



Department of Local Government
and Regional Development
Government of Western Australia

CONTRACT OF EMPLOYMENT

SHIRE OF YORK CHIEF EXECUTIVE OFFICER



WESTERN AUSTRALIAN
LOCAL GOVERNMENT ASSOCIATION



MAY 2014

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THIS CONTRACT OF EMPLOYMENT

is made on the 16th day of April 2014

BETWEEN:

1. **The Shire of York** (the Local Government)
P.O.Box 22 York WA 6302 (address for service of notices),

and

2. **Michael Alan Keeble** (the Chief Executive Officer)
P.O.Box 430 Guildford WA 6935 (address for service of notices)

1. POSITION

The position is that of Chief Executive Officer of the Local Government. This contract relative to that position is made under and subject to the *Local Government Act 1995*.

2. DEFINITIONS

In this Contract:

- 2.1 "Act" means the *Local Government Act 1995*;
- 2.2 "CEO" means the Chief Executive Officer of the Local Government;
- 2.3 "Confidential Information" means any and all confidential information, data, reports, operations, dealings, records, materials, plans, statistics, finances or other agreements and things (other than an agreement or thing which is already in the public domain), whether written or oral and of whatever type or nature relating to property, assets, liabilities, finances, dealings or functions of the Council or any undertaking from time to time carried out by the Council.
- 2.4 "Council" means the Council of the Local Government;
- 2.5 "Long Service Leave Regulations" means the Local Government (Long Service Leave) Regulations.
- 2.6 "Mediation Service" as referred to in clause 17 means an individual or company contracted to mediate a dispute between the parties.

- 2.7 "Policies" means the policies adopted by Council.
- 2.8 "Position" means the office or position defined in Clause 1.
- 2.9 "Remuneration Package" means the total of the remuneration package specified in Clause 12.
- 2.10 "Term" means, the term specified in Clause 4.

3. CONSTRUCTION

Unless expressed to the contrary, words importing:

- 3.1 The singular include the plural and vice versa.

A reference to:

- 3.2 A person includes a firm, an unincorporated association, an incorporated association, a corporation and a government or statutory body or authority.
- 3.3 A person includes their legal personal representatives, successors and assigns.
- 3.4 A statute, ordinance, code, regulation, award or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- 3.5 A right includes a benefit, remedy, discretion, authority or power.
- 3.6 An obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation.
- 3.7 Provisions or terms of this Contract, or another document, contract, understanding or arrangement include a reference to both express and implied provisions and terms.
- 3.8 This Contract or any other document includes this Contract or other document as varied or replaced and notwithstanding any change in the identity of the parties.
- 3.9 Writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes facsimile transmissions or other electronic mail or transmissions.
- 3.10 Any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them.

3.11 Headings are for convenience only and do not effect the interpretation of this Contract.

4. TERM OF EMPLOYMENT

Subject to the terms and conditions contained in this contract, the Local Government will employ the CEO for a term of 6 months, commencing on the 16th day of April 2014 and expiring on the 15th day of October 2014.

5. FURTHER CONTRACTS

There is no compulsion on either the Council or the CEO to agree to a new Contract. The Council and/or the CEO may initiate discussions prior to the expiry of the Term for the parties to enter into a new Contract for a further term. In the event that the Council and the CEO agree to a new contract, a new contract will be executed.

6. CHIEF EXECUTIVE OFFICER'S DUTIES AND FUNCTIONS

The CEO must carry out the duties and functions as are:

- 6.1 Set out in the Position Description and as varied from time to time by agreement between the parties.
- 6.2 Set out in the policies of the Local Government as adopted by the Local Government from time to time during the term of employment.
- 6.3 Imposed by the Act or in any other statute and associated regulations relevant to the position.

The CEO shall:

- 6.4 Work such reasonable hours as are necessary to carry out the duties and functions of the position.
- 6.5 Observe and carry out all lawful directions given by the Council, in relation to the performance of the CEO's duties and functions under this Contract.
- 6.6 Disclose any financial or other interest relating to the business of the Local Government in accordance with the Act or which conflicts or may conflict with the discharge of the duties and functions of the office and comply with any reasonable direction given by the Council in respect of that interest.
- 6.7 Devote the whole of their professional effort to their employment and will not hold any position or take on any activities which may in any way be seen to conflict with the CEO's obligations under this contract unless approved by the Council.

7. PERFORMANCE CRITERIA

The following performance criteria applies to this contract:

- Provide accurate and timely advice to council;
- Work in collaboration with council;
- Provide innovative and visionary leadership;
- Establishes effective networks;
- Maintains a work environment that facilitates the development of people and encourages them to perform at a high level;
- Ensure the effective and accountable application of financial and physical resources;
- Develops and implements change management strategies to enhance service delivery;
- Initiates the development, implementation and review of effective policies.

These performance criteria may be varied and any other criteria may be included by agreement between the parties at any time during the term of this contract.

8. PERFORMANCE REVIEWS

If appropriate Council will ensure that a review of the CEO's performance is conducted annually or more frequently if the Council or the CEO perceives there is a need to do so.

The Council shall give the CEO a minimum of ten working days notice in writing that a performance review is to be conducted to enable the CEO sufficient time to prepare.

Where an external facilitator is to be used, both parties must agree to the nominated facilitator.

The CEO will prepare and submit to the council and/or facilitator an assessment of his/her own performance prior to the assessment by council.

The final report on the performance of the CEO is to be forwarded to council for consideration to either accept or reject the report.

9. CONFIDENTIAL INFORMATION

The CEO shall not divulge any confidential information about the Local Government both during and after their term of employment with the Local Government. Confidential information includes all information and intellectual property relating to the functions and operations of the Local Government which is not made available to the public.

In the event of termination, the CEO must deliver to the Local Government all confidential information relating to the local government in the CEO's possession and must not keep or make copies of such information.

10. CONDUCT

The CEO shall at all times carry out his/her duties and functions in the best interests of the Local Government, and ensure that the CEO's actions do not bring the Local Government into disrepute or cause the Local Government damage.

The CEO will comply with the code of conduct adopted by the Local Government pursuant to section 5.103 of the Act or as prescribed in Regulations under the Act.

11. SUSPENSION

The Council may, during a period which the CEO is under charge with any criminal offence, suspend the CEO from duty.

12. REMUNERATION

The Local Government will provide the CEO with the remuneration package detailed below which takes into account:

- the requirement to attend Council meetings outside working hours;
- an acknowledgment that the position is measured on performance and not on the number of hours worked; and
- all additional loadings and allowances:

12.1 The CEO shall be entitled to a total remuneration package of \$ 210,000.00 annum.

The components representing the remuneration package shall be:

12.1.1	Base Salary	\$ 175,241.18
12.1.2	Superannuation @ 9.25%	\$ 16,209.82
12.1.3	Taxable Allowances	
12.1.4	Utilities (water, power, etc)	\$ 2,250.00
12.1.5	Rental Subsidy	\$ 1,560.00
12.1.6	Total Cash	\$ 195,261.00
12.1.7	Associated FBT	\$ 14,739.00
12.1.8	Total Package	\$ 210,000.00

12.2 Salary (Cash Component)

12.2.1 The CEO's salary shall be payable fortnightly, in arrears to an account nominated by the CEO.

12.3 Motor Vehicle

12.3.1 The Local Government shall provide unlimited private use of a motor vehicle in accordance with policy as at the date of signing this contract, for the use of the CEO.

12.3.2 The Local Government shall be responsible for all running costs of the motor vehicle including, but not limited to all registration, insurance, fuel and maintenance costs of the motor vehicle.

12.3.3 The CEO is responsible for organising for the motor vehicle to be maintained, serviced and cleaned in an appropriate manner.

12.3.4 Unlimited private use entitles the CEO and a driver designated by the CEO to use the motor vehicle for both business and private purposes in Western Australia.

12.4 Superannuation

12.4.1 The Local Government's contribution is limited to the Superannuation Guarantee levy.

12.4.2 The CEO may elect to pay additional superannuation contributions as part of a salary sacrifice arrangement with the Local Government. Such an agreement will result in a lower cash component being paid to the CEO.

12.5 Fringe Benefits Tax

The Local Government shall pay any liability with respect to Fringe Benefits Tax incurred as a result of the benefits provided in this Contract, or the ordinary carrying out of Local Government business by way of functions or travelling.

12.6 Valuation

The value to be allocated to each component of the CEO's total remuneration shall be determined by the Local Government in accordance with such valuation principles as it may adopt from time to time to value benefits extended to its employees.

13. LEAVE

This may include, but is not limited to:

13.1 Annual Leave

The CEO is not entitled annual leave.

13.2 Long Service Leave

Long service leave shall be in accordance with the Local Government (Long Service Leave) Regulations.

13.3 Personal Leave

13.3.1 The CEO is not entitled to paid personal leave when he is absent:

- due to personal illness or injury (sick leave); or
- for the purposes of caring for an immediate family or household member who is sick and requires the CEO's care and support (carer's leave);

13.3.2 The CEO is not entitled to bereavement leave

13.4 Parental Leave

Parental Leave encompasses Maternity Leave, Paternity Leave and Adoption Leave, and is not available to the CEO.

13.5 Public Holidays

The CEO shall be entitled to Western Australian Gazetted public holidays and 2 days in lieu for the day after New Years Day and the Tuesday after Easter.

14. TERMINATION OF EMPLOYMENT

14.1 Effluxion of Time

The employment of the CEO shall, unless a new contract is negotiated, terminate on the expiry date specified in Clause 4 of this Contract.

14.2 Termination by Either Party

Either party may terminate this contract by giving one week's written notice to the other party.

14.3 Summary Dismissal

The Council may terminate the employment of the CEO in writing for a period of less than 1 week if:

14.3.1 The CEO commits any wilful or serious misconduct or wilful neglect in the discharge of the CEO's responsibilities or obligations under this Contract.

14.3.2 The CEO wilfully disobeys any reasonable and lawful order or direction by the Council.

14.3.3 The CEO is convicted and under sentence for a crime or has been convicted of a serious Local Government offence within the meaning of Section 2.22 of the *Act*.

A payment under sub-clause 14.2 does not apply where the termination is a result of an event identified under sub-clause 14.3.1, 14.3.2 or 14.3.3.

15. INCONSISTENCY AND SEVERANCE

This Contract shall be governed by and construed in accordance with the laws of the State of Western Australia.

If there is any inconsistency between this Contract and any Industrial Relations Law, the Industrial Relations Law prevails, but only to the extent of the inconsistency.

If there is any inconsistency between this Contract and the *Local Government Act 1995*, the Act prevails but only to the extent of the inconsistency.

Each provision of this document shall be read and construed independently of the other provisions of this document so that if one or more are held to be invalid for any reason whatsoever, then the remaining provisions shall be valid to the extent that they are not held to be so invalid.

If a provision of this document is found to be void or unenforceable but would be valid if some part hereof were deleted or the period of application reduced, such provision shall apply with such modification as may be necessary to make it valid and effective.

16. ALTERATIONS TO THIS CONTRACT

This contract may only be varied or replaced by agreement in writing signed by the parties.

17. DISPUTE RESOLUTION

In relation to any matter that may be in dispute between the CEO and the Council, the parties will:

- 17.1 Attempt to resolve the matter at workplace level by the CEO and the Council, or a person or a committee delegated by the Council for that purpose, meeting and conferring on the matter.
- 17.2 Agree to allow either party to refer the matter to mediation if the matter cannot be resolved at the workplace level.
- 17.3 Agree that if either party refers the matter to an independent mediator, both parties will participate in the mediation process in good faith.
- 17.4 Acknowledge the right of either party to appoint, in writing, another person to act on behalf of the party in relation to the mediation process. Such mediation shall operate in a manner as agreed by the parties

The cost of the mediation service will be met by the Local Government. Where an advisor is used by either party, that party will be responsible for meeting the cost of the advisor.

18. NOTICES

Any notice or other communication between the parties:

- 18.1 Must be in legible writing to the last recorded (or known) address;
- 18.2 Is regarded as being given to the sender and received by the addressee:
 - if by person, when delivered;
 - if by post, 3 business days from and including the date of postage; and
 - if by facsimile transmission, whether or not legibly received, when transmitted to the addressee, but if the delivery or receipt is on a day which is not a business day or is after 4.00pm (addressee's time) it is regarded as received at 9.00am on the following business day.
 - if by email, the date of receipt shown on the email.
- 18.3 If the sender is advised that a facsimile transmission is not legible within 2 hours after transmission, the facsimile transmission is not regarded as legible.

19. OTHER TERMS AND CONDITIONS

Subject to any express provision in this Contract to the contrary, each party shall bear its own legal and other costs and expenses relating directly or indirectly to the preparation of, and performance of its obligations arising out of this Contract

20. EXECUTION BY THE PARTIES

THE COMMON SEAL of the Local Government was hereunto affixed by authority of a resolution of the Council in the presence of:

President

Name of President

signed by:

Chief Executive Officer

Name of Chief Executive Officer

in the presence of:

Witness

Name of Witness

Mr Michael Keeble
166/597 Kalamunda Road
HIGH WYCOMBE WA 6057

Dear Michael

CHIEF EXECUTIVE OFFICER - CONFIRMATION OF EMPLOYMENT TERMS AND CONDITIONS

This is to confirm your temporary appointment to the position of Chief Executive Officer of the Shire of York.

The terms and conditions of your appointment are as follows:

EMPLOYMENT STATUS: Temporary employment pending appointment of a permanent Chief Executive Officer.

TERM: Commencing on Wednesday 16 April 2014 for a maximum period of 6 months or until the Council appoints a permanent Chief Executive Officer. If it becomes necessary to extend the term beyond 6 months, the parties will confirm this in writing at the time, on the same terms and conditions.

TERMINATION FOR ANY REASON: Either you or the Council may terminate this contract of employment, for any reason at all and at any time, by giving one week's written notice or by payment to the other party, by the party giving notice, of one week's cash salary (being \$3,681.75) in lieu of notice.

HOURS OF WORK: Generally the working week is Monday to Friday, however, you will be expected to attend to Council matters as and when required outside of ordinary working hours. Accordingly, you shall work such reasonable hours as are necessary to efficiently and effectively carry out the duties and functions of the Acting Chief Executive Officer and you shall devote the whole of your professional effort to your employment and will not hold any position or take on any activities which may in any way be seen to conflict with the Acting CEO's obligations under this contract unless approved by the Council (or, if the Council so chooses, by the President).

REPORTING: You shall provide a weekly report to the Shire President setting out the matters being worked and meetings attended and planned.

TOOLS OF TRADE: The Council shall provide you with a suitable motor vehicle for business and unrestricted private use within the state of Western Australia below the 26th parallel of latitude south and a mobile phone for business and reasonable incidental private use.

REMUNERATION PACKAGE (ANNUAL EQUIVALENT):

Base Salary	\$175,241.18
and taxable allowances:	
Utilities (Water, power and other utilities)	\$ 2,250.00
Rental Subsidy	<u>\$ 1,560.00</u>
Total Cash	\$179,051.18
Plus	
Superannuation @9.25%	
(based on Base Salary)	\$ 16,209.82
Associated FBT (non cash)	\$14,739.00
Total Reward Package	\$210,000.00

METHOD OF PAYMENT: The remuneration package shall include a 25% casual loading and the 17.5% annual leave loading, a grooming allowance of \$250 per annum and professional association membership of \$600.00 per annum and shall be paid fortnightly in arrears at the rate of:

1. Base Salary \$6,740.00 (\$674.00 per day, \$84.25 per hour)
2. Taxable allowances of \$146.54 (\$14.65 per day, \$1.83 per hour)
3. Superannuation will be paid monthly in arrears.

Where you are absent from duty for any reason on any day of the week, Monday to Friday inclusive, except on any gazetted public holiday, the fortnightly base salary payment shall be reduced by \$688.65 for each day that you are absent.

ACCOMMODATION: If the Council provideds you with accommodation, the utilities and rental subsidy shall not be paid in cash.

Yours sincerely



Matthew Reid
Shire President
Wednesday, 16 April 2014

Accepted



Michael Keeble

Wednesday, 16 April 2014