



## EMPLOYMENT AGREEMENT

This Agreement is made as of the 19th of January, 2009.

BETWEEN:

THE CITY OF VANCOUVER

("the City")

OF THE FIRST PART

AND:

DR. PENNY BALLEM

("Dr. Ballem")

OF THE SECOND PART

WHEREAS:

- A. The City has agreed to appoint Dr. Ballem as City Manager, and Dr. Ballem has agreed to be so employed.
- B. The City and Dr. Ballem have agreed to their respective rights, duties and obligations in connection with the employment of Dr. Ballem by the City, as set out in this Agreement ("the agreement").

NOW THEREFORE the parties agree as follows:

### 1 POSITION

- 1.1 The City Agrees to employ Dr. Ballem as the City Manager and Dr. Ballem agrees to serve in that position subject to the terms and conditions of this Agreement.
- 1.2 The parties acknowledge that the duties, powers and obligations of the City Manager will be as described in Board of Administration By-Law Number 4017, as modified from time to time together with such other duties as may be assigned from time to time by the Council.

- 1.3 At least once a year while this Agreement is in effect, the parties will review the performance of Dr. Ballem as City Manager in relation to previously established metrics, priorities, goals, and activities (together, the "Performance Targets") and the City Manager and Mayor of the City will mutually establish Performance Targets for the following year.

## 2 TERM OF APPOINTMENT AND TERMINATION

- 2.1 The employment of Dr. Ballem as City Manager commences on the 12th of December, 2008 and shall continue until terminated as provided for in this Agreement.
- 2.2 In addition to termination on written notice pursuant to paragraph 2.4 of this Agreement, the City may terminate Dr. Ballem's employment as City Manager summarily for cause at any time without notice or pay in lieu of notice. The word "cause" includes the commission of any act that is materially injurious to the City and its reputation or Dr. Ballem's failure to cure, within a reasonable period of time, a breach of any covenant on her part in this Agreement which is materially injurious to the City.
- 2.3 Upon the provision of three (3) months' notice in writing, Dr. Ballem may terminate or resign her employment as City Manager.
- 2.4 The City may terminate Dr. Ballem's employment as City Manager at any time, without cause by providing notice or pay in lieu of notice. Should such termination occur within the first year of employment, the amount of notice or pay in lieu will be twelve (12) months Salary. For each completed year thereafter, the amount of notice or pay in lieu will be increased by two (2) months to a maximum of twenty (20) months.

## 3 REMUNERATION

- 3.1 The City will pay to Dr. Ballem an annual salary (the "Salary") as City Manager in the sum of \$293, 694 (prorated) for 2008 and \$303,958 for 2009. The Salary will be modified from time to time in accordance with City Policy.
- 3.2 The Salary will be deemed to be earned and will be paid by the City to Dr. Ballem on a bi-weekly basis throughout her employment.

## 4 AUTOMOBILE

- 4.1 The City will provide an appropriate leased automobile or expense allowance in accordance with the Policy A-G-007-02 in effect from time to time.

## 5 REIMBURSEMENT FOR EXPENSES

- 5.1 The City will reimburse Dr. Ballem for all reasonable expenses including travel expenses incurred by Dr. Ballem in the performance of her duties in accordance with Policy AF-006-01 and AF-006-02 in effect from time to time.

**6 VACATION**

6.1 Dr. Ballem will be entitled to vacation entitlements reflecting year 10 of the benefits plan. This vacation leave will be administered in accordance with the vacation policy of the City which is in effect from time to time.

**7 BENEFITS**

7.1 During her employment, Dr. Ballem will be entitled to all employment benefits normally available to members of Senior Management of the City, as described in the Exempt Employee Handbook and including the Earned Days Off Plan in effect from time to time.

7.2 Dr. Ballem will bear the portion of the costs of benefit plans which she is required to or has elected to participate in as required by the terms of such plans.

7.3 The City will enrol Dr. Ballem in the Municipal Superannuation Plan available to Senior Management of the City.

**8 EXCLUSIVE SERVICE AND CONFLICT OF INTEREST**

8.1 Dr. Ballem will devote her full working efforts to the employment of the City and will not directly or indirectly engage in any other business in any capacity whatsoever, without the prior approval of the Mayor of the City.

8.2 Dr. Ballem will be afforded the opportunity to maintain her status with the College of Physicians and Surgeons by practicing medicine on a limited basis. This arrangement is supported with the clear understanding that there will be no conflict of interest that shall arise from this work, that this work will not impact her devotion to her primary duties, and that she can accept the fees remitted for this service.

8.3 Dr. Ballem will disclose actual, potential or perceived conflict of interest to the City. Any uncertainty as to whether such a conflict exists will be raised by Dr. Ballem and determined by the City, acting reasonably. Dr. Ballem will conduct herself so as to avoid any actual or potential conflict of interest.

8.4 The City Manager will be directly responsible to the Mayor of the City and the City Council and will follow and carry out all lawful directions given to her.

**9 INTERPRETATION**

9.1 Except as otherwise expressly provided for in the Appendix, any conflict between the provisions in the body of this Agreement and the provisions in the Appendix will be resolved in favour of the provisions in the body of this Agreement.

9.2 All provisions of this Agreement requiring one party or the other to do or to refrain from doing something will be interpreted as the covenant of that party with respect to that matter notwithstanding the absence of the words "covenants" or "agrees".

9.3 The division of this Agreement into paragraphs and the headings are inserted for convenience of reference only and, except where otherwise specifically provided, that division and those headings will not define, enlarge or limit the terms nor affect the construction or interpretation of this Agreement.

## 10 GENERAL

10.1 The failure of a party to insist upon the strict performance of any of the covenants in this Agreement or to exercise any right herein contained will not be construed as a waiver or relinquishment for the future of that covenant or right and no waiver by any party of any provision of this Agreement will be deemed to have been made unless expressed in writing and signed by that party.

10.2 The provisions of this Agreement constitute the entire agreement between the parties. No terms, conditions, warranties, promises or undertakings of any nature whatsoever, express or implied, exist between the parties with respect to this Agreement except as contained herein. This Agreement may be amended, changed or modified only by further written agreement between the parties.

10.3 If any term, condition or provision of this Agreement or the application thereof to any party or circumstances will to any extent be invalid or unenforceable, the remainder of this Agreement or the application of that term, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby and each term, condition or provision will be separately valid and enforceable to the fullest extent permitted by law.

10.4 Time will be of the essence of this Agreement.

10.5 Each of the parties will at the request of the other party hereto, execute and deliver any further documents and do all acts and things as that other party may reasonably require to carry out the full intent and meaning of this Agreement.

10.6 This Agreement will be governed by the laws in force in the Province of British Columbia and the courts of the Province of British Columbia will have exclusive jurisdiction with respect to the settlement of any dispute or the resolution of any question of law arising from this Agreement.

10.7 This Agreement may not be assigned by any party without the written consent of the other party, which consent may be arbitrarily withheld.

10.8 This Agreement will enure to the benefit of and be binding upon the parties hereto and subject to the terms hereof the heirs, administrators, successors and assigns of the parties.

10.9 Any notice to be provided under this Agreement must be provided in writing.

11 INDEMNIFICATION

11.1 The City agrees to indemnify and save harmless Dr. Ballem from any action brought against Dr. Ballem which arises from the performance of her duties as City Manager. This provision will apply in accordance with By-Law No. 6579 and shall not apply to any proceedings between the City and Dr. Ballem.

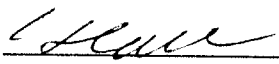
11.2 Dr. Ballem agrees to notify the City forthwith of any claim or action brought against her arising out of her employment.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement effective the date first above written notwithstanding the actual date or dates of execution.

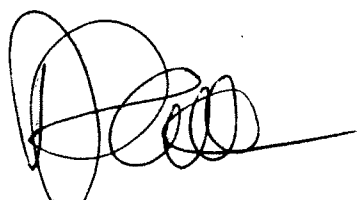
Executed on behalf of the City of Vancouver  
by:

  
\_\_\_\_\_  
Mayor

SIGNED, SEALED AND DELIVERED by )  
DR. PENNY BALLEM in the presence of: )

  
\_\_\_\_\_  
Witness )

\_\_\_\_\_  
Address )  
)  
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Dr. Penny Ballem