

**CITY OF LAKE DALLAS, TEXAS  
CITY MANAGER EMPLOYMENT AGREEMENT**

**THE STATE OF TEXAS   §  
                                  §           **KNOW ALL MEN BY THESE PRESENTS:**  
COUNTY OF DENTON   §**

This City Manager Employment Agreement (“Agreement”) is made and entered into as of the Effective Date by and between the City of Lake Dallas, a Texas, home rule municipality (the “City”), and John Cabrales Jr. (the “Manager”), (each a “Party” and collectively the “Parties”)

**WITNESSETH:**

**WHEREAS**, the City Council of the City (the “Council”) and the Manager believe that an employment agreement negotiated between the Council, on behalf of the City, and the Manager can be mutually beneficial to the City, the Manager, and the community they serve; and

**WHEREAS**, when appropriately structured, the Council and the Manager believe an employment agreement can strengthen the Council-Manager relationship by enhancing the excellence and continuity of the management of the City for the benefit of its citizens; and

**WHEREAS**, the Council, on behalf of the City, desires to employ the services of the Manager, as the city manager of the City ("City Manager"), pursuant to the terms, conditions and provisions of this Agreement;

**WHEREAS**, the Manager has agreed to accept employment as the City Manager, subject to the terms, conditions and provisions of this Agreement.

**NOW, THEREFORE**, the City and the Manager, for and in consideration of the terms, conditions and provisions hereinafter established have agreed, and do hereby agree as follows:

**Article I  
Term**

1.1 **Initial Term.** The Term of this Agreement shall be for a period of two (2) years beginning on January 1, 2018 (the “Commencement Date”), and ending on December 31, 2019, provided, however, that the Term of this Agreement shall be subject to earlier termination by a Unilateral Severance (as defined and set forth in Section 6.4 below) at the pleasure of the Council.

1.2 **Extended Term.** The Term of this Agreement shall be extended automatically for additional periods of one (1) year each (each an “Extended Term”), such extensions to be effective on the anniversary of each Commencement Date (with the first being effective on the second anniversary of the Commencement Date), unless the Council notifies the Manager in accordance with Section 6.5, below, that it has voted to not extend this Agreement beyond the end of the Term.

1.3. Extension. The City may, by action of the Council, and with the consent and approval of the Manager, extend the Term of this Agreement for any period of time different than the Extended Term set forth in Section 1.2, above.

1.4 "Term" Defined. When used in this Agreement, the word "Term" and the phrase "Term of this Agreement" shall mean, collectively, the Initial Term and all Extended Terms.

## **Article II Employment**

2.1 Chief Executive Officer. The Manager is the chief executive officer of the City and shall faithfully perform the duties of the City Manager as prescribed in the job description, as set forth in the City Charter, and City ordinances and, as may be lawfully assigned by the Council (collectively the "City Manager's Duties"). Further, the Manager shall comply with (collectively "Applicable Laws and Authorities"): state and federal law; the City's Charter, all City policies, rules, regulations and ordinances as they exist or may hereinafter be amended; and, all lawful Council directives. All duties assigned to the Manager by the Council shall be appropriate to and consistent with the professional role and responsibility of the City Manager position.

2.2 Duties. The Council does hereby employ Manager as City Manager to perform the City Manager's Duties with reasonable care, diligence, skill and expertise and in accordance with and pursuant to all Applicable Laws and Authorities and each of the following duties to the full extent not prohibited by or in conflict with any existing provisions of the City's Charter, ordinances or Applicable Laws and Authorities, which Duties shall include, but not be limited to:

- (a) Employ, on behalf of the City, all other employees of the City, unless specified otherwise in the City Charter;
- (b) Direct, assign, reassign and evaluate all of the employees of the City other than those appointed by City Council;
- (c) Organize, reorganize and arrange the staff of the City;
- (d) Develop and establish internal regulations, rules, and procedures which the Manager deems necessary for the efficient and effective operation of the City; and
- (e) Accept all resignations of employees of the City, except the Manager's resignation which must be accepted by the Council.

2.3 Reassignment. The Manager cannot be reassigned from the position of City Manager to another position within the City without the Manager's prior express written consent.

2.4 Council Meetings. Except to the extent prohibited by or in material conflict with Applicable Laws and Authorities, the Manager or the Manager's designee shall attend, and shall be permitted to attend, all meetings of the Council, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on this

Agreement, or any amendment thereto, the Manager's evaluation, or for purposes of resolving conflicts between individual Council members.

2.5 Criticisms, Complaints and Suggestions. The Council, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints, and suggestions called to the Council's attention to the Manager for study and/or appropriate action, and the Manager shall refer the matter(s) to the appropriate City employee or shall investigate such matter(s) and inform the Council of the results of such efforts.

2.6 Indemnification. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, TEXAS CIVIL PRACTICE & REMEDIES CODE CHAPTER 102, THE CITY DOES HEREBY AGREE TO DEFEND, HOLD HARMLESS, AND INDEMNIFY MANAGER FROM ANY AND ALL DEMANDS, CLAIMS, SUITS, ACTIONS, JUDGMENTS, EXPENSES AND ATTORNEYS' FEES INCURRED IN ANY LEGAL PROCEEDINGS BROUGHT AGAINST MANAGER IN THE MANAGER'S INDIVIDUAL OR OFFICIAL CAPACITY AS AN EMPLOYEE AND AS CITY MANAGER, PROVIDING THE INCIDENT(S), WHICH IS (ARE) THE BASIS OF ANY SUCH DEMAND, CLAIM, SUITS, ACTIONS, JUDGMENTS, EXPENSES AND ATTORNEYS' FEES, AROSE OR DOES ARISE IN THE FUTURE FROM AN ACT OR OMISSION OF MANAGER, AS AN EMPLOYEE OF THE CITY, ACTING WITHIN THE COURSE AND SCOPE OF THE MANAGER'S EMPLOYMENT WITH THE CITY; EXCLUDING, HOWEVER, ANY SUCH DEMAND, CLAIM, SUITS, ACTIONS, JUDGMENTS, EXPENSES AND ATTORNEYS' FEES FOR THOSE CLAIMS OR ANY CAUSES OF ACTION WHERE IT IS DETERMINED THAT THE MANAGER COMMITTED OFFICIAL MISCONDUCT, OR COMMITTED A WILLFUL OR WRONGFUL ACT OR OMISSION, OR AN ACT OR OMISSION CONSTITUTING GROSS NEGLIGENCE, OR ACTED IN BAD FAITH; AND EXCLUDING ANY COSTS, FEES, EXPENSES OR DAMAGES THAT WOULD BE RECOVERABLE OR PAYABLE UNDER AN INSURANCE CONTRACT, HELD EITHER BY THE CITY OR BY THE MANAGER. THE SELECTION OF THE MANAGER'S LEGAL COUNSEL SHALL BE WITH THE MUTUAL AGREEMENT OF THE MANAGER AND THE CITY IF SUCH LEGAL COUNSEL IS NOT ALSO CITY'S LEGAL COUNSEL. A LEGAL DEFENSE MAY BE PROVIDED THROUGH INSURANCE COVERAGE, IN WHICH CASE THE MANAGER'S RIGHT TO AGREE TO LEGAL COUNSEL PROVIDED FOR HIM WILL DEPEND ON THE TERMS OF THE APPLICABLE INSURANCE CONTRACT. TO THE EXTENT THIS SECTION 2.6 EXCEEDS THE AUTHORITY PROVIDED AND LIMITATIONS IMPOSED BY TEXAS CIVIL PRACTICE & REMEDIES CODE, CHAPTER 102, IT SHALL BE CONSTRUED AND MODIFIED ACCORDINGLY. THE PROVISIONS OF THIS SECTION 2.6 SHALL SURVIVE THE TERMINATION, EXPIRATION OR OTHER END OF THIS AGREEMENT AND/OR THE MANAGER'S EMPLOYMENT WITH THE CITY.**

2.7 Appropriation. The Council has appropriated, set aside and encumbered, and does hereby appropriate, set aside, and encumber, available and otherwise unappropriated funds of the City in an amount sufficient to fund and pay all financial obligations of the City pursuant to this Agreement.

2.8 Hours of Work. The Manager acknowledges the proper performance of the duties of the City Manager of the City will require the Manager to generally observe normal business hours and will also often require the performance of necessary services outside of normal business hours. The Manager agrees to devote such additional time as is necessary for the full and proper performance of the Manager's duties and that the compensation herein provided includes compensation for the performance of all such services. Consequently, the Manager understands and agrees that work performed outside of the City's regular office hours will not entitle the Manager for "comp time" or other compensation other than the Annual Base Salary and other pay and benefits expressly set forth in this Agreement. However, the City intends that reasonable time off be permitted the Manager, such as is customary for exempt employees so long as the time off does not interfere with the normal conduct of the office of the City Manager. The Manager will devote full time and effort to the performance of the City Manager's Duties, and shall remain in the exclusive employ of the City during the term of this Agreement; provided that, with the prior consent of the Council, the Manager may accept temporary, outside professional employment which will not in any way interfere with the performance of, or the Manager's availability for the performance of, the Manager's duties hereunder. The term "outside professional employment" means professional services provided to third parties for which the Manager is compensated and which are performed on the Manager's time off. The Council encourages the Manager to accept invitations to speaking engagements, writing or other opportunities to communicate with the community, to make use of and share data and information with relevant persons and groups, and shall encourage the participation of the Manager in pertinent seminars, groups, associations and organizations, as well as in informational meetings with those individuals whose particular skills, expertise, or backgrounds would serve to improve the capacity of the Manager to perform the City Manager's Duties. The Council acknowledges that the Manager is a member of the International City/County Management Association (ICMA), the Texas City Managers Association (TCMA) and other professional and civic organizations that sometimes require the Manager to travel to attend meetings, training and conferences, attendance at which will be considered part of the Manager's work hours when attendance is related to professional development, serving in a representative capacity for the City, or other reasons that are not merely personal in nature.

### **Article III Compensation**

3.1 Salary. The City shall provide the Manager with an annual salary in the sum of One Hundred and Ten Thousand Dollars (\$110,000) payable in installments at the same time as other employees of the City are paid and subject to the same applicable deductions for employee benefit contributions (the "Annual Base Salary").

3.2 Optional Salary Adjustments. At any time during the Term of this Agreement, the Council may, in its discretion, review and adjust the salary of the Manager, such as annual merit pay adjustment, but in no event shall the Manager be paid less than the salary set forth in Paragraph 3.1 of this Agreement, except by mutual agreement of the Parties. Such adjustments, if any, shall be made pursuant to lawful Council action. In such event, the Parties agree to provide their best efforts and reasonable cooperation to execute a new agreement or amendment to this Agreement incorporating the adjusted salary.

3.3 Paid Leaves – Vacation, Sick/Personal and Holiday. The Manager may take, at the Manager's choice, the same number of hours of vacation authorized for other full-time exempt employees of the City, the leave to be in a single period or at different times. The vacation leave taken by the Manager will be taken at such time or times as will least interfere with the performance of the City Manager's Duties. The Manager is hereby granted an initial one hundred twenty (120) hours of vacation time effective as of the Commencement Date. In addition, beginning on the Commencement Date, the Manager shall accumulate and be required to use vacation and sick/personal leave benefits at the same rate and subject to the same deadlines as authorized by Council policies for other full-time City employees who have been employed with the City for ten or more years. The Manager shall also receive the same paid holiday leave as provided by the City for other full-time City employees.

3.4 Benefits – General. Unless expressly provided otherwise in this Agreement, in addition to those benefits specifically set forth herein, the Manager shall be entitled to the same benefits that are enjoyed by any other City employees of the City pursuant to all Applicable Laws and Authorities.

3.5 Insurance – Health. The City agrees to pay on behalf of the Manager the portion of the premiums paid by the City for health, hospitalization, vision, dental and comprehensive medical insurance for the Manager's coverage pursuant to the City's group health care plan to the same extent provided by the City for other City employees. The Manager acknowledges and understands that the City shall not be responsible for payment of the employee portion of the premium for spouse of family coverage under the City's group health plan.

3.6 Insurance – Life. The City agrees to pay on behalf of the Manager the portion of the premiums for life, accidental death and dismemberment, and short-term disability insurance for the Manager pursuant to the City's group insurance plan to the same extent provided by the City for other City employees.

3.7 Retirement Benefit.

(a) The City agrees to enroll the Manager into the Texas Municipal Retirement System and to make at least the same level of contributions for the Manager or on the Manager's behalf as the City does for other City employees consistent with all Applicable Laws and Authorities.

(b) The Parties agree to execute all necessary agreements provided by the International City/County Management Association Retirement Corporation (ICMA-RC) for the Manager's participation in said ICMA-RC retirement plans. Each calendar year during the Term of this Agreement, the City agrees to contribute to the Manager's ICMA-RC retirement account on behalf of the Manager an amount equal to five percent (5%) of the Manager's Annual Base Salary (as adjusted pursuant to Section 3.2), which contribution shall be divided into approximately 26 equal installments and made bi-weekly with each pay period. The Parties understand and acknowledge the contributions to the Manager's ICMA-RC account shall be in addition to and not deducted from the Manager's Annual Base Salary. The Manager will also be allowed to contribute whatever portion of the Manager's annual salary to the ICMA-RC retirement account provided the total of

the City's contributions and the Manager's contributions does not exceed the maximum contribution allowed by law or pursuant to the ICMA-RC plan agreements.

3.8 Expenses. The City shall pay or reimburse the Manager for reasonable expenses incurred by the Manager in the continuing performance of the Manager's duties under this Agreement. The City agrees to pay the actual and incidental costs incurred by the Manager for travel to destinations outside the City in accordance with applicable City policies regarding reimbursement for such expenses and subject to the availability of funds for such purposes in the City's annual budget. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, rental car, and other expenses incurred in the performance of the business of the City. The Manager shall comply with all procedures and documentation requirements in accordance with City policies and Applicable Laws and Authorities in order to be entitled to payment or reimbursement pursuant to this Section 3.8.

3.9 Bonds. The City shall bear the full cost of any fidelity or other bonds required of the Manager under any law or ordinance.

3.10 Civic Activities. The Manager is encouraged to participate in community and civic organizations and activities. The cost of such activities shall be borne by the City but shall be subject to available funds budgeted for such purposes in the City's annual budget.

3.11 Automobile Allowance. The Council shall provide the Manager with an automobile allowance in the sum of three hundred Dollars (\$300) per month, which payment is in lieu of mileage expense reimbursement, gasoline or other vehicle upkeep charges associated with travel to using Manager's personal vehicle in the performance of the City Manager's Duties on behalf of the City. This allowance shall be paid in addition to the annual salary set forth in Paragraph 3.1 of this Agreement. The Manager will be reimbursed by the City on a per mile basis for business travel by the Manager using the Manager's personal automobile to destinations beyond fifty (50) miles from the City's incorporated limits in accordance with City policy as for other administrative employees.

#### **Article IV Professional Associations**

4.1 Professional Dues and Subscriptions. The City agrees to budget for and to pay for professional dues and subscriptions of the Manager necessary for continuation and full participation in national, state, regional, and local associations and organizations as necessary and/or desirable for the good of the City through the Manager's continued professional participation, growth and advancement.

4.2 Professional Development Travel. The City agrees to budget for and to pay for travel and subsistence expenses of the Manager for professional and official travel and meetings, to adequately continue the professional development of the Manager, and to pursue necessary official functions for the City, including but not limited to the Texas Municipal League annual conference and regional meetings, the Texas City Management Association annual conference, Texas Economic Development Council, and such other state and local governmental groups and

committees in which the Manager is a member. The Manager and City Council shall agree upon an amount to be budgeted for the Manager's Professional Development Travel as provided in this Section 4.2. City shall not be obligated to pay directly or reimburse the Manager for costs related to Professional Development Travel outside the State of Texas unless approved in advance by the City Council or identified and included in the City's annual budget.

4.3 Professional Continuing Education. The City also agrees to budget for and to pay for travel and subsistence expenses of Manager for short courses, institutes, and seminars that are necessary and/or desirable for the good of the City through the Manager's professional development.

## **Article V Performance Evaluation**

5.1 Evaluation Process. The Council shall review the Manager's job performance at least once annually with the first review being not later than November 1, 2018, and subsequent annual reviews to occur between October 1 and December 1 of each year thereafter unless the Parties agree otherwise. The annual performance reviews and evaluations shall be in writing and in accordance with criteria and format developed jointly by the Council and the Manager. The Council shall provide the Manager a reasonable and adequate opportunity to discuss with the Council and/or respond to the Council's evaluation of the Manager. The annual performance reviews and evaluations shall be reasonably related to the Manager's written job description, the City Charter, and this Agreement, and other acts of the City Council setting forth the City Manager's Duties, and shall be based, in whole or in part, on goals for the Manager's performance that are jointly developed and adopted by the Council and the Manager.

5.2 Confidentiality. Unless the Manager expressly requests otherwise in writing, except to the extent prohibited by or in material conflict with Applicable Laws and Authorities, the evaluation of the Manager shall at all times be conducted in closed session of the Council and shall be considered confidential to the maximum and full extent permitted by law. Nothing herein shall prohibit the Council or the Manager from sharing the content of the Council's evaluation of the Manager with their respective legal counsel.

5.3 Modification of Evaluation Process. In the event the Council determines that the evaluation instrument, format and/or procedure are to be modified by the Council, and such modifications would require new or different performance expectations, then the Manager shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

## **Article VI Termination**

6.1 Termination of Agreement. This Agreement shall terminate upon any of the following:

- (a) By written agreement of the Council and Manager, approved by a simple majority of the City Council, and signed by Parties;
- (b) Resignation, retirement or death of the Manager;
- (c) Termination for Cause pursuant to Section 6.3;
- (d) A Unilateral Severance pursuant to Section 6.4; or
- (e) An End of Contract Termination pursuant to Section 6.5.

6.2 “Resignation, Retirement or Death”. For purposes of this Agreement if the Manager terminates this Agreement by voluntary resignation, the Manager shall provide written notice not less than thirty (30) days prior to the Manager’s last day of employment with the City, unless the Council agrees to accept the resignation with shorter notice. The Manager shall be paid the value of any accrued but unused vacation and sick/personal leave days, computed on an hourly basis determined by dividing the Manager’s then current annual salary by 2080 hours. In the event of termination of this Agreement as the result of the Manager’s resignation or death, the Manager, or the Manager’s estate, as the case may be, shall be entitled to the same benefits on the same basis as any other City employee. In event of the Manager’s death, the Manager’s effective payroll and benefit termination date shall be ten (10) days after the date of his death.

6.3 “Termination for Cause”. In the event the Manager is indicted or convicted of a felony offense or misdemeanor involving any of the following and the Council, upon an affirmative vote of a majority of the City Council, terminates the employment of the Manager as provided in this Section 6.3, the City shall have no obligation to pay any additional compensation to the Manager, including, but not limited to, any Unilateral Severance Benefits set forth in Section 6.4, below. For purposes of this Agreement, “Termination for Cause” shall mean and include any of the following:

- (a) Any intentional, knowing, grossly negligent, or negligent breach, or habitual neglect of any provision of this Agreement, or any willful, knowing, grossly negligent, or negligent breach, or habitual neglect of any duty or obligation required to be performed by City Manager under this Agreement or under the Charter and ordinances of the City and/or the laws of the United States or the State of Texas.
- (b) Indictment or conviction, including probation or deferred adjudication, deferred disposition of a felony or misdemeanor involving theft, fraud, bribery, forgery, perjury, abuse of public office, illegal drugs or controlled substances, or a crime involving misapplication of public funds, or personal gain of the Manager;
- (c) Any intentional, knowing, grossly negligent, or negligent misapplication or misuse, direct or indirect, by the Manager of public or other funds or other property, real, personal, or mixed, owned by or entrusted to the City, any agency or corporation thereof, or the Manager in his official capacity as City Manager.



If the City terminates this Agreement for cause pursuant to this Section 6.3, the City shall give the Manager not less than five (5) days written notice before a scheduled meeting that the Council intends to vote terminate the Agreement for cause. A for cause termination pursuant to this Section 6.3 shall be approved only upon a vote of the City Council in accordance with Section 4.01.01 of the City Charter. A termination pursuant to this Section 6.3 will be effective ten (10) days following the Council's vote to approve the termination. The Manager shall be paid the value of any accrued but unused vacation and sick/personal leave days, computed on an hourly basis determined by dividing the Manager's then current Annual Base Salary by 2080 hours. In the event of termination pursuant to this Section 6.3, the Manager shall be entitled to the same benefits on the same basis as any other City employee.

6.4 "Unilateral Severance". The Council may unilaterally and at its sole discretion end the Manager's employment relationship with the City and terminate this Agreement without the need for a prior determination of cause as provided in Section 6.3 (the "Unilateral Severance") subject to the following:

(a) The City shall give the Manager written notice not less than five (5) days before a scheduled meeting at which the Council intends to vote to approve a Unilateral Severance;

(b) The City Council vote to approve a Unilateral Severance shall be in accordance with Section 4.01.01 of the City's City Charter;

(c) Not later than five (5) days after the effective date of the Unilateral Severance, the City shall pay the Manager an amount equal to:

(i) three (3) times the then current amount of the monthly Automobile Allowance payments; plus

(ii) if the Unilateral Severance occurs on or before the last day of the Initial Term, an amount equal to fifty percent (50%) (i.e. six months) of the Manager's then current Annual Base Salary; or

(iii) if the Unilateral Severance occurs after the last day of the Initial Term, an amount equal to 100% (i.e. twelve months) of the Manager's then current Annual Base Salary

(collectively, (i) plus whichever of (ii) or (iii) is applicable being the "Unilateral Severance Amount").

(d) In addition to the Unilateral Severance Amount, the Manager shall be paid the amount of any accrued but unused vacation and sick/personal leave days, computed on an hourly basis determined by dividing the Manager's then current annual salary by 2080 hours (collectively, the "Current Obligations"). In the event of Unilateral Severance, the Manager shall be entitled to the same benefits on the same basis as paid to any other employee at the time of separation from employment with the City.

(e) In addition to the Unilateral Severance Amount and the Current Obligations, City agrees to continue to provide to Manager the benefits described in Section 3.5 for three (3) calendar months after the effective date of the Unilateral Severance, after which Manager shall be eligible to elect to continue the then current health care coverage under City's group medical insurance plan pursuant to COBRA by payment of 100% of both the employer and employee premium for such coverage as provided pursuant to the federal COBRA provisions.

(f) The Unilateral Severance shall be effective on the date established by the City Council at the time of the approval of the Unilateral Severance, but in no case earlier than ten (10) days after the City Council approves the Unilateral Severance; provided, however, the City Council may place the Manager on administrative leave and direct that the Manager perform no City Manager Duties or conduct regular office hours pending the effective date of the Unilateral Severance.

(g) On or before the effective date of the Unilateral Severance, the Manager may by written notice to the City direct that the Unilateral Severance Amount and, if appropriate, the Current Obligations, be paid and payable in a manner directed by the Manager, provided that the total Unilateral Severance Amount and the Current Obligations must be paid and payable on or before the first anniversary of the effective date of the Unilateral Severance with no limitations on the City making all deductions and withholdings required by law.

Conditioned upon the City fulfilling its obligations to pay the Unilateral Severance Amount, the Unilateral Severance Amount and the Current Obligations as provided in this Section 6.4, upon the effective date of a Unilateral Severance, the Manager waives and releases the Manager's rights to continued employment with the City. The Manager understands, acknowledges, and agrees that upon a Unilateral Severance and the payment of all amounts due pursuant to this Section 6.4, the Manager shall have no right to a hearing relating to any claim that cause must be determined prior to the effective date of the Unilateral Severance. In the event of a Unilateral Severance, the Parties agree not to make disparaging comments or statements about each other.

6.5 "Expiration of Term of Contract". The Council may decide unilaterally and at its sole discretion to not allow the extension of this Agreement for an additional year as set forth in Section 1.2, above, without the need for a prior determination of cause as provided in Section 6.3, above, (an "End of Contract Termination") subject to the following:

(a) The City Council shall deliver written notice that it has voted to not extend this Agreement to the Manager not later than three (3) months prior to the then current expiration of the Term of this Agreement.

(b) A simple majority vote of the City Council shall be required to determine an "End of Contract Termination.

(c) The Manager shall be paid an equal to:

(i) three (3) times the then current amount of the monthly Automobile Allowance payments; plus

(ii) if the End of Contract Severance is effective on the last day of the Initial Term, an amount equal to fifty percent (50%) (i.e. six months) of the Manager's then current Annual Base Salary; or

(iii) if the Unilateral Severance is effective on the last day of an Extended Term, an amount equal to 100% (i.e. twelve months) of the Manager's then current Annual Base Salary

(collectively, (i) plus whichever of (ii) or (iii) is applicable being the "End of Contract Severance Amount").

(d) In addition to the End of Contract Severance Amount, the Manager shall be paid the amount of any accrued but unused vacation and sick/personal leave days, computed on an hourly basis determined by dividing the Manager's then current annual salary by 2080 hours (collectively, the "Current Obligations"). In the event of an End of Contract Termination, the Manager shall be entitled to the same benefits as paid to and on the same basis as any other City employee at the time of separation from employment with the City.

(e) In addition to the End of Contract Severance Amount and the Current Obligations, City agrees to continue to provide to Manager the benefits described in Section 3.5 for three (3) calendar months after the effective date of the End of Contract Termination, after which Manager shall be eligible to elect to continue the then current health care coverage under City's group medical insurance plan pursuant to COBRA by payment of 100% of both the employer and employee premium for such coverage as provided pursuant to the federal COBRA provisions.

(f) On or before the effective date of the End of Contract Termination, the Manager may by written notice to the City direct that the End of Contract Severance Amount and, if appropriate, the Current Obligations, be paid and payable in a manner directed by the Manager, provided that the total End of Contract Severance Amount and Current Obligations must be paid and payable on or before the first anniversary of the effective date of the End of Contract Termination with no limitations on the City making all deductions and withholdings required by law.

Conditioned upon the City fulfilling its obligations to pay the End of Contract Severance Amount and the Current Obligations pursuant to this Section 6.5, upon the effective date of the End of Contract Severance, the Manager waives and releases the Manager's rights to continued employment with the City. The Manager understands, acknowledges, and agrees that upon an End of Contract Severance and the payment of all amounts due pursuant to this Section 6.5, the Manager shall have no right to a hearing relating to any claim that cause must be determined prior

to the effective date of the End of Contract Severance. In the event of an End of Contract Severance, the Parties agree not to make disparaging comments or statements about each other.

6.6 Severance Benefits Not Cumulative. Under no circumstances shall this Agreement be construed as entitling the Manager to payments and benefits pursuant to both Section 6.4 and Section 6.5, the provisions shall operate exclusive of each other and not cumulatively.

## **Article VII Miscellaneous**

7.1 Complete Agreement. This Agreement sets forth and establishes the entire understanding between the City and the Manager relating to the employment of the Manager by the City as City Manager. Any prior discussions or representations by or between the Parties are merged into and rendered null and void by this Agreement. The Parties by mutual written signed agreement may amend any provision of this Agreement during the term of this Agreement; such amendments shall be incorporated and made a part of this Agreement.

7.2 Binding Effect. This Agreement shall be binding on the City and the Manager as well as their heirs, assigns, executors, personal representatives and successors in interest.

7.3 Savings Clause. If any term or provision of this Agreement, as applied to any Party or to any circumstance, is declared by a court of competent jurisdiction hereof to be illegal, unenforceable or void in any situation and in any jurisdiction, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending provision in any other situation or in any other jurisdiction. The Parties agree that the court making such determination shall have the power to reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases or to replace any illegal, unenforceable or void term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision.

7.4 Conflicts. In the event of any conflict between the terms, conditions and provisions of this Agreement and the Applicable Laws and Authorities, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over the contrary provisions of the Applicable Laws and Authorities during the term of this Agreement.

7.5 Controlling Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas and shall be performable in Denton County, Texas, unless otherwise provided by law. Venue for any dispute between the Parties arising from or related to this Agreement shall be in state court of competent jurisdiction in Denton County, Texas, the personal and subject matter jurisdiction to which the Parties hereby agree to submit.

7.6 Effective Date. The Agreement shall be effective on the date it is signed by the City's Mayor and the City Manager, but in no case shall this Agreement be of any force and effect until approved by a resolution or motion of the City Council as provided by the City Charter.

*(signature page to follow)*

SIGNED AND AGREED this 14 day of December, 2017.

**CITY OF LAKE DALLAS**

By: Michael Barnhart  
Michael Barnhart, Mayor

**ATTEST**

By: Codi Delcambre  
Codi Delcambre, City Secretary



**APPROVED AS TO FORM**

By: Kevin B. Laughlin  
Kevin B. Laughlin, City Attorney

SIGNED AND AGREED this 14<sup>th</sup> day of December, 2017.

**MANAGER**

By: John Cabrales, Jr.  
John Cabrales, Jr.