

## EMPLOYMENT AGREEMENT

THIS AGREEMENT is made between David Ervin, hereinafter referred to as "Employee" and the Plainfield Municipal Utilities Authority (P.M.U.A.), a public body politic established pursuant to the Laws of the State of New Jersey, hereinafter referred to as "Employer", and collectively, the "Parties".

### WITNESSETH

Employer is engaged in the business of operating the Plainfield Municipal Utilities Authority, and maintains its office at 127 Roosevelt Avenue, City of Plainfield (City), County of Union, State of New Jersey.

The Employee is willing to be employed by the Employer and the Employer has determined to appoint the Employee as Assistant Executive Director of the P.M.U.A. For the reasons set forth above, and in consideration of the mutual promises and agreements hereinafter set forth, Employer and Employee agree as follows:

#### ARTICLE I - DUTIES OF THE EMPLOYEE

- 1.1 The Employer hereby employs the Employee in the managerial position hereinafter known and referred to as Assistant Executive Director of the P.M.U.A. This position shall be occupied by a non-union employee of the P.M.U.A.

1.2. The Employee agrees that he will, at all times, faithfully, industrially and to the best of his ability, experience and talents, perform all the duties and responsibilities that may be required of and from him pursuant to the express and implicit terms hereof, to the reasonable satisfaction of the Employer. Such duties shall be rendered as directed by the Employer and at such place(s) that may be required to further the best interests of the P.M.U.A.

1.3. The Employee shall perform his duties and responsibilities at the direction and in support of the Executive Director, the P.M.U.A. Commissioners and in accordance with all rules and regulations promulgated and in the best interest of the P.M.U.A. More specifically, the Employee shall provide administrative and technical assistance to the Executive Director in planning, organizing, directing, coordinating and executing the operations of the Authority. The Employee also is designated to serve as acting Executive Officer in the absence of the Executive Director.

ARTICLE II - COMPENSATION AND BENEFITS

- 2.1 The Employee shall be paid for all services rendered to the P.M.U.A. at an annual salary of \$119,647.06 payable in biweekly installments commencing on January 1, 2009. The Employee shall receive an increase equal to a minimum of 4% of his gross salary each succeeding year of this Contract.
- 2.2 The Employee shall receive twenty (20) cumulative days paid sick leave per year or such other greater number as otherwise adopted by the P.M.U.A. from time to time. The Employee may at the end of the term of this Agreement cash in fifty percent (50%) of any unused and accumulated sick pay based on his last highest salary.
- 2.3 The Employee shall be entitled to eight (8) personal days per year or such other greater number as may be adopted by the P.M.U.A. from time to time.
- 2.4 The Employee shall be entitled to thirty (30) paid vacation days or such other greater number as may be adopted by the P.M.U.A. from time to time. The request for the use and approval of vacation days shall be in writing and/or as otherwise directed by any personnel policy procedure adopted and approved by the P.M.U.A.

In any case, all vacation use must be authorized and approved by the Chairperson of the P.M.U.A. In addition, the employee shall, at the end of each calendar year, be entitled to receive a cash payment in lieu of any unused vacation days.

2.5 The Employee shall, during the term of this Agreement, be entitled to the same paid holidays as all Employees, provided, however, in the event the Employee is required to work on any holiday, he shall not receive additional salary or overtime. In this event, however, the Employee may be eligible for compensatory time at the sole discretion of the Chairperson of the P.M.U.A.

2.6 The Employee shall, during the term of this Agreement, be enrolled in the Public Employees' Retirement System and be subject to all regulations thereof.

2.7 The Employee shall be permitted to enroll in a public employee's credit union and Employer shall assist in such enrollment.

2.8 The Employer shall reimburse the Employee for appropriate expenses incurred in the performance of his duties in accordance with a budgeted amount not to exceed \$2,500.00 per year unless approved by the PMUA Board of

Commissioners.

- 2.9 The Employer shall provide the Employee with either a car or a car allowance to be provided by the PMUA, to include maintenance and insurance.
- 2.10 The Employer will provide to the Employee a comprehensive medical/dental prescription plan of medical coverage.
- 2.11 The Employer shall reimburse the Employee for tuition and any other necessary education expenses associated with the successful completion of any course or courses approved by the Chairperson of the P.M.U.A. Employee is considered to have successfully completed a course if he achieves a "C" or better or a pass grade, whichever applies, upon completion of the course.
- 2.12 All health and insurance benefits will be received by the Employee in such coverages and amounts as currently provided and authorized by the Commissioners and as may be modified from time to time, provided, however, that none of such benefits shall be less than existing industry standard.
- 2.13 The Employee will be entitled to consideration for annual merit increases under a schedule to be agreed upon by the Commissioners of the P.M.U.A. It is

understood that any such approved increases shall be in addition to any and all annual compensation and benefits heretofore discussed and described.

### ARTICLE III - CANCELLATION AND TERMINATION

3.1 The term of the Agreement shall be for a period of one (1) year, commencing January 1, 2009, and terminating on December 31, 2009. Prior to the termination of the Agreement, Employee's performance shall be evaluated annually by the Employer. At the end of one year, which date is December 31, 2009, the Employer shall evaluate Employee for the purposes of determining Employee's Agreement renewal. The Employer will advise the Employee whether the Agreement will be renewed based upon said evaluation. If the Employee is not so notified, the Agreement will continue in effect for another term.

3.2 Should the Employer choose not to renew the Employee's contract at the end of the Agreement on December 31, 2009, or if the Agreement is not renewed for any other reason, the Employee shall receive one month of severance pay for each year of service from the commencement of his employment with the P.M.U.A.

3.3 Should the Agreement be terminated for any reason other than cause, death or disability or by the Employee for good cause, the Employee shall be entitled to his salary and continuation of his benefits for the duration of the term of the Agreement. The Employee shall be bound by and shall adhere to all applicable policies and procedures approved by the Commissioners and/or as set forth in the P.M.U.A.'s Personnel Policies and Procedures with respect to, among other things, the Employee's job performance, performance evaluation and disciplinary and termination matters, as such Policies and Procedures may be amended and supplemented from time to time.

#### ARTICLE IV - INDEMNIFICATION

4.1 The Employer agrees to indemnify the Employee from liability for all claims, actions, judgments or demand for judgment, arising out of acts or omissions of the Employee that fall within the scope of his employment. Under no circumstances shall the Employee be entitled to indemnification from liability arising out of acts or omissions of the Employee that fall outside the scope of his employment. Furthermore, the

Employee shall not be entitled to indemnification for liability arising out of known criminal acts or omissions of the Employee.

4.2 Indemnification shall include reasonable attorney fees, costs and expenses incurred through appeal, and all other expenses reasonably related to litigation.

4.3 The Employer agrees to defend any and all lawsuits or actions brought against the Employee that fall within the scope of his employment. Under no other circumstances shall the Employer be obligated to provide a defense to the Employee.

4.4 The Commissioners of the P.M.U.A. reserve the right to name the attorney and any expert, and to approve any hourly fees or retainer terms, with regard to providing a defense for the Employee pursuant to Section 4.3.

#### ARTICLE V - CHOICE OF LAW

5.1 The Parties hereto agree that it is their intention and covenant that this Agreement and performances hereunder and all suits and special proceedings hereunder be constructed in accordance with and pursuant to the laws of the State of New Jersey and that in any action, special proceeding or other proceeding that may be brought arising out of, in connection with, or by



reason of this Agreement, the laws of the State of New Jersey shall govern to the exclusion of the laws of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

ARTICLE VI - MISCELLANEOUS

- 6.1 This Agreement shall be binding on and inure to the benefit of the respective Parties hereto and their executors, administrators, heirs, personal representatives, successors and assigns.
- 6.2 This written Agreement contains the sole and entire agreement between the Parties and shall supersede any and all other agreements between the Parties. The Parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with their dealings with the other.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this 10<sup>th</sup> day of November, 2009.

Dollie S. Hamlin  
Witness

David Ervin  
David Ervin

Dollie S. Hamlin  
Witness

BY: Carol Ann Pool  
Chair

The undersigned hereby further certifies that the Chairman has the authority to enter into this Agreement on behalf of the Municipal Utilities Authority.

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P.M.U.A. Attorney

Sworn to and subscribed  
before me this  
10<sup>th</sup> day of Nov., 2009.

Dollie S. Hamlin

**DOLLIE S. HAMLIN**  
NOTARY PUBLIC OF NEW JERSEY  
Commission Expires 4/7/2010