

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (“Agreement”) is made and entered into this 19th day of February 2020, by and between the City of Powell, Ohio, an Ohio municipal corporation, hereinafter called "City," and Andrew White, hereinafter called "City Manager.”

WITNESSETH

WHEREAS, the City desires to employ the services of Andrew White as the City Manager of the City of Powell, as provided for in Article III of the Charter; and

WHEREAS, it is the desire of City Council to provide certain benefits and to establish certain duties and conditions of employment of the City Manager as set forth in this Agreement; and

WHEREAS, Andrew White desires to accept employment as City Manager of Powell, Ohio pursuant to the terms and conditions set forth in this Agreement.

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

1. Powers and Duties of the City Manager.

The City hereby agrees to employ Andrew White as the City Manager of the City of Powell to perform the functions and duties specified in the Charter, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign, subject to this Agreement.

2. Term of Agreement.

The City Manager’s employment shall commence on the 1st day of April 2020 and continue until resignation, retirement or termination in accordance with the provisions of this Agreement.

3. Resignation and Retirement.

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Manager to resign or retire at any time from his position with the City. However, the City Manager agrees to provide sixty (60) days’ notice of his resignation or retirement and such resignation or retirement shall forfeit any right of severance, except as provided for in Section 5.C. of this Agreement.

4. Exclusive Employment.

The City Manager agrees to remain in the exclusive employ of the City of Powell while employed by the City of Powell. The term "employed" however, shall not be construed to include

occasional teaching, writing, or speaking performed on the City Manager's time off, even if outside compensation is provided for such services. Said activities are expressly allowed, provided that in no case is any activity allowed which would present a conflict of interest with the City of Powell or interfere with his duties as City Manager.

5. Termination and Severance Pay.

a. In the event the City Manager is terminated by City Council and in the absence of a conviction of any misdemeanor and/or felony crime (excluding traffic-related offenses), then in that event the City shall pay the City Manager a lump sum cash payment equal to six (6) months of his base annual salary. The City Manager shall also be compensated for earned sick leave, vacation, holidays, and other accrued benefits to date, in accordance with the regulations in place for all non-union management employees of the City, calculated at the rate of pay in effect upon termination.

b. In the event the City Manager is terminated by the City Council and in the absence of a conviction of any misdemeanor and/or felony crime (excluding traffic-related offenses), all health, dental, and vision insurance and all other City provided benefits shall continue in full force and coverage, at City expense, for a period of six (6) months or until other coverage is provided to the City Manager by a subsequent employer or OPERS (and is in full force and effect), whichever comes first. Said continuation of group health insurance coverage shall be in addition to any protection afforded the City Manager by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Coverage under COBRA shall begin on the date all coverage extended under the severance provisions herein expires.

c. In the event the City Council at any time reduces the salary, compensation or other benefits of the City Manager in a greater amount than an applicable across-the-board reduction for all employees of the City, or in the event the City is in material non-compliance with any other provision of this Agreement, or if the City Manager resigns following a suggestion by a majority of the Council, then, in that event, the City Manager may, at his option, be deemed to be "terminated" at the date of such reduction, material non-compliance, or resignation within the meaning and context of the herein severance pay provision.

d. In the event the City Manager is terminated because of a conviction of any misdemeanor and/or felony crime (excluding traffic-related offenses), then, in that event, the City shall have no obligation to pay the aggregate severance compensation set forth in subsections a and b above.

e. Resignation or retirement by the City Manager forfeits any rights to severance compensation set forth in subsections a and b above, except as provided for in Section 5.c. of this Agreement, and the City Manager shall be provided such rights as would be provided to any city employee upon resignation pursuant to the personnel policies and regulations.

f. The severance pay set forth in this Agreement shall be contingent upon the City Manager execution and contemporaneous delivery to the City of a release, releasing the City of all claims that the City Manager may have against the City.

6. Salary.

The City agrees to pay the City Manager for his services rendered pursuant hereto as City Manager an annual base salary of One Hundred Thirty Thousand Dollars and No Cents (\$130,000.00), payable in installments at the same time as other employees of the City are paid. Upon successful completion of six (6) months of employment with the City and the initial performance evaluation described in section 14 below, such annual compensation shall be increased to One Hundred Thirty-Five Thousand Dollars and No Cents (\$135,000.00).

In addition, the City agrees to make an annual contribution to the City Manager's account at the ICMA or State of Ohio Deferred Compensation Plan in the amount of \$5000. The annual contribution shall be made in July of each year commencing calendar year 2020.

7. Retirement Benefits.

The City Manager shall be covered and governed by the Ohio Public Employees Retirement System, with the City contributing its required percentage of base salary. The City Manager's share of the retirement contributions shall be paid by the City Manager. Calculations for retirement contributions shall include all compensation normally reportable to OPERS.

8. Insurance Coverage.

a. The City Manager shall be covered by the same health, dental, vision, and disability plans, including the Family Medical Leave Act and worker's compensation benefits, as all other non-union employees.

b. The City agrees to purchase and pay the required premiums for a group term life insurance policy, providing coverage equal in amount to that approved for all other non-union employees of the City, with the beneficiary to be designated by the City Manager.

9. Vacation Accrual.

The City Manager shall accrue vacation at a rate of four (4) weeks per year or one hundred sixty (160) hours. To that end, the City Manager for the purpose of accruing vacation leave shall be treated as having sixteen (16) years of service with the City for the entire term of this Agreement pursuant to section 5.E. of the Personnel Manual of the City of Powell.

10. Other Benefits.

Except as otherwise may be provided herein, all provisions of the Charter, and rules and regulations of the City relating to fringe benefits and working conditions as they now exist or hereafter may be amended, shall apply to the City Manager as they would to all other non-union employees of the City. All benefits which vary according to tenure shall be calculated and granted in accordance with City provisions.

11. Hours of Work.

The City Manager acknowledges the proper performance of the City Manager's duties require the City Manager to generally observe normal business hours and will also often require the performance of necessary services outside of normal business hours. The City Manager agrees to devote such additional time as is necessary for the full and proper performance of the City Manager's duties and that the compensation herein provided includes compensation for the performance of all such services. However, the City intends that reasonable time off be permitted the City Manager, such as is customary for exempt employees so long as the time off does not interfere with the normal conduct of the office of the City Manager. The City Manager will devote full time and effort to the performance of the City Manager's duties. All of this shall be in accordance with the City's Personnel Manual.

12. Professional Development.

The City agrees to budget for and to pay the professional dues, subscriptions, and travel and reasonable meals/lodging expenses of the City Manager for professional participation and travel, meetings and occasions adequate to continue his professional development. Said participation on City time shall include, but not to be limited to the International City/County Management Association, the Ohio City/County Management Association, and such other reasonable national, regional, state and local governmental organizations and committees thereof which the City Manager serves as a member and/or participates, and which said membership or participation is beneficial to the City, as well as associated courses, institutes, conferences and seminars which benefit the City. The City agrees to reimburse the City Manager's expense of other memberships, registration, travel, meals or lodging in association with business-related conferences, education or other meetings, according to approved accounts in each annual budget. The City Manager shall obtain approval in advance from Council for any out of state travel.

13. General Expenses.

a. The City shall reimburse the City Manager in an amount not exceeding \$5,000 for actual, reasonable and necessary expenses relating to the City Manager's relocation of his primary residency to the Powell area.

b. The City shall provide a City-owned smart phone and laptop computer for business use of the City Manager, subject to applicable rate plans or ceilings as contracted by the City.

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

d. The City agrees to pay or reimburse all other reasonable job-related expenses up to the maximum provided for in the annual City operating budget and subject to the requirement that all such claims for payment or reimbursement be submitted on forms and/or in a manner subject to the reviews and approval of the Finance Director

14. Performance Evaluation.

Within the first six months (6) months of the City Manager's employment with the City, City Council will meet with him in order to discuss performance, priorities and development goals for the City Manager going forward. Thereafter, during the term of this Agreement City Council shall conduct an annual performance evaluation wherein the City Manager's salary will be subject to review and merit. In conjunction with the annual performance review, City Council and the City Manager will discuss and update the City Manager's annual performance plan and annual compensation. The City Council shall increase base salary and/or other benefits of the City Manager at the time of his review, in such amounts and to such extent as the City Council may determine that it is desirable to do so, at its sole discretion, in light of performance by the City Manager, the financial condition of the City and/or any other relevant considerations. Merit increases based on annual performance evaluations and salary reviews are exclusive of any general cost-of-living increases provided to other employees. The City Manager shall receive all cost-of-living increases, if any, which the City may grant to its other non-union employees, at the same time and in the same manner said increases are granted to those employees.

15. Duty to Defend.

The City shall defend the City Manager against any and all torts, claims, causes of action, demands, costs, expenses or other legal action, including all attorneys' fees, in accordance with Section 2744.07 of the Revised Code.

16. General Provisions.

a. This Agreement embodies the entire agreement and understanding of the parties relating to the subject matter herein and may not be amended, waived or discharged except in an instrument in writing executed by the parties.

b. This Agreement shall become effective upon adoption and approval by the City Council of the City of Powell, and satisfactory completion of an FBI fingerprint-based background check.

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 not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Powell has caused this Agreement to be signed and executed on its behalf by its Council President and duly attested by its Clerk of Council, and Andrew White has signed and executed this Agreement, the day and year first written above.

CITY OF POWELL, OHIO

CITY MANAGER

Frank Bertone, Mayor

Andrew White

APPROVED AS TO FORM

Eugene L. Hollins, Law Director

FISCAL OFFICER'S CERTIFICATE

The undersigned, Director of Finance of the City of Powell, Ohio under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2020

Karen Sybert
Director of Finance
City of Powell, Ohio

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