

## AGREEMENT

*THIS AGREEMENT* made this 26th day of June 2017 between the City of Concord, a municipal corporation duly chartered by the State of New Hampshire, with a mailing address of 41 Green Street, Concord, Merrimack County, New Hampshire (hereinafter the “City”), acting through its governing body, the City Council (hereinafter “Council”), and Thomas J. Aspell, Jr. (hereinafter “Mr. Aspell”), understand as follows:

### *WITNESSETH:*

*Whereas*, the City Council desires to continue to employ the services of Mr. Aspell as City Manager of the City of Concord as provided in the Charter of the City of Concord (hereinafter “City Charter”); and

*Whereas*, it is the desire of the Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of Mr. Aspell; and

*Whereas*, it is the desire of the City Council to (1) retain the services of Mr. Aspell and to provide inducement for him to remain in such employment; (2) to make possible full work productivity by assuring the Mr. Aspell’s morale and peace of mind with respect to future security; and (3) to provide a just means of terminating Mr. Aspell’s services at such time as he may be unable to fully discharge his duties due to age or disability or when the City may otherwise desire to terminate his employ; and

*Whereas*, Mr. Aspell desires to continue employment as City Manager of the City of Concord.

*Now, therefore*, in consideration of the mutual covenants herein contained, the parties agree as follows:

***Section 1 - Duties.*** The City agrees to employ Thomas J. Aspell, Jr. as City Manager of the City of Concord to perform the functions and duties of the city manager as specified in the City Charter and by the CODE OF ORDINANCES, and to perform all other legally permissible and proper duties and functions as the Council may from time to time assign or as may be required by law.

### ***Section 2 - Term.***

A. The parties understand that, pursuant to the provisions of the City Charter, the appointment of a city manager is for an indefinite term.

B. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City Council pursuant to the provisions of the City Charter to terminate the services of Mr. Aspell at any time, subject only to the provisions set forth in Section 3 of this agreement.

C. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of Mr. Aspell to resign at any time from his position with the City, subject only to the provisions set forth in Section 3, paragraph B, of this agreement.

***Section 3 - Termination and Severance Pay.***

A. In the event Mr. Aspell's appointment is terminated by the Council during such time that he is willing and able to perform his duties under this agreement, then in that event the City agrees to pay Mr. Aspell a lump sum cash payment equal to twelve (12) months' aggregate salary plus accumulated vacation time; provided, however, that in the event Mr. Aspell's appointment is terminated because of his conviction of any felony crime or illegal act involving personal gain to him or of malfeasance, then, in that event, the City shall have no obligation to pay the aggregate severance sum designated in this paragraph.

B. In the event Mr. Aspell voluntarily resigns his position with the City, then he shall give the City forty-five (45) days' notice in advance, unless the parties otherwise agree.

***Section 4 - Disability.*** If Mr. Aspell is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity, or health beyond the City's short term disability period, the City shall have the option to terminate this agreement, subject to the severance pay requirements of Section 3. However, Mr. Aspell shall be compensated for any accrued annual leave and holidays.

***Section 5 - Salary.*** The City agrees to pay Mr. Aspell for his services rendered pursuant hereto an annual base salary of \$169,949 payable in installments at the same time as other employees of the City are paid.

***Section 6 - Performance Evaluation.*** The City Council shall review and evaluate the performance of the city manager annually during the month of April in accordance with Section 21 of the City Charter. Mr. Aspell's annual review shall be during the month of April, 2018.. Further, the City Council shall provide Mr. Aspell with an adequate opportunity to discuss his evaluation with the Council. At the conclusion of such evaluation the Council shall establish the city manager's compensation for the ensuing fiscal year beginning July 1.

***Section 7 - Hours of Work.*** It is recognized that the position of City Manager is a full-time position designed to accomplish the business of the City. In order to fulfill the job responsibilities it will often be necessary that Mr. Aspell devote substantial time outside normal office hours to the business of the City. It is also understood between these parties that the work schedule of the City Manager, in view of substantial time spent outside of normal hours on the business of the City, will be erratic and there may be instances when the City Manager will not be available during normal business hours.

***Section 8 - Residence.*** Mr. Aspell agrees to reside in the City of Concord while serving as its city manager.

***Section 9 - Automobile.*** The City will pay Mr. Aspell \$400 per month at the end of each month as an automobile allowance.

***Section 10 - Annual and Sick Leave.*** Mr. Aspell shall be entitled to 30 days of annual leave on each anniversary date. Unused annual leave may be accrued up to 60 days. Mr. Aspell shall be entitled to use sick leave in accordance with the city policy governing sick leave use for exempt employees.

***Section 11 - Health and Other Appropriate Coverage.*** The City agrees to provide hospitalization, surgical, comprehensive medical insurance, and all other Beneflex benefits for Mr. Aspell and his dependents and to pay the premiums thereon. The City also agrees to provide term life insurance through the Beneflex program in the amount of twice Mr. Aspell's base annual salary to be payable in the event

Mr. Aspell dies while holding office as City Manager. In the event that Mr. Aspell is involuntarily terminated (which shall not include termination for conviction of a felony or intentional gross misconduct), the City shall continue in force for Mr. Aspell and his dependents at no cost to the employee, the life, dental and disability insurance afforded other City employees for a maximum of 180 days after termination unless such coverage has been provided to Mr. Aspell without cost through other employment. In the event that Mr. Aspell is involuntarily terminated (which shall not include termination for conviction of a felony or intentional gross misconduct), the City shall continue to provide health insurance coverage to Mr. Aspell and his dependents, and Mr. Aspell agrees to pay the same level of co-pay that is in effect on the date of termination for health insurance premium for the maximum period of 180 days after termination unless such coverage has been provided to Mr. Aspell through other employment.

***Section 12 - Retirement.***

A. The City agrees to provide retirement benefits through the New Hampshire Retirement System. Mr. Aspell shall be responsible for the mandatory pre-tax payroll deduction of his gross salary for Group I employees. The City shall be responsible for its portion of the mandatory contribution as similarly provided all non-contractual employees of the City.

B. The City agrees to execute all necessary agreements provided by the International City Manager Association-Retirement Corporation (ICMA-RC) for employer's participation in said ICMA-RC retirement plan and, in addition to the base salary paid by the City on Mr. Aspell's behalf, the City agrees to pay 9.5% per year of the base salary set forth in Section 5 into the ICMA-RC on his behalf, in equal proportionate amounts each pay period, and to transfer ownership to succeeding employers upon Mr. Aspell's resignation or discharge.

***Section 13 - Dues, Subscriptions, and Professional Development.***

A. The City agrees to budget and to pay for the professional dues and subscriptions of Mr. Aspell necessary for his membership and full participation in the New Hampshire Municipal Association and the International City Management Association. The City hereby also agrees to budget for and to pay the travel and subsistence expenses of Mr. Aspell for travel when required to officially represent the City.

B. The City also agrees to budget and to pay for the travel and subsistence expenses for Mr. Aspell for short courses, institutes, and seminars that are necessary for his professional development and for the good of the City.

C. These expenditures are subject to the budget process and their expenditure is limited to the amount budgeted by the City Council in their annual budget adoption.

D. After completion of 10 years of continuous service as the City Manager or as Acting City Manager, Mr. Aspell shall be entitled to, , one three (3) month paid sabbatical every three (3) years. The sabbatical leave must be approved by the City Council, however such approval shall not be unreasonably withheld. Mr. Aspell shall not be entitled to a payout of any unused sabbatical leave upon termination of employment or contract expiration.

**Section 14 - General Expenses.** The City recognizes that certain expenses of a nonpersonal and job-affiliated nature are incurred by Mr. Aspell, and hereby agrees to pay Mr. Aspell \$250 per month at the end of each month as an allowance to pay said general expenses as practical and budgeted.

**Section 15 - Civic Club Membership.** The City recognizes the desirability of representation in and before local civic and other organizations, and Mr. Aspell is authorized to become a member of two such civic clubs or organizations, for which the City shall pay all expenses as are practical and budgeted.

**Section 16 - Computer.** The City shall pay Mr. Aspell \$75 per month at the end of each month as an allowance to maintain a personal computer, internet connection and other related software and licenses at home for official City business. Purchase and maintenance of the internet connection, computer, peripherals, software and licenses shall be the sole responsibility of Mr. Aspell. The City shall not be liable for the purchase and maintenance of said items. The computer shall remain the personal property of Mr. Aspell. Should Mr. Aspell fail to maintain said items, the City shall cease the monthly payment pursuant to this section.

**Section 16 A – Telephone.** The City shall pay Mr. Aspell \$100 per month at the end of each month as an allowance for a personal cell phone. Purchase and maintenance of the phone, shall be the sole responsibility of Mr. Aspell. The City shall not be liable for the purchase and maintenance of said item. The phone shall remain the personal property of Mr. Aspell. Should Mr. Aspell fail to maintain said items, the City shall cease the monthly payment pursuant to this section.

**Section 17 - Indemnification.** To the extent allowed by state law, the City shall defend, save harmless, and indemnify Mr. Aspell against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Mr. Aspell's duties, within the scope of his employment as city manager. The City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon, on its own behalf or in accordance with the terms of applicable liability insurance policies. Nothing herein shall be deemed to be a waiver of any indemnity or protection offered to the city manager or the City of Concord under the provisions of RSA 507-B or other applicable provisions of federal or state law.

**Section 18 - Bonding.** The City shall bear the full cost of any fidelity or other bonds required of Mr. Aspell under any law or ordinance.

**Section 19 - Other Terms and Conditions of Employment.**

A. The Council, in consultation with Mr. Aspell, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Mr. Aspell, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, the City Charter, or any other law.

B. All provisions of the City Charter and CODE OF ORDINANCES, and regulations and rules of the City relating to holidays and other fringe benefits and working conditions, except those benefits enumerated herein specifically for the benefit of Mr. Aspell, shall apply to him as they would to other employees of the City, as they now exist or hereafter may be amended.

**Section 20 - Notices.**

A. Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

*Employer:* Mayor  
City of Concord City Council

*Employee:* Thomas J. Aspell, Jr., City Manager  
City of Concord, New Hampshire

B. Alternatively, notices 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 of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

**Section 21 - General Provisions.**

A. The text herein shall constitute the entire agreement between the parties.

B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Mr. Aspell.


C. This agreement shall become effective July 1, 2017.

D. If any provisions, or any portion thereof, contained in this agreement is held 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.

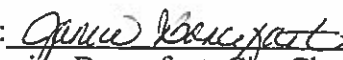
E. It is understood by the parties that certain provisions of this agreement, such as salary, are subject to being amended by agreement of the parties after the annual evaluation of the City Manager in April of each year.

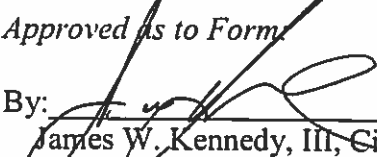
*IN WITNESS THEREOF*, the City of Concord has caused this agreement to be signed and executed in its behalf by Jim Bouley, Mayor of the City of Concord, duly attested by its City Clerk, and approved to form by its City Solicitor, and Mr. Aspell has signed and executed this agreement, both in duplicate, the day and the year first above written.

  
\_\_\_\_\_  
Jim Bouley Mayor

  
\_\_\_\_\_  
Thomas J. Aspell, Jr.

*Duly Attested:*

By:   
\_\_\_\_\_  
Janice Bonenfant, City Clerk

*Approved as to Form*  
  
By: \_\_\_\_\_  
James W. Kennedy, III, City Solicitor

