EMPLOYMENT AGREEMENT

BETWEEN

THE CITY OF CAMBRIDGE

AND

RICHARD C. ROSSI

February 2013

THIS EMPLOYMENT AGREEMENT ("this Agreement"), pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, is made this 25 day of February, 2013, by and between the CITY OF CAMBRIDGE (the "City"), acting by and through its City Council, with a principal place of business at 795 Massachusetts Ave., Cambridge, Massachusetts 02139, and RICHARD C. ROSSI (hereinafter referred to as "Mr. Rossi" or the "City Manager"). This Agreement supersedes all prior agreements between the City and Mr. Rossi, except as otherwise provided herein, and except for Appendix A and the Deputy City Manager's contract expiring on July 1, 2013.

WHEREAS, Mr. Rossi has been the Deputy City Manager for the City since August, 1982; and

WHEREAS during Mr. Rossi's tenure as the Deputy City Manager, Mr. Rossi has performed the duties of the City Manager in the City Manager's absence;

WHEREAS, the City wishes to employ Mr. Rossi as the City Manager effective July 1, 2013;

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1 - EMPLOYMENT OF MR. ROSSI

1.1 The City, pursuant to applicable provisions of the Massachusetts General Laws, Chapter 41, Section 108N, and the City Charter, hereby employs Mr. Rossi as the City Manager for the City effective July 1, 2013 and Mr. Rossi hereby accepts such employment under the terms and conditions in this Agreement and the City Charter.

1.2 Mr. Rossi agrees to continue his employment with the City as the Deputy City Manager through June 30, 2013, which is the subject of a separate agreement, as amended, between Mr. Rossi and the City. Mr. Rossi and the City agree that there shall be no break in his service as the Deputy City Manager and his employment as the City Manager.

1.3 Mr. Rossi shall devote his full working time to his duties as the City Manager and shall not engage in any business activity during the terms of this Agreement except with the advance written consent of the City Council.

SECTION 2 – SERVICES

2.1 Mr. Rossi will exercise the full authority and perform all the functions, duties and responsibilities of the City Manager as specified in Massachusetts General Laws Chapter 43, Sections 93 through 108 inclusive and shall perform other legally permissible and proper duties and functions as the City Council may from time to time assign to him. The City acknowledges him as the Chief Executive of the City government.

2.2 The City Council may, from time to time and in consultation with Mr. Rossi, establish policies, subject to the City Charter, and the City Manager shall carry out those legislative policies in accordance with the City Charter. The failure by the City Council to establish any specific policies shall in no way and to no extent relieve Mr. Rossi from any of his obligations pursuant to Section 2.1, above.

2.3 The City Council shall review and evaluate the performance of the City Manager at meetings scheduled by the Government Operations Committee of the City

Council. Said review and evaluation shall be done in accordance with Massachusetts General Laws Chapter 30A, Sections 18-25 ("the Open Meeting Law").

SECTION 3 - TERM

3.1 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of Mr. Rossi and this Agreement at any time subject to the provisions of Section 5 of this Agreement.

3.2 Subject to the provisions of this Agreement, Mr. Rossi shall be employed as the City Manager for the City commencing July 1, 2013 and ending on June 30, 2016.

3.3 Mr. Rossi shall undertake his duties promptly upon the commencement of this Agreement and shall diligently and faithfully perform those duties in a professional manner.

3.4 If the City intends to continue Mr. Rossi's employment beyond June 30, 2016, it shall give written notice to Mr. Rossi on or before March 1, 2016, and initiate negotiations for a successor employment contract, which contract, if agreed to, shall become effective July 1, 2016. Absent agreement on a successor employment contract, this Agreement shall terminate on June 30, 2016.

SECTION 4 – COMPENSATION AND BENEFITS

4.1 Mr. Rossi has separately and voluntarily agreed to amend his Deputy City Manager Employment Agreement to remove the sick leave and compensatory time buy back provisions in Section 3, Paragraph A of such Deputy City Manager Employment Agreement, thereby extinguishing the contractual buyout provision for compensatory time and the contractual buyout provision for sick leave accrued during the course of his employment with the City, the total of which is estimated to have a current value of approximately $615,000.00 under his contract as Deputy City Manager. The City Council recognizes the unique and invaluable experience and familiarity with the City's operations and needs that Mr. Rossi has acquired in his more than 40 years of employment with the City, including his 31 years of service as

the Deputy City Manager. The City Council further recognizes the value to Mr. Rossi of the compensatory time and sick leave buyout provisions in Mr. Rossi's Deputy City Manager Employment Agreement and has considered the extinguishment of such compensatory time and sick leave buyout in setting the salary for Mr. Rossi as City Manager. As compensation in full for the services Mr. Rossi is to perform as City Manager for the City, subject to this Agreement and Appendix A, Mr. Rossi's annual salary shall be three hundred thirty thousand dollars ($330,000.00) per contract year. For purposes of this agreement, each contract year shall commence on July 1st and end the following June 30th and for the term of this Agreement the contract years shall be as follows:

Contract Year	Dates	Salary per Contract Year
Contract Year 1	July 1, 2013 – June 30, 2014	$330,000.00
Contract Year 2	July 1, 2014 - June 30, 2015	$330,000.00
Contract Year 3	July 1, 2015 - June 30, 2016	$330,000.00

In the event that Mr. Rossi serves for less than a full contract year, in accordance with this Agreement and the City Charter his salary shall be prorated for the portion of the contract year actually served. The City Manager's salary shall be subject to withholdings and deductions in accordance with applicable federal and state laws. The City Manager's per diem rate shall be calculated by dividing the salary for the contract year by 261.

4.2 The City Manager acknowledges that he is an exempt employee under the federal Fair Labor Standards Act ("FLSA") and Massachusetts overtime provisions, including provision providing for compensatory time in lieu of overtime pay, and that he is not entitled to any overtime pay or compensatory time pursuant to the FLSA, provisions in the Massachusetts General Laws, or provisions in City ordinances, except for compensatory time provided for under this Agreement and Appendix A.

4.3 The City Manager shall be entitled to all medical, dental, vision, hospital, life insurance, and other benefits not otherwise covered by this Agreement, including those provided in Appendix A to this Agreement, and those generally available to other non-union managerial personnel employed by the City on the same terms, conditions, and limitations as such benefits are generally available as a matter of uniform City policy to all other non-union managerial personnel employed by the City. He shall be eligible for the same holiday, personal and administrative leave benefits, and all such other benefits of employment, including but not limited to deferred compensation, flexible spending, longevity, management allowance, sick leave incentive pay, and tuition reimbursement, as are provided to other non-union management employees of the City, excluding any benefits which are provided only as a matter of individual employment contract with other employees.

4.4 The City Manager shall be entitled to twenty-five (25) working days of vacation per contract year, exclusive of legal holidays. Such vacation shall be awarded at the beginning of each calendar year, as is the practice with other managerial employees. Subject to the second paragraph of this Section, the City Manager may carry over up to and including five (5) days of accrued unused vacation time from one contract year to the subsequent contract year, but in no event shall the City Manager carry forward more than five days of vacation in any one contract year.

The parties agree that Mr. Rossi has accrued unused vacation days on June 30, 2013 from his service as the Deputy City Manager, the amount of which shall be determined as of June 30, 2013. The parties agree that Mr. Rossi will be entitled to carry over no more than fifteen (15) days of such accrued, unused vacation time and that he shall be eligible to buy back all such accrued, unused vacation days earned as Deputy City Manager at the time of his retirement or termination or in accordance with this Section. The buyback of the total of such accrued, unused days, minus the fifteen (15) carried-over days, shall be at his rate of pay as Deputy City Manager. Mr. Rossi may also exercise the option to buy back all or a portion of the balance of such accrued Deputy City Manager vacation at any time during each of the three years of this Agreement. The total accrued, unused vacation days which are subject to this buyback shall be determined as of June 30, 2013.

The parties further agree that at the time of his retirement or termination, Mr. Rossi shall be eligible to buy back, at his then existing rate of pay, all his accumulated vacation, personal, compensatory and administrative leave that remained unused at the time of retirement or termination and that was earned by him in the position of City Manager, and any remainder of the fifteen (15) days carried over from his service as Deputy City Manager.

4.5 The City Manager shall be entitled to fifteen (15) days sick leave awarded at the beginning of each calendar year, as is the practice with other non union managerial employees. Sick leave shall accumulate unlimited, year to year. The parties agree that Mr. Rossi has accrued substantial unused sick leave from his many years of employment with the City and such accrued, unused sick leave shall be carried over upon the commencement of this Agreement on July 1, 2013. Any sick leave buyback upon the termination of this Agreement shall be limited to the cap established by the City for other non-union management employees at the time of such termination.

4.6 The parties recognize that Mr. Rossi received certain benefits during his employment as the Deputy City Manager and that while such benefits would not be available to other individuals who may some day serve as the City Manager, the City Council agrees that the continuation of such benefits for Mr. Rossi is, in part, an inducement to Mr. Rossi to accept employment as the City Manager for the City and waive certain sick leave benefits. Therefore, the benefits provided for in Appendix A, attached to this Agreement, are hereby incorporated into this Agreement by reference.

SECTION 5 – REMOVAL AND TERMINATION; SUSPENSION

5.1 Mr. Rossi may terminate this Agreement and his employment with the City at any time by giving the Mayor and City Council written notice at least 4 (four) months prior to the effective date of termination. With the exception of payment for accrued unused vacation, sick leave buyback as provided in paragraph 4.5 above, and other benefits, as provided in paragraphs 4.3 and 4.4 above, as well as the compensatory time and supplemental retirement benefits provided in Appendix A of this agreement and

other accrued benefits as are due to Mr. Rossi under the terms of this Agreement, including Appendix A, Mr. Rossi shall not be entitled to receive any other compensation or benefits after the date of termination under this Section 5.1.

5.2 Mr. Rossi may be suspended and/or removed as the City Manager, and this Agreement terminated, for "Cause" by a majority vote of the City Council. For the purposes of this Agreement, the term "Cause" shall mean conviction of a felony; serious conduct unbecoming a City Manager; repeated inefficiency or incompetency in the performance of his duties as City Manager, provided that the City Council has given written notice to Mr. Rossi of such inefficiency or incompetency and thirty (30) days to cure; and incapacity, subject to the ADA. With the exception of payment for accrued unused vacation, sick leave buyback as provided in paragraphs 4.4 and 4.5 above, and other benefits, as provided in paragraph 4.3 above, as well as the compensatory time and supplemental retirement benefits provided in Appendix A of this agreement, and other accrued benefits as are due to Mr. Rossi under the terms of this Agreement, including Appendix A, Mr. Rossi shall not be entitled to receive any other compensation or benefits after the date of termination under this Section 5.2.

5.3 Mr. Rossi may be removed as City Manager, and this Agreement terminated at any time for any reason by majority vote of the City Council. If such termination is not for "Cause" pursuant to Section 5.2 of this Agreement, and Mr. Rossi is willing and able to perform his duties under this Agreement, in addition to the other payments specified in Sections 4.3, 4.4, 4.5 and Appendix A of this Agreement, the City shall pay him an early termination payment in a lump sum minus withholdings required by law or authorized by Mr. Rossi, as follows: if such early termination occurs within the first Contract Year, in the gross amount of twelve (12) months of salary at the annual rate specified in Section 4.1, above; if such early termination occurs within the second Contract Year, in the gross amount of nine (9) months of salary at the annual rate specified in Section 4.1, above ; if such early termination occurs within the third Contract Year, the gross amount of six (6) months of salary at the annual rate specified in Section 4.1, above.

SECTION 6 – INDEMNIFICATION

6.1 To the fullest extent permitted by law, the City shall (1) defend, save harmless and indemnify the City Manager against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as City Manager, even if said claim has been made following his termination from employment, provided that the City Manager acted within the scope of his duties, and (2) shall pay the amount of any settlement or judgment rendered thereon. The City may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the City Manager.

The City shall reimburse the City Manager for any attorneys' fees and costs incurred by the City Manager in connection with such claims or suits involving the City Manager in his professional capacity.

This indemnification shall also apply to the City Manager after he leaves the employment of the City.

Indemnification of Mr. Rossi shall not apply to any proceeding to terminate his employment as the City Manager pursuant to statute, this Agreement or otherwise. Mr. Rossi agrees to cooperate fully with the City and the City's attorney in any claim, suit, or matter in which the City is indemnifying Mr. Rossi. Mr. Rossi shall be paid the existing daily rate for his position at the time of his retirement or other end of his service for time spent for testimony or consultation by or on behalf of the City in defense of such claims or actions. This Section 6.1 also applies with respect to claims, suits, or matters which arise out of Mr. Rossi's performance of his duties as Deputy City Manager.

The City agrees to review purchasing "Directors and Officers" liability insurance from an outside insurance company for the City Manager as to coverage and cost. If the City Manager and the City Council agree on the purchase of such insurance after the City's review, the City shall purchase such coverage at the City's expense for the City Manager.

This Section shall survive the termination of this Agreement.

SECTION 7 – GENERAL PROVISIONS

7.1 This Agreement and Appendix A, attached, constitutes the entire agreement between the City and Mr. Rossi regarding the subject matter hereof and may be changed (amended, modified, or terms waived) only if mutually agreed to by the parties and set forth in a writing approved by majority vote of the City Council and signed by the Mayor and by Mr. Rossi, subject to the City Charter.

7.2 Any notices pursuant to this Agreement shall be directed to Mr. Rossi at his residence as identified in the City's personnel records for Mr. Rossi and made by in-hand delivery or by certified mail, return receipt requested. Any such notices shall be directed to the City and made by certified mail return receipt requested to the office of the Mayor.

7.3 This Agreement is governed by and shall be construed in accordance with the laws of the Commonwealth of Massachusetts and the City Charter.

7.4 Unless the parties expressly agree in writing to extend or renew the employment relationship between the City and Mr. Rossi subject to the City Charter, such employment relationship between the City and Mr. Rossi shall terminate on June 30, 2016.

7.5 If any portion or provision of this Agreement is held unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, the remainder of the Agreement will be considered severable, will not be affected, and will remain in full force and effect. The language of all parts of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against either party.

7.6 Subject to this Agreement, and Appendix A, all other general provisions of the City's ordinances, rules or policies relating to uniform benefits for non-union management employees shall also apply to the City Manager in addition to the benefits enumerated herein for the City Manager.

In witness whereof, the City Council of the City of Cambridge has voted that this agreement be entered into as duly attested by its City Clerk and Mr. Rossi has signed and executes this Agreement this 25th day of February 2013.

CITY MANAGER

Richard C. Rossi

Richard C. Rossi

Donna P. Lopez

City Clerk

Approved as to Legal Form
City Solicitor

CITY OF CAMBRIDGE

Mayor Henrietta Davis

Vice Mayor E. Denise Simmons

Councilor Leland Cheung

Councilor Marjorie C. Decker

Councilor Craig A. Kelley

Councilor David P. Maher

Councilor Kenneth E. Reeves

Councilor Timothy J. Toomey, Jr.

Councilor Minka vanBeuzekom

APPENDIX A

TO THE EMPLOYMENT AGREEMENT

BETWEEN

THE CITY OF CAMBRIDGE

AND

RICHARD C. ROSSI, City Manager

February 2013

This Appendix A supplements the Employment Agreement between the City of Cambridge ("City") and Richard C. Rossi ("Mr. Rossi" or "City Manager") and is an integral part of that Employment Agreement, fully enforceable under the laws of the Commonwealth.

Whereas Mr. Rossi had certain benefits in his employment agreement as the Deputy City Manager and has certain benefits under his Employment Agreement; and

Whereas the City wishes to continue such benefits as an inducement for Mr. Rossi to enter into an employment agreement with the City to serve as the City's City Manager;

Now Therefore, the City and Mr. Rossi agree to the following:

A. **Transportation.** The City Manager shall be provided with the use of a City owned or leased automobile for the City Manager's unrestricted use. Insurance, maintenance and repairs and gasoline in connection with the operation of said automobile shall be paid by the City. Upon termination of this Agreement and the City Manager's employment with the City, he shall return the automobile to the City.

B. **Cellular Phone.** The City Manager will be provided with a cellular phone, tablet, and other devices to be used in accordance with his duties for the City. It is understood that some moderate personal use will be permitted in recognition of the City Manager's work schedule.

C. **Vacation and Compensatory Time.** The City Manager acknowledges that he is frequently required or called upon to perform work outside of the normal office hours of

the City and he commits to performing such work. The City Council recognizes that the City Manager's hours require that he devote a great deal of time outside of the normal office hours of the City and the City shall permit the City Manager to earn and take up to three weeks of non-FLSA compensatory time off per year. One week of earned but unused compensatory time may be carried over from one Contract Year to the subsequent Contract Year, on a cumulative basis. Mr. Rossi shall be eligible to buy back up to three weeks of unused vacation time, earned as City Manager at his then existing rate, on an annual basis. If he elects to buy back such vacation time he shall not be eligible to carry over any of the vacation time awarded for that year into the next calendar year.

This provision is without prejudice to the vacation time owed to the City Manager from his Deputy City Manager's contract

This provision survives the termination of this Agreement.

D. **Life Insurance.** The City Manager shall be covered by an insurance policy in the amount of $120,000 payable to the beneficiary/beneficiaries named by the City Manager. This insurance may include "whole life", paid up" or "cash value" insurance at the discretion of the City Manager.

E. **Retirement.** The City agrees that upon retirement, the City Manager shall be paid, in addition to any retirement benefits that he would be entitled to pursuant to the provisions of Chapter 32 of the Massachusetts General Laws, further supplemental retirement benefits pursuant to MGL Chapter 41, Section 108N. It is the intention of the City Manager, upon retirement, to select Option C as specified in MGL Chapter 32 Section 12, in order to provide a survivor benefit. The City agrees, pursuant to MGL Chapter 41, Section 108N to supplement the City Manager's retirement benefit by paying to him a monthly payment equal to the difference between his actual monthly retirement allowance, under Option C, and the allowance he would receive had he selected Option A as specified in MGL Chapter 32 Section 12. These monthly payments shall begin with the date of his retirement and shall terminate with his death. These monthly supplemental benefit payments shall be payable from the non-contributory retirement account. If, for any reason, this is determined to be unenforceable, there shall be an

affirmative duty on the part of the City to make such supplemental payments from the Employee Benefits Account or other appropriate account. It is understood and agreed that this contractual right to these supplemental retirement benefits is vested with the City Manager in the same manner and extent that his other pension rights are vested pursuant to Chapter 32, sections one to twenty-eight inclusive, of the Massachusetts General Laws, including as provided in Section 10 thereof. It is the intent of this Agreement that these supplemental pension rights vest with the City Manager immediately upon execution of this Agreement. This provision (Section E) shall survive the termination of this Agreement and his employment as City Manager.

The parties acknowledge that upon the effective date of the Agreement between Mr. Rossi and the City for Mr. Rossi to be employed as the City Manager for the City, Mr. Rossi's employment contract as the Deputy City Manager, including Section 9 therein, shall be terminated (without any consequences of termination as may be provided in that contract) and superseded by this Agreement on July 1, 2013, but without prejudice to his vacation leave as provided in this Agreement or Appendix A. The supplemental retirement benefits previously provided to Mr. Rossi under that Section shall be provided under the above Section E of this Appendix and not Section 9 of the Employment Agreement between the City of Cambridge and the Deputy City Manager.

In witness whereof, the City Council of the City of Cambridge has voted that this Appendix to the Employment Agreement between the City and Mr. Rossi be entered into as duly attested by its City Clerk and Mr. Rossi has signed and executes this Appendix A to this Agreement this 25th day of February, 2013.

CITY MANAGER

Richard C. Rossi

Richard C. Rossi

Donna P. Lopez

City Clerk

CITY OF CAMBRIDGE

Mayor Henrietta Davis

Vice Mayor E. Denise Simmons

Approved as to Legal Form
City Solicitor

Councilor Leland Cheung

Councilor Marjorie C. Decker

Councilor Craig A. Kelley

Councilor David P. Maher

Councilor Kenneth E. Reeves

Councilor Timothy J. Toomey, Jr.

Councilor Minka vanBeuzekom

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