

RESOLUTION NO. 165

**RESOLUTION OF THE BOARD OF MAYOR AND
ALDERMEN OF THE TOWN OF MOUNT CARMEL,
TENNESSEE, AUTHORIZING THE MAYOR TO EXECUTE A
CONTRACT WITH RONALD WALLER AS CITY
ADMINISTRATOR**

WHEREAS, The Town of Mount Carmel, Tennessee has proposed terms and conditions of employment for a new City Administrator; and

WHEREAS, Ronald Waller has accepted the position of City Administrator; and

WHEREAS, Mount Carmel Municipal Code section 1-401 et seq. allows the Mayor to negotiate such agreements and present same to the Board of Mayor and Aldermen for its approval; and

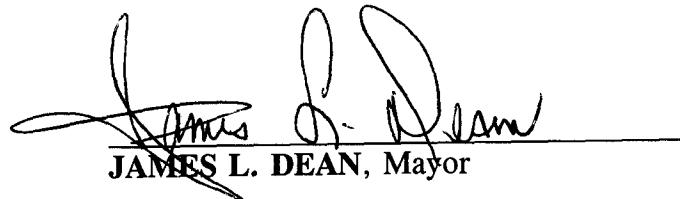
WHEREAS, The fiscal year 1998 budget provides for same;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Mayor and Aldermen of the Town of Mount Carmel, Tennessee, as follows:

Section 1. The Mayor is authorized to execute on behalf of the town the Agreement attached hereto as exhibit A.

Section 2. This Resolution shall take effect upon its passage the public welfare requiring it.

Duly passed and approved this 82 day of January, 1997 1998



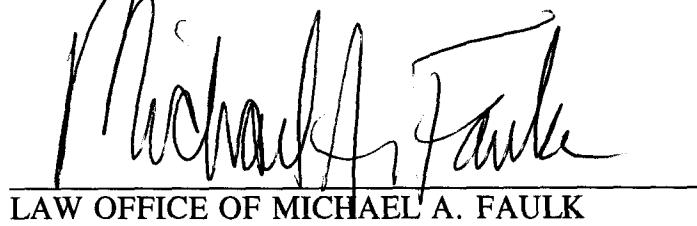
James L. Dean
JAMES L. DEAN, Mayor

ATTEST:



NANCY F. CARTER, Recorder

APPROVED AS TO FORM:



MICHAEL A. FAULK
LAW OFFICE OF MICHAEL A. FAULK

AYES 4

NAYS 0

OTHER 0

THIS AGREEMENT, made and entered into as of the 4 day of February, 1998, by and between the TOWN OF MOUNT CARMEL, TENNESSEE, a municipal corporation, hereinafter referred to as "MOUNT CARMEL", acting by and through its Board of Mayor and Aldermen, hereinafter referred to as "BOARD". and RONALD WALLER, hereinafter referred to as "ADMINISTRATOR".

W I T N E S S E T H:

WHEREAS, Board desires to appoint the said RONALD WALLER as ADMINISTRATOR of MOUNT CARMEL pursuant to the Charter and Code of Ordinances of MOUNT CARMEL; and

WHEREAS, it is the will of Board to provide certain benefits, establish certain conditions of employment, and set working conditions of ADMINISTRATOR, all as specifically set out in the Charter and Code of Ordinances of MOUNT CARMEL; and

WHEREAS, it is the desire of Board to (1) appoint ADMINISTRATOR and to provide inducement for him to remain in such office; (2) to make possible full work productivity by assuring ADMINISTRATOR'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 ADMINISTRATOR; and (4) to provide a just means for terminating ADMINISTRATOR's appointment at such time as he may be unable fully to discharge his duties due to disability or when Board may otherwise desire to terminate his appointment and declare the office vacant; and

WHEREAS, ADMINISTRATOR desires to accept appointment to the office of CITY ADMINISTRATOR of MOUNT CARMEL.

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

SECTION I. Duties.

A. BOARD hereby appoints the said RONALD WALLER to the office of CITY ADMINISTRATOR of MOUNT CARMEL to perform the functions and duties specified in the Charter and Code of Ordinances of MOUNT CARMEL and in Tenn. Code Anno., and to perform other legally permissible and proper duties and functions BOARD shall from time to time assign and ADMINISTRATOR hereby accepts and agrees to such appointment.

B. The workweek of ADMINISTRATOR shall generally be forty (40) hours. ADMINISTRATOR shall work any additional hours reasonably required to discharge the duties and responsibilities of his office.

C. ADMINISTRATOR hereby affirms his subscription to the International City Management Association Code of Ethics.

D. ADMINISTRATOR will not purchase real estate in MOUNT CARMEL except for his personal use, and will not invest in any business in MOUNT CARMEL which, in any way, could pose a conflict of interest with the office of CITY ADMINISTRATOR of MOUNT CARMEL.

E. ADMINISTRATOR agrees to remain in the exclusive employ of BOARD and MOUNT CARMEL and neither to accept other employment nor to become employed by any other employer unless his appointment is terminated as hereinafter provided, except that ADMINISTRATOR may engage in occasional teaching or writing, limited to subjects involving ADMINISTRATOR's professional development, which outside employment shall not adversely affect the operation of MOUNT CARMEL.

SECTION II. Termination of Appointment.

A. The appointment herein created may be revised, terminated, changed or modified from time to time by BOARD, in its discretion or at its pleasure, with or without cause, without

notice, and without liability therefore on the part of MOUNT CARMEL or BOARD except as stated in Paragraph B. below,

B. In the event that Board terminates the appointment of ADMINISTRATOR, without cause BOARD agrees to pay ADMINISTRATOR such salary and benefits as have accrued to the date of termination, plus a severance payment in an amount equal to six (6) months of his then current annual salary. However, in the event that ADMINISTRATOR is terminated by BOARD for cause or because of any misconduct, then BOARD of MOUNT CARMEL shall have no obligation to make a severance payment.

C. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of ADMINISTRATOR to resign at anytime from his appointment to the office of CITY ADMINISTRATOR of MOUNT CARMEL. However, in the event ADMINISTRATOR voluntarily resigns his office before the expiration of three (3) years from the effective date of this agreement, then ADMINISTRATOR shall give BOARD and MOUNT CARMEL two (2) months notice in advance, unless the parties otherwise agree, and ADMINISTRATOR shall repay to BOARD and MOUNT CARMEL the relocation allowance paid by Board to ADMINISTRATOR pursuant to Section XII of this agreement. Such repayment shall be in the full amount received if resignation occurs within the first year of this agreement; in two-thirds of said amount received if resignation occurs within the second year of this agreement; and, in one-third of said amount received if resignation occurs within the third year of this agreement

SECTION III. Disability.

If ADMINISTRATOR 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 (4) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a thirty (30) working day period, BOARD shall have the option to terminate his appointment and declare the office vacant, subject to the severance pay requirements of Section II, Paragraph B. However, ADMINISTRATOR shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits as if he were an employee subject to the Personnel Policies and Procedures Manual then in effect.

SECTION IV. Salary.

BOARD hereby fixes the salary of ADMINISTRATOR at the annual sum of FORTY THOUSAND FIVE HUNDRED DOLLARS (\$40,500.00), payable in installments at the same time as subordinate officers and employees of MOUNT CARMEL.

After six (6) months on the job, and in addition to the Town-wide across-the-board raise, if any, received by other TOWN employees and officers, and further conditioned on satisfactory performance of the duties of CITY ADMINISTRATOR, BOARD shall adjust the salary of the CITY ADMINISTRATOR. Thereafter, BOARD will review this ADMINISTRATOR's compensation in June of each year. Increases, if any, will be made after weighing ADMINISTRATOR's performance, increases granted to subordinate officers and employees of MOUNT CARMEL, and the resources of MOUNT CARMEL.

SECTION V. Performance Evaluation.

A. BOARD recognizes that for ADMINISTRATOR to respond to their priorities and to grow in the performance of his job, BOARD needs to make a regular evaluation of his performance. To assure that ADMINISTRATOR gets this feedback, BOARD will schedule a structured evaluation of ADMINISTRATOR's performance at the end of his first six (6) months service; and at least once each year thereafter.

B. Annually, BOARD and ADMINISTRATOR shall define such goals and performance objectives which they determine necessary for the proper operation of MOUNT CARMEL and in the attainment of Board'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.

C. In effecting the provisions of this Section, BOARD and ADMINISTRATOR shall be bound by the applicable laws of the State of Tennessee, the Charter and Code of Ordinances of MOUNT CARMEL.

SECTION VI. Vacation and Sick Leave.

ADMINISTRATOR shall accrue and have vacation and sick leave credited to his personal account as other employees of MOUNT CARMEL.

SECTION VII. Disability, Health and Life Insurance.

ADMINISTRATOR shall receive such insurance benefits as are provided other employees of MOUNT CARMEL.

SECTION VIII. Retirement.

BOARD shall, in addition to the base salary paid by the BOARD to the ADMINISTRATOR, pay an amount equal to five (5) percent of ADMINISTRATOR'S base salary into the International City Management Association Retirement Corporation (ICMA-RC) on ADMINISTRATOR'S behalf, in equal proportionate amounts each pay period, and to transfer ownership to succeeding employers upon ADMINISTRATOR'S resignation or discharge.

SECTION IX. Dues and Subscriptions.

Board shall give special consideration in adopting the appropriation ordinance for each fiscal year to the professional dues and subscriptions of ADMINISTRATOR 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 BOARD and MOUNT CARMEL.

SECTION X. Professional Development

A. BOARD shall give special consideration in adopting the appropriation ordinance for each fiscal year to the travel and subsistence expenses of ADMINISTRATOR for professional and official travel, meetings and occasions adequate to continue the professional development of ADMINISTRATOR and to adequately pursue necessary official and other functions for BOARD and MOUNT CARMEL, including but not limited to, the Annual Conference of the International City Management Association, the Tennessee Municipal League, and such other national, regional, state, and local government groups and committees thereof which ADMINISTRATOR serves as a member.

B. BOARD shall also give special consideration in adopting the appropriation ordinance for each fiscal year to the travel and subsistence expenses of ADMINISTRATOR for short courses, institutes and seminars that are necessary for his professional development and certification, if any, as CITY ADMINISTRATOR and for the good of BOARD and MOUNT CARMEL.

SECTION XI. Bonding.

The full cost of any fidelity bond required of ADMINISTRATOR under applicable law or any ordinance of MOUNT CARMEL shall be a budgeted item in the appropriation ordinance for each fiscal year.

SECTION XII. Relocation Allowance.

BOARD shall Pay to ADMINISTRATOR pursuant to the Employee Travel Policy, upon request, a sum not to exceed FIVE THOUSAND DOLLARS (\$5,000.00) for actual reasonable pre-move travel, meal and lodging expense in looking for a new residence; actual reasonable travel, meal and lodging expense in moving from old to new residence; transportation expense in moving household goods and personal effects; and, expenses incident to purchase or lease of a residence in MOUNT CARMEL subject to the applicable provisions of Section II, Paragraph C and subject further to the established Travel Policies and Procedures of the BOARD. ADMINISTRATOR agrees to establish his permanent residence within the TOWN within six (6) months of the execution of this agreement.

SECTION XIII. Automobile.

The ADMINISTRATOR'S duties require that he shall have the use of an automobile provided to him by the BOARD. The BOARD shall pay for liability, property damage and comprehensive insurance and for the purchase operation, maintenance, and regular replacement of said

automobile. If the BOARD does not provide ADMINISTRATOR with the exclusive use of an automobile, then the BOARD shall pay the administrator \$ 0.28 per mile for his transportation.

SECTION XIV. Indemnification.

BOARD shall provide insurance to defend, save harmless, and indemnify ADMINISTRATOR 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 within the scope of the performance of ADMINISTRATOR'S duties as ADMINISTRATOR. BOARD may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

SECTION XV. General Provisions.

This Agreement shall be binding upon and inure to the benefit of the heirs at law and the executors of the Administrator. If any provision or any portion thereof, contained in the Agreement is held unconstitutional, invalid, or unenforceable, the remainder of the agreement or portion thereof, shall be deemed severable and shall remain in full force and effect.

SECTION XVI. Choice of Laws and Forum.

The laws of the State of Tennessee shall govern the interpretation of this agreement. In the event of a dispute under this agreement, the parties of a dispute under this agreement, agree to attempt mediation to resolve any such dispute as a condition precedent to the filing of any lawsuit or claim for breach of or interpretation of the terms of this agreement.

SECTION XVII. Entire Agreement.

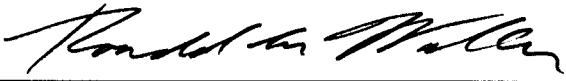
This document constitutes the entire agreement between the parties. Any modifications or additions to this agreement shall be in writing to have binding effect.

SECTION XVIII. Effective Date.

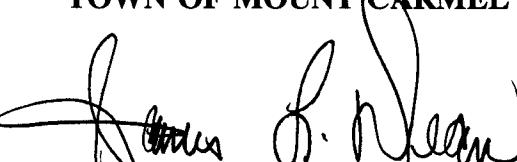
This agreement shall be effective commencing February 4, 1998 subject to Section II.

IN WITNESS WHEREOF, the TOWN OF MOUNT CARMEL, Tennessee, has caused this agreement to be signed and executed on its behalf by its Mayor and duly attested by its Recorder, and, ADMINISTRATOR has signed and executed this agreement, as of the day and year first above written; this agreement being executed in duplicate.

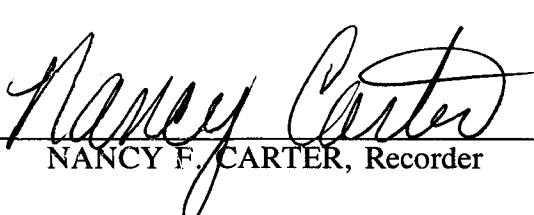
CITY ADMINISTRATOR


RONALD WALLER

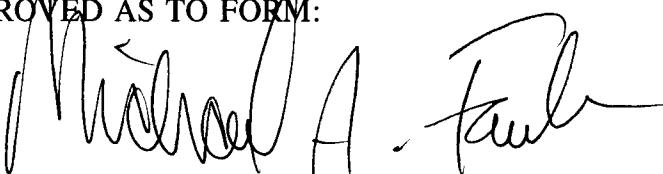
TOWN OF MOUNT CARMEL


JAMES L. DEAN, Mayor

ATTEST:


NANCY F. CARTER, Recorder

APPROVED AS TO FORM:


LAW OFFICES OF MICHAEL A. FAULK