

CITY MANAGER EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement"), is made and entered into as of this _____ day of _____, 2019, by and between the City of Valdez, Alaska, a municipal corporation, as the Employer, hereinafter called the "City," and Mark Detter, hereinafter called "Employee." City and Employee are sometimes hereinafter collectively referred to as "Parties", and each individually a "Party."

I. RECITALS

WHEREAS, following the interview and background investigation process, the City wishes to appoint Employee as City Manager of the City of Valdez, Alaska, as provided by Sections 2.1(b) and 5.3(a) of the Valdez City Charter; and,

WHEREAS, Employee has agreed to serve as City Manager subject to the terms and provisions of this Agreement.

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

II. AGREEMENT

Section 1. Employment/Duties

The City appoints and employs Employee as City Manager of Valdez to perform the functions and duties, and to discharge the obligations, specified in Section 5.3(a) of the City Charter and Chapter 2.08 of the City Code, as they may be hereinafter amended, and to perform other legally required, permissible and proper duties, functions and obligations as required by City Charter and Code and as the City Council shall from time to time assign. Employee shall be an "at will" employee of the City. Employee shall at all times faithfully, industriously, loyally, and to the best of Employee's ability, experience, and talents, perform all the duties that may be required of and from Employee hereunder. Employee shall have the affirmative duty to cooperate, inform, advise, and regularly communicate with the City Council on the status of the City's business and affairs. Such communications shall include, without limitation, reports to the City Council in such form and frequency as the City Council may direct, and participation in all meetings of the City Council.

Section 2. Term

A. Employee's employment as City Manager shall commence no later than ninety (90) days after execution of employment agreement and shall continue until terminated as provided below. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the services of Employee at any time, for any or no reason, at will, subject only to the provisions set forth in Section 5, paragraphs A and B, of this Agreement.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from Employee's position with the City.

Section 3. Salary/Leave/Vehicle Allowance

A. Employee's salary shall be One Hundred Thirty-Five Thousand (\$135, 000) per year, subject to an annual review and adjustments set by the City Council. Salary will be adjusted annually hereinafter by the same amount or percentage for cost of living or other adjustments as authorized for all other management employees of the City.

B. Employee's personal leave (sick, vacation, etc.) shall accrue at the rate of 8.3077 hours for each bi-weekly (two week) pay period. Leave days shall be based on an eight (8) hour workday. Accrued personal leave shall not exceed 600 hours and shall remain a cash value to the Employee upon termination of employment.

C. Employee shall have a vehicle allowance of Five Hundred Dollars (\$500) per month.

D. Employee shall be considered an Executive Level Management employee of the City and afforded all other benefits or compensation so afforded other Executive Level Management positions of the City, with Employee as a Tier IV PERS Employee and with City paid 401(a) and 457 plan contributions consistent with all other Executive Level Management positions.

E. The City will provide a lump sum of Twelve Thousand Dollars (\$12,000) in advance for reimbursement of moving and relocation expense. In the event that Employee terminates this Agreement within the first year of the employment term, Employee shall repay the City for the moving and relocation expenses paid to Employee, on a pro-rated basis. The amount to be repaid shall be 1/12th of the moving and relocation expenses paid by the City for each full month of such first year remaining after Employee's termination of this Agreement.

F. Within the first year of employment, the City agrees to pay fifty-percent (50%) of costs associated with travel and lodging for employee's two children, Nicholas Detter and Wesley Detter, to Valdez, in an amount not to exceed \$2,500.

G. The City shall provide Employee with such professional development and ongoing education as included in the City's Annual Budget, including but not limited to participation in and training by the International City-County Management Association ("ICMA"), the Alaska Municipal League (AML), and the Alaska Manager's Association (AMA).

H. Employee shall be subject to the policy and regulations related to travel set forth in the Valdez City Council Policies and Procedures, as they may be amended from time to time. Whenever possible, travel for official business and training or educational programs at the City's expense shall be authorized in advance by the City Council. In recognition of the fact that some travel for official business may be required before authorization may be obtained, the City Council shall retain the authority to require reimbursement from Employee for travel or training expenses deemed to: (1) fall outside that

which is required in fulfilling Employees duties; or (2) not conducted in the most direct and cost effective way to accomplish its purpose.

I. The City shall provide Employee with furnished living quarters for a period not to exceed 90 days.

Section 4. Performance Evaluation

City Council shall evaluate Employee's performance during the first, second and third quarters of the first year of the term of this Agreement. Additionally, City Council shall conduct an initial goal-setting and performance expectations review with Employee within the first month of employment. City Council shall conduct a formal annual performance evaluation within the first twelve to thirteen (12-13) months of employment, and at least annually thereafter.

Section 5. Termination and Severance

A. The City Council may terminate this Agreement at any time, with or without cause, upon written notice to Employee. Contemporaneous with the issuance of such notice to Employee, the City may require Employee to continue to perform Employee's duties up to the effective termination date, and, in such case, Employee will be paid Employee's regular salary to the effective termination date. Employee may terminate this Agreement upon giving no less than thirty (30) days advanced written notice of such termination. If either, Employee is terminated at will by the City Council, or the City Council and Employee accept a mutually agreed upon resignation by the Employee, City shall pay Employee a lump sum cash payment equal to the sum of the following: (1) three (3) months' salary (excluding retirement account contributions); (2) an amount equal to premiums for medical/dental insurance benefits paid by the City on behalf of Employee during the most recent historic three (3) month period prior to employment termination; and (3) an amount equal to the value of Employee's personal leave accrued up until the effective date of employment termination. However, if the Employee resignation is not mutually agreed on or, if dismissal of Employee is found by City Council to be for cause involving extenuating circumstances, including but not limited to illegal acts, egregious or grossly negligent acts or omissions, or dishonesty, then Employee shall not be entitled to the herein severance pay provision.

B. In the event the City at any time during the term of this Agreement reduces the salary or other financial benefits due Employee in a greater amount or percentage than an applicable across-the-board reduction for all Executive Level Management employees of the City, Employee may, at Employee's option, deem this Agreement to be terminated as of the effective date of the reduction and shall be entitled to the herein severance provisions.

Section 6. Effective Date

This Agreement becomes effective upon its approval by the City Council and full execution by the Parties. This Agreement supersedes any and all other agreements, whether written or oral, between the City and Employee.

Section 7. Death or Disability of Employee

A. In the event of Employee's death during the term of employment, the City shall pay to the estate of Employee, or designee of Employee by written notification to the City, Employee's normal prorated salary and accrued leave benefits through the end of the month in which Employee's death occurs.

B. In the event that Employee becomes too mentally, emotionally or physically ill or disabled, in the reasonable opinion of the City Council, to efficiently, effectively and/or safely perform his duties for 45 consecutive calendar days, Employee shall be deemed to have voluntarily terminated employment without severance.

Section 8. Hours of Work

It is recognized that the Employee must devote a significant amount of time to the business of the City beyond a typical 40 hour work week. Employee shall have sole discretion as to Employee's required hours worked necessary to the performance of Employee's duties. As an FLSA Exempt employee, Employee shall take leave or unpaid time for any full day's time away from regularly scheduled work days.

Section 9. Outside Activities

Employee shall devote Employee's full time and effort to the performance of Employee's employment duties under this Agreement, and agrees not to accept or perform any other employment, outside consulting or teaching without the express prior written consent of the City Council, which consent may be withheld in its absolute discretion.

Within the first year of employment, the City shall allow employee to consult with his former employer the City of Andover, Kansas, as required on various issues. Any such Consultation shall respect the proprietary information and confidences of the City of Valdez and shall not interfere with Employee's performance of the duties imposed under this Agreement. Employee shall receive no compensation by his former employer for these services.

Section 10. Non Discrimination

The City has and enforces a strict policy against any form of unlawful employment discrimination, including, without limitation, unlawful sexual harassment. Employee agrees to act in a non-discriminatory manner. Any discrimination complaints against Employee, or if Employee believes that Employee is the victim of unlawful discrimination, shall be promptly reported to the City Council via

the Mayor or City Clerk. All such complaints shall be kept confidential until reviewed by the City Council or its investigator.

Section 11. General Provisions

A. Entire Agreement. This written Agreement constitutes the entire Agreement between the Parties with respect to its subject matter and supersedes any other prior agreements, contracts, representations, promises, inducements and assurances, oral and written, express and implied, with respect to such subject matter, which are not included herein.

B. Amendment/Novation. No modification, amendments, deletions, additions or novations to or of this Agreement shall be effective unless they are completely and unambiguously contained in a writing executed and delivered by all the Parties to this Agreement. Only the Valdez City Council is authorized and empowered to make any modifications, amendments, deletions, additions or novations to or of this Agreement on behalf of the City.

C. Applicable Law. This Agreement and the respective rights, remedies and obligations of the Parties hereinunder shall be construed and interpreted in accordance of applicable laws of the State of Alaska and the United States of America.

D. Exclusive jurisdiction/Venue. In the event that a question, dispute or claim should arise under or with respect to this Agreement, the jurisdiction and venue thereof shall lie exclusively with the courts of the Third Judicial District for the State of Alaska at Valdez.

E. Waiver. The failure of either Party to object to default under or breach of this Agreement shall not constitute a waiver, either express or implied, of the right to do so in the event of any future or continuing default under or breach of this Agreement.

F. Notices. All notices required under this Agreement or by law shall: a) be in writing, b) contain a clear and concise statement setting forth the subject matter thereof and reasons therefor, and c) be personally delivered, facsimile or email transmitted or mailed by first class mail to each Party of this Agreement at the following addresses:

City: City of Valdez
C/O City Clerk
P.O. Box 307
Valdez, AK 99686
Email: spierce@valdezak.gov

Employee: Mark Detter
P.O. Box 307
Valdez, AK 99686
Email: mrdetter68@gmail.com

G. Independent Counsel. Each Party to this Agreement acknowledges that such Party has obtained, or has had ample opportunity but declined to obtain, the advice of competent independent legal counsel in negotiating, entering into and executing this Agreement. The fact that this Agreement may have been drafted in whole or part by one Party shall not cause any part of this Agreement to be construed against either Party.

Section 12. Additional Terms and Conditions

The City Council shall fix and assign any other such terms and conditions of employment, as it may deem necessary from time to time, relating to performance of Employee, provided such terms, conditions or other duties as assigned, are not inconsistent with or in conflict with provisions of this Agreement.

This Agreement as executed is not confidential and shall be publicly available.

IN WITNESS WHEREOF, the City of Valdez has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested by the City Clerk, and the Employee has signed and executed this Agreement both in duplicate.

Attest:

City of Valdez, Alaska

Sheri Pierce, MMC, City Clerk

By _____
Jeremy O'Neil, Mayor

Approved as to form:

Employee

Jack Wakeland
Brena, Bell & Clarkson, P.C.
City Attorney

Mark Detter