

THIS AGREEMENT, made and entered into this Second day of August, 1993, by and between the City of Cambridge, Commonwealth of Massachusetts, a municipal corporation, hereinafter called "City", as party of the first part, and James A. Lindstrom, hereinafter called "Employee", as party of the second part, both of whom understand as follows:

WITNESSETH:

WHEREAS, the City desires to employ the services of said James A. Lindstrom as City Auditor as provided by Municipal Code of Cambridge 2.32.010; and

WHEREAS, it is the desire of the City to (1) secure and retain the services of the Employee and to provide inducement for him to remain in such employment for a specific term, (2) to make possible full work productivity by assuring the 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 the Employee's services at such time as he may be unable fully to discharge his duties or when the City may otherwise desire to terminate his employ; and

WHEREAS, the Employee desires employment as City Auditor for the City of Cambridge;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

The City hereby agrees to employ said James A. Lindstrom as City

Auditor of said City to perform the functions and duties specified by the City Council and by the Municipal Code of Cambridge 2.32.010 and as provided in the job description attached and hereby incorporated by reference into this contract, and to perform other legally permissible and proper duties and functions as the Council shall from time to time assign.

Section 2. Term

A. The City shall employ the Employee as its City Auditor for the remainder of the unexpired term of the City Auditor through June 1, 1995. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the services of the Employee at any time prior to the expiration of this contract, subject only to the provisions set forth in Section 4, paragraphs A and B, of this agreement.

B. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with the City, subject only to the provision set forth in Section 4, paragraph B of this agreement.

C. Employee agrees to remain in the exclusive employ of the City through June 1, 1995, and neither to accept other employment nor to become employed by any other employer until said termination date, unless said termination date is affected as hereinafter provided. The term "employed" shall not be construed to include occasional teaching, writing, consulting or military reserve service performed on Employee's time off, provided such activities create neither a conflict of interest or the appearance of a conflict of interest

with the Employee's duties and responsibilities as City Auditor.

Section 3. Suspension

The City may suspend the Employee with full pay and benefits at any time during the term of this agreement, but only if (1) a majority of the Council and the Employee agree, or (2) after a public hearing, a majority of the Council votes to suspend the Employee for just cause, provided, however, that the Employee shall have been given written notice setting forth any charges at least ten days prior to such hearing by the Council members bringing such charges. Any action to terminate the Employee prior to the expiration of this contract shall be governed by the same procedures.

Section 4. Termination and Severance Pay

A. In the event the Employee is terminated by the City before expiration of the aforesaid term of employment and during such time that the Employee is willing and able to perform his duties under this agreement, then in that event the City agrees to continue to employ the Employee for a period of 180 days from the date said decision to terminate is voted or in the alternative and at the sole option of the City to terminate his employment immediately and to pay him the equivalent of the salary he would have earned over 180 days at his then current rate, provided, however, that in the event Employee is terminated because of an act involving moral turpitude and/or a felony or his conviction of any illegal act involving personal gain to him, then, in that event, the City shall have no obligation to comply with the terms of this paragraph, but

may terminate pursuant to the procedure set forth in Section 3.

B. In the event Employee voluntarily resigns his position with the City before expiration of the aforesaid term of his employment, then the Employee shall give the City 30 days notice in advance, unless the parties otherwise agree. Failure to give such notice shall relieve the City of any obligation to pay any remaining unused vacation or personal time that otherwise may have been payable at separation.

Section 5. Disability

In the event Employee is disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental or other incapacity, the City shall grant Employee a leave of absence of six months or until such time as he is retired due to disability, whichever comes earlier. Employee shall be entitled to utilize any accrued sick leave and vacation leave during this period. Upon expiration of said six month period, Employee shall return to the employ of the Employer if he is able to perform his duties at that time. If said disability continues, the City shall have the option to extend said leave for another six months or to terminate this agreement without further obligation.

Section 6. Non-Renewal of Contract

In the event the City does not intend to renew this contract after the expiration date thereof it shall notify the Employee in writing of such intent at least 180 days prior to expiration of the Contract. Failure to so notify the Employee within one hundred and eighty days of expiration will result in automatic extension of the

City's obligation under the contract for one hundred and eighty days after said notice is delivered, whereupon employment shall end. In the event of such notice the City shall have the sole option to continue the Employee's employment for the one hundred and eighty days or to terminate him and pay him the equivalent of the salary he would have earned over one hundred eighty days, at his then current rate.

Section 7. Salary

The City agrees to pay Employee for his services rendered pursuant hereto an annual base salary of \$58,000 in installments at the same time as other employees of the City are paid. Said salary may be adjusted from time to time consistent with the provisions of Department Head Salary Ordinance Municipal Code of Cambridge 2.62.010. In addition, Employee will receive \$1,500 per annum for his services as the City's representative on the Retirement Board.

Section 8. Performance Evaluation

A. Prior to the beginning of each fiscal year, the Council and the 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, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

B. The Council shall review and evaluate the performance of the

Employee at least once annually on or about the close of the fiscal year. Said review and evaluation shall be in accordance with the progress in achieving the goals and objectives identified in Paragraph A. Said criteria may be added to or deleted from as the Council may from time to time determine, in consultation with the Employee, with a summary written statement of the findings of the Council and provide an adequate opportunity for the Employee to discuss his evaluation with the Council.

C. Said performance review may be used as a factor in any future salary adjustments approved by the Council in addition to any awarded by the City Manager pursuant to Section 7.

Section 9. Residency

Employee agrees to maintain his place of residence within the City of Cambridge.

Section 10. Automobile

Employee shall be reimbursed for use of his personal vehicle at the same rate granted to other City employees if it is used for City business.

Section 11. Vacation and Sick Leave

Employee shall accrue, and have credited to his personal account, vacation leave at the rate of 3 weeks per year commencing on January 1st of the year after service begins and subsequently, 4 weeks vacation on January 1st of the following year. Employee may carry over any unused vacation leave to the next year subject to the approval of the City Manager.

Sick leave shall be at the same rate as other general employees.

Section 12. Dues and Subscriptions

The City agrees to budget and to pay for the professional dues and subscriptions of the Employee necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

Section 13. Professional Development

The City hereby agrees to budget for and to pay the travel and subsistence expenses of the Employee for professional and official travel, meetings and occasions adequate to continue the professional development of the Employee and to adequately pursue necessary official and other functions for the City, including annually, one national out of state conference of the Employee's choice, and for meetings of state and local governmental groups and committees thereof which the Employee serves as a member, subject to the approval of the Council.

Section 14. Indemnification

Consistent with the General Laws of Massachusetts the City shall defend, save harmless and indemnify the 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 performance of the Employee's duties as City Auditor. The City may compromise and settle any such claim or suit and will pay the amount of any settlement or judgement rendered thereon. The City agrees to extend this indemnification

if any such legal action be undertaken after the Employee ceases to be in the employ of the City. However, the City shall not indemnify the Employee for intentional torts, or for violations of any person's civil rights if the Employee acted in a grossly negligent, willful or malicious manner.

Section 15. Bonding

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

Section 16. Other Terms and Conditions of Employment

A. The City, in consultation with the Employee, shall fix any such other terms and conditions of employment as it may determine from time to time relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, City Ordinances or any other law.

B. All policies, rules and regulations of the City relating to sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended also shall apply to the Employee as they would to other employees of the City, in addition to said benefits enumerated specifically for the benefit of the Employee as herein provided.

C. The Employee shall be entitled to receive the same vacation and sick leave provisions governing accrual and payment therefor on termination of employment as other management and non-union employees.

Section 17. No Reduction of Benefits

The City shall not at any time during the term of this agreement reduce the salary, compensation or other financial benefits of the Employee, except to the degree of such a reduction across-the-board for all management and non-union employees of the City.

Section 18. Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- 1). EMPLOYER: City Council, City of Cambridge, City Hall,
Cambridge, MA, 02139; cc. City Manager, City of
Cambridge, City Hall, Cambridge, MA, 02139
- 2). EMPLOYEE: James A. Lindstrom, City Auditor, City of Cambridge,
City Hall, Cambridge, MA 02139

Alternatively, notices 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 of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 19. General Provisions

- A. The text herein shall constitute the entire agreement between the parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. This agreement shall become effective August 2, 1993.

D. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect. In interpreting this agreement, the Laws of Massachusetts shall apply.

IN WITNESS WHEREOF, the City of Cambridge has caused this agreement to be signed and executed in its behalf by it's City Council, City Manager, and duly attested by its City Clerk, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

CITY COUNCIL
CITY OF CAMBRIDGE

Edward H. [Signature]
James H. [Signature]
Kenneth E. Reeves
Jonathan S. Myers
Alvin K. [Signature]

[Signature]
James A. Lindstrom

[Signature]
ATTEST: City Clerk

APPROVED AS TO FORM:

[Signature]
City Solicitor

[Signature]
Robert W. Healy, City Manager

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Agreement of employment for James Lindstrom,
City Auditor.

August 2, 1993