

City of Keokuk

Employment Agreement

This Agreement, made and entered into this ____ day of June, 2018 by and between the City of Keokuk, State of Iowa, a municipal corporation hereinafter called "Employer," and Cole S. O'Donnell, hereinafter called, "Employee," each of whom understands as follows:

WITNESSETH:

WHEREAS, Employer desires to employ the services of said Cole S. O'Donnell as City Administrator of the City of Keokuk, as provided by Chapter 2.13 of the Keokuk Municipal Code; and

WHEREAS, it is the desire of the City Council of Keokuk, hereinafter called "Council," 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 Council to secure and retain the services of the Employee; and

WHEREAS, Employee desires to serve as City Administrator of Keokuk.

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

Section 1: Duties

Employer hereby agrees to employ Cole S. O'Donnell as City Administrator of said Employer, beginning June 28, 2018 to perform the functions and duties specified by the Keokuk Municipal Code, and to perform other duties and functions as the City Council shall from time to time assign.

Section 2: Term and Agreement Extensions

- A. Employee agrees to remain in the exclusive employ of Employer until July 31, 2019 and to neither accept other employment nor to become employed by any other employer until said termination date, unless said termination date is affected as hereinafter provided.
- B. In the event written notice is not given by either party to this agreement to the other 90 days prior to the termination date as hereinafter provided, this agreement shall be extended on the same terms and conditions as hereinafter provided, all for an additional period of one year. Said agreement shall continue thereafter for one-year periods unless either party hereto gives written notice to the other party 90 days prior to the end date of the agreement that the party does not wish to extend this agreement for an additional one-year term.
- C. In the event either party gives 90 days notice as provided in Paragraph 2(B), the parties will in good faith negotiate and finalize a new agreement prior to the last effective day

of this agreement, whether during the first year of this agreement or a subsequent year of this agreement, as extended by its terms.

- D. Nothing in this section shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of the Employee at any time, subject only to the provisions set forth in Section 3, Paragraphs A and B of this agreement.
- E. Nothing in this section shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 3, paragraph C.
- F. Notwithstanding the foregoing exclusivity agreement, the City may authorize outside employment subject to the following conditions. Outside employment provided by this Agreement shall be considered at the Employee's written request and only approved through the written consent of the Mayor with notice to the Council. The Employee may only engage in outside employment, such as teaching, consulting, and volunteer services, provided that such activities do not impede or interfere with the Employee's employment responsibilities hereunder and do not result in a conflict of interest. Total hours devoted to outside employment shall not exceed eight (8) per week.

Section 3: Termination and Severance Pay

- A. In the event Employee is terminated by the City Council during such time as Employee is willing and able to perform his duties under this agreement, then in that event Employer agrees to pay Employee a lump sum cash payment equal to nine months' aggregate salary, health, dental and vision insurance benefits, and deferred compensation, and, in the event the Employee is terminated within four months of a City election, an additional six months' aggregate salary, health and dental insurance benefits, and deferred compensation; provided however, that in the event Employee is terminated for cause, Employer shall have no obligation to pay the aggregate severance designated in this paragraph. Cause is defined as but not limited to: Employee's theft of the City property or Employee's dishonesty; Employee's failing to cure or correct after receiving specific written notice from the City of the areas of material incompetence or inefficiency; Employee's material violation of the City's rules, regulations, or policies; Employee's willful neglect of duty; Employees's conviction of a crime or immoral act which would materially damage the reputation of the City or affect the performance of his duties; or Employee's malfeasance in office.
- B. In the event Employer at any time during the term of this agreement reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all City employees, or in the event Employer refuses, following written notice, to comply with any other provisions benefitting Employee herein, or the Employee resigns under circumstances amounting to a constructive discharge of the Employee, the Employee may, at his option, be deemed to be "terminated" at that date of such reduction or such refusal to comply within the meaning and context of the herein severance pay provision.
- C. In the event Employee voluntarily resigns his position with Employer, then Employee shall give Employer six weeks notice in advance, unless the parties otherwise agree. In

the event that the Employee voluntarily resigns, the severance provisions set forth above does not apply.

Section 4: Disability

If Employee 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 successful weeks beyond any accrued sick leave, or for twenty working days over thirty working day period, Employer shall have the option to terminate this agreement subject to the severance pay requirements in Section 3, paragraph A. However, Employee shall be compensated for any accrued sick leave vacation and other accrued benefits.

Section 5: Salary

- A. Effective June 28, 2018 Employer agrees to pay Employee for his services an annual base salary of \$120,000, payable in equal installments bi-monthly. Said salary may be reviewed after six months of employment, in the City's discretion, and following a favorable performance review after six months of hire, such base salary shall be increased by \$5,000 per year.
- B. In addition, the Employer agrees to increase said base salary or other benefits of Employee in such amounts and to such extent as the Employer may determine that is desirable to do so on the basis of an annual performance evaluation and salary review of said Employee.

Section 6: Performance Evaluation

- A. The council shall review and evaluate the performance of the Employee at least once annually. Annual reviews shall take place in advance of the annual operating budget. Said review and evaluation will be fair and reasonable based on the Employee job description and job performance based criteria developed by Employer. Furthermore, the Council shall provide the Employee with a summary written statement of the findings of the Council and provide an adequate opportunity for the Employee to discuss his evaluation with the Council.
- B. Annually, the Council and Employee shall define such goals and performance objectives which they determine necessary for the proper operation of the City and in the attainment of the Council's policy objectives and shall further establish a relative priority among those 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, the Council and Employee mutually agree to abide by the provisions of the applicable law.

Section 7: Hours of Work

It is recognized that Employee must devote a great deal of time outside the normal office hours to business of the Employer, and to that end Employee will be allowed appropriate flexibility in his normal office hours.

Section 8: Auto Allowance

The Employer will provide a monthly \$200 Auto Allowance, in lieu of a mileage reimbursement, intended to cover the expenses related to City business conducted within or outside of the City's limits

Section 9: Dues and Subscriptions

Employer agrees to budget and pay for the professional dues and subscriptions for Employee, specifically the International City/County Management Association, the Iowa League of Cities and the Iowa City/County Management Association. The Employer may, in its discretion, also pay for additional professional dues and subscriptions for Employee.

Section 10: Professional Development

Employer hereby agrees to budget and pay for reasonable travel and subsistence expenses of Employee for the Annual Conference of the International City Management Association and the Spring and Summer conferences of the Iowa City/County Management Association. The City may, in its discretion, also pay for reasonable travel and subsistence expenses of Employee for additional professional and business travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions of the Employer. Further, Employer agrees to reimburse Employee for the basic membership cost for civic organizations in Keokuk and Lee County, so long as there is determined to be a public benefit for Employer and being represented in said organizations.

Section 11: Indemnification

Employer shall defend, save harmless and indemnify Employee 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 in the performance of Employee's duties as a City Administrator. Employee will fully cooperate with the city in the settlement, compromise, preparation of defenses, or trial of any such claim, action, or suit. Employer will compromise and settle such claim or suit and pay the amount of any settlement or judgment rendered thereon. This provision does not apply to acts of the Employee outside the scope of his employment with the City or acts done willfully or recklessly not of the Employer's best interest.

Section 12: Bonding

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

Section 13: Other Terms and Conditions of Employment

The Council, in consultation with the City Administrator, may fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, the City charter or any other law.

Section 14: Residency

Employee shall primarily reside in Keokuk, Iowa, throughout the time this agreement is in effect, and if at time of this Agreement the Employee does not maintain a primary residence within the corporate limits of the City of Keokuk, Lee County, Iowa, he shall, within 180 days, relocate thereto. Notice will be provided by the City at 150 days into his employment, should the Employee not have relocated such primary residence, that his contract will be terminated thirty days following said notice.

Section 15: Vacation and Personal Days.

Employee shall be granted three (3) weeks (fifteen days) of vacation time per calendar year. Beginning on the date of employment, the Employee will be granted two (2) weeks (10 days) of vacation time for the remainder of calendar year 2018. The remainder of the vacation policy in the Employee handbook on carryover, allowances, and sick time accrual shall apply. In addition to the foregoing, the Employee will be granted three (3) personal days per calendar year, however these shall not carry over.

Section 16: Retirement.

The City shall pay into an employee retirement account at the employee's election, of either the Iowa Public Employee Retirement System (IPERS) or at the same employer contribution rate for an ICMA 457 plan.

Section 17: Cellular Phone Allowance

Employer agrees to either provide the Employee with a city issued and paid for cellular phone.

Section 18: Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

Employer: Mayor Thomas L. Richardson
City of Keokuk
415 Blondeau Street
Keokuk, Iowa 52632

Employee: Cole O'Donnell
P.O. Box 304
East Moline, Illinois 61244

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 19: General Provisions

- A. The text herein, and the attached Memorandum of Agreement signed the same date, shall constitute the entire agreement between the parties.
- B. The agreement shall become effective commencing June 28, 2018.
- C. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remained of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Keokuk, Iowa, has caused this agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk, following all necessary and proper authorizations by the Corporate Authority, and the Employee has signed and executed this agreement, both in duplicate, on the day and year first above written.

CITY OF KEOKUK, IOWA

ATTEST

Thomas L. Richardson, Mayor

Jean Ludwig, City Clerk

EMPLOYEE

Cole O'Donnell

**Memorandum of Agreement between Employee and Employer
City of Keokuk**

I. The City shall reimburse the Employee for necessary moving expenses as follows:

- A. The City shall reimburse the Employee for the actual cost of relocating household goods, temporary housing, temporary storage, and house hunting costs, not to exceed \$5,500, upon submission of the appropriate documentation in support of this specific cost and subject approval of the same by the City.
- B. In the event Employee is terminated for cause under the Agreement or resigns prior to completing three (3) years of service under this contract, Employee shall reimburse Employer for the moving expenses paid by the City under Paragraphs 1 and 2, at a rate of 25% for each partial or full year not completed in the initial four-year period.

II. The Employee will be granted unpaid leave for the period June 30, 2018 – July 8, 2018. No accruals of vacation time, sick time, or holiday pay will be permitted during this period. The Employee restriction on “no outside employment” will not be enforced by the City until August 1, 2018 to permit the Employee to complete projects for his present employers including RAILS.

In Witness Whereof, and signed this _____ day of June, 2018 in Keokuk, Lee County, Iowa:

CITY OF KEOKUK, IOWA

ATTEST

Thomas L. Richardson, Mayor

Jean Ludwig, City Clerk

EMPLOYEE

Cole O'Donnell