

# **SPRINGDALE TOWN MANAGER EMPLOYMENT AGREEMENT**

## **Introduction**

This Agreement, made and entered into this 10<sup>th</sup> day of October 2018, by and between the TOWN OF SPRINGDALE, UTAH, a municipal corporation, (hereinafter called "Employer") and RICHARD WIXOM, (hereinafter called "Employee") an individual who has the education, training and experience in local government management, both of whom agree as follows:

## **Section 1: Term**

The term of this Agreement shall be for a period of three (3) years, from October 1, 2018 to September 30, 2021, unless it is terminated earlier as set forth in Section 8. In the event the Agreement is not renewed, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns or is terminated for cause as set forth in Section 8.

## **Section 2: Duties and Authority**

Employer agrees to employ Employee as Town Manager to perform the functions and duties specified for the position of Town Manager as set forth in Springdale Code Title 1, Chapter 6A.

## **Section 3: Compensation**

A. Salary. During the term of this Agreement, Employer will pay Employee, as compensation for Employee's regular and timely performance of Employee's duties under Section 2, the sum One Hundred Thirty-Six Thousand, Five Hundred and Ninety and 00/100 (\$136,950.00) per year, which salary compensation will be paid to Employee in twenty-six (26) bi-weekly installments. Each paycheck shall be to compensate for Employee's work in the immediately preceding pay period. Employer has the right to make deductions from the salary for all applicable state and federal taxes and withholding allowances that are in effect at the Effective Date, or that may be enacted later.

B. Cost of Living, Merit, and Market Adjustments. If Employer provides for, or otherwise approves for systems to evaluate and implement cost of living (COLA) adjustments, merit-based pay increases, or market-based salary comparisons and adjustments that are applied consistently across other Town employees, the same system will be used for comparison, evaluation and adjustments for Employee's salary as it is for other employees.

## **Section 4: Health, Disability and Life Insurance Benefits**

Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents equal to that which is provided to all other employees of the Town of Springdale.

### **Section 5: Vacation, Sick, and Military Leave and Paid Holidays**

A. In each year of the term of this Agreement Employee shall be credited with eighteen (18) days annual vacation leave. Vacation leave will be credited on or about January 1 of each year. The maximum annual vacation leave that can be accrued and carried forward from one calendar year to the next is one hundred twenty (120) hours, which is the maximum allowed by the Town's current Personnel Manual. If the Town's Personnel Manual is amended to provide for a higher maximum accrued vacation hours or other changes related to vacation hours, the Agreement will be considered amended to match the amended Personnel Manual. Employee agrees to plan the use of his vacation leave around the needs of the Town in consultation with the Mayor.

B. Employee shall accrue sick leave equal to the highest annual accrual provided to all other employees pursuant to the Town's personnel policies and procedures manual.

C. Employee shall be entitled to military reserve leave time pursuant to federal, state and local law pursuant to the Town's personnel policies and procedures manual.

D. Employee shall receive paid time off for all state and federal holidays as provided to all other employees pursuant to the Town's personnel policies and procedures manual.

E. Employee agrees to accept and be bound by the terms of the Town's policies and procedures manual insofar as they do not conflict with the terms of this Agreement. In the event of a conflict between this Agreement and the personnel policies and procedures manual, this Agreement shall govern the disposition of the conflict.

### **Section 6: Retirement**

Employer agrees to enroll the Employee into the applicable state retirement system and ensure that all contributions are made on Employee's behalf.

### **Section 7: General Business Expenses**

A. Employer, subject to the approval and discretion of the Springdale Town Council (hereafter "Town Council"), agrees to budget for and to pay for professional dues and subscriptions of Employee necessary for continuation and full participation in national, regional, state, or local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer. These professional associations include but are not limited to the International City/County Managers Association, the Utah City Managers Association, and the American Planning Association.

B. Employer, subject to the approval and discretion of the Town Council, agrees to budget for and to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer.

C. Employer, subject to the approval and discretion of the Town Council, agrees to budget for and to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer.

D. Employer, subject to the approval and discretion of the Town Council, agrees to reimburse Employee for all automobile mileage incurred while traveling in his personal vehicle to and from official Town business. Mileage reimbursement shall be administered in accordance with the Town's personnel policies and procedures manual. Employee understands that he will not be reimbursed for the mileage equivalent of his daily commute to and from work.

### **Section 8: Termination**

Employer may terminate Employee with or without cause. "Cause," for purposes of this Section means the Employee's death, incapacity, disability (if unable to perform the essential functions of his employment with reasonable accommodation), fraud, illegal acts, breach of this Agreement (if the breach continues for thirty days or more after the Employer has sent notice under Section 16 regarding the default and a 30-day cure period), and the like. A termination with cause may be made immediately. **For the purpose of this Agreement, termination shall occur when:**

A. The majority of the Town Council votes to terminate the Employee at a duly authorized public meeting.

B. If the Springdale Town Code or Utah Code is amended in a way that substantially changes the role, duties, or responsibilities of the Employee's position, including amendments that substantially changes the form of government, and Employee notifies Employer in writing within 30 days of the amendment(s) that such amendments constitute termination.

C. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, and the Employee declares, in writing, that a termination occurred as of the date of the offer.

## **Section 9: Severance for Termination without Cause**

If Employer terminates Employee without cause under Section 8, Employer shall pay Employee, upon termination, any unpaid balance of his salary that is due under Section 3(A), together with his salary (at the rate in effect at the time of his removal) for the 180 days after his removal, less state and federal taxes and withholding allowances. Severance must be paid in a lump sum unless otherwise agreed to by the Employer and the Employee. The payment of 180 days' salary is the only benefit allowed as severance under this section; there are no other payments, benefits or entitlements owed as severance. Notwithstanding any provision to the contrary, Employee is not entitled to any severance if (a) Employee is terminated for cause under Section 8 or (b) Employee voluntarily resigns.

## **Section 10: Resignation**

The Employee shall provide at least 30 days' written notice before any resignation. At the effective date of any resignation, Employee will receive any unpaid balance of his salary that is due under Section 3(A), together with unpaid accrued vacation hours up to the maximum allowed in section 5 above.

## **Section 11: Performance Evaluation**

Employer and Employee shall participate in the performance evaluation process established by the Personnel Manual.

## **Section 12: Status of Employment and Hours of Work**

Employee is an exempt employee and, therefore, does not qualify and is not entitled to receive overtime compensation or compensatory time off. Employee is expected to work 40 hours per week during regular business hours and, in addition, attend the monthly Town Council meetings. It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and Employee accepts and understands this fact and agrees to devote the time necessary to fulfill his duties as Town Manager within the compensation structure discussed above.

## **Section 13: Outside Employment**

Employee agrees to devote his full time and attention and faithfully discharge his duties as Town Manager during regular work hours. Employer recognizes that Employee may desire to engage in outside employment. If Employee engages in outside employment he agrees as follows:

- A. Employee will not conduct any outside employment activities during regular work hours or use Employer's property or other employees to conduct outside employment activities;

- B. Employee will not conduct any outside employment activities in the Town of Springdale;
- C. Employee will not use his position as Town Manager as a means to solicit or further his outside employment activities; and
- D. Employee will discontinue all outside employment activities if they interfere in any way with his ability to perform his duties and responsibilities as Town Manager.

#### **Section 14: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

#### **Section 15: Other Terms and Conditions of Employment**

The Employer, only upon Agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are adopted in a writing signed by both parties and are consistent with the provisions of this Agreement, the Springdale Town Code or Utah Code, and any other applicable law.

#### **Section 16: Notices**

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

- A. EMPLOYER: Town of Springdale, Utah, 118 Lion Blvd., P.O. Box 187, Springdale, Utah 84767.
- B. EMPLOYEE: Richard Wixom, 665 N. 125 West, La Verkin, UT 84745

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

#### **Section 18: General Provisions**

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written Agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on October 1, 2018.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not effect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

E. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Utah and venue for any legal or arbitral proceedings shall be Washington County, Utah.

F. Jointly Drafted. The parties understand and agree that this Agreement is the product of arms-length negotiation and joint drafting and, as a result, the Agreement will not be construed, and no presumption will be argued or deemed to arise, based upon who drafted this Agreement.

#### **Section 19: Dispute Resolution and Attorney's Fees**

If there is any dispute arising from or related to this Agreement, the parties shall participate in non-binding mediation before filing any court action or arbitration proceeding based on that dispute. If any party seeks to enforce or protect its rights under this Agreement in any judicial proceeding or arbitration, the prevailing party shall be entitled to receive from the other party payment of its costs and expenses, including reasonable attorneys' fees incurred (whether such costs or fees are incurred before or after the commencement of the proceeding), including any and all appeals or petitions therefrom.

Signature page follows.

TOWN OF SPRINGDALE, UTAH

EMPLOYEE

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Mayor Stanley J. Smith

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Richard Wixom

Attest:

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Darci Carlson, Town Clerk