditions of employment effective as of July 1, 2018, or (ii) any other administrative status a permanent City Manager may designate, at a rate of compensation no less than that being received by the Employee as of July 1, 2018, in order that the Employee will be eligible for retirement under City Code §19-95(h). Notwithstanding the foregoing, the Employee shall be subject to the direction and assignment of the permanent City Manager, upon the City's appointment of the permanent City Manager, until the

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██████████ normal retirement date or until the Employee's separation from service, whichever is longer;

5. Pursuant to the retirement age and years of service requirements specified under City Code §19-95(h), the Employee will be eligible, to retire under §19-95(h) on or after ██████████. The City agrees that Employee has already been assisting the City Manager with management of the Charlottesville Police Chief, and that, upon appointment as Interim City Manager herein, Employee shall be the city official designated as "Director of Public Safety" responsible for enforcing peace and order and the execution of the laws of the state, the city code and other ordinances of the city under the authority established pursuant to Chapter 20, ARTICLE I, § 20-1 of the Code. In consideration of these additional duties, The City agrees that Employee shall be considered to be a valid member of the class of employees eligible under City Code §19-95(h).
6. Upon termination of the Employee's employment with the City after July 1, 2018 (other than separation by retirement) the Employee shall, in addition to any other rights or payments referenced in this Agreement, receive the following as severance: (i) payment of the cost of health insurance coverage, for the first six (6) months of the applicable COBRA period following the date of separation from employment; and (ii) contributions to the Employee's 457 retirement account, in an amount calculated by applying the applicable percentage currently being utilized in accordance with City Code sec. 19-94 at the time of such termination.

SECTION 6. MISCELLANEOUS PROVISIONS

- (A) This Agreement sets forth terms and conditions of employment consistent with or in addition to those set forth within the City's Personnel Regulations applicable to all employees. There are no terms or conditions applicable to Employee's employment which are not set forth either in this Agreement or within the Personnel Regulations. In the event of a conflict between a provision of this Agreement and any provision of the Personnel Regulations, the provisions of this Agreement shall govern the relationship between the parties.
- (B) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. All litigation arising out of this Agreement shall be commenced and prosecuted in the federal, state or local court(s) having jurisdiction within the City of Charlottesville, Virginia.
- (C) In the event that any term, provision or condition of this Agreement, or the application thereof to any person or circumstances, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining terms or conditions shall not be affected thereby.

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- (D) Changes to any terms and conditions under this Contract shall only be made by and between the City Manager and the Employee, pursuant to a properly executed written amendment to this Contract. The City shall not be bound by any unwritten promises or representations made by the City or the Employee.
- (E) Any notice given by a party pursuant to this Agreement shall be in writing and either hand-delivered or mailed by United States mail, first class and postage prepaid, to the City Council or Employee. Notice shall be deemed given as of the date of delivery or as of the date of deposit of such written notice in the United States Postal Service.
- (F) This Agreement sets forth the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Employment Agreement shall supersede all previous communications, representations, or agreements either verbal or written between the parties.

IN WITNESS WHEREOF, the parties do hereby set forth their signatures:

Mayor, City of Charlottesville

Signature: _____

Date: 7/31/18, 2018

Approved as to Form:

Charlottesville City Attorney's Office

EMPLOYEE

Signature: _____

Print Name of Employee: Michael Murphy

Date: 7/31/18