

CITY OF BRIGHTON CITY ATTORNEY EMPLOYMENT AGREEMENT

THIS AGREEMENT is made this 17th day of July, 2018, by and between the CITY OF BRIGHTON, COLORADO, a municipal corporation (hereinafter the "City") and Jack D. Bajorek (hereinafter the "Employee" or "City Attorney").

1. Agreement: City desires to engage the services of Employee in the position of City Attorney and Employee agrees to serve City upon the terms and conditions as set forth herein. The City Attorney serves at the pleasure of the City Council.
2. Duties of City Attorney: City agrees to employ Jack D. Bajorek as City Attorney to perform the functions and duties specified in Article VIII of the City Charter of the City of Brighton, Colorado, and in accordance with the duties outlined in the Brighton Municipal Code and job description, and to perform other legally permissible and proper duties and functions consistent with the duties of the City Attorney as may be needed, requested, directed or amended.

In the performance of the duties as City Attorney, Employee shall comply with all rules, regulations, and procedures promulgated by the City Council with respect to City operations, including but not limited to rules, regulations and procedures concerning personnel, budgeting, submission of City Council information, performance appraisals, and the employment, promotion, discipline or termination of employees.

3. Compensation: City agrees to pay Employee an annual salary of \$169,000/year, payable in installments at the same time as other management employees of the City are paid. This salary may be increased from time to time by written addendum to this Agreement signed by both parties.
4. Benefits: Employee is entitled to the same fringe benefits as all other management employees of the City as set forth in City's Policies and Procedures, which benefits may change from time to time, and the City shall pay nine percent (9%) of the Employee's annual salary as a match to the Employee's 9% contribution to the City's pension plan.
5. Additional Benefits:
 - a. Automobile: Employee's duties require that he shall have the exclusive use at all time during his employment of his personal automobile, and Employee agrees that he shall be responsible for acquiring and paying for liability and property insurance, and for all costs associated with the maintenance, repair and regular replacement of

said automobile. A monthly car allowance of \$400.00 shall be paid to Employee to assist in compensating for these costs.

- b. Cellular Telephone: The City will provide Employee with a cellular telephone to be used by Employee as necessary to carry out his duties and responsibilities as City Attorney.
 - c. Dues: The City may pay for appropriate and reasonable professional dues and subscriptions that will promote and assist the Employee in professional development. City shall include in the City's annual budget sufficient funds to cover such approved dues and subscriptions.
 - d. Personal Leave: The City will credit the Employee with 40 hours of Personal Leave upon hire, to be added to normal leave accruals, to be eligible for immediate use at the Employees discretion.
6. Work Hours/Primary Employment: In order to fulfill the duties of the position of City Attorney, Employee shall be obligated to devote on a full-time basis Employee's time, energy and skill to adequately perform the duties and responsibilities under this Agreement. Employee shall perform Employee's duties hereunder in a competent and diligent manner. If Employee is to be away from City Hall for ½ of any business day, Employee shall notify the Mayor regarding the absence. When Employee shall be away from City Hall for more than ½ of any business day, Employee shall notify the Mayor and the City Council. Holidays and Paid Time Off benefits are the same as other City management employees.
7. Performance Assessment: The performance assessment of the Employee shall occur annually no later than July 15th of each year. In the event the annual performance assessment is not completed by July 15th of each year, the Employee's performance shall be deemed to be satisfactory and this Agreement shall remain in effect. The assessment process (unless changed by the Mayor and City Council with notification to the employee prior to the performance assessment) at a minimum shall include (1) individual meetings with Council members and the Mayor or his/her designee, with the Mayor keeping a summary of the content of each meeting, (2) a meeting between City Council as a whole and Employee, and (3) a written summary of the assessment results to be kept by the Mayor and copied to Employee. The assessment shall be based on the responsibilities stated herein and the job description for the City Attorney and any annual goals and objectives set by the City Council with Employee input. Nothing in this Section 7 shall be construed to alter or modify in any way the Employee's status as an at-will Employee, serving at the pleasure of the City Council, or to establish any prerequisite to the termination of employee's employment.
8. Term: Subject to annual appropriation by the City, this Agreement shall automatically be reviewed and renewed on its anniversary date for a period of one year or as soon

thereafter as practicable. All compensation, benefits and requirements of this Agreement, as may be amended from time to time by mutual agreement, shall remain in full force and effect subject to Section 9.

9. Termination Provisions: The Employee Agreement may be terminated by:
 - a. Mutual Agreement: This Agreement may be terminated by mutual agreement of the parties at any time.
 - b. Unilateral Termination by City: The City may unilaterally terminate this Agreement without cause upon written notice. However, if Employee is terminated without cause or by Council for any cause other than the cause set forth in 9(c) (2) below, Employee shall be entitled to receive four (4) months of salary as set forth in paragraph 3 above, or at any higher rates in effect on the date of the notice of termination. Personal leave accumulated up to the termination of employment will also be paid after separation of employment.
 - c. Termination for Cause: The City may terminate the Agreement for cause, which includes but is not limited to, the Employee's (1) failure to substantially comply with the terms and conditions of the Agreement; (2) violation of any law of the United States or State of Colorado which would constitute a misdemeanor involving dishonesty or moral turpitude or a felony; or (3) refusal to perform any required duties or performing duties incompetently; or (4) failure to satisfactorily carry out the duties and responsibilities of the position of City Attorney. Before the Employee may be terminated for cause, he shall be given, if he so requests, a written statement of the reason(s) alleged for his termination for cause and he has the right to be heard thereon at a public meeting of the City Council prior to the final vote of the question of his termination for cause. The action of the City Council terminating the Employee shall be final.
 - d. Unilateral Termination by Employee: Employee may, at his option, unilaterally terminate this Agreement by providing 30 days written notice to the Council.
 - e. Payments at Termination: In the event of termination by mutual agreement, or for the cause specified in 9(c)(2) above, or by unilateral termination by Employee, Employee shall not be entitled to any payments other than salary and accrued, but unpaid, personal leave through the date of termination.
 - f. Return of City Property: Employee agrees that he may be provided City equipment or property, for his official use in the course of his employment and that upon his separation Employee is required to return all City equipment provided to Employee during his tenure with the City.
10. Indemnification: Beyond that required under Federal, State or Local law, City shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal actions, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City

Attorney or resulting from the exercise of judgment or discretion in connection with the performance of duties or responsibilities, unless the act or omission involved willful or wanton conduct, is criminal or found to be an intentional constitutional violation, or if Employee compromises or settles the claim or demand without the consent of the City as more specifically set forth in Section 24-10-110 C.R.S. (Colorado Governmental Immunity Act). Legal representation, provided by City of Brighton, shall extend until a final determination of the legal action, including any appeal brought by either party.

11. Suspension of Administrative Leave of Employee: The City may, at any time, suspend the Employee and place the Employee on paid administrative leave under this Agreement, for such purposes and period of time as the Council deems to be in the best interests of the City.
12. Assignment: Since the Agreement consists of personal services arising hereunder, the Agreement may not be assigned by Employee at any time.
13. Notices: Any and all notices required under this Agreement shall be personally served or transmitted by first-class mail to the appropriate parties below:

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| <u>City</u> City of Brighton Attention: Mayor 500 S. 4 th Avenue Brighton, Colorado 80601 | <u>Employee</u> Jack D. Bajorek <i>Most recent address on file with City.</i> |
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14. Waiver: No provisions of this Agreement may be amended, waived or otherwise modified without the prior consent of all parties hereto. The waiver by any party of a breach of any provision or condition contained in the Agreement shall not operate to be construed as a waiver of any subsequent breach or any other condition hereof.
15. Headings: This section and other headings contained in the Agreement are for reference only and shall not affect the meaning or interpretation of this Agreement.
16. Governing Law: This Agreement shall be made in the State of Colorado and shall be governed by, construed, interpreted and enforced in accordance with the City of Brighton Charter and laws of the State of Colorado. Any legal action brought to interpret or enforce this Agreement shall be brought in Adams County, Colorado, and each party shall be responsible for paying its own attorney fees.
17. Interpretation: In the event that any provisions of this Agreement would be held to be invalid, prohibited or unenforceable in any jurisdiction for any reason unless narrowed by construction of this Agreement shall, as to such jurisdiction, be construed as if such

invalid, prohibited or unenforceable, it shall not affect the remaining provisions of this document. If notwithstanding the foregoing, any provision of this Agreement would be held to be invalid, prohibited, or unenforceable in any jurisdiction for any reason, such provision, as to such jurisdiction, shall be ineffective to the extent of such invalidity, prohibition, or unenforceability, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

18. Amendment: Amendments, modifications or changes may be made to this Agreement and shall become effective on the date contained therein when executed in writing and mutually signed by both parties to this Agreement.
19. Confidentiality: Employee acknowledges that, during the course of his employment with the City, Employee may obtain information which is confidential and/or privileged. Employee agrees to maintain all required confidentiality/privilege, including after his employment with the City, and will not divulge such information unless he is required by law to do so, and only after having advised the City of his belief of required disclosure and giving the City a reasonable opportunity, at least three business days is so available, to take action to prevent such disclosure.

IN WITNESS WHEREOF, the foregoing Employment Agreement was executed by the parties
on the _____ day of _____, 2018.

CITY:

ATTEST:

City of Brighton, Colorado

Kenneth J. Kreutzer, Mayor

Natalie Hoel, City Clerk

EMPLOYEE:

Jack D. Bajorek