

EMPLOYMENT AGREEMENT

BETWEEN:

VILLAGE OF LIONS BAY
400 Centre Road
Lions Bay, BC V0N 2E0

(the "Village" or "Council")

AND:

ROSS BLACKWELL


("you" or the "Employee")

WHEREAS:

- A: The Village is a public body providing local government administration and services to citizens of the Village of Lion's Bay and is incorporated pursuant to the laws of the Province of British Columbia;
- B: The Village wishes to employ you as Chief Administrative Officer and Corporate Officer.
- C: The Village and you wish to enter into a written agreement to set out the terms and conditions of your employment with the Village ("Agreement").

WITNESS THAT in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and you agree as follows:

1. EMPLOYMENT

- 1.01 Subject to the terms and conditions of this Agreement, the Village will employ you on an indefinite basis in the capacity of Chief Administrative Officer/Corporate Officer (CAO/CO) commencing on September 18, 2023 (the "Start Date").
- 1.02 You acknowledge and agree that your appointment to the CAO/CO position is subject to a six (6) month probationary period which shall commence on the Start Date and end on March 18, 2024 (the "Probationary Period"). [See Probation section below]
- 1.03 You shall report to Mayor and Council on all matters ("Council").
- 1.04 In addition to the terms set out in this Agreement, the employment relationship between you and the Village shall be governed by the *Community Charter* and the Village's policies, rules and bylaws, as amended from time to time. You shall carry out the duties and responsibilities pursuant to sections 147 and 148 of the *Community*

Charter, the Village of Lions Bay Officer Bylaw No. 494, 2015 as well as any other duties and responsibilities the Village may from time to time direct and require.

- 1.05 You are responsible to inform yourself of the details of the legislation and these policies and amendments. If there is conflict between this Agreement and any such policy or bylaw, this Agreement shall prevail to the extent of the conflict
- 1.06 You shall at all times diligently, competently and effectively perform your duties and, without limiting the generality of the foregoing, you shall:
 - a. obey and observe all duties, obligations, administrative rules, regulations and lawful orders and directives, whether verbal or written of Council, as they may be amended by Council from time-to-time, as well as any other applicable enactment.
 - b. not, either during your employment with the Village or at any time thereafter, divulge or disclose any confidential information or other information which, in good faith and good conscience, ought not to be disclosed, which you receive or become aware of in the course of your employment, relating to the Village, the Village's operations or undertakings, other employees of the Village or any other persons with whom the Village has any dealings, except as required by law;
 - c. co-operate with Council members, officers and other employees of the Village and members of the public;
 - d. avoid action or circumstances which cause or have the potential for causing a conflict of interest and in advance of commencing or engaging in any activity which may give rise to a conflict of interest, fully disclose the nature of the planned activity to Council and obtain prior written consent of Council;
 - e. in recognition of the public nature of the position, conduct yourself professionally and personally with the highest ethical standards while at work and away from work, so as not to bring the Village, its employees and elected officials into public disrepute or ridicule and always conscious of the fact that your actions will reflect on the reputation of the Village;
 - f. except to manage your multi-family residential building on Vancouver Island, devote all of your working time and attention to the performance of your obligations under this Agreement and you agree not to engage in any other employment, business, or other activity for remuneration or with a view to a gain during the term of this Agreement without the prior written consent of Council;
 - g. comply with the "Code of Ethics" of the Local Government Management Association of B.C. as amended from time to time;
 - h. generally, not do anything that would adversely affect the interests of the Village.

2. ATTENDANCE OF EMPLOYEE

- 2.01 You shall perform your duties at the Village's place of business at 400 Centre Road, Lions Bay or at such other place as the Village may from time-to-time designate, during the hours in which the Village's place of business is open to the public from Monday through Friday during each week, statutory holidays excepted, and during such additional hours and other times as may reasonably be required by the Village or reasonably necessary for you to fully and effectively carry out your duties.
- 2.02 Notwithstanding the above, for the first 12 months of employment and subject to operational and administrative needs, you shall be given the flexibility to work from home one (1) day per week and Council will give you flexibility to commute to and from the Village the first and last days of the work week. Any entitlement to continued flexibility with commuting or working from home after the 12 month period will be discussed and considered by Council if you so request.
- 2.03 You agree that in the event that you are absent from employment for more than 2 consecutive days due to illness, the Village, at its option, may require you to provide the Village with a medical certificate signed by your physician stating the reason why you were unable or unfit to attend at work. At the Village's discretion, the Village may require you to attend at an independent medical examination by a physician appointed by the Village, to be paid for by the Village.

3. REMUNERATION AND BENEFITS

- 3.01 During the Probationary Period, the Village shall pay you a salary of \$140,000.00 per annum ("Probationary Salary").
- 3.02 Upon successful completion of the Probationary Period supported by a satisfactory performance appraisal, your salary shall increase to \$150,000.00 per annum ("Salary").
- 3.03 Your salary thereafter will be reviewed for potential increase at the sole and absolute discretion of Council.
- 3.04 Your Probationary Salary and Salary shall be paid to you in bi-weekly instalments through direct deposit to your bank account as per the Village's regular payroll cycle.
- 3.05 As soon as permitted by the Village's group benefits plan, you shall be entitled to participate in any and all benefits to which other exempt employees of the Village are entitled and as may be amended from time-to-time. Your participation in all group health benefit plans is required. The Village's obligation under this section is not to be or to act as a self-insurer for benefits. The Village shall make the benefit plan available for you and, where applicable, shall pay premiums to an insurance carrier of the Village's choice. All decisions regarding eligibility and coverage shall be made by such insurance carrier and as such, the Village shall not bear any responsibility or liability for same.
- 3.06 You must also participate in the Municipal Pension Plan, established and maintained under the *Public Sector Pension Plans Act*, as may be amended from time to time, and shall contribute such amounts as are required under that Act.
- 3.07 The Village shall provide to you the following additional benefits, as may be amended from time to time, upon prior written approval of Council:

- a. reimbursement for reasonable expenses incurred by you in the course of your duties, provided such expenses are supported by statements and original receipts and approved by the Chief Financial Officer and the Mayor (or their designates);
 - b. upon you presenting a training and membership plan and budget to Council by February 1, every year, and receiving budgetary approval in advance, the Village will pay your membership fees in relevant and recognized municipal officers' organization, such as the Local Government Management Association, and will pay for reasonable expenses related to attendance at relevant professional development training, programs, conferences, seminars or workshops that are related to your position;
 - c. provision of a cellular telephone by the Village, regarding which you shall have no reasonable expectation of privacy and agree to return to the Village upon termination of employment, or alternatively \$100.00 per month for use of personal cellular phone for Village business;
 - d. such other benefits as may be approved from time to time by Council.
- 3.08 You are entitled to 18 paid sick days per year. Sick days are to be used for personal injury or illness in a calendar year. Unused sick days cannot be banked or carried over to a subsequent calendar year. You acknowledge and agree that you are not entitled to a payout of any sick leave days upon termination of your employment with the Village for any reason, including your resignation or retirement.
- 3.09 The Village will reimburse you for reasonable relocation expenses up to a maximum of \$7,000 including taxes incurred in connection with relocating to accept this position provided such expenses are supported by statements and original receipts.
- 3.10 You hereby authorize the Village to deduct from your salary all deductions required by law to be made by the Village, including municipal pension plan contributions and, any payments, premiums or contributions required to be made or paid by you under any relevant plans or policies. For clarity, during any absence by you including but not limited to sick leave, long-term disability or vacation, you may be required to continue to participate in all benefit plans, subject to the terms of the benefit plan policies and the prevailing Village policies.

4. PROBATION

- 4.01 You acknowledge that the Village will be assessing your suitability for employment in the CAO/CO position during the Probationary Period.
- 4.02 The first evaluation will be undertaken after three (3) months of employment and the second evaluation will be undertaken after five (5) months of employment under this Agreement. The probationary performance evaluation will be conducted by the Mayor and Council. You agree to initiate the evaluation process with Council in a timely manner prior to these target dates.
- 4.03 If during the Probationary Period, in the Village's opinion your performance does not meet the Village's expectations and/or the Village determines that you are unsuitable for continued employment, then the Village shall be entitled to terminate your employment pursuant to Section 7 below.

5. VACATION, HOLIDAYS AND IN-LIEU DAYS

- 5.01. You shall be entitled to all statutory holidays and those additional holidays which are available to exempt staff, effective immediately.
- 5.02. The vacation entitlement year is from January 1 to December 31. Upon the commencement of employment, you will be entitled to 7 days paid vacation prorated for the remainder of the calendar year. Thereafter, you shall be entitled to 25 days of annual paid vacation.
- 5.03. You are expected to use your vacation entitlement in the year that is it earned and must, at a minimum use the minimum vacation entitlement required by the *Employment Standards Act*. If your vacation entitlement is not used in the calendar year or before the termination of this Agreement for any reason, the unused vacation (if any) will be paid out to you at the end of the year or at the end of employment. Unused vacation time does not accrue and cannot be rolled over into any subsequent year.
- 5.04. As a manager, you shall not be entitled to overtime. However, you will be entitled to 10 days off with pay per year in recognition of the time spent working outside normal working hours. This in lieu time is not pro-rated, it does not accrue and it cannot be rolled over into another year and it will not be paid out upon termination of employment for any reason. For the current year, you will be entitled to receive 3 days for the remainder of the calendar year ending December 31st, 2023.

6. PERFORMANCE EVALUATION

- 6.01. After the satisfactory completion of the Probationary Period, you will be eligible for an annual performance evaluation, a process which you agree to initiate with Council in a timely manner but no later than December 1, 2024, and every year thereafter. The annual performance evaluation may be conducted by the Mayor and Council.

7. TERMINATION AND RESIGNATION

- 7.01. Notwithstanding any other provision of this Agreement, subject to the provisions of the *Community Charter*, this Agreement may be terminated as follows:
 - a. by you, at any time, for any reason, on giving the Village advanced notice in writing of not less than six (6) weeks of your intention to resign. The Village may waive such notice, in whole or in part, in the Village's sole and absolute discretion and provide you a lump sum amount representing the salary you would have earned had you worked until the resignation date.
 - b. by the Village during the Probationary Period, in the Village's sole and absolute discretion and without cause on providing you five (5) months of notice;
 - c. by the Village, after the Probationary Period but prior to the completion of 12 months from the Start Date, in the Village's sole and absolute discretion and without cause on providing you seven (7) months of notice;
 - d. by the Village, after the the completion of 12 months from the Start Date, in the Village's sole and absolute discretion and without cause on providing you ten (10)

months of notice plus one (1) additional months' notice per completed year of service thereafter to a maximum of twelve (12) months.

- e. at any time by the Village, without notice or payment in lieu of notice, for Cause. For the purpose of this Agreement, "Cause" may include, but is not limited to:
 - i. misconduct, dishonesty, act of fraud, or theft from the Village;
 - ii. misuse of any assets of the Village, unauthorized disclosure of confidential information, or any material breach or non-observance of the Village's Policies and/or this Agreement;
 - iii. any conduct by you which brings the Village into disrepute; or
 - iv. any other act or omission constituting cause at common law.
- f. You agree to mitigate your losses by seeking alternate comparable employment in the event of a termination set out in this section and you agree that any earnings from any source earned during any working notice or salary continuance period shall be deducted from any amount to be paid by the Village. You will have a positive obligation to report any earnings during said periods.

7.02 Upon termination of your employment, for any reason:

- a. the Village shall pay you all Probationary Salary or Salary (whichever applies at the time of termination) and any outstanding vacation eligible for payout pursuant to this Agreement (if applicable) earned up to and including your last day of active employment subject to applicable statutory deductions (the "Termination Date").
- b. the notice provided by the Village to you under ss. 7.01 may be in the form of written notice, salary continuance, pay in lieu of notice or a combination thereof, which form shall be entirely at the Village's sole option.
- c. all benefit coverage and other privileges of your employment shall cease upon the Termination Date, or upon such date as the applicable benefit plan(s) or any relevant Village policies may require, if you resign, retire or if your employment is terminated by the Village for any reason.
- d. the Village may deduct from any termination, severance or retiring allowance payment due to you any amount owed by you to the Village by reason of purchases, advances, overpayments or amounts owed of any nature.
- e. all files, records or documents pertaining to the Village's business, its employees, its elected officials or its residents ("Confidential Information") shall remain the property of the Village, and shall promptly be delivered by you to the Village's office, and no original, copy, duplication or reproduction of any kind whatsoever shall be made, retained or disclosed to anyone without the express written consent of the Village.

7.03 All Confidential Information obtained by you in the performance of your duties and responsibilities shall be kept confidential, and shall not in any manner be revealed to anyone except as provided for in the Village's policies. Confidentiality of data on computer systems and Village issued devices must be respected at all times including

after termination of your employment under this Agreement. You agree that the restrictions imposed are reasonable and survive the termination of this Agreement.

- 7.04 You agree that the notice of termination or pay in lieu of notice and benefits, if applicable, provided for in this Agreement are fair and reasonable and is inclusive of and constitutes your complete statutory entitlements owing to you by the Village in accordance with BC's *Employment Standards Act*, as amended, and at common law upon termination of your employment.
- 7.05 You further agree that once the Village complies with its termination obligations as set out in this Agreement and section 152 of the *Community Charter*, you shall have no further claim for notice of termination or payment in lieu thereof, benefits, vacation, damages, or severance against the Village arising from your employment with the Village or the termination of this Agreement under any legislation or at common law.

8. SEVERABILITY

- 8.01. In the event that any covenant or provision of this Agreement is determined to be void, invalid or unenforceable in whole or in part by a Court of competent jurisdiction, such covenant or provision shall be deemed not to affect or impair the validity of the remaining provisions, all of which shall be and remain in full force and effect.

9. WAIVER

- 9.01. No condoning, excusing or overlooking by either of the parties hereto of any default, breach or non-observance by the other party at any time or times in respect of any covenant, agreement or condition herein contained shall operate as a waiver of such covenant, agreement or subsequent default, breach or non-observance or so as to defeat or affect in any way the right of such party to rely on such covenant, agreement or condition in respect of any such continuing or subsequent default or breach.

10. GOVERNING LAW

- 10.01. This Agreement shall be construed in accordance with and governed by the laws of the Province of British Columbia.

11. ENTIRE AGREEMENT

- 11.01. This Agreement contains the complete agreement concerning your employment with the Village and shall, as of the date it is executed, supersede any and all other agreements between the parties. The parties agree that there are no collateral contracts or agreements between them, that neither of them has made any representations to the other except such representations as are specifically set forth in this Agreement, and that any statements or representations that may previously have been made by either of them to other have not been relied on in connection with the execution of this Agreement and are of no effect.
- 11.02. You agree that all restrictions contained in this Agreement are reasonable and valid and hereby waive any and all defenses to their strict enforcement by the Village. You acknowledge that you have been given a full opportunity by the Village to seek independent legal advice prior to the execution and delivery of this Agreement.

12. INTERPRETATION

12.01. The paragraph headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision thereof.

IN WITNESS WHEREOF the parties have executed this Agreement the 29 day of August 2023.

Village of Lions Bay




Mayor Ken Berry (or designate)



Councillor Jamie Cunliffe (Alternate Mayor)

Signed by the Employee in the presence of:



Witness Signature

Louise Bates

Print Witness Name



ROSS BLACKWELL

SEPT. 5/2023

Date

Date