

## **MODIFICATION AGREEMENT**

This Agreement is entered into this 19<sup>th</sup> day of March, 2020 by and between Joshua Potosek of 30 Meyer Road, Livingston Manor, New York 12758 (hereinafter "Potosek" or "Manager") and the County of Sullivan, a Municipal Corporation having a principal office at the County Government Center, 100 North Street, Monticello, New York 12701 (hereinafter "County").

### **RECITAL**

The Sullivan County Legislature (hereinafter "Legislature ") and Potosek desire to enter into an agreement, in accordance with the provisions of the Sullivan County Charter and Administrative Code (hereinafter "County Code"), pursuant to which Potosek will be the full-time County Manager for the Term of this Agreement.

### **TERMS AND CONDITIONS**

#### **I. TERM**

- A. The effective date and term of this Agreement shall commence on March 23, 2020, shall supersede Agreement dated August 31, 2016 and shall conclude on the earliest of the following dates:
1. December 31, 2024.
  2. The date, if any, on which the Manager is Terminated for Convenience in accordance with the provisions of Section II-A below.
  3. The date, if any, on which the Manager is Terminated for Cause in accordance with the provisions of Section II-B below.
  4. The date, if any, on which the Manager is Terminated by Reason of Incapacity in accordance with the provisions of Section II-C below.
  5. The date on which the Manager terminates this Agreement in accordance with Section II-D below.
  6. The date of Manager's death.

#### **II. TERMINATION**

- A. Termination for Convenience. The Legislature may terminate this Agreement for convenience on any date by complying with the following:
1. The Legislature shall determine to Terminate the Manager for Convenience by a vote of a majority of its members, and

2. The Legislature shall give the Manager thirty (30) days written notice of such termination, and
  3. Within thirty (30) days following the effective date of such termination the Manager shall receive a lump sum payment equal to his salary for a six (6) month period.
  4. Termination for Convenience payment in the final year of the term of this Agreement (2024) shall be reduced consistent with the period of time remaining on the Agreement so as not to require payment beyond the term of the Agreement.
- B. Termination for Cause. The Legislature may terminate this Agreement for Cause, as follows:
1. By majority vote of the Legislature, written charges for cause shall be provided to the Manager,
  2. Written specifications constituting the "cause" alleged may be one or more of the following:
    - a. Conviction of a crime by the Manager pursuant to Penal Law Article 195 or 200, attached hereto, or any other criminal conviction that impedes his ability to undertake his responsibilities as set forth in any State statute, the Charter or the Administrative Code;
    - b. Gross Negligence in the performance of the Manager's duties.
    - c. Intentional wrongdoing by the Manager in carrying out his obligations.
  3. The Manager shall be given not less than thirty (30) days to respond to such Charges for Cause.
  4. The Legislature shall present witnesses in support of its charges and/or competent documentation in support of such charges. The Manager may present his defense to such Charges directly before a meeting of the Legislature and may call witnesses on his behalf. In the alternative the Manager may present his defense to the Legislature in writing.
  5. Following consideration of the Manager's defense to such Charges as well as the credible evidence supporting such Charges, the Legislature shall vote whether to

terminate the Manager for Cause. Such determination shall be by majority vote.

6. In the event of a majority vote to terminate the Manager for Cause in accordance with the foregoing, such termination shall be effective immediately on the taking of such vote.

C. Termination by Reason of Incapacity. In the event the Manager shall become sick, incapacitated or disabled to the extent that he is unable to perform his duties for a continuing period of ninety (90) calendar days, unless he notifies the Legislature in writing prior thereto, he shall be deemed to have been terminated by Reason of Incapacity on said ninetieth day.

D. Termination of the Agreement by the County Manager. The Manager shall have the right on sixty (60) days prior written notice to the Clerk of the County Legislature, to terminate this Agreement. The Manager shall assist in the transition of his duties to a successor.

There shall be no payments to the Manager, except as due to earned accruals, following a Termination for Cause, a Termination by Reason of Incapacity or a Termination of the Agreement by the County Manager.

#### Change of Structure of the Government

If, during the Term of this Agreement, the Legislature, over the written objection of the Manager, changes the structure or form of the County Government, such action shall be deemed to constitute a Termination for Convenience and the Manager shall be entitled to the same termination compensation, payable within the same time limits, as though the Manager was in fact Terminated for Convenience.

### **III. AUTHORITY, RESPONSIBILITIES AND DUTIES**

- A. The Manager shall have the authority, responsibilities and duties set forth in the Sullivan County Charter and Code, as amended from time to time.
- B. In addition, the Manager shall have such authority, responsibilities and duties as may be lawfully prescribed from time to time by the Sullivan County Legislature.

### **IV. BENEFITS**

- A. Except as otherwise set forth herein:
  - 1. The Manager shall have not less than all of the same health insurance, vacation, sick, and other benefits as are available to other members of the senior management group.
  - 2. The Manager shall accrue vacation leave at rate of four (4) weeks per year.
  - 3. In the event of any termination of this Agreement (whether voluntary or involuntary) the Manager shall be paid for all accrued, unused vacation time.

**B. Professional/business expenses:**

1. The Manager shall be reimbursed for business expenses on the same terms and in the same manner as other members of the Senior Management Group.
2. The County shall budget and pay for professional dues and subscriptions to and for travel and attendance at the following associations, conferences and meetings:

ICMA dues \$1,160.00  
NYSAC Conferences \$500 per event  
ICMA Conference \$2,500.00

**V. COMPENSATION**

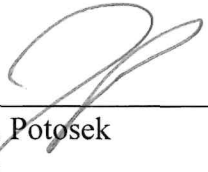
- A. The Manager's annual salary for the term of this Agreement shall be \$166,000.00 and shall not be reduced during the term of this Agreement, except by mutual agreement.
- B. Effective July 24, 2023 all Management Confidential Employees shall be granted a 7% increase in salary. The Legislature has approved such increase pursuant to resolution 264-23 and said benefit being intended to include the County Manager in the pool of eligible employees' salary shall increase the County Manager Salary from \$166,000.00 to \$177,852.40.

**VI. MISCELLANEOUS**

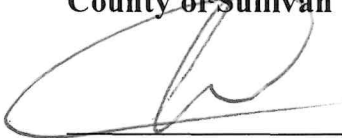
- A. The position of County Manager is Full-Time. The Manager shall not have outside employment as set forth in the Charter.
- B. The County Manager shall be entitled to the rights of defense and indemnification with respect to his employment as provided by New York State Law and the applicable provisions of the Sullivan County Code, except in the event charges are brought by the County against the Manager, the Manager shall not be entitled to defense or indemnification under those provisions of law.
- C. This Agreement shall be governed by the provisions of New York Law and by the provisions of the Sullivan County Code in effect at the commencement of this Agreement, unless both parties agree in writing to be bound by provisions adopted during the term of this Agreement.
- D. This Agreement constitutes the entire agreement between the Parties and may only be changed or amended by majority vote of the Legislature and a duly executed writing.
- E. If any word, phrase, sentence, clause or provision of this Agreement shall be held to be unenforceable, the remainder of this Agreement shall, to the extent permitted by law, be enforced to the maximum extent possible

WHEREFORE THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES ON THE DATES SET FOR THE BELOW.

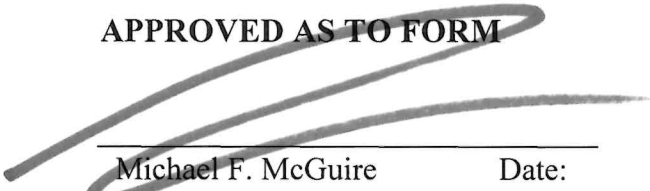
**COUNTY MANAGER**

  
\_\_\_\_\_  
Joshua A. Potosek                      Date: 8/4/2023

**County of Sullivan**

  
\_\_\_\_\_  
Robert A. Doherty                      Date:  
Chairman of the County Legislature

**APPROVED AS TO FORM**

  
\_\_\_\_\_  
Michael F. McGuire                      Date:  
County Attorney



# Sullivan County

100 North Street  
Monticello, NY 12701

## Certified Copy

Resolution: 264-23

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File Number: ID-5589

Enactment Number: 264-23

To amend the Management Confidential Employee Salary Schedule.

**If Resolution requires expenditure of County Funds, provide the following information:**

**Amount to be authorized by Resolution:** \$596,347, we are looking to eliminate \$397,301 in vacant positions, leaving a total cost of \$199,046

**Are funds already budgeted?** Choose an item.

**Specify Compliance with Procurement Procedures:**

N/A

**WHEREAS**, the Sullivan County Legislature adopted a Management Confidential Employee Salary Schedule on December 14, 2021 via Legislative Resolution No. 459-21, and an amended schedule on July 21, 2022 via Legislative Resolution No. 309-22; and

**WHEREAS**, there is a desire to make all Management/Confidential Employees that are currently working a 35 hour a week schedule, to a 37.5 hour a week schedule, the additional weekly hours allow for the enhancement of productivity and supervision within the respective offices; and

**WHEREAS**, Management Confidential Employees that are currently working more than 35 hours a week will be compensated at the same percentage increase that all Management Confidential Employees will be receiving for the increased hours; and

**WHEREAS**, there is a need to amend the section that states "Position changes that are on a promotional basis shall receive the base salary for that position or 3% of current salary whichever is higher and should be replaced with "Position changes that are on a promotional basis shall receive the base salary for that position or 5% of current salary whichever is higher"

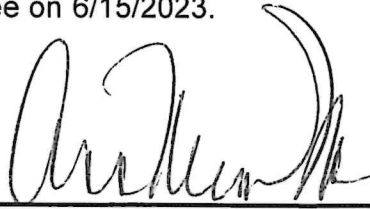
**NOW THEREFORE BE IT RESOLVED**, the Sullivan County Legislature hereby amends the Management Confidential Employee Salary Schedule to increase the scheduled 35 hour a week employees to 37.5 hours a week, and all current Management/Confidential Employees that are currently working more than 35 hours shall be compensated in accordance with the remaining Management/Confidential Employees, to be effective July 24, 2023; and

**BE IT FURTHER RESOLVED**, that the Management Confidential Employee Salary Schedule will be amended to replace the existing section that states "Position changes that are on a promotional basis shall receive the base salary for that position or 3% of current salary whichever is higher and should be replaced with "Position changes that are on a promotional basis shall receive the base salary for that position or 5% of current salary whichever is higher", and

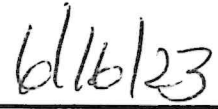
**BE IT FURTHER RESOLVED**, that all applicable sections of the schedule shall be amended to reflect the new schedule of weekly hours to include, but not limited to the accrued time.

I, AnnMarie Martin, certify that this is a true copy of Enactment Number 264-23, passed by the Executive Committee on 6/15/2023.

Attest:



**AnnMarie Martin**



**Date Certified**