

## INTERIM CITY MANAGER EMPLOYMENT AGREEMENT

This Interim City Manager Employment Agreement ("Agreement") is an interim agreement made and entered into this 11<sup>th</sup> day of September 2016, by and between the Mayor and City Council of Holbrook, and Arizona Municipal Corporation, hereafter referred to as "City" Randall L. Sullivan, Jr., hereafter referred to as "Interim City Manager."

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, City and Interim City Manager (Collectively, the "Parties", each a "Party") agree as follows:

1. Employment. Interim City Manager is currently the Finance Director/Assistant City Interim City Manager for the City. The City desires to employ Interim City Manager in the full-time capacity as interim City Interim City Manager, and City hereby employs Interim City Manager as the interim City Interim City Manager and Interim City Manager hereby accepts such employment from City upon the terms and conditions set forth herein.

2. Services and Duties. Interim City Manager's duties as interim City Interim City Manager shall consist of those duties and obligations imposed upon the City Interim City Manager by the City of Holbrook Charter, City Code, ordinances and regulations of the City and those other duties and responsibilities delegated or assigned by the City Council, from time to time, to Interim City Manager. This shall include the role of Finance Director which duties Interim City Manager shall continue to perform. Interim City Manager shall faithfully, completely and accurately carry out and perform his duties in accordance with the highest professional and ethical standards of his profession and shall comply with all ordinances, rules, policies and regulations established or adopted by the City from time to time.

3. Term. The City does hereby agree to employ the Assistant City Manager/Finance Director as its Interim City Manager through May, 2017, and on a month to month basis thereafter. However, in the event a new City Manager is appointed by the City, then there will be a ninety (90) day phase in period where the Interim City Manager will gradually transition back to his previous position of Finance Director/Assistant City Manager.

4. Base Compensation. The base compensation shall be equal to the amount of \$113,282.00 per year, paid until the end of the month in which the Interim City Manager resigns, or at the end of the ninety (90) day transition period after the dismissal of the Interim City Manager and appointment by the Council of any replacement City Manager. In the event of a resignation or replacement of the Interim City Manager, then

Interim City Manager shall resume his previous position of Finance Director/Assistant City Manager at the same rate of pay and benefits that he had prior to this Agreement.

5. Benefits. The base compensation above shall also include all benefits received by all full-time City personnel including, but not limited to, health, life, dental and vision insurance, sick leave and holiday benefits as set forth in the City's personnel rules. The Interim City Manager shall accrue vacation time in the amount equaling 6 weeks per year. This amount of vacation time is in addition to the vacation time that the Interim City Manager already has accrued. The Interim City Manager shall accrue sick leave in the same manner and at the same rate as other administrative employees of the City. Interim City Manager is entitled to use the City's plan for cell phone equipment and usage.

6. Automobile Allowance. Interim City Manager may use a City vehicle, if available, for City-related activities.

7. Termination of Agreement. Either party may terminate this Agreement pursuant to the following terms:

- a. Should the Interim City Manager desire to terminate this Agreement, Interim City Manager shall provide written notice of intent to terminate at least thirty (30) days prior to the actual date of termination. Council may, by the affirmative vote of four members of the Council, at a regular or special Council meeting, agree to allow the Interim City Manager to terminate the agreement on less than thirty (30) days written notice or to relieve the Interim City Manager of further duties at any time during the thirty (30) day period provided, however, that full compensation pro-rated on a month to month basis be paid to the Interim City Manager up to and including the Date of the Termination. Upon termination of this Agreement, the Interim City Manager shall be entitled to return to his previous position of Finance Director/Assistant City Interim City Manager as set forth herein.
- b. Interim City Manager is employed at the will of City and nothing in this Agreement shall prevent, limit or otherwise interfere with the right of City to terminate Interim City Manager and this Agreement at any time, without cause, by delivery of written notice of such termination to Interim City Manager not less than thirty (30) days in advance of the Termination Date set forth in the notice, unless the Parties otherwise agree at any regular or special meeting. However, in the event of such termination, the ninety (90) day transition period and compensation provided for herein shall apply, and the Interim City Manager shall be entitled to return to his previous position of Finance Director/Assistant City Interim City Manager.

8. Amendment. Nothing herein shall prohibit the parties from amending the terms and conditions this Agreement as long as the amendment is made in writing and is executed by both the City and Interim City Manager.

9. Outside Activities. Interim City Manager shall not engage in any non-City connected business activity during the normal business hours of the City, except while on vacation, without the prior written approval of the City's Mayor or direction of the City Council. City agrees that occasional teaching, writing, or consulting work may be performed by Interim City Manager on Interim City Manager's time off, provided that such non-City connected activities do not interfere with Interim City Manager's ability to faithfully, promptly and to the best of Interim City Manager's ability, experience and talent, perform all of his obligations under this Agreement, express or implied, to the satisfaction of City, in its reasonable discretion.

10. Tax Withholding. All amounts of Base Compensation and other compensation, any, payable to Interim City Manager under this Agreement shall be reduced by any amounts that City is required to withhold with respect to such payments under the then applicable provision of any state, federal or local income or other tax laws, the so-called "FICA" laws, regulations or statutes of a like nature or any and all other state, federal or local laws of any kind or nature.

11. Residency Requirement. During this Agreement, residency requirements shall be applied to and satisfied by Interim City Manager pursuant to the conditions stated in the City of Holbrook Charter, § 3.02.

12. Bonding. City shall bear the full cost of any fidelity or other bonds required of Interim City Manager under any law, ordinance or City Charter requirement. Interim City Manager shall complete all necessary applications and otherwise cooperate with City in applying for and obtaining such bond.

13. Return of Property. On the Termination Date, regardless of how or why this Agreement is terminated, or whenever otherwise reasonably requested by City, Interim City Manager shall immediately return to City any or all of City's property, tangible or intangible, real, personal or mixed, including, but not limited to, any such property that is in Interim City Manager's possession or under his control or which is used, produced or created by Interim City Manager in rendering services under this Agreement or otherwise, all of which Interim City Manager hereby acknowledges and agrees is and shall be the property of City.

14. Remedies. Except as expressly provided herein, the event of a breach of this Agreement by either party, the non-breaching party shall have all rights and remedies available at law, in equity or under the terms of this Agreement; provided, however, that in no event shall Interim City Manager have any right to punitive, exemplary consequential or multiple damages against City, except for treble damages which may be

available to Interim City Manager under ARS § 23-355 relating to the failure to pay wages when due.

15. Employer Policies. To the extent not inconsistent with the Agreement, Interim City Manager acknowledges and agrees that he is bound by all of the City's employment policies applying generally to employees, as they may be adopted and/or modified by City from time to time in its sole discretion. In the event of an inconsistency between the City's employment policies applying generally to employees, and any provision of this Agreement, the terms of this Agreement shall control.

16. Governing Law; Choice of Forum. This Agreement is executed, delivered and will be performed in the State of Arizona and the substantive laws of the State of Arizona (without reference to choice of law principles) shall govern its interpretation and enforcement. Any action brought to interpret or enforce any provisions of this Agreement, or otherwise relating to or arising from this Agreement, shall be commenced and maintained in the Superior Court of the State Arizona in and for the County of Navajo and each of the Parties irrevocably consents to jurisdiction and venue in such Court for such purposes:

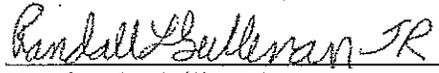
17. Construction. This Agreement is intended to express the intent of both Parties, and irrespective of the identity of the Party or counsel who prepared this Agreement or any draft of this Agreement, no rule of strict construction shall be applied against any Party. All words used in this Agreement shall refer to the appropriate number or gender, regardless of the number or gender stated.

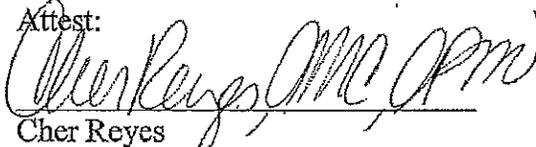
18. Conflict of Interest. This Agreement is subject to, and may be terminated by City in accordance with, the provisions of A.R.S. § 38-511.

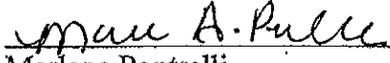
19. Prohibition of Doing Business with Sudan and Iran. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation, as defined in A.R.S. §§ 35-391 and 35-393, in either Sudan or Iran.

EXECUTED this 11<sup>th</sup> day of October 2016.

  
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Bobby Tyler  
Mayor

  
\_\_\_\_\_  
Randall L. Sullivan Jr.  
Interim City Manager

Attest:  
  
\_\_\_\_\_  
Cher Reyes  
City Clerk

Approved as to Form:  
  
\_\_\_\_\_  
Marlene Pontrelli,  
Dickinson Wright, PLLC  
City Attorney