

INTERIM CITY MANAGER EMPLOYMENT AGREEMENT

THIS INTERIM CITY MANAGER EMPLOYMENT AGREEMENT (hereinafter “Agreement”) is entered into and effective this \_\_\_ day of \_\_\_\_\_ 2023 by and between the City of Buchanan (hereinafter “City”), a Michigan public body corporate established and operated pursuant to Michigan law and \_\_\_\_\_ (hereinafter “Employee”).

WHEREAS, the City desires to retain Employee as its Interim City Manager and Employee desires to be employed by the City as its Interim City Manager, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective undertakings set forth below, the City and Employee agree as follows:

1. Employment. Effective \_\_\_\_\_ \_\_, 2023 (“Commencement Date”), the City shall employ Employee, and Employee shall accept such employment and perform services for the City, upon the terms and conditions set forth in this Agreement. Employee shall be employed at will and either Employee or the City shall have the right to terminate this Agreement and Employee’s employment without cause at any time, subject to the provisions of Section 5 of this Agreement. Employee’s at-will employment status shall not be affected or modified in any way by any City policies, procedures, or policy statements adopted or in existence before or after the Commencement Date.

2. Term. This Agreement shall commence on the Commencement Date and shall continue in full force and effect until terminated in accordance with Section 5 of this Agreement. During the Term, Employee shall be employed at will and either Employee or the City shall have the right to terminate this Agreement and/or Employee’s employment without cause and without reason at any time.

3. Position and Duties.

(a) Employment With the City. Employee shall perform such duties and responsibilities as described in Attachment A to this Agreement and such additional duties and specific projects as the City Commission may from time to time assign or direct. During the time of Employee’s employment, Employee’s title shall be “Interim City Manager.”

(b) Performance of Duties and Responsibilities. Employee shall at all times faithfully serve the City to the best of his/her ability during such hours of work as the City Commission directs. Except during reasonable periods of absence due to sickness, personal injury or other disability, Employee shall devote his/her full working time, attention and efforts to the business of the City during the Term. While Employee is employed by the City, Employee shall work exclusively for the City and shall not seek or accept other employment or consult with or engage in or render services to any other private or public entity, except that Employee may participate in charitable or volunteer activities, provided such activities do not interfere with the performance of Employee’s duties and responsibilities under this Agreement.

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(c) Supervisory Authority. Employee shall have such authority to supervise and direct the performance of work and services of all City employees as the City Commission shall direct. Employee shall have the authority to issue corrective disciplinary actions for City employees at any level up to and including a three (3) days unpaid suspension. Any disciplinary action exceeding a three (3) days unpaid suspension or a disciplinary termination of employment must be pre-approved by the City Commission.

(d) Conflicts of Interest. Employee understands and agrees that he/she shall not have an interest (“Outside Interest”) in any of the City’s suppliers, vendors, consultants or any other entities or businesses that provide goods or services (“Providers”) to the City. An Outside Interest includes, but is not limited to, Employee’s or any member of Employee’s immediate family having any ownership, interest in or relationship with any Provider or receiving compensation of any kind from any Provider. Employee shall not seek or accept gifts, gratuities, meals, tickets for sports or other events, or entertainment of any kind from any Provider. Employee shall also fully comply with City Ordinance 2021.12-427, “Code of Conduct.”

(e) Reporting. Employee shall report to the City Commission or such individual as the Commission shall direct in writing.

4. Compensation and Fringe Benefits.

(a) Base Salary. During the Term, the City shall pay to Employee a per diem salary of \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_.00), less all applicable deductions and withholdings, which Base Salary shall be paid in accordance with the City’s established payroll practices.

(b) Other Employee Benefit Plans and Programs. Unless Employee currently holds another position of employment with the City, Employee shall not be entitled to participate in any other employee benefit plans and programs generally available to City employees.

(c) Expenses. During the Term, the City shall reimburse Employee for all reasonable and necessary out-of-pocket business, travel or other expenses incurred by him/her in the performance of his/her duties and responsibilities hereunder, provided that all such expenses are approved in writing by the City Commission or its designee before such expenses are incurred and reimbursement for expenses are submitted, in compliance with the City’s policies and procedures for expense verification and documentation. Employee is authorized to expend up to \_\_\_\_\_ (\$\_\_\_\_.00) per calendar month for operations and supplies without the prior approval of the City Commission or its designee.

(d) Other Compensation/Benefits. The City shall have no other obligations to Employee or any beneficiary or Employee’s estate regarding compensation or fringe benefits, except as specifically provided by law or under the terms of this Agreement.

5. Termination of Employment.

(a) Employee's employment with the City shall terminate upon:

(i) notice of termination at-will issued by either the City or Employee, it being understood agreed by the parties that either Employee or the City shall have the right to terminate this Agreement and/or Employee's employment without cause at any time, subject to the ten (10) business days notice provision of subparagraphs (iii) and (iv).

(ii) expiration of the Term, unless Employee's employment continues thereafter on an at-will basis or subject to a subsequent written and mutually executed employment agreement between Employee and the City;

(iii) the City providing written notice to Employee of the termination of Employee's employment, effective ten (10) business days after the date of such written notice;

(iv) the City's receipt of Employee's written resignation from employment with the City, effective a minimum of ten (10) business days after the date of such written notice, or at such earlier date as the City in its sole discretion may direct; or

(v) Employee's inability to perform the work, disability or death.

6. Post-Termination Obligations of Employee.

(a) City Property and Materials. Upon termination of employment with City, regardless of the reason or absence of reason for termination or which party initiated termination, and as a condition precedent to Employee receiving any final compensation from the City under Section 4 of this Agreement, Employee shall promptly deliver to the City any and all City records and any and all City property in his/her possession or control, including without limitation, personnel files and documents, manuals, books, blank forms, documents, letters, memoranda, notes, notebooks, reports, printouts, computer hardware and software (including desk top, laptop, notebook computers and any PDA devices), computer disks, computer tapes, source codes, data, tables or calculations and all copies thereof, documents that in whole or in part contain any confidential information of City or its employees and all copies thereof, and all keys, access cards, access codes of any type, computer user names and passwords, credit cards, personal computers, telephones and other electronic equipment belonging to the City.

(b) Cooperation. Following termination of Employee's employment with the City, regardless of the reason or absence of reason for termination or which party initiated termination, and as a condition precedent to Employee receiving any final compensation from City under Section 4 of this Agreement, Employee shall, upon reasonable request of the City or its designee, cooperate with the City in connection with the transition of his/her duties and

responsibilities for the City; consult with the City regarding business matters that Employee was directly and/or indirectly involved with during the Term and be reasonably available, with or without subpoena, to be interviewed, meet and confer with the City or any of its attorneys or advisors, review documents or things, give depositions, testify, or engage in other reasonable activities in connection with any litigation or investigation, with respect to matters that Employee then has or may have knowledge of by virtue of employment with City or any related entity. In exchange for the services provided under this subsection (b), the City shall compensate Employee at the rate of \_\_\_\_\_ Dollars and 00/100 (\$\_\_.) per hour of service plus reasonable expenses.

(c) Withholding Final Compensation. Employee understands and agrees and authorizes the City to withhold all or any part of any payroll compensation or any other amounts due and owing Employee for any period of work prior to termination of employment until Employee fully complies to the satisfaction of the City with the provisions of subsections (a) and (b) this Section 6.

7. Remedies and Dispute Resolution.

(a) Remedies. Employee acknowledges that it would be extremely difficult or impossible to fully compensate the City for monetary damages resulting from any breach by Employee of the provisions of Section 6 of this Agreement. Accordingly, in the event of any actual or threatened breach of the provisions of Section 6 by Employee, the City shall, in addition to any other remedies it may have under this Agreement, be entitled to an immediate injunction without prior notice to Employee and further injunctive and other equitable relief to enforce the provisions of Section 6. In the event the City files a court action or suit to enforce the provisions of Section 6 of this Agreement, Employee agrees to fully reimburse the City for all costs, fees, and reasonable attorney fees incurred by the City in in any court action to enforce Section 6.

(b) Dispute Resolution. Except for court actions seeking injunctive relief as described in Paragraph 7(a) above, Employee and the City understand and agree to any and all civil actions, complaints, claims disputes or controversies brought by Employee against the City or its City Commission or individual City Commission members, or the City's officers, employees or agents arising out of or relating to Employee's employment with, and/or termination of or layoff from employment with City, including, but not limited to, claims of or under Michigan tort or contract law, breach of contract, common law, all Federal and Michigan employment statutes, wrongful termination in violation of public policy, retaliatory discharge, the Michigan Elliott-Larsen Civil Rights Act or Persons With Disabilities Civil Rights Act, Michigan Wage and Fringe Benefits Act, Michigan Whistleblower's Protection Act, the Federal Age Discrimination in Employment Act, Fair Labor Standards Act, Family and Medical Leave Act, the Rehabilitation Act of 1972, Americans With Disabilities Act, federal civil rights statutes under 42 U.S.C. sections 1981 and 1983, the Constitutions of the United States or State of Michigan, and federal civil rights statutes in Title VII of the Civil Rights Act of 1964, as amended, including the Civil Rights Act of 1991 must be filed in a court of competent jurisdiction within One Hundred Eighty (180) calendar days of any occurrence(s) giving rise to the civil actions, complaints, claims disputes or controversies.

8. Successors and Assigns. This Agreement is binding on and inures to the benefit of Employee and Employee's heirs, legal representatives and permitted assigns, and on and to the benefit of the City's successors and permitted assigns. No rights or obligations of Employee or the City hereunder may be assigned, pledged, disposed of or transferred by Employee to any other person or entity without the prior written consent of the City.

9. Governing Law. All matters relating to the interpretation, construction, application, validity and enforcement of this Agreement shall be governed by the laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule, whether of the State of Michigan or any other jurisdiction, that would cause the application to this Agreement the laws of any jurisdiction other than the State of Michigan.

10. Notices. All notices under this Agreement shall be delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid, to the party to receive the same at the address set forth with the signature of such party hereto or at such other address as may have been furnished to the sender by notice hereunder.

11. Tax Withholding. The City shall withhold from any amounts payable under this Agreement such federal, state and local income and employment taxes as the City shall determine are required to be withheld pursuant to any applicable law or regulation.

12. Counterparts. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

13. Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the employment of Employee by the City and this Agreement supersedes and completely nullifies any prior discussions, negotiations or agreements that in any way concern or relate to the City's employment of Employee.

14. Amendments and Waivers. No provision of this Agreement may be altered, amended, modified, waived or discharged in any way whatsoever except by dated written agreement executed by both Employee and the City. No delay or failure of either party to insist, in any one or more instances, upon performance of any of the terms and conditions of this Agreement or to exercise any rights or remedies hereunder shall constitute a waiver or a relinquishment of such rights or remedies or any other rights or remedies hereunder.

15. Severability; Survival. In the event that any portion of this Agreement is held to be invalid or unenforceable for any reason, it is hereby agreed that such invalidity or unenforceability shall not affect the other portions of this Agreement and that the remaining covenants, terms and conditions or portions hereof shall remain in full force and effect, and any court of competent jurisdiction may so modify the objectionable provision as to make it valid, reasonable and enforceable. The obligations and rights of the parties hereunder that by their terms continue beyond the Term shall survive the Term or termination of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the date and year first above written.

Employee

City of Buchanan

\_\_\_\_\_  
[Signature]

By: \_\_\_\_\_

\_\_\_\_\_  
[Print Name]

Its: \_\_\_\_\_