

**EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF GRASS VALLEY AND TIMOTHY KISER**

RECITAL

1. On September 12, 2017 the City Council selected Timothy Kiser (hereafter "City Manager") to serve as City Manager of the City of Grass Valley ("City"), and City Manager accepts such employment. Accordingly, the parties agree as follows:

AGREEMENT

2. **Effective Date**

This agreement shall become effective when it has been executed by City Manager and duly approved by the City Council.

3. **Term of Employment**

Pursuant to the provisions of the Grass Valley City Charter, and City Municipal Code, City Manager serves at the pleasure of the City Council and on an "at will" basis and has no vested right to his employment during the term of this Agreement, subject to the terms and provision of this Agreement as set forth below. The term of this Agreement is from September 12, 2017 to September 1, 2022.

4. **Duties; Hours of Work**

A. City Manager shall perform those functions and duties specified by State law, the Grass Valley City Charter, the Grass Valley Municipal Code and by formal direction of the City Council. City Manager shall perform such duties in accordance with the highest professional and ethical standards of the city manager profession. City Manager shall not engage in any activity, which is, or which may become, incompatible with the office of City Manager, as provided by State law. During the term of this agreement, City Manager shall be exclusively employed by the City, unless prior authorization otherwise is received from the City Council, which authorization will not be unreasonably withheld.

B. City Manager shall maintain a regular work schedule consistent with that approved for other Executive Service employees of the City. City Manager's duties may require more than eight hours per day and/or 40 hours per week, and may also include

time outside normal office hours such as attendance at City Council meetings. City Manager shall not be entitled to additional compensation for such time.

✓ 5. **Compensation**

A. The City Manager's annual salary shall be \$166,000. The City Council agrees to review City Manager's salary on or before March 12, 2018 and, if City Manager receives at least a satisfactory review in light of performance goals to be negotiated in September 2017, to increase his salary by 5% retroactively to September 12, 2017.

B. City Manager's compensation shall be reviewed at least annually in connection with the annual review required by section 14 below or at other times as may be determined by City Council. Further, it is understood that it is the intent of the City Council to increase salary, or other benefits referred to in this agreement during the five-year term of this Agreement, dependent on the quality of job performance by City Manager and the City's fiscal condition.

✓ 6. **Health Insurance**

City shall pay the full premium for health insurance for the City Manager, including his eligible dependents, for health coverage (medical, dental, and vision) benefit options as provided to all other Executive Service employees.

7. **Life Insurance**

City shall provide, without cost to the City Manager, term life insurance in the amount of \$200,000 for the City Manager, five thousand dollars (\$5,000) for his spouse and fifteen hundred (\$1,500) for his eligible dependent children.

✓ 8. **Personal Leave**

A. The purpose of personal leave is to enable the City Manager to accrue leave for vacation, sick leave and personal leave. For vacation leave of more than two weeks at a time, the City Manager shall provide sufficient notice so the City Council may approve such absence to avoid an extended absence of the City Manager during critical time periods.

✓ B. The City Manager will be afforded banked personal and vacation leaves accrued with the City as of September 11, 2017. City Manager shall be paid one-half the

value of his banked sick leave accrued with the City as of September 11, 2017 (subject to applicable payroll taxes) and shall thereafter accrue no sick leave, it having been replaced with personal leave. The City Manager shall accrue personal leave at a rate of 336 hours per year (12.92 hours biweekly). One twenty sixth (1/26) of such personal leave amount shall accrue each pay period.

C. The City Manager may carry a balance of no more than 520 hours of personal leave. The City Manager may convert up to four weeks of personal leave to cash compensation in each fiscal year at one or more times of his choice and may convert additional hours if approved by the City Council pursuant to the annual budget. When the City Manager reaches the 520 hours cap on accrued personal leave, hours lost due to the accrual cap for "sick leave" shall be placed in a "sick leave bank" which can be used as "sick leave" or converted to PERS service credit upon retirement. "Sick leave" as used in this paragraph is leave that may be used for the purposes provided by the City's personnel rules as those rules read before the conversion of vacation, administrative and sick leaves into a combined personal leave.

9. Other Leaves, Holidays, and Benefits

The City Manager is entitled to 11 paid holidays as recognized by the City. City shall afford City Manager such other benefits as are provided to other Executive Service employees of the City on the same terms as provided to those employees except as otherwise expressly provided herein.

✓ 10. Long Term Disability Insurance

The City shall provide without cost to the City Manager an income protection insurance program that shall insure City Manager's income to a maximum of six thousand (\$6,000) dollars for such times of disability that he may incur during his service to the City. The conditions of this insurance coverage shall be controlled by the agreement between the City and its insurer.

11. Automobile and Cellphone/PDA Allowance

✓ A. In recognition of the fact that the City Manager's normal duties require frequent use of his automobile, City Manager shall be entitled to \$300 per pay period as an automobile allowance. This allowance is in lieu of mileage reimbursement or other expenses that may be incurred by City Manager in connection with his use of his own automobile for City purposes. In consideration for said allowance, City Manager shall be responsible for all costs of maintenance and operation of his vehicle. City Manager shall at all times maintain automobile liability insurance on any vehicle used by him in

the course of City employment. Such insurance shall have coverage limits acceptable in form and amounts to City. City Manager shall provide a certificate or other evidence of such insurance to City. City Manager acknowledges that this allowance will be subject to payroll taxes unless he maintains the records required by law to permit other treatment of this allowance.

✓ B. The City recognize that the job duties of the City Manager require the use of a cell phone and/or data services (PDA) and the requested allowance is appropriate for the level of business related requirements. This is a necessary expense for the efficient operation of the City and other communication options are not sufficient, less efficient, or more costly to meet City needs. Based on the defined business need, the City Manager shall be eligible for an allowance of \$45.00 for a voice/text/data plan with a Personal Digital Assistant (PDA) requirement per pay period. In no event may the allowance exceed the contract price. It is expected that the allowance will not cover the full cost of the cellular service contract and not be subject to payroll taxes, but the parties agree to comply with applicable tax laws.

12. Professional Memberships & Meetings; Other Expenses

A. City shall pay for City Manager's professional membership in the League of California Cities and International City / County Management Association. City shall pay for City Manager to attend the annual League of California Cities conference. City will pay for such other professional memberships and conference attendance as may be approved and budgeted by the City Council.

B. City recognizes that certain expenses of a non-personal and job-related nature may be incurred by City Manager. City agrees to reimburse City Manager for reasonable expenses which are authorized by the City budget; submitted to the City Council for approval; and which are supported by expense receipts, statements or personal affidavits, and audit thereof in like manner as other demands against the City.

C. City agrees to authorize in the City budget reimbursement of City Manager's reasonable cost to be credentialed as an ICMA Credential Manager or a comparable training and certification program identified by City Manager and acceptable to the City Council.

13. Retirement Program and Deferred Compensation

A. City Manager is a "Classic" Miscellaneous member of the California Public Employee's retirement system. The City Manager will be covered under the City

of Grass Valley's Local Miscellaneous 2.5% at age 55 Formula. City Manager's contribution towards the retirement system will be the full employee's share of 8 percent. The City will pay the employer's share to PERS and Social Security and the City Manager shall pay the employee contribution for Social Security.

✓ B. The City shall provide City Manager deferred compensation of \$100.00 per pay period, not to exceed 26 pay periods annually, towards a deferred compensation plan of his choice.

C. City Manager shall retain the following benefit afforded him and other department heads of the City as of July 1, 2011:

1. Employees who become subject to this Plan on or before July 1, 2011, who retire from the City in good standing, who have at least five years of Grass Valley service, who elect to retain CALPERS medical coverage and who are of full retirement age shall be entitled to payment of up to \$500 towards the CALPERS premium for a single party until such time as the Employee is eligible to receive Medicare or is hired and has healthcare coverage available from the new employment.

2. If the Employee so desires, his spouse may be added at the Employee's cost. If the Employee retiree selects a health plan that costs less than the City's contribution, he will not be eligible to receive the cash difference. All premium contributions must be received one month in advance and it is the responsibility of the Employee retiree to ensure that the City receives payment. Failure to pay the retiree's contribution in a timely manner (i.e., within 30 days of due date) will result in the loss of the benefit.

14. Annual Performance Evaluation

The City Council shall evaluate City Manager's performance at least once annually. The City Council and City Manager shall annually develop mutually agreeable performance goals and criteria which the City Council shall use in reviewing City Manager's performance in the following year. It shall be City Manager's responsibility to initiate this review each year. City Manager will be afforded an adequate opportunity to discuss each evaluation with the City Council.

15. Indemnification

City shall defend, hold harmless and indemnify City Manager against any claim, demand, judgment, or action of any type or kind arising within the course and scope of

his employment to the extent required by Government Code sections 825 and 995.

16. Other Terms and Conditions of Employment

A. The City Council may from time to time fix other terms and conditions of employment relating to the performance of City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provision of this Agreement, the Grass Valley City Charter, the Grass Valley Municipal Code, or other applicable law.

B. The provisions of the City's Personnel Rules and Regulations ("Rules") shall apply to City Manager to the extent they explicitly apply to the position of City Manager, except that if the specific provisions of this Agreement conflict with the Rules, the terms of this Agreement shall prevail. Without limiting the generality of the exception noted in the previous sentence, however, no provision of the Rules or this Agreement shall confer upon City Manager a property right in his employment or a right to be discharged only upon cause. City Manager is an at-will employee serving at the pleasure of the City Council and may be dismissed at any time with or without cause, subject only to the provisions of this Agreement.

17. Termination Without Cause

The City Council may terminate City Manager's employment with the City at any time and without cause, upon 30 days' written notice to City Manager. In the event of such termination without cause, City Manager shall be entitled to a severance benefit, of six months of the City Manager's current base salary plus payment of accumulated Personal Leave as well as any banked vacation leave accrued under his employment agreement as of September 11, 2017 that has not been taken as leave or paid. This base salary and leave pay-out shall be made on a bi-weekly basis at such time as other City employees are normally paid. Severance pay will be paid until the sooner of the date City Manager is gainfully employed or the six months of bi-weekly salary is paid; provided, however, that the balance on any accrued leave which has not then been paid shall be payable in a lump sum upon termination of severance pay. Upon payment of such severance compensation, City shall have no further obligation to City Manager and City Manager shall have no claim for further compensation from City.

18. Termination With Cause

The City Council may terminate City Manager's employment with City for cause upon 30 days' written notice to City Manager. In that event, City shall have no obligation to

continue the employment of City Manager and shall have no obligation to provide any severance compensation, although City Manager shall be entitled to payment of the value of accrued leave. For purposes of this agreement, the term "for cause" shall include any of the following:

- (a) use of alcohol or drugs that impedes performance of duties;
- (b) conviction of a felony or misdemeanor involving moral turpitude (a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed a conviction for this purpose);
- (c) a proven claim of either sexual harassment or abuse of employees in violation of law or adopted City policy;
- (d) willful and repeated failure to carry out the lawful directives or policy decisions of the City Council; or
- (e) willful abandonment of the position or continued and unexcused absence from duty.

19. Voluntary Termination; Death

A. City Manager may voluntarily terminate his employment, by resignation or retirement, at any time during the term of this Agreement, subject to at least thirty days' written notice by City Manager to City, unless the City Council and City Manager agree otherwise. In such case, City shall have no further obligation to provide payments and benefits, including severance benefits, upon the effective date of termination of employment, other than payment of accrued leave.

B. If City Manager dies while employed by the City, his beneficiaries or those entitled to his estate shall be paid any earned salary and accrued leave at the City Manager's pay rate on the date of death.

20. Compliance With Law

This Agreement is subject to all applicable provisions of State and Federal law and to the provisions of the Grass Valley Charter, Grass Valley Municipal Code, and ordinances, rules and regulations of the City applicable to the City Manager.

21. **General Provisions**

A. This Agreement constitutes the entire agreement between the parties. City and City Manager hereby acknowledge that they have neither made nor accepted any other promise or obligation with respect to the subject matter of this Agreement.

B. If any provision or any portion of this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of the Agreement shall be deemed severable and shall not be affected and shall remain in full force and effect.

C. Any notice to City pursuant to this Agreement shall be given in writing, either by personal service or by registered or certified mail, postage prepaid, addressed as follows:

Mayor and City Council
City of Grass Valley
125 East Main Street
Grass Valley, CA 95945

With a courtesy copy to the City Attorney at the following address or the address then shown in the records of the City for the City Attorney:

Michael G. Colantuono, Esq.
Grass Valley City Attorney
420 Sierra College Drive, Ste. 140
Grass Valley, CA 95945-5091.

Any notice to City Manager shall be given in a like manner, and, if mailed, shall be addressed to City Manager at the address then shown in City's personnel records. For the purpose of determining compliance with any time limit stated in this Agreement, a notice shall be deemed to have duly given (a) on the date of delivery, if served personally, or (b) on the second calendar day after mailing, if mailed.

D. Venue for any disputes arising from or relating to this Agreement shall lie in Nevada County, California. If an action at law or in equity is necessary to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable and actual attorneys' fees and costs with respect to the action.

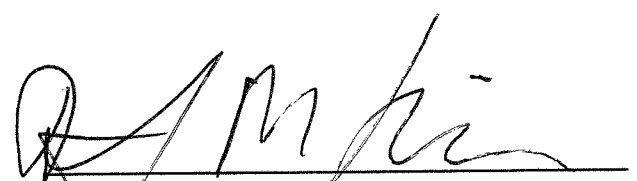
E. A waiver of any of the terms and conditions of this Agreement shall not be construed as a general waiver and either party shall be free to enforce any term or condition of this Agreement with or without notice to the other notwithstanding any prior waiver of that term or condition.

22. **Amendments**

This represents the entire agreement between the parties. Amendments to this agreement may be made at such times as approved by the City Council and City Manager and shall be in writing.

CITY MANAGER

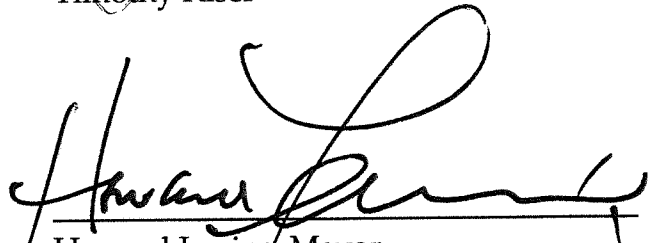
Dated: 9/12/2017



Timothy Kiser

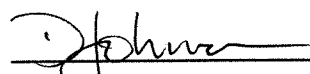
CITY

Dated: 9/12/2017



Howard Levine, Mayor


Approved as to form:



Michael G. Colantuono Douglas M. Johnson
Asst. City Attorney

Dated: 9/12/2017

Attest:



Kristi Bashor
City Clerk

Dated: 9/12/2017