

**EMPLOYMENT AGREEMENT BETWEEN
CITY OF GILLETTE AND PATRICK G. DAVIDSON**

THIS EMPLOYMENT AGREEMENT is made, pursuant to the appointment of the Governing Body of the City of Gillette, Wyoming, and entered into this 3rd day of January, 2017, between the CITY OF GILLETTE, a Wyoming municipality of the First Class, hereinafter referred to as the "CITY", and Patrick G. Davidson, hereinafter referred to as the "EMPLOYEE."

WITNESSETH:

WHEREAS, the relationship between the Governing Body, City Administrator and his Department Heads requires the utmost confidence and trust to lawfully carry out and implement City policies and practices; and

WHEREAS, the Governing Body desires to appoint Employee as the City Attorney for the City of Gillette, and in such other capacities as the City and the Employee may agree to serve; and

WHEREAS, the Governing Body and the Employee desire to establish and delineate the terms and conditions of employment and, to that end, the Governing Body and the Employee desire to enter into this agreement;

NOW THEREFORE, in consideration of the mutual covenants herein contained, the City and the Employee agree as follows:

Section 1. **EMPLOYMENT**

The City hereby employs the Employee as the City Attorney to perform such duties as are currently prescribed or may be prescribed by the, Mayor and Governing Body consistent with the laws of the State of Wyoming and the Ordinances and Resolutions of the City of Gillette, Wyoming.

Section 2. **TERM**

- A. This agreement shall commence January 3, 2017 and shall continue by appointment year-to-year until otherwise terminated as provided herein. Thereafter, the Attorney's employment commences the first City Council meeting in January of each year.
- B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Governing Body of the City of Gillette, to terminate the services of the Employee at any time, by a majority vote of all the members of the elected body, subject only to the provisions set forth in Section 6 of this Agreement.

- C. Nothing in the Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with the City, subject only to the provisions set forth in Section 6 of the Agreement.

Section 3. **DUTIES OF EMPLOYEE**

Employee will:

- A. Devote the time, skill, labor and attention to employment during the term of this employment as may be necessary to accomplish the work.
- B. Not engage in any employment that will interfere with his employment with the City.
- C. Faithfully adhere to Government Ethics as proscribed in Wyoming Statute §9-13-101, et sec.
- D. Disclose prior to entering into this Agreement, or at such time as the Employee becomes aware of such circumstance, any known contracts or financial arrangements that the Employee would reasonably expect would be affected by actions by the City.
- E. Not disclose, during employment or at any time thereafter, to any person, firm, or corporation any non-public information concerning the business or affairs of the City which he may have acquired in the course of, or as an incident to, his employment to the financial detriment or reasonable expectation of financial detriment to the City.
- F. To leave in place or to return immediately upon termination of employment with the City, all property of the City, including but not limited to keys, equipment, phones, pagers, automobiles, computer hardware and software, original drawings, plans, specifications, manuals, procedures, and any and all other documents of any kind which were provided to or generated by him in the course of, or in connection with, his employment by the City.

Section 4. **COMPENSATION**

- A. The City will pay the Employee as compensation for services an annual equivalent salary of \$125,197.00 per year.
- B. Employee may be eligible for merit pay increase, as determined by the Governing Body of the City of Gillette. Employee may be eligible for other salary increases as approved by Mayor and Governing Body each budget year and as may be provided to other employees of the City of Gillette.

- C. As the Employee is engaged in a professional and executive capacity and is compensated on a predetermined annual salary basis, the position is exempt from the maximum hour's provisions of the Fair Labor Standards Act.

Section 5. BENEFITS & OTHER COMPENSATION

- A. The City will provide fringe benefits as approved by City Council, including health, dental, life and long term disability insurance, and City paid contributions for retirement, amounting to 14.12% of salary, to the Wyoming Retirement System. The Employee understands that the City may, in its sole discretion, add, alter, amend, modify, or terminate such benefits at any time without any notice as allowed by law.
- B. The City and Employee acknowledge that Employee does not participate in the City's health or dental insurance plan, and has not for the two (2) years prior to this Agreement. In lieu of receiving health and dental benefits, the Employee has elected to receive, and the City has agreed to tender, payment into his Deferred Compensation Plan (ICMA-RC 457 Plan). The amount to be paid shall be equal to the costs of the City in providing health and dental insurance to the Employee and his family, or the maximum amount allowed by the Internal Revenue Service (IRS) for a 457 Deferred Compensation Plan, whichever is less.
- C. In the event the Employee and his family shall require health or dental insurance after execution of this Agreement, any payments into the Employee's Deferred Compensation Plan (ICMA-RC 457 Plan) shall cease, and Section 5, Subsection B shall be waived by both parties for so long as Employee and his family requires participation in the City's health and dental insurance plan.
- D. The Employee shall continue to accrue annual leave as indicated below, based upon years of service. Employee will be paid for all accumulated annual leave upon termination of employment, up to a maximum of 320 hours of annual leave.

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|--------------|-------------------------------|
| 0 to 5 years | 120 hours per 12 month period |
| 5 to 8 years | 140 hours per 12 month period |
| Over 8 Years | 160 hours per 12 month period |

- E. The City shall provide an automobile allowance of \$150 per month in lieu of issuance of a departmental vehicle. Employee shall be responsible for any and all Federal taxes applicable to the automobile allowance.
- F. Employee shall be eligible to participate in the City's Wireless Communication Devices (WCD) Assignment & Use Policy, Number 1.3, and shall receive a monthly stipend for a calling plan and data services at the maximum rate established in that policy as it may change at any time and from time to time, currently \$80 per month.



- G. Employee shall be credited with an additional 40 hours of sick leave upon execution of this agreement. Employee will not be paid for accumulated sick leave upon termination of employment by either party.
- H. The City shall pay professional and/or service club memberships as approved by the City Administrator and expenses associated with Employee's attendance at professional conferences and meetings.
- I. The City shall pay all dues and expenses for Employee's membership in the Wyoming State Bar Association, Campbell County Bar Association, and such other professional associations, as approved by the City Administrator and/or Governing Body and as may be required to maintain Employee's law license within the State of Wyoming.
- J. The City shall provide appropriate equipment to the Employee as necessary for the Employee's position, as approved by the City Administrator.
- K. The City will provide the Employee with full coverage professional liability insurance for acts performed within the scope of his employment with the City, or in the event that such insurance is not secured, the City shall indemnify and hold Employee harmless, including providing the cost of his defense, with regard to acts performed within the scope of his employment with the City.
- L. The City will provide an annual written performance evaluation of the Employee on the anniversary of the date of hire, conducted by the City Administrator, with input by the Department Heads, the Mayor and Governing Body.

Section 6. TERMINATION

Appointment shall renew annually unless otherwise terminated as provided herein. The agreement can be ended or modified for any reason that does not unlawfully discriminate or violate public policy, including but not limited to: lack of work, lack of funds, reorganization, or unsatisfactory performance, as determined by the Governing Body. The Employee acknowledges the City Administrator shall provide evaluation criteria, performance reports and other information to the Governing Body to assist in the Governing Body's evaluation of Employee's performance. The employment of the Employee is conditioned upon the following:

- A. In the event the Employee is terminated by the Governing Body of the City of Gillette, during such time that Employee is willing and able to perform his duties under this Agreement, the City agrees to provide Employee severance pay in an amount equal to four (4) months aggregate salary.
- B. Aggregate salary for the term of this Agreement shall mean salary and benefits either in the form of continued insurance benefits (as provided for in Section 5), retirement

contributions and car allowance or an amount sufficient to obtain equal coverage's and/or benefits.

- C. In the event the Employee is terminated because of his conviction of any crime involving theft, deceit, embezzlement, material breach of the Wyoming Rules of Professional Conduct, or established through an internal investigation, as determined by the Governing Body, then in that event, the City shall have no obligation to pay the aggregate severance sum designated in Paragraph A of this section.
- D. Severance pay shall be paid in the same manner as regular salary payments are made and not in one lump sum, unless otherwise directed by Employee.
- E. If the Employee dies during any period in which payments are being made in accordance with Paragraph A of this section, the balance of payments shall accrue to the beneficiary designated in writing by Employee and if no such designation is made to Employee's estate. If Employee should die during his regular employment, the payments under Paragraph A of this section will not be made and the insurance proceeds shall be in lieu thereof.
- F. In the event Employee voluntarily resigns his position with the City, the Employee shall give the Employer sixty (60) days written notice in advance, unless the parties otherwise agree. If the Employee voluntarily resigns his position, the severance provisions of the Agreement shall not apply.

Section 7. **APPLICABLE LAWS**

The Employee agrees to abide by all applicable local, state, and federal laws. This agreement shall be governed by the laws of the State of Wyoming and venue of any action concerning this agreement shall be in a court of appropriate jurisdiction located in the Sixth Judicial District, Campbell County, Wyoming.

Section 8. **MEDIATION**

The parties shall attempt to resolve any controversies or disputes arising out of or relating to this Agreement and the employment of Patrick G. Davidson through a good faith attempt at mediation. The City shall pay the mediator's fee and any administrative expenses imposed by the mediator. Each party will pay its own attorneys' fees and costs.

Section 9. **INDEMNIFICATION**

The City shall defend, save harmless, and indemnify Employee against any tort, professional liability claim(s) or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Employee's duties as City Attorney. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.



Except as specifically directed by the City Administrator, Mayor or Governing Body, the Employee may not engage in any of the following acts with respect to actions or proceedings for damages defended pursuant to this resolution.

- A. Negotiate or otherwise affect the settlement of such an action or proceeding for damages against the City;
- B. Make an admission of liability involving such an action or proceeding for damages against the City; or
- C. Discuss with persons who are not City employees, incidents which could reasonably lead to actions or proceedings for damages against the City, its officers or employees.
- D. Engage or retain legal counsel at City expense.

This indemnification provision shall survive termination of this contract. The Employee agrees to cooperate and participate as may be necessary to carry out the defense of any action, and if not a current employee to be compensated for all such activities at an hourly rate equal to the Employee's salary, adjusted to an hourly rate.

*Section 10. **AMENDMENT***

The terms of this Agreement may not be altered, amended, or otherwise modified except by the express written consent of the parties.

*Section 11. **SEVERABILITY***

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

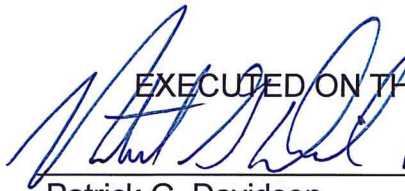
*Section 12. **WAIVER***

The waiver or the failure to take action with respect to breach of any term, covenant or condition shall not affect the Employee's duties hereunder or waive any rights concerning any subsequent breach. All remedies afforded in this Agreement shall be taken as cumulative, that is, in addition to every other remedy provided therein or by law.

*Section 13. **ENTIRE AGREEMENT***

Except as provided in Sections 4 and 5, above, this Employment Agreement constitutes the entire agreement between the parties with respect to the subject matter thereof, and supersedes all prior written agreements and all prior or contemporaneous oral agreements or understandings between the parties.

EXECUTED ON THIS _____ day of _____, 2017 in Gillette, WY.


12/13/16
Patrick G. Davidson

MAYOR
CITY OF GILLETTE, WYOMING

LOUISE CARTER-KING

