

EMPLOYMENT AGREEMENT BETWEEN THE CITY OF BOULDER CITY AND NED P. THOMAS, CITY MANAGER

Introduction and Recital

This Employment Agreement (“Agreement”), is made and entered into as of the date set forth below by and between the City of Boulder City, Nevada (“City”), a municipal corporation, and **Ned P. Thomas** (“Employee” or “City Manager”), an individual who has the desire, education, training, and experience in local government management to be the City Manager of the City of Boulder City, Nevada.

In consideration of the mutual covenants herein, the parties agree as follows:

Section 1: Term

This Agreement shall be in full force and effect from _____ (the “Effective Date”) and remain in effect until terminated by the City or Employee as provided for by law or as provided in this Agreement. Employee’s employment with the City is “at-will.”

Section 2: Duties and Authority

The City hereby employs **Ned P. Thomas** as City Manager to perform the functions and duties specified in Section 28 and 29 of the Charter and those other functions and duties that are assigned from time to time by the City Council. The City reserves the right to amend the Charter and the Boulder City Code, both of which specify City Manager functions and duties, as it deems necessary and appropriate, without requiring Employee’s acquiescence or an amendment of this Agreement. Employee shall attend all special and regular meetings of the City Council, and such other meetings as are necessary or required by the City Council. Except as otherwise provided by Section 29 of the Charter or where excused by the Mayor or Mayor Pro Tem in the absence of the Mayor, the City Manager shall attend all the meetings described in this Section 2.

Section 3: Residency

1. Residency in the City.

Pursuant to Section 26 (2) of the Boulder City Charter, Employee shall, within twelve (12) months of the Effective Date, maintain a bona fide residence within the City.

2. Offset of Relocation Expenses

To offset the costs associated with selling his current residence and obtaining a new mortgage or lease for a new residence in Boulder City pursuant to Section 3 of this Agreement, the City Manager shall receive a one-time lump-sum loan of ~~XXXXXX~~\$10,000 dollars within thirty (30) days of ~~entering into a purchase contract or long-term rental agreement of a bona fide residence in the start of employment with~~ the City. If Employee voluntarily separates from the City within twelve (12) months following receipt of payment, Employee agrees to repay the loan in full. Employee shall execute a repayment agreement in a form satisfactory ~~to Special Counsel~~ to the City ~~before the payment is made upon receipt of payment~~.

3. Reimbursement of Moving Expenses

To offset the costs associated with relocating his residence to Boulder City pursuant to Section 3 of this Agreement, Employee shall receive reimbursement from the City for up to ~~XXXXXX~~\$15,000 dollars in moving expenses, including but not limited to, packing, moving, temporary storage, unpacking, insurance, fuel, temporary short-term housing, and travel costs for the Employee and his immediate family members. To receive ~~the reimbursement loan~~, Employee shall submit a summary of actual costs incurred and directly related to moving and relocation, with receipts, to the City Finance Department for review and verification.

Section 4: Compensation

1. Base Salary.

Upon the Effective Date, the City shall begin paying Employee an annualized base salary of ~~\$200~~\$220,000.00. By resolution from time to time, the City Council may adjust Employee’s base annual salary.

2. Annual Performance Evaluation and Salary Adjustments.

Employee shall have an interim performance evaluation (“Interim Evaluation”) six months the Effective Date. Employee shall not be eligible for a salary and/or benefits adjustment pursuant to the Interim Evaluation. Beginning after the Interim Evaluation, Employee’s performance must be reviewed and measured by the City Council annually on or around March of each year (“Evaluation”). At the time of the Evaluation the City Council may, by resolution, make a merit adjustment to Employee’s base annual salary.

Employee’s Interim Evaluation and annual Evaluation shall be conducted in a manner that the City Council deems appropriate, and will be designed to: (a) foster and improve communications between the City Council and Employee; (b) provide important feedback to Employee; (c) allow Employee to provide useful feedback and observations to the City Council; (d) bring problems into focus and reduce future misunderstandings and conflict; and (e) help clarify roles and responsibilities of the City Council and Employee.

As part of or in conjunction with each Evaluation, the City Council may identify specific performance goals and milestones for Employee’s attention and action in the coming year, and shall, as part of the City Council’s following annual Evaluation, evaluate Employee’s performance in achieving such goals and milestones.

3. Annual Cost of Living Adjustment.

Effective July 1, 2025, and each year thereafter, Employee’s salary shall be adjusted by the annual percentage increase to CPI-U all items in West-Size Class B/C, All Urban Consumers, not seasonally adjusted (Series ID CUURN400SA0) for the prior calendar year ending December. The adjusted percentage increase in salary shall be a minimum of 2.0% and a maximum of 3.0%. The adjusted percentage increase is based on U.S. Bureau of Labor Statistics data (<https://data.bls.gov/timeseries/cuurn400sa0>).

Example of calculation for July 1, 2021, COLA follows:

2020 ANNUAL CPI	159.756
LESS 2019 ANNUAL CPI	157.019
ANNUAL INCREASE	2.74
DIVIDED BY 2019 CPI	157.019

ANNUAL PERCENTAGE INCREASE IN CPI	1.7%
SALARY ADJUSTMENT	2.0%

Section 5: Health, Disability and Life Insurance Benefits

The City Manager and his eligible dependents shall participate in the same health insurance (medical, dental, and vision) and disability insurance plans made available to Department Heads of the City, on the same terms as made available to the Department Heads. The City shall provide life insurance coverage equal to two (2) times the annual base salary to the City Manager during his employment with the City. The City may in its discretion make changes to the plans or the insurance company at any time in its discretion.

Section 6: Vacation and Sick Leave

1. Vacation. Employee shall accrue vacation on the same terms as Department Heads of the City. The City may make changes to the vacation plan at any time in its discretion. Prior to using more than two consecutive vacation days, Employee shall enter his intended use of vacation time via established systems required of other employees to track use of vacation time and shall notify City Council, and shall do so as soon as practicable prior to using such vacation time, but in no case shall the input into the tracking system and notification to City Council occur later than one week prior to the first day of the scheduled vacation.

As practicable, such vacation shall not interfere with the City's interests and is subject to denial by a majority vote of the City Council if the City Council determines that the timing of the planned vacation will be detrimental to the City's interests.

2. Sick Leave. Beginning with the effective date of this Agreement, Employee shall accrue and use paid sick leave on the same terms as Department Heads of the City.

3. Executive Leave. Employee shall be eligible to receive up to 80 hours of Executive Leave per calendar year to offset additional hours required of the City Manager. Hours may be taken in any increment and shall be tracked by the Employee and reported to the Council on a monthly basis. All hours must be used during the calendar year in which they are earned, and unused hours shall not roll over to the next year. Executive Leave hours shall not be eligible for cash out at termination, resignation, or retirement.

34. Holidays. Employee shall be compensated for all City-observed holidays and floating holidays on the same terms as Department Heads of the City.

45. Payout of Vacation and Sick Leave Upon Termination. In the event Employee's employment is terminated with or without Cause, Employee shall be compensated for accrued but unused paid vacation leave based upon the salary being earned upon the date of separation of service. Upon Employee's separation he shall receive unused paid sick leave to the same extent and on the same terms as Department Heads of the City.

56. Payout of Vacation or Sick Leave During Employment. There shall be no payout of unused vacation or unused sick leave during employment. Notwithstanding the foregoing, Employee may participate in the annual vacation buyback program of accrued vacation time on the same terms as a Department Head of the City.

67. Court Leave and Bereavement Leave. Employee shall be provided Court Leave and Bereavement Leave on the same terms as Department Heads of the City.

Section 7: Automobile and Phone

1. Access to City-Owned Vehicle. The duties of the City Manager position require use of a City-owned vehicle at all times. Employee shall be entitled to the use of a City-owned vehicle for business and personal use without limitations. The City shall provide for regular maintenance and adequate insurance coverage related to the vehicle or vehicles used by Employee, including gasoline or electric charging. Employee shall be responsible for taxes on personal use of the City-owned vehicle, per IRS Publication 15-B. On or before January 5 of each year, the City Manager shall present to the City Finance Department, along with back-up documentation in a form satisfactory to the Finance Department, a statement of the number of miles driven for personal use in the prior calendar year.

2. Mileage Reimbursement. In the event a City-owned vehicle is not available or not practicable for use in the official duties of the City Manager, the City Manager may use a personal vehicle. The City Manager shall be reimbursed at the mileage and use rate established by the US Internal Revenue Service at the time the use of a personal vehicle occurs. The City Manager shall not receive additional compensation for mileage or use of a vehicle within or outside of Clark County beyond the rate defined by the US Internal Revenue Service for such use under any circumstance.

3. Mobile Phone. The City shall provide the Employee with a mobile phone to be used for official City business.

Section 8: Retirement Accounts

1. PERS. The Employee shall participate in Nevada Public Employees Retirement System (PERS), and the City shall pay into PERS for the benefit of Employee at the same rate and manner as provided for Department Heads of the City and in accordance with applicable state regulations.
2. 457 Retirement Plan. Employee shall be entitled to participate in the City's 457 Plan on the same terms as Department Heads of the City.

Section 9: General Business Expenses

1. Dues and Subscriptions. The City shall consider for approval in the budget process the costs for professional dues and subscriptions of the Employee reasonably necessary for continuation and full participation in national, regional, state, and local associations, civic clubs, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the City. Employee shall provide an itemized list of these expenses to Council during the budget process.

2. Payment of Expenses for Travel and Subsistence. The City shall consider for approval ~~during~~in the budget process proposed costs to pay for reasonable travel expenses and subsistence expenses of Employee for professional and official travel, meetings, and occasions necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the City. The Employee shall provide an itemized list of these anticipated expenses to Council during the budget process.

3. Professional Development and Accreditation. The City shall consider for approval in the budget process the costs of professional development and accreditation for the City Manager. These opportunities may include tuition, executive coaching, seminars, classes, or workshops relevant to the needs and role of the City Manager, and for the good of the City. The City Manager shall provide a written report to the City Council within thirty (30) days of completion of any education or training covered under this allowance. Unused funds from this allowance shall not carry over to subsequent fiscal years.

34. Documentation for Business Expenses. Employee shall provide the City with all required receipts and appropriate documentation consistent with the City's policies as required to justify and support all expenses identified in this Section 9. In addition, all business expenses shall be reported in the City Manager report in the month following the incursion of the expense. An annual report detailing all expenses incurred by the City Manager shall be provided to the Mayor and each member of the City Council in April of each year. The report will be included in the agenda materials for consideration of the annual budget in May of each year.

Section 10: Separation

1. Termination by the City. Employee's employment with the City is at-will, and Employee's employment may be terminated for any lawful reason, with or without Cause pursuant to Section 8 of the Charter.

2. Voluntary Resignation. Except as otherwise agreed by the parties, Employee shall give the City thirty (30) days' notice of his voluntary resignation from employment hereunder. Except as set forth in Section 11.3. below, in the event of a voluntary resignation, the severance provisions in Section 11 shall not apply and this Agreement shall terminate on the effective date of such resignation. In the event that Employee gives the City more than thirty (30) days' notice, the City may elect to accept Employee's resignation and accelerate the termination date to a date thirty (30) days after the date notice is given by the Employee, in the City's sole discretion, and City shall not owe Employee any salary or benefits after the final day of employment. Nothing in this Section 10 is intended to change the at-will employment relationship between the parties.

Section 11: Severance

Severance shall be paid to the Employee when employment is terminated without Cause pursuant to Section 10, under the following conditions:

1. If Employee's employment is terminated without Cause under this Agreement, the City agrees to provide Employee with severance pay equal to six (6) months of the base salary rate Employee was earning at the time of termination. This severance shall be paid in monthly installments unless the City decides, in its sole discretion, that it will be paid in a lump sum.

2. If Employee's employment is terminated without Cause and Employee takes the necessary steps to elect COBRA benefits, for a period of six (6) months the City shall pay COBRA coverage for Employee and his dependents pursuant to the City's then existing health care plan. In the event the Employee secures gainful employment that includes as part of its compensation package health insurance coverage, the City shall have the right to immediately terminate payment of COBRA coverage for the Employee as of the healthcare coverage start date under the Employee's new employment. The Employee shall immediately notify the City of any such gainful employment obtained and the associated healthcare coverage start date.

3. The City shall not at any time during Employee's term of employment reduce the salary, compensation, or other financial benefits of Employee, except to the degree of such reduction across-the-board for all Department Heads of the City. In the event such reduction occurs, Employee shall submit a request in writing to the City Council asking the City Council to cure such reduction. If the reduction is not cured within 30 business days, Employee may voluntarily resign and, unless prohibited by NRS 281.122 (1)(c), will receive the severance pay and COBRA coverage set forth in paragraphs 11.1. and 11.2. above. Any increases in pay to any Department Head will not be considered as a reduction in the level of compensation to Employee for purposes of this Section 11. 3.

4. Except as set out in this Section 11.1. and 11.2. and 11.3. above, no severance or benefits will be paid to Employee after the effective date of his termination, except as set forth in this Agreement. Specifically, no severance pay or benefits shall be paid to Employee if the City terminates his employment for Cause or if Employee voluntarily resigns his employment. When required by NRS 281.122, any salary and benefits paid to Employee during a suspension or administrative leave that commenced after adoption of the City Council's resolution to terminate Employee will be deducted from the severance pay offered in this Section 11.

5. Employee's right to severance pay under this Section 11 is expressly conditioned upon Employee executing a release and waiver of all known and unknown claims Employee may have against the City, its elected and appointed officers, employees, and agents arising out of Employee's employment and/or termination of employment with the City. The release and waiver shall be in a form approved by Special Counsel for the City.

6. Cooperation. Employee agrees that after the termination of his employment, he will reasonably cooperate with the City in connection with any other matters arising out of or relating to Employee's employment with the City, and that Employee will provide such information and cooperation at no cost and within seven business days of the City's request.

Section 12: Definition of "Cause"

"Cause" means the occurrence of any of the following events: (a) Employee's material breach of this Agreement; (b) Employee's failure or inability to perform his duties within the written expectations of the City Council; (c) Employee's indictment for or conviction of a felony or any other crime involving moral turpitude or dishonesty which, in the good faith opinion of the City as determined by the City Council, would impair Employee's ability to perform his duties or harm the City's reputation; (d) Employee's failure, refusal to comply with, violation, or breach of the Charter, Boulder City Code, the City's policies,

procedures, standards, codes of conduct, or federal, state or local regulations which apply to the City; (e) Employee's unauthorized disclosure of the City's trade secrets and/or other confidential business information; (f) Employee's breach of his fiduciary duties to the City; (g) Employee's gross misconduct, act of fraud, misrepresentation, dishonesty, concealment, theft, embezzlement, or the misappropriation of City assets; (h) Employee's inability or failure to secure and/or maintain his required licenses by government agencies with jurisdiction over the City or Employee; (i) Employee's manufacturing, distributing, dispensing, transporting, or possessing illegal drugs; (j) Employee's being under the influence of alcohol during working hours or while on City property or in City vehicles; (k) Employee's misusing or abusing prescription drugs or having present in his body illegal drugs in any amount during working hours or while on City property or in City vehicles; or (l) knowingly violating the International City/County Management Association Code of Ethics.

Section 13: Best Efforts by Employee and Outside Activities by Employee

Employee shall faithfully, industriously, and to the best of his ability, experience and talents, perform all of the duties that may be required of and from him pursuant to the express and implicit terms hereof, and to the reasonable satisfaction of the Council. Such duties shall be rendered primarily at the premises of the City Hall, 401 California Avenue, Boulder City, Nevada, or as the interest, needs, business, or opportunity of the City and the Council shall require.

The Employee recognizes that the City Manager position is a full-time position which requires him to devote his time, attention, knowledge, and skills as City Manager solely and exclusively to the benefit and business of the City. The Employee further acknowledges and agrees that, in certain circumstances, demands will be made on the Employee's time and attention outside of and in addition to normal business hours.

The Employee shall not accept other employment or become employed by any other person or employer unless said employment is specifically approved by the City Council by resolution. Nor shall the Employee have any interest directly or indirectly, as partner, officer, director, stockholder, advisor, employee or in any other capacity in any other business or enterprise which is doing business with the City. Provided that it shall not be a violation of this section if Employee owns less than 5% of the publicly traded stock of a business that is doing business with the City. Nor shall it be a violation of this section if Employee does business as a retail customer in the ordinary course of a business that is doing business with the City. Before, (and at all relevant times thereafter), obtaining any interest directly or indirectly, as a partner, member, stockholder (or in any other ownership capacity) in any business or enterprise which is doing business in the City, Employee shall make all required disclosures and take any other actions required by NRS Chapter 281A and Chapter 7 of the Boulder City Code as they are amended from time to time.

Section 14: Indemnification

To the extent required by NRS 41.0339, the City shall provide for the defense, including the defense of cross-claims and counterclaims, of Employee in any civil action brought against Employee based on any alleged act or omission relating to the Employee's public duties or employment.

Section 15: Bonding

Employee shall at all times be able to be bonded as required by any applicable law. The City shall bear the full cost of any fidelity or other bonds required of Employee under any applicable law.

Section 16: Confidential Information

Throughout his employment with the City, Employee shall not improperly use or disclose confidential information, including but not limited to, information pertaining to criminal investigations, litigation matters, matters pending before the City Council, employee personnel matters, development negotiations and collective bargaining negotiations, unless for the benefit of the City and as is necessary to carry out

Employee's responsibilities under this Agreement. Following Employee's termination of employment, Employee shall neither, directly or indirectly, use or disclose any confidential information for any reason or in any manner without the prior written and specific authorization from the City Council. This Section 16 survives the termination of this Agreement.

Section 17: Other Terms and Conditions of Employment

The City, only upon agreement with Employee, may fix any such other 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 Charter or any other applicable law.

Section 18: Notices

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

(1) CITY:

City of Boulder City, Attn. Mayor
401 California Avenue
Boulder City, NV 89005

and to:

City of Boulder City, Attn. City Attorney
401 California Avenue
Boulder City, NV 89005

(2) EMPLOYEE:

Ned P. Thomas
Last Known Residence on file in the City's records

Alternatively, notice 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 the date of deposit of such written notice during in the course of transmission in the United States Postal Service.

Section 19: General Provisions

1. Integration. This Agreement sets forth and establishes the entire understanding between the City and Employee relating to Employee's employment as the City Manager. Any prior agreements, discussions, or representations by or between the parties, are merged into and rendered null and void by this Agreement. The parties, by mutual written agreement, may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.
2. Binding Effect. This Agreement shall be binding on the City and Employee as well as their heirs, assigns, executors, personal representatives, and successors in interest.
3. Severability. The invalidity or partial invalidity of any provision of this Agreement shall not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Date

Tami McKay, City Clerk