



RESOLUTION 2014-016

APPROVING THE TERMS OF AN EMPLOYMENT AGREEMENT BETWEEN SYLVIA MURPHY AND THE CITY OF SHERWOOD

WHEREAS, the Sherwood City Council approved Resolution 2014-012 on February 18, 2014 accepting the annual performance evaluation of Sylvia Murphy, City Recorder; and

WHEREAS, as part of the annual performance evaluation, the need for an updated employment agreement between Sylvia Murphy and the City of Sherwood was identified by the City Attorney; and

WHEREAS, a draft employment agreement has been negotiated and drafted and now requires Council approval;

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to sign, on behalf of the City, an employment agreement between the City of Sherwood and Sylvia Murphy in a form substantially akin to that attached here as Exhibit "A".

Section 2. This resolution is and shall be effective from and after its passage by the Council.

Duly passed by the City Council this 4th day of March 2014.


Bill Middleton, Mayor

Attest:


Sylvia Murphy, MMC, City Recorder

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT is made and entered into effective January 1, 2014, by and between the CITY OF SHERWOOD, OREGON (“CITY”), and SYLVIA G. MURPHY (“EMPLOYEE”).

WITNESSETH:

WHEREAS, CITY has employed EMPLOYEE as City Recorder since March 27, 2006; and

WHEREAS, CITY and EMPLOYEE desire to update and modify the previous written agreement governing EMPLOYEE’s employment, to continue to foster a professional and businesslike relationship, to protect EMPLOYEE’s peace of mind and to serve as the basis for continued effective communication;

NOW THEREFORE, CITY and EMPLOYEE mutually agree:

1. Terms and Conditions of Employment

- (a) CITY and EMPLOYEE agree that EMPLOYEE shall continue to serve at will, solely at the pleasure of the City Council, pursuant to the terms of this Agreement.
- (b) The term of this Agreement shall be for a period of three calendar years from January 1, 2014 through December 31, 2016, subject to the termination provisions contained herein.
- (c) EMPLOYEE agrees to devote exclusive service to the CITY. However, EMPLOYEE may be allowed outside employment with the approval of the City Council and if such employment is not in conflict with the CITY’s needs or interests.

2. Duties

- (a) EMPLOYEE shall continue to serve as the City Recorder of the CITY, to perform the duties and functions specified in the City Charter, Municipal Code and the laws of the State of Oregon, and other duties as the City Council may, from time to time, assign.
- (b) EMPLOYEE or a designee shall attend all meetings of the City Council, including regular sessions, work sessions, and executive sessions, unless otherwise excused. EMPLOYEE further agrees to attend events and functions as needed to assist the Mayor and City Council and to represent the CITY.

3. Compliance with Laws; Standard of Conduct

- (a) In performing the services contemplated by this Agreement, EMPLOYEE shall faithfully observe and comply with all federal, state and local laws, City Charter, ordinances and applicable regulations.

(b) Except in the case of EMPLOYEE engaging in behaviors that constitute gross negligence or misconduct, the CITY agrees to bring any performance issues to the attention of EMPLOYEE in writing, such communication to be authorized by a majority of the City Council. EMPLOYEE shall be provided a reasonable period of time in which to correct the asserted performance issue.

4. Hours of Work; Vacation and Administrative Leave

(a) It is recognized that EMPLOYEE must devote time outside the normal office hours to business of the CITY, and to that end EMPLOYEE will be allowed to take time off as she shall deem appropriate during normal office hours.

(b) EMPLOYEE is eligible to earn and accrue the same paid vacation time as other exempt employees, and shall retain any accrued vacation as of the effective date of this Agreement.

(c) EMPLOYEE may take up to five days each calendar year as administrative leave to be used at EMPLOYEE's discretion. Such leave shall not accrue beyond any given calendar year, and shall have no cash value upon termination of EMPLOYEE's employment.

5. Compensation and Benefits

(a) Effective January 1, 2014, CITY agrees to pay EMPLOYEE an annual salary of \$79,542 to be paid in installments at the same interval as CITY pays its other employees. This salary represents a five percent (5%) increase over her salary as of the date of this Agreement. EMPLOYEE shall also be entitled to receive a Cost of Living Adjustment (COLA) to her salary in the same percentage amount as may be given the CITY's exempt employees, and to receive salary increases in an amount to be determined by the City Council. EMPLOYEE'S salary will be reviewed in conjunction with EMPLOYEE's yearly performance evaluation. Following completion of the annual performance evaluation, the City Council may award EMPLOYEE a salary increase of two and one-half percent (2.5%) up to five percent (5%), at Council's discretion.

(b) In recognition of the EMPLOYEE's achievement of certification as Master Municipal Clerk (MMC), conducting this effort on her own time, and in further recognition of the significantly increased workload she handled during the past year, CITY further awards EMPLOYEE a one-time cash bonus in the amount of \$3,500, payable on or before March 13, 2014.

(c) CITY and EMPLOYEE agree to participate in and contribute to the Oregon State Public Employees Retirement System in accordance with CITY policies applicable to all other management employees.

(d) EMPLOYEE shall be entitled to the same sick leave benefits as other exempt employees of the CITY. EMPLOYEE shall retain any sick leave accrued prior to the effective date of this Agreement. Sick leave shall have no cash value.

(e) EMPLOYEE shall be entitled to the same medical insurance, life and disability insurance, and other health and welfare benefits that are provided to other exempt employees.

(f) EMPLOYEE shall be entitled to the same current and future benefits provided to other exempt employees, including paid time off for designated holidays.

6. Professional Development

(a) CITY agrees to budget for and pay the dues for EMPLOYEE to belong to relevant professional organizations. CITY further agrees to budget for and pay for the travel and subsistence expenses of EMPLOYEE for professional and official travel, meetings and other occasions adequate to continue the EMPLOYEE's professional development, and to adequately pursue necessary official and other functions of the CITY, including but not limited to the annual conference of the Oregon Association of Municipal Recorders and such other national, regional, state and local organizations and committees thereof where EMPLOYEE is a member.

(b) CITY further agrees to budget and to pay for the travel and subsistence expenses of EMPLOYEE for short courses and seminars that are necessary for professional development of the EMPLOYEE and for the benefit of the CITY.

7. Expense Reimbursement

EMPLOYEE shall be entitled to the same expense reimbursement, including the same cellular phone stipend, as other senior management employees of the CITY receive.

8. Indemnification

CITY 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 by EMPLOYEE within the course and scope of her duties as City Recorder. CITY will settle or defend any such claim or suit and pay the amount of any defense, settlement, or judgment rendered thereon to the extent not covered and paid by applicable insurance coverage carried by the CITY. CITY may satisfy its obligation hereunder by tendering any such claim to CITY's insurer, provided the insurer accepts such tender. EMPLOYEE will be solely responsible to defend, save harmless and indemnify the CITY against any claim or liability arising out of acts or omissions of EMPLOYEE which are outside the course and scope of her duties as City Recorder.

9. Termination, Severance Pay and Benefits

(a) At-Will Termination Right. This Agreement may be terminated by either the CITY or EMPLOYEE for any reason whatsoever upon giving thirty (30) calendar days' written notice to the other party.

(b) Not for Cause Termination. In the event EMPLOYEE is involuntarily terminated by CITY before expiration of this Agreement for reasons other than those identified herein as bases

of For Cause Termination, and EMPLOYEE is willing and able to perform her duties as City Recorder then in that event CITY agrees to pay EMPLOYEE a lump sum cash payment of six months' salary. CITY will further continue to provide EMPLOYEE's benefits for six months, or until EMPLOYEE is professionally re-employed, whichever comes first.

(c) For Cause Termination. In the event EMPLOYEE is terminated for gross negligence or misconduct that is deemed detrimental, in the CITY's sole determination, to the best interests of the CITY, then CITY shall have no obligation to pay any of the severance or benefit payments provided in this Section.

(d) Regardless of the nature of the termination of employment, EMPLOYEE shall be entitled to a lump sum payment equivalent to all accrued vacation benefits, which payment shall be made within thirty (30) days of the effective date of termination or resignation.

(e) If the CITY unilaterally (i.e., without concurrence of EMPLOYEE) reduces the salary or other financial benefits of EMPLOYEE in greater percentage than any applicable across-the-board reduction for all exempt employees of the CITY, then EMPLOYEE may deem this Agreement to be involuntarily terminated without cause and she shall thereby be entitled to severance pay and benefits as provided for in this Section.

(f) In the event any individual member of the City Council or a minority of City Council members, suggest or recommend in any forum or venue, that EMPLOYEE should be terminated or should resign, EMPLOYEE has the right to request in writing a formal motion for a vote of confidence from a majority of the entire Council while meeting in public session in full compliance with the state public meeting law. The entire Council shall be obligated to make and vote on such motion no later than its next regularly scheduled public meeting. If the entire Council does not take the required action, then EMPLOYEE may at EMPLOYEE's option deem her employment to be terminated and EMPLOYEE shall be entitled to severance pay and benefits as provided for herein.

10. General Provisions

(a) Entire Agreement. This Agreement contains the entire Agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

(b) Modification. Nothing shall restrict the ability of the CITY and EMPLOYEE to amend or adjust the terms of this Agreement at any time. However, no amendment or adjustment shall be valid unless in writing and signed by an authorized representative of the CITY and by EMPLOYEE.

(c) Severability. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable and shall not be affected and shall remain in full force and effect.

(d) Successors in Interest. The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.

(e) Governing law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon.

(f) Dispute Resolution. In the event the parties have a dispute concerning the terms of this Agreement, the terms and conditions of the employment relationship or the violation of any federal, state or local law relating to the employment relationship and they have not otherwise resolved the matter through any attempted mediation, conciliation or other voluntary dispute resolution process they choose to use prior to the initiation of arbitration, then the dispute shall be resolved by binding arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. Each party shall bear equally the expense of the arbitrator and all other expenses of conducting the arbitration. Each party shall bear its own expenses for witnesses, depositions and attorneys, if deemed necessary.

IN WITNESS WHEREOF the CITY OF SHERWOOD, OREGON, has caused this Agreement to be signed and executed by its Mayor, Bill Middleton, and SYLVIA G. MURPHY has signed and executed this Agreement, both in duplicate, on the day and year noted below each signature.

Bill Middleton
Mayor

Sylvia G. Murphy
EMPLOYEE

Dated: _____, 2014

Dated: _____, 2014