

**CITY OF BLAINE
ENGINEERING PROGRAM DIRECTOR EMPLOYMENT
AGREEMENT**

This Employment Agreement (the "Agreement") is entered into this ____ day of April, 2020, by and between the **CITY OF BLAINE**, a Washington municipal corporation (the "City") and Ravyn Whitewolf (the "Employee"), and is effective _____, 2020 (the "Effective Date").

WHEREAS, the City desires to employ Ravyn Whitewolf ("Whitewolf") as Engineering Program Director.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

I. EMPLOYMENT

1.1 **Employment.** The City hereby agrees that Whitewolf is employed as the Engineering Program Director for the City of Blaine, and Whitewolf hereby accepts under such employment, the terms and provisions of this Agreement. This position is a non-represented position with the City.

1.2 **Termination of Public Works Director Contract.** The Public Works Director Employment Agreement is terminated effective _____, 2020; provided, however, that all accrued but unused sick leave and vacation leave under such agreement shall be transferred to Whitewolf under this Agreement.

II. DUTIES

2.1 **Duties.** Employee shall perform all of those responsibilities, duties, and obligations as set forth in the City of Blaine Engineering Program Director job description attached hereto as "Attachment A," and such other duties and responsibilities as are legally and properly assigned by the Public Works Director.

2.2 **Exempt Position.** The Employee is designated as an FLSA Executive Exempt employee and, subject to the Public Works Director approval, is permitted to design a flexible work schedule as may be warranted to accomplish the continuing objectives of the City, subject to the restriction on hours of work set forth in Section 2.4 of this Agreement. The position of Engineering Program Director is also exempt from the provisions of the Washington State Minimum Wage Act.

2.3 **Exclusive Employment.** During the term of this Agreement, Employee agrees to remain exclusively employed by the City and not to become employed by any other employer until the effective date of termination or resignation. The term "employed" shall not be interpreted to include occasional teaching, writing, or consulting which does not interfere with the employee's ability to perform their duties.

2.4 **Hours of Work.** Employee's schedule of work shall vary in accordance with the work required to be performed, including such time as is necessary outside normal office hours. Employee shall be compensated for the effort to complete her assigned work, as opposed to the number of hours required to perform their work.

2.4.1 For calendar year 2020, Whitewolf shall be full time and shall generally work Monday – Friday, 8 a.m. – 5 p.m. , or alternative fulltime schedule approved by the Public Works Director, and such other hours as may be required.

2.4.2 Commencing January 1, 2021 and thereafter, Employee's schedule of work shall be four days a week (ordinarily, Monday – Thursday 8am – 5 p.m.), and Employee shall average thirty-two (32) hours a week. Employee's schedule may vary in accordance with the work required to be performed, subject to approval of the Public Works Director, but shall generally constitute thirty-two (32) hours a week.

III. SALARY

3.1 Commencing on the Effective Date, Employee shall be paid nine thousand, five hundred eighty-two dollars (\$9,582) monthly.

3.2 Commencing on January 1, 2021, Employee's salary shall be adjusted to eight thousand, nine hundred thirty-five dollars (\$8,935) monthly.

3.3 Commencing on January 1, 2022, Employee's salary shall be seven thousand, three hundred six dollars (\$7,306) monthly.

3.4 Annually on January 1 beginning January 1, 2023, Employee shall receive annual cost of living increases as funds are available and budgeted. Employee shall not receive a lesser cost of living increase than other exempt employees. Merit increases shall be at the discretion of the City Manager as recommended by the Public Works Director.

IV. PERFORMANCE EVALUATION

4.1 The Public Works Director will ordinarily review and evaluate the performance of Employee as needed. Performance and evaluations shall be in accordance with Blaine Policy and Procedure 03-02. Annually, the Public Works Director and Employee shall define goals and performance objectives which they determine necessary for the proper operation of the City and for the attainment of the City's policy objectives, and shall further establish a relative priority among those various goals and objectives. Goals and objectives shall generally be attainable within the time limitations as specified and within the annual operating and capital budgets and the appropriations provided.

V. PERSONAL DEVELOPMENT

5.1 The City shall pay Employee's dues in professional groups, provided they are approved in advance by the Public Works Director or are required by Employee's job description.

5.2 The City shall pay for the reasonable expenses of Employee's necessary travel and living expenses to represent the City at conferences, seminars, and training classes or for the purpose of continuing educational classes to maintain current certifications.

5.3 The City recognizes the desirability of representation in and before local civic and professional organizations, and Employee is authorized to become a member of such civic and professional organizations as approved in advance by the Public Works Director. The

City agrees to pay the membership fees for Employee in such civic organizations.

5.4 The City shall pay Employee's tuition for continuing education and certification where the education is related to Employee's field and/or where the field of study has been approved by the Public Works Director. Tuition shall be direct payment or reimbursement at the discretion of Employee. Employee must meet requirements set by program to qualify for reimbursement.

VI. VACATION, SICK, HOLIDAY, OTHER LEAVE

6.1 **Vacation Leave.** Employee shall accrue vacation leave at seventeen point thirty-three (17.33) hours (which shall be reduced to thirteen point eighty-six (13.86) hours beginning on January 1, 2021) per month with a maximum of two hundred forty (240) hours if Employee is PERS I. If Employee is PERS 2 or 3, the maximum is two hundred eighty (280) hours. Any unused accrued vacation hours over 240 or 280 hours at the end of the calendar year, for PERS 1 and PERS 2, respectively, shall be forfeited by Employee.

6.1.1 **Vacation Cash Out** During the 2020 and 2021 calendar years, Employee shall be entitled to cash out up to one hundred sixty (160) hours of accrued but unused vacation leave at her then current hourly rate each year. This cash out provision shall apply only to the 2020 and 2021 calendar years.

6.2 **Sick Leave.** Employee shall accrue eight (8) hours (which shall be reduced to six point four (6.4) hours beginning on January 1, 2021) of sick leave per month. Such sick leave shall be cumulative from month to month and year to year. The equivalent salary value of any accrued sick leave exceeding nine hundred sixty (960) hours at the end of each calendar year shall be deposited to employee's HRA VEBA account, per provisions in 7.4. Once the Employee has met the maximum contribution to the HRA VEBA account, Employee shall continue to accrue sick leave in excess of nine hundred sixty (960) hours.

6.3 **Sick Leave Incentive.** Employee shall receive one (1) vacation day for sixteen (16) or fewer sick leave hours used in a full calendar year, and two (2) vacation days for eight (8) or fewer sick leave hours used in a full calendar year.

6.4 **Holidays.** Employee shall be entitled to two (2) personal, paid, floating holidays annually. Employee shall be entitled to five (5) paid administrative leave days (banked as floating holidays) in 2020 and four (4) paid administrative leave days (banked as floating holidays), annually thereafter. Floating holidays and administrative leave days shall be used within the calendar year or forfeited. In addition, Employee shall receive ten (10) holidays based on an eight (8) hour day:

New Year's Day	Labor Day
Martin Luther King Day	Veterans' Day
Presidents Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

6.5 **Bereavement.** Employee shall be entitled to five (5) days of bereavement leave without loss of pay for a death in the immediate family, defined as wife, husband, significant other, son, daughter, mother, father, brother, sister, grandparents, and grandchildren of either employee or employee's spouse/significant other, inclusive of step and in-law. Three (3) days

of bereavement leave without loss of pay shall be allowed for any other family member not defined as immediate family.

6.6 Administrative Leave Pending Investigation. The Public Works Director may place the Employee on paid administrative leave for up to thirty (30) working days under circumstances which make it reasonably appropriate for Employee to be absent from the workplace during investigation, resolution, or pendency of procedures appropriate to the circumstances involving employee.

VII. BENEFITS

7.1 The City shall provide the Employee and spouse/registered domestic partner/dependent(s) medical, vision, and dental benefits, and pay the premiums for the same. Current medical, vision, and dental benefits are provided as follows.

- a. Medical - AWC Benefits Trust, paid by City at ninety percent (90%), employee contribution at ten percent (10%)
- b. Vision and Dental -Teamsters H&W paid by City at one hundred percent (100%)

In addition, the City shall provide Employee with other benefits including life insurance, long-term disability insurance, and Employee Assistance Program (EAP), and pay the premiums for the same.

7.2 The City shall contribute an amount equal to five percent (5%) of Employee's gross salary to either the ICMA Deferred Compensation Plan or the Washington State Department of Retirement system deferred compensation plan, at the Employee's election. In addition, the City will contribute to the Washington State Department of Retirement PERS (1, 2, or 3) System in an amount provided for by State laws.

7.3 Employee shall be provided with the City's Errors and Omissions Insurance for employment practices under wrongful acts liability insurance.

7.4 The City shall participate in an HRA VEBA plan for Employee. Sick leave in excess of nine hundred sixty (960) hours, as outlined in Section 6.2, shall be contributed annually to the Employee HRA VEBA account at 100% equivalent salary value. Upon retirement through PERS 1, 2, or 3, or upon separation from the City, any accrued sick leave over nine hundred sixty (960) hours shall be contributed to the HRA VEBA account at one hundred percent (100%) equivalent salary value, and any accrued sick leave at nine hundred sixty (960) hours or under shall be contributed to the HRA VEBA account at twenty-five percent (25%) equivalent salary value. The total cumulative sick leave contribution by the City of Blaine to the Employee HRA VEBA account shall not exceed twelve thousand five hundred (\$12,500) per participating employee.

7.5 Employee shall contribute fifty dollars (\$50) per month to Employee's HRA VEBA account through payroll deductions. The City shall contribute one hundred dollars (\$100) per month to Employee's HRA VEBA account.

VIII. VEHICLE ALLOWANCE

8.1 The City shall provide the Employee one hundred dollars (\$100) per month compensation for travel within the City limits. For other mileage, the Employee will be

reimbursed at the City approved mileage reimbursement rate.

IX. TERMINATION, SEVERANCE PAY, TERMINATION FOR CAUSE

9.1 **Termination.** Employee is an employee at will. Termination by the City shall be pursuant to applicable Federal and State laws. Employee shall be entitled to compensation up through the last day of actual service.

9.2 **Severance Pay.** If Employee is terminated under the provisions of Section 9.1 and such termination is not for cause as provided in Section 9.2.1, then the City agrees to pay the Employee severance pay equal to six (6) months from the date of Termination, including payment for vacation benefits that had been accrued up to the date of termination. Employee will also be provided with continuation of health insurance benefits at the rate and level provided to other non-bargaining unit exempt personnel during such six (6) month period unless health insurance benefits are provided through spouse, or until Employee obtains other employment within the six (6) month period, whichever occurs earlier. Such severance shall only be paid to Employee if (i) Employee has been employed by the City pursuant to this Agreement, or prior agreement, for a minimum of twenty-four (24) consecutive months immediately prior to termination, and (ii) Employee executes a release of all claims against the City in a form acceptable to the City. In the event Employee is terminated for cause at any time as defined below in 9.2.1, then Employee shall not receive severance pay or continuation of health insurance benefits. In the event that Employee does not receive severance pay, Employee shall be entitled to any accrued compensation and any other compensation provided for by this Agreement or applicable laws of the State of Washington.

9.2.1 **Termination for Cause.** Should the Employee be terminated for cause, the Employee shall not be entitled to such compensation pursuant to Section VI and shall not be entitled to severance pay pursuant to Section 9.2. "Cause" for the purposes of this Agreement shall be determined by the City Manager upon their reasonable determination that one (1) or more of the following facts exist:

- a. incompetence, inefficiency, or inattention to or dereliction of duty as reasonably determined by the Public Works Director;
- b. dishonesty, immoral conduct, insubordination, discourteous treatment to the public or a fellow employee, or any act or failure to act which is prejudicial to the City as reasonably determined by the Public Works Director;
- c. mental or physical unfitness for the position, subject to the provisions of the Americans with Disabilities Act and similar state statutes;
- d. violation of the City's personnel policies, including but not limited to sexual harassment or drug and alcohol policies, as they now exist or are hereafter amended or adopted;
- e. conviction of a felony, or conviction of a misdemeanor involving dishonesty or moral turpitude; and/or
- f. any other act, or failure to act, which in the reasonable judgment of the Public Works Director, is sufficient to show the employee to be an unsuitable or unfit person to hold the position of Engineering Program Director, including, without limitation, the failure to support and comply with the policies and guidelines established by the City and/or failure to perform the duties required as outlined in "Attachment A" of this Agreement.

9.3 **Employee Initiated Resignation.** Nothing herein shall prevent or limit Employee's right

to resign at any time from their employment with the City, provided, however, that Employee is requested to provide thirty (30) days' notice prior to resignation, and provided further that if such resignation does not arise out of Employee's conviction of any felony, illegal action involving personal gain or any other action involving moral turpitude, dishonesty, or deception, then Employee shall be entitled to compensation up through the date of resignation, including a cash out of accrued vacation pay, floating holiday pay, and sick leave as provided for under Section VI, as amended. Employee shall not receive severance pay if Employee voluntarily resigns. Employee shall not be entitled to a cash out of accrued vacation pay, floating holiday pay, and sick leave as provided for under Section VII, as amended if Employee fails to give thirty (30) days' notice prior to resignation.

X. TERM

10.1 This Agreement shall commence on _____, 2020 (the "Effective Date") and shall continue indefinitely, or as amended by agreement of both parties.

XI. GENERAL PROVISIONS

11.1 **Notice.** Any notices required to be given by the City to Employee, or Employee to the City, shall be delivered to the address of the receiving party last known to the addressing party. Such notices shall be delivered either personally to the addressee or may be deposited in the United States Mail, postage prepaid, to the address of the person receiving the notice. Any notice so posted in the United States Mail shall be deemed received three (3) days after the date of mailing and the effective date of any such notice shall be the date of mailing.

11.2 **Litigation.** In the event either party finds it necessary to bring an action against the other party to enforce any of the terms, covenants, or conditions hereof or any instrument executed pursuant to this Agreement by reason of any breach or default hereunder or thereunder, the party prevailing in any such action or proceeding shall be paid all costs and attorneys' fees incurred by the other party, and in the event any judgment is secured by such prevailing party, all such costs and attorneys' fees of collection shall be included in any such judgement. This Agreement is governed by the laws of the State of Washington. Venue shall be the Whatcom County Superior Court. Each party waives the right to a jury trial.

11.3 **Non-Waiver.** No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term, or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation, or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term, and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

11.4 **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

11.5 **Neutral Authorship.** Each of the provisions of this Agreement has been reviewed

and negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

11.6 **Time of Performance.** Time is specifically declared to be of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

11.7 **Entire Agreement.** The entire agreement between the parties hereto is contained in this Agreement and the Appendices, as may be amended; and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument, duly authorized and executed by the parties subsequent to the date hereof.

DATED this ____, 2020.

DATED this ____, 2020

Michael Jones, City Manager

Ravyn Whitewolf, Employee

Approved as to Form

Jon Sitkin, City Attorney

F:\Administrative Services\SC Access\Engineering Program Director Contract_03-04-20_DRAFT.docx