

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into this the 10th day of September, 2018, by and between the **Town of Black Mountain, North Carolina**, a municipal corporation (hereinafter referred to as the "Town") and **Joshua Martin Harrold** (hereinafter referred to as "Harrold" or "Employee"). The Town and Harrold are sometimes collectively referred to herein as the "Parties".

WITNESSETH:

WHEREAS, Harrold has the education and experience to serve as the Town Manager in accordance with the job description for the Town Manager attached hereto as *Exhibit A*;

WHEREAS, Harrold has the knowledge, skills and abilities to serve as the Town Manger in accordance with the job description for the Town Manager attached hereto as *Exhibit A*;

WHEREAS, the Town desires to employ Harrold as the Town Manager for the Town of Black Mountain pursuant to the terms and provisions of this Agreement; and

WHEREAS, Harrold desires to be employed by the Town as the Town Manager pursuant to the terms and provisions contained herein;

NOW, THEREFORE, in consideration of the premises, mutual covenants, agreements, and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. **Duties.** The Town agrees to employ Joshua Martin Harrold as the Town Manager for the Town of Black Mountain. As the Town Manager, Harrold, shall administer the affairs of the Town within the authority granted by the adoption of the council-manager form of government. Harrold shall faithfully perform the duties of the Town Manager as set forth in the Town of Black Mountain Charter, the Town of Black Mountain's Personnel Policy Manual, and the Town Manager's job description attached hereto as *Exhibit A*. As the Town Manager, Harrold, shall also perform such other duties as shall be lawfully prescribed by the Board of Aldermen from time to time.

2. **Term of Employment.** Harrold's employment shall commence on the 11th day of October, 2018. This Agreement shall be in full force and effect from October, 2018 (the "Employment Term") until terminated by the Employer or Employee as provided in Section 8 of this Agreement (the "Separation Date").

3. **Compensation.** During the term of Employment, the Town shall pay Harrold an annual base salary of \$107,500.00. Said salary shall be paid in accordance with the Town's general payroll practices, less any required or authorized payroll deductions. Upon successful completion of six (6) months employment, Harrold's annual base salary shall be increased by

2.5% and paid in accordance with the Town's general payroll practices, less any required or authorized payroll deductions.

This Agreement shall be automatically amended to reflect any salary adjustments that are provided or required by the Town's compensation plan to include all salary adjustments on the same basis as applied to the employee classification applicable to the Town Manager position.

The Board of Aldermen shall review the compensation of Harrold annually during an evaluation of Harrold's performance and may make increases as warranted in the opinion of the Board of Alderman. The salary may not be reduced except in the case of disciplinary action or in the same manner as for all other Town employees.

4. **Retirement, Vacation, Sick Leave and Other Fringe Benefits.** The Parties understand and agree that the Town's policies relating to retirement benefits, vacation, sick leave, holidays and other fringe benefits and working conditions, as they now exist or hereinafter may be amended, shall also apply to Harrold as they would for other employees of the Town, except as follows:

- a. Allow for transfer of 450 hours sick leave from previous employment for purposes of application toward retirement credit to the North Carolina Local Governmental Employees' Retirement System.
- b. The Town shall provide 40 hours of annual leave to be considered as accrued annual leave as specified in the Town's Personnel Policy Manual.
- c. Harrold shall earn vacation, sick leave, holidays and other fringe benefits beginning as a five year employee.

5. **Insurance Benefits.** The Town agrees to provide insurance benefits to Harrold on the same terms as made available to all Town of Black Mountain employees as set forth in the Town's Personnel Policy Manual. The insurance benefits include, but are not limited to: (a) group health insurance, (b) group life insurance, (c) dental insurance, (d) 401K plan, (e) retiree health insurance benefits, and (f) workers' compensation.

With regards to the Town's health insurance plan and dental insurance plan, Harrold shall pay the employee portion of the plan as paid by all Town employees for the plan. In the event, Harrold elects to have his/her spouse and family covered under the Town health and dental insurance plan, the Town agrees to pay all dependent family coverage of the plan. The Town Manager reserves the right to elect not to have his spouse and family covered under the Town health and dental insurance plan.

With regards to Harrold's 401(k) plan, the Town shall provide a contribution at a rate of 5% of Harrold's base salary.

6. **Automobile/Mileage Reimbursement.** It is understood the Town does not have a vehicle available specifically for use by the Town Manager in the performance of his duties. In

lieu of providing such vehicle, the Town shall pay Harrold an automobile allowance in the annual amount of \$4,200.00, paid bi-weekly in accordance with the Town's general payroll practices. For travel outside of Buncombe County in the performance of the Town Manager's duties, the Town will reimburse Harrold for mileage at the current rate established by the Internal Revenue Service.

7. **General Business Expenses.** The Town recognizes that certain expenses of a non-personal but job related nature will be incurred by the Town Manager. The Town agrees to reimburse or to pay said general expenses upon receipt of duly executed expense cash vouchers, receipts, or statements. Such expenditures are subject to annual budget constraints as well as the ethics and purchasing policies of the Town.

- a. **Professional Dues and Subscriptions.** The Town agrees to budget and pay for professional dues and subscriptions of Harrold necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for Harrold's continued professional participation, growth, and advancement, and for the good of the Town. Any expenses over and above what is appropriated in the budget must be approved by the Board of Aldermen.
- b. **Professional Development.** The Town agrees that appropriations will be made in the annual budget to pay the travel and subsistence expense of Harrold for professional and official travel, meetings and occasions adequate to allow Harrold to maintain any current professional certifications and to continue the professional development of Harrold, including, but not limited to meetings of the League of Municipalities, the North Carolina City Managers Associations and such other national, regional, state and local governmental groups and committee meetings as may be mutually agreed to by the Town and Harrold. In addition, the Town will consider budget appropriations for the travel and subsistence expenses of Harrold for short courses, institutes and seminars that are necessary for his professional development and for the good of the Town.
- c. **Equipment for Professional Use.** The Town recognizes the importance of constant communications and maximum productivity. Therefore, the Town shall provide Harrold, for business and personal use, a lap top computer or any other electronic device necessary for Harrold to perform his duties and to maintain communication with the Town's staff and officials as well as other individuals who are doing business with the Town. Upon termination of Harrold's employment, the equipment described herein shall be returned to the Town. Harrold shall be allowed a monthly stipend of \$40.00 for a cell phone.

8. **Termination of Employment and Severance Pay.** This Agreement may be terminated for any of the following reasons:

19. **Governing Law.** This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the State of North Carolina.

20. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties, and supersedes all prior agreements, whether oral or in writing, relating to Harrold's employment.

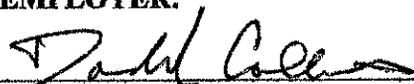
21. **Effective Date.** This Agreement will become effective on October 11th, 2018 ("Effective Date").

22. **Precedence.** In the event of any conflict between the terms, conditions and provisions of this Agreement and the Town's policies or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of the Town's policies or any such permissive law during the term of this Agreement.

23. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute but one of the same instrument. Signatures delivered by facsimile or by email shall be deemed to be an original signature for all purposes, including for purposes of the applicable rules of evidence.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates shown below.

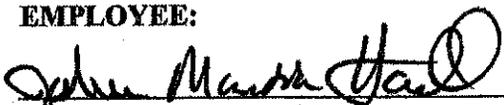
EMPLOYER:



Donald Collins, Mayor
Town of Black Mountain

Dated: 9-10-18

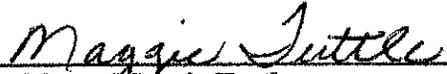
EMPLOYEE:



Joshua Martin Harrold

Dated: 9-8-18

The foregoing Employment Agreement between the Town of Black Mountain, North Carolina, and Joshua Martin Harrold, is hereby acknowledged and endorsed by the following members of the Board of Aldermen of the Town of Black Mountain, North Carolina.



Vice Mayor Maggie Tuttle

9/10/18

Date



Alderman Larry B. Harris

9-10-18

Date



Alderman Carlos Showers

9-10-18

Date

- a. Death or permanent disability of Town Manager;
- b. Upon an affirmative vote of the Board of Aldermen duly recorded in a regular meeting;
- c. The Town Manager's engagement in any conduct considered to be a failure in personal conduct as set forth in the Town's Personnel Policy Manual;
- d. The Town Manager's conviction of any illegal act (other than a traffic violation);
- e. The Town Manager's willful refusal to carry out ordinances approved by the Board of Aldermen;
- f. The Town Manager's gross neglect of the duties of his office;
- g. The Town Manager's gross, willful and continuous failure to comply with the terms of this Agreement;
- h. The Town Manager's willful violation of North Carolina law, federal Law or the Code of Ordinances of the Town of Black Mountain; or
- i. Upon resignation by the Town Manager provided the Town Manager gives the Town at lease forty-five (45) days advance written notice. Failure to give forty-five (45) days advance written notice will result in forfeiture of any severance.

In the event Harrold's employment is terminated pursuant to subpart (a), (c), (d), (e), (f), (g) or (h) above, Harrold shall not be entitled to any severance pay. In the event Harrold's employment is terminated pursuant to subpart (b) or (i) above, and said termination is not the result of any misconduct on the part of Harrold, then the Town agrees to pay Harrold severance pay at his current base salary based on the following schedule:

0 – 1 year	1 month
1 year – 4 years	4 months
4 years – 5 years	5 months
5 years and above	6 months

The severance pay shall be paid in a lump sum payment or in a continuation of salary on the existing Town's current payroll schedule, at Harrold's option. Additionally, the Town agrees to keep in effect any family health insurance coverage for the period applicable under the above schedule.

9. Moving Expenses. The Parties agree that the Town will pay the actual cost of moving expenses up to \$3,500.00 for Harrold's relocation of his family and their household

goods to Black Mountain, North Carolina. Said moving expenses will be paid upon receipt of duly executed receipts, invoices, or statements.

10. **Town Property.** Upon Harrold's Separation Date, Harrold agrees to return all property belonging to the Town, including, but not limited to, all keys, cellular telephones, computers, computer storage devices, office equipment, parking pass, software, documents, records, any electronically stored information or files originating with or belonging to the town, and any other Town property or materials in Harrold's possession. Harrold further agrees to surrender any and all passwords and network access privileges and agrees to immediately cease and desist from accessing or attempting to access any computer network, database, and voicemail or email system owned or managed by the Town.

11. **Performance Evaluations.** The Board of Aldermen shall review and evaluate the performance of Harrold at least once annually. Said review and evaluation shall be in accordance with specific criteria, process, goals, and format developed jointly by the Town and Harrold. Said criteria, process, goals, and format may be added to or deleted from as the Board of Aldermen may from time to time determine, in consultation with Harrold. Further, the Board of Aldermen shall provide Harrold with a written summary of the Boards' findings and assessments and provide an adequate opportunity for Harrold to discuss his evaluation with the Board.

12. **Indemnification.** The Town shall defend, save harmless and indemnify the Town Manager 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 the Manager's duties as Town Manager, unless the conduct which results in such claim, demand or legal action arises outside the course and scope of the Manager's employment, involves willful or wanton conduct, or involves his own criminal conduct. If deemed appropriate by the Town, the Town will compromise and settle any such claim or suit or pay the amount of any such settlement or judgment rendered thereon. Should the Town Manager withhold his consent from any compromise or settlement approved by all the other parties to the claim or lawsuit, then, and in that event, the sole responsibility of the Town shall be to provide, at no cost to the Manager, separate counsel to the Manager for his defense, and to reimburse or to otherwise indemnify the Manager for any judgment rendered against the Manager to the extent and for the amount which the Town could have compromised or settled such claim or suit, provided, however, that if trial or further proceedings in the matter do not yield a result that is better than the rejected compromise or settlement, the Town Manager shall reimburse the Town one-half of the legal fees and expenses paid to such separate counsel by the Town and any monetary amount of such judgment in excess of the amount the Town would have compromised or settled such claim for.

13. **Bond.** The Town shall bear the full cost of any fidelity or other bonds required of the Town Manager in his capacity as Town Manager under any law or ordinance.

14. **Other Terms and Conditions of Employment.**

- a. The Board of Aldermen, in consultation with Harrold, shall fix any such other terms and conditions of employment, as it may determine from time to time relating to the performance of Harrold, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Town of Black Mountain Charter or any other law.
- b. Upon separation from employment, Harrold shall be entitled to receive the same compensation for accumulated vacation leave as is afforded to the other employees of the Town of Black Mountain.

15. **Notices.** Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent via registered or certified mail as follows:

- a. Employer: Town of Black Mountain
Attn: Mayor
160 Midland Ave.
Black Mountain, NC 28711
- b. Employee: Name
Address
City, State, Zip

Employee shall provide the Town a mailing address for the acceptance of notices as well as any changes of address as such occur.

16. **Severability & Construction.** Each provision of this Agreement is intended to be severable. If any clause or provision of this Agreement is held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect or impair any other provision of this Agreement, and this Agreement shall be given full force and effect while being construed as if such invalid, illegal or unenforceable provision had not been contained herein. The section and paragraph headings used in this Agreement are included solely for convenience and shall not affect, or be used in conjunction with, the interpretation of this Agreement.

17. **Amendments.** Except as herein otherwise expressly provided, no amendments or additions to this Agreement shall be binding unless in writing and signed by both Parties.

18. **Voluntariness.** Harrold acknowledges that he has had a reasonable opportunity to review and understand this Agreement. Harrold acknowledges and represents that he is executing this Agreement voluntarily without any pressure from any person or entity, including the Town or its representatives.

Timothy K. Raines
Alderman Tim Raines

9/10/18
Date

Alderman Ryan Stone

Date

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

Dean Luebke
Signature

Dean Luebke
Name and Position Dean Luebke, Finance Director