

SECOND AMENDMENT TO MEMORANDUM OF AGREEMENT

THIS SECOND AMENDMENT TO MEMORANDUM OF AGREEMENT, effective as of the 17th day of June, 2019, by and between the **CITY OF HIGH POINT, NORTH CAROLINA** ("City" or "Employer"), and **GREGORY WILLIAM DEMKO**, of High Point, North Carolina ("Employee"), (collectively "Parties").

WITNESSETH:

WHEREAS, the City and Employee entered into a written Memorandum of Agreement ("Agreement") on December 8, 2014, for the purpose of City Council appointing Employee as City of High Point City Manager.; and

WHEREAS, the City and Employee entered into a First Amendment to Memorandum of Agreement ("First Amendment) on March 2, 2015; and

WHEREAS, the Parties desire to memorialize, in writing, the agreement they have reached, and to modify the Agreement to reflect the desires of the Parties to continue their employment relationship for four (4) years; and

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the City and Employee agree to amend the Agreement, including the following Sections of the Agreement, as set forth below:

(1) **Section 1. Appointment/Salary.** Is hereby amended to read as follows:

The City, through its City Council, ~~appoints~~ appoints and ~~employs~~ employed Employee as the City Manager and Employee ~~hereby accepts~~ accepted employment as the City Manager for the City of High Point, North Carolina, effective January 12, 2015, at an annual salary of \$170,000 per year to be paid to Employee biweekly as part of the City's payroll. Employee's annual salary and all other benefits of the Employee may be increased in such amounts and to such an extent as the City Council may determine that it is desirable to do so, either on the basis of an annual performance review of said Employee, or at any

other time deemed appropriate by the City Council. If the salary or benefits for all other City employees is increased, then Employee will be entitled to an increase in Employee's salary or benefits in at least the same percentage, and on the same effective date that is applicable to all other City employees. City ~~makes~~ made no expectation or requests of Employee for work prior to his start date and any information provided to Employee by email or other format is was not intended as an assignment of work duties. Furthermore, Employee understands that he ~~is~~ was not, in any manner, required to devote any time to and/or related to the business of the City prior to January 12, 2015.

Effective July 1, 2018, the City Manager's salary of Two-Hundred Fourteen Thousand Nine-Hundred Ninety-Nine and 20/100 Dollars (\$214,999.20) was increased by 4%. In addition, Employee acknowledges receipt of an advance of wages in the net amount of Fifty-Thousand and 00/100 Dollars ("50,000.00") ("Advance") as a retention bonus intended to induce Employee to remain employed as City Manager throughout the Term (defined in Section 3 below). The Parties agree that this advance of wages is earned at the rate of \$12,500 for each of the following periods: 12/1/17 – 11/30/18; 12/1/18 – 11/30/19; 12/1/19 – 11/30/20, and 12/1/20 – 11/30/21. The Parties further agree that if Employee resigns his employment as City Manager prior to the end of the Term, he shall not have earned the Advance, and must repay it according to the schedule set forth in Section 5 below.

(2) **Section 3. Term.** Is hereby amended to read as follows:

The Term of the Agreement shall be for a four (4) year period, beginning on December 1, 2017 and terminating on November 30, 2021 ("Term") unless earlier terminated in accordance with this Agreement.

The Employee shall serve at the pleasure of the City Council under this contract without a probationary period, and nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Council to terminate the services of the Employee at any time, with or without cause, but any termination by the City Council shall be subject to the provisions set forth in Section 4 of this Agreement.

~~Notwithstanding the foregoing, it is the express intent of both parties that the appointment is intended to be a continuing appointment and that the Employee shall be appointed to an indefinite number of terms thereafter provided the Employee continues to fully and faithfully discharge the Employee's duties as City Manager.~~

Subject to the notice obligations and requirements set forth in Section 5 of this Agreement, nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with the City without further obligation to the City.

(3) **Section 5. Resignation and Reimbursement to City.** Is hereby amended to read as follows:

The Employee shall give the Employer a sixty (60) day notice in advance in the event Employee voluntarily resigns the position and appointment with the Employer. Employer may, in its discretion waive the notice period and allow Employee to immediately resign with no further obligation to Employer under this Agreement.

Furthermore, if Employee resigns during the Term of this Agreement, Employee will not have earned and must repay the Advance to the City as follows:

- (a) If Employee had resigned prior to December 1, 2018, Employee would have had to repay Fifty Thousand and 00/100 Dollars (\$50,000.00) to the City

within thirty (30) days of Employee's provision of notice of resignation to the City.

- (b) If Employee resigns between December 1, 2018 and November 30, 2019, Employee will repay Thirty-Seven Thousand Five Hundred and 00/100 (\$37,500.00) to the City within thirty (30) days of Employee's provision of notice of resignation to the City.
- (c) If Employee resigns between December 1, 2019 and November 30, 2020, Employee will repay Twenty-Five Thousand and 00/100 (\$25,000.00) to the City within thirty (30) days of Employee's provision of notice of resignation to the City.
- (d) If Employee resigns between December 1, 2020 and November 30, 2021, Employee will repay Twelve Thousand Five Hundred and 00/100 (\$12,500.00) to the City within thirty (30) days of Employee's provision of notice of resignation to the City.

- (4) The addition of a new Section 16 shall read as follows:

Section 16. Delivery of Succession Plan.

On or before March 31, 2019 Employee shall provide City Council a detailed, verbal briefing of a succession plan, which shall include as follows:

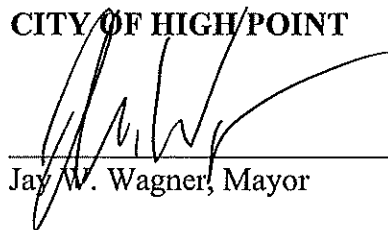
- (a) A review of City leadership, years of service and retirement eligibility; and
- (b) Identification of potential successors/replacements, both internal and external.

Employee's failure to satisfy Section 16 of this Agreement shall be deemed a material breach of this Agreement.

- (5) In all other respects, and except as modified herein, the terms of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the day and year first above written.

CITY OF HIGH POINT



Jay W. Wagner, Mayor

EMPLOYEE



Gregory William Demko

Approved by the High Point City Council on
The 17th day of June, 2019.