AMENDED AND RESTATED EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF DOVER, NH
AND
MR. JAMES MICHAEL JOYAL, JR.

This Amended and Restated Employment Agreement made and entered into this 12th day of July, 2017 by and between the CITY OF DOVER, a municipal corporation within the County of Strafford and the State of New Hampshire (hereinafter called the "CITY"), as party of the first part, and JAMES MICHAEL JOYAL, JR., of the City of Dover, County of Strafford, and State of New Hampshire (hereinafter called "EMPLOYEE"), as party of the second part;

WITNESSETH:

WHEREAS, the City desires to employ the services of the Employee as City Manager of the City of Dover per the provisions established by the Dover City Charter and the Laws of the State of New Hampshire; and

WHEREAS, it is the desire of the City Council, in accordance with the Dover City Charter and the Laws of the State of New Hampshire, to establish compensation, benefits, and other working conditions for the employment of the Employee; and

WHEREAS, it is the desire of the City Council to ensure the commitment and full productivity of the Employee in providing service to the City as City Manager; and

WHEREAS, it is the desire of the City Council to provide inducement for the Employee to remain in service to the City while also ensuring a just means for the termination of employment at such time as may be required; and

WHEREAS, Employee agrees to accept employment as City Manager of said City; and

WHEREAS, Employee and the City desire to amend and restate the prior Amended and Restated Employment Agreement entered into by them dated August 14, 2013, which upon execution of this Agreement shall be considered null and void.

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

SECTION 1 – DUTIES AND AUTHORITY OF THE CITY MANAGER

City hereby agrees to employ James Michael Joyal, Jr. as City Manager of said City. Employee accepts such employment and agrees to perform the functions and duties specified in the City Charter, City Ordinances, and the Laws of the State of New Hampshire, and to perform such other legally permissible and proper duties, and reasonable functions as the City Council shall from time-to-time assign.

SECTION 2 - TERM

This Agreement shall remain in full force and effect from July 1, 2017 until terminated by the City or Employee as provided in Section 3 of this Agreement. Solely for the purposes of merit review and benefit eligibility, Employee's anniversary date of employment with the City shall remain as July 1, 1993.

SECTION 3 - TERMINATION OF EMPLOYMENT AND SEVERENCE

A. The City Council, at any time, may terminate the employment of the Employee for cause. The termination procedure for notice and hearing shall be conducted in accordance with NH RSA 49-C:17 and Section C5-3 of the City Charter.

B. In the event the Employee is terminated by the City Council for any reason other than voluntary resignation, the City agrees that it shall pay to the Employee all unused, accrued vacation leave, together with a lump sum severance payment equal to twelve (12) months aggregate salary, said amount to be paid to the Employee on or before the effective date of termination of his employment; further, the City shall continue to provide at no cost to the Employee, the insurance benefit plan available to City employees. In the event no insurance is available to City employees, the City's sole obligation is to tender to the Employee an amount equal to the premium paid by the City when coverage was available; provided, however, that in the event the Employee is terminated for intentional gross misconduct in office or conviction of a felony, the City shall have no obligation to pay for insurance benefits nor pay the aggregate severance amount provided for in this paragraph.

C. In the event the City in any fiscal year intentionally reduces the base salary, compensation or any other financial benefit of the employee described herein in a percentage greater than is applied in an across the board reduction in the same fiscal year applicable to all other employees of the City, or in the event that the City refuses, following a thirty (30) day period after receipt of written notice delivered to the Mayor, to comply with any of the financial provisions benefiting the Employee set forth herein, the Employee may, at his option, deem himself to have been terminated as of the date of such reduction or refusal to comply with the provision herein claimed to have been violated. Upon such determination of termination of employment, the City agrees that it shall provide Employee with pay for all unused, accrued vacation leave, severance and insurance benefits as specified in paragraph B of this Section and an additional lump sum, cash payment equal to one (1) months aggregate salary for each year of employment as City Manager.

D. In the event the Employee voluntarily resigns his position with the City, the Employee shall give the City thirty (30) days written notice in advance, unless the parties agree otherwise. Such notice of resignation shall be directed to the Mayor of the City, with a copy filed with the City Clerk. If the Employee voluntarily resigns, he shall not be entitled to salary after the date of resignation or to the severance benefits specified in this Section except he shall be paid for all unused, accrued vacation leave not to exceed thirty (30) days.

SECTION 4 - SALARY

A. The City agrees to pay the Employee for services rendered under this Agreement, an annual base salary of $150,555, subject to applicable withholdings and deductions, payable in installments at the same time as other employees in the City are paid.

B. The City agrees the Employee shall be awarded a merit increase following completion of an evaluation of his performance as specified by Section 5 of this Agreement. Such increase is only to be applied to the Employee's base salary effective the first full pay period following Employee's anniversary date. The amount of the merit increase shall be determined by the City Council at its sole discretion, but shall not be less than the prior calendar year-end Boston CPI-U average.

C. The City may provide additional compensation or benefits as may be voted by the City Council from time-to-time, based upon their performance evaluation and review of the Employee.

SECTION 5 - CITY MANAGER PERFORMANCE EVALUATION

A. The City Council shall review and evaluate the Employee's performance as City Manager at least once every year, provided, at a minimum, one performance evaluation occurs within forty-five (45) days of Employee's anniversary date each year. Said review and evaluation shall be based on the goals and objectives developed jointly by the City Council and the Employee in accordance with paragraph B of this Section. Upon completing the evaluation, the Mayor shall provide the Employee with a written copy of each City Councilor's remarks and a written executive summary of the evaluation's overall findings. There shall be an adequate opportunity for the Employee to discuss the evaluation with the City Council

B. Annually during the month of September, or such other month as may be mutually agreed upon, the City Council and the Employee shall define goals and objectives which they determine necessary for the proper operation of the City and the attainment of the City Council's policy objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limits specified and within the annual operating and capital budgets and appropriations provided by the City and the events that have occurred during the year.

SECTION 6 - HOURS OF WORK

A. It is recognized that the Employee must devote a great deal of time outside the normal office hours to the business of the City, and to that end the Employee will be allowed to have flexibility in scheduling his time.

B. Recognizing that outside teaching and consulting opportunities provide indirect benefits to the City and the community, the Employee may accept and be compensated for limited teaching and consulting opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with responsibilities required by this agreement nor shall they result in any added cost to the City. Further, the Employee will notify the Mayor and City Council whenever accepting such an engagement.

SECTION 7 – PAID LEAVE AND HOLIDAYS

A. The Employee shall accrue twenty-five (25) days paid vacation leave per year which shall be awarded annually on the Employee's anniversary date. To limit excessive accruals, up to thirty (30) days of accrued and unused vacation leave may be carried over from year to year. Employee may opt each year and shall be paid for any portion of accrued and unused vacation leave.

B. The Employee will not receive any preset number of sick days or personal days but instead may take them on an as-needed-basis.

C. The Employee shall be responsible for accurately recording leave usage.

D. The Employee is entitled to time off for the holidays currently recognized by the City on the day they are observed.

SECTION 8 - INSURANCE BENEFITS

All insurance benefits, including health, dental, life and disability insurances that are currently available and in effect for Employee will continue to be provided and paid by the City excepting the Employee shall pay twenty percent (20%) and the City will pay eighty percent (80%) of the applicable premiums for the Employee's chosen health insurance plan.

i. Employee may select a lower cost health insurance plan available to the City and Employee, in which case Employee shall pay seventeen (17%) and the City will pay eighty-three percent (83%) of the premium.

SECTION 9 - RETIREMENT BENEFITS

A. The Employee shall be allowed to enroll and participate in the NH Retirement System per the requirements established by State of New Hampshire Retirement System.

B. The City and Employee shall work cooperatively to enroll the Employee in the International City Management Association's Retirement Corporation (ICMA-RC) 457B plan. Annually, on the Employee's anniversary date of employment, the City shall provide a longevity payment which the employee may, at his discretion, defer to the 457B plan account established pursuant to this section in an amount equal to the IRS allowable limits..

i. Beginning July 1, 2015, and each year thereafter, the amount provided for above will be increased as specified based upon the then current IRS allowable contribution limit provided any increase from one year to the next is capped not to exceed ten percent (10%).

C. Upon his retirement with at least twenty (20) years' employment with the City, the City shall provide at no cost to the Employee, the group health and dental insurance benefit plan available to City employees. In the event no group health insurance is available to City employees, the City's sole obligation is to tender to the Employee an amount equal to the premium paid by the City when coverage was available.

SECTION 10 – CITY BUSINESS RELATED EXPENSES

A. The Employee shall be reimbursed for all reasonable business-related expenses incurred in the performance of his duties.

B. The City shall provide a vehicle for Employee's use.

SECTION 11 - PROFESSIONAL DEVELOPMENT

A. The City shall pay for the Employee's individual membership in the International City/County Manager's Association, the New Hampshire Municipal Manager's Association, and the Society of Human Resource Management.

B. The City agrees to purchase subscriptions, books, training materials, course tuition and other professional association memberships for the Employee dependent upon budget availability.

C. The City agrees to pay the expenses associated with the Employee's attendance at the annual conferences of the International City/County Manager's Association, the New Hampshire Municipal Association and the New Hampshire Municipal Manager's Association. Employee's attendance at other seminars, workshops, conferences including travel and lodging may be provided dependent upon budget availability.

SECTION 12 – INDEMNIFICATION

The City agrees to indemnify and hold harmless the Employee from any and all losses, including Employee's reasonable attorney's fees and other expenses of defense, in connection with any claim, demand, action, or suit, or judgment arising out of any act or omission of the Employee if at the time of the act or omission, the Employee was acting within the scope of his employment and without malice or bad faith.

SECTION 13 - BONDING

The City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

SECTION 14 - OTHER TERMS AND CONDITIONS

The City Council may fix such other reasonable terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter, or any other Federal or State law.

SECTION 15 - SEVERABILITY

If any provision, or provision thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof, shall be deemed severable and shall not be affected and shall remain in full force and effect.

SECTION 16 - MERGER

The text of this written Agreement and any amendments approved by the City Council and executed by the Mayor and the Employee constitute the entire understanding between the parties with respect to the employment of James Michael Joyal, Jr. as the City Manager of the City of Dover.

SECTION 17 - NOTICES

Notices pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

City: The Honorable Mayor and City Council
City of Dover, NH
288 Central Ave.
Dover, NH 03820

Employee: Mr. J. Michael Joyal, Jr., City Manager
City of Dover, NH
288 Central Ave.
Dover, NH 03820

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

SECTION 18 - GENERAL PROVISIONS

A. This Agreement shall be binding upon the City and Employee, as well as their heirs, assigns, executors, personal representatives and successors in interest.

B. This Agreement shall become effective upon execution.

IN WITNESS WHEREOF, the City of Dover has caused this Agreement to be signed and executed in its behalf by the Mayor and duly attested by the City Clerk and approved as to form by its Legal Counsel, and the Employee has signed and executed this Agreement, all in duplicate, as of the day and year first above written.

CITY OF DOVER, NEW HAMPSHIRE

By: Karen Weston
The Honorable Mayor, Karen Weston

Approved as to Form:

By: MTB
Mark T. Broth
City Legal Counsel

Duly Attested:

By: Karen Lavertu
Karen Lavertu
City Clerk/Tax Collector

EMPLOYEE

By:
James Michael Joyal, Jr.