

## EMPLOYMENT AGREEMENT

This Agreement is made and entered into as of the 11th day of December, 2018 ("the Effective Date"), by and between the County of Humboldt (hereinafter referred to as EMPLOYER), a political subdivision of the State of California, and Amy S. Nilsen (hereinafter referred to as EMPLOYEE). EMPLOYER and EMPLOYEE are sometimes referred to herein individually as a Party or collectively as the Parties.

### RECITALS

WHEREAS, EMPLOYER desires the services of a County Administrative Officer pursuant to County Code; and

WHEREAS, EMPLOYEE has the necessary education, training and experience to serve effectively as County Administrative Officer for EMPLOYER; and

WHEREAS, the Board of Supervisors of EMPLOYER desires to employ EMPLOYEE to serve as the County Administrative Officer for EMPLOYER; and

WHEREAS, EMPLOYEE agrees to faithfully perform the duties of the office of County Administrative Officer for EMPLOYER; and

WHEREAS, both Parties desire to create conditions which will contribute to the mutual success of this employment relationship;

NOW, THEREFORE, in consideration of these Recitals and the performance by the Parties of the promises, covenants and conditions contained in this Agreement, the Parties agree as follows:

### SECTION 1. TERM

A. This Agreement shall be in force and effect beginning on the Effective Date and shall terminate on December 11, 2023, unless it is canceled or extended prior to that date by mutual agreement of the Parties.

B. Notwithstanding this expected term, the Parties acknowledge that the mutual success of the employment relationship created herein will be enhanced by the ability of the Parties to terminate this Agreement should their respective needs change. Therefore, nothing in this Agreement shall be construed to prevent, limit or otherwise interfere with the right of either Party to terminate this Agreement at any time subject to the provisions of Section 6 below.

### SECTION 2. DUTIES AND AUTHORITY

EMPLOYER agrees to employ EMPLOYEE as County Administrative Officer of EMPLOYER. The Parties acknowledge that a clear delineation of the duties of EMPLOYEE will contribute to the mutual success of the employment relationship created herein. Therefore, EMPLOYEE shall have those powers and duties of the County Administrative Officer as set forth in the County Code, and shall perform such functions and duties as specified in the County Code as well as such other legally permissible and proper duties as may be from time to time

directed or assigned by the Board of Supervisors.

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### SECTION 3. EMPLOYEE COMMITMENTS

EMPLOYEE acknowledges that certain commitments are necessary on her part in order and between them to assure the mutual success of the employment relationship created herein, and that these commitments include but are not limited to the following:

#### A. Exclusive Employment

1. During the term of this Agreement, EMPLOYEE shall not undertake any employment other than as County Administrative Officer for EMPLOYER except that she may also serve as the chief executive of other EMPLOYER-controlled legal entities without violating this Agreement. Any such service as chief executive of an EMPLOYER-controlled legal entity shall not entitle EMPLOYEE to compensation beyond that which is provided by Section 5A, below.

2. During the term of this Agreement, EMPLOYEE shall not undertake any volunteer activities which could reasonably be anticipated to conflict with employment as County Administrative Officer for EMPLOYER.

#### B. Disability or Inability to Perform

In the event that EMPLOYEE becomes mentally or physically incapable of performing the functions and duties of the County Administrative Officer with reasonable accommodation, and it reasonably appears such incapacity will last for more than six months, EMPLOYER may terminate EMPLOYEE. If EMPLOYER does elect to terminate EMPLOYEE due to incapacity, EMPLOYEE shall receive all severance benefits provided in Section 6 of this Agreement.

#### C. Ethical Behavior

EMPLOYEE will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto as Exhibit A and incorporated herein. Specifically, she shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

### SECTION 4. EMPLOYER COMMITMENTS

EMPLOYER acknowledges that certain commitments are necessary on its part in order to assure the mutual success of the employment relationship created herein, and that these include but are not limited to the following:

#### A. Reimbursement for Services

1. EMPLOYER shall provide EMPLOYEE with the compensation and benefits set forth in Section 5 below.

2. EMPLOYER shall pay for or provide EMPLOYEE reimbursement for all actual business expenses consistent with Government Code Section 53234 *et seq.* (A.B. 1234).

3. EMPLOYER agrees to pay professional membership dues on behalf of EMPLOYEE for such organizations as may be agreed by EMPLOYEE and the Board of Supervisors. Such memberships shall include, at a minimum, annual dues for ICMA and the County Administrative Officers Association of California.

4. EMPLOYER agrees to pay the travel and subsistence expenses of EMPLOYEE to pursue official and other functions for EMPLOYER and meetings and occasions to continue the

professional development of EMPLOYEE including but not limited to national, regional, state and local conferences and governmental groups and committees upon which EMPLOYEE serves as a member subject to annual review by the Board of Supervisors. Such travel shall include, attendance at annual conferences of ICMA and County Administrative Officers Association of California.

**B. Support for Administrator**

1. The Board of Supervisors agrees none of its individual members will order the appointment or removal of any person to any office or employment under the supervision and control of EMPLOYEE.

2. The Board of Supervisors shall support EMPLOYEE in conducting herself according to the tenets of the ICMA Code of Ethics (Exhibit A). Specifically, neither the Board of Supervisors nor any of its members will give EMPLOYEE any order, direction or request that would require EMPLOYEE to violate the Code of Ethics. Likewise, no member of the Board of Supervisors shall request EMPLOYEE to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office.

**C. Semi-Annual Performance Evaluation**

1. The Board of Supervisors shall conduct a semi-annual evaluation of EMPLOYEE performance at least twice each year. EMPLOYER and EMPLOYEE agree that performance evaluations for the purpose of mid-course corrections may occur as frequently as may be required during any calendar year. The Board of Supervisors and EMPLOYEE may define such goals and performance objectives during the semi-annual evaluation as they mutually determine are necessary for the proper operation of the County for the attainment of the Board's policy objectives. The Board of Supervisors and EMPLOYEE shall further establish a relative priority among those goals and performance objectives.

2. During calendar year 2019, members of the Board of Supervisors and other employees of EMPLOYER shall participate in a multi-rater assessment ("360-degree evaluation") of EMPLOYEE's performance as described by ICMA. In each of the other years of this Agreement, EMPLOYEE shall be evaluated by the Board of Supervisors using the form applicable to other Appointed Department Heads.

**SECTION 5. COMPENSATION**

**A. Salary**

1. EMPLOYEE's salary as of the Effective Date shall be \$184,716 per year. Such salary shall be paid bi-weekly in the manner set forth in EMPLOYER's resolutions and ordinances.

2. During the term of this Agreement, EMPLOYEE's salary shall be adjusted at the same time and in the same percentage applicable to other Elected and Appointed Department Heads as described in the Compensation Plans for Elected and Appointed County Department Heads Exhibit "B" of EMPLOYER.

3. If the Board appoints EMPLOYEE as temporary or permanent Department Head for a newly created or currently separate department, EMPLOYEE would be entitled to receive an increase in salary consistent with Exhibit "B" of the Elected and Appointed County Department Heads pay plan.

**B. Retirement**

1. During the term of this Agreement, EMPLOYEE's retirement shall be adjusted at the same time and in the same percentage applicable to other Elected and Appointed Department Heads of EMPLOYER.

**C. Leave**

1. It is acknowledged that EMPLOYEE's employment by EMPLOYER predates the Effective Date and that, as such, EMPLOYEE has existing balances of various leave categories. EMPLOYEE shall be entitled to use those existing balances in the same manner as other employees.

2. During the term of this Agreement, EMPLOYEE's leave accruals shall be accrued at the same level applicable to other Elected and Appointed Department Heads of EMPLOYER as described in the Compensation Plans for Elected and Appointed County Department Heads.

**D. Other Benefits**

1. During the term of this Agreement, EMPLOYEE's other benefits shall be received at the same level applicable to other Elected and Appointed Department Heads of EMPLOYER as described in the Compensation Plans for Elected and Appointed County Department Heads.

2. EMPLOYEE shall be eligible to participate in EMPLOYER's program of medical, dental and vision insurance, under the same terms applicable to other Elected and Appointed Department Heads as described in the Compensation Plans for Elected and Appointed County Department Heads.

**SECTION 6. TERMINATION**

While the Parties presently believe that their mutual success will be best achieved if this Agreement continues through the expiration of the term specified in Section 1 above, they acknowledge that circumstances may change during the term of this Agreement through no fault of either Party and they wish to make certain provisions that will ensure mutual success in the termination of the employment relationship created herein, should such become necessary or in the best interest of either Party.

**A. End of Agreement**

The Parties acknowledge that their respective needs are best served by a predictable transition at the end of the term specified in Section 1. Therefore, between 180 and 90 days prior to the date of termination specified in Section 1, either Party may provide written notice to the other Party of an intent to terminate the Agreement at its expiration. EMPLOYEE shall not be entitled to any Severance Payment if EMPLOYER elects not to renew this Agreement, but shall be entitled to cash payment for her accrued vacation and holiday balance in the same manner as other employees. In the event that EMPLOYER has not provided EMPLOYEE with notice of intent to either terminate or renew the Agreement within 90 days of the end of the Agreement term, EMPLOYEE's employment shall be extended for an additional 90 days.

**B. Resignation During Agreement**

EMPLOYEE may resign at any time and agrees to give EMPLOYER at least 45 days written notice of the effective date of any such resignation unless the Parties mutually agree to a shorter notice. EMPLOYEE shall not be entitled to any Severance Payment upon resignation,

but shall be entitled to cash payment for her accrued vacation and holiday balance in the same manner as other employees.

#### C. Termination Without Cause During Agreement

1. EMPLOYEE is an at-will employee serving at the pleasure of EMPLOYER's Board of Supervisors.

2. The Board of Supervisors may terminate EMPLOYEE at any time without cause by a majority vote of its members.

3. In the event that the Board of Supervisors terminates EMPLOYEE's employment without cause, EMPLOYER shall pay EMPLOYEE a Severance Payment equal to six months of the base salary on the effective date of termination. In addition to the Severance Payment, EMPLOYEE shall be entitled to cash payment for all accrued leave balances at the rate of her compensation at the time of termination.

4. In the event the EMPLOYEE is terminated by the EMPLOYER during the six (6) months immediately following the seating and swearing-in of one or more Board of Supervisors, and during such time that EMPLOYEE is willing and able to perform her duties under this Agreement, then, EMPLOYER agrees to pay Severance in accordance with Section 6.C.3., and an additional three months for a total of nine months of severance payments.

5. In the event that EMPLOYER refuses, following written notice of noncompliance, to comply with any provision in this Agreement benefiting EMPLOYEE, or EMPLOYER imposes a material reduction in the powers and authority of the County Administrative Officer, or EMPLOYEE resigns following a suggestion whether formal or informal by a majority of the Board of Supervisors that EMPLOYEE resign, then in that event EMPLOYEE may at EMPLOYEE's option be deemed to be terminated as of the date of such refusal to comply or suggestion to resign and the above severance pay provisions shall be actuated.

#### D. Termination for Cause

1. EMPLOYEE may be terminated for one or more of the following causes:

- a. Conviction of a felony or of a misdemeanor involving moral turpitude
- b. Abuse of non prescription or prescription drugs, alcohol, or controlled substances that affect the performance of EMPLOYEE's duties
- c. Repeated and extended absences from EMPLOYEE's office and duties which absences have not been approved by the Board of Supervisors
- d. Violation of EMPLOYER's policies concerning harassment or workplace violence
- e. Material breach of the terms and conditions of this Agreement
- f. Non-performance of duties.

2. In the event EMPLOYER terminates EMPLOYEE for cause, then EMPLOYER may terminate this Agreement immediately and EMPLOYEE shall be entitled to only the compensation accrued up to the date of termination and such other termination benefits and payments as may be required by law. EMPLOYEE shall not be entitled to any severance benefits.

3. In the event EMPLOYER terminates EMPLOYEE for cause, the Parties agree that neither EMPLOYEE nor any member of the Board of Supervisors nor any representative of EMPLOYER shall make any written or oral statement to members of the public or the press

concerning the EMPLOYEE's termination except in the form of a joint press release which is mutually agreeable to both Parties. The joint press release shall not contain any text or information that would be disparaging to either Party.

#### **SECTION 7. GENERAL PROVISIONS**

A. If any provision or portion of this Agreement is held to be unconstitutional, invalid or unenforceable, then the remainder of this Agreement or portions thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

B. This Agreement may be amended at any time by mutual written agreement of the Parties.

C. The text herein represents the entire agreement of the Parties and no representations have been made or relied upon except as set forth in this Agreement which may be amended or modified only by a written fully executed agreement of the Parties.

D. This Agreement shall be construed in accordance with the laws of the State of California and the Parties agree that venue for legal action concerning any aspect of the Agreement in State Court shall be maintained in Humboldt County Superior Court and for an action in Federal Court shall be in the United States District Court for the Northern District of California.

#### **SECTION 8. NOTICE**

Any notice under this Agreement shall be delivered in person or by first class mail, postage prepaid, and shall be addressed as follows:

If to EMPLOYER,  
Clerk of the Board of Supervisors  
County of Humboldt  
825 Fifth Street, Room 111  
Eureka, CA 95501

If to EMPLOYEE,  
Amy S. Nilsen  
825 Fifth Street, Room 112  
Eureka, CA 95501

IN WITNESS WHEREOF, EMPLOYER has caused this Agreement to be signed and executed on its behalf by the Chair of its Board of Supervisors and EMPLOYEE has signed and executed this Agreement, both in duplicate.

  
Chair, Board of Supervisors Ryan Sundberg

  
Amy S. Nilsen, EMPLOYEE