

NORTH CAROLINA

TOWN MANAGER

EMPLOYMENT AGREEMENT

PENDER/ONSLow COUNTY

THIS AGREEMENT made and entered into this 2<sup>nd</sup> day September, 2025 by and between the TOWN OF SURF CITY NORTH CAROLINA, a body corporate and politic existing pursuant to the laws of the State of North Carolina hereinafter called the "Town" as party of the first part, and Kyle Breuer, hereinafter called "Employee" as party of the second part, both of whom understand as follows:

WITNESSETH

WHEREAS, the Town, pursuant to North Carolina General Statute § 160A-47, is mandated to appoint a Town Manager to serve at the Town Council's pleasure.

WHEREAS, the Town is authorized under Chapter §160-A, Article 2, §11, 12, Article 3, § 16, 17 and 20.1 of the North Carolina General Statutes to employ personnel and to enter into this Agreement.

WHEREAS, the Town desires to retain the services of said Employee as Town Manager of the Town of Surf City; and,

WHEREAS, Employee desires to continue employment with the Town as Town Manager,

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

SECTION 1. EMPLOYMENT

Town hereby agrees to employ said Employee as Town Manager of the Town to perform the functions and duties specified in the Town Charter and the General Statutes of the State of North Carolina, and to perform such other legally permissible and proper duties and functions as the Town Council shall from time-to-time assign.

SECTION 2. TERM

- A. This Agreement shall be deemed to be continuing in nature unless and until otherwise terminated as provided in Section 3 to this Agreement. The Employee serves at the pleasure of the Town's Council and nothing herein shall be taken to prevent, limit or otherwise interfere with the Town Council's right to terminate the services of Employee at any time for any reason subject only to the provisions of Section 3 to this Agreement.

- B. In the event Employee voluntarily resigns as Town Manager then Employee shall give the Town's Council sixty (60) days advance written notice unless the parties agree otherwise. Failure to give this notice shall result in a forfeiture of the Employee's right to any payment for accrued vacation pay.
- C. Employee agrees to remain in the exclusive employ of the Town during the term of this Agreement. The term "employed", however, shall not be construed to include occasional teaching, writing, speaking or consulting performed during the Employee's time off, even if outside compensation is provided for such services. Such activities are allowed, provided that in no case is any activity allowed which would present a conflict of interest with the Town or interfere with Employee's duties under this Agreement.

### **SECTION 3. TERMINATION AND PAYMENT FOR PAST SERVICE RENDERED**

- A. In the event Employee is terminated by the Council the Town agrees to pay Employee a lump sum cash payment equal to six (6) months compensation (subject the adjustments outlined below)\_ and benefits accrued but unpaid at the date of termination. The Town further agrees to pay all premiums for health, vision, dental insurance for six months following date of termination; provided, however, that in the event Employee is terminated because of his conviction in a court of law of any felonious illegal act, or any illegal act involving personal gain to him, then, in that event, the Town shall have no obligation to pay the aggregate severance sum designated in this paragraph. The six (6) months lump sum cash payment called for within this Paragraph shall be adjusted upward by 0.5 months for each year that Employee works for the Town following the effective date of this Agreement. By way of example, on July 1, 2026 the severance lump sum cash payment will be equal to 6.5 months compensation, on July 1, 2027 the severance lump sum cash payment will be equal to 7 months of compensation, etc. However, in no event shall Employee's severance lump sum cash payment exceed 12 months of compensation.
- B. Termination for Cause. In the event Employee is terminated for "just cause," the Town shall have no obligation to pay the severance amount outlined in Section 3, Paragraph A of this Agreement or any other severance. For purposes of this Agreement, "just cause" includes, but is not limited to, any of the following:
  - (1). Misfeasance, malfeasance and/or nonfeasance in performance of the Town Manager's duties and responsibilities such as presentation of false information to Town's Council; omitting/suppressing substantive information from information provided to the Town's Council; participation in any activity that represents a conflict of interest with the Town; habitual use of intoxicants or drugs rendering the Employee unable to perform the duties of Town Manager; conviction of a felony or crime involving moral turpitude.
  - (2). Conviction or a plea of guilty or no contest to a misdemeanor or felony crime, whether or not adjudication is withheld or suspended.

- (3). Neglect of duty, including the inability or unwillingness to properly discharge the responsibilities of office.
- (4). Violation of any substantive Town policy, rule, or regulation, which would subject any other Town employee to termination.
- (5). The commission of any fraudulent act against the interest of the Town.
- (6). The commission of any act which involves moral turpitude, or which causes the Town disrepute.
- (7). Violation of the International City/County Management Association Code of Ethics.
- (8). Any other act of a similar nature of the same or greater seriousness.
- (9). "Just cause" as described in North Carolina Pattern [Jury] Instructions.

In the event Employee is terminated for cause then the Town's only obligation to Employee is to pay all compensation and benefits accrued but unpaid at the date of termination.

- C. For purposes of complying with this Section 3 of this Agreement, appropriations held as unencumbered fund balances in any fund or account of the Town shall be deemed to be available and authorized for transfer to the appropriate salary and benefit expenditure accounts to insure the fulfillment of this provision of this Agreement.
- D. Contemporaneously with the delivery of the payment for past service rendered set out above, Employee agrees to execute and deliver to Town a release the form of which is agreeable to the Town, releasing the Town of all claims that the Employee may have against the Town, its elected officials, other employees and insurers.

#### **SECTION 4. DISABILITY**

If Employee is permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, the Town shall have the option to terminate this agreement subject to severance pay requirements of Section 3, Paragraph B. Employee shall be compensated for any accrued sick leave, vacation, holidays, compensatory time and other accrued benefits.

#### **SECTION 5. COMPENSATION**

The Town agrees to pay Employee for his services rendered pursuant hereto an annual base salary of \$175,000 for fiscal year 2025-2026. Employee's annual base salary for fiscal year 2026-2027 shall be \$190,000.00. Beginning July 1, 2027 Employee's annual base salary may be periodically adjusted as provided herein. Beginning July 1, 2027, Employee shall automatically receive cost-of-

living (COLA) adjustments granted to the Town's employees as part of the annual budget process and shall receive such salary and/or benefit adjustments as provided under Section 6 (Performance Evaluation) of this Agreement. Employee will receive payments in installments at the same time as other employees of the Employer are paid. Employee shall not receive the COLA adjustments that become effective before July 1, 2027.

By way of further compensation, the Town Employee is eligible to receive all other benefits provided to all other Town employees.

## **SECTION 6. PERFORMANCE EVALUATION**

- A. The Council shall review and evaluate the performance of the Employee once annually in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Council and the Employee. Said criteria may be added to or deleted from as the Council may from time to time determine, in consultation with the Employee. To assist the Council with its evaluation, Employee agrees to provide the Council with a summary of his achievements for the prior year on or before May 1<sup>st</sup>.

Beginning July 1, 2027, Employee shall be entitled to an annual raise of 3% to his then existing salary each year this Contract is in effect unless a Supermajority of the Council determines that Employee does not meet or exceed the expectations of Council; provided that in no event shall Employee's salary increase more than 5% in any given year when taking into account the COLA increase and raise called for herein. Increases shall be effective on July 1<sup>st</sup>, unless otherwise indicated by the Council. "Supermajority of the Council" shall mean 4 or more councilmembers.

- B. Furthermore, the Council agrees to review the Employee in March when practicable to do so.

- C. Annually, the Council, in consultation with Employee, may define such goals and objectives which the Council determines necessary for the proper operation of the Town and in the attainment of the Councils' policy objectives and may further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing.

- D. Failure to conduct this annual evaluation shall not be a default hereunder, but should an evaluation not take place then Employee shall receive the raise he would be entitled to under Section 6(a) as if he met or exceeded the expectations of Council.

## **SECTION 7. HOURS OF WORK**

It is recognized that Employee must devote a great deal of time outside the normal office hours to business of the Town, and to that end, Employee will be allowed to take compensatory time off as he

shall deem appropriate during said normal office hours. Employee shall dedicate no less than an average of forty (40) hours per week in the performance of his duties hereunder.

### **SECTION 8. AUTOMOBILE / PHONE**

For travel on Town business, the Town will reimburse Employee for the use of his personal vehicle at the current mileage rate as approved by the Council for all Town employees for travel over a fifty (50) mile radius.

The Town will pay Employee a vehicle stipend in the amount of \$300 per month.

For Town business, the Town will reimburse the Employee for his personal phone at a rate of \$40 per month.

### **SECTION 9. VACATION, SICK, AND MILITARY LEAVE**

- A. Employee shall be entitled to receive the same vacation and sick leave accruals and usage as are afforded to department heads.
- B. Employee will accumulate sick and vacation time at the rate of a twenty-year Employee.
- C. Any sick leave accrued with another local government entity can be transferred to the Town for utilization by Employee.

### **SECTION 10. HEALTH, DENTAL AND LIFE INSURANCE**

- A. Employee shall receive health, dental and life insurance benefits in the same amount and manner as provided to other Town employees.
- B. The Town will contribute to Employee's 401(k) retirement plan in the same amount and manner as contributed to other Town employees.

### **SECTION 11. DUES AND SUBSCRIPTIONS**

The Town agrees to budget annually for the professional dues and subscriptions of Employee that the Town deems necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the Town.

### **SECTION 12. PROFESSIONAL DEVELOPMENT**

- A. Upon prior written approval of the Council, the Town agrees to budget and to pay for the travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions that the Town deems to be necessary to continue the professional development of Employee and to adequately pursue necessary official and

other functions for Employer, such as the Annual Conference of the International City Management Association, the North Carolina League of Municipalities, and such other national, regional, state, and local governmental groups and committees thereof which Employee serves as member.

- B. Upon prior written approval of the Council the Town agrees to budget and to pay for the travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for his professional development and for the good of the Employer.

### **SECTION 13. INDEMNIFICATION**

To the extent provided by law, the Town shall defend, hold 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 Town Manager. Provided, however, this provision does not apply to any claim, demand or legal action where Employee is immune from suit.

### **SECTION 14. RESIDENCY**

Employee shall reside within 30 mile radius of the Surf City Municipal Complex (214 W. Florence Way, Hampstead, N.C.).

### **SECTION 15. OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

- A. The Council, in consultation with the 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, the Town Charter, or any other law.
- B. All provisions of the Town Charter and Code, and regulations and rules of the Town relating to vacation and sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereinafter may be amended, also shall apply to Employee as they would to other employees for Town, in addition to said benefits enumerated specifically for the benefit of Employee except as herein provided.
- C. Code of Ethics. Inasmuch as Employee is an active full member of the International City/County Management Association (ICMA), the "Code of Ethics" promulgated by ICMA is incorporated herein, and by this reference made a part hereof. Said "Code of Ethics" shall furnish principles to govern the Employee's conduct and actions as Town Manager of the Town.
- D. Upon termination of employment, Employee shall return to the Town all records, physical or electronic, regarding the business of the Town. Further, Employee shall return to the Town all equipment or property belonging to

the Town.  
E.

## SECTION 15. GENERAL PROVISIONS

- A. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties. This Agreement supersedes and supplants all other agreements between the parties hereto.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Employee.
- C. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.
- D. This agreement shall become effective commencing July 1,, 2025.
- E. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.
- F. Upon Town Manager's death, the Town's obligations under this Agreement shall terminate except for:
  - 1. Transfer of ownership of retirement funds, if any, to his designated beneficiaries;
  - 2. Payment of accrued leave balances in accordance with this Agreement;
  - 3. Payment of all outstanding hospitalization, medical and dental bills in accordance with Town's insurance policies or plans; and
  - 4. Payment of all life insurance benefits in accordance with this Agreement.
- G. If any provision, 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.
- H. North Carolina law shall govern this Agreement and any litigation that may arise from this Agreement, shall be filed and litigated in Pender County, North Carolina or the Eastern District Court of North Carolina, Southern Division (federal court).
- I. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

**IN WITNESS HEREOF**, the Town of Surf City has caused this agreement to be signed and executed in its behalf by its Mayor, and duly attested by its Town Clerk, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

  
\_\_\_\_\_  
Mayor Teresa B. Batts, Town of Surf City

ATTEST:

  
\_\_\_\_\_  
Carla Citarelli, Town Clerk

(SEAL)

  
\_\_\_\_\_  
Kyle Breuer, Employee

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Brett J. DeSelms, Town Attorney

*This instrument has been preaudited  
In the manner required by the Local  
Government Budget and Fiscal Control Act.*

  
\_\_\_\_\_  
Melissa Moore  
Finance Officer