

EMPLOYMENT AGREEMENT

This Agreement is entered into this 28th day of August, 2023 by and between the CITY OF ROYAL OAK, a Michigan Municipal Corporation with offices at 203 S. Troy Street, Royal Oak, Michigan 48067 (the "City") and NICCOLAS J GROCHOWSKI, an individual whose current residence is 32211 Hees St, Livonia, MI 48150 ("Grochowski").

Whereas, the City wishes to employ Grochowski as its City Attorney under the terms and conditions set forth in this Agreement; and

Whereas, Grochowski wishes to be employed by the City as its City Attorney under the terms and conditions set forth in this Agreement.

Therefore, in consideration for the mutual promises contained in this Agreement, the sufficiency of which is hereby acknowledged, the City and Grochowski agree as follows:

1. TERM

This Agreement shall remain in full force and effect until terminated by either the City or Grochowski as provided in Section 13. It is expressly understood that Grochowski will be an at-will employee, and subject to Grochowski's ability to resign pursuant to Section 13, the duration of his employment is unspecified and rests solely in the discretion of the City.

2. DUTIES AND AUTHORITY

The City agrees to employ Grochowski as its City Attorney effective August 14, 2023, to perform the functions and duties specified in the Charter and Code of Ordinances of the City of Royal Oak, as amended, and all other legally permissible and proper duties and functions, subject to the general supervision of and pursuant to the order, advice, and direction of the City Commission.

It shall be the duty of the City Attorney to employ on behalf of the City all other employees of

the Office of City Attorney, consistent with the policies of the City and the ordinances and charter of the City. It shall also be the duty of the City Attorney to direct, assign, reassign, evaluate, and terminate, as appropriate, employees of the Office of City Attorney consistent with City policies, ordinances, charter and state and federal law. All duties assigned to the City Attorney by the City Commission shall be appropriate to and consistent with the professional role and responsibility of the City Attorney consistent with and in accordance with City policies, ordinances, charter and state and federal law.

3. HOURS OF WORK

The City recognizes that Grochowski must devote a great deal of time outside normal office hours to City business, and to that end, Grochowski shall be allowed to establish an appropriate work schedule. The basic workday shall consist of eight (8) hours in a calendar day, with not more than an additional sixty (60) minutes off for lunch without pay. The basic work week shall consist of forty (40) hours in five (5) consecutive eight (8) hour days.

4. COMPENSATION

The City agrees to pay Grochowski an annual salary of one hundred fifty-seven thousand and two-hundred dollars (\$157,200.00), payable in bi-weekly installments, as compensation for his service as City Attorney. The City Commission shall conduct an annual evaluation of Grochowski's performance, subject to a process, form, criteria, and format that shall be mutually discussed by the parties, upon which the Commission may consider increasing Grochowski's wages. This evaluation shall occur no later than August 1 of each year. This would not prohibit the City Commission from holding an earlier evaluation should they desire.

5. BENEFITS

- A. Health Insurance. Grochowski shall be eligible to participate in the City's health insurance plans provided to the City's Executive Department Heads and he agrees to enroll and to pay the same percentage of the illustrative premium rate for the plans as the City's Executive Department Heads on a monthly basis through payroll deduction.
- B. Life Insurance. The City agrees to provide fifty thousand dollars (\$50,000.00) of term life insurance at no cost to Grochowski.
- C. Memberships. The City agrees to budget for and pay the full travel, participation, and subsistence expenses of Grochowski's for professional and official travel, meetings and occasions adequate to continue the professional development of Grochowski, and to adequately pursue necessary official and other functions for Grochowski, including but not limited to the Michigan Municipal League, State Bar of Michigan Dues and other such national, regional, state and local groups and committee thereof which Grochowski serves as a member in the amount approved by the City Commission in the annual budget for the City of Royal Oak.
- D. The City agrees to bear the cost of any fidelity or other bond required of Grochowski in his capacity as City Attorney.
- E. Except as otherwise provided in this Agreement, Grochowski shall receive all of the benefits set forth in the Administrative Rules for Executive Department Heads, as may be amended; provided, however, that Grochowski shall not accrue compensatory time for any hours worked in excess of the basic workday and work week described in Paragraph 3. Grochowski will be paid for forty (40) hours of compensatory time earned prior to the effective date of this agreement. Any remaining compensatory time will remain available for use in accordance with

the Administrative Rules for Executive Department Heads until exhausted or the deadline to use it has expired.

6. TECHNOLOGY

The City agrees to provide Grochowski with a cell phone allowance of seventy-five dollars (\$75.00) per month for the use of his personal cell phone while serving in the capacity of City Attorney.

7. RETIREMENT

Subject to IRS and plan limits, the City agrees to make an annual contribution to retirement accounts with MissionSquare Retirement Corporation and/or Nationwide in the amount of 15% of his base pay without employee match, payable in bi-weekly installments. In recognition of Grochowski's prior service as a city attorney, he will be credited for 5 years of vesting credit for purposes of the city's Defined Contribution and Retiree Health Savings plans.

8. PAID TIME OFF

A. Grochowski will begin employment with twenty-five (25) vacation days, pro-rated based on his city hire date of 01/03/2023. In each subsequent year of service with the City, he shall be allowed twenty-five (25) vacation days.

B. Grochowski shall receive other leave time (including, but not limited to, sick leave, holidays, personal business days and bereavement leave) as provided in the Administrative Rules for Executive Department Heads.

9. GENERAL BUSINESS EXPENSES

The City recognizes that Grochowski may incur certain expenses of a non-personal, community, or job-affiliated nature, and agrees to reimburse Grochowski or pay those expenses for him. The

Director of Finance is hereby authorized to disburse such monies upon production of appropriate receipts, statements, or affidavits. Grochowski shall not be reimbursed for any mileage, including but not limited to daily travel to and from his home to the City.

10. INDEMNIFICATION

To the fullest extent permitted by law, the City shall defend, hold harmless and indemnify Grochowski against any tort, professional liability claim, demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring during the performance of Grochowski's duties as City Attorney, or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involves willful or wanton conduct. Grochowski may request and the City shall not unreasonably refuse to provide independent legal representation at the City's expense in the event of a conflict between Grochowski's interests and those of the City. Legal representation, which is currently provided by the City through the Michigan Municipal Risk Management Authority (MMRMA), shall extend until a final decision of the legal action, including any appeals brought by any party. The City shall indemnify Grochowski against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings, including attorney fees, and other liabilities incurred by, imposed upon, or suffered by Grochowski in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his duties. Any settlement of any claim must be made with the prior approval of the City for this indemnification to be available.

11. OUTSIDE ACTIVITIES

Subject to the prior approval of the City Commission, Grochowski may accept other teaching, consulting, or business opportunities. The compensation provided for under this Agreement shall not be offset by any income Grochowski may earn from any other source.

12. TERMINATION

For purposes of this Agreement, termination shall occur when either of the following take place:

- A. A majority of the membership of the City Commission votes to terminate this Agreement at a duly authorized public meeting.
- B. Grochowski submits a written letter of resignation to the City Commission, in care of the City Clerk. Grochowski shall provide a minimum of sixty (60) days advance written notice to the City. If Grochowski fails to provide this notice, he shall not be entitled to payment of any accrued vacation, sick leave, or personal business time upon separation. Grochowski shall continue to perform his professional duties after notice is provided.

13. SEVERANCE

- A. If Grochowski's contract is terminated pursuant to Section 13(A) for any reason other than just cause, he shall be entitled to severance pay for a period of up to nine (9) months at his rate of pay on the effective date of termination. For purposes of this Agreement, just cause shall include, but not be limited to, acts of insubordination, conduct unbecoming a City Attorney, actions which would be criminal in nature, acts of moral turpitude, gross negligence or acts of a similar nature but shall not include acts performed in good faith or honest mistakes. It will also include less serious offenses which have not been corrected through progressive steps. The City shall pay severance pay in biweekly installments until Grochowski has received the severance

described herein, or until Grochowski secures and commences other employment, whichever occurs first. For the period that Grochowski is receiving severance pay, the City shall continue to pay its portion of the cost of health insurance for Grochowski and any eligible dependents, and for life insurance for Grochowski. Grochowski shall not accrue any additional service credit or receive any additional benefits for the period that he is receiving severance pay. Termination and retirement definitions will be the same as for Tier 1 Executive Department Head employees for purposes of leave bank payouts. In order to be treated as "retired" Grochowski must meet the same age and service requirements as those for Tier 1 Executive Department Head employees.

B. If Grochowski's employment is terminated pursuant to Section 13(A) for just cause, or if his employment is terminated pursuant to Section 12(B), he shall not be entitled to any severance pay.

14. RETURN OF CITY PROPERTY

Upon termination of this Agreement, Grochowski shall return all City property in his possession or under his control, including but not limited to any keys, computer or other office equipment, cell phone, credit card, and the originals and copies of all paper or electronic files, records, or other documents. This does not preclude Grochowski from retaining copies of any document he produced or that were produced under his direction.

15. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement between the parties, and supersede all other agreements, whether oral, written, or implied, regarding the subject matter hereof.

16. AMENDMENT

This Agreement can be modified or amended only in a subsequent written document signed by both the City and Grochowski. This agreement shall automatically incorporate any benefit or salary adjustments that are provided on the same basis as applied to Executive Department Heads or by merit increases by the City Commission.

17. WAIVER OF BREACH

A waiver of any breach of this Agreement shall not constitute a waiver of any future breach.

18. BINDING EFFECT

This Agreement shall be binding upon the City and Grochowski, as well as their heirs, assigns, executors, personal representatives, and successors in interest.

19. SEVERABILITY

If any provision of this agreement is found to be invalid, all other provisions shall remain in full force and effect.

20. COUNTERPARTS

This Agreement may be executed in one or more counterparts, and the signature pages may be transmitted by facsimile, each of which shall be deemed an original and all of which together shall be considered one and the same Agreement.

21. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

22. ARBITRATION

The exclusive remedy for any dispute, statutory or otherwise, arising out of Grochowski's employment or relating to this Agreement, shall be final and binding arbitration to be held in Oakland County, Michigan under the rules of the American Arbitration Association. The City and Grochowski understand that they are voluntarily waiving the right to trial by jury. Any claim that is not filed within ninety (90) days after it arises is waived.

23. VOLUNTARY AGREEMENT

Grochowski has entered into this agreement freely and voluntarily, after having been advised to seek advice of legal counsel and having had adequate opportunity to do so.

Witnesses:

Bonnie Jean Holland
Bonnie Jean Holland
Amy Brady
Amy Brady

Melanie Halas

CITY OF ROYAL OAK


Michael Fournier, Mayor

Melanie Halas
Melanie Halas, City Clerk

NICCOLAS GROCHOWSKI

