

**TEMPORARY EMPLOYMENT AGREEMENT
BETWEEN
THE INCORPORATED COUNTY OF LOS ALAMOS
AND
STEVEN S. LYNNE**

This EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between the **Incorporated County of Los Alamos** ("Employer" or "County") and **Steven S. Lynne** ("Employee"), (Employee and Employer collectively being referred to as the "Parties"), to be effective for all purposes on May 29, 2021.

Section 1. Duties and Responsibilities

Employee shall temporarily serve and perform the duties of County Manager upon the terms and conditions of this Agreement. As such, Employee shall be responsible to perform the functions and duties specified in the Charter of the County, by applicable provision of the County Code, and the job description adopted by County, and to perform other legally permissible and proper duties and functions. Forthwith upon the appointment and employment of a County Manager, Employee shall return to his position as Deputy County Manager and Administrative Services Director at the then current pay grade, step and rate for Deputy County Manager, and upon no less than the same terms and conditions that existed on May 28, 2021, unless Employee is appointed as County Manager, which, in that case, the terms and conditions agreed upon in a new employment agreement shall apply.

Section 2. Performance Goals

County Council shall be the supervisor of Acting County Manager.

Council and Employee shall, within ninety (90) days of the effective date of this Agreement, define Employee's goals and performance objectives. Those goals and performance objectives shall be updated annually at the time of Employee's performance evaluation.

Section 3. Compensation, Leave and Benefits

Employee shall, commencing May 29, 2021, be paid an additional 5% in addition to his then current salary rate, payable in the same installments as other employees of Employer. The salary payments shall be subject to taxes and any other withholding authorized by Employee or required by law. Employee shall be an employee of Employer and is entitled to all benefits, at his option, as are available to other employees of Employer, as well as the benefits specified herein, but shall not entitle Employee to duplication of any benefit.

Employee shall continue accruing annual leave and sick leave at the rate of accrual awarded to employees of equal tenure as stated in the Employer's Personnel Rules.

The provisions in Employee's previous offer letter dated April 18, 2012, regarding severance, compensatory time, and vehicle allowance shall continue during the term of this Agreement.

Employer shall provide for health, vision, dental and comprehensive medical insurance and other benefits for Employee and his dependents equal to and to the extent that such benefits are provided to all other employees of Employer. Employer and Employee shall share payment of all premiums for Employee and Employee's dependents in the same proportion premiums are shared between Employer and other employees.

Employee shall continue to be eligible for all other benefits not specifically stated in this Agreement, but which are afforded to other full-time County employees. If applicable, Employer agrees that the payment of all benefits shall be made to Employee or his heirs according to the provisions of existing plan documents or benefit contracts in effect for all other full time County employees.

Employee shall be entitled to use of an Employer-furnished vehicle in accordance with Employer's policies or, if Employee's personal vehicle is used for business use, Employee shall be entitled to mileage reimbursement in accordance with Employer's Travel Rules and Regulations.

Section 4. Retirement

Employee is eligible to participate in Employer's retirement and pension plans, including the Public Employee Retirement Association ("PERA") plan. Employer shall pay contributions into such plans on Employee's behalf, in accordance with the provisions of the plans and the policies of Employer.

The ownership of all contributions made by Employee to any of Employer's retirement or pension plans, shall immediately vest in Employee subject to the rules and regulations of each plan.

Section 5. Termination of Agreement

The parties may mutually terminate this Agreement in writing at any time and on any terms as they shall agree.

Employee may terminate this Agreement at any time by providing at least thirty (30) calendar days' notice, in writing, to the Council Chair. Should Employee terminate this Agreement in this manner, he shall return to his position of Deputy County Manager and Administrative Services Director. The date of resuming the previously held position shall be thirty (30) calendar days from the date notice is received, or such other date as the Parties agree.

Council may terminate this Agreement unilaterally, without cause, at any time and for any reason. Such termination must be approved by a majority vote of County Council. The date of termination shall be the date of the vote of County Council, or such date set by Council, whichever is later. Upon such termination, Employee shall immediately return to the position of Deputy County Manager and Administrative Services Director at the then current pay grade, step and rate for Deputy County Manager, and upon no less than the same terms and conditions that existed on May 28, 2021.

Death of Employee shall terminate this Agreement. The date of termination is the date of Employee's death. Upon the death of Employee, his estate and/or beneficiaries shall be entitled to all benefits

accrued and payments due to an employee of Employer, as well as Employee's base salary (subject to all federal and state income tax withholding and all withholding required by law or authorized by Employee), retirement and pension plan contributions and benefits earned through date of death, but this Agreement shall not require Employer to pay any additional sums and no other obligation to Employee, his heirs, representatives or assigns is created by this Agreement. This paragraph is not intended, and shall not be construed, to limit Employer's liability, if any, under the New Mexico Workers' Compensation Act.

If Employee is incapacitated for more than thirty (30) calendar days so that he cannot fulfill his responsibilities hereunder, Employer may terminate this Agreement with written notice to Employee. Upon such termination, Employee shall immediately return to his previous position of Deputy County Manager and Administrative Services Director at the then current pay grade, step and rate for Deputy County Manager, and upon no less than the same terms and conditions that existed on May 28, 2021. This paragraph is not intended, and shall not be construed, to limit Employer's responsibility and liability, if any, under the New Mexico Workers' Compensation Act or American with Disabilities Act.

For purposes of determining incapacitation, Employee shall be incapacitated so that he cannot fulfill his responsibilities hereunder if he (1) has been declared legally incompetent by a Final Court Decree (the date of such decree being deemed to be that date on which the disability occurred), (2) has received disability insurance benefits from any disability income insurance policy maintained by the Employer for a period of three (3) consecutive months (the date of disability being deemed to be that date on which the third consecutive payment is received), or (3) has been found by a licensed New Mexico physician to be disabled pursuant to a Disability Determination. A "Disability Determination" means a finding that Employee, because of a medically determinable disease, injury, or other mental or physical disability, is unable to perform substantially all of his regular duties for the Employer, and that such disability is determined or reasonably expected to last at least thirty (30) calendar days. The date of any physician's written opinion conclusively finding Employee to be disabled is the date on which Employee shall be deemed to be incapacitated.

Employee may treat this Agreement as terminated, if (1) Employer reduces Employee's base salary or other benefits in a greater percentage than is generally reduced for Employer's department heads at that time, or (2) Employer is in violation of any term of this Agreement. Provided, however, that Employee must first give written notice to Employer of his intention to treat his employment as terminated, state with specificity the basis on which he deems his employment terminated and gives the Employer thirty (30) calendar days in which to cure the action or inaction upon which he bases his termination. If the action or inaction is not cured within thirty (30) calendar days of receipt of the notice, then Employee's termination of this Agreement shall be deemed made thirty (30) days after the receipt of notice by Employer. Further, upon such termination of this Agreement, Employee shall immediately return to his previously held position of Deputy County Manager and Administrative Services Director at the then current pay grade, step and rate for Deputy County Manager and upon no less than the same terms and conditions that existed on May 28, 2021. If the action or inaction is one which cannot be reasonably cured within thirty (30) calendar days of receipt of the notice and Employer provides such notice to Employee, then this Agreement shall be terminated and the Employee shall return to his previous position as Deputy County Manager and Administrative Services

Director at the then current pay grade, step and rate for Deputy County Manager and upon no less than the same terms and conditions that existed on May 28, 2021. The effective date of such termination (when a reasonable cure cannot be made within the time limit) shall be the date of Employee's receipt of such notice of Employer. If the action or inaction is cured, Employee shall not be entitled to treat this Agreement as terminated.

Before Employer terminates this Agreement for any reason other than death or disability of Employee, the Council Chair shall request Employee to resign as Acting County Manager and return to his position as Deputy County Manager and Administrative Services Director. If Employee does not provide such a signed, written resignation to the Council Chair within five (5) days of the request (not counting the day of the request) then Employer may proceed to terminate Employee's temporary employment hereunder. If the Employee presents his signed, written resignation statement to the Chair within five (5) days of the request (not counting the day of the request) then the temporary employment of Employee shall be deemed terminated and Employee shall return immediately to his position as Deputy County Manager and Administrative Services Director at the then current pay grade, step and rate for Deputy County Manager and upon no less than the same terms and conditions that existed on May 28, 2021.

Section 6. Suspension from Employment

Employer may suspend Employee for cause, as cause is defined by New Mexico law, and for such length of time as County Council deems appropriate if a majority of all of the members of Council approves the suspension and length of suspension after a Council meeting at which the suspension is considered; provided that Employee is given written notice at least seven (7) calendar days prior to the publication of notice of such meeting, which notice must set forth the basis for the suspension as well as the length of suspension. Additionally, prior to the vote of County Council, Employee shall be afforded an opportunity to present to Council all information he deems relevant to its decision. The presentation by Employee, if any, shall be made at a closed meeting of Council to protect Employee's liberty and property interests arising from his employment hereunder.

Section 7. Business Expenses and Professional Development

Employee shall be reimbursed for travel and out-of-pocket business expenses in accordance with Employer's policies on such reimbursement. Employer shall pay for the costs of any continuing education Employee attends, as well as the costs associated with membership in professional organizations related to Employee's acting or current positions.

Section 8. Outside Employment

This position of Acting County Manager is a full-time position. Employee shall provide his best efforts and dedicate himself full time to the completion of job responsibilities. To this end, Employee shall not accept any other contemporaneous employment involving more than ten (10) hours per week without the prior consent of County Council. Occasional teaching, writing or consulting performed on Employee's time off shall not violate the terms of this section and shall not require the prior consent of County Council. Employee shall promptly disclose to Employer any outside employment for which he is paid.

Section 9. Insurance Coverage

Employee shall be entitled to all rights of coverage and defense as Employer's employee under the New Mexico Tort Claims Act 41-4-1 *et. seq.* NMSA 1978, and by liability insurance or self-insurance maintained by the Employer for the benefit of its employees.

Section 10. Bonding

Employer shall bear the full cost of any fidelity or other bond(s) required of Employee under any law or ordinance. Employee knows of no reason why he might not qualify for any such bond.

Section 11. Notices

Notice under this Agreement shall be deemed given on the day personally delivered or three (3) days after deposit in the United States Mail, first class postage pre-paid, to a party at the address set forth below:

EMPLOYER: Chair, Los Alamos County Council
1000 Central Avenue, Suite 350
Los Alamos, New Mexico 87544

EMPLOYEE: Steven S. Lynne, Acting County Manager
1000 Central Avenue, Suite 350
Los Alamos, New Mexico 87544

An address may be changed by notification to the other party in writing delivered as specified for notices hereunder. Unless such notice is made, a party is entitled to rely on the address stated above.

Section 12. General Provisions

Integration. This agreement sets forth and establishes the entire understanding between Employer and Employee relating to the employment of Employee by Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement.

Section 13. Severability

The invalidity or partial invalidity of any provision, paragraph, sentence or clause in this Agreement shall not affect the validity of the remainder of the Agreement. In the event that any part of this Agreement is held to be invalid, the remaining provisions shall continue in full force and effect.

To the extent that the terms and conditions of this Agreement conflict with the personnel policies and procedures of Employer, the terms and conditions of this Agreement shall control.

Each party hereto has been advised of its right to representation by counsel of its own choosing.

All references to "days" herein shall be business days unless otherwise specified.

IN WITNESS WHEREOF, Employer has caused this Agreement to be signed and executed on its behalf by its Council Chair, and duly attested to by its County Clerk, and Employee has signed and executed this Agreement to be effective the day and year first written above.

ATTEST:

INCORPORATED COUNTY OF LOS ALAMOS:

**NAOMI D. MAESTAS,
COUNTY CLERK**

By: _____
**RANDALL T. RYTI,
COUNCIL CHAIR**

EMPLOYEE:

By: _____
STEVEN S. LYNNE