

**Employment Agreement Between
The City of Oregon City and David W. Frasher
For the Position of City Manager**

THIS AGREEMENT, shall be effective April 7, 2013, by and between the City Commission of Oregon City of a municipal corporation, hereinafter called "Employer," as party of the first part, and David W. Frasher, hereinafter called "Employee," as party of the second part, an individual who has the education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom understand as follows:

WITNESSETH:

WHEREAS, Employer desires to employ the services of Employee as City Manager of the City of Oregon City as provided by and subject to the limitations of the Oregon City Charter of 1982, as amended, and specifically Chapter V, Section 21 thereof, and other applicable law; and

WHEREAS, it is the desire of the Governing Board, hereinafter called "Commission," to provide certain benefits, establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Employer to (1) secure and retain the services of Employee and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security, and (3) to provide a just means for terminating Employee's services at such time as he may be unable fully to discharge his duties or when Employer may otherwise desire to terminate his employment; and

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

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

Section 1. Duties

Employer hereby agrees to employ Employee as City Manager of said Employer to perform the functions and duties specified in Chapter V, Section 21 of the Oregon City Charter and to perform other legally permissible and proper duties and functions as the Employer shall from time to time assign.

Section 2. Term

The term of this agreement shall be for an initial period of five (5) years. Thereafter, this agreement shall remain in effect until terminated by the Employer or Employee as provided in Section 8 of this agreement.

Section 3. Compensation

Employer and Employee agree that Employee shall continue serving the City at his current monthly salary of \$13,650. Employee shall receive any cost of living or other salary adjustments and benefits generally provided to Department Directors and to the next highest compensated employee of the City, including being eligible for annual merit pay based upon performance.

Section 4. Vacation, Sick, and Other Leave

Employee shall accrue sick, vacation, and other leave at no less than the highest annual accrual rate provided to any other employee. Employee may cash out seven days of vacation each calendar year so long as Employee has taken at least one week of vacation during that year.

Section 5. Retirement

The Employer agrees to maintain Employee's enrollment in the Oregon Public Employees Retirement System (PERS) and to make all the appropriate contributions on the Employee's behalf, for both the Employer and Employee share required. In addition to the Employer's payment to the Oregon PERS, Employer agrees to contribute, each pay period, an amount equal to 3.5% (with a 3.5% match required by Employee) of Employee's annual salary into a Section 457 deferred compensation or Section 401 supplementary retirement plan selected by Employee.

Section 6. Retention Incentive

Recognizing that Oregon City is advancing major generational, long-term projects that require consistent long-term administrative leadership and service, and that the City will benefit from the stability provided through a long-term relationship, the Employer shall provide Employee the following retention incentive. Upon cessation of service or conclusion of this agreement, Employee shall receive a pro-rated payment equal to 75% of the monthly compensation and benefits, at the time, for each full year of service to the City.

Section 7. General Business Expenses

A. The Employer agrees to provide for professional dues and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and

desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

B. The Employer agrees to provide for reasonable travel and subsistence expenses of Employee for professional and official travel, meetings, seminars, institutes and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.

C. The Employer recognizes that certain reasonable expenses of a non-personal but job related nature may be incurred by Employee, and agrees to reimburse or to pay said general expenses. The Finance Director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

D. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

E. The Employer shall provide Employee with a mobile computer, and shall reimburse employee the full cost of one (1) smart phone and for the full cost of one monthly individual smart phone/internet service account for the Employee to perform the job and to maintain communication.

Section 8. Termination

Either Employer or Employee may terminate this agreement by written notice. Employer must provide Employee ninety (90) days notice of its intent to terminate this agreement. Employee must provide Employer thirty (30) days notice of his intent to terminate this agreement. For the purpose of this agreement, termination shall occur when:

A. The majority of the governing body votes to terminate the Employee or this agreement at a duly authorized public meeting.

B. If there is a change in the law pertaining to the role, powers, duties, authority, or responsibilities of the Employee's position that substantially changes the form of government, the Employee shall have the right to declare that such constitutes termination.

C. If the Employer reduces the salary, compensation or any other benefit of the Employee.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body.

E. Upon written notification of a breach of contract declared by either party, with a failure to cure the breach within 30 days.

Section 9. Severance

Severance shall be paid to the Employee when employment is terminated as defined in Section 8, unless the termination is due to the Employee's conviction of a felony or class A misdemeanor. If the Employee is terminated, the Employer shall provide a minimum severance payment equal to nine (9) months salary and benefits at the rate of pay and benefits in effect at that time. This severance shall be paid in a lump sum unless otherwise agreed by the Employer and the Employee. The Employee shall also be compensated for all accrued sick leave, vacation, holidays, or other leave. The Employer agrees to make a contribution to PERS and to the Employee's supplemental retirement account on the value of this compensation calculated using the rate ordinarily contributed on regular compensation. Severance shall not be due if Employee becomes disabled or otherwise unable to perform his duties as City Manager.

Section 10. Performance Evaluation

Employer shall annually review the performance of the Employee subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within 30 days of the evaluation meeting. Employee shall be annually considered for merit pay for performance in the same manner as other management employees of the City.

Section 11. Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 12. Outside Activities

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute

interference with nor a conflict of interest with his responsibilities under this Agreement.

Section 13. Indemnification

In addition to that required under state and local law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager to the maximum amount permitted by law. Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon to the extent permitted by law. Employee will not have final authority as to the disposition of any such claim.

Section 14. Bonding

As required by Section 21(a) of the Oregon City Charter, Employer shall provide a bond in the amount of \$250,000. Employer shall bear the full cost of the bond required of the Employee.

Section 15. Notices

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

- (1) EMPLOYER: City of Oregon City
Attention: Nancy Ide, City Recorder
City of Oregon City – City Hall
625 Center Street
Oregon City, OR 97045

WITH COPY TO: William Kabeiseman, City Attorney

- (2) EMPLOYEE: David W. Frasher,
10365 SE Quail Ridge Drive,
Happy Valley, Oregon, 97086

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 16. General Provisions

A. The text herein shall constitute the entire agreement between the parties.

B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

C. This agreement shall become effective commencing on or about May 1, 2013.

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

IN WITNESS WHEREOF, the City of Oregon City has caused this agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Recorder, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

ATTEST:

CITY OF OREGON CITY

Nancy Ide, City Recorder

Doug Neeley
Mayor of Oregon City

EMPLOYEE

APPROVED AS TO LEGAL
SUFFICIENCY:

David W. Frasher

By: _____
Attorney for the City