

**EMPLOYMENT AGREEMENT  
CITY OF SPARKS HUMAN RESOURCES DIRECTOR**

**THIS AGREEMENT** is made and entered into this 9th day of November, 2020, by and between the **CITY OF SPARKS** (“CITY”), a municipal corporation formed under the laws of the State of Nevada, and **MINDY J. FALK** (“EMPLOYEE”), both of whom agree as follows:

**WITNESSETH**

**WHEREAS**, CITY employs a City Manager, who is empowered to appoint certain employees of the CITY pursuant to Section 1.080 of the CITY’s Charter;

**WHEREAS**, the Sparks City Council is empowered to approve contracts between the CITY and other persons;

**WHEREAS**, the City Manager has appointed EMPLOYEE to the position of Human Resources Director;

**WHEREAS**, based upon the City Manager’s appointment, CITY desires to retain the services of EMPLOYEE as Human Resources Director for the City of Sparks;

**WHEREAS**, EMPLOYEE is an individual who has the education, training, and experience in the field and position to which EMPLOYEE has been appointed;

**WHEREAS**, it is the desire of the CITY to provide certain benefits, establish certain conditions of employment, and set working conditions of EMPLOYEE; and

**WHEREAS**, EMPLOYEE desires to be employed as CITY’s Human Resources Director;

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, the EMPLOYEE and CITY agree as follows:

**Section 1. Duties**

CITY agrees to employ EMPLOYEE as the CITY’s Human Resources Director (“Position”) to perform the functions and duties described in the Job Description, attached hereto and incorporated herein as Exhibit A.

- A. EMPLOYEE shall faithfully perform the duties prescribed in the Job Description, this Agreement, and as may be lawfully assigned by CITY, and shall comply with all lawful directives, state and federal law, and CITY policies, rules, and ordinances as they exist or may hereafter be amended.
- B. EMPLOYEE shall perform all duties of the Position with reasonable care, diligence, skill, and expertise.
- C. All duties assigned to the EMPLOYEE shall be appropriate to and consistent with the professional role and responsibility of the EMPLOYEE.

- D. Nothing in this Agreement shall restrict the City Manager's right to assign and allocate responsibilities or job duties to EMPLOYEE or reclassify the Position. Nothing in this Agreement shall limit or restrict the City Manager's right to demote or discipline EMPLOYEE or decrease EMPLOYEE's salary as provided in this Agreement or in the City Administrative Rules.

## **Section 2. Base Salary**

CITY agrees to pay EMPLOYEE for services described in Section 1 above, and other duties as assigned, an annual base salary of \$152,256.00 per year beginning November 9<sup>th</sup>, 2020. EMPLOYEE's base salary shall be subject to the following provisions.

- A. Each two (2) week period shall constitute a pay period. The pay period shall commence on a Monday at 12:00 a.m. and end on Sunday at 11:59 p.m. The dates of payment shall be established by CITY. The basic work week shall commence each Monday at 12:00 a.m. and end on Sunday at 11:59 p.m.
- B. At the sole discretion of the City Manager and except as otherwise provided in this Section, effective the first full pay period after July 1 of each year, EMPLOYEE may receive a cost of living adjustment (COLA) equal to any such adjustment provided to the Management Resolution then in effect. EMPLOYEE may waive any COLA at EMPLOYEE's sole discretion in writing prior to June 30 of each fiscal year.
- C. If EMPLOYEE's base salary is within the pay range for the Position that was adopted by City Council as part of the CITY's classification and compensation program on September 10, 2018, and as amended from time to time, EMPLOYEE shall receive applicable cost of living and merit increases, if any, as provided in this Agreement.
- D. If the Position is reclassified to a higher pay range, EMPLOYEE shall be placed into the new pay range with a minimum five percent (5.0%) increase in base salary. Under no circumstances, however, shall EMPLOYEE be paid more than the top of the salary range for the Position. If the Position is reclassified to a lower pay range, EMPLOYEE shall be placed into the new pay range at the same pay rate at which EMPLOYEE is then serving, or the top of the new range, whichever is less.
- E. In special circumstances and with City Manager approval, EMPLOYEE may choose to reduce his/her base salary or waive payment of longevity or other pay. Such reductions are voluntary and will only be considered if requested in writing. If approved by the City Manager, such a reduction is effective for up to one (1) fiscal year. If EMPLOYEE voluntarily accepts a reduction in pay, benefits, or hours worked, the City Manager may make non-monetary considerations for the benefit of such EMPLOYEE.
- F. EMPLOYEE shall be compensated on an annual, salaried rate basis and shall not be entitled to night differential pay, overtime pay, worked holiday pay, or any other special pay. The pay of executive employees, including EMPLOYEE, is not subject to deductions for absences of less than one (1) work day.

### **Section 3. Other Pay and Benefits**

In addition to the base salary, COLA, and merit increases described in Section 2 and Section 5, EMPLOYEE shall receive the following benefits:

- A. CITY agrees to pay EMPLOYEE longevity pay in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) (net) no later than the Wednesday before Thanksgiving of each year this contract is in effect. If EMPLOYEE's employment is terminated during the calendar year prior to the payout date, EMPLOYEE shall receive a full longevity payout.
- B. CITY will match One Hundred Percent (100%) of EMPLOYEE's contribution to a deferred compensation program to the extent permitted by law.
- C. CITY will pay One Hundred Percent (100%) of EMPLOYEE's contribution to the Public Employment Retirement System for the State of Nevada.
- D. EMPLOYEE will have the retirement rights of employees as provided by Nevada Revised Statutes.
- E. EMPLOYEE shall not have use of City Vehicle.
- F. CITY will reimburse EMPLOYEE a maximum of ONE HUNDRED FIFTY DOLLARS (\$150.00) for each incident for each pair of eyeglass frames and cellular phone, SEVENTY-FIVE DOLLARS (\$75.00) for each watch, and the actual cost of prescription eyeglass lenses, that is lost, damaged, or destroyed while performing job duties as certified by EMPLOYEE and approved by the City Manager. If the cellular phone that is lost, damaged, or destroyed is a CITY-issued cellular phone, the reimbursement shall not apply.
- G. Group Health, Dental, Life, and Long-Term Disability Insurance
  - 1. ELIGIBILITY: EMPLOYEE is eligible for group health (medical, dental, vision, pharmacy, and life) insurance and long-term disability insurance and may, on the first of the month following CITY employment, be eligible to enroll in the CITY's group health insurance plan and long-term disability insurance plan, provided EMPLOYEE is not excluded from enrollment by conditions of the Group Health Plan Document.
  - 2. Insurance Premium
    - i. CITY shall pay the entire premium for group health, dental, vision, and life insurance for EMPLOYEE and for the EMPLOYEE's eligible dependents.
    - ii. CITY shall pay One Hundred Percent (100%) of the total premium for the basic long-term disability plan offered by CITY. Additional premium for any "buy-up" to the plan is the EMPLOYEE's sole responsibility.

3. Status While on Leave of Absence: EMPLOYEE on leave of absence from the CITY may continue to carry CITY group insurance policy and long-term disability policy by making full premium payments in accordance with applicable law.
4. Long-Term Disability Insurance Upon Separation from CITY Service: EMPLOYEE who separates from CITY service may be eligible to convert the long-term disability coverage through the insurance company. EMPLOYEE is responsible for One Hundred Percent (100%) of the premium cost and shall pay the premium directly to the insurance company.

I. Medical Examination

1. EMPLOYEE may be required to have a complete medical examination conducted each calendar year. The medical examination shall consist of all those elements essential to determine the physical fitness of EMPLOYEE.
2. The medical examination shall be conducted by a duly licensed medical doctor. EMPLOYEE may choose the physician who is to perform the medical examination. The physician who conducts the medical examination shall report to the City Manager whether the EMPLOYEE is fit for duty.

J. Holidays

1. EMPLOYEE shall receive the following paid legal holidays:

New Year's Day	January 1
Birthday of Martin Luther King, Jr.	3 <sup>rd</sup> Monday in January
Washington's Birthday	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Nevada Day	Last Friday in October
Veteran's Day	November 11
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Family Day	Friday after Thanksgiving Day
Christmas Day	December 25

2. In addition, EMPLOYEE shall receive as a paid holiday any other day that may be declared a holiday by the Mayor of the City of Sparks, the Governor of the State of Nevada, or the President of the United States. Special holidays granted by the President of the United States for Federal Employees under Executive Order 11582 or any other Executive Order are not CITY holidays for purposes of this Agreement.
3. Holidays shall be observed as follows:
  - i. If a legal holiday falls on the first day of EMPLOYEE's scheduled day off, the day preceding shall be observed as a holiday.

- ii. If a legal holiday falls on the second or succeeding day of consecutive scheduled days off, the next succeeding workday shall be observed as a holiday.

**K. Annual Leave**

1. For the purpose of determining eligibility for Annual Leave allowance, the term “continuous service” shall be that service commencing with employment with the CITY continuing until termination. For the purpose of determining Annual Leave earned, the term “actual service” shall mean the number of days actually worked on the job, provided, however, that absence from work due to Sick Leave with pay, Annual Leave with pay, Voluntary Unpaid Leave as specified in this Agreement, or injury or illness incurred in the CITY service shall be deemed actual service.
2. EMPLOYEE shall accrue Annual Leave according to the following schedule:

<b>Years of Service</b>	<b>Accrual per Biweekly Pay Period</b>
Less than 10	6.5 hours
10 or more	7.1 hours
15 or more	7.9 hours
20 or more	8.4 hours

3. No maximum accrual of annual leave is established; however, EMPLOYEE shall take at least three (3) weeks of annual leave per fiscal year and may be directed to use such annual leave as the City Manager deems necessary. City Manager approval is required for all annual leave requests in excess of three (3) consecutive weeks.
4. The minimum annual leave time that may be taken by EMPLOYEE at any one time is one (1) working day. All annual leave shall be taken at such times as may be approved by the City Manager.
5. EMPLOYEE shall not be charged annual leave for a legal holiday described in Section 3(J) of this Agreement.
6. EMPLOYEE may elect to cash out up to eighty (80) hours of annual leave per fiscal year. Annual leave conversion must be taken in forty (40) hour increments. EMPLOYEE must have a minimum of one hundred sixty (160) hours prior to the cash out to use this benefit.
7. If EMPLOYEE is approaching resignation or retirement, EMPLOYEE may use accrued annual leave prior to the effective date of EMPLOYEE’s resignation or retirement. In lieu of using such annual leave, EMPLOYEE may receive a lump

sum payment for accrued but unused annual leave. Subject to all the provisions of this Agreement, EMPLOYEE may use a portion of accrued annual leave and may receive a lump sum payment for the remainder of accrued annual leave.

L. Sick Leave

1. For the purposes of determining eligibility for Sick Leave allowance, the term “continuous service” shall be that service commencing with employment with the CITY and continuing until termination.
2. For the purpose of determining Sick Leave earned, the term “actual service” shall mean the number of days actually worked on the job; provided, however, that absence from work due to Sick Leave with pay, Annual Leave with pay, Voluntary Unpaid Leave as specified herein, injury or illness incurred in the CITY service, unpaid furlough day, and absence on temporary military duty shall be deemed actual service.
3. EMPLOYEE shall earn Sick Leave at the rate of five (5) hours per bi-weekly pay period or major fraction thereof, computed on the basis of calendar days of actual service.
4. Unused Sick Leave may accrue to EMPLOYEE’s credit without restriction to a maximum amount.
5. Accrual of Sick Leave shall cease after any period of continuous Sick Leave exceeding six (6) calendar months in duration.
6. Sick Leave with pay may be used in the case of a bona fide illness of EMPLOYEE or a member of the EMPLOYEE’s family within the third degree of consanguinity. Sick Leave may also be used for bereavement leave in the event of death of a relative within the third degree of consanguinity and affinity or domestic partner. Sick Leave used for bereavement leave shall be limited to forty (40) hours per incident or as otherwise approved by the City Manager.
7. Evidence in the form of a physician’s certificate or certificate of illness executed by EMPLOYEE and upon the form approved by CITY shall be furnished as proof of adequacy of the reason for the EMPLOYEE’s absence during the time when sick leave was requested if requested by the City Manager. Certificates may be required by the City Manager when there is: (a) absence in excess of three (3) days or (b) whenever there is reason to believe that the Sick Leave privilege is being abused.
8. EMPLOYEE shall not be entitled to Sick Leave while absent from duty on account of any of the following:
  - i. Disability arising from any conduct which is in violation of federal, state, or local statute or written CITY or departmental policy.
  - ii. Sickness or disability sustained while on Leave Without Pay.

9. Advancing Sick Leave: Upon application to the City Manager, EMPLOYEE may be advanced Sick Leave. Advanced Sick Leave will not exceed sixty (60) days and will be subject to the following:
  - i. Request for advancement of Sick Leave must be supported by a medical certificate.
  - ii. All available accumulated Sick Leave shall be exhausted before advancement.
  - iii. All available accumulated Annual Leave shall be exhausted before advancement.
  - iv. All available Personal Leave Days shall be exhausted before advancement.
  - v. EMPLOYEE provides to the City Manager reasonable assurance that EMPLOYEE will return to duty to earn and repay the advance credits.
  - vi. If EMPLOYEE terminates employment prior to restoring advance sick leave, any amounts owing will be deducted from EMPLOYEE's final paycheck.
  - vii. The City Manager has discretion to grant or deny a request for advanced sick leave, and the City Manager's decision on such a request is final.
10. Recovery for Damages: If EMPLOYEE recovers damages for time lost, EMPLOYEE shall not receive Sick Leave pay under this Agreement for the same time; or having received sick leave prior to the recovery of damages, EMPLOYEE shall repay the CITY for any amount paid.
11. Minimum Sick Leave to Be Taken: The minimum Sick Leave time that EMPLOYEE may take at any one time shall be one (1) working day.
12. Return to Work: EMPLOYEE certified by a physician to be absent from work for a specified period of time due to illness or injury must present a physician's release if EMPLOYEE wishes to return to work prior to the date originally specified by the physician.
13. If EMPLOYEE accrues more than four hundred (400) hours of sick leave, EMPLOYEE may cash in any portion of the sick leave balance over four hundred (400) hours once each fiscal year and shall receive a lump sum payment valued at twenty percent (20%) of the cashed-in balance paid at EMPLOYEE's base salary as of July 1. EMPLOYEE must have at least four hundred (400) hours of sick leave remaining after using this cash-in benefit. A maximum of four hundred (400) hours of sick leave may be cashed-in during any fiscal year. To use this benefit, EMPLOYEE must submit a request in writing to CITY's Payroll division no later than June 1. Payment under this provision will be made to EMPLOYEE with the second paycheck in July.

M. Workers' Compensation Leave

1. If EMPLOYEE is absent due to a service-connected injury or illness, EMPLOYEE shall receive current, full, regular pay of sixty (60) days in any twelve (12) month period without being charged any Sick and/or Annual Leave. After sixty (60) days, EMPLOYEE shall, by notifying Human Resources in writing, elect one of the following options:
  - i. OPTION 1. EMPLOYEE shall accept as full compensation the amount received from Workers' Compensation pursuant to NRS Chapters 616 and/or 617.
  - ii. OPTION 2. EMPLOYEE shall accept current, full, regular pay and benefits from CITY. EMPLOYEE shall be charged sick leave until the EMPLOYEE's sick leave balance is zero hours, then EMPLOYEE shall be charged annual leave until the EMPLOYEE's annual leave balance is zero hours. Upon depletion of the sick leave and annual leave hours to a zero balance, EMPLOYEE shall be compensated by OPTION 1.
  - iii. EMPLOYEE cannot change from the EMPLOYEE's original elected option for service-connected disability leave.
2. The following procedures shall be followed when EMPLOYEE is compensated by the CITY, within the maximum of sixty (60) days in a twelve (12)-month period and/or EMPLOYEE is compensated under OPTION 2.
  - i. All Workers' Compensation payments will be credited to the CITY.
  - ii. EMPLOYEE shall be credited first for annual leave, then sick leave hours charged during this disability. The hours charged to and compensated for by Workers' Compensation are multiplied by two thirds (2/3) and credited to the EMPLOYEE.
  - iii. In no event shall EMPLOYEE be allowed to receive EMPLOYEE's Workers' Compensation payment as well as compensation from the CITY.

N. Court Leave

1. EMPLOYEE appearing in any court or before the Grand Jury as a party to an action arising out of CITY employment or as a witness to either a civil or criminal case for the purpose of giving testimony as to facts or knowledge received in the course of CITY employment shall receive full compensation as though actually on the job during such time. EMPLOYEE shall claim any jury, witness, or other fee to which EMPLOYEE may be entitled by reason of such appearance and forthwith pay the same over to the Chief Financial Officer to be deposited in the General Fund of the CITY. In all cases, however, EMPLOYEE shall retain any mileage allowance. If EMPLOYEE is on duty and witnesses an event not related to the performance of his/her duty, but as a bystander witness, EMPLOYEE will not be compensated for



the court appearance. Additionally, EMPLOYEE will not be paid court pay for any court appearance as a witness against the CITY.

2. Reporting on Time Card: Notation will be made on the time card for the hours of court leave granted to EMPLOYEE while absent from the EMPLOYEE's regularly scheduled duties.

O. Military Leave

1. Military leave shall be provided in compliance with the Uniformed Services Employment & Reemployment Rights Acts of 1994. In the event that EMPLOYEE is absent due to being called into one of the military services of the United States or the State of Nevada for "Summer Camp" duty, EMPLOYEE may continue to receive a salary and other benefits from the CITY for a period not to exceed one hundred twenty (120) working hours.
2. Method of Payment: EMPLOYEE who is authorized military leave is obligated to furnish a statement of gross base military pay for the number of regular work days for which EMPLOYEE took military leave. Such statement shall be furnished upon EMPLOYEE's return from military leave to the Chief Financial Officer.

P. Personal Leave

EMPLOYEE shall be entitled to forty (40) hours of Personal Leave each fiscal year. Any personal leave balance remaining as of June 30 shall be forfeited.

Q. Carryover of Leave

Accrued but unused Annual Leave and Sick Leave will be carried over year to year. Upon EMPLOYEE's resignation or termination of employment, EMPLOYEE will be entitled to full compensation for the accrued unused Annual Leave and Personal Leave. If qualified, EMPLOYEE may convert unused Sick Leave upon resignation or termination of employment as set forth below.

R. Sick Leave Conversion

1. In the event of a job-related death or job-related total permanent disability, CITY shall pay one hundred percent (100%) of EMPLOYEE's accumulated sick leave.
2. If EMPLOYEE suffers a non-service-related death while still employed with the CITY, the EMPLOYEE's beneficiaries or estate shall receive a one-time payment of a percentage of EMPLOYEE's accumulated sick leave in accordance with years of service in the sick leave cash out table in Option 2 below, provided, however, that if EMPLOYEE has less than ten (10) years of service at the time of EMPLOYEE's death, no payment will be made. At no time will the one-time payment exceed twenty-five thousand (\$25,000.00), regardless of the years of service. After the initial payment, the payments cease. No other benefits are available to EMPLOYEE's beneficiaries or estate from accumulated sick leave.

3. Upon termination of EMPLOYEE’s employment with CITY, EMPLOYEE shall be entitled to choose between the following two (2) options for payment of accumulated sick leave.

i. OPTION 1: Conversion of Accumulated Sick Leave: EMPLOYEE separating from the CITY may elect to convert the percentage set forth below in the table of EMPLOYEE’s accumulated unused sick leave to an unfunded CITY account for the purpose of paying for future medical coverage under the CITY’s then-existing group medical insurance plan, on a monthly basis in accordance with the following table:

<b>Years of Service</b>	<b>Conversion Percentage</b>
10	50%
11	60%
12	70%
13	80%
14	90%
15 or more	100%

- a. The account will be assigned a present value as of the date of separation equal to the number of hours of accumulated sick leave multiplied by the EMPLOYEE’s base hourly rate at the time of separation. Upon EMPLOYEE’s retirement in the PERS system and if otherwise qualified, CITY will pay the retired EMPLOYEE’s medical coverage so long as there is a balance of accumulated sick leave adequate to cover the monthly premium. CITY will account for EMPLOYEE’s accumulated sick leave and debit said account on a dollar for dollar basis.
- b. This benefit is nontransferable and does not survive retired EMPLOYEE.
- c. Upon retirement, if retired EMPLOYEE does not continue medical coverage under the City of Sparks group health policy, retired EMPLOYEE will only be eligible to reinstate benefits as required by Nevada law.
- d. When retired EMPLOYEE becomes eligible for Medicare coverage or other federal programs, retired EMPLOYEE will receive Medicare supplemental coverage so long as there is a balance of accumulated sick leave adequate to cover the monthly premium.

- e. The fund to which the accumulated sick leave is credited does not accrue interest and does not have cash value. CITY pays for the retired EMPLOYEE's medical coverage by debiting the monthly cost of such coverage from the retired EMPLOYEE's accumulated sick leave balance and paying the actual cost of such coverage out of the appropriate CITY fund. The retired EMPLOYEE may request an annual summary of the sick leave balance.
  - f. A surviving spouse will continue to receive group health insurance under this benefit so long as there is a balance of accumulated sick leave adequate to cover the monthly premium, or if the spouse has made arrangements to pay for the City coverage directly.
  - g. Eligibility: EMPLOYEE who elects Option 2 set forth below to have sick leave payoff in cash at termination is not entitled to Option 1, conversion of accumulated sick leave to an insurance benefit. EMPLOYEE electing sick leave conversion to an insurance benefit is not entitled to sick leave payoff in cash.
- ii. OPTION 2: Sick Leave Cash-Out Provision: As an alternative to Sick Leave Conversion, EMPLOYEE, upon retirement, may elect a cash out of this benefit as follows:

<b>Years of Service</b>	<b>Cash-Out Percentage</b>
10	50%
15	60%
20	75%
21	80%
22	85%
23	90%
24	95%
25 or more	100%

- a. Retired EMPLOYEE may elect annual payments of conversion dollars that provide equal payout over time.
- b. This benefit is nontransferable and does not survive retired EMPLOYEE.

- c. Maximum annual payment will not exceed twenty-five thousand dollars (\$25,000.00). Once election is made, it may not be changed. If the sick leave payout is nominally over twenty-five thousand dollars (\$25,000.00), at the discretion of the Chief Financial Officer, the remaining balance may be paid.
  - d. If the account is valued at less than fifteen-thousand dollars (\$15,000.00) and cash-out is elected, the full amount will be paid upon termination of employment. If the sick leave payout is nominally over fifteen-thousand dollars (\$15,000.00), at the discretion of the Chief Financial Officer, the remaining balance may be paid.
  - e. If the retired EMPLOYEE chooses this cash out option, the retired EMPLOYEE and dependents are not eligible to continue on the CITY's group health insurance. However, retired EMPLOYEE may return to the CITY's group health insurance plan not later than January 31 of an even-numbered year pursuant to NRS 287.0205 and annual cash payments may continue as selected.
  - f. Eligibility: EMPLOYEE who elects Option 1 above to have sick leave converted to insurance benefits at termination is not entitled to Option 2, to have sick leave converted to a cash payment. EMPLOYEE electing sick leave conversion to an insurance benefit is not entitled to sick leave payoff in cash.
- S. CITY shall pay the professional dues and subscriptions of EMPLOYEE necessary for his/her continuation and participation in national, regional, state, and local associations and organizations necessary and desirable for his/her continued professional participation, growth, and advancement and for the good of CITY, including but not limited to maintaining any licenses or certifications held by EMPLOYEE at time of appointment to the Position.
- T. CITY agrees to pay the travel and subsistence expenses of EMPLOYEE for professional and official business travel and meetings adequate to continue professional development of EMPLOYEE and to adequately pursue necessary official functions and matters of interest to CITY.
- U. CITY agrees to provide EMPLOYEE with a CITY procurement card for expenses that are non-personal and are job-related for EMPLOYEE in the normal course of his/her duties. CITY reserves the right to review any and all transactions EMPLOYEE makes using a CITY procurement card and to demand reimbursement from EMPLOYEE for any transactions deemed personal and/or not job-related. CITY further reserves the right to discipline EMPLOYEE, up to and including termination for cause, for misuse of the CITY procurement card. These remedies are not exclusive, and CITY may demand reimbursement and discipline EMPLOYEE and seek any other remedies available at law or in equity.

- V. CITY will pay all costs of any fidelity or other bonds required of EMPLOYEE by virtue of his/her employment with CITY.
- W. Upon proof of course completion with either a grade of “C” or better or a certificate of completion for pass/fail courses, CITY shall pay one hundred percent (100%) of tuition, lab fees, required textbooks, and ancillary written course materials, not to exceed one thousand five hundred dollars (\$1,500.00) per fiscal year for job-related courses that are approved in writing in advance by the Human Resources Department.

#### **Section 4. Contract Term**

This Agreement shall commence on November 9, 2020, and shall continue until June 30, 2022, unless otherwise concluded or terminated pursuant to the terms and conditions of this Agreement. Nothing in this Agreement is intended to restrict the parties’ rights and abilities to enter into subsequent amendments to this Agreement.

The Parties intend this Agreement to be an automatically renewing two-year agreement after the initial term, tied to the end of the City’s fiscal year. However, at the sole discretion of the City Manager and prior to any automatic renewal of this Agreement, the City Manager may limit the contract term to the upcoming fiscal year. The City Manager must notify EMPLOYEE in writing of such election no later than May 31st of any given year in which the Agreement would be scheduled for automatic renewal.

#### **Section 5. Performance Evaluation and Salary Review**

- A. The City Manager shall review and evaluate the EMPLOYEE’s performance annually, to be completed on or before May 30. The City Manager may adjust EMPLOYEE’s salary within the limits of the CITY’s adopted Classification and Compensation System as the City Manager deems appropriate after consulting with the EMPLOYEE. At no time shall the City Manager provide more than a five (5) percent annual merit increase for the EMPLOYEE. Such increase, if any, will be effective the first full pay period of July following the performance evaluation and shall be applied before any COLA.
- B. During this annual review, the City Manager may establish specific performance criteria to assist with the next annual review of EMPLOYEE. Any specific performance criteria established by the City Manager shall be applied prospectively only and shall not be applied retroactively to evaluate the performance of the EMPLOYEE.
- C. In addition to the annual performance appraisal provided for by this Section, the City Manager shall use her or her best efforts to provide to EMPLOYEE, in a timely manner, substantive criticisms, complaints, and suggestions called to his or her attention for study and/or appropriate action by EMPLOYEE.
- D. During the annual performance evaluation process or at such other time as is appropriate based on the circumstances and this Agreement, the City Manager may, upon finding that EMPLOYEE has failed to maintain the standard of work required, reduce EMPLOYEE’s base salary within the limits of the CITY’s adopted Classification and Compensation System as the City Manager deems appropriate after consulting with the EMPLOYEE. At

no time shall the City Manager reduce EMPLOYEE's base salary by more than a five (5) percent. If EMPLOYEE's base salary has been reduced pursuant to this subsection, the City Manager shall review EMPLOYEE's performance within three (3) months of said reduction, and every three (3) months thereafter until EMPLOYEE's standard of work improves to a satisfactory level. During these subsequent reviews, upon finding that EMPLOYEE's standard of work has improved to a satisfactory level, the City Manager shall return EMPLOYEE's base salary to its pre-reduction amount.

## **Section 6. Termination**

For purposes of interpreting this Agreement, whenever the general term "terminate" or any of its derivative forms is used, such term shall generally mean separation from employment, whether or not cause is established. The use of the term "termination" is not intended to and does not create any legal requirement that termination be premised on a determination of cause or breach of this Agreement. The services of EMPLOYEE may be terminated by any of the following methods:

- A. Mutual Agreement. EMPLOYEE's employment in the service of the CITY may be terminated by written mutual agreement executed by both parties.
  
- B. Termination Without Cause. This Agreement may be terminated for any legal reason whatsoever and/or for no reason at all, in the sole, absolute, and unreviewable discretion of the City Manager, upon written notice by City Manager to EMPLOYEE. CITY may terminate EMPLOYEE's employment without cause by providing ninety (90) days' advance written notice to EMPLOYEE. During such ninety (90) day period, the City Manager, in his/her sole discretion, may determine if EMPLOYEE is to maintain regular business hours for CITY or if EMPLOYEE should be placed on administrative leave with pay. Any termination of EMPLOYEE occurring within six (6) months of CITY's employment of a new City Manager shall be presumed without cause unless such termination is for cause as provided in this Agreement. If CITY terminates EMPLOYEE's employment without cause, CITY shall pay to EMPLOYEE within two (2) weeks following of the end of the 90-day notice period the following severance package:
  - 1. Twelve (12) months' base salary, less payroll taxes and withholding required by any federal, state or local law, and any additional withholding to which EMPLOYEE has agreed or requested;
  - 2. All salary and benefits due and owing under this Agreement as of the termination date;
  - 3. Payment for all unused accrued annual leave and personal leave;
  - 4. The Sick Leave conversion options in Section 3(R) of this Agreement, if applicable; and
  - 5. One-time payment equivalent to the cost of twelve (12) months of CITY paid health, dental, vision, life and long-term disability insurance.

6. Such severance package shall constitute liquidated damages in lieu of any and all claims by EMPLOYEE against CITY and all of its officials, directors, officers, employees, and agents arising out of this Agreement and shall be in full and complete satisfaction of any and all rights EMPLOYEE may enjoy hereunder. No portion of such severance package shall be payable until five (5) business days after EMPLOYEE delivers to CITY a duly executed unconditional release of liability. EMPLOYEE is not entitled to any other remedies, contractual or otherwise, for Termination without Cause except as required by law.
- C. Termination For Cause. The City Manager may, upon thirty (30) days' written notice to EMPLOYEE specifically identifying a deficiency in EMPLOYEE's performance and after reasonable opportunity for EMPLOYEE to cure the same, terminate this Agreement for "cause." For the purposes of this Agreement, "cause" shall mean any of the following: EMPLOYEE's failure to perform the duties of the Position in a satisfactory manner; commission of fraud, misappropriation, embezzlement, any act of misappropriation or failure to account for public funds, or any act of moral turpitude or any act that would tend to diminish public confidence in the government of the CITY should EMPLOYEE remain in the Position, or similar acts of dishonesty, including but not limited to making false statements under oath, on any official report, during any administrative or governmental proceeding, on any employment application or during interviews leading to employment; conviction of any crime involving moral turpitude or violence; conviction of any felony; arrest, indictment, or other charge for a felony under circumstances indicating EMPLOYEE committed a felony without legal justification, regardless of whether EMPLOYEE is convicted of a felony; intentional misconduct that may subject CITY to criminal or civil liability; breach of EMPLOYEE's duty of loyalty, including the disruption of opportunities properly belonging to CITY; willful disregard of CITY policies and procedures; breach of any of the material terms of this Agreement; and insubordination or deliberate refusal to follow the lawful instructions of the City Manager. Upon termination of this Agreement by CITY under this subsection, EMPLOYEE shall be entitled to receive all salary and benefits due and owing under this Agreement as of the termination date.
- D. Early Termination by Employee. EMPLOYEE may terminate this Agreement upon ninety (90) days' written notice to CITY. EMPLOYEE shall continue to perform all duties under this Agreement until the end of such ninety (90) day period, provided, however, that CITY may, at its sole option, immediately terminate this Agreement upon written notice to EMPLOYEE, and in the event CITY elects to so terminate this Agreement, CITY shall continue to pay EMPLOYEE's Total Compensation through the end of the ninety (90) day period. Thereafter, EMPLOYEE shall not be entitled to receive compensation or other benefits under this Agreement, provided, however, that EMPLOYEE shall be entitled to receive all rights and benefits vested under this Agreement as of the date of termination and COBRA benefits.
- E. Early Termination Upon Disability. This Agreement and all benefits hereunder shall terminate if EMPLOYEE is not able, as a result of illness or other physical or mental disability, to perform the essential functions of the Position as required by this Agreement for a period of one hundred twenty (120) consecutive days or in excess of one hundred

eighty (180) days in any twelve (12) month period, notwithstanding reasonable accommodation by CITY to EMPLOYEE's known physical or mental disability, solely in accordance with and to the extent required by federal and state law governing the employment of disabled persons, provided such accommodations would not impose an undue hardship on the operation of CITY's business or a direct threat to EMPLOYEE or others. In the event of termination of this Agreement pursuant to this subsection, EMPLOYEE shall be entitled to disability benefits and all rights and benefits vested under this Agreement as of the date of termination, but all other benefits provided for in this Agreement shall cease as of the date of termination, except as otherwise required by law or provided in this Agreement.

- F. Termination by Death. EMPLOYEE'S employment shall terminate automatically on his/her death. CITY shall pay to EMPLOYEE's beneficiaries or estate, as appropriate and as permitted by applicable law, any compensation then due and owing, including but not limited to a lump sum payment for accrued annual leave; however, there shall be no entitlement to severance or non-renewal package benefits. Nothing in this section shall affect any entitlements of EMPLOYEE's heirs, beneficiaries, or estate to the benefits of any life insurance plan or other applicable benefits.

## **Section 7. Termination Obligations**

- A. Duties of Employee. Upon termination for any reason, EMPLOYEE shall:
1. Leave the premises of CITY if requested by the City Manager;
  2. Immediately turn over all records, books, papers, computers (including all computer devices), computer disks or other storage devices, keys, phones, uniforms, tools, credit cards, identification cards or badges, and all other property owned by the CITY or used by EMPLOYEE in connection with EMPLOYEE's duties;
  3. Discuss with anyone designated by the CITY all work in progress and reveal all information that may be needed by a person who will perform the duties of the Position;
  4. Participate in a termination interview with representatives of the CITY if requested; and
  5. Reimburse or indemnify the CITY for any costs or claims owed by EMPLOYEE or as a result of EMPLOYEE's conduct to the CITY.
- B. Cooperate in Pending Work and Litigation. Following any termination of EMPLOYEE's employment for any reason, EMPLOYEE shall fully cooperate with the CITY in all matters relating to winding down or transfer of pending work and duties to other CITY employees. EMPLOYEE shall also cooperate with CITY in any litigation or administrative action in which CITY or any of CITY's employees is a party that relates in any way to EMPLOYEE's acts, omissions, or knowledge while employed by the CITY. If after



termination EMPLOYEE's cooperation in defense of any such litigation or administrative action requires more than five (5) hours of time, EMPLOYEE shall be paid at an hourly rate of One Hundred Fifty Dollars (\$150.00) for his/her time and all reasonable associated expenses.

### **Section 8. Contract Non-Renewal**

The City Manager shall give EMPLOYEE at least thirty (30) days' written notice if EMPLOYEE's contract will not be renewed. The City Manager, in his or her sole discretion, may place EMPLOYEE on administrative leave with pay until EMPLOYEE's contract ends. In the event EMPLOYEE's contract is not renewed, EMPLOYEE shall receive the following Non-Renewal Package:

- A. Six (6) months' base salary;
- B. All salary and benefits due and owing under this Agreement as of the date of termination;
- C. Payment for all unused accrued annual leave and personal leave;
- D. One-time payment equivalent to the cost of six (6) months of CITY paid health, dental, vision, and long-term disability insurance; and
- E. The Sick Leave conversion options in Section 3(R) of this Agreement, if applicable.

### **Section 9. Termination of Agreement by Employee**

If EMPLOYEE terminates this Agreement for any reason or elects not to renew this Agreement for any reason, no severance or Non-Renewal package will be due and owing to EMPLOYEE. EMPLOYEE shall receive payment for unused annual and personal leave and shall have the sick leave options outlined in Section 3(R) of this Agreement.

### **Section 10. Ethical Commitments**

- A. EMPLOYEE agrees to adhere to all ethical standards applicable to employees and officers of CITY, including but not limited to the provisions of NRS Chapter 281A.
- B. EMPLOYEE shall not endorse, make financial contributions, sign or circulate petitions, or participate in fundraising activities for any individual(s) seeking or holding elected office in the CITY government. EMPLOYEE shall not seek or accept any personal enrichment or profit derived from confidential information or misuse of public time.
- C. CITY shall support EMPLOYEE in keeping these commitments by refraining from any order, direction, or request that would require EMPLOYEE to violate these commitments. Specifically, neither the City Council nor any individual member thereof shall request EMPLOYEE to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fundraising activity for individuals seeking or holding elected office in the CITY government, nor to handle any matter of personnel on a basis other than fairness, impartiality, and merit.

- D. The provisions of this Section shall not be construed to limit EMPLOYEE's rights, in a private capacity, to vote for or against any candidate for CITY office or any ballot question affecting the CITY. Further, these provisions shall not be construed to limit EMPLOYEE's rights, in a private capacity, to make any financial contribution, sign or circulate any petition, or participate in any fundraising activity for individuals seeking or holding elected office in government other than the CITY.

## **Section 11. General Provisions**

- A. This Agreement contains the full and complete statement of all arrangements between the parties with respect to EMPLOYEE's employment with CITY and all benefits arising therefrom. There are no representations, agreements, arrangements, or understandings, oral or written, relating to the subject matter of this Agreement that are not fully expressed in this Agreement.
- B. The City of Sparks Administrative Rules shall apply to EMPLOYEE unless contradicted by the express terms of this Agreement.
- C. This Agreement repeals and replaces Resolution Number 3344 with respect to EMPLOYEE. Upon approval of this Agreement by CITY and EMPLOYEE, Resolution Number 3344 shall have no force or effect in the relationship between CITY and EMPLOYEE.
- D. The provisions of this Agreement may be waived, changed, modified, or discharged only by a written amendment to this Agreement signed by CITY and EMPLOYEE.
- E. If any provision of this Agreement is held to be invalid or unenforceable by any judgment or decision of an administrative, arbitral, or judicial tribunal, court, or other body of competent jurisdiction, such provision shall be severed from this Agreement, the remainder of this Agreement shall not be affected by such judgment or decision, and the Agreement shall be carried out as nearly as possible according to its other provisions and intent.
- F. Any party's failure to declare any particular breach of this Agreement by the other party shall not constitute waiver by such party of any other breach of this Agreement or any rights or remedies for any other breach of this Agreement.
- G. The parties have had the opportunity to consult independent legal counsel regarding the provisions of this Agreement, and this Agreement shall not be construed in favor of or against either party by virtue of who drafted its terms and conditions. Headings used in this Agreement are for reference purposes only and shall not be used to interpret the terms and conditions of this Agreement. Unless the context requires otherwise, the masculine, feminine, and neutral genders and the singular and the plural include one another.
- H. This Agreement shall be governed by and construed according to the laws of the State of Nevada. Any claims relating to or arising from this Agreement shall be brought in a court of competent jurisdiction in the County of Washoe, State of Nevada.

- I. All notices required or permitted under this Agreement shall be in writing and shall be sent to the City Manager of the CITY and the home address of EMPLOYEE. EMPLOYEE shall provide written notice of any change of address within five (5) business days of such change.
- J. The parties acknowledge that they have consulted with or have had the opportunity to consult with independent legal counsel of their own choice concerning this Agreement and that they have read and understood the Agreement, are fully aware of its legal effect, and have entered into it freely based upon their own judgment and not based on any representations or promises other than those expressly contained in this Agreement.

**IN WITNESS WHEREOF**, CITY has caused this Agreement to be signed and executed on behalf of CITY by its Mayor and duly attested by the City Clerk, and EMPLOYEE has signed and executed this Agreement, all on the day and year first above written.

**EMPLOYEE**

**CITY OF SPARKS**

\_\_\_\_\_  
Mindy J. Falk

\_\_\_\_\_  
Ed Lawson, Mayor

**ATTEST**

\_\_\_\_\_  
Lisa Hunderman, City Clerk

**APPROVED AS TO FORM**

\_\_\_\_\_  
Chester H. Adams, City Attorney