

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: May 22, 2014

**Action Agenda
Item No.** _____

SUBJECT: Approving the County Manager's Employment Contract.

DEPARTMENT: County Attorney

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

Name, Phone Number

Contract

John Roberts

245-2318

PURPOSE: To approve the County Manager's employment contract.

BACKGROUND: Having selected a finalist, Bonnie Hammersley, for the position of County Manager the Board of County Commissioners should approve an employment contract with Ms. Hammersley to establish the terms by which she will be employed with Orange County.

FINANCIAL IMPACT: Annual costs of \$160,000.00 in salary, \$4,800.00 auto allowance, \$4,000.00 contribution to the employee's 457 retirement plan, \$420.00 cell phone reimbursement, approximately \$29,177.00 in additional benefits including health, dental, and life insurance plus a one-time cost of up to \$10,000 in relocation expenses.

RECOMMENDATION(S): The Attorney recommends the Board approve the amended contract.

ORANGE COUNTY

EMPLOYMENT AGREEMENT

NORTH CAROLINA

THIS EMPLOYMENT AGREEMENT (“Agreement”), made and entered into this the 22nd day of May, 2014, by and between Orange County, a political subdivision of the State of North Carolina, hereinafter called “County”, party of the first part, and Bonnie Hammersley hereinafter called “Employee”, party of the second part, both referred to individually or collectively as “Party” or “Parties”:

WITNESSETH

WHEREAS, County desires to employ the services of the Employee as County Manager of Orange County as provided by NCGS 153A-81; and

WHEREAS, it is the desire of the Orange County Board of County Commissioners, hereinafter called the “Board”, to provide certain benefits, to establish certain conditions of employment, and to set working conditions of said Employee; and

WHEREAS, the Employee desires to accept employment as County Manager of Orange County,

NOW THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

SECTION 1: DUTIES

County hereby agrees to employ the Employee as County Manager of Orange County to perform the functions and duties specified in North Carolina General Statute 153A-82 and to perform other legally permissible and proper duties and functions as the Board shall from time to time assign.

SECTION 2: TERM

A. Employee’s date of full-time employment will begin June 25, 2014. The Employee will be required to work a six (6) month probationary period subject to Section 2B. Employee’s employment shall continue for an unspecified term of service subject to the provisions of Sections 4, 5, and 6 of this Agreement or any amendment or mutual agreement approved by both Parties. Such amendment or mutual agreement must be in writing in the form of an Amendment to this Agreement and signed by both Parties.

B. Employee will be required to work a six (6) month probationary period. The Employee may be dismissed without cause during this probationary period, which will end on December 24, 2014. If Employee is dismissed without cause during this probationary period, she will be entitled to severance as follows: Payment equal to three (3) months full salary together with health, dental, and life insurance coverage for a three (3) month period, plus payment for any accumulated sick leave and annual leave earned but not taken. If Employee is dismissed for cause during the probationary period Employee shall not be entitled to this severance provision.

SECTION 3: SUSPENSION

A. County may suspend Employee without pay and benefits at any time during the term of employment, but only if a majority of the Board votes to suspend Employee for cause, provided, however, that Employee shall have been given written notice setting forth any charges and/or allegations at least ten (10) days prior thereto by the Board members bringing such charges and/or allegations. The County may suspend the employee with

pay at any time. Prior to the implementation of any suspension Employee shall be given an opportunity to respond to the charges and/or allegations in a closed session meeting with the Board.

B. For purposes of this Agreement cause shall include misconduct as defined in G.S. 96-14.6, whether such misconduct occurs on or off the job, any felonious act committed by Employee, or an act punishable under the “reasons of personal conduct” section of Chapter 28 of the Orange County Code of Ordinances.

SECTION 4: TERMINATION/SEVERANCE

A. This Agreement may be terminated for acts by Employee constituting cause as cause is defined in Section 3B and subject to the same process as set out in Section 3A. In the event this Agreement is terminated with or without cause prior to its designated term the Employee shall not be entitled to, nor shall County have further obligation to pay, Employee’s salary or benefits as described in Section 7.

B. Upon the conclusion of the probationary period, should the Board decide for any reason, other than those described and set out in Section 3B, to end the employment of the Employee the Employee shall, on the date of termination, be entitled to:

- i. Payment equal to four (4) months full salary together with health, dental, and life insurance coverage for a four (4) month period, plus payment for any accumulated sick leave and annual leave earned but not taken, if the Employee is terminated after the probationary period but prior to January 4, 2017.
- ii. Payment equal to five (5) months full salary together with health, dental, and life insurance coverage for a five (5) month period, plus payment for any accumulated sick leave and annual leave earned but not taken, if the Employee is terminated on or between January 5, 2017 and January 4, 2018.
- iii. Payment equal to six (6) months full salary together with health, dental, and life insurance coverage for a six (6) month period, plus payment for any accumulated sick leave and annual leave earned but not taken, if the Employee is terminated on or after January 5, 2018.

SECTION 5: RESIGNATION

In the event Employee voluntarily resigns her position with the County the Employee shall give the County ninety (90) days written notice in advance of such resignation. In the event of such resignation and the Employee having given at least ninety (90) days written advance notice, the Employee shall be entitled to be paid for any accumulated sick leave and annual leave earned but not taken but shall not be entitled to the severance benefit as set out in section 4B above. At its sole option, the County has the right to waive some or all of this ninety (90) days written notice provision if it so chooses.

SECTION 6: DISABILITY

If Employee becomes permanently disabled because of sickness, accident, injury, mental incapacity, or another health related issue and is unable to continue to perform the essential duties of the position of County Manager, the County shall then have the option to terminate this Agreement subject to the severance provisions as outlined in Section 4B above.

SECTION 7: SALARY

Upon initial employment Employee will be paid an annualized salary of One Hundred Sixty Thousand Dollars

(\$160,000.00), payable on the same schedule as for other County employees. Changes to Employee's compensation shall be administered in a manner similar to other county employees subject to an evaluation process administered by the Board of County Commissioners.

SECTION 8: HOURS OF WORK

As County Manager, the employee is expected to maintain office hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. Additionally, Employee shall attend all meetings of the Board. It is further agreed and understood that the position of County Manager is exempt from the overtime provisions of the Fair Labor Standards Act under the Executive Exemption. It is agreed that the Employee may adjust regular work hours and to flex time to account for time beyond the normal work day spent at meetings occurring outside normal office hours as described above, however, such adjustment shall not interfere with the performance of Employee's duties.

SECTION 9: VACATION, HOLIDAYS, and SICK LEAVE

Employee shall have the same holiday schedule as for County employees; Employee will accumulate annual leave and sick leave (sick leave is accumulated at a flat rate regardless of years of service) from the date of initial employment going forward at a rate consistent with employees of the County with twenty (20) years' service. It is understood and agreed by the Parties that the leave benefit rate provided to Employee consistent with a county employee with twenty (20) years' service shall apply to annual leave only and shall not apply to, nor be construed as granting Employee, any retirement credit, retirement health or medical insurance benefit, or longevity pay benefit.

SECTION 10: OTHER BENEFITS

A. Employee shall have access to and enrollment in the dental, health, and life insurance provided to general full time employees of County. A County-owned laptop computer, or similar portable device, will be available to Employee for her use for County business at the expense of the County. The County shall reimburse the Employee a monthly amount of Thirty-five Dollars (\$35.00) for her maintenance and use of a personal cell phone for county related business on a twenty-four hour basis.

B. If the Employee currently maintains a 401k/457 supplemental retirement program with the International City Management Retirement Corporation the County shall participate in that plan to the Employee's benefit by paying into said plan an amount equal to two and one half percent (2.5%) of Employee's base salary in an equal proportional amount each pay period.

C. To assist in the relocation of the Employee's permanent residence to Orange County, the County agrees to reimburse the Employee up to Ten Thousand Dollars (\$10,000.00) of verifiable invoiced, direct expenses associated with the Employee's move to Orange County; these expenses are limited to packing, moving, storage, insurance, and unpacking. During the Employee's employment as County Manager, the Employee shall continue to reside in and maintain a residence within the territorial limits of Orange County, North Carolina.

D. Employee shall receive an automobile allowance in the amount of Four Thousand Eight Hundred Dollars (\$4,800.00) per year payable in equal monthly installments. The purpose of this automobile allowance is for Employee's use, operation, and maintenance of Employee's personal vehicle(s) for County business. County shall not be responsible for any costs related to such operation and maintenance beyond said amount. The automobile allowance is in lieu of mileage reimbursements for employment related travel in Employee's vehicle(s). Employee shall maintain and is solely responsible for the cost of liability, personal injury, property

damage, collision, comprehensive, and any other insurance coverage on any vehicle used by Employee for County business.

E. To encourage the Employee's continued professional awareness and education, the County agrees to authorize expenses annually within the County's approved budget toward the Employee's attendance at scheduled meetings of the North Carolina and International Associations of City/County Managers, the North Carolina Association of County Commissioners and other training opportunities of benefit to the Employee's role as County Manager.

SECTION 11: RETIREMENT

Employee will participate in the North Carolina Local Governmental Employees' Retirement System, with the County contributing the employer's share to that retirement program at a rate consistent with other County employees.

SECTION 12: INDEMNIFICATION

In addition to that required under state and local law, County shall defend, save harmless, and indemnify Employee 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 Employee's duties as County Manager. County reserves the right to, in its discretion, compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. This Section shall not apply to any acts or omissions by Employee that are deemed to be gross negligence on the part of the Employee, nor shall this Section apply to any intentional or willful acts of misconduct by the Employee.

SECTION 13: BONDING

County shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

SECTION 14: OTHER TERMS AND CONDITIONS

A. The Board, in consultation with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any applicable law.

B. The employment provided for by this Agreement shall be Employee's sole employment except that Employee may teach various courses as they become available so long as such teaching does not interfere with Employee's duties and responsibilities required by this Agreement.

C. Employee shall, during the first year of employment, complete the Municipal and County Administration program offered by the University of North Carolina, School of Government or an equivalent program or instruction as may be approved by the Board. The cost of any such program or instruction shall be borne by the County.

D. Employee shall participate with the Board in an annual review. The first such annual review to take place approximately one year after the review following the six month probationary period and occurring approximately the same date annually thereafter.

SECTION 15: 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 the Parties.
- C.** This Agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of North Carolina. Appropriate venue for any dispute arising out of this Agreement shall lie in the General Courts of Justice, Orange County, North Carolina.
- D.** This Agreement shall be effective the date first above recorded.
- E.** During the term of her appointment Employee shall serve “at will” as County Manager subject to the terms of this Agreement.
- F.** If any provision, or any portion thereof, of this Agreement is held unconstitutional, invalid, or unenforceable the remainder of this Agreement, or portion of the offending provision, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, County has caused this Agreement to be signed and executed in its behalf by its Board Chair, and duly attested by its Clerk and sealed with its official seal, and the Employee has signed and executed this Agreement in duplicate Originals.

COUNTY

EMPLOYEE

BY: _____
Barry Jacobs, Chair
Board of County Commissioners

Bonnie Hammersley

ATTEST:

CLERK: _____
Donna Baker

[SEAL]

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Chief Financial Officer