

CITY MANAGER EMPLOYMENT AGREEMENT

Between the
CITY OF PORTOLA
And

This City Manager Employment Agreement (“Agreement”) is entered into and effective this 13th day of November 2024, by and between the CITY OF PORTOLA (“City”), a municipal corporation of the State of California, and _____ (“Manager”), an individual. City and Manager may be referred to herein individually as “Party” and collectively as “Parties.” Under this Agreement, the City offers, and Manager accepts, employment as City Manager of the City.

1. Duties:

Manager shall serve as the City Manager of City and be the chief executive officer of the City and perform those duties as set forth in the Portola Municipal Code (“Municipal Code”), Chapter 2.04, those duties that are set forth in this Agreement and those that are prescribed by the laws of the State of California and of the United States of America and those responsibilities that are commonly assigned to a city manager of a city in California. Manager shall perform such other legally permissible and proper duties and functions appropriate to and consistent with the professional role and responsibilities of City Manager, as the City Council shall from time to time assign.

A. Manager shall administer and enforce policies established by the City Council and promulgate rules and regulations as necessary to implement City Council policies.

B. Direct the work of all appointive City Officers and departments that are the concern and responsibility of the City Council, except those that are directly appointed by or report directly to the City Council.

C. Recommend to the City Council, from time to time, adoption of such measures as Manager may deem necessary or expedient for the health, safety, or welfare of the community or for the improvement of City services.

D. Evaluate administrative practices that may result in greater operational effectiveness or economy in City government and develop and recommend to the City Council long range plans to improve City operations and prepare for the City’s growth and development.

E. Provide for management, development and training and develop leadership qualities as necessary to insure the highest standards of managerial practices.

F. Manager shall act in the City’s best interests at all times and perform Manger’s duties in a competent and professional manner. Furthermore, as the City’s highest officer, Manager shall endeavor at all times to exercise the highest degree of integrity, committing to comply with the International City/County Managers Association

("ICMA") Code of Ethics and shall not engage in any conduct or activities, on- or off-duty, that reflect discredit or bring disrepute on the City or impair its efficient and effective operation.

G. Manager is exempt from the overtime provisions of the Fair Labor and Standards Act, as amended, but is expected to engage in those hours of work that are necessary to fulfill the obligations of the Manager.

H. Manager shall perform the duties required hereunder at City's City Hall and at such other place or places as the City or Manager shall in good faith require or as the interests, needs, business, and opportunities of the City shall require or make advisable. In order to facilitate the discharge of his duties, Manager agrees to live within fifteen (15) minutes driving distance to City's City Hall, as measured during what would be considered to be normal or average driving conditions.

I. Manager shall be bonded and City shall furnish a bond as required by Section 2.04.040 of the Portola Municipal Code. City shall pay the cost of such bond.

2. Devotion to City Business:

The Manager position is a full-time position. Therefore, the Manager shall not engage in any outside business, educational, professional, charitable, or other activities, whether for compensation or otherwise, that would conflict or materially interfere with performance of City Manager duties, without written prior approval by the City Council.

3. Hours of Work:

Manager's position is full-time with a work schedule generally consistent with the normal business hours adopted by the City and those necessary to fulfill the obligations of the City Manager, including being available to attend all necessary meetings during evenings and weekends. In recognition of the amount of work time required outside of regular business hours, it is agreed the Manager does not have a fixed schedule and the Manager will have the discretion to work as needed to accomplish the duties and responsibilities assigned to Manager.

4. Term:

Manager's employment will commence November 18, 2024, or sooner as mutually agreed by the Parties, and shall continue for a term of approximately three (3) years ending on November 29, 2027, or until sooner terminated as provided herein.

5. Compensation:

A. Manager's initial annual Base Salary shall be One Hundred Forty-Five Thousand Dollars (\$145,000.00). Said amount shall be payable in installments at the same time and in the same manner as other employees of the City are paid.

B. Manager shall be entitled to receive cost-of-living adjustments or any similar across-the-board increases that the City Council determines, in its discretion, to approve for all City employees.

C. Manager's Base Salary may be adjusted on or about the six (6) month anniversary of the commencement of Manager's employment and thereafter in conjunction with Manager's annual performance review.

D. Manager's Base Salary increases approved by the City Council from time to time pursuant to this Agreement shall not require an amendment to this Agreement to be effective. Such increases may be set forth in a resolution or minute action approved by the City Council and ratified by resolution.

E. If the City reduces the Base Salary or any other financial benefit of the Manager in a percentage that is greater than the average reduction of all City employees, without the approval of the Manager, Manager shall be entitled to severance pay under Section 12.B. of this Agreement.

6. Annual Evaluation:

A. City shall initially review the performance of Manager within six (6) months of the commencement of Manager's employment and shall thereafter meet annually in or about April to review the Manager's performance. The annual performance evaluation may include the preparation of a written evaluation, which, if written, will be provided to the Manager within thirty (30) days of the evaluation meeting.

B. Increases to the Manager's Base Salary will be considered, at the sole discretion of the City, as part of the initial performance evaluation and each annual evaluation.

7. Additional Benefits:

A. Car allowance: Manager's duties require Manager to be available and to respond to the demands of City business at all times and outside of regular business hours, including weekends. City shall pay Manager Four Hundred Dollars (\$400.00) monthly in compensation for the use and maintenance of Manager's personal vehicle on City business. The car allowance is subject to federal and state income tax provisions for salary purposes. Manager shall not receive further reimbursement for travel mileage within a fifty (50) mile radius of the City. For any required travel mileage outside the fifty (50) mile radius, Manager shall be reimbursed at the current allowable I.R.S. rate. The Employee shall maintain and be responsible for paying for liability, property damage, and comprehensive insurance coverage with minimum coverages of \$100,000 for each injury and \$300,000 for all injuries in one accident and \$100,000 for property damage, upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and replacement of said vehicle. The City and Employee acknowledge and agree that there will be times in the day-to-day operations of the City that will necessitate the use of a City vehicle by the Employee. Examples of these situations include, but are not limited to, off-highway uses, construction site visits, disaster and/or emergency response, while personal vehicle is disabled or being repaired, and other unanticipated situations. The Parties agree that Employee may use a City vehicle for such purposes without any reduction in the amount of the vehicle allowance payable to Employee pursuant to this Section.

B. Cell phone: City shall provide Manager with a cell phone stipend of Seventy-Five Dollars (\$75.00) monthly for compensation in lieu of providing Manager with a City issued cell phone.

C. Vacation Time: City shall provide Manager eighty (80) hours per year of paid vacation for the first two (2) years of the term of this Agreement and shall thereafter provide Manager paid vacation days in accordance with City policies.

D. Sick Time: City shall provide Manager with four (4) hours for each eighty (80) hours pay period of paid sick.

E. Paid Holidays: City shall provide Manager fourteen (14) days per year of paid holidays as determined by the City.

F. Health Benefits: City shall provide Manager with the same health insurance plans and coverage (medical, dental, and vision) which are provided to other City employees, which may be changed from time-to-time at the sole discretion of the City Council and shall pay that portion of the employee and dependent rate or premium as is determined by the City Council for all City employees. Manager may opt out of receiving health insurance coverage from the City and upon providing proof of health insurance coverage for himself, Manager shall be paid Four Hundred (\$400.00) per month. Manager shall maintain health insurance for himself at all times while opting out of the City's health insurance or he shall stop receiving the monthly payment and shall be required to enroll in the City's plans at the soonest opportunity allowable under the plans.

G. Pension: City agrees to enroll Manager as a member of the California Public Employees Retirement System ("CalPERS"). The Manager is responsible for paying the full employee portion of CalPERS. City shall pay Manager's required contributions consistent with the contribution level paid on and behalf of all other City employees.

H. Management Leave: City shall provide Manager forty (40) hours per year of personal leave in accordance with the City's policies. Management Leave will be prorated from the date of Manager's commencement of employment through June 30, 2025, and that amount will be credited at the commencement of Manager's employment. Beginning on July 1, 2025, and on each July 1 thereafter during the term of this Agreement, Manager shall accrue forty (40) hours of personal leave.

I. Memberships: The City will pay for Manager's ICMA membership. The City will consider paying for Manager's membership in other organizations on an individual basis.

J. The Manager will receive all benefits set forth in City policies and be subject to all City rules, procedures and policies, including personnel policies, except the benefits set forth in this Agreement shall control over the benefits set forth in City policies.

8. Business and Professional Expenses:

A. City recognizes that Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to Manager's service to City. City agrees to either pay such expenses in advance or to reimburse the expenses, provided that the expenses are incurred and submitted according to City's normal expense

reimbursement procedures or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be set forth and approved by City Council in the City's budget, supported by documentation meeting City's normal requirements and must be submitted within time limits established by City.

B. City agrees to pay Manager's travel and subsistence expenses for official travel, meetings, and occasions reasonably necessary to continue Manager's professional development, and for Manager's reasonable participation in necessary official and other functions for the City, including, but not limited to, regional, state, and local conferences, and governmental groups and committees on which Manager serves as a member. Notwithstanding the above, the number of conferences or meetings City will pay for each year, and attendance at out-of-state conferences and meetings, if any, shall be at the discretion of the City Council as set forth in the City's budget.

9. City Property

Manager agrees that materials, regardless of their form, that Manager creates, receives, or produces in connection with this Agreement and/or Manager's employment as City Manager are and will remain the exclusive property of the City. Manager will deliver all originals and all copies of such materials to the City that in Manager's possession or control upon termination or expiration of this Agreement or upon any request from the Mayor or the City.

10. Non-Disclosure of Proprietary or Confidential Information:

Manager will not at any time, in any form or manner, either directly or indirectly, except in the discharge of Manager's duties as City's City Manager, divulge, disclose, or communicate to any person, firm, or corporation in any manner whatsoever any Proprietary or Confidential Information produced, received, acquired or learned by Manager while performing the duties of City Manager. For purposes of this Agreement Proprietary and Confidential Information, includes but is not limited to, all information and any ideas pertaining in any manner to the business of the City, trade secrets, inventions, processes, formulae, data, know-how, software, strategies, information about City employees, City utility customers, elected and appointed officials and officers, attorney-client privileged information and any information concerning any matters detrimentally affecting or relating to the business of the City without regard to whether any or all of the foregoing matters would be deemed confidential, material, or important. During Manager's employment by City, Manager shall use Proprietary and Confidential Information only for the benefit of the City and as is, or may be, necessary to perform Manager's job responsibilities under this Agreement. Following termination or expiration of this Agreement, Manager shall not use any Proprietary or Confidential Information and shall not disclose any Proprietary or Confidential Information to any person or entity without the express written consent of City.

11. Manager's Commitments Binding on City Only on Written Consent:

Manager shall not have the right to make any contracts or other commitments for or on behalf of the City without the written consent of City or as delegated to Manager by the City Council.

12. Termination of Employment and this Agreement; General Release; Severance:

A. Manager is an at-will employee and works exclusively at the pleasure and sole discretion of the City Council. This Agreement and at-will employment relationship, as provided in Government Code Section 36506 and in this Agreement, may be terminated at any time, with or without cause or notice by the City Council as determined by the affirmative votes of a majority of the members of the City Council at a meeting of the City Council, except that Manager's employment may only be terminated without cause by a unanimous vote of the City Council during the first one hundred twenty (120) days after the seating and swearing-in of one or more City Council members. Nothing in this Agreement, nor in any City policy, rule, procedure or ordinance shall modify the Manager's status as an at-will employee, or limit the City's ability to treat the Manager as an at-will employee, even though Manger' job duties, title, compensation, and benefits, as well as the City's policies, may change from time to time.

B. If Manager is terminated without cause during the first year of this Agreement, Manager will be provided with severance pay equal to one (1) month of Manager's Base Salary. If Manager received a positive performance review at the end of the first year of this Agreement and is terminated without cause during the second year of this Agreement, Manager will be provided with severance pay equal to two (2) months of Manager's Base Salary. If Manager does not receive a positive performance review at the end of the first year of this Agreement, then Manager will be provided with severance pay equal to one (1) month of Manager's Base Salary if terminated without cause during the second year of this Agreement. If Manager received positive performance reviews at the end of the first and second years of this Agreement and is terminated without cause during the third year of this Agreement, Manager will be provided with severance pay equal to three (3) months of Manager's Base Salary. If Manager does not receive a positive performance review at the end of the first or second year of this Agreement, then Manager will be provided with severance pay equal to two (2) months of Manager's Base Salary if terminated without cause during the third year of this Agreement. Payment of severance pay is subject to the following:

1. Upon Manager's execution of the "General Release Agreement" in substantially the form set forth in in Exhibit "A" of this Agreement, Severance Pay shall be payable in one lump sum pursuant to the terms of said Agreement.

2. Manager agrees and understands that acceptance of the City's offer of severance pay at the time Manager's at-will employment is terminated by the City Council is pursuant to the execution of the "General Release Agreement" identified in Exhibit "A" of this Agreement and shall constitute liquidated damages and Manager's sole and exclusive remedy for any termination of this Agreement by the City Council as noticed in said Agreement.

3. In the event Manager voluntarily terminates Manager's employment with City, no severance pay shall be payable to Manager.

4. In the event City terminates Manager's at-will employment "for cause", City shall have no obligation to pay severance pay under this Agreement. A termination "for cause" may include, but shall not be limited to, the following:

- (a) A material breach of the terms of this Agreement;
- (b) Violation of City policies or procedures;
- (c) Failure to properly perform assigned duties;
- (d) Theft of City property;
- (e) Insubordination;
- (f) Unauthorized absence from employment;
- (g) Conviction of, or plea of guilty or nolo contendere to a felony or misdemeanor relating to Manager's fitness to perform assigned duties or Manager's reputation;
- (h) Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4;
- (i) Failure to maintain satisfactory working relationships with other employees or the public;
- (j) Improper use of City funds;
- (k) Unauthorized use of City property;
- (l) Willful misconduct or malfeasance;
- (m) Failure or inability to provide a bond as required by the Portola Municipal Code;
- (n) Conduct unbecoming the position of City Manager or repeated failure of good behavior either during or outside of employment such that the Manager's conduct causes, or is likely to cause, scandal, severe discredit or embarrassment to the City or damage to the reputation of the City; and
- (o) Any act of dishonesty, fraud, misrepresentation or moral turpitude.

C. If, during the Term or any extended Term, Manager dies, Manager's estate shall receive any accrued Base Salary and benefits but shall not be entitled to any additional compensation or payment, such as severance pay.

D. In the event Manager is permanently disabled or is otherwise unable to perform Manager's duties because of sickness, accident, injury, or mental incapacity for a period of one hundred twenty (120) consecutive

days, the City may terminate Manager's employment and this Agreement. Manager shall receive any accrued Base Salary and benefits but shall not be entitled to additional compensation or payment, such as severance pay.

E. Manager may resign from Manager's employment at any time upon giving forty-five (45) days' written notice to the City Council. If Manager resigns from employment, Manager shall not be entitled to any additional compensation or payment, such as severance pay, but shall be entitled only to accrued Base Salary and benefits.

14. Abuse of Office or Position:

Notwithstanding anything to the contrary in this section, pursuant to the requirements set forth in Government Code Sections 53243, 53243.1 and 53243.2, if Manager is convicted of a crime involving an abuse of Manager's office or position, all of the following shall apply: (a) if Manager is provided with administrative leave pay pending an investigation, Manager shall be required to fully reimburse City such amounts paid; (b) if City pays for the criminal legal defense of Manager (which would be in City's sole discretion, as it is generally not obligated to pay for a criminal defense), Manager shall be required to fully reimburse City such amounts paid; and (c) if this Agreement is terminated, any severance pay related to the termination that Manager may receive from City shall be fully reimbursed to City or shall be void if not yet paid to Manager. For purposes of this Section, abuse of office or position means either: (i) an abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority; or (ii) a crime against public justice.

15. Indemnification:

In accordance with and subject to California's Government Claims Act, the City shall defend and indemnify the Manager against and for all losses sustained by the Manager in direct consequences of the discharge of Manager's duties on the City's behalf for the period of Manager's employment. City shall defend, hold harmless and indemnify the 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 Manager's duties as the City Manager. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon, as appropriate and determined by the City Council.

In the event the Manager is sued for damages arising out of the performance of Manager's duties, the City shall provide defense counsel for the City Manager in such suit and indemnify Manager from any judgment rendered against Manager; provided that such indemnity shall not extend to any judgment for damages arising out of any willful wrongdoing. Said indemnification shall extend beyond termination of employment and the otherwise termination or expiration of this Agreement to provide protection for any such acts undertaken or committed in Manager's capacity as City Manager, regardless of whether the notice of filing of a lawsuit occurs during or following employment with the City.

16. Conflict of Interest

Because of the duties and role of the Manager on behalf of the City and its citizenry, the Manager shall not, during the term of this Agreement, individually, as a partner, joint venturer, officer or shareholder, invest or

participate in any business venture conducting business in the corporate limits of the City, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without the prior approval of the City Council. For and during the term of this Agreement, the Manager further agrees, except for a personal residence or residential property acquired or held for future use as Manager's personal residence, not to invest in any other real estate or real property improvements within the corporate limits of the City, without prior consent of the City Council.

The Manager shall not engage in any business or transaction or have a financial or other personal interest or association, direct or indirect, which is in conflict or interferes with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. The Manager shall not engage in any business for or on behalf of any other interest during his working hours for the City. Personal, as distinguished from financial, interest includes an interest arising from blood or marriage relationships or close business, personal or political associations. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active City employment, providing such acts do not constitute a conflict of interest as defined herein or by applicable law.

The Manager shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to Manager's City employment. The Manager is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.

Manager discloses the following interests and agrees that engagement in or providing services to or on behalf of such interests will not interfere with the discharge of his duties to City pursuant to this Agreement:

17. Assistance in Litigation

Manager agrees that Manager will furnish information and proper assistance to the City as it may reasonably require with any litigation, arbitration or mediation in which it may become involved, either during or after termination or expiration of this Agreement. Manager further agrees that Manager will not discuss, reveal or convey any information or documents pertaining to the City to any person or entity, or attorney for or representative of any person or entity, with actual or potential claims adverse to the City except pursuant to duly issued legal process or as otherwise authorized by the City. Manager agrees to notify the City immediately upon receipt of any legal process or contact pertaining to the City.

18. Entire Agreement:

This Agreement represents the entire and fully integrated agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the employment of Manager by City and contains all of the covenants and agreements between the Parties with respect to that employment. Each Party to this Agreement acknowledges that no representations, inducements, promises or

agreements, oral or otherwise, have been made by either Party, or by anyone acting on behalf of either Party, which are not embodied herein, and that no other employment agreement, statement, or promise not contained in this Agreement shall be valid or binding upon either Party.

19. Modifications:

Any modifications to this Agreement shall be effective only if in writing and signed by both of the Parties.

20. Effect of Waiver:

The failure of either Party to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement by the other Party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

21. Partial Invalidity:

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall be deemed severable and continue in full force without being impaired or invalidated in any way.

22. Attorney's Fees:

If either Party brings any action or proceeding against the other, including but not limited to, an action to enforce or to declare the termination, cancellation or revision of the Agreement, the prevailing Party in such action or proceedings shall be entitled to receive from the other Party all reasonable attorney's fees and costs, incurred in connection therewith.

23. Governing Law and Venue:

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action to interpret or enforce the terms of this Agreement shall be held exclusively in a state court in Plumas County, California. Manager expressly waives any right to remove such action from Plumas County.

24. Notices:

Any notices to be given hereunder by either Party to the other in writing may be affected either by personal delivery, mail, or email. Mailed notices shall be addressed to the Parties as set forth below, but each Party may change their address by written notice given in accordance with this section. Notices delivered personally or by

email will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of three (3) calendar days following the date of mailing.

CITY: City of Portola
Attention: Mayor
35 Third Avenue
Portola, CA 96122

MANAGER:

This Agreement is entered into this ____ day of _____, 2024.

CITY OF PORTOLA

MANAGER

By: _____
Pat Morton, Mayor

_____, Manager

Attest:

Approved as to Form:

Susan Scarlett, Interim City Manager

Steven C. Gross, City Attorney

EXHIBIT "A"
GENERAL RELEASE AGREEMENT

This General Release Agreement ("Release Agreement") is entered into by and between _____ ("Employee") and CITY OF PORTOLA ("City"), in light of the following facts:

A. Separation of Employment. The Parties acknowledge that pursuant to Section 12.B. of the Employment Agreement by and between City and Employee dated _____, 2024, ("Employment Agreement"), the City terminated Employee from Employee's at-will employment as of _____ ("Separation Date"). Pursuant to Sections 12.B. of the Employment Agreement, Employee has voluntarily agreed to accept the following severance payment from the City in consideration of the terms of this Agreement.

B. Severance Payment. Employee acknowledges that the City has no prior obligation to provide Employee with any severance benefits. However, pursuant to Section 12.B. of the Employment Agreement, and as consideration for this Agreement and the conditions set forth herein, the City agrees to provide the Employee the following benefits (collectively, "the Severance Payment"):

1. [Insert number] months' severance pay at Employee's current rate of pay in the amount of [insert written dollar amount] dollars and [insert written cents amount] cents [insert full amount \$xx,xxx.xx], less applicable payroll tax withholdings and deductions, in one lump sum payment; and

The Severance Payment shall be made within ten (10) days after Employee executes this Agreement or on the Separation Date, whichever is later, and only if Employee has not exercised Employee's right of revocation under section K, herein below.

C. Payment for Earned Compensation Employee acknowledges that Employee has been paid for all salary, unused and accrued vacation and other benefits in accordance with City policies, if any earned by Employee up to and including the Separation Date.

D. Release of Claims and Parties. As consideration for the Severance Payment and agreements described above, Employee on behalf of Employee, Employee's heirs, representatives, successors, and assigns, hereby irrevocably and unconditionally waives, releases and forever discharges the City and/or any of its members of the City Council, officials, officers, deputies, employees, agents, servants, representatives, successors, assigns, predecessors, divisions, branches, or attorneys, and all persons acting by, through, under or in concert with the City, past or present (collectively "Released Parties"), and each and all of them, from any and all charges, complaints, lawsuits, claims, liabilities, claims for relief, obligations, promises, agreements, contracts, interests, controversies, injuries, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, liens, judgments, indebtedness, and expenses (including attorneys' fees, interest, expenses, and costs actually incurred),

of any nature whatsoever, whether in law or in equity, KNOWN OR UNKNOWN, suspected or unsuspected, actual or potential (hereinafter referred to as “claim” or “claims”) which Employee at any time had or claimed to have, or which Employee may have or claim to have regarding any and all facts and circumstances that have occurred as of the date of this Agreement, including, without limitation, any and all claims related or in any manner incidental to Employee’s employment with the City and Employee’s separation from employment with the City. It is expressly understood by Employee that among the various rights and claims being waived by Employee in this release are those arising under the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621, et. seq.).

E. Section 1542 Waiver. The matters specifically released and dismissed by this Release Agreement shall include, but are not necessarily limited to, all claims and causes of action which Employee has against the City and/or any of the Released Parties arising on or before the date that this Release Agreement is executed, and ANY OTHER CLAIM OF ANY TYPE WHATSOEVER AGAINST THE CITY, AND/OR ANY OTHER RELEASED PARTY; WHETHER SUCH CLAIM IS KNOWN OR UNKNOWN TO EMPLOYEE AND/OR EMPLOYEE’S REPRESENTATIVES AND ATTORNEYS arising on or before the date that this Release Agreement is executed. As further consideration and inducement for this Release Agreement, to the extent permitted by law, Employee hereby waives and releases any and all rights under Section 1542 of the California Civil Code or any analogous state, local, or federal law, statute, rule, order or regulation, Employee has or may have with respect to any claims against the City. California Civil Code Section 1542 reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

Employee hereby expressly agrees that this Release Agreement shall extend and apply to all unknown, unsuspected, and unanticipated claims, injuries, losses and damages, as well as those that are now known and/or disclosed.

F. Entire Agreement and Admissibility. This Release Agreement constitutes the complete understanding between or among Employee on the one hand, and the City and any other Released Party on the other hand and supersedes any and all prior agreements, promises, representations or inducements, no matter their form, concerning the subject matter of this Release Agreement. The Parties desire that this Release Agreement represents a single integrated contract expressing the entire agreement of the Parties with respect to matters set forth herein. No promises, agreements or modifications to this Release Agreement made subsequent to the execution of this Release Agreement by these Parties shall be binding unless reduced to writing and signed by authorized representatives of these Parties. The Parties to this Release Agreement represent that this Release Agreement may be used as evidence in any subsequent proceeding in which any of the Parties alleges a breach of this Release Agreement or seeks to enforce its terms, provisions or obligations.

G. Representation by Counsel. Employee acknowledges that Employee is fully aware of Employee’s right to discuss any and all aspects of this matter with an attorney of Employee’s choice, that the City has advised

Employee of that right, that Employee has carefully read and fully understands the provisions of this Release Agreement and that Employee is voluntarily entering into this Release Agreement.

H. Severability. Should any of the provisions or terms of this Release Agreement be determined illegal, invalid, or unenforceable by any court or governmental agency of competent jurisdiction, validity of the remaining parts, terms, or provisions, shall not be affected thereby and said illegal, invalid, or unenforceable part, term, or provision shall be deemed not to be a part of this Release Agreement.

I. Governing Law. This Release Agreement is made and entered into in the State of California, and shall be governed, interpreted and enforced under the laws of the State of California. The Parties agree that jurisdiction and/or venue of any action involving the validity, interpretation; or enforcement of this Release Agreement or any of its terms, provisions, or obligations, or claiming breach thereof, shall exist exclusively in a court or government agency located within the County of Plumas, State of California.

J. Time for Acceptance of Agreement. Employee may accept this offer by signing below no later than twenty-one (21) days from the day Employee receives it and by returning the signed and dated Release Agreement to the City no later than the close of business on the twenty-first (21st) day after the date Employee receives this offer.

K. Right of Revocation. This Release Agreement contains a waiver and release of all claims that Employee may currently have under the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621-634). Employee understands and agrees that Employee:

1. Has reviewed all aspects of this Release Agreement;
2. Has carefully read and fully understands all of the provisions of this Release Agreement;
3. Has had a full twenty-one (21) days within which to consider this Release Agreement before executing it;
4. Is, through this Release Agreement, releasing the City and the Released Parties from any and all claims Employee may have;
5. Knowingly and voluntarily agrees to all of the terms set forth in this Release Agreement;
6. Knowingly and voluntarily intends to be legally bound by the terms set forth in this Release Agreement;
7. Was advised, and by this Release Agreement is advised in writing, to consider the terms of this Release Agreement and consult with Employee's attorney prior to executing this Release Agreement;
8. Has a full seven (7) days following the execution of this Release Agreement to revoke this Release Agreement and has been and is hereby advised in writing that this Release Agreement shall not become effective or enforceable until the revocation period has expired; and
9. Understands that rights or claims including those under the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621-634) that may arise after the date of this Release Agreement is executed are not waived.

PLEASE READ CAREFULLY. THIS AGREEMENT AND RELEASE INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

L. Fees and Costs. Employee and City agree that in the event of litigation relating to this Release Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs.

This Agreement is entered into this _____ day of _____, 2024.

CITY OF PORTOLA

EMPLOYEE

By: _____
Pat Morton, Mayor

Attest:

Approved as to Form:

Susan Scarlett, Interim City Manager

Steven C. Gross, City Attorney