

Section 3. Termination of Employment

(a) Termination by the City. The City may terminate the employment of Employee by directing written notice of termination to Employee by either hand delivery or certified mail, return receipt requested. In the event of such termination while Employee is ready, willing and able to perform the duties of City Manager, the City shall pay Employee a lump sum severance payment of six (6) months base salary as set forth in Section 4 of this Agreement, including earned unused vacation, less any deductions as are required by law to be withheld therefrom. In the alternative to a lump sum severance payment, Employee has the option of receiving the severance pay over a period not to exceed six (6) months along with the continuation of health insurance and deferred compensation benefits during this period. Subject to any other provisions of this Employment Agreement including, but not limited to Section 8, the policies concerning unused vacation and sick leave applicable to all City employees shall apply to the City Manager's payment for such earned but unused vacation.

In the event Employee is terminated for cause, no such compensation shall be due after the effective date of such termination. Termination for cause shall be limited to (a) fraudulent conduct, misappropriation, embezzlement, or other dishonest conduct; or (b) breach of this Agreement by the Employee.

(b) Termination by Employee. Employee may terminate his employment with the City by directing written notice to the City Mayor sixty (60) days prior to the effective date of termination by either hand delivery or certified mail, return receipt requested. In the event of such termination, Employee shall not be entitled to receive the termination pay provided in Section 3(a) of this Agreement but shall receive payment for any earned, unused vacation and sick leave subject to the limitation set forth in subparagraph (a) above.

Section 4. Compensation. The City agrees to pay Employee a base salary as follows: \$171,683.20, payable in installments at the same time as other employees of the City are paid. Employee shall also receive a one-time bonus approved by Council of even date.

In addition, the City agrees to review the base salary, bonuses, and/or other benefits of Employee and may increase same in such amounts and to such an extent as the City Council may determine from time to time in accordance with the annual evaluation. The Employee's base salary shall not be decreased during the term of this Agreement and employee may receive merit increases as deemed appropriate by Council to become effective November 1 of each year beginning on November 1, 2010. Employee and City agree that the evaluation process regarding this provision shall commence and end during November of each year.

Section 5. Hours of Work. The minimum work of Employee shall be forty (40) hours plus any additional work time reasonably required to discharge the duties and responsibilities of the Office of City Manager.

It is recognized that Employee must devote a great deal of his time outside normal office hours to business of the City and to that end, Employee will be allowed to take compensatory time off as he shall deem appropriate during said normal office hours.

Section 6. Automobile. Employee shall have the exclusive and unrestricted use, at all times during his employment with the City, of an automobile provided to him by the City. The City shall be responsible for paying for the purchase, operation, maintenance, repair, insurance, and regular replacement of said automobile.

Section 7. Residence. Employee shall reside within the City limits during his employment.

Section 8. Employee Benefits. The City shall provide Employee with any and all fringe benefits that apply to other employees. In addition, at the commencement of Employee's term as set forth above, it is agreed that Employee, upon retirement or separation from the City, has fulfilled all necessary requirements and shall be automatically eligible to have Employee's accrued annual leave and sick leave counted and accrued for all compensation, retirement accrual and calculation purposes at the agreed upon number of forty-five (45) days for annual leave and ninety (90) days for sick leave, since as of the date of this Employment Agreement, Employee has already accrued in excess of a combination of these numbers for normal leave and sick leave purposes under normal City policies and, among other reasons, in recognition of Employee's longstanding public service to municipalities within South Carolina. The intent of this provision, among other things, is to fully vest Employee for City annual leave and sick leave for separation or retirement pay calculation purposes. Notwithstanding the above, Employee and City agree that in the event Employee actually uses Employee's accrued annual leave so that the actual amount of leave at the time of separation or retirement of Employee from the City is less than forty-five (45) days, then Employee shall not be entitled to be compensated for the full forty-five (45) days, but instead shall be compensated for the actual number of accrued remaining annual leave days at the time of separation or retirement. Notwithstanding the above, Employee and City agree that in the event Employee actually uses Employee's accrued sick leave so that the actual amount of sick leave at the time of separation or retirement of Employee from the City is less than forty-five (45) days, then Employee shall not be entitled to be compensated for the full forty-five (45) days, but instead shall be compensated for the actual number of accrued remaining sick leave days at the time of separation or retirement. Notwithstanding the above, Employee and City agree that in the event Employee has accrued sick leave so that the actual amount of sick leave at the time of separation

or retirement of Employee from the City is equal or greater to forty-five (45) days, then Employee shall not actually receive payment from the City for any sick leave beyond forty-five (45) days.

The City also agrees to a contribution of 9% of Employee's pay to the International City Management retirement plan along with the standard Employer (City) contribution rate required by the South Carolina Retirement System.

Section 9. Professional Development. The City agrees to budget and pay for the travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for the City.

Section 10. Professional Activities. Employee shall be permitted to engage in such activities as teaching, writing and professional consultation during Employee's time off from his City Manager job so long as such activities are not in conflict with the interests of the City or Employee's job duties with the City. City Council shall be the sole judge of any conflict.

Section 11. Liability. The City shall defend and insure said Employee against claims, demands, suits, actions or other civil proceedings of any kind or nature arising out of the performance by Employee of his duties and responsibilities as City Manager if the performance consisted of conduct which Employee, in good faith, reasonably believed was lawful.

Section 12. Annual Performance and Objectives Review. During the month of November of each year, the Mayor and City Council agree to provide time for and to participate in an annual review of the operating goals and objectives of the City and the performance of the Employee. Employee shall perform those reasonable duties, goals and objectives as outlined by the City Council resulting from such performance evaluation.

Section 13. Insurance.

(a) Insurance. The City will pay the premiums for a personal whole life insurance, disability plan, and/or any other insurance product at the designation of Employee with the total of such annual premiums not to exceed \$5,237.95 with any rights in such policy remaining with Employee upon termination.

(b) Group Health Insurance. In addition to the employer contribution, City will pay the employee contribution for the employee health insurance premiums for coverage of Employee and his spouse with the plan offered by the City.

Section 14. General Provisions.

(a) This agreement constitutes the entire agreement between parties. However, all provisions of the City Code and regulations and rules of the City relating to employment as they now exist or hereafter may be amended, also shall apply to Employee as they would to any other employee of the City provided that in the event of a conflict between this Agreement and any City Code, regulation or rule of the City relating to employment, the provisions of this Agreement shall control.

(b) 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, shall not be affected and shall remain in full force and effect.

(c) The validity, construction and effect of this Agreement shall be governed by the laws of the state of South Carolina, and the City and Employee hereby consent to the exclusive jurisdiction of the courts of York County, South Carolina for resolution of any dispute arising hereunder.

(d) The parties to this Agreement hereby acknowledge that they have reviewed this Agreement and concur that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of any provision of this Agreement.

(e) Any applicable taxes on any benefits or amounts provided for the benefit of Employee shall be the sole responsibility of Employee. Notwithstanding the above, the City agrees to pay all normal employer expenses related to Employee's pay such as employer payroll or employment taxes. The Employee agrees to all normal payroll deductions from such pay such as social security and medicare deductions/taxes.

SIGNED, SEALED AND DELIVERED by Carey F. Smith, Employee, and City Council of the City of Rock Hill, Employer, pursuant to authorization of City Council in meeting duly assembled.

EMPLOYEE:

Carey F. Smith

EMPLOYER:

CITY OF ROCK HILL, S.C.

By: _____
A. Douglas Echols, Jr., Mayor

Kevin H. Sutton, Mayor Pro Tempore

John P. Gettys, Jr., Councilmember

Susie B. Hinton, Councilmember

Kathy S. Pender, Councilmember

James C. Reno, Jr., Councilmember

Osbey Roddey, Councilmember

ATTEST:

David B. Vehaun
Municipal Clerk