

**STATE OF GEORGIA
CITY OF DUNWOODY**

**CITY MANAGER
EMPLOYMENT AGREEMENT**

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as “Agreement”), is by and between the City of Dunwoody, Georgia, a subdivision of the State of Georgia (hereinafter referred to as “City”), and George Eric Linton (hereinafter referred to by name as Eric Linton or as “City Manager”).

W I T N E S S E T H:

WHEREAS, the City desires to employ Eric Linton as City Manager of the City of Dunwoody, Georgia, as provided for in the City Charter of the City of Dunwoody; and

WHEREAS, the City, through its City Council, desires to provide for certain benefits and compensation for the City Manager and to establish conditions of employment applicable to the City Manager; and

WHEREAS, Eric Linton desires to accept employment as City Manager of the City of Dunwoody under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises as set forth in this Agreement, the parties agree as follows:

Section 1. Employment.

A. The City of Dunwoody hereby hires and appoints Eric Linton as its City Manager, under the terms established herein, to perform the duties and functions specified in the City’s Charter and the City Code of Ordinances and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.

B. The City’s employment of Eric Linton as City Manager shall be effective January 6, 2015. This Agreement shall remain in effect until terminated by the City or by the City Manager as provided herein. City Manager agrees to remain in the exclusive employee of the City of Dunwoody while employed by the City of Dunwoody except as may be otherwise provided for herein.

Section 2. Salary and Evaluation.

A. For the performance of services pursuant to this Agreement, the City agrees to pay the City Manager an annual base salary of ONE HUNDRED SEVENTY-ONE THOUSAND DOLLARS AND 00/CENTS (\$171,000.00) payable in installments at the same time as other City employees are paid.

B. The City may increase said base salary and/or other benefits of the City Manager in such amounts and to such an extent as the City Council may determine desirable on the basis of an annual performance evaluation of the City Manager. Such evaluation shall be in such form as the Council deems appropriate and shall be made between October 1st and December 31st of each year in which this Agreement is effective. Any annual increase of compensation as a result of the evaluation shall be in the City's sole discretion.

C. Nothing in this Section shall require the City to increase the base salary or other benefits of the City Manager. Furthermore, the City's failure to conduct any of the scheduled evaluations shall not constitute non-compliance with a material provision of this Agreement.

D. The City Manager shall receive any cost of living adjustments, longevity pay, market adjustments, performance pay, and other compensation given to employees generally.

Section 3. Duties and Obligations.

A. The City Manager shall have the duties, responsibilities and powers of said office under the Charter and Ordinances of the City of Dunwoody and other proper duties and reasonable functions legally permissible that the City shall from time to time assign. The City Manager agrees to perform all duties and responsibilities faithfully, industriously, and to the best of his ability and in a professional and competent manner.

B. The City Manager shall remain in the exclusive employment of the City and shall devote all such time, attention, knowledge and skills necessary to faithfully perform his duties under this Agreement. The City Manager may, however, engage in educational and professional activities and other employment activities upon advanced receipt of approval by the City Council, provided that such activities shall not interfere with, nor be a conflict of interest with, his primary obligation to the City as its City Manager. The City Manager shall dedicate no less than an average of forty (40) hours per week in the performance of his duties hereunder.

C. In the event the City Manager shall serve on any appointed boards or elected boards of any professional organization, or serve on any committees related to his professional activities, in the event any monies are paid, or gifts received, by the City Manager related to such service, such money or property shall be paid over to or delivered to the City, unless otherwise provided by the City Council.

D. In the event the City Manager is temporarily unable to perform his duties, he shall designate an Acting City Manager in accordance with the City Charter and Ordinances.

Section 4. Automobile Allowance and Communications Equipment

A. The City Manager is required to be on call for twenty-four hour service. In recognition thereof the City Manager shall receive and be entitled to an Automobile Allowance in the amount of \$650.00 per month as reimbursement for

use of his personal vehicle to conduct City business. The City shall reimburse the City Manager at the IRS standard mileage rate for any business use of the vehicle beyond the greater Atlanta area. For purposes of this section, use of the car within the greater Atlanta area is defined as travel within a 75 mile radius of the Dunwoody City Hall.

- B. The City Manager has the need to be in contact with the office during non-business hours. In recognition thereof the City Manager shall receive and be entitled to a cell phone allowance in the amount of \$100.00 per month to cover the operational cost of a smart phone.
- C. In order to gain maximum productivity, the City Manager shall be entitled to a Technology Budget established through the annual budget process for the purpose of purchasing a laptop, software, mobile hotspot device, tablet computer, and smart phone device as well as other type of technology that would assist the City Manager with his daily duties.

Section 5. Professional Development, Dues and Subscriptions

The City agrees to pay the City Manager's professional dues for membership in the International City/County Management Association, and the Georgia Municipal Association and other professional organizations that the City Manager deems reasonably necessary in the performance of his duties.

The City agrees to pay reasonable and customary travel and subsistence expenses for the City Manager's travel to and attendance at necessary local government annual conferences as said costs are included in the Budget. The City may choose to pay for the City Manager's attendance at other seminars, conferences, and committee meetings as it deems appropriate and approved by Council action and part of the Budget. The City Manager shall have an allowance of \$7,500 per year for said Professional Development, Dues and Subscriptions.

Section 6. Community Involvement

The City recognizes the desirability of representation in and before local civic and other organizations, and encourages the City Manager to participate in these organizations to foster a continuing awareness of the City's activities as well as the community's attitudes and ideas.

Section 7. Vacation and Sick Leave

- A. Upon execution of this Agreement and again annually on January 1st of each year, the City Manager shall receive twenty (20) days of vacation leave. The City Manager may accumulate vacation leave from year to year throughout his employment subject to the limitations (caps) as applicable to all other employees of the City and outlined in the Dunwoody Employee Benefits Booklet.

- B. Upon execution of this Agreement and again annually on January 1st of each year, the City Manager shall receive ten (10) day of sick leave. The City Manager may accumulate sick leave from year to year throughout his employment subject to the limitations (caps) applicable to all other employees of the City and outlined in the Dunwoody Employee Benefits Booklet.
- C. The City Manager shall be entitled to three (3) days of bereavement leave in the event of a death of a family member during the term of this Agreement. Such leave will be approved as applicable to all other employees of the City and outlined in the Dunwoody Employee Benefits Booklet.
- D. In the event the City Manager's employment is terminated, either voluntarily or involuntarily, the City Manager shall be compensated for all vacation time and all paid holidays accrued through the date of termination.

Section 8. Holidays

The City Manager is entitled to the same paid holidays as the City employees.

Section 9. Health, Dental, Life and Disability Insurance

- A. The City agrees to provide and to pay all premiums for health, hospitalization, surgical, vision, dental, and comprehensive medical insurance for the City Manager and his/her dependents equal to that coverage which is provided to all other employees of the City. Such coverage will be effective pursuant to the City's employment policies.
- B. The City agrees to put into force and to make required premium payments for supplemental short term and long term disability coverage equal to that which is made available to all other employees of the City and outlined in the Dunwoody Employee Benefits Booklet.
- C. The City shall provide the City Manager with life insurance equal to that provided to other employees of the City. The City Manager shall name the beneficiary of the life insurance policy.

Section 10. Retirement.

The City Manager shall participate in the Retirement program pursuant to the City's Retirement Plan(s) as other employees of the City; except that the City Manager shall be fully vested in the City's Retirement Plan(s) upon execution of this agreement and immediately eligible to participate. The Mayor and City Council may, by majority vote, create additional retirement plan options for the City Manager as may be or become available and in the sole discretion of the City.

Section 11. Termination by the City and Severance Pay

A. The City Manager shall serve at the pleasure of the Mayor and City Council, and the City Council may terminate this Agreement and the City Manager's employment with the City at any time, for any reason or for no reason.

B. Should a majority of the entire Council (four members) vote to terminate the services of the City Manager "without cause," then within ten (10) business days following such vote, the Council shall cause the City Manager to be paid any accrued and unpaid salary and benefits earned (including vacation time and insurance, but excluding such items and allowances as are used in conducting City business such as, but not limited to, any remaining professional dues allowance) prior to the date of termination based on a forty (40) hour work week. Within forty-five (45) calendar days following the vote to terminate the City Manager's employment, the Council shall cause the City Manager to be paid a lump sum severance pay equal to nine (9) months during the first two years of employment and six (6) months for subsequent years of his base salary, along with any accrued vacation leave, as outlined in Section 7, Paragraph D of the Agreement, as full and complete payment and satisfaction of any claims of the City Manager of whatsoever nature arising out of this Agreement or otherwise. The City Manager shall be entitled to continue in the City Manager's participation in the City's group health, vision and dental plans in the same way and other employee would be, subject to COBRA rules and regulations. As consideration for such payment and benefits, the City Manager shall, prior to receipt thereof, execute and deliver to the City a general release of the City and its Council members and its officers, agents, and employees for all acts and actions (whether accrued or subsequently accruing) from the beginning of time until the date of release, said release to be prepared by the City Attorney.

C. In the event the City Manager is terminated for "just cause," the City shall have no obligation to pay the amounts outlined in Section 11, Paragraph B of this Agreement. For purposes of this Agreement, "just cause" is defined and limited for purposes of this Agreement to any of the following:

1. Misfeasance, malfeasance and/or nonfeasance in performance of the City Manager's duties and responsibilities.
2. Conviction or a plea of guilty or no contest to a misdemeanor or felony crime, whether or not adjudication is withheld.
3. Neglect of duty, including the inability or unwillingness to properly discharge the responsibilities of office.
4. Violation of any substantive City policy, rule, or regulation, which would subject any other City employee to termination.
5. The commission of any fraudulent act against the interest of the City.
6. The commission of any act which involves moral turpitude, or which causes the City disrepute.

7. Violation of the International City/County Management Association Code of Ethics.
8. Willful misuse, conversion or misappropriation by the City Manager without authority of public property or public funds entrusted to him.
9. Any other act of a similar nature of the same or greater seriousness.

Section 12. Termination by the City Manager

The City Manager may terminate this Agreement at any time by delivering to the City Council a written notice of termination not later than sixty (60) days prior to the effective date of the termination. If the City Manager terminates this Agreement, then the provisions of Section 11, Paragraph B above, shall not apply. If the City Manager voluntarily resigns pursuant to this Section, the City shall pay to the City Manager all accrued compensation due the City Manager up to the City Manager's final day of employment, including any unused vacation days. The City shall have no further financial obligation to City Manager pursuant to this Agreement.

Section 13. Disability

If the City Manager becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four consecutive weeks beyond any accrued leave, the City shall have the option to terminate this Agreement, subject to the severance pay provision outlined in Section 11, Paragraph B of this Agreement.

Section 14. Indemnification and Bonding

A. To the extent allowed by Georgia law and beyond that required Federal, State or local law, the City shall 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 the City Manager's duties as City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful, wanton or criminal misconduct. The City shall indemnify the City Manager against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities by, imposed upon, or suffered by the City Manager 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 or her duties; provided, however, the City shall not defend, save harmless, indemnify, or pay settlement and/or judgment rendered upon any claim arising from intentional acts or acts of criminal negligence. The City may meet its obligations under the provision by the purchase of insurance or participation in a risk pool. Such purchases or participation shall fully satisfy the City's obligation under this provision.

- A. Said indemnification shall extend beyond the termination of employment and the expiration of this Agreement to provide the City Manager protection for any such acts undertaken or committed in his capacity as City Manager, regardless of whether the notice of claim or filing of a lawsuit occurs during or following employment with the City.

Section 15. Bonding

The City shall bear the full cost of any fidelity or other bonds required of the City Manager under and law or ordinance.

Section 16. Code of Ethics

Inasmuch as the City Manager is an active full member of the International City/County Management Association (ICMA), the “Code of Ethics” promulgated by ICMA is incorporated herein, and by this reference made a part hereof. Said “Code of Ethics” shall furnish principles to govern the City Manager’s conduct and actions as City Manager of the City.

Section 17. General Terms and Conditions

A. If any provision, or any portion thereof, contained in this Agreement is held by a court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

B. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

C. This Agreement shall be binding upon and inure to the benefit of the heirs at law or personal representative of City Manager.

D. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties.

E. Georgia law shall govern this Agreement and any litigation that may arise from this Agreement, shall be filed and litigated in the State courts of DeKalb County, Georgia.

F. Upon City Manager’s death, the City’s obligations under this Agreement shall terminate except for:

1. Transfer of ownership of retirement funds, if any, to his designated beneficiaries;
2. Payment of accrued leave balances in accordance with this Agreement;

3. Payment of all outstanding hospitalization, medical and dental bills in accordance with City's insurance policies or plans; and
4. Payment of all life insurance benefits in accordance with the City's insurance policies or plans.

G. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

H. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

I. The effective date of this Agreement shall be the last date it is executed by either of the parties to this Agreement.

Section 18: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, or hand delivered, addressed as follows:

IF TO THE CITY:

Mayor and Council
City of Dunwoody, Georgia
41 Perimeter Center East, Suite 250
Dunwoody, Georgia 30346

IF TO CITY MANAGER:

Eric Linton
2860 Clary Hill Drive, N.E.
Roswell, Georgia 30075

City and City Manager agree to give proper notice of any change in the addresses above in writing, which writing shall be affixed to this Agreement. Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Executed by the CITY this ____ day of _____, 2014.

CITY OF DUNWOODY

By: _____
Michael G. Davis, Mayor

ATTEST:

Sharon Lowery, City Clerk

Executed by the CITY MANAGER this _____ day of _____, 2014

Signature

G. Eric Linton

ATTEST:

***Affidavit Verifying Status
for City Public Benefit Application***

By executing this affidavit under oath, as an applicant for a(n) _____ [*type of public benefit*], as referenced in O.C.G.A. § 50-36-1, from _____ [*name of government entity*], the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- 1) _____ I am a United States citizen.
- 2) _____ I am a legal permanent resident of the United States.
- 3) _____ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:
_____.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in _____ (city), _____ (state).

Signature of Applicant

Printed Name of Applicant

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
___ DAY OF _____, 20___

NOTARY PUBLIC
My Commission Expires: