

CITY OF OBERLIN, OHIO

ORDINANCE NO. 16 - 42 AC CMS

AN ORDINANCE APPOINTING ROBERT HILLARD CITY MANAGER OF THE CITY OF OBERLIN, OHIO, APPROVING AN EMPLOYMENT AGREEMENT RELATING THERETO, AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That Robert Hillard is hereby appointed City Manager of the City of Oberlin Ohio, effective December 5, 2016.

SECTION 2. That the attached employment agreement between the City of Oberlin and Robert Hillard is hereby approved and the President of Council is hereby authorized to execute same on behalf of the City.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit: "to appoint a City Manager at the earliest possible date in order to ensure the efficient operation of the City of Oberlin", and shall take effect immediately upon passage.

PASSED: 1st Reading: November 21, 2016 (E)

2nd Reading: _____

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

POSTED: 11/22/2016

EFFECTIVE DATE: 11/21/2016

**Employment Agreement
between
The City of Oberlin, Ohio
and
Robert Hillard**

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**Employment Agreement
between
The City of Oberlin, Ohio
and
Robert Hillard**

Introduction

This Agreement, ("Agreement") is made and entered into on this 22nd day of November, 2016, by and between the City of Oberlin, Ohio, a municipal corporation, (hereinafter called "Employer") and Robert Hillard, (hereinafter called "Employee"), both of whom agree as follows:

Section 1: Term

The Employee shall serve at the pleasure of Council beginning on December 5, 2016, ("Start Date").

Section 2: Duties and Authority

Employer agrees to employ Employee as City Manager to perform the functions and duties specified in the Charter and Ordinances of the City of Oberlin, and to perform such other legally permissible and proper duties and functions as authorized and directed by Oberlin City Council.

Section 3: Compensation

A. Base Salary: Employer agrees to pay Employee an annual base salary of \$115,000.00, payable in installments in accordance with the Employer's usual payroll schedule. The annual base salary shall be increased to \$120,000.00 upon the completion of the first six (6) months of employment.

B. This Agreement shall be automatically amended to reflect any salary increase or additional benefits that are authorized by Oberlin City Council.

C. The Employee's salary will be subject to review and merit consideration at the anniversary date and each subsequent anniversary date of the Start Date of this Agreement. The Employer may increase the Employee's base salary and/or other benefits of the Employee at the time of his annual review as is provided in Section 12 below, in such amounts and to such extent that the Employer may determine to be desirable at its sole discretion. Notwithstanding the foregoing, the Employer shall increase Employee's compensation by a minimum of three percent (3%) upon the first two anniversary dates of this Agreement.

D. Pursuant to Section 121.04 of the Oberlin Codified Ordinances, Employer agrees to allow Employee to occupy the house located at 205 Morgan Street, Oberlin, Ohio during Employee's employment as City Manager. Employee will be responsible for the payment of any real estate taxes assessed against the property. Employer shall be responsible for preventative and external maintenance, structural as well as mechanical and landscape maintenance. Employee shall be responsible for general internal custodial maintenance and all utilities, including refuse collection charges.

Section 4: Health, Disability and Life Insurance Benefits

A. The Employer agrees to provide for health, hospitalization, surgical, vision, dental and comprehensive medical insurance benefits for the Employee and his dependents equal to that which is provided to all other non-collective bargaining unit employees of the City of Oberlin.

B. Unless Employee is otherwise eligible for long term disability benefits, the Employer shall provide and make the required premium payments for such.

C. The Employer shall pay the amount of premium due for term life insurance in the amount of \$225,000. The Employee shall have the right to name the beneficiary of the life insurance policy.

D. Unless otherwise provided in this Agreement, Employee shall be entitled to any other standard benefits available to non-collective bargaining unit employees of the City as may now exist or be made available during the term of this contract.

Section 5: Vacation and Sick Leave

A. Upon commencing employment, the Employee shall be credited with two weeks sick leave and two weeks vacation leave. The employee shall then accrue sick leave in accordance with other non-collective bargaining City employees. The employee shall be credited with four weeks of vacation after his 1st anniversary and in accordance with other non-collective bargaining City employees thereafter.

B. During the first five years of this Agreement, the Employer shall provide Employee with continuation of salary to be used in the case of serious medical condition as is defined in the Family and Medical Leave Act of 1993. Such continuation of salary shall cease upon the effective date of Employee's eligibility for long-term disability benefits or 90 days whichever first occurs. The continuation of salary provided under this paragraph shall be applicable to each instance of the onset of a serious medical condition.

C. The Employee may accrue sick and vacation leave, without limit provided that upon Termination or Voluntary Separation From Employment, the Employee shall be compensated for accrued leave as provided for in Section 10 or Section 11, as the case may be.

D. Except as is otherwise provided in this Agreement, Employee shall be entitled to any other standard leave available to non-collective bargaining unit employees of the City as may now exist or be made available during the term of this contract.

Section 6: Vehicle Allowance

The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of \$2,400 per year as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a personal vehicle. The vehicle allowance shall be paid in equal payments on a monthly basis or on another schedule as determined by the Finance Director. The vehicle allowance shall be increased annually, in November, by the percentage increase in the Consumer Price Index (CPI) during the prior calendar year and rounded to the nearest dollar that is divisible by 12. Negative changes in the CPI will result in no change in the vehicle allowance for that year. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for gas, oil and all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee at the established mileage rate for any business use of the vehicle beyond Lorain County.

Section 7: Retirement

A. The Employer agrees to enroll the Employee in the Ohio Public Employee's Retirement System (OPERS) and to make all the required Employer contributions on the Employee's behalf.

B. In addition to the Employer's payment to OPERS, Employer agrees to execute all necessary agreements provided by the ICMA Retirement Corporation (ICMA-RC) deferred compensation plan for Employee's participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to eight percent (8%) of Employee's base annual salary, in equal proportionate amount each pay period.

Section 8: General Business Expenses

A. Employer agrees to pay for professional dues, memberships and subscriptions of the Employee necessary for full participation in national, regional, state and local associations and organizations necessary for the Employee's continued professional growth and advancement, and for the good of the Employer.

B. Employer agrees to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, state league of municipalities,

and such other national, regional, state, and local governmental groups and committees in which Employee or Employer is a member.

C. Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs and organizations. Accordingly, Employer agrees to pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local/regional civic clubs and organizations.

D. Technology: The Employer shall provide Employee with the use of a laptop computer, software, Internet service, e-mail, and an allowance in the amount of One-Hundred Dollars (\$100.00) per month to cover the cost of a cell phone/PDA (or similar device) required for the Employee to perform his employment responsibilities and to maintain communication with the City Council and City staff. In lieu of an allowance, the Employee may elect to have a cell phone/PDA (or similar device) provided by the Employer in accordance with City policy.

E. Paragraphs A through D above will be subject to annual appropriations and applicable Employer expense policies and the requirement that all such claims for payment or reimbursement be submitted on forms and/or in a manner subject to the review and approval of the City Finance office.

Section 9: Termination

For the purpose of this agreement, termination shall occur if:

A. Five-sevenths (5/7) of the governing body votes to terminate the Employee at a duly authorized public meeting, after proceedings held in accordance with Section VI of the City Charter.

B. The Employer, citizens or state legislature acts to amend any provisions of the Charter of the City of Oberlin or Oberlin Codified Ordinances pertaining to the role, powers, duties, authority, or responsibilities of the Employee's position that substantially changes the form of government.

C. The Employee resigns in response to a request to resign made by a majority of the City Council. Employer agrees that it shall provide thirty (30) days written notice in advance of the making of any such request.

D. In the event Employer shall have been in material breach of this agreement for a period in excess of 30 days after written notice of such breach has been given by Employee in accordance with the provisions of Section 19.

Section 10: Severance

A. Severance shall be paid to the Employee when employment is terminated for the reasons set forth in Section 9. Such severance shall include payment equal to four (4) month's salary at the then current rate of pay, ("Severance Payment"). Severance

Payment shall be in a lump sum unless otherwise agreed to by the Employer and the Employee.

B. In addition to the Severance Payment, the Employee shall be paid for accrued earned sick leave to a maximum of 975 hours and unused vacation time accrued to the date of termination at the then current rate of pay.

C. For a period of six months following the date of termination, or until such time as equivalent benefits become available to Employee through a new employer, whichever comes first, the Employer shall pay the costs to continue the following benefits:

1. Health insurance for the employee and all dependents as provided in Section 4(A);
2. Life insurance as provided in Section 4(C);
3. Long-term disability as provided in Section 4(B);
4. Out placement services, should the employee desire them, in an amount not to exceed \$3,000.00; and
5. Any other standard benefits available to non-collective bargaining unit employees of the City.

D. If the Employee is terminated because of a conviction of a felony then the Employer shall have no obligation to pay the Severance Payment or to provide the other benefits under this Section.

Section 11: Voluntary Separation of Employment

A. In the event that the Employee voluntarily resigns his position with the Employer, the Employee shall provide the Employer with not less than 30 days advance written notice of his resignation, unless the parties agree otherwise.

B. The Employee shall forfeit any rights of severance as provided in Section 10 of this Agreement in the event of voluntary separation from employment, except if for the reason set forth in Paragraph 9(C) of this Agreement. In the event of a voluntary separation from employment, other than for the reason set forth in Paragraph 9(C), the Employee shall be entitled to payment of accrued vacation up to 12 weeks and accrued sick leave up to 12 weeks at the then current rate of pay together with other benefits provided to any non-collective bargaining unit City employee upon such employee's resignation, retirement, or other voluntary separation from employment.

Section 12: Performance Evaluation

Employer shall annually review the performance of the Employee. The evaluation process, at a minimum, shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results

Section 13: Hours of Work

It is recognized that the City Manager must devote a great deal of time outside normal office hours to the business of Employer, and to that end Employee will be allowed to take compensatory time off as he shall deem appropriate during said normal office hours.

Section 14: Outside Activities

The Employee agrees to remain the exclusive employee of the Employer while employed by the Employer. The term "employed" shall not be construed to include occasional teaching, writing, speaking or consulting, etc. performed on Employee's time off even if outside compensation is provided to the Employee for such services. Said activities are expressly permitted provided that no such activity would present a conflict of interest with Employee's responsibilities pursuant to this Agreement. De minimus use of City equipment for such purposes is hereby authorized.

Section 15: Moving and Relocation Expenses

A. Employer shall pay directly for the expenses of moving Employee and his family and personal property from Allegan Michigan to Oberlin, Ohio. Said moving expenses shall include packing, moving, storage costs (not to exceed twelve (12) months), unpacking, and reasonable insurance charges. Employee shall obtain at least two quotes and shall select the lowest of the quotes and endeavor to take advantage of professional discounts to minimize this expense.

B. Subject to the monetary limitations set forth in the City's Travel Reimbursement Policy, Employer shall reimburse Employee for lodging and meal expenses for the Employee and his family in route from Allegan Michigan to Oberlin, Ohio. Mileage costs for driving one personal automobile shall be reimbursed at the then standard mileage rate for relocation (currently \$0.23 per mile) to a new residence.

Section 16: Indemnification

A. 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 and arising out of the course and scope of Employee's duties as City Manager, or resulting from the exercise of judgment or discretion in connection with the performance of the duties or responsibilities of the City Manager, unless the act or omission involved willful or wanton conduct. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with

or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his duties and occurring within the course and scope of his employment. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

B. Employer agrees to pay Employee's reasonable litigation expenses, including travel expense, throughout the pendency of any litigation to which the Employee is a party or witness. Such expense payments shall continue beyond Employee's service to the Employer as long as the litigation is pending.

Section 17: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance, and professional liability insurance.

Section 18: Other Terms and Conditions of Employment

The Employer, upon agreement with Employee, may provide for such other terms and conditions of employment as it may determine from time to time relating to the performance and duties of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Charter of the City of Oberlin, or applicable law.

Section 19: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

EMPLOYER:

City of Oberlin, Council President
85 S. Main Street
Oberlin, OH 44074

EMPLOYEE:

Robert Hillard

Oberlin, OH 44074

Alternatively, notice required pursuant to this Agreement may be personally served. Notice shall be deemed to have been made 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 20: General Provisions

A. Integration. This Agreement sets forth and establishes the entire agreement between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual

written agreement may amend any provision of this Agreement during its term. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective upon the date of the last execution of this Agreement.

D. Severability. The invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Adopted and approved by the Oberlin City Council on this 21 day of November, 2016.



Ronnie J. Rimbart, Council President

Date: Nov 22, 2016



Robert Hillard

Date: Nov 22, 2016

Approved as to form:



Jon D. Clark, Law Director