

## EMPLOYMENT AGREEMENT

This Agreement is entered into this 13<sup>th</sup> day of April, 2015 by and between Mary K. Koester (hereinafter "Employee") and the City of Homer, an Alaskan Municipal Corporation (hereinafter "Employer").

1. Purpose. Employer agrees to employ Employee in the position of City Manager of the City of Homer, Alaska.

2. Term. The term hereof shall commence on April 13, 2015 and continue through December 31, 2018. Thereafter, the Agreement may be renewed upon such terms and conditions to which parties mutually agree.

3. Duties. Employee shall make every effort and shall devote full time and attention to fulfillment of the duties of the City Manager as more described in the Homer City Code, incorporated into and made a part of this Agreement by reference, and such other duties as the City Council may require from time to time. Employee further agrees not to engage in any other business that would conflict or give the appearance of conflict with Employee's duties for Employer.

Employee shall comply with the policies, procedures, standards, directives and regulations now established or which may be established by the Employer from time to time.

Employee's performance shall be evaluated by the City Council annually or at such other intervals as the City Council may establish.

4. Compensation. In consideration of Employee's performance under this Agreement, Employee shall be paid the following:

(A) An annual salary of \$103,000 payable bi-weekly in equal installments. Employee is eligible for annual performance-based increases of up to 5% the current annual salary, beginning on January 1, 2016, and each year to follow (January 1, 2017 & January 1, 2018).

(B) Employee shall receive leave and holidays in accordance with City of Homer Personnel Regulations. Employee will accrue leave at the 6<sup>th</sup> to 9<sup>th</sup> year level. Employee shall not be entitled to overtime pay or compensatory time.

(C) Employee and employee's spouse & children shall be covered (at no cost to the employee) by Employer's Core Group Health Plan. Employee shall also be covered by City's life insurance plans, retirement plans and worker's compensation plans.

5. Retirement. Employee will participate in the Public Employees Retirement(PERS).

6. Termination. Due to the nature of the City Manager position in that it involves dealing on behalf of the City in various fields and the involvement of the City Manager in many different projects, it is agreed that the City's business can only succeed if the City Manager and the City Council enjoy a working relationship based on mutual respect, trust, and positive attitudes. It may, therefore, be impossible to quantify "poor performance" or "just cause" for termination given these complexities which often involve personality factors, as opposed to legal or contractual factors. It is, therefore, the intent of the parties to provide for termination by either Employer or Employee without resorting to any determination of cause or any necessary explanation by Employee.

(1) Employee Termination of Contract. The Employee may terminate this Agreement for any reason, or no stated reason, upon giving three months written notice to the Employer. The Employer reserves the right to waive the three month written notice or any part of and allow the Employee to terminate his employment at any time following the resignation and pay the Employee's usual rate of pay for any time worked plus 14 days' severance pay.

If the relationship is severed by the Employee prior to completion of the notice period, Employer shall pay Employee for time worked, but shall not be responsible for any severance pay.

(2) Employer Termination of Contract. The Employer may terminate this Agreement for any reason, or no stated reason. The Employer will pay the Employee six months severance pay at the Employee's usual rate of pay. Severance pay will be paid in one lump sum.

For purposes of PERS reporting employment will end the date Employee is no longer actively working for the City and no additional work time will accrue for retirement purposes. Leave time accrual will end the day Employee is no longer actively working for the City. Health and Life Insurance will terminate on the last day of the month Employee is no longer actively working for the City. The Employee will be notified of his right to continue health insurance under COBRA.

(3) Termination for Cause. Employer may terminate this Agreement for cause upon the Homer City Council's determination that dismissal of the Employee is justified for any reason that would support dismissal under the City of Homer Personnel Regulations. Prior to termination for cause, Employee will be notified of the reasons for the termination. The City Council will hold a hearing within 15 working days after notice of the reasons for termination for cause is provided to

Employee. At the hearing Employer and Employee may present arguments and evidence in support of or in opposition to the termination. Either party may be represented by an attorney. Employee is entitled to payment for accrued leave upon termination for cause, but Employee shall receive no severance pay.

(4) Termination by Death or Disability. This Agreement shall immediately terminate upon Employee's death. It shall also terminate upon Employee's disability or illness that renders Employee unable to perform Employee's duties if the disability should continue past the approved time under the Family Medical Leave provisions of the Personnel Regulations. Employee shall thereafter no longer be entitled to any compensation provided herein.

7. Reimbursement for Expenditures. Reimbursement for expenditures on behalf of the City shall not be paid unless reimbursement is sought in accordance with standard City procedures, including receipts, vouchers, and supporting material. Employer shall reimburse Employee for reasonable employment-related expenses including meals, civic club membership, travel and subscriptions.

8. Conferences and Continuing Education.

(A) Employee shall be reimbursed for all costs of attending approved national or state City Manager association conferences. Employee shall attend one national conference every two years.

(B) Employer shall pay the membership dues of Employee in the following organizations: (1) Alaska Municipal Managers Association, (2) American Society of Public Administrators, (3) International City Management Association.

(C) Employer shall pay any reasonable costs of registration, travel, and subsistence relating to training programs which serve to continue the professional education development of Employee, subject to prior City Council approval.

9. Indemnification and Hold Harmless. Employer shall defend, indemnify and save Employee harmless as provided in Chapter 1.10 of the Homer City Code.

10. Confidentiality. All matters required to be kept confidential by any provision of federal or state law, or city ordinance shall not be released by Employee to any person or group without the expressed consent of the City Council.

11. Conflict of Interest. Employee agrees to be fair and impartial in all dealings and to avoid any actions which create a conflict of interest or the appearance of a conflict of interest, or which might reasonably be interpreted as affecting the impartiality of the position of City Manager. Employee will avoid any action which adversely affects or appears to affect Employee's ability to perform the duties of City Manager.

12. Miscellaneous Provisions.

(A) Governing Law. This Agreement shall be governed by and construed under the laws of the State of Alaska and is subject to all applicable City Code provisions of the City of Homer.

(B) Personnel Regulations. It is agreed the only provisions of the Homer Personnel Regulations that apply to this Agreement are Sections referring to leave, holiday pay, and reasons for dismissal.

(C) Jurisdiction. In the event that any action or suit is brought to enforce this Agreement the parties agree to be subject to exclusive jurisdiction in the Superior Court of Alaska and agree that in any such action venue shall lie exclusively in the Third Judicial District.

(D) Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes all prior negotiations. No other agreement, statement or promise made by or to any party, or any employee, officer, or agenda of any party, which is not contained in this Agreement shall be binding or valid.

(E) Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in force and effect and in no way be affected, impaired, or invalidated.

(F) Assignment. Employee may not assign this Agreement.

(G) Amendment. This Agreement may be amended only by a written document executed by the parties hereto.

13. Employee's Certification. Employee hereby certifies receipt of a copy of this Agreement and certifies that the contents hereof are understood by Employee. Employee certifies that this Agreement fairly represents the agreement reached between the parties.

IN WITNESS WHEREOF the parties have executed the Agreement on the date first written above.

**EMPLOYEE**

\_\_\_\_\_  
Mary K. Koester, City Manager

**CITY OF HOMER**

\_\_\_\_\_  
Mary E. Wythe, Mayor

ATTEST:

\_\_\_\_\_  
Jo Johnson, CMC, City Clerk

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 13<sup>th</sup> day of April, 2015, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Mary K. Koester, known to me and to me known to be the individual named in and who executed the foregoing document, and he acknowledged to me that he signed and sealed the same as his free and voluntary act for the uses and purposes therein set forth.

WITNESS my hand and notary seal the day and year first hereinabove written.

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Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 13<sup>th</sup> day of April, 2015, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Mary E. Wythe, Mayor, known to me and to me known to be the individual named in and who executed the foregoing document, and he acknowledged to me that he was authorized to execute the foregoing document by authority granted in him by the CITY OF HOMER for the uses and purposes therein set forth.

WITNESS my hand and notary seal the day and year first hereinabove written.

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Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_