

**EXTENSION TO EMPLOYMENT AGREEMENT  
BETWEEN THE CITY OF CAMBRIDGE  
AND  
LOUIS A. DEPASQUALE**

THIS EMPLOYMENT AGREEMENT (hereinafter "this Agreement"), pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, is made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **CITY OF CAMBRIDGE** (hereinafter "the City"), acting by and through its City Council, with a principal place of business at 795 Massachusetts Ave., Cambridge, Massachusetts 02139, and **LOUIS A. DEPASQUALE** (hereinafter "Mr. DePasquale" or the "City Manager") (collectively the "Parties".)

WHEREAS, Mr. DePasquale has served as the City Manager for the City since November 14, 2016; and

WHEREAS, Mr. DePasquale's contract as the City Manager ends on January 8, 2021; and

WHEREAS, the City recognizes the many positive contributions Mr. DePasquale has made to City during his tenure as City Manager; and

WHEREAS, the City wishes to extend Mr. DePasquale's employment contract as the City Manager for an additional period of time under the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**SECTION 1 - EMPLOYMENT OF MR. DEPASQUALE**

1.1 The City, pursuant to applicable provisions of the Massachusetts General Laws, Chapter 41, Section 108N, and the City Charter, hereby employs Mr. DePasquale as the City Manager for the City effective January 9, 2021 and Mr. DePasquale hereby accepts such employment under the terms and conditions of this Agreement and the City Charter.

1.2 Mr. DePasquale and the City agree that Mr. DePasquale's employment with the City as the City Manager shall be extended for an eighteen (18) month period commencing on January 9, 2021 through and including July 5, 2022. Mr. DePasquale and the City agree that there shall be no break in his service as City Manager from his existing contract through his eighteen (18) month extension.

1.3 Mr. DePasquale shall devote his full working time to his duties as the City Manager and shall not engage in any business activity during the Term of this Agreement except with the advance written consent of the City Council.

## **SECTION 2 - SERVICES**

2.1 Mr. DePasquale will exercise the full authority and perform all the functions, duties and responsibilities of the City Manager as specified in Massachusetts General Laws Chapter 43, Sections 93 through 108 inclusive, and shall perform other legally permissible and proper duties and functions as the City Council may from time to time assign to him. The City acknowledges Mr. DePasquale as the Chief Executive of the City government.

2.2 The City Council may, from time to time and in consultation with Mr. DePasquale, establish policies, subject to the City Charter, and the City Manager shall carry out those legislative policies in accordance with the City Charter. The failure by the City Council to establish any specific policies shall in no way and to no extent relieve Mr. DePasquale from any of his obligations pursuant to Section 2.1, above.

## **SECTION 3 - TERM**

3.1 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of Mr. DePasquale and this Agreement at any time subject to the provisions of Section 5 of this Agreement.

3.2 Subject to the provisions of this Agreement, Mr. DePasquale's contract extension as the City Manager for the City shall become effective commencing on January 9, 2021 and ending on July 5, 2022.

3.3 Mr. DePasquale shall undertake his duties promptly upon the commencement of this Agreement and shall diligently and faithfully perform those duties in a professional manner.

## **SECTION 4 - COMPENSATION AND BENEFITS**

4.1 The City Council recognizes Mr. DePasquale's unique and invaluable experience and familiarity with the City's needs and operations that Mr. DePasquale has acquired in his more than 40 years of employment with the City, including his 4 years of service as City Manager, 14 years of service as the Assistant City Manager for Fiscal Affairs and 20 years as Budget Director in setting the salary of Mr. DePasquale as City Manager.

Accordingly, in recognition of his outstanding service to the City as City Manager during his original contract period, Mr. DePasquale's starting salary for the first contract year of this eighteen (18) month contract extension, shall be three hundred thirty thousand nine hundred thirty-seven dollars (\$330,937.00), to be distributed through the normal payroll system. Commencing July 1, 2021 and

thereafter on each July 1st, for the term of this Agreement, the City Manager's annual salary shall increase by 2.5% of the then-current salary amount. However, in the event the City Manager's annual 2.5% salary increase exceeds the annual salary increase of Cambridge non-union employees, then the City Manager's salary increase for that given year shall be the same percentage increase as the Cambridge non-union employees.

For the term of this Agreement, starting January 9, 2021 and ending ~~January 10, 2023~~, the City Manager's annual salary, based on a 2.5% annual increase, shall be as follows:

*July  
5  
2022*

<u>Dates</u>	<u>2.5% increase each July 1st.</u>
January 9, 2021	\$330,937.00
July 1, 2021	\$339,210.00
July 1, 2022	\$347,690.00

In the event that Mr. DePasquale serves for less than a full contract year, in accordance with this Agreement and the City Charter his salary shall be prorated for the portion of the contract year actually served. The City Manager's salary shall be subject to withholdings and deductions in accordance with applicable federal and state laws. The City Manager's per diem rate shall be calculated by dividing the salary for the contract year by 261.

4.2 The City Manager acknowledges that he is an exempt employee under the federal Fair Labor Standards Act ("FLSA") and Massachusetts overtime provisions, including provisions providing for compensatory time in lieu of overtime pay, and that he is not entitled to any overtime pay or compensatory time pursuant to the FLSA, provisions in the Massachusetts General Laws, or provisions in City ordinances, except for compensatory time provided for under this Agreement.

4.3 General Benefits

The City Manager shall be entitled to all medical, dental, vision, hospital, life insurance, and other benefits not otherwise covered by this Agreement, and those generally available to other non-union managerial personnel employed by the City on the same terms, conditions, and limitations as such benefits are generally available as a matter of uniform City policy to all other non-union managerial personnel employed by the City. He shall be eligible for the same holiday, personal and administrative leave benefits, and all such other benefits of employment, including but not limited to deferred compensation, flexible spending, longevity, managerial allowance, sick leave incentive pay, and tuition reimbursement, as are provided to other non-union management employees of the City, excluding any benefits which are provided only as a matter of individual employment contract with other employees.

#### 4.4 Vacation Time

The City Manager shall be entitled to twenty-five (25) working days of vacation per contract year, exclusive of legal holidays. Such vacation shall be awarded at the beginning of each calendar year, as is the practice with other managerial employees. Subject to the second paragraph of this Section, the City Manager may carry over up to and including five (5) days of accrued unused vacation time from one contract year to the subsequent contract year, but in no event shall the City Manager carry forward more than five days of vacation in any one contract year. The City Manager may be compensated for up to fifteen (15) unused vacation days per year to be paid at his then current salary. If he elects to buy back such vacation time, he shall not be eligible to carry over any of the vacation time awarded for that year into the next calendar year.

The Parties further agree that at the time of his retirement or termination, Mr. DePasquale shall be eligible to be compensated, at his then existing rate of pay, for all of his accumulated vacation, personal, compensatory and administrative leave that remained unused at the time of retirement or termination and that was earned by him in the position of City Manager.

#### 4.5 Sick Leave

The City Manager shall be entitled to fifteen (15) days sick leave awarded at the beginning of each calendar year, as is the practice with other non-union managerial employees. Sick leave shall accumulate unlimited, year to year. Sick leave use shall be subject to the same policies and rules as govern use by other non-union employees. Sick leave accumulated by the City Manager prior to the signing of this Agreement shall be carried into this Agreement. Upon his death, retirement, or termination under the terms of Section 5 of this agreement, the City Manager shall be eligible to be compensated for any unused sick leave at the rate then provided for management and non-union employees of the City.

#### 4.6 Transportation

The City Manager shall be provided with the use of a City owned or leased automobile for the City Manager's unrestricted use. Insurance, maintenance and repairs and gasoline in connection with the operation of said automobile shall be paid by the City. Upon termination of this Agreement and the City Manager's employment with the City, he shall return the automobile to the City.

#### 4.7 Cellular Phone and Equipment

The City Manager shall be provided with a cellular phone, tablet, lap top and other necessary devices to be used in accordance with his duties for the City. It is understood that some moderate personal use will be permitted in recognition of the City Manager's work schedule. Upon termination of this Agreement and the City Manager's employment with the City, he shall return the equipment to the City.

#### 4.8 Compensatory Time

The City Manager acknowledges that he is frequently required or called upon to perform work outside of the normal office hours of the City and he commits to performing such work. The City Council recognizes that the City Manager's hours require that he devote a great deal of time outside of the normal office hours of the City and the City shall permit the City Manager to earn and take up to three weeks of non-FLSA compensatory time off per year. One week of earned but unused compensatory time may be carried over from one Contract Year to the subsequent Contract Year, on a cumulative basis.

This provision shall survive the termination of this Agreement.

#### 4.9 Life Insurance

The City Manager shall be covered by an insurance policy in the amount of \$250,000 payable to the beneficiary/beneficiaries named by the City Manager. The insurance may include "whole life", "paid up" or "cash value" insurance at the discretion of the City Manager. The premium cost of this insurance shall continue to be paid by the City after and throughout Mr. DePasquale's retirement as part of his supplemental benefits pursuant to this agreement.

This provision shall survive the termination of this Agreement.

### **SECTION 5 - REMOVAL, TERMINATION AND SUSPENSION**

5.1 Mr. DePasquale may terminate this Agreement and his employment with the City at any time by giving the Mayor and City Council written notice at least 4 (four) months prior to the effective date of termination. With the exception of payment for accrued unused vacation, and sick leave as provided in paragraphs 4.4 and 4.5 above, and other benefits, as provided in paragraphs 4.3 above, as well as the compensatory time as provided in paragraph 4.8 above and other accrued benefits as are due to Mr. DePasquale under the terms of this Agreement, Mr. DePasquale shall not be entitled to receive any other compensation or benefits after the date of termination under this Section 5.1.

5.2 Subject to the ADA and other applicable statutes, ordinances and laws, Mr. DePasquale may be suspended and/or removed as the City Manager, and this Agreement terminated, for "Cause," by a majority vote of the City Council. For the purposes of this Agreement, the term "Cause" shall mean conviction of a felony; serious conduct unbecoming a City Manager; repeated inefficiency or incompetency in the performance of his duties as City Manager; provided however, that the City Council has given prior written notice to Mr. DePasquale of any such misconduct, inefficiency or incompetency and thirty (30) days to cure any such alleged misconduct, inefficiency or incompetency. With the exception of payment for accrued unused vacation, and sick leave as provided in paragraphs 4.4 and 4.5 above, and other

benefits, as provided in paragraph 4.3 above, as well as the compensatory time as provided in paragraph 4.8 above and other accrued benefits as are due to Mr. DePasquale under the terms of this Agreement, Mr. DePasquale shall not be entitled to receive any other compensation or benefits after the date of termination under this Section 5.2.

5.3 Mr. DePasquale may be removed as City Manager, and this Agreement terminated at any time for any reason by majority vote of the City Council. If such termination is not for "Cause" pursuant to Section 5.2 of this Agreement, and Mr. DePasquale is willing and able to perform his duties under this Agreement, in addition to the other payments specified in Sections 4.3, 4.4, 4.5, and 4.8 of this Agreement, the City shall pay him an early termination payment in a lump sum, minus withholdings required by law or authorized by Mr. DePasquale, in an amount equal to the remaining balance due on his contract period.

#### **SECTION 6 - INDEMNIFICATION**

6.1 To the fullest extent permitted by law, the City shall (1) defend, save harmless and indemnify the City 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 his duties as City Manager, even if said claim has been made following his termination from employment, provided that the City Manager acted within the scope of his duties, and (2) shall pay the amount of any settlement or judgment rendered thereon. The City may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the City Manager.

The City shall reimburse the City Manager for any attorneys' fees and costs incurred by the City Manager in connection with such claims or suits involving the City Manager in his professional capacity.

This indemnification shall continue to apply to the City Manager after he leaves the employment of the City.

Indemnification of Mr. DePasquale shall not apply to any proceeding to terminate his employment as the City Manager pursuant to statute, or this Agreement, unless the City manager is found not to have violated section 5.2 of this agreement. Mr. DePasquale agrees to cooperate fully with the City and the City's attorney in any claim, suit, or matter in which the City is indemnifying Mr. DePasquale. Mr. DePasquale shall be paid the existing daily rate for his position at the time of his retirement or other end of his service for time spent for testimony or consultation by or on behalf of the City in defense of such claims or actions. This Section 6.1 also applies with respect to claims, suits, or matters which arise out of Mr. DePasquale's performance of his duties for the City prior to his position of City Manager.

In addition, the City agrees to review purchasing "Directors and Officers" liability insurance from an outside company for the City Manager as to coverage and cost. If the City Manager and the City Council agree on the purchase of such insurance after the City's review, the City shall purchase such coverage at the City's expense for the City Manager.

This Section 6 shall survive the termination of this Agreement.

### **SECTION 7 - GENERAL PROVISIONS**

7.1 This Agreement constitutes the entire agreement between the City and Mr. DePasquale regarding the subject matter hereof and may be changed (amended, modified, or terms waived) only if mutually agreed to by the Parties and set forth in a writing approved by majority vote of the City Council and signed by the Mayor and by Mr. DePasquale, subject to the City Charter.

7.2 Notwithstanding the foregoing Section 7.1, above, the Parties agree that, to the extent not inconsistent with this Agreement and to the extent not expressly addressed by this Agreement, the general policies, rules, and regulations of the City which apply to its employees are incorporated herein.

7.3 Any notices pursuant to this Agreement shall be directed to Mr. DePasquale at his residence as identified in the City's personnel records for Mr. DePasquale and made by in-hand delivery or by certified mail, return receipt requested. Any such notices shall be directed to the City and made by certified mail return receipt requested to the office of the Mayor.

7.4 This Agreement is governed by and shall be construed in accordance with the laws of the Commonwealth of Massachusetts and the City Charter.

7.5 Unless the Parties expressly agree in writing to extend or renew the employment relationship between the City and Mr. DePasquale subject to the City Charter, such employment relationship between the City and Mr. DePasquale shall terminate on July 5, 2022.

7.6 If any portion or provision of this Agreement is held unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, the remainder of the Agreement will be considered severable, will not be affected, and will remain in full force and effect. The language of all parts of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against either Party.

7.7 Subject to this Agreement, all other general provisions of the City's ordinances, rules or policies relating to uniform benefits for non-union management employees shall also apply to the City Manager in addition to the benefits enumerated herein for the City Manager.

In witness whereof, the City Council of the City of Cambridge has voted that this agreement be entered into as duly attested by its City Clerk and Mr. DePasquale has signed and executes this Agreement this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY MANAGER

CITY OF CAMBRIDGE

\_\_\_\_\_  
Louis A. DePasquale

\_\_\_\_\_  
Sumbul Siddiqui, Mayor

\_\_\_\_\_  
Anthony J. Wilson  
City Clerk

\_\_\_\_\_  
Alanna M. Mallon,  
Vice Mayor

Approved as to Legal Form

\_\_\_\_\_  
Dennis J. Carlone

\_\_\_\_\_  
Nancy E. Glowa  
City Solicitor

\_\_\_\_\_  
Marc C. McGovern

\_\_\_\_\_  
Patricia M. Nolan

\_\_\_\_\_  
E. Denise Simmons

\_\_\_\_\_  
Jivan Sobrinho-Wheeler

\_\_\_\_\_  
Timothy J. Toomey, Jr.

\_\_\_\_\_  
Quinton Y. Zondervan