

EMPLOYMENT SEPARATION AND RELEASE AGREEMENT

This Employment Separation and Release Agreement (“Agreement”) is made on October 27, 2020 by and between Peter D. Lear (“Employee”) and the City of North Port, Florida (“Employer”) (collectively the “Parties”).

Recitals

WHEREAS, Employee and Employer entered into that certain *City Manager Employment Agreement*, effective as of July 13, 2017, attached hereto as Exhibit A (“Employment Contract”); and

WHEREAS, the Employment Contract sets forth Employee’s employment with Employer in the position of City Manager, the rate of pay and benefits, and terms for separation from Employment; and

WHEREAS, prior to entering the Employment Contract, Employee was employed by Employer in other positions as an at-will employee from May 12, 2008 through July 12, 2017; and

WHEREAS, Employer and Employee do not anticipate that there will be any disputes between them or legal claims arising out of the Employee’s separation, but nevertheless desire to ensure complete and amicable parting and to settle fully and finally any and all differences or claims that might otherwise arise out of the Employee’s employment and the termination of that employment.

NOW THEREFORE, for and in consideration of mutual covenants specified below and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and incorporated herein.
2. **Cancellation of Employment Contract**. Employee hereby cancels the Employment Contract with an effective date of separation of November 27, 2020 (“Separation Date”). The Parties agree that by submitting a proposed separation agreement for the City Commission’s consideration on October 27, 2020, Employee has met his obligation in Section 7.a of the Employment Contract to provide thirty (30) days’ written notice of Employee’s cancellation.
3. **Resignation and Final Pay**. Employee hereby resigns Employee’s position with Employer effective as of the Separation Date. Pursuant to the Employment Contract, Employee is entitled to the final pay outlined in this Section 3 (collectively the “Final Pay”):
 - a. His regular salary, benefits, and any other compensation pursuant to the Employment Contract (including but not limited to automobile allowance), less applicable taxes and withholdings, paid on Employer’s regular payroll schedule through the Separation Date.
 - b. The following leave payout, less applicable taxes and withholdings, issued via direct deposit on Employer’s first regular payroll scheduled after the Separation Date:
 - i. In accordance with Personnel Policy Section 10.9, Annual Leave, as defined by Personnel Policy Section 6.2, which is incorporated by reference as if set forth

fully herein, a total of 160 hours of Employee's accrued but unused Annual Leave, which is one (1) time Employee's annual accrual rate, for a total amount of \$12,420.02; and

- ii. In accordance with Personnel Policy Section 10.9, Sick Leave, as defined in Personnel Policy Section 6.3, which is incorporated by reference as if set forth fully herein, a total of 187.32 hours of Employee's accrued but unused Sick Leave, which is twenty-five percent (25%) of Employee's total accrued but unused Sick Leave, for a total amount of \$14,540.73.

4. **Return of City Property.** Employee must return all City property no later than the Separation Date, in accordance with Personnel Policy Section 10.8, which is incorporated by reference as if set forth fully herein. Employer may deduct from the Final Pay any Outstanding Financial Obligations as authorized by Personnel Policy Section 10.10, which is incorporated by reference as if set forth fully herein. Employee agrees to submit all public records, as defined in Florida Statutes Chapter 119, in Employee's possession, custody, or control – including on Employee's personal devices – to the City no later than the Separation Date.
5. **Insurance.** Employee's group health and other insurance benefits through Employer's insurance plan shall continue uninterrupted at the current employee rate through the last day of the month in which the Separation Date occurs. Employee's portion of the insurance benefits shall be paid for by Employee through regular payroll deductions. After the Separation Date, Employee shall be eligible for COBRA continuation coverage of health insurance, should he choose to elect such coverage. Employee will receive information regarding COBRA coverage directly from the plan administrator.
6. **Benefits.** Except as provided in Section 5 above, Employee's benefits shall terminate on the Separation Date.
7. **No Admission of Wrongdoing.** This Agreement shall not in any way be construed as an admission by Employee or the Released Parties (as defined herein) of any acts of wrongdoing whatsoever against each other, or against any other person.
8. **Severance Pay.** Provided that Employee executes this Agreement no later than twenty-one (21) days following receipt and does not thereafter revoke it in the seven (7) day period after execution, Employer shall provide Employee with the following severance benefits in consideration of Employee's execution of this Agreement:

An amount equivalent to twelve (12) weeks of Employee's regular rate of pay, for a total amount of \$37,260.06.

Employer agrees to issue the Severance Pay via direct deposit, less applicable taxes and withholdings, on Employer's first regular payroll scheduled in January 2021.

9. **Additional Consideration.** Provided that Employee executes this Agreement no later than twenty-one (21) days following its receipt and does not thereafter revoke it in the seven (7) day period after execution, Employer shall provide Employee with the following additional benefits in consideration of Employee's execution of this Agreement (collectively, the "Additional Consideration"):

- a. 561.96 hours of Sick Leave, which is seventy-five percent (75%) of Employee's accrued but unused Sick Leave, for a total amount of \$43,622.20;
- b. 161.8 hours of Annual Leave, which is the remaining amount of Employee's Annual Leave balance after accounting for the payout required by Personnel Policy Section 10.9 and Section 3.a of this Agreement, for a total amount of \$12,559.74; and
- c. The equivalent of six (6) months of Employee's health insurance COBRA payments, representing payment for coverage of Employee and Employee's children, for a total amount of \$7,437.90.

Employer agrees to issue the Additional Consideration via direct deposit, less applicable taxes and withholdings, on Employer's first regular payroll scheduled in January 2021.

10. Non-Disparagement and Reference. The Parties agree that neither they nor their representatives will disparage the other Party. "Disparage" as used herein means any communication, verbal or written, of false information or the communication of information with reckless disregard to its truth or falsity. In the event of a request for employment references, Employer will confirm Employee's dates of employment, Employee's last job position, the characterization of separation as being due to Employee's resignation, and Employee's annual salary as of the Separation Date. Employee understands and agrees that under the Florida Public Records Law, Chapter 119, Florida Statutes, Employer shall comply with all federal, state, and local laws requiring disclosure of public records. Employee is responsible for directing any request for employment references to the Human Resources Department to ensure compliance with this Section. The Parties acknowledge that it is impossible to police comments of all City employees, but Employer will use its best efforts to give effect to the provisions of this paragraph.

11. Unemployment/Reemployment Compensation. In the event Employee desires to file for unemployment/reemployment benefits, the City will provide accurate information to Florida Department of Economic Opportunity regarding Employee's separation and earnings but will not dispute or contest Employee's claim for unemployment/reemployment compensation. Employer makes no representation as to whether Employee would be eligible for such benefits, as that determination is left solely within the discretion of the Florida Department of Economic Opportunity.

12. Cooperation. Employee agrees that he will be available to and cooperate with Employer regarding any litigation, action, or proceeding of any kind in any court, before any government agency, or in any other forum in which Employer is a party or has an interest and which relates to the period of Employee's employment with Employer. Employee understands and agrees that Employee's cooperation includes, but is not limited to: (1) responding reasonably promptly to requests for information and documents in Employee's possession concerning matters pertinent to any of the foregoing; (2) making himself reasonably available as a witness and testifying at trial, depositions, hearings, or other proceedings, as well as being reasonably available for adequate preparation for such testimony; and (3) participating at reasonable times in interviews and meetings pertinent to any of the foregoing if requested by Employer.

13. General Release and Waiver. Employee hereby knowingly and voluntarily releases, waives, and forever discharges Employer, and all of its employees, commissioners, officers, directors, agents,

attorneys, insurers, successors, representatives, and assigns (hereinafter collectively “the Released Parties”) from any and all liability, actions, charges, causes of action, demands, damages, attorney fees, and claims for relief or remuneration of any kind whatsoever, whether known or unknown at this time, including but not limited to those arising out of or in any way connected with Employee’s employment or the termination of employment with any other Released Parties. The claims released herein include, but are not limited to, any claim (including related attorney’s fees and costs) under the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, Section 1981 of the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Worker’s Adjustment and Re-Training Notification Act, the Equal Pay Act, the Family Medical Leave Act, the Fair Labor Standards Act, the United States Constitution, the Florida Constitution, Florida Statute Chapter 448, Florida Statute Chapter 440 (Workers’ Compensation), Florida Statute Chapter 442 (Occupational Safety and Health), the Florida Civil Rights Act, and any claim for benefits or other claims under the Employment Retirement Income Security Act of 1974 (ERISA) as amended, or any other federal, state, or local law or ordinance, including any lawsuits founded in tort (including negligence), contract (oral, written, or implied) or any other common law or equitable basis of action, up to and including the effective date of this Agreement to the extent that each such claim may be waived. This release does not include a waiver of the right to receive payment of vested benefits, if any, which Employee is entitled to receive from an employee benefit plan under ERISA.

This waiver, release, and discharge also includes, without limitation and to the extent permitted by law, any wrongful or unlawful discharge claims, discipline, discrimination, or retaliation claims, any claims relating to any contract of employment, whether express or implied, any claims related to promotions or demotions, any claims for or relating to relocation, compensation (including commissions and bonuses), short term or long term incentives, benefit plans and the management thereof (except claims for vested benefits thereunder), any claims for defamation, slander, libel, invasion of privacy, misrepresentation, fraud, infliction of emotional distress, any claims based on stress, any claims for breach of any covenant of good faith and fair dealing, and any other claims relating in any way to Employee’s employment with any of the Released Parties and determination of Employee’s employment.

Employee expressly waives all claims, including all claims related to the workplace investigation conducted from July through September 2020 into allegations made against Employee, and those that Employee does not know or suspect to exist in Employee’s favor as of the date of this release. As used herein, the word “claims” includes all administrative charges, actions, claims and grievances, whether actual or potential, known or unknown and specifically but not exclusively including all claims against any one or all of the Released Parties arising from or relating to Employee’s employment, the termination thereof or any other conduct by any one or all of the Released Parties occurring on or prior to the date Employee signs this Release. All such claims are forever barred by this release whether they arise in contract or tort or under a statute or any other law.

Employee also understands and agrees that this release extinguishes all claims, whether known or unknown, foreseen or unforeseen, and expressly waives any rights or benefits under any law or judicial decision which provides in substance or effect that the general release does not extend to claims which the Employee does not know or suspect to exist in Employee’s favor at the time of executing the release. It is expressly understood and agreed by the Parties that this release is in full accord, satisfaction and discharge of any and all doubtful and/or disputed claims by Employee against

the Released Parties, and that this release has been signed with the express intent of extinguishing all claims, obligations, actions or causes of action to the fullest extent allowed by law. This release does not apply to any claims or rights that may arise after the date that the release is signed or the claims which Employee cannot lawfully waive without federal or state agency approval.

- 14. Limitations.** Employer and Employee agree that nothing in this Agreement is intended to or shall be construed to impact, limit, or otherwise interfere with Employee's right to file a charge or participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC") or other fair employment agency, and Employee agrees that even if Employee executes this Agreement, Employee will not seek to recover any costs, damages, or expenses in connection with Employee's filing of a charge with the EEOC or other fair employment agency. Finally, Employer and Employee agree that none of the obligations in this Agreement are intended to and shall not be used to limit Employee from providing any information that may be required as part of an investigation or proceeding conducted by the EEOC or other government agency.
- 15. Breach of Agreement.** If either Party must bring an action to enforce this Agreement, the prevailing Party shall be entitled to receive payment of all reasonable attorneys' fees and costs incurred as a result of having to file an action for breach and/or enforcement of this Agreement.
- 16. Complaints on File.** Employee represents and promises that Employee has not filed any complaints, claims, or actions against any of the Released Parties in any state, federal, or local court or administrative forum and that Employee has not transferred to any person or entity any rights, causes of action, or claims described in this release and will not file or transfer same. Employee further agrees that if Employee has filed or is aware of the filing of any complaint, claim, or action against any of the Released Parties in any state, federal, or local court or administrative forum, Employee will immediately move to dismiss with prejudice or withdraw such complaint, claim, or action.
- 17. Complete Agreement.** This document constitutes a final and complete statement of the Agreement between the Parties as to severance and Employee's separation from employment with Employer. There shall be no modifications or amendments to this Agreement unless they are in writing, signed by the Parties. This Agreement supersedes all prior negotiations and understandings of any kind with respect to the subject matter and contains all of the terms and provisions of agreement between the Employee and any other Released Parties with respect to the subject matter hereof. Any representation, promise, or condition, whether written or oral, not specifically set forth herein, shall be of no binding effect.
- 18. Voluntary.** The Parties understand the terms of this Agreement and enter into it voluntarily. Employee acknowledges that Employer, its agents, representatives, or attorneys have made no representation, promise, or inducement other than as set forth in this Agreement and that in executing this Agreement, Employee has not relied upon any representation, promise or inducement not set forth herein.
- 19. Opportunity to Consider and Confer/Employee's Representations.** In executing this Agreement, Employee FURTHER REPRESENTS AND AGREES THAT:
 - a. This Agreement was signed KNOWINGLY, VOLUNTARILY, FREELY, AND OF HIS OWN VOLITION;

- b. Employee has been advised by Employer that he may have up to 21 days to consider this Agreement, and shall have seven (7) days from the date he executes the Agreement, if he in fact executes the Agreement, to revoke it. Any such revocation must be received by Employer, in hand, and in writing, within the seven-day revocation period (the “Revocation Period”).
- c. Employer has advised Employee to consult with an attorney prior to executing this Agreement and Employee has had adequate opportunity to do so;
- d. Employee has been advised that this Agreement will not become enforceable until the Revocation Period has expired;
- e. Employee understands that the waiver and release specifically includes a waiver of his rights and claims arising under the Age Discrimination in Employment Act, 29 U.S.C. § 626 et seq., and any other federal, state, local, or municipal law or regulation relating to age discrimination;
- f. Pursuant to this Agreement, Employee is receiving consideration in addition to anything of value to which Employee is already entitled; and
- g. Employee has been advised that Employee is not waiving any claims or rights that may arise after the date this Agreement is executed, for incidents occurring after the date this Agreement is executed.

20. Governing Law. This Agreement shall be governed by the laws of the State of Florida. Jurisdiction for any disputes arising hereunder shall be submitted to a court of competent jurisdiction in Sarasota County, Florida.

21. Severability/Interpretation. In the event any provision of this Agreement shall be held to be void, voidable, unlawful or, for any reason, unenforceable, the remaining portion shall remain in full force and effect to the extent necessary to effectuate Employee’s intent that this Agreement shall discharge and release, to the fullest extent allowed by law, all claims against the Released Parties. The unenforceability or invalidity of the provision of this Agreement in one jurisdiction shall not invalidate or render that provision unenforceable in any other jurisdiction. Any dispute as to the meaning of any term of this Agreement shall not be resolved by construing it against the author.

22. Binding Effect/Counterparts. By the signature affixed hereto, the Parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors and assigns. It may be signed in counterparts.

23. Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities, or services.

(This space intentionally left blank; signature pages to follow)

EMPLOYEE ACKNOWLEDGES AND AGREES THAT EMPLOYEE HAS BEEN ADVISED THAT THIS AGREEMENT IS A BINDING LEGAL DOCUMENT AND THAT IN EXECUTING THIS AGREEMENT, EMPLOYEE HAS ACTED VOLUNTARILY. EMPLOYEE HAS READ AND FULLY UNDERSTANDS THIS AGREEMENT RELEASES ALL KNOWN AND UNKNOWN CLAIMS AND VOLUNTARILY AGREES TO ITS TERMS.

EMPLOYEE

Peter D. Lear

STATE OF FLORIDA
COUNTY OF SARASOTA

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this ___ day of _____ 2020, by _____.

Notary Public

___ Personally Known OR ___ Produced Identification
Type of Identification Produced _____

Approved by the City Commission of the City of North Port, Florida on October 27, 2020.

EMPLOYER CITY OF NORTH PORT, FLORIDA

By: Debbie McDowell
Mayor

ATTEST

Heather Taylor, CMC
City Clerk

APPROVED AS TO FORM AND CORRECTNESS

Amber L. Slayton
City Attorney

Exhibit A

City Manager Employment Agreement
between Peter D. Lear and City of North Port, Florida
Effective July 13, 2017

CITY MANAGER EMPLOYMENT AGREEMENT

This Employment Agreement hereinafter referred to as the "Agreement" is made and entered into by and between the City of North Port, Florida, hereinafter referred to as the "City" or "Commission," and Peter Lear, hereinafter referred to as "Mr. Lear" or "City Manager."

RECITALS

- A. The City is a municipal corporation of the State of Florida.
- B. The City Commission is the legislative branch of the City's form of government and derives its powers from the Florida Constitution, general laws of the State of Florida and the City Charter.
- C. The City Manager position is a Charter Officer whose powers, duties and responsibilities are set forth in the City Charter, City Code and Commission authorized job description as revised from time to time.
- D. In accordance with City Charter Section 12.05 on March 7, 2017, the City Commission appointed Mr. Lear as the interim City Manager to execute the functions of the office effective April 3, 2017 to temporarily fill the vacancy in the City Manager position until a new City Manager is appointed.
- E. Mr. Lear has been employed with the City since May 12, 2008 and has been serving as the City's Finance Director since January 16, 2011.
- F. As a Charter Officer, the City Manager is appointed by the Commission and employed by the City. Accordingly, the Commission and Mr. Lear acknowledge that the City Manager position has greater obligations and responsibilities than other positions of employment and as a result may be subject to more restrictions and enhanced benefits than general employees of the City.
- G. Mr. Lear has represented and warranted that, by virtue of his education, training and experience, he has the requisite skills, background, education, knowledge and abilities to capably perform the duties and obligations of City Manager.
- H. As a result of its good faith reliance on those representations and warranties, the Commission wishes to appoint, secure, employ and retain the services of Mr. Lear as the City Manager effective as of the date of last execution of this Agreement ("Effective Date").
- I. Mr. Lear desires to accept and assume the position of City Manager.
- J. At any time prior to the Effective Date, the City Commission by a majority vote may cancel this agreement or Mr. Lear may cancel this agreement and notify the Commission of his desire to resume his position as Finance Director.

NOW THEREFORE, in consideration of the premises and the mutual covenants expressed herein and pursuant to the employment relationship between the parties, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

- 1. **Recitals.** The recitals outlined above are true and correct and are incorporated into and made a part of this Agreement.
- 2. **Implementation:** The following terms and conditions of this agreement shall take effect as of the Effective Date.

3. **Position or Job.** The Commission hereby appoints and the City hereby employs, engages and hires Mr. Lear as the City Manager provided, however, that this Agreement and Mr. Lear's employment as City Manager are subject to and conditioned upon him:

- a. Successfully passing all post-offer background, and referenced checks.
- b. Being approved and appointed by a majority of the Commission at a public meeting.

The general duties and responsibilities of the City Manager are specified in the City of North Port City Charter, City of North Port Code of Ordinances, Florida State Statutes, job description attached as Exhibit A and as amended from time to time, and such other legally permissible and proper duties and functions as the Commission may assign. The Commission shall have the sole right and discretion to change or modify the duties and responsibilities of the City Manager's position or job at any time and for any reason.

Mr. Lear shall perform all duties, responsibilities, tasks, jobs and services assigned to him by the Commission responsibly, faithfully, industriously and to the best of his ability.

The City Manager is a salaried Charter Officer position exempt from overtime pay and except for illness, vacation and other authorized absences, the City Manager is expected to be available.

4. **Performance Evaluation.** The Commission may at any time collectively review and evaluate the City Manager's performance. The Commission shall individually and collectively review and evaluate in writing the City Manager annually no later than the anniversary date of the Effective Date. The annual review and evaluation shall be in accordance with specific written criteria and policy approved by the Commission, as may be amended from time to time. Performance evaluations and any associated compensation adjustments shall be brought up for approval by the Commission at a public meeting.

5. **Duration of Appointment and Employment Indefinite.** Upon execution of this Agreement and providing Mr. Lear successfully passes all post-offer background, and referenced checks conducted by the City, the term of appointment and employment of Mr. Lear as City Manager shall commence on the Effective Date, but nothing in this Agreement shall be construed as creating an obligation, duty or guarantee of employment for any specific duration. Although the City hopes its relationship with Mr. Lear will be long term, the employment and compensation of Mr. Lear as City Manager can be ended by either party in accordance with Section 7 below.

6. **Compensation or Salary.** As of the Effective Date, the City shall pay Mr. Lear, and Mr. Lear shall accept from the City, in full payment for his services as City Manager, an annual gross salary of one hundred fifty thousand dollars (\$150,000.00) payable in the same manner as general employees are paid through the normal payroll system. After one year of service as the City Manager, Mr. Lear shall be eligible for consideration of any adjustments in annual gross salary and/or other compensation. Any adjustments to Mr. Lear's annual gross salary or other compensation shall be determined annually by the Commission at a public meeting based upon the annual performance evaluation. Any adjustments to salary or other compensation shall take effect as determined by Commission during the annual review and performance evaluation. Upon timely obtaining ICMA Credentialed Manager (ICMA-CM) certification in accordance with Section 12 herein, Mr. Lear shall receive a compensation increase of no less than five percent (5%) and no more than ten percent (10%) of his then-current base salary. Said increase shall be in addition to any annual review and raise that year, which shall be determined without consideration of the increase granted in conjunction with the ICMA-CM certification. Mr. Lear's annual gross salary shall not exceed the maximum annual salary established for the City Manager position.

7. **Termination.** Beginning on the Effective Date, the appointment, employment and compensation of Mr. Lear as City Manager can be ended at the option of the Commission or Mr. Lear, subject to the following conditions:

a. Mr. Lear may cancel this Agreement and his employment by giving the Commission at least thirty (30) days written notice before the effective date of separation, unless the Commission agrees to waive such notice requirement. No severance shall be paid to Mr. Lear if he cancels this Agreement and his employment.. However, Mr. Lear will be paid any unused leave that he has accrued as of the effective date of termination, in accordance with the Personnel Policy in effect at that time.

b. Pursuant to Section 12.04 of the City of North Port City Charter, the City Manager shall be removed from office for good cause by a majority vote of the entire Commission who shall within ten (10) days of such determination serve written notice to the City Manager. After having served one (1) year, he may demand written charges and a public hearing upon the same by the City Commission and his final removal shall not take effect until such hearing has been held, but the Commission may suspend him from office pending such hearing. In the event the City Manager is suspended from office the suspension period shall be with pay. Upon the City Manager's removal from office for "good cause," this agreement shall be terminated. No severance shall be paid to Mr. Lear when termination occurs under these circumstances. However, Mr. Lear will be paid any unused leave that he has accrued as of the effective date of termination, in accordance with the Personnel Policy in effect at that time.

For purposes of this Agreement, "good cause" is defined and limited to the City Manager's conviction (or plea of guilty or nolo contendere) of any felony act or misdemeanor, the City Manager's misconduct as defined in Sections 443.036(29), violation of Section 112.313, Florida Statutes, or any of the following:

i. Violation of the City's Personnel Policy or any City policy, rule or regulation, which would subject any City employee or public officer to termination or removal from office.

ii. The commission of any act which involves moral turpitude, or which causes the City disrepute.

iii. Willful dereliction of duty; material dishonesty, or any other act of a similar nature of the same or greater seriousness.

iv. After the Commission's issuance of a performance improvement plan and the City Manager having six months to address complaints therein, the City Manager's continued failure to perform duties and responsibilities satisfactorily or demonstrate requisite skills in his position as determined by the Commission at a public meeting.

"Good cause" shall further include any breach of this Agreement by Mr. Lear, providing Mr. Lear shall be given ten (10) days' notice to cure such breach before termination may occur under this paragraph.

c. Pursuant to Section 6 of the City of North Port City Charter, the City may cancel this Agreement and Mr. Lear's employment without cause by giving Mr. Lear ten (10) days written notice before the effective date of termination. Provided that he signs a waiver and fully releases any and all claims against the City related to his employment and termination, Mr. Lear shall receive a lump sum severance payment equal to sixteen (16) weeks of his annual base salary, together with payment for all unused leave that he has accrued as of the effective date of termination. This provision complies with Section 215.425, Florida Statutes.

d. The employment and compensation of Mr. Lear shall end upon his death, voluntary resignation, retirement or termination.

8. Deferred Compensation and Florida Retirement System. Each year the City shall contribute to Mr. Lear's ICMA-RC deferred compensation plan an amount equal to three and one-half percent (3.5%) of his annual salary; the total annual amount is not to exceed the maximum allowable contribution under the Internal Revenue code. These contributions, which will be made on regularly scheduled pay dates, are in addition to the salary referred to in Section 6 above, and will immediately expire if this Agreement and Mr. Lear's employment are terminated

pursuant to Section 7 above. The City agrees to authorize all necessary arrangements required by the ICMA-RC for Mr. Lear's continued participation in the 457 Deferred Compensation Plan. The City further agrees to transfer ownership to Mr. Lear of the Plan account funds upon his resignation or termination.

The City recognizes that the City Manager is required to participate in the Florida Retirement System (FRS) at the senior management level. The City agrees to authorize all necessary arrangements required under Florida statutes to allow for buy-back of prior service using the City Manager's resources should the City Manager elect to exercise that option.

9. **Insurance.** The City will at its expense provide: (1) the City Manager with individual medical, vision and dental insurance coverage under the City's group benefit plan, regardless of plan version; (2) term life insurance on Mr. Lear in the face amount equal to one year's salary; and (3) any other insurance coverage provided to all employees (excluding any voluntary plans offered). Coverage will begin on the first of the month beyond the start date of employment.

10. **Leaves of Absence.** Mr. Lear shall accrue leave in accordance with the Personnel Policy based upon his overall tenure with the City.

11. **Motor Vehicle Allowance.** Mr. Lear shall provide his own automobile to travel to and from work and for City related business within Sarasota and Charlotte Counties. The City shall pay an automobile allowance of six hundred dollars (\$600.00) per month. Mr. Lear shall provide liability, property, damage, and comprehensive insurance coverage on said automobile. Further, Mr. Lear shall be responsible for all maintenance service, gasoline, and oil for said automobile. For travel outside Sarasota and Charlotte Counties relating to City business, Mr. Lear may be compensated for use of his own automobile in accordance with the IRS standard mileage rate and City travel expense policy. The City Manager may, at his discretion, occasionally from time to time utilize a City vehicle for the purpose of conducting City-related business.

12. **Professional Development.** The City shall pay reasonable and necessary professional dues and subscriptions as authorized in the budget for Mr. Lear to participate in national, regional, state and local associations and organizations essential for Mr. Lear's continued professional development as City Manager. These include, but are not limited to, the International City and County Management Association (ICMA), and the Florida City and County Management Association (FCCMA). Mr. Lear agrees to obtain ICMA Credentialed Manager (ICMA-CM) certification no later than five (5) years from the Effective Date. In addition, the City will pay reasonable and necessary expenses and costs as authorized in the budget for Mr. Lear to attend seminars, short courses, lectures and institutes related to Mr. Lear's duties and responsibilities as City Manager. However, the City Manager will be required to reimburse the City for any educational assistance if Mr. Lear leaves employment within one year of completion of any course or certifications.

13. **Civic Involvement and Outside Activities.** The City acknowledges the value of having its City Manager participate and be directly involved in local civic clubs or organizations. Accordingly, the City shall pay for the reasonable membership fees and/or dues to enable Mr. Lear to become an active member in one (1) local civic club or organization.

Provided such services do not unreasonably interfere with Mr. Lear's responsibilities as City Manager, he shall be permitted, with the prior approval of the Commission, to engage in teaching or other non-City related business and retain any compensation.

14. **Residence.** Consistent with Section 12.02 of the City Charter, Mr. Lear shall maintain permanent residency within the City during his term as City Manager. Residency shall be established by a valid driver's license and confirmed by annual submittal of an affidavit of domicile. It shall not be necessary that the City Manager be a resident of the City at the time of his appointment on the Effective Date, however, he shall be required to establish residency in the City within a one (1) year period after such appointment.

15. **Relocation.** In order to mitigate the disruption to the City Manager's family, the City will reimburse Mr. Lear for all reasonable expenses of packing, moving, and transporting himself and his family, as well as their personal property or belongings, from Venice, Florida to North Port, Florida. Before incurring such expenses, Mr. Lear will obtain bids from at least three (3) nationally known and/or Florida based moving companies and the City will reimburse him an amount equal to the lowest bid after the move is satisfactorily completed. However, if Mr. Lear terminates this Agreement pursuant to Section 7(a) above during the first two (2) years of employment as City Manager, he shall repay these moving expenses to the City within thirty (30) days.

16. **Other Benefits and Obligations.** Except as otherwise provided in this Agreement, Mr. Lear shall be entitled to all benefits enjoyed by general employees and obligations as provided in the City's Personnel Policy Manual. In the event of any conflict between this contract and the City's Personnel Policy Manual, this contract will prevail.

17. **Indemnification.** Pursuant to Sections 111.07 and 111.071 of the Florida Statutes, the City will provide a civil defense to any legal action brought against the City Manager. This section shall survive the termination of this Agreement or any other separation of the City Manager's employment.

18. **Waiver.** No consent or waiver expressed or implied by any party to any breach or default by the other in the performance of their obligations hereunder shall be deemed or construed to be consent or waiver to or of any other breach or default of this Agreement. Failure of any party to complain or act or failure to act by the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver of that party's rights hereunder.

19. **Controlling Law.** This Agreement and the validity, execution, construction, interpretation, performance and enforcement thereof, shall be governed by the substantive and procedural laws of the State of Florida.

20. **Jurisdiction and Venue.** Any and all actions, causes of action, lawsuits, litigation, legal proceedings or special proceedings to construe, interpret, or determine the validity of this Agreement and/or to enforce performance thereof shall be brought only in the State of Florida, in Sarasota County. Mr. Lear and the City stipulate that subject matter and in personam jurisdiction and venue for any dispute, controversy, or disagreement relating directly or indirectly to the provisions of this Agreement and the enforcement therefore lies exclusively in the State of Florida in Sarasota County.

21. **Attorney's Fees.** In any litigation lawsuit, legal or other proceedings brought in connection with the construction, interpretation, meaning, validity, performance or enforcement of this Agreement, the prevailing party shall be entitled to receive all of their costs and reasonable attorney fees from the other party.

22. **Renegotiation of Provisions.** Either party may request renegotiation of any provision of this Agreement at any time. If the parties are unable to reach an agreement, those terms will remain unchanged.

23. General Provisions.

a. Upon City Manager's death, City's obligations under this Agreement shall terminate except for:

i. Transfer of balances in City Manager's ICMA 457 Deferred Compensation Plan and FRS Plan to his designated beneficiaries;

ii. Payment of accrued leave balances in accordance with this Agreement;

iii. Payment of all outstanding hospitalization, medical and dental bills, in accordance with City's insurance policies or plans;

- iv. Payment of all life insurance and disability benefits; and
- v. Any other benefits provided to general employees in the event of death.

b. The City shall bear the cost of any fidelity or other bond required of the City Manager under any law or the City Charter.

24. **Severability.** The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

25. **Integration.** This Agreement sets forth and establishes the entire understanding between the Commission and Mr. Lear relating to the appointment and employment by the Commission of Mr. Lear as the City Manager. Any prior discussions or representations by or between the parties are merged into and rendered null and void by the Agreement. No amendment or modification of this Agreement shall be valid or effective unless it is in writing and properly executed by all parties thereto. This Agreement shall supersede all provisions of City resolutions in conflict with this Agreement, to the extent of such conflict.

26. **Notice.** Any notice required or permitted under this Agreement shall be sent by certified mail to: (a) the Commission at its principal place of business, and (b) to Mr. Lear at the address provided to the City by Mr. Lear for income tax purposes.

27. **Understanding.** Before signing this Agreement, Mr. Lear was advised of his right to consult with an attorney to review the Agreement and his right to have an attorney throughout the process leading up to the execution of the Agreement. Before signing this Agreement, Mr. Lear had full and adequate opportunity to read and review it. Moreover, Mr. Lear did read and review the Agreement and fully understood its contents, terms, provisions and conditions before signing it. Any legal counsel sought will be at the expense of Mr. Lear.

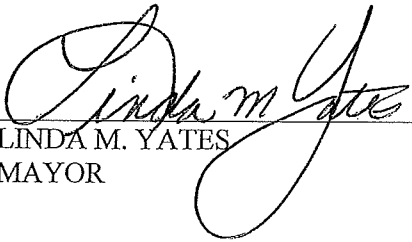
28. **Binding Effect.** This Agreement shall be binding on the City and Mr. Lear as well as his heirs, assigns, executors, personal representatives and successors in interest.

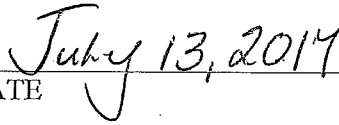
29. **Effective/Anniversary Date.** This Agreement shall become effective after signing by both parties. Providing neither party cancels this agreement prior to the Effective Date, the City Manager's start date of appointment and employment as City Manager subject to the terms and conditions contained herein shall be on the Effective Date and is subject to his successfully passing to all post-offer background, and referenced checks conducted by the City. Accordingly, the anniversary of the Effective Date of each succeeding year shall be the anniversary date of the appointment of Mr. Lear as the City Manager.

IN WITNESS WHEREOF, Mr. Lear signed and executed this Agreement on July 7, 2017, after which the City signed and executed it on July 13, 2017.


(This space intentionally left blank; signature pages to follow)

CITY OF NORTH PORT, FLORIDA



LINDA M. YATES
MAYOR


DATE

ATTEST


PATSY C. ADKINS, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS


AMBER L. SLAYTON
INTERIM CITY ATTORNEY

EMPLOYEE

Peter D. Lear
PETER D. LEAR

WITNESS

Josh Taylor
Signature

Josh Taylor
Printed Name

WITNESS

Marilyn D. Garlick
Signature

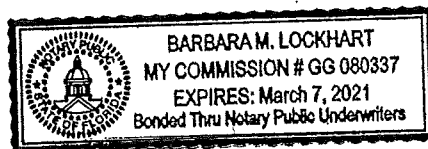
MARILYN D. GARLICK
Printed Name

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 7th day of July, 2017, by Peter D. Lear, who is personally known to me or who produced _____ as identification.

Barbara M. Lockhart
Notary Public, State of Florida





CITY MANAGER

Pay Grade: [Click here to enter text.](#)

FLSA Status: E

EEO Code: 01

W/C Code: 8810

GENERAL DESCRIPTION

An employee in this class is responsible to the City Commission for the efficient administration of all departments of the City government, unless otherwise specified by the City Charter. This is professional administrative work in the performance of all aspects of managerial expertise required to insure the effective conduct of all functions, business and services of the City. The City Manager shall be the Chief Executive of the City. He/she shall perform the duties of that office and be accountable therefore at all times to the Commission. This should be accomplished through effective leadership and delegation of responsibility and authority to the administrative officers of the City insuring always that their several official duties shall be carried out solely through the office of the City Manager.

ESSENTIAL JOB FUNCTIONS

- Serves as the Chief Executive Officer of the City;
- Appoints all Department Directors and other City employees;
- Supervises and coordinates the work of the administrative officers and departments of the City;
- Prepares and submits to the Commission the annual budget of the City, together with supporting information in explanation thereof;
- Acts as Purchasing Agent for the City;
- Provides administrative direction and leadership to all City departments.
- Submits monthly and year-end financial reports to the City Commission;
- Initiates short and long range planning activities, including a five-year Capital improvement Program detailing the need, scope, probable cost and method of financing priority public improvements;
- Enforces all laws, ordinances and policies of the City;
- Requires periodic inspection of all municipal facilities to assure that proper operation, maintenance and security procedures are being followed;
- Exercises and performs such additional duties as the Commission may see fit to delegate, or as provided in the City Charter.

(These essential job functions are not to be construed as a complete statement of all duties performed. Employees will be required to perform other related duties as assigned, including City-directed work assignments in the event of a declared emergency.)

QUALIFICATIONSKnowledge/Skills/Abilities:

- Working knowledge of federal and state laws applicable to the City of North Port;
- Thorough knowledge of the City Charter and Ordinances;
- Ability to establish and maintain effective working relationships with the Commission, employees, developers, business persons, City Boards and the general public;
- Ability to verbally communicate concepts and ideas with the Commission, employees, other officials and the general public;
- Ability to verbally communicate concepts and ideas with the City Commission, employees, other officials and the general public.
- Ability to direct employees in accordance with effective supervisory procedures.

- Ability to prepare oral and written reports.
- Ability to understand and apply statistical charts, graphs and raw data to job-related requirements.
- Ability to analyze and evaluate data and to make statistical computations and evaluations. Knowledge of the principles and practices of all programming, budgeting and municipal finance elements.

Education and Experience:

A Bachelor's Degree in Public Administration, or related field, from an accredited college or university augmented by course work in municipal planning, civil engineering, public finance, community development, personnel/labor relations, or other related fields. A Master's Degree is preferred.

A minimum of five years' professional experience as a City or County Manager, or eight years of increasingly responsible related municipal experience.

(A comparable amount of training, education and/or experience may be substituted for the above qualifications.)

Licenses and Certifications:

Must possess a valid Florida driver's license.

PHYSICAL REQUIREMENTS

Constant sitting, use of hands - arms, grasping, typing, and communication involving speaking and hearing. Frequent standing, walking. Occasional kneeling, stooping, bending, reaching overhead, and lifting up to 25 pounds. Vision and hearing must be correctable. Position requires the operation of a City vehicle.

(Occasional=1-3 Hrs; Frequent=3-5 Hrs; Constant=5-8 Hrs – Per Work Day)

WORK ENVIRONMENT

The work environment characteristics described herein are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee occasionally works near moving mechanical parts and in outside weather conditions and is occasionally exposed to risk of electrical shock and vibration. The employee rarely works in high, precarious places and is occasionally exposed to fumes or airborne particles and toxic or caustic chemicals.

The noise level in the work environment is usually moderate to low.

The work environment will vary from office work to responding and assisting incident command and safety functions at emergency scenes.

EMERGENCY RESPONSE STATEMENT

Every City employee has emergency response responsibilities, though not every position will require routine assignments during an emergency event. All employees are subject to recall around the clock for emergency response operations, which may require irregular work hours, work at locations other than the normal work location, and may include duties other than those specified in the employee's official job description. Assignments in support of emergency operations may be extensive in nature,

City Manager

with little advance notice, and may require employees to relocate to emergency sites with physically and operationally challenging conditions.

Reviewed by: [Employee Name]

Signature: _____

Date: _____