

**COUNTY ADMINISTRATOR
EMPLOYMENT AGREEMENT**

THIS EMPLOYMENT AGREEMENT is entered into this 28th day of April, 2022, by and between County of Emmet, a municipal corporation and political subdivision of the State of Michigan with administrative offices at 200 Division Street, Suite G92, Petoskey, MI 49770, acting through the Board of Commissioners of the County of Emmet (the "Board of Commissioners", "County" or "Employer"), and David Boyer ("Administrator" or "Employee").

RECITALS

WHEREAS, pursuant to MCL 46.13a and MCL 46.11 (o), the Board of Commissioners wishes to employ David Boyer as County Administrator under the terms and conditions of this Agreement;

WHEREAS, it is the desire of the Board of Commissioners to establish certain conditions of employment, and to set working conditions of the Employee, and to provide certain benefits to the Employee;

WHEREAS, it is the desire of the Board of Commissioners to (1) secure and retain the services of David Boyer and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Employee, and (4) to provide a just means for terminating Employee's services should it be necessary to do so; and

WHEREAS, David Boyer wishes to accept employment as County Administrator under such terms and conditions.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION 1. DUTIES AND FUNCTIONS. The County agrees to employ David Boyer as County Administrator to perform all legally permissible and proper duties and functions that the Board of Commissioners may from time-to-time assign to him, including, but not limited to, those set forth in a job description approved by the Board of Commissioners.

The Administrator shall be allowed to establish an appropriate normal work schedule, which shall meet the needs of the Employer and shall allow the Administrator to faithfully perform his or her assigned duties and responsibilities. In addition, the Administrator agrees that he will work whatever hours may be necessary in the performance of the duties and functions of the County Administrator without entitlement to extra compensation for any hours worked outside of normal business hours of the County.

While employed under this Agreement, the Employee will abide by, enforce, and comply with the policies and governance directives of the Employer.

SECTION 2. TERM. Subject to the earlier termination provisions in this Agreement below, the term of this Agreement will commence on May 14, 2022, and will expire May 13, 2025.

SECTION 3. RELATIONSHIP OF PARTIES. The Administrator will serve at the will and pleasure of the Board of Commissioners and will be subject to the Board of Commissioners' supervision and direction. The parties understand and agree that the Administrator will be responsible to manage the day-to-day

activities of the County that are not assigned by statute to other County officials, and that the Board of Commissioners will give direction to the Administrator on matters of policy.

The Administrator recognizes the importance of the Board of Commissioners understanding his thought processes in the determination of the hiring of key staff. Accordingly, the Chairperson and/or Vice Chairperson of the Board of Commissioners may sit in on hiring interviews conducted by the Administrator, as an additional set of eyes and ears. At the completion of the interview process, the Administrator may solicit the thoughts and/or opinions of the parties involved in the interview process, although all final decisions on the employee hiring and/or termination shall continue to be within the sole purview of the Administrator.

SECTION 4. PERFORMANCE EVALUATIONS.

- A. Annual performance goals and objectives will be mutually discussed and agreed upon by both the Employer and Employee. This will typically occur within the last quarter of the year for the upcoming new year.
- B. Employer shall annually review the performance of the Employee through a process agreed upon by the Employer and Employee. The evaluation may be completed verbally and/or in writing as mutually agreed upon by the parties.
- C. If requested by the Employee as permitted by MCL 15.268(a), the Evaluation of the Employee shall be conducted in a closed session of the governing body and shall be considered confidential to the extent permitted by law.
- D. If there are changes to performance expectations as a result of the performance evaluation, the Employee will be given a reasonable amount of time to meet the revised expectations.

SECTION 5. COMPENSATION. Effective the first payroll at the start of the first year of this Agreement, the Administrator will be paid a base annual salary of \$135,000.00. Effective the first payroll at the start of the second year of this Agreement, the Administrator shall receive a base annual salary of \$140,400.00. Effective the first payroll at the start of the third year of this Agreement, the Administrator shall receive a base annual salary of \$146,016.00. This compensation will be subject to income tax withholding and will be paid in bi-weekly installments on the regular paydays of employees of the County.

During the term of this Agreement, the Administrator will also receive the following benefits:

- A. Dues; Subscriptions. The County will budget and pay for professional dues and subscriptions of the Administrator necessary for his full participation in national, regional, State and local associations and organizations and for the benefit of the County.
- B. Professional Development; Expenses. The County will budget and pay for expenses of the Administrator for professional and official travel, meetings, and other events beneficial to the professional development of the Administrator and for the benefit of the County, including, but not limited to, the annual conference at the International City/County Management Association (ICMA), NACO, the Michigan County Administrators Association, MAC, and such other national, regional, State, and local groups and committees thereof on which the Administrator may serve as a member. The County will budget and pay for expenses of the Administrator for short courses, institutes, and seminars that are necessary for the Administrator's professional development and for the benefit of the County, subject to budget limitations.

- C. Other Business-Related Expenses. Employer recognizes that certain expenses of a non-personal but job-related nature are incurred by Employee and agrees to reimburse or to pay said general expenses. Such expenses may include meals where Employer business is being discussed or conducted and participation in social events of various organizations when representing the Employer. Such expenditures are subject to annual budget constraints as well as state and Employer ethics and purchasing policies. The finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statement or personal affidavits. Employer agrees to pay the annual cost for Employee to join and participate one civic organization (Petoskey Rotary, Kiwanis, or similar organization).
- D. Vehicle Allowance. The Employer will provide the Employee with a vehicle allowance of \$700.00 per month, payable in accordance with the County's payroll practices, for the duration of this Agreement. This amount will be subject to any applicable tax withholdings and will be in lieu of any mileage reimbursement. This vehicle allowance is to be used to purchase, lease, or own, operate, maintain and insure a vehicle. The Employee will be responsible for paying for insurance coverage and any other expenses associated with their vehicle.
- E. Vacation; Leave; Holiday.
1. Vacation. prorated upon hire, and thereafter on January 1 of each year of the agreement, the County will credit the Administrator with 200 hours of vacation time. The Administrator may bank up to 8 weeks of vacation time. In addition, the Administrator shall be credited with his existing vacation bank, up to 40 hours. Upon separation from employment, the Administrator will be entitled to payments for all banked and unused accrued vacation time at the Administrator's regular rate of pay.
 2. General Leave Time. On January 1 of each year, the Administrator will be credited 96 hours of general leave time, eight hours of personal time and 24 hours of floating leave time to be used at the Administrators discretion. There will be no accrual. Upon separation, unused leave under this Section will be paid out at the Administrator's regular rate of pay.
 3. Holidays. Administrator will be entitled to the Holidays as stated in the County Policy Manual.
- F. Disability; Health; Life Insurance.
1. The County will provide the Administrator with the same health insurance coverage as non-bargaining employees of the County. Employee may opt out if other insurance is available and receive a monthly opt out of \$400.00.
 2. The County will provide the Administrator with the same short-term and long-term disability plan coverage as non-bargaining employees of the County
- G. Retirement. The County will provide the Administrator with coverage in a retirement plan of the Administrator's choice, with the County's contribution being 8% of the Administrator's pay per year, paid on a bi-weekly basis. Employer will also make an annual lump sum contribution of \$5,000.00 into the Administrator's 457 account. The contribution cannot surpass the maximum annual amount allowed by the IRS.
- H. Return of Employer Property. Employee hereby covenants and agrees to promptly return to the Employer all property and documents (whether in hard copy or electronic form) of Employer, including login and password information for electronic accounts, documents (whether in print or electronic format) showing the Employer's confidential/proprietary information, work in progress, originals, and copies of business forms, computer files, diskettes, manuals, including

training manuals, computer equipment, office equipment, and all other materials in Employee's possession or control that belong to the Employer, in whatever form and together with all copies

- I. Bonding. The Board of Commissioners will bear the full cost of any fidelity or other bonds required of the Administrator under law.
- J. In addition, the Administrator will be entitled to those benefits set forth in the County Policy that are not in conflict with this agreement.

SECTION 6. TERMINATION.

- A. By the County. The Administrator will serve at the will and pleasure of the Board of Commissioners and the Board of Commissioners may terminate this Agreement at any time, with or without cause, upon 30 days prior written notice to the Administrator. After such notice of termination, the Administrator shall continue to perform the duties set forth herein as may be directed by the Board of Commissioners. Except for instances when the Administrator is terminated for cause, as more fully described below, in the event that the Administrator's employment is terminated without cause during the first year of this agreement, Employer agrees to pay the Administrator a lump sum payment equal to 6 months aggregate salary, accrued benefits (including vacation, general leave and retirement payments) and insurance opt out payments (if applicable) (the "Without Cause Severance"). If so terminated during the 2nd or 3rd year of this agreement, the payment shall be equal to 7 months aggregate salary and accrued benefits (the "Without Cause Severance"). To receive the Without Cause Severance, Employee will be required to execute a general release form to be determined by the Board of Commissioners.
- B. Termination for Cause. Notwithstanding the provisions of Section 6., Paragraph A. above, the following reasons constitute grounds to terminate Employee without requiring the County to make the Without Cause Severance payments stated in that paragraph:
 - 1. A finding by the Board of Commissioners that the Employee has willfully and materially failed to perform the duties of Administrator that has continued after the Employee has received notice of the deficiency.
 - 2. Conviction of a felony.
 - 3. Conviction of a criminal act.

If Employee is terminated for cause (as specified herein), the Employee shall not be eligible for the Without Cause Severance payments as set forth above.

Prior to termination for cause under Section 6. B., 1., only, Employer shall provide Employee with written notice of the proposed termination which includes the reason and factual basis for such action. Employee may request an opportunity to respond to the notice. Should employee request, they will be allowed the opportunity to come into compliance with this Agreement or their duties. A re-evaluation of their performance will then take place. If the grounds for termination have not been corrected within a reasonable time, the Employer may proceed with the termination.

- C. By the Administrator. The Administrator will have the right to voluntarily resign from the position thereby terminating this Agreement upon a minimum of 30 days advance written notice to the County.
- D. Termination upon Death or Disability of Administrator. In the event of the death or if the Administrator becomes totally disabled or otherwise unable to perform their duties because of long term illness, accident, injury or mental incapacity for a period of greater than 3 months unless otherwise provided by law or County Policy this Agreement will terminate. The amount of any unpaid accrued compensation and benefits will be paid to the Administrator or his estate, as applicable, pursuant to the severance provisions of Section 6, Paragraph A.

SECTION 7. NON-DISCRIMINATION. The Employee, as required by law, will not discriminate against any person seeking services from the County or against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or matters directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position, or because of race, color, height, weight, marital status, religion, national origin, age, or sex. Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is discrimination because of sex in violation of Title VII of the Civil Rights Act of 1964. Breach of this covenant may be regarded as a material breach of this Agreement.

SECTION 8. COMPLIANCE WITH THE LAW. The Employee will perform all duties and obligations hereunder in complete compliance with all applicable federal, state and local laws, ordinances, rules and regulations.

SECTION 9. WAIVERS. No failure or delay on the part of either of the parties to this Agreement in exercising any right, power, or privilege hereunder will operate as a waiver, nor will a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

SECTION 10. ASSIGNMENT OR SUBCONTRACTING. The Employee may not assign, subcontract or otherwise transfer any duties and/or obligations under this Agreement.

SECTION 11. ENTIRE AGREEMENT. This Agreement contains all of the terms and conditions agreed to by the parties, and no other agreements, oral or otherwise regarding the subject matter of this agreements shall be deemed to exist or to bind either of the parties hereto.

SECTION 12. SEVERABILITY. If any provision or portion of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provision or portions shall not be affected thereby, but shall be valid and in force to the fullest extent allowed by law.

SECTION 13. APPLICABLE LAW. This agreement shall be construed and governed in accordance with the laws of the State of Michigan.

SECTION 14. AMENDMENT OR MODIFICATION. The terms of this Agreement, including, but not limited, compensation of the Administrator, may be amended or modified only by written agreement of the parties or by changes in applicable law that mandate alteration of a term or terms of this Agreement.

SECTION 15. HEADINGS. The descriptive headings used in this Agreement are for convenience only and are not to be used in its construction.

SECTION 16. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 17. Certification. The persons signing this Agreement on behalf of the parties certify by their signatures that they are duly authorized to sign this Agreement on behalf of the parties and that this Agreement has been authorized by each party.

IN WITNESS WHEREOF, the County of Emmet has caused this Agreement to be signed and executed on its behalf by the Chairperson of the Board of Commissioners, and Employee, signed and executed by themselves on the date noted below.

EMPLOYEE:

COUNTY OF EMMET:

By: _____

David Boyer,

Administrator

By: _____

David White– Chair

County Board of Commissioners

Dated: _____

Dated: _____

Witnessed By:

By: _____

Suzanne Kanine– County Clerk

Dated: _____