STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

TUITION REIMBURSEMENT/COMPENSATION AGREEMENT

[FINANCE DIRECTOR]

THIS AGREEMENT, made the 10th day of October, 2017, by and between Kimberly Tyner Pickett, hereinafter referred to as "Finance Director"; and the Town of Benson, a North Carolina Municipal Corporation, hereinafter referred to as "Town";

WITNESSETH:

THAT WHEREAS, the Finance Director position with the Town of Benson is a position which requires a diverse set of skills and abilities; and

WHEREAS, in light of the complex nature of the duties required of the Finance Director the Town desires to employ a person as Finance Director who possesses certain undergraduate and graduate training which will increase the effectiveness and success of the Finance Director in his/her role; and

WHEREAS, the Town's education requirements and/or preferences necessitate an ideal Finance Director candidate to attend and attain degrees from institutions for which an otherwise ideal Finance Director candidate would have financed with debt; and

WHEREAS, the Town wishes to provide certain additional remuneration to the Finance Director in light of the circumstances recited herein.

NOW THEREFORE, in consideration of the mutual covenants and promises between the parties as set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Finance Director, it is mutually agreed as follows:

1. *Tuition reimbursement.* The Town shall reimburse the Finance Director a total MAXIMUM amount UP TO TEN THOUSAND AND NO/100 DOLLARS ($10,000.00). The amount reimbursed to the Finance Director by the Town shall be the lesser of the *actual amount* the Finance Director pays in bona fide expenses to an accredited educational institution for tuition, fees, books and materials, and related expenses (including any preliminary or placement tests, such as the Graduate Record Examination or GRE) he/she accrues for or towards his or her Masters of Public Administration (MPA) degree, or $10,000.00. Payments made hereunder shall be made *either* in the form of reimbursements to Finance Director for actual sums paid by Finance Director to his/her accredited educational institution for covered expenses, as defined herein, or the Town may elect to pay Finance Director's educational institution directly if

presented with a statement for bona fide tuition and related expenses from the educational institution.

2. *Claw-back provisions, limitations.* If the Finance Director shall remain employed by Town in the role of Finance Director and is not in violation of this agreement for SIXTY (60) FULL MONTHS after she/he completes his/her MPA program, he/she shall owe no repayment for sums paid to him/her as retroactive tuition reimbursement. If the Finance Director resigns or otherwise voluntarily ceases his or her employment as Finance Director prior to the expiration of the sixtieth (60^{th}) month of his/her employment as Finance Director, then and in that event the Finance Director shall pay back to the Town ONE HUNDRED PERCENT (100%) of all tuition or reimbursement payments made to him/her. Any violation of the terms of this agreement shall be deemed a material breach hereof and shall trigger the claw-back provisions of this section.

3. *Verification and Duty to Supplement.* The Finance Director shall provide evidence of verification to the Town sufficient to ascertain the actual amount of Finance Director's actual expenses for tuition, fees, books and other materials, and related expenses paid or owed to his/her educational institution. Such evidence may include, but is not limited to: statements from the educational institution, receipts for payments made by Finance Director, and/or other information deemed necessary by the Town. The FINANCE DIRECTOR shall, upon Town's request, contact his/her educational institution and request that they provide documentation sufficient for the Town to verify (1) the educational nature of the debts owed or paid and (2) any other information deemed necessary or expedient by the Town to verify the nature of the debts owed or paid. The Finance Director remains under a continued duty to supplement their additional evidence of verification

4. *Sovereign Immunity.* The parties agree that Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

5. *Entire Agreement.* This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the mutual written agreement of the parties hereto.

6. *Execution.* This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

7. *Counterparts.* This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

8. *Authority to Execute.* The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or

entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

9. *Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed herein.

10. *Savings/Severability.* In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

11. *Miscellaneous Representations.* Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel regarding its terms.

12. *Waiver.* Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

13. *Tax Implications.* Finance Director shall be solely responsible for any adverse tax consequences which may accrue to him or her arising out of the reimbursement payments made hereunder. Town makes no warranties, either express or implied, to Finance Director as to any tax matters. Finance Director is advised to seek the advice of a tax professional regarding the tax ramifications to him or her before executing this agreement.

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[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the day above first written.

For the Town of Benson:

________________________________ (SEAL)
Honorable William W. Massengill, Jr., Mayor

ATTEST:

________________________________ (SEAL)
Terry Hobgood, Town Clerk

Manager:

________________________________ (SEAL)
Matthew Zapp, Town Manager

For the Finance Director:

________________________________ (SEAL)
Kimberly Tyner Pickett