

**CITY OF NEWBERG
EMPLOYMENT AGREEMENT—CITY MANAGER**

This Employment Agreement (the “Agreement”) made and entered into this ___ day of _____ 2022, by and between the City of Newberg (the “City”) and Will Worthey (“Employee” or the “City Manager”). The City and Employee may be referred to individually, as a “Party,” and collectively, as the “Parties.” In consideration of the mutual promises and other considerations set forth in this Agreement, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. Duties

The City hereby agrees to employ Employee as the City Manager of the City of Newberg to perform the functions and duties specified in City ordinances and the job description attached as Exhibit A, and to perform such other legally and ethically permissible and proper duties and functions as the City Council (the “Council”) shall assign from time to time. Employee shall devote full time to the performance of his duties.

Employee agrees to faithfully and diligently perform his duties as City Manager, devoting all of his working time, attention, and skill to the duties and responsibilities as City Manager, and accept no outside employment without the express permission of the City. Employee further agrees to abide by all applicable laws and regulations, as well as any and all City ordinances, procedures and policies in effect during his employment including without limitation the State of Oregon Ethics laws and the ethics requirements of the City of Newberg.

B. Term

This Agreement shall be in effect for four (4) years from the first day of employment, [DATE] (the “Term”), unless this Agreement is terminated as provided in Section G of this Agreement. In the event Employee wishes to voluntarily resign the position during the Term, Employee shall be required to give the City not less than four weeks’ written notice of such intention, unless such notice is waived by the Council. Employee will cooperate in every way to facilitate a smooth transfer to the newly appointed City Manager.

C. Salary

Employee’s initial annual salary will be 158,000.00, less lawful payroll deductions, paid according to the City’s usual payroll practices and procedures. Subsequent salary increases are at the sole discretion of the Council and may be increased or decreased, either in connection with the Employee’s annual review as outlined in Section D and in accordance with any applicable step schedule adopted by the City or otherwise where such increase or decrease may be applicable to City employees generally, including any cost-of-living adjustments.

D. Performance Review

In addition to any ongoing dialogue between the parties, the Council will conduct an annual performance review to evaluate and assess Employee's performance as City Manager, each year during the Term. If Council fails to conduct an annual performance review the employee will receive the standard cost of living increase issued to all non-represented exempt employees for the relevant year on the anniversary date of this contract.

E. Benefits

1. Health, Welfare, and Retirement. Employee shall be entitled to receive the same retirement, insurance, vacation, and sick leave benefits, holidays, and other fringe benefits and working conditions as they now exist or may be amended by the City in the future, as applied to any other department head under the City's policies, in addition to any benefits enumerated specifically for the benefit of Employee as provided in this Agreement.

2. Professional Development. Subject to prior approval of Council except where otherwise expressly provided by the City's policies applicable to any other department head, the City will reimburse Employee for expenses incurred by Employee for:

- a. professional and official travel necessary to represent the City at conferences or meetings of national and state committees or commissions on which the City Manager serves as a member, and said membership on said state commissions or committees; and
- b. such other official meetings or travel as is reasonably necessary for the professional advancement of the City Manager.

3. Retirement Contributions. Employee will be enrolled in the Oregon Public Employers' Retirement System (PERS) and Employer will make all the appropriate contributions on the Employee's behalf consistent with contributions made to other exempt, non-represented City employees, which includes the pick-up of the Employee 6% share.

4. Paid Administrative Leave. Employee shall be eligible to take 80 hours of paid administrative leave each fiscal year, in addition to any sick leave and/or vacation to which he is entitled under the City's employment policies.

Any paid administrative leave provided to Employee must be used during employment with the City or is forfeited and not paid out at termination for any reason.

F. Professional Liability

To the extent permitted by Oregon law, including the Oregon Tort Claims Act (ORS 30.260 to 30.300), the City agrees that it will defend, hold harmless, and indemnify Employee from all

demands, claims, suits, actions, errors, or other omissions in legal proceedings brought against the Employee in his individual capacity or in his official capacity, *provided the incident arose while the Employee was acting within the scope of his employment*. If an actual or potential conflict exists regarding the defense of any such claim between the legal position of the City and Employee, Employee may request the City to provide independent legal representation at the City's expense and the City may not unreasonably withhold such approval.

Notwithstanding the foregoing, Employee recognizes that the City shall have the right to compromise or settle any claim or suit; unless, said compromise or settlement is of a personal nature to Employee and the Employee is a party to the suit, in which case Employee shall have the right to approve any such settlement or compromise.

G. Termination

1. Termination Without Cause. The City may terminate this Agreement for any reason, without cause, by providing Employee 60 calendar days' written notice that the City is terminating this Agreement. If terminated without cause, Employee shall receive a severance in accordance with Section H.

2. Termination for Cause. The City may terminate this Agreement for cause. Employee's employment with the City may be terminated immediately in the sole discretion of a majority of the Council members on the occurrence of any of the following events:

- a. Employee fails, refuses, or is unable to comply with the written policies, standards, and regulations of the City that are in existence at the time, or fails, refuses, or is unable to comply with any then-current state or federal law, including, without limitation, those regarding ethics, discrimination, harassment, retaliation, and use of City resources;
- b. dishonesty;
- c. misuse or abuse of authority;
- d. serious misconduct such as theft;
- e. workplace violence;
- f. willful disregard of a reasonable and appropriate directive or instruction from Council;
- g. conviction of a felony, misdemeanor, or any crime or civil offense or imposition of a civil penalty that would tend to impair the effectiveness of a City employee or bring discredit on the City of Newberg;

- h. Employee's material breach of this Agreement where the Council has either (a) determined cure is not possible or (b) provided Employee at least 30 days to cure such breach following written notice of the reason he is considered to be in breach and Council finds that Employee has failed to sufficiently cure the breach; or
- i. other causes in which Employee's performance or conduct has not improved through corrective measures.

If terminated for cause, Employee's salary and benefits shall cease on the day of termination, except where otherwise expressly provided in this Agreement.

3. Termination Due to Death or Permanent Disability. In the event of Employee's death or Permanent Disability, Employee's employment and entitlement to any further compensation and benefits shall terminate on (the earlier of) the date of his death or the date on which his appointment ends due to Permanent Disability, and Employee or his/her estate shall not be entitled to any other compensation or benefits, except for any benefits already accrued and vested.

For purposes of this Agreement, "Permanently Disabled" means a determination by the Council that, for a continuous period of 24 weeks or more, Employee has been unable to perform the essential functions of his job (with or without reasonable accommodation) because of one or more mental or physical impairments and/or disabilities, and no other reasonable accommodation(s) can be made without imposing an undue hardship on the City, provided that the City may grant additional unpaid leave as a reasonable accommodation, if and to the extent that, in the sole judgment of the Council, doing so is required by law.

H. Severance Pay

In the event of Employee's Termination Without Cause or resignation for Good Reason during the Term, Employee shall be entitled to receive a severance as follows:

- If Employee is Terminated Without Cause or resigns for Good Reason during the 2022 calendar year, Employee would be eligible for a severance equal to four (4) months of his regular salary; or
- If Employee is Terminated Without Cause or resigns for Good Reason during the 2023 calendar year, Employee would be eligible for a severance equal to eight (8) months of his regular salary; or
- If Employee is Terminated Without Cause or resigns for Good Reason during the 2024 calendar year, Employee would be eligible for a severance equal to nine (9) months of his regular salary; or

- If Employee is Terminated Without Cause or resigns for Good Reason during the 2025 or 2026 calendar years, Employee would be eligible for a severance equal to twelve (12) months of his regular salary.

Unless the City elects to pay the above-referenced severance amounts in a lump sum, it shall be paid to Employee in regular installments coinciding with the City's regular payroll schedule for the applicable period, and conditioned upon Employee's execution without revocation of a full and complete release by Employee in favor of the City and its agents and employees (including the Council) of any and all claims arising from Employee's employment and/or the termination of Employee's employment with the City in a form acceptable to the City.

"Good Reason" as used in this Section H, means Employee's resignation following (a) a salary reduction greater in percentage than an across-the-board reduction for all non-represented exempt City employees, or (b) a formal request to Employee by the Council that he resign.

I. General Provisions

1. Other Terms and Conditions of Employment. The City shall, either by amendments to this Agreement and/or policies applicable to City employees generally, fix such other terms and conditions of employment, from time to time, as it may determine, relating to the performance by Employee with the agreement of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement.

2. Entire Agreement. This Agreement encompasses the entire agreement of the Parties, and supersedes all previous understandings and agreements between the Parties, whether verbal or written.

3. Waiver. The failure of the City to enforce any provision of this Agreement shall not constitute a waiver by the City of that or any other provision.

4. Construction. This Agreement was the result of negotiation by the Parties. The Parties agree that the general rule of construction requiring that the Agreement be construed against the drafter will not apply to the interpretation of this Agreement.

5. Independent Counsel. Both Parties acknowledge that they have read and understand the Agreement, enter into it voluntarily, and have had the opportunity to have it reviewed by counsel of their choice.

6. Governing Law. The provisions of this Agreement shall be interpreted, construed, and enforced in accordance with, and governed by, the laws of the State of Oregon without reference to its conflict of laws provisions that might otherwise require the application of the law of any other jurisdiction. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court in Yamhill County.

7. Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement. Enforcement of this Agreement is reserved to the Parties.

8. Subcontractors/Assignment. Employee shall not subcontract, assign, or transfer any of the work to be performed under this Agreement without prior written consent of the City.

9. Severability. The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the terminating terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term and provision held to be invalid.

10. Notices. Any notices that are required under the terms of this Agreement shall be sent by first-class mail or hand delivered to Employee at the address listed on the most recent IRS Form W-4 on file, or to the City at its regular business address to the Mayor's attention with a copy to the City Attorney.

CITY COUNCIL

Rick Rogers, Mayor and designated representative of the
City Council for the City of Newberg

Accepted this ____ day of _____ 2022.

EMPLOYEE

Will Worthey

Accepted this ____ day of _____ 2022.

EXHIBIT A
City of Newberg Position Description
City Manager

SUMMARY OF DUTIES & RESPONSIBILITIES

The City Manager is appointed by, reports to, and serves at the pleasure of the City Council and provides administrative direction and leadership to all City departments. It is the role of the City Manager to propose and administer the City budget and ensure efficient and effective performance of City operations, in addition to assisting the City Council translate its vision and goals for Newberg into action plans. The City Manager works to implement the Council's priorities and directives, attends all Council meetings, makes reports and recommendations to the Council, and keeps the Council well-informed of matters affecting the City and its workforce. This is a high-level leadership position that demands creating and maintaining the best possible employment atmosphere at the City of Newberg.

The City Manager is an appointive officer of the City as provided for in Chapter VIII, Section 34 of the Charter. This excerpt follows:

Section 34. City Manager.

(a) The office of City Manager is established as the administrative head of the City government. The City Manager is responsible to the Mayor and Councilors for the proper administration of all City business. The City Manager will assist the Mayor and Councilors in the development of City policies, and carry out policies established by ordinances, resolutions, and orders.

(b) A majority of the Council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

(c) The manager need not reside in the City or the state at the time of appointment.

(d) The manager may be appointed for a definite or an indefinite term and may be removed at any time by a majority of the Council. The Council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

(1) Attend all Council meetings unless excused by the Mayor or Council.

(2) Make reports and recommendations to the Council about the needs of the City.

(3) Administer and enforce all City ordinances, resolutions, orders, franchises, leases, contracts, permits, and other City decisions.

(4) Appoint, supervise and remove City employees.

(5) Organize City departments and administrative structure.

(6) Prepare and administer the annual City budget.

(7) Administer City utilities and property.

(8) Encourage and support regional and intergovernmental cooperation.

(9) Promote cooperation among the Council, staff and citizens in developing City policies, and building a sense of community.

(10) Perform other duties as directed by the Council.

(11) Delegate duties but remain responsible for acts of all subordinates.

(f) The manager has no authority over the Council, City Attorney, or the judicial functions of the Municipal Judge.

(g) The manager, the City Attorney, and other employees designated by the Council may sit at Council meetings but have no vote. The manager may take part in all Council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the Council must appoint manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with Council approval.

(i) No Council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any City employee, or in administrative decisions regarding City property or contracts.

Violation of this prohibition is grounds for removal from office by a majority of the Council after a public hearing. In Council meetings, Councilors may discuss or suggest anything with the manager relating to City business.

SUPERVISION RECEIVED

The City Manager works under the broad policy guidance of the City Council and is subject to its direction.

SUPERVISION EXERCISED

The City Manager shall exercise supervision over all municipal employees either directly or through department heads and supervisors, exclusive of the City Attorney, and Municipal Judge. This position must employ the highest level of honesty, integrity and ethics when supervising employees, while retaining continuing awareness that the position is in public service to residents of Newberg. The City Manager should personify the city's STRIVE principles outlined below.

Examples of Duties

TYPICAL EXAMPLES OF WORK

The City Manager may perform a combination of some or all the following duties that are a representative sample of the level of work appropriate to this position.

1. Management:

1. Responsible for the management and supervision of all City departments, agencies, and offices to achieve goals within available resources by appropriately delegating duties.
 2. Oversees the administration of workloads and staff assignments by studying, standardizing, and determining work roles, responsibilities, and procedures to improve efficiency and effectiveness of operations; preparing work schedules to expedite workflow.
 3. Appoints and removes all department heads and employees of the City.
2. Planning Goals:
 1. Provides leadership and direction in the development of short and long-range plans with City staff and the City Council.
 2. Oversees the administration of plans, reviews progress, and directs changes as needed, based on new developments in technology, legislation, practices, and regulations.
 3. Investigates, integrates, and implements technology where administratively and fiscally feasible.
 4. Gathers, interprets, and prepares data for studies, reports, and policy recommendations.
 5. Coordinates department activities with other departments and agencies as needed.
3. Communications:
 1. Provides written and oral professional advice to the City Council and department heads in a timely, clear, thorough, and concise manner.
 2. Communicates official plans, policies, and procedures to staff, the media, and to the general public.
 3. Presents information to councils, boards, commissions, civic groups, and to the general public.
 4. Issues clearly written and concise oral instructions to assign duties.
 5. Provides guidance to staff on social media and community engagement.
 6. Promotes harmony among City staff and works to resolve grievances, in a consistent manner, including giving and accepting direction and instructions in a positive way.
4. Fiscal Agent/Budget Officer:
 1. Assures that assigned areas of responsibility are performed within budget and demonstrates effective and efficient use of budgeted funds, personnel, materials, facilities, and time in compliance with federal, state and local laws.

2. As budget officer, performs cost control activities and monitors revenues and expenditures in all departments, to assure sound fiscal control and to encourage innovative practices.
3. As budget officer, prepares annual budget requests and ensures that the budget addresses the City Council's goals and objectives.
5. Customer Service:
 1. Advises and assists City staff in performing duties to adjust errors and address complaints.
 2. Projects a positive public image and is courteous to the public at all times.
 3. Maintains effective relations with media representatives.
 4. Promotes cooperation among the City Council, staff, and residents in developing policies and to build a sense of community.
 5. Promotes the city's **STRIVE** values of Service, Teamwork, Responsibility, Integrity, Value and Equity.
6. Intergovernmental Relations:
 1. Maintains effective communication with local, regional, state, and federal government agencies.
 2. Actively pursues financial resources (grants) from other agencies.
 3. Contributes to good government through participation in local, regional, and state committees and organizations.
 4. Effectively represents City programs and projects with legislators and state agencies in coordination with the City Council and Mayor.
 5. Keeps the City Council informed of current plans and activities of administration and new developments in technology, legislation, governmental practices, and regulations.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

This position description does not constitute an employment agreement between the City Council and the employee and is subject to change by the Council as the needs of the City and requirements of the job change.