

CITY OF ALBION  
COUNTY OF CALHOUN  
STATE OF MICHIGAN

**CITY COUNCIL RESOLUTION NO. 2020-18**

**A RESOLUTION APPROVING THE GENERAL EMPLOYMENT AGREEMENT FORM FOR EMPLOYMENT OF THE CITY MANAGER OR APPOINTEES OF THE CITY MANAGER AS REQUIRED BY SEC. 2-27(c) OF THE CITY OF ALBION CODE OF ORDINANCES.**

**WHEREAS**, pursuant to the provisions of Sec. 2-27 of the City of Albion Code of Ordinances, the City Manager, on behalf of the city, is required to enter into an employment agreement with any person whom the City Manager appoints; and

**WHEREAS**, under the same code, the Mayor, on behalf of the city after council confirmation, is required to enter into an employment agreement with the City Manager; and

**WHEREAS**, any such agreements must be in substantially the same form as the city council has approved by resolution, provided, however, that the City Manager or Mayor may vary the terms of such agreement after consultation with the City Attorney;

**NOW, THEREFORE, BE IT RESOLVED** that, pursuant to Sec. 2-27(c) of the City of Albion Code of Ordinances, the Albion city council does hereby approve the employment agreement form recommended by the City Attorney and City Manager, which is attached hereto and incorporated herein by reference; and

**BE IT FURTHER RESOLVED** that the Albion city council does hereby direct that a copy of the employment agreement form be available on file in the office of the City Clerk for public inspection.

Yes: 7

No: 0

Abstain: 0

## CERTIFICATION

I, Jill Domingo, City Clerk for the City of Albion, County of Calhoun, State of Michigan, do hereby certify that the above is a true and complete copy of a resolution duly adopted by the City of Albion city council during its regular meeting held on May 4, 2020

  
\_\_\_\_\_  
Jill Domingo  
City Clerk

## EMPLOYMENT AGREEMENT

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THIS AGREEMENT, made and entered into on this \_\_\_\_\_ day of \_\_\_\_ 20\_\_, by and between the City of Albion, State of Michigan, a Municipal Corporation, hereinafter called "City", and \_\_\_\_\_, hereinafter called "Employee", both of whom understand as follows:

WITNESS:

WHEREAS, the City Manager has been empowered to appoint and remove all employees and officers who have been provided for by the Council, including the Department of \_\_\_\_\_; and

WHEREAS, the City, through the City Manager, desires to employ the services of \_\_\_\_\_, as the \_\_\_\_\_; and

WHEREAS, it is the desire of the City to provide certain benefits, establish certain conditions of employment, and to set working conditions of said Employee; 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/her to remain in such employment;
2. To make possible full work productivity by assuring the Employee's morale and peace of mind with respect to certainty of employment conditions;
3. To act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Employee;

4. To provide a means for termination of the Employee's service, at such time as the Employee may be unable to fully discharge his/her duties due to disability, or when the City may otherwise desire to terminate the Employee's employment; and

WHEREAS \_\_\_\_\_ desires to accept employment as the \_\_\_\_\_;

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

Section 1. DUTIES.

The City of Albion hereby agrees to employ \_\_\_\_\_ as the \_\_\_\_\_, to perform the functions and duties of the office as set forth in the job description for said position attached and made a part hereto and fully incorporated by reference, and to perform other legally permissible duties and functions as the City Manager or his or her designated representative shall assign. The Employee shall devote his/her full attention and effort to the office, and perform the aforementioned duties and functions in a professional manner.

Section 2. STATUS AND TERM.

(a) The Employee shall serve at the pleasure of the City Manager, and is an at-will and non-union employee of the City. The parties herein agree that the effective date of this agreement and Employee's start date of employment shall be \_\_\_\_\_, 20\_\_.

(b) Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Manager to terminate the employment of the Employee at any time.

(c) Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his/her position with the City, subject only to the provisions set forth in Section 4, paragraph (d), of this Agreement.

(d) The Employee agrees to remain in the exclusive employment of the City for the term of this Agreement, and shall neither accept other employment nor become employed by any other employer without the prior written approval of the City Manager until notice of resignation is given.

The term "employed" shall include employment by another legal entity or self-employment; however, it shall not be construed to include occasional teaching, writing, consulting, or military reserve service performed on the Employee's time off. Prior written notification of these activities shall be given to the City Manager.

### Section 3. ADMINISTRATIVE LEAVE.

The City Manager may place the Employee on Administrative Leave, with or without full pay and benefits, at any time during the term of this Agreement.

### Section 4. TERMINATION AND SEVERANCE PAY.

(a) In the event the City Manager terminates the employment of the Employee and he or she is capable of performing his or her work duties, then the City shall pay to the Employee a severance payment equal to salary payments which the Employee would have received over a \_\_\_\_ (\_\_\_) week period at his/her current rate of pay, in effect on the day prior to the date of termination. No other or additional benefits shall be provided upon termination of the Employee.

(b) The severance pay set forth in Section 4(a) is conditioned upon the Employee executing to the City a full release from liability from any known or unknown causes of action against the City, including but not limited to any and all claims under any statutory or common law

theory, including all claims under the Elliot-Larsen Civil Rights Act, the Handicapper's Civil Rights Act, the Bullard-Plawecki Employee Right to Know Act, the Whistleblower's Protection Act, and the Americans with Disabilities Act, in addition to claims alleging wrongful discharge, retaliatory discharge, age discrimination, sex discrimination, racial discrimination, discrimination for utilizing rights under the Workers' Disability Compensation Act, and any other claims. The Employee's severance pay is consideration for the release.

(c) In the event that the City, at any time during the term of this Agreement, reduces the salary of the Employee from its then current year level, except as part of an across-the-board reduction for all similarly situated employees of the City, or in the event the City refuses, following written notice, to extend to the Employee any non-salary benefit customarily available to all other employees of equal status or, in the event the Employee resigns following a suggestion, whether formal or informal, by the City Manager that he or she resign, then the Employee may, at their option, be deemed to be "terminated" at the date of such reduction or such refusal to extend or such suggestion of resignation within the meaning and context of the severance pay provision in paragraph (a) above, provided that such option to be deemed terminated must be exercised by written notice from the Employee to the City Manager within ten (10) working days of notification of such reduction or suggestion of resignation. In such an event, the severance payment shall be calculated from the date the Employee exercises the option to be deemed terminated.

(d) In the event the Employee voluntarily resigns his or her position, the Employee shall give the City written notice at least four (4) weeks prior to their last workday, unless the City Manager and Employee otherwise agree. Unless there is an agreement to the contrary, if the Employee fails to provide such notice to the City Manager any right to accrued benefits shall be terminated.

(e) It is understood that after notice of termination in any form, the Employee and the City will cooperate to provide for an orderly transition. Specific responsibilities during such a transition may be specified in a written separation agreement.

Section 5. DISABILITY.

If the Employee is ill or suffers an injury requiring absence from work and all paid time off credits have been exhausted, the employee will, on written application supported by a physician's certificate as to the necessity for leave, be granted sick leave of absence. In addition to the three months provided for under FMLA, a health care benefit paid, total leave may be extended up to a total of one (1) year (9 months without pay or benefits). In the event the illness is subject to worker's compensation, the City will maintain the Employee's medical benefit for up to one year. If the Employee is unable to return to work at that time, the City shall have the option to terminate the employment of the Employee, subject to the requirements imposed on the City by Section 4, paragraph (a).

Employee may be required, when returning from sick leave of absence, to furnish a physician's statement as to his or her unlimited or unrestricted fitness for the work to which he or she will be assigned.

Section 6. PERFORMANCE EVALUATION.

The City Manager shall review and evaluate, in writing, the performance of the Employee after six months and thereafter on a regular basis. This review and evaluation shall be in accordance with specific criteria outlined in the Employee's job description. Said criteria may be added or deleted as the City Manager determines. This evaluation process shall not be construed to change this "at will" employment contract to a "just cause" employment contract, and is for gauging professional development only. The City Manager shall complete an initial review following \_\_\_\_\_ ( ) months of the \_\_\_\_\_'s employment with the City.

Section 7. SALARY.

The City agrees to pay the Employee for his or her services rendered pursuant hereto at the rate of \_\_\_\_\_ (\$\_\_\_\_\_ ) dollars per year. The Employee shall be paid at the same intervals as all other City employees. The Employee shall be eligible for his/her first salary increase to the rate of \_\_\_\_\_ (\$\_\_\_\_\_ ) dollars per year after \_\_\_\_\_, contingent upon successful completion of a performance evaluation and the receipt of a satisfactory rating. Thereafter, the Employee, based upon satisfactory performance of her job functions, will receive annual increases effective with the general salary increases and other enhancements for non-union personnel.

Section 8. PROFESSIONAL DEVELOPMENT.

The Employee may receive paid leave, plus registration, travel, and reasonable expenses, for short courses, conferences, and seminars that are necessary for professional development, and which are for the good of the City, as judged by the City Manager. These benefits are subject to budget limitations and established travel policies, as well as procedures of the City.

Section 9. OTHER BENEFITS.

All applicable benefit provisions of the "City of Albion Employee Policies & Procedures Handbook" for full-time employees, as adopted June, 2000, and subsequent amendments, shall apply to the Employee as they would to other employees of the City, except as the terms and conditions of this Agreement may preclude or modify them. It is acknowledged that the Employee shall be entitled to set, subject to the ultimate control of the City Manager, a flexible work week hourly schedule. Additionally, in recognition of the many hours worked beyond the normal work week, the City Manager may, from time to time, authorize additional paid leave to be taken by the Employee.

(a) The Employee shall be provided \_\_\_\_\_ (\_\_\_\_) hours of vacation up-front, available for immediate use. Thereafter, the Employee shall accrue hours of vacation time in accordance with his or her employment seniority (length of employment with the City) as set forth in the City of Albion Employee Handbook, as amended.

(b) The Employee's only pension will be the MERS Defined Contribution Plan into which the City will contribute seven (7%) percent of his/her salary.

(c) The Employee shall accrue sick time in accordance with the City of Albion Employee Handbook, as amended.

(d) Employee shall have the right to make certain written application for leave of absence without pay for a period of up to \_\_\_\_ (\_\_\_\_) calendar \_\_\_\_\_, for a personal reason of persuasive nature, which shall be stated in the application. Granting of such leave shall be in the City's discretion alone. If the leave is granted, seniority shall be retained and accumulated during the period of leave.

(e) The City and the Employee agree that the matter of leave of absence for Employee during the period of her military service with the Armed Forces of the United States, and of her reinstatement thereafter, shall be governed by applicable statutes and Court interpretation thereof. If Employee is granted military service leave of absence with the Armed Forces Reserves and/or National Guard in response to a call to active duty (other than at their own request) will be paid the difference between the amount she receives from military service and the amount she would have received had she worked her scheduled time for the period of the military leave but not to exceed the first ten (10) working days thereof, not to exceed a total of ten (10) days in any calendar year. To be eligible to receive this wage supplement, Employee must give the City notice of her call to active duty as promptly as practical, and must provide the CITY satisfactory evidence of her performance of the military service and her military pay.

(f) In addition to the paid time off for sick and vacation time described herein, Employee shall receive forty (40) hours of administrative time per year pursuant to the City of Albion Employee Handbook, as amended. Employee shall receive pro-rated administrative time upon commencement of Employee's employment. Employee shall thereafter receive administrative leave time each January 1st.

Section 10. RESIDENCY.

The Employee shall be required to live within twenty (20) miles of the City limits.

Section 11. FINANCIAL DISCLOSURE.

The Employee shall report to the City Manager any ownership interest in real property within the City of Albion, excluding his or her personal residence. Also, the Employee shall report to the City Manager any financial interest greater than \$1,000 in value in any firm presently doing work for the City, or from whom the City intends to make a purchase. Such reporting shall be made in writing by the Employee within thirty (30) calendar days of the execution of this agreement, and further within thirty (30) calendar days of acquisition of said interest in real property. Additionally, the Employee shall report, in writing, to the City Manager any financial interest greater than \$1,000 in value in any future firm doing work for the City, or from whom the City intends to make a purchase, immediately upon notice of the intended work or purchase.

Section 12. IDEMNIFICATION.

The City shall defend, hold harmless, and indemnify the Employee against any action, including but not limited to: any tort, professional liability claim or demand, or any other noncriminal legal, equitable, or administrative action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Employee's duties as an employee or officer of the City, other than an action brought by the City against the Employee, or an action filed against the Employee. The City shall be responsible for and have authority to

compromise and settle an action with or without prior consultation with the Employee, and pay the amount of any settlement or judgment rendered thereon.

The Employee shall cooperate fully with the City in the settlement, compromise, preparation of defense, or trial of any such action.

Section 13. BONDING.

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

Section 14. NOTICES.

Notices pursuant to this Agreement shall be considered given by depositing into the custody of the United States Postal Service certified mail, postage prepaid, addressed to the City Manager's Office, 112 West Cass Street, Albion, Michigan 49224, and to the Employee's home address, on file in the Human Resources Department. Alternatively, notice required pursuant to this Agreement may be personally served or served in the same manner as is applicable to civil suits in the State of Michigan. Notice shall be deemed given as of the date of personal service, or as of the date of deposit of such written notice into the course of transmission in the United States Postal Service.

Section 15. GENERAL PROVISIONS.

(a) The text herein shall constitute the entire Agreement between the parties.

(b) This Agreement shall become effective commencing on the day of its signing by both parties.

(c) 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, and shall not be affected and shall remain in full force and effect.

(d) This Agreement is to be construed in under the law of the State of Michigan.

(e) Any and all disputes, lawsuits, or litigation arising out of this agreement shall be brought in the 10th District Court or the 37th Circuit Court, for the County of Calhoun, State of Michigan, whichever Court has proper jurisdiction.

(f) No amendment of this Agreement shall be effective unless in writing and signed by both parties hereto.

(g) The effective date of this agreement is \_\_\_\_\_;

IN WITNESS WHEREOF, THE CITY OF ALBION has caused this Agreement to be signed and executed on its behalf by its City Manager, \_\_\_\_\_ and duly attested by its City Clerk, \_\_\_\_\_ and approved by its City Attorney, \_\_\_\_\_, and \_\_\_\_\_, the Employee has signed and executed this Agreement, both in duplicate the day and year first above written.

THE CITY OF ALBION:

\_\_\_\_\_/   
By: \_\_\_\_\_   
City Manager

\_\_\_\_\_/   
By: \_\_\_\_\_   
Employee

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_/   
By: \_\_\_\_\_   
City Clerk

\_\_\_\_\_/   
By: \_\_\_\_\_, City Attorney