



CITY OF CAMBRIDGE

Office of the City Solicitor
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Legal Counsel

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Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

February 9, 1993

Margaret Drury
City Clerk
City Hall
Cambridge, MA 02139

Re: *Public Records Opinion Regarding City Manager Evaluations*

Dear Ms. Drury:

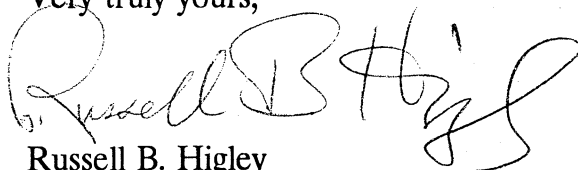
I am attaching a copy of the opinion rendered by James W. Igoe, Supervisor of Public Records. You will recall that on December 30, 1992 I sent you an opinion on this same matter in which I indicated that the question should be presented to the Supervisor for a formal opinion.

The Supervisor's opinion concludes that the evaluations constitute information that is "personal" to the employee (City Manager) and would not ordinarily be public records. The opinion clearly indicates that unless the evaluator has included information in the evaluation which contains "intimate details of a highly personal nature" (to the evaluator), the City Manager is entitled to see all of the evaluations. Finally, if the evaluations were substantively discussed in an open session of the City Council, the evaluations would become public.

Given this opinion of the Supervisor it is my opinion that you are required to determine whether or not there is any information in the evaluations that contains "intimate details of a highly personal nature" to the evaluators, and if you conclude there is none then all of the evaluations should be available to the City Manager at his request. Since it is my understanding that the City Manager does not object to any of the evaluations being made public, and since the Supervisor concludes that the evaluators cannot have a reasonable

expectation of privacy in their identities, the evaluations must be viewed as public records that do not fall within any of the limited exceptions to the public records law.

Very truly yours,

A handwritten signature in black ink, appearing to read "Russell B. Higley". The signature is written in a cursive style with a large initial "R" and a stylized "H".

Russell B. Higley



The Commonwealth of Massachusetts

Office of the Secretary of State
Michael Joseph Connolly, Secretary

James W. Igoe
Deputy Secretary of State
Supervisor of Public Records

February 8, 1993
SPR93/010

Russell Higley
City Solicitor
City of Cambridge
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Dear Mr. Higley:

Pursuant to 950 C.M.R. 32.07, I am in receipt of your request for an advisory opinion. The Cambridge City Council proposes to solicit written evaluations of the City Manager's job performance from Cambridge citizens. These evaluations are to be signed by the citizen evaluator and used by the City Council during its evaluation of the City Manager. You question the public records status of the written evaluations. Specifically, you ask whether:

1. the signed evaluation forms submitted by citizens are subject to mandatory disclosure under the Public Records Law;
2. the City Manager may have access to the evaluation materials regardless of their public records status; and
3. if the evaluations are subject to mandatory disclosure, may the citizen evaluators have their names redacted from the evaluations prior to disclosure.

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"Public records" is broadly defined to include all documentary materials or data made or received by any officer or employee of any city in the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26)(a)-(m) (1990 ed.). The statutory exemptions are strictly and narrowly construed. Attorney General v. Assistant Commissioner of the Real Property Department of Boston, 380 Mass. 623, 625 (1980). Public records, and any non-exempt, segregable portions thereof, are subject to mandatory disclosure upon request. G. L. c. 66, § 10(a) (1990 ed.); Reinstein v. Police Commissioner of Boston, 378 Mass. 281, 289-90 (1979) (the statutory exemptions are not blanket in nature).

Evaluation Materials

You state that the completed evaluation forms will contain evaluative material relating to the City Manager's job performance. Therefore, the privacy exemption merits consideration. It applies to:

personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy.

G. L. c. 4, § 7(26)(c) (1990 ed.).

The privacy exemption contains two distinct and independent clauses, each requiring separate analysis. Globe Newspaper Company v. Boston Retirement Board, 388 Mass. 427, 432-34 (1983). Both clauses are relevant to this opinion. Under the first clause, which is analyzed objectively, personnel information which is of a "personal nature" and which relates to a specifically named individual is absolutely exempt. Brogan v. School Committee of Westport, 401 Mass. 306, 368 (1987); Globe Newspaper Company, 388 Mass. at 438. The performance evaluations constitute personnel information relating to a specifically named individual. Therefore, the remaining inquiry is whether the information is of a "personal nature".

Information which is subjective or evaluative constitutes "personal" information. See Connolly v. Bromery, 15 Mass. App. Ct. 661, 664 (1983) (student evaluations of teachers appraising job performance is personal and volatile). Consequently, the evaluations submitted by Cambridge citizens which contain their personal evaluations of the City Manager would be exempt from mandatory disclosure pursuant to the first clause of the privacy exemption in most circumstances. However, discussion of the evaluations in open session will affect their public records status.

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Disclosure to City Manager

You ask whether the City Manager may have access to the evaluations despite operation of the privacy exemption. The privacy exemption is designed to protect against invasions of an individual's personal privacy. An individual, however, is not capable of invading his own privacy. Therefore, the first clause of the privacy exemption may not be used to withhold the evaluations from the City Manager.

It should also be noted that details in an evaluation which if disclosed could identify the author may be exempt if the author has a reasonable expectation of confidentiality with respect to the content of the evaluation. See Attorney General v. School Committee of Northampton, 375 Mass. 127, 129 (1978); Torres v. Attorney General, 391 Mass. 1, 9 (1984); Ackerly v. Ley, 420 F. 2d 1336, 1339-40 n.3 (D.C. Cir. 1969). However, it is my understanding that individuals received the evaluations with the knowledge that they may be read and discussed in open sessions of the City Council. Therefore, as a general rule, these individuals cannot have a reasonable expectation of privacy in their identities. Thus, in most instances, the City Manager will have access to the identities of the citizen evaluators.

However, there may be special circumstances in which disclosure of the identities of the evaluators will result in an unreasonable invasion of the privacy interests of those citizens. A subjective analysis under the second clause of the privacy exemption is required in those instances. The second clause requires a balancing of the competing interests of the public's right to know against the privacy interest which may be harmed by disclosure. See Real Property Department, 380 Mass. at 625; Torres, 391 Mass. at 9. Therefore, application of the second clause can only be determined on a case by case basis.

The privacy exemption only protects "intimate details of a highly personal nature." See Real Property Department, 380 Mass. at 625. Marital status, legitimacy of children, paternity, medical condition, government assistance, substance abuse, family disputes and reputation are examples of the kind of information the privacy exemption is designed to protect. Id. at 626 n.2. Since the Public Records Law favors disclosure, the exemption will only apply where the privacy interest of the individual outweighs the public interest in disclosure. See Attorney General v. Collector of Lynn, 377 Mass. 151, 156 (1979).

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Without knowing the contents of each evaluation, it is impossible to render an opinion as to the potential application of the second clause of the privacy exemption. Where, however, in the course of completing an evaluation, an individual has disclosed "intimate details" such as the examples listed above about her personal life, the individual's privacy interest must be weighed against the public interest in disclosure of the evaluator's identity. If the privacy interest outweighs such public interest, the second clause of the privacy exemption will provide a basis to withhold the identity of the evaluator from the City Manager. Alternatively, the individual's identity may be disclosed upon the redaction of the exempt information. See G. L. c. 66, § 10(a) (1990 ed.) (custodian has duty to segregate exempt information from otherwise public record).

Discussion of Evaluations in Open Meeting

It is my understanding that the Council operates under the provisions of the Open Meeting Law. See G. L. c. 39, § 23B (1990 ed.) (requiring that governmental bodies conduct meetings, with certain exceptions, in open session and that a record of the proceedings be created). Therefore, discussion of the evaluations in an open session of the Council will effect their public records status. I am informed that the City Council intends to so discuss the evaluations in order to assist in its appraisal of the City Manager's job performance.

The legislation which codified the current statutory definition of "public records" contains a grandfather provision which prohibits the application of any of the 1973 exemptions to materials which would have been public under previous definitions. 1973 Mass. Acts c. 1050, § 6. One such previous definition of public records provided that all records referred to in the minutes of a meeting are public records.¹ 1969 Mass. Acts c. 831, § 1; see also Open Meeting Law Guidelines, Scott Harshbarger, District Attorney, Middlesex District, p. 14 (December, 1989 ed.) (providing that minutes should contain a reference to any issue raised and considered, even if no vote is taken).

¹. The 1969 definition of public records provides that all records referred to in the minutes of an open meeting are public records. Such definition refers only to those documents which are openly deliberated upon by the government. Where documents are referred to in open meeting minutes simply to comply with Open Meeting Law procedures, the 1969 definition as applied through the grandfather provision of the current definition of public records will not operate to make those documents public.

Russell Higley
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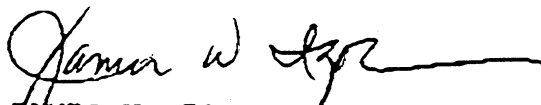
The intent of the General Court in enacting the 1973 definition of public records was to expand the disclosure of records and ensure that governmental activities are open to public examination. Hastings & Sons Publishing Company v. City Treasurer of Lynn, 374 Mass. 812, 816 (1978). The Open Meeting Law similarly provides for public participation in the operations of government. In the absence of the 1969 requirement making public all documents referenced in meeting minutes, meaningful participation would be precluded. Therefore, any evaluations referenced in the minutes of the Council's open meetings will become public in their entirety, including the identities of the evaluators, despite application of the privacy exemption.

Conclusion

Therefore, you are hereby advised that the completed evaluation forms may be withheld from public disclosure pursuant to the first clause of the privacy exemption. However, the first clause does not provide a basis to withhold the evaluations from the City Manager, since he cannot invade his own privacy. Under certain circumstances, the identities of some evaluators may be withheld from the City Manager if those evaluators included information of a sufficiently personal nature to warrant application of the second clause of the privacy exemption. Finally, if the evaluations are substantively discussed in an open session of the City Council, neither clause of the privacy exemption will apply and the evaluations become public records in their entirety.

Please contact this office if you have questions regarding this opinion.

Very truly yours,



JAMES W. IGOE
Supervisor of Public Records



City of Cambridge

1.

IN CITY COUNCIL

March 30, 1993

VICE MAYOR CYR

ORDERED: That the City Council be recorded as approving the Employment Agreement between the City Council and the City Manager, Robert W. Healy, attached to this Order and incorporated herein, with a term ending June 30, 1995.

In City Council March 30, 1993.

Adopted by a yeas and nays vote:-

Yeas 6; Nays 3; Absent 0.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

AN EMPLOYMENT AGREEMENT BETWEEN THE CITY COUNCIL
OF CAMBRIDGE AND THE CITY MANAGER

Whereas, the Massachusetts General Court has adopted Chapter 279 of the Acts of 1982, which permits an Employment Agreement between the Appointing Authority and the City Manager; and,

Whereas, the City desires to have such an Employment Agreement in order to spell out the remuneration and benefits of the City Manager; and,

Whereas, the City Manager is the Chief Executive Officer, Chief Administrative, and Chief Conservator of the Peace for the City of Cambridge in accordance with Chapter 43, Section 93 to 108 of the Massachusetts General Laws, (Plan E Charter),

Now, therefore, be it agreed by Robert W. Healy, Jr., City Manager, hereinafter referred to as "Employee", and the City of Cambridge, hereinafter referred to as "Employer", that the employment relationship between the City and the Manager shall be governed by the following provisions:

This agreement, made and entered this 30th day of March, 1993 by and between the City of Cambridge, a municipal corporation and Robert W. Healy, Jr., City Manager, and expire on June 30, 1995.

Whereas, the City desires to employ the service of Robert W. Healy, Jr., as City Manager of the City of Cambridge in accordance with Chapter 43, Sections 93 to 108 of the Massachusetts General Laws; and

Whereas, it is the desire of the Cambridge City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of said employee; and

Whereas, it is the desire of the Cambridge City Council to (1) secure and retain the services of Robert W. Healy, Jr. and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring employee's morale and peace of mind with respect to future security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the employee, and (4) to provide a just means for terminating employee's services at such time as he may be unable to fully discharge his duties due to age or disability; and

Now, therefore, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

Employer hereby agrees to employ said Robert W. Healy, Jr. as City Manager of the City of Cambridge to perform the functions and duties specified in Chapter 43, Section 93 to 108, and the Ordinances of the City of Cambridge, and to perform other legally permissible and proper duties and functions as the City Council may from time to time assign.

Section 2. Term

A. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of the said employee at any time, subject only to the provisions set forth in Section 3, Paragraph A, of this agreement.

B. In the event written notice is not given by either party to this agreement to the other sixty days prior to the termination date as hereinabove provided, this agreement shall be extended on the terms and conditions as herein provided for a period of one year. Said agreement shall continue thereafter for one-year periods unless either party hereto gives sixty days' written notice to the other party that the party does not wish to extend this agreement for an additional one-year term.

Section 3. Termination

A. The City Council upon a vote of a majority of its membership in accordance with Chapter 43, Section 103, of the Massachusetts General Laws, may terminate this agreement, and provide further that the City Council agrees to pay the City Manager 50% of the financial obligations, or six months salary, which ever is greater, and 100% of any accrued sick leave, vacation, holidays, compensatory time accrued during the term of this contract, retirement benefits, or other accrued benefits owed to the City Manager for the remaining term of the agreement. The payment provisions are voided in the event the Employee is convicted of a felony or malfeasance in office, other than those earned benefits such as accrued sick leave, vacation, compensatory time and retirement. In the event of termination at the expiration of this contract the Employee shall be entitled to six months' severance pay.

Section 4. Disability

A. If Employee is permanently disabled, or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, Employer or Employee shall have the option to terminate this agreement subject to the conditions in Section 3. Employee shall be compensated for any accrued sick leave, vacation, holiday, compensatory time or other accrued benefits. For the purpose of this Section, the Employee, inasmuch as he is the City Conservator of the Peace of the City of

Cambridge, shall be provided retirement benefits in accordance with Chapter 32, Section 3, paragraph f, as if a member of Group 4.

B. Employer agrees to put into force the Employee insurance policies for accident, sickness and disability income benefits.

Section 5. Compensation

A. The City Manager shall be paid an annual salary in accordance with Chapter 2.62 of the Cambridge Municipal Code on the salaries of Department Heads of the City of Cambridge.

B. The City Manager shall be covered by an insurance policy in the amount of \$120,000 payable to the 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.

C. The City Manager shall be entitled to all medical, dental, hospital, life insurance, and other benefits available to other personnel employed by the City.

D. The City Manager shall be entitled to twenty-five working days of annual vacation, exclusive of legal holidays. It is the intention of these parties that these vacation days be taken annually, but in no event may the Employee carry forward more than five days' vacation in any one year during the term of this agreement. The City Manager may be compensated for up to ten unused vacation days per year to be paid at the prevailing salary.

Section 6. Evaluation of Goals

A. The Council shall review and evaluate the performance of the Employee at least once annually in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee.

B. Annually, in January, the Council and Employee shall define such goals and performance objectives which they determine necessary for the proper operation of the City and in the attainment of the Council's policy objectives and shall further establish a relative priority among those various goals and objectives. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

Section 7. Hours of Work

A. It is recognized that the Employee must devote a great deal of time outside the normal office hours of the Employer, and to that end the Employee will be allowed to take compensatory time off.

Section 8. Automobile

A. Employee's duties require that he have the unrestricted use of an automobile provided by the Employer which shall be replaced on the schedule previously established for the Mayor's automobile.

Section 9. Retirement

A. The City Council agrees that the City Manager as Chief Conservator of the Peace of the City of Cambridge shall be provided retirement benefits in the same formula as those employees in Group 4 of Chapter 32, Section 3, paragraph f, of the Massachusetts General Laws.

Section 10. Indemnification

A. Employer shall defend, save harmless, and indemnify employee 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 Employee's performance of his duties as City Manager.

Section 11. General Provisions

A. The text herein contained shall constitute the entire agreement between the parties.

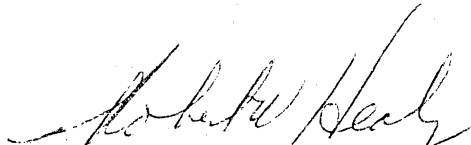
B. This agreement shall be binding upon the inure to the benefit of the heirs at law and executors of the Employee.


C. This agreement shall become effective July 1, 1993.

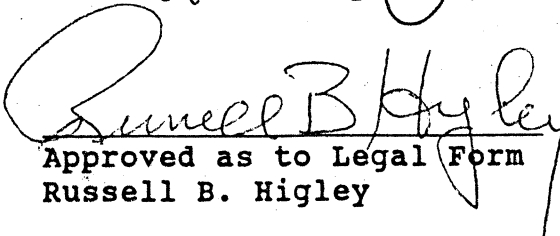
D. If any provision, or any portion thereof, contained in this agreement are held unconstitutional, the remainder of the agreement shall be deemed severable, and shall not be affected and shall remain in full force and effect.


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 the Employee has signed and executed this agreement this 26th day of April, 1993.

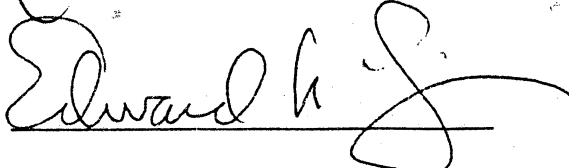
City Councillors:

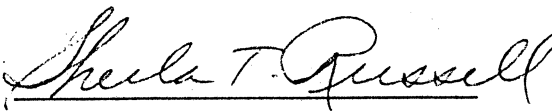

Robert W. Healy, City Manager

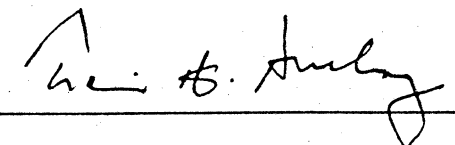

D. Margaret Drury, City Clerk

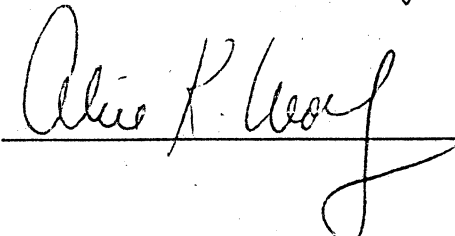

Approved as to Legal Form
Russell B. Higley

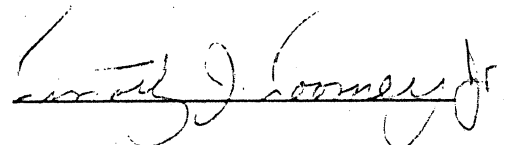

Kenneth C. Reeves


Edward H. J.

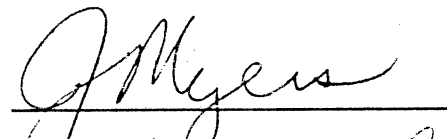

Sheila T. Russell

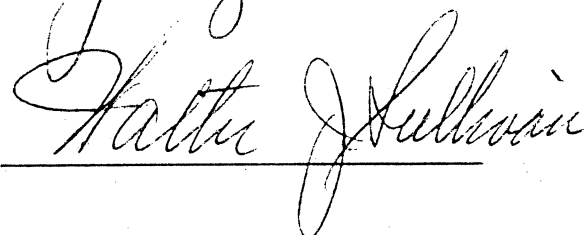

Tim B. Aubrey


Alice K. Wolf


Timothy J. Conroy Jr.


Wm H Walsh


J Myers


Katherine J Sullivan



City of Cambridge

1.

IN CITY COUNCIL

March 30, 1993

VICE MAYOR CYR.

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In City Council March 30, 1993.

Adopted by a ye and nay vote:-

Yeas 6; Nays 3; Absent 0.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
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AN EMPLOYMENT AGREEMENT BETWEEN THE CITY COUNCIL
OF CAMBRIDGE AND THE CITY MANAGER

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Whereas, the City desires to have such an Employment Agreement in order to spell out the remuneration and benefits of the City Manager; and,

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Section 2. Term

A. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of the said employee at any time, subject only to the provisions set forth in Section 3, Paragraph A, of this agreement.

B. In the event written notice is not given by either party to this agreement to the other sixty days prior to the termination date as hereinabove provided, this agreement shall be extended on the terms and conditions as herein provided for a period of one year. Said agreement shall continue thereafter for one-year periods unless either party hereto gives sixty days' written notice to the other party that the party does not wish to extend this agreement for an additional one-year term.

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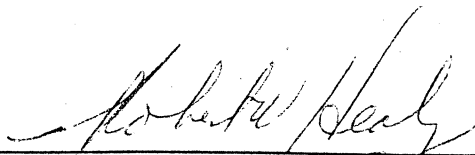
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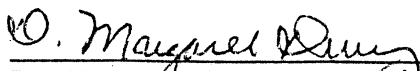
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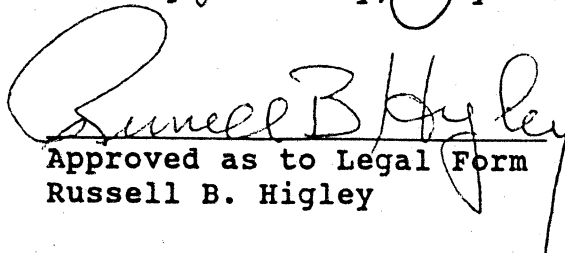
City Councillors:



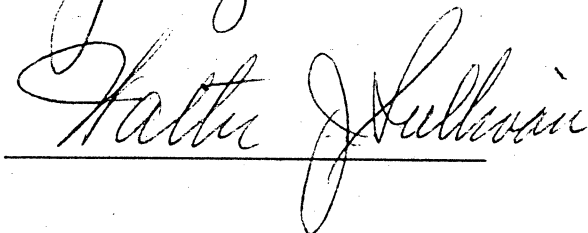
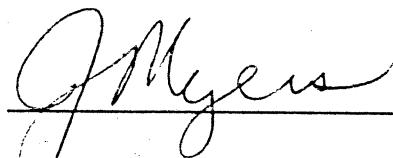
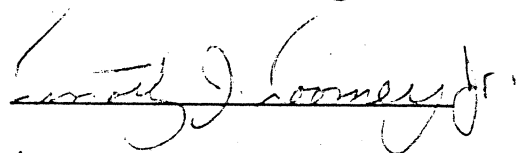
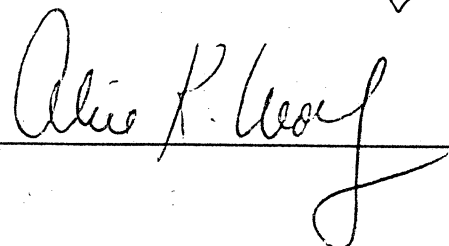
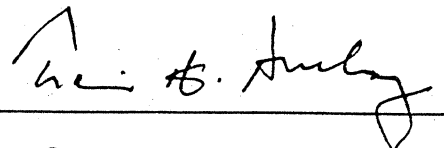
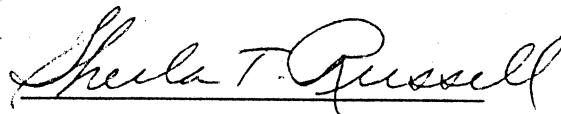
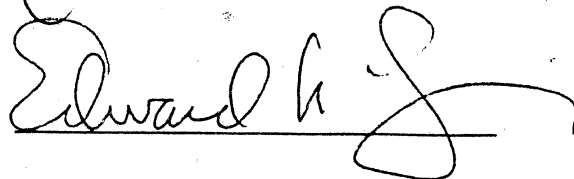
Robert W. Healy, City Manager



D. Margaret Drury, City Clerk



Approved as to Legal Form
Russell B. Higley





City of Cambridge

1.

IN CITY COUNCIL

March 30, 1993

VICE MAYOR CYR

ORDERED: That the City Council be recorded as approving the Employment Agreement between the City Council and the City Manager, Robert W. Healy, attached to this Order and incorporated herein, with a term ending June 30, 1995.

In City Council March 30, 1993.

Adopted by a ye and nay vote:-

Yeas 6; Nays 3; Absent 0.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

AN EMPLOYMENT AGREEMENT BETWEEN THE CITY COUNCIL
OF CAMBRIDGE AND THE CITY MANAGER

Whereas, the Massachusetts General Court has adopted Chapter 279 of the Acts of 1982, which permits an Employment Agreement between the Appointing Authority and the City Manager; and,

Whereas, the City desires to have such an Employment Agreement in order to spell out the remuneration and benefits of the City Manager; and,

Whereas, the City Manager is the Chief Executive Officer, Chief Administrative, and Chief Conservator of the Peace for the City of Cambridge in accordance with Chapter 43, Section 93 to 108 of the Massachusetts General Laws, (Plan E Charter),

Now, therefore, be it agreed by Robert W. Healy, Jr., City Manager, hereinafter referred to as "Employee", and the City of Cambridge, hereinafter referred to as "Employer", that the employment relationship between the City and the Manager shall be governed by the following provisions:

This agreement, made and entered this 30th day of March, 1993 by and between the City of Cambridge, a municipal corporation and Robert W. Healy, Jr., City Manager, and expire on June 30, 1995.

Whereas, the City desires to employ the service of Robert W. Healy, Jr., as City Manager of the City of Cambridge in accordance with Chapter 43, Sections 93 to 108 of the Massachusetts General Laws; and

Whereas, it is the desire of the Cambridge City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of said employee; and

Whereas, it is the desire of the Cambridge City Council to (1) secure and retain the services of Robert W. Healy, Jr. and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring employe's morale and peace of mind with respect to future security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the employee, and (4) to provide a just means for terminating employee's services at such time as he may be unable to fully discharge his duties due to age or disability; and

Now, therefore, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

Employer hereby agrees to employ said Robert W. Healy, Jr. as City Manager of the City of Cambridge to perform the functions and duties specified in Chapter 43, Section 93 to 108, and the Ordinances of the City of Cambridge, and to perform other legally permissible and proper duties and functions as the City Council may from time to time assign.

Section 2. Term

A. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of the said employee at any time, subject only to the provisions set forth in Section 3, Paragraph A, of this agreement.

B. In the event written notice is not given by either party to this agreement to the other sixty days prior to the termination date as hereinabove provided, this agreement shall be extended on the terms and conditions as herein provided for a period of one year. Said agreement shall continue thereafter for one-year periods unless either party hereto gives sixty days' written notice to the other party that the party does not wish to extend this agreement for an additional one-year term.

Section 3. Termination

A. The City Council upon a vote of a majority of its membership in accordance with Chapter 43, Section 103, of the Massachusetts General Laws, may terminate this agreement, and provide further that the City Council agrees to pay the City Manager 50% of the financial obligations, or six months salary, which ever is greater, and 100% of any accrued sick leave, vacation, holidays, compensatory time accrued during the term of this contract, retirement benefits, or other accrued benefits owed to the City Manager for the remaining term of the agreement. The payment provisions are voided in the event the Employee is convicted of a felony or malfeasance in office, other than those earned benefits such as accrued sick leave, vacation, compensatory time and retirement. In the event of termination at the expiration of this contract the Employee shall be entitled to six months' severance pay.

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A. If Employee is permanently disabled, or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, Employer or Employee shall have the option to terminate this agreement subject to the conditions in Section 3. Employee shall be compensated for any accrued sick leave, vacation, holiday, compensatory time or other accrued benefits. For the purpose of this Section, the Employee, inasmuch as he is the City Conservator of the Peace of the City of

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A. The City Manager shall be paid an annual salary in accordance with Chapter 2.62 of the Cambridge Municipal Code on the salaries of Department Heads of the City of Cambridge.

B. The City Manager shall be covered by an insurance policy in the amount of \$120,000 payable to the 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.

C. The City Manager shall be entitled to all medical, dental, hospital, life insurance, and other benefits available to other personnel employed by the City.

D. The City Manager shall be entitled to twenty-five working days of annual vacation, exclusive of legal holidays. It is the intention of these parties that these vacation days be taken annually, but in no event may the Employee carry forward more than five days' vacation in any one year during the term of this agreement. The City Manager may be compensated for up to ten unused vacation days per year to be paid at the prevailing salary.

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A. The Council shall review and evaluate the performance of the Employee at least once annually in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee.

B. Annually, in January, the Council and Employee shall define such goals and performance objectives which they determine necessary for the proper operation of the City and in the attainment of the Council's policy objectives and shall further establish a relative priority among those various goals and objectives. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

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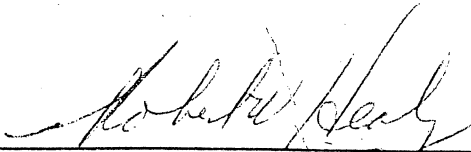
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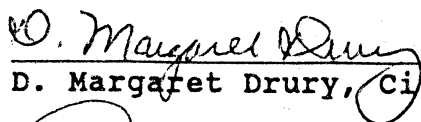
C. This agreement shall become effective July 1, 1993.

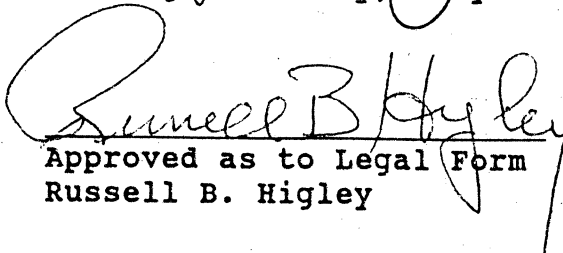
D. If any provision, or any portion thereof, contained in this agreement are held unconstitutional, the remainder of the agreement shall be deemed severable, and shall not be affected and shall remain in full force and effect.

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 the Employee has signed and executed this agreement this 26th day of April, 1993.

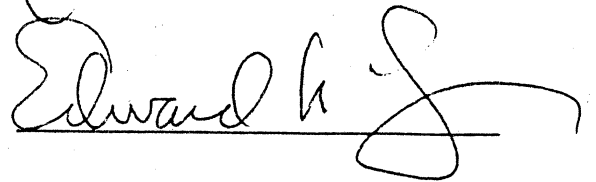
City Councillors:

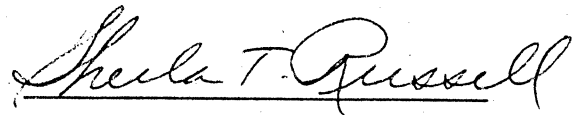

Robert W. Healy, City Manager

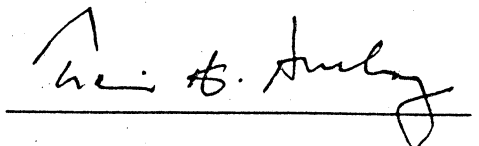

D. Margaret Drury, City Clerk

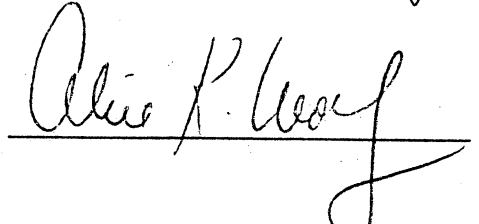

Approved as to Legal Form
Russell B. Higley

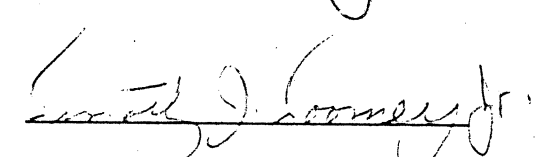

Kenneth E. Reeves


Edward H. J.

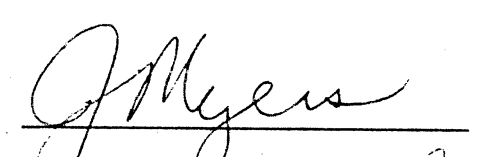

Sheila T. Russell

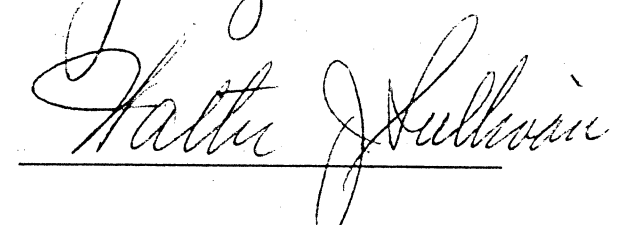

Eric B. Aubrey


Alice K. Wolf


Samuel J. Loomer Jr.


Wm H Walsh


J Myers


Katherin Sullivan



City of Cambridge

1.

IN CITY COUNCIL

March 30, 1993

VICE MAYOR CYR

ORDERED: That the City Council be recorded as approving the Employment Agreement between the City Council and the City Manager, Robert W. Healy, attached to this Order and incorporated herein, with a term ending June 30, 1995.

In City Council March 30, 1993.
Adopted by a yeas and nays vote:-
Yeas 6; Nays 3; Absent 0.
Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

AN EMPLOYMENT AGREEMENT BETWEEN THE CITY COUNCIL
OF CAMBRIDGE AND THE CITY MANAGER

Whereas, the Massachusetts General Court has adopted Chapter 279 of the Acts of 1982, which permits an Employment Agreement between the Appointing Authority and the City Manager; and,

Whereas, the City desires to have such an Employment Agreement in order to spell out the remuneration and benefits of the City Manager; and,

Whereas, the City Manager is the Chief Executive Officer, Chief Administrative, and Chief Conservator of the Peace for the City of Cambridge in accordance with Chapter 43, Section 93 to 108 of the Massachusetts General Laws, (Plan E Charter),

Now, therefore, be it agreed by Robert W. Healy, Jr., City Manager, hereinafter referred to as "Employee", and the City of Cambridge, hereinafter referred to as "Employer", that the employment relationship between the City and the Manager shall be governed by the following provisions:

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Whereas, it is the desire of the Cambridge City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of said employee; and

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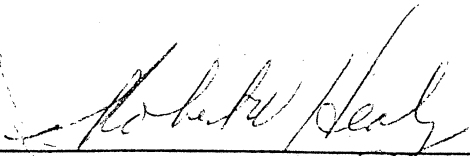
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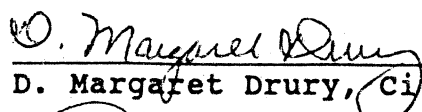
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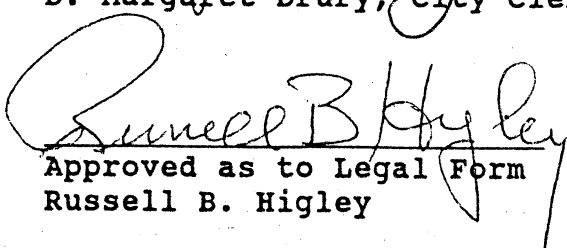
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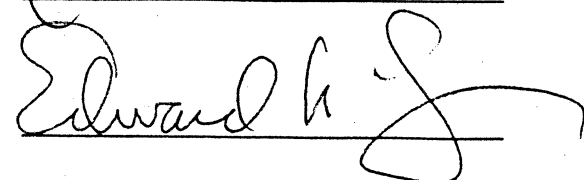
City Councillors:



Robert W. Healy, City Manager

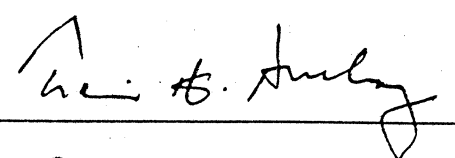

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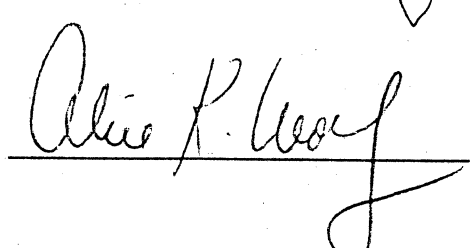

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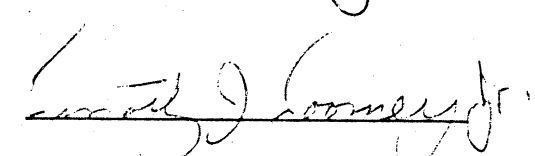

Kenneth E. Reens



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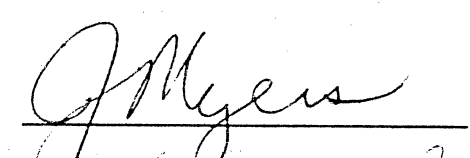

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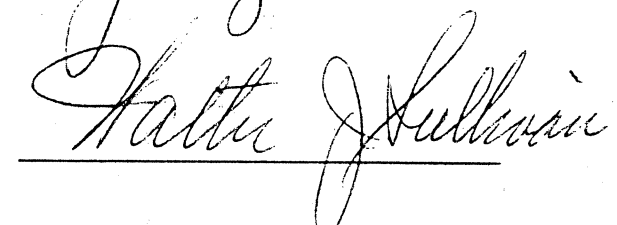

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City of Cambridge

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Section 11. General Provisions

A. The text herein contained shall constitute the entire agreement between the parties.

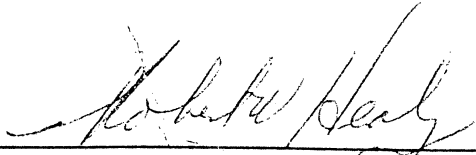
B. This agreement shall be binding upon the inure to the benefit of the heirs at law and executors of the Employee.

C. This agreement shall become effective July 1, 1993.

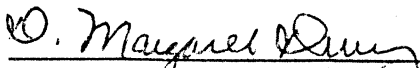
D. If any provision, or any portion thereof, contained in this agreement are held unconstitutional, the remainder of the agreement shall be deemed severable, and shall not be affected and shall remain in full force and effect.

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 the Employee has signed and executed this agreement this 26th day of April, 1993.

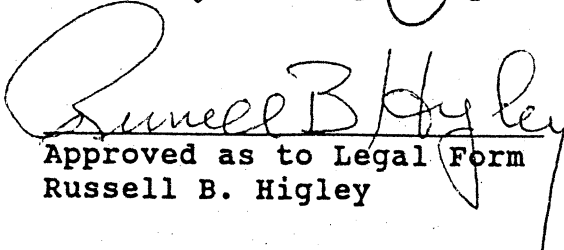
City Councillors:



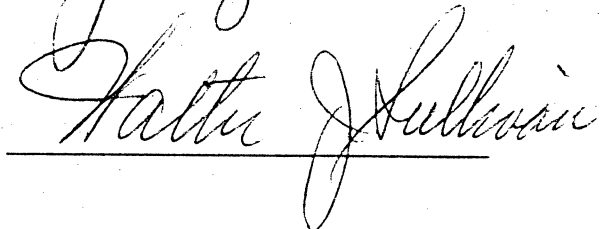
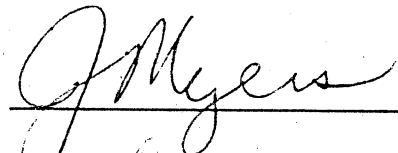
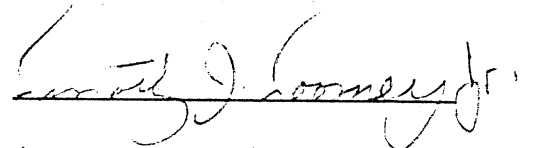
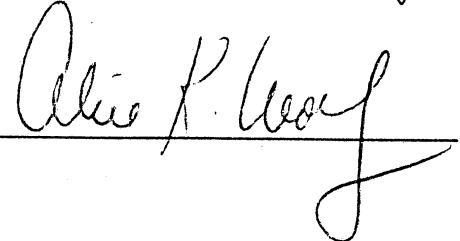
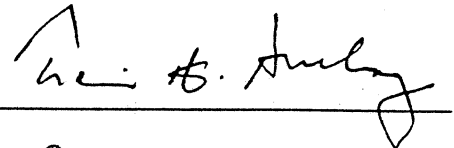
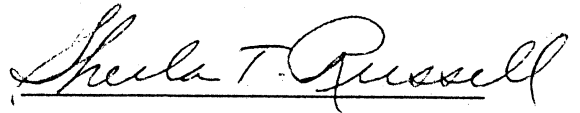
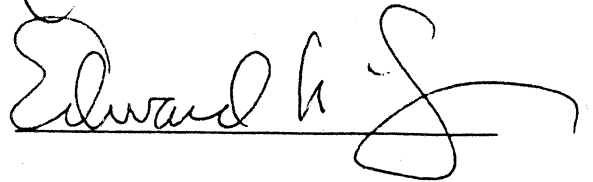
Robert W. Healy, City Manager



D. Margaret Drury, City Clerk



Approved as to Legal Form
Russell B. Higley



Original

DO NOT

ISSUE



City of Cambridge

1.

IN CITY COUNCIL

March 30, 1993

VICE MAYOR CYR

ORDERED: That the City Council be recorded as approving the Employment Agreement between the City Council and the City Manager, Robert W. Healy, attached to this Order and incorporated herein, with a term ending June 30, 1995.

In City Council March 30, 1993.

Adopted by a yea and nay vote:-

Yeas 6; Nays 3; Absent 0.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

AN EMPLOYMENT AGREEMENT BETWEEN THE CITY COUNCIL
OF CAMBRIDGE AND THE CITY MANAGER

Whereas, the Massachusetts General Court has adopted Chapter 279 of the Acts of 1982, which permits an Employment Agreement between the Appointing Authority and the City Manager; and,

Whereas, the City desires to have such an Employment Agreement in order to spell out the remuneration and benefits of the City Manager; and,

Whereas, the City Manager is the Chief Executive Officer, Chief Administrative, and Chief Conservator of the Peace for the City of Cambridge in accordance with Chapter 43, Section 93 to 108 of the Massachusetts General Laws, (Plan E Charter),

Now, therefore, be it agreed by Robert W. Healy, Jr., City Manager, hereinafter referred to as "Employee", and the City of Cambridge, hereinafter referred to as "Employer", that the employment relationship between the City and the Manager shall be governed by the following provisions:

This agreement, made and entered this 30th day of March, 1993 by and between the City of Cambridge, a municipal corporation and Robert W. Healy, Jr., City Manager, and expire on June 30, 1995.

Whereas, the City desires to employ the service of Robert W. Healy, Jr., as City Manager of the City of Cambridge in accordance with Chapter 43, Sections 93 to 108 of the Massachusetts General Laws; and

Whereas, it is the desire of the Cambridge City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of said employee; and

Whereas, it is the desire of the Cambridge City Council to (1) secure and retain the services of Robert W. Healy, Jr. and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring employe's morale and peace of mind with respect to future security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the employee, and (4) to provide a just means for terminating employee's services at such time as he may be unable to fully discharge his duties due to age or disability; and

Now, therefore, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

Employer hereby agrees to employ said Robert W. Healy, Jr. as City Manager of the City of Cambridge to perform the functions and duties specified in Chapter 43, Section 93 to 108, and the Ordinances of the City of Cambridge, and to perform other legally permissible and proper duties and functions as the City Council may from time to time assign.

Section 2. Term

A. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of the said employee at any time, subject only to the provisions set forth in Section 3, Paragraph A, of this agreement.

B. In the event written notice is not given by either party to this agreement to the other sixty days prior to the termination date as hereinabove provided, this agreement shall be extended on the terms and conditions as herein provided for a period of one year. Said agreement shall continue thereafter for one-year periods unless either party hereto gives sixty days' written notice to the other party that the party does not wish to extend this agreement for an additional one-year term.

Section 3. Termination

A. The City Council upon a vote of a majority of its membership in accordance with Chapter 43, Section 103, of the Massachusetts General Laws, may terminate this agreement, and provide further that the City Council agrees to pay the City Manager 50% of the financial obligations, or six months salary, which ever is greater, and 100% of any accrued sick leave, vacation, holidays, compensatory time accrued during the term of this contract, retirement benefits, or other accrued benefits owed to the City Manager for the remaining term of the agreement. The payment provisions are voided in the event the Employee is convicted of a felony or malfeasance in office, other than those earned benefits such as accrued sick leave, vacation, compensatory time and retirement. In the event of termination at the expiration of this contract the Employee shall be entitled to six months' severance pay.

Section 4. Disability

A. If Employee is permanently disabled, or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, Employer or Employee shall have the option to terminate this agreement subject to the conditions in Section 3. Employee shall be compensated for any accrued sick leave, vacation, holiday, compensatory time or other accrued benefits. For the purpose of this Section, the Employee, inasmuch as he is the City Conservator of the Peace of the City of

Cambridge, shall be provided retirement benefits in accordance with Chapter 32, Section 3, paragraph f, as if a member of Group 4.

B. Employer agrees to put into force the Employee insurance policies for accident, sickness and disability income benefits.

Section 5. Compensation

A. The City Manager shall be paid an annual salary in accordance with Chapter 2.62 of the Cambridge Municipal Code on the salaries of Department Heads of the City of Cambridge.

B. The City Manager shall be covered by an insurance policy in the amount of \$120,000 payable to the 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.

C. The City Manager shall be entitled to all medical, dental, hospital, life insurance, and other benefits available to other personnel employed by the City.

D. The City Manager shall be entitled to twenty-five working days of annual vacation, exclusive of legal holidays. It is the intention of these parties that these vacation days be taken annually, but in no event may the Employee carry forward more than five days' vacation in any one year during the term of this agreement. The City Manager may be compensated for up to ten unused vacation days per year to be paid at the prevailing salary.

Section 6. Evaluation of Goals

A. The Council shall review and evaluate the performance of the Employee at least once annually in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee.

B. Annually, in January, the Council and Employee shall define such goals and performance objectives which they determine necessary for the proper operation of the City and in the attainment of the Council's policy objectives and shall further establish a relative priority among those various goals and objectives. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

Section 7. Hours of Work

A. It is recognized that the Employee must devote a great deal of time outside the normal office hours of the Employer, and to that end the Employee will be allowed to take compensatory time off.

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A. Employee's duties require that he have the unrestricted use of an automobile provided by the Employer which shall be replaced on the schedule previously established for the Mayor's automobile.

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A. The City Council agrees that the City Manager as Chief Conservator of the Peace of the City of Cambridge shall be provided retirement benefits in the same formula as those employees in Group 4 of Chapter 32, Section 3, paragraph f, of the Massachusetts General Laws.

Section 10. Indemnification

A. Employer shall defend, save harmless, and indemnify employee 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 Employee's performance of his duties as City Manager.

Section 11. General Provisions

A. The text herein contained shall constitute the entire agreement between the parties.

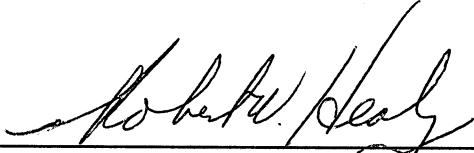
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C. This agreement shall become effective July 1, 1993.

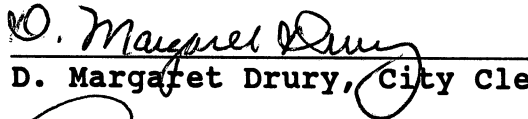
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In Witness Whereof, the City Council of the City of Cambridge has voted that this agreement be entered into as duly attested by its City Clerk, and the Employee has signed and executed this agreement this 26th day of April, 1993.

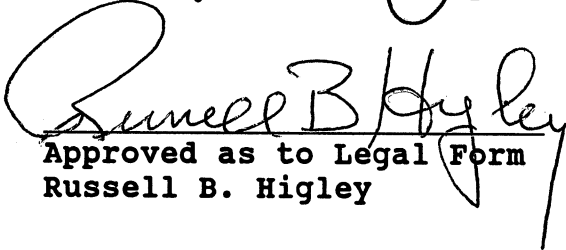
City Councillors:



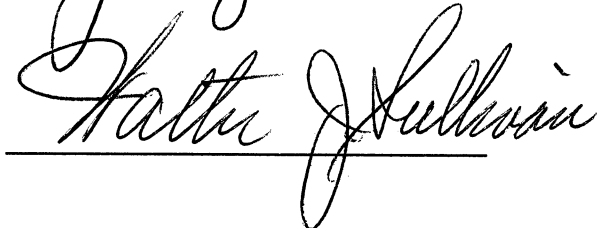
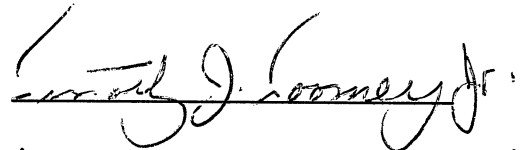
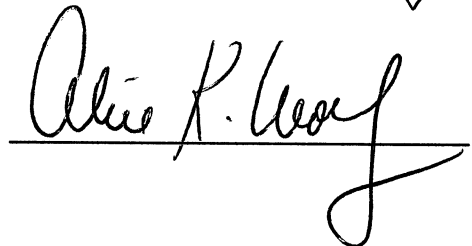
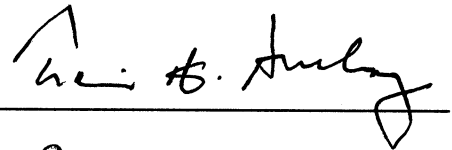
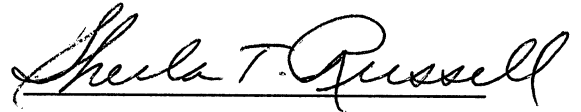
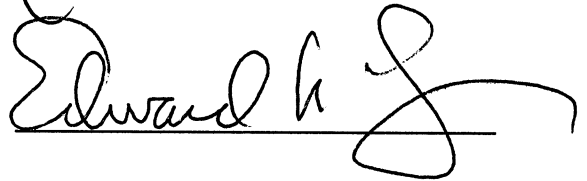
Robert W. Healy, City Manager



D. Margaret Drury, City Clerk



**Approved as to Legal Form
Russell B. Higley**



AN EMPLOYMENT AGREEMENT BETWEEN THE CITY COUNCIL
OF CAMBRIDGE AND THE CITY MANAGER

Whereas, the Massachusetts General Court has adopted Chapter 279 of the Acts of 1982, which permits an Employment Agreement between the Appointing Authority and the City Manager; and,

Whereas, the City desires to have such an Employment Agreement in order to spell out the remuneration and benefits of the City Manager; and,

Whereas, the City Manager is the Chief Executive Officer, Chief Administrative, and Chief Conservator of the Peace for the City of Cambridge in accordance with Chapter 43, Section 93 to 108 of the Massachusetts General Laws, (Plan E Charter),

Now, therefore, be it agreed by Robert W. Healy, Jr., City Manager, hereinafter referred to as "Employee", and the City of Cambridge, hereinafter referred to as "Employer", that the employment relationship between the City and the Manager shall be governed by the following provisions:

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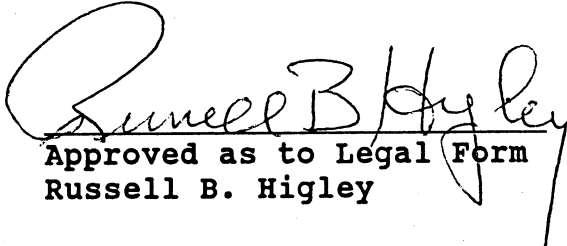
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In Witness Whereof, the City Council of the City of Cambridge has voted that this agreement be entered into as duly attested by its City Clerk, and the Employee has signed and executed this agreement this _____ day of _____, 199

City Councillors:

Robert W. Healy, City Manager

D. Margaret Drury, City Clerk


Approved as to Legal Form
Russell B. Higley



City of Cambridge

1.

IN CITY COUNCIL

March 30, 1993

VICE MAYOR CYR

ORDERED: That the City Council be recorded as approving the Employment Agreement between the City Council and the City Manager, Robert W. Healy, attached to this Order and incorporated herein, with a term ending June 30, 1995.

In City Council March 30, 1993.
Adopted by a ye and nay vote:-
Yeas 6; Nays 3; Absent 0.
Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

A-33

An Employment Agreement between the
City Council of Cambridge and the City
Manager.

In City Council,

March 30, 1993

Order Adopted