



Board of County Commissioners Agenda Request

25

Agenda Item #

Requested Meeting Date: May 28, 2019

Title of Item: County Administrator Employment Agreement

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| <input type="checkbox"/> REGULAR AGENDA <input checked="" type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY | Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) | <input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <small>*provide copy of hearing notice that was published</small> |
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| Submitted by: Jessica Seibert, County Administrator | Department: Administration |
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| Presenter (Name and Title): Jessica Seibert, County Administrator | Estimated Time Needed: |
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Summary of Issue:

Attached is an Employment Agreement for County Administrator, Jessica Seibert. The contract has been reviewed by labor attorney Kristi Hastings, County Attorney Jim Ratz, and the Personnel Committee.

Alternatives, Options, Effects on Others/Comments:

Deny employment contract for County Administrator Jessica Seibert.

Recommended Action/Motion:

Approve employment contract for County Administrator Jessica Seibert.

Financial Impact:

Is there a cost associated with this request? Yes No

What is the total cost, with tax and shipping? \$

Is this budgeted? Yes No *Please Explain:*

The contract includes current salary and benefit rates.

EMPLOYMENT AGREEMENT

THIS AGREEMENT ("Agreement"), effective on the latest date the Agreement is signed below by the signatories, is made by and between the COUNTY OF AITKIN, MINNESOTA, a body corporate and politic existing under the laws of the State of Minnesota (hereinafter referred to as "County") Jessica A. Seibert (hereinafter referred to as "Employee") as follows:

WHEREAS, the County desires to employ Employee as Aitkin County Administrator upon the terms and conditions set forth herein; and

WHEREAS, Employee desires to work for the County as Aitkin County Administrator upon the terms and conditions set forth herein.

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

1. POSITION AND TERM OF EMPLOYMENT.

The County hereby agrees to employ Employee in the capacity of Aitkin County Administrator under the terms of this Agreement commencing on May 28, 2019, and continuing thereafter until such time as employment is terminated according to the provisions of this Agreement. Employee agrees to serve as Aitkin County Administrator in accordance with the provisions of this Agreement.

2. DUTIES.

As Aitkin County Administrator, Employee shall be the administrative director of the County, with the job responsibilities and duties attendant to that position as set forth in the position description as such description now exists, incorporated herein and attached hereto as Exhibit "A," (and as may be hereafter amended by joint agreement of the parties from time to time), and in accordance with Minnesota statutes, County ordinances, and to perform such other legally permissible and proper duties and functions as are contained in the position description and prescribed by law, with any other job responsibilities and duties as may be reasonably assigned by the County from time to time.

3. WORKING HOURS.

It is recognized by the parties that the duties of the Aitkin County Administrator require a great deal of time outside normal County business hours. The parties agree that the position of County Administrator requires attendance at evening meetings and occasionally weekend meetings. It is understood by Employee that additional compensation shall not be allowed for such additional or extraordinary expenditures of time beyond the normal County business hours.

4. OUTSIDE EMPLOYMENT AND ACTIVITIES.

As County Administrator, Employee shall devote full time and best efforts to the business and affairs of the County, and except as hereinafter expressly stated, shall not accept any other employment during the term of this Agreement. This shall not be construed to prohibit the occasional teaching, consulting, speaking or writing engagement providing such activity does not in any way conflict with the employee's ability to effectively discharge assigned duties and responsibilities.

5. PAID TIME OFF AND EMPLOYEE BENEFITS.

- a. **BENEFITS AND ACCRUAL RATES.** Commencing on the first day of work as Aitkin County Administrator, Employee shall accrue paid time off at the rate of 1.75 days per month; as provided in the County's Personnel Policy; this amount may be increased at the discretion of the County Board; receive holiday pay for those holidays listed in the County's Personnel Policy; and shall receive and participate in the County's employee benefits plan as provided in the County's Personnel Policy. Accrued paid time off may be carried over from year to year to the maximum allowed by the County's Personnel Policy; this amount may be increased at the discretion of the County Board;
- b. **BANK OF ACCRUED BENEFITS.** On the first day of employment, Employee shall be credited with a bank of accrued paid time off in the amount of 40 hours.

6. COMPENSATION.

- a. **SALARY.** The County shall pay Employee for services as Aitkin County Administrator an annual gross salary of \$95,865.24 prorated and payable consistent with the County's normal payroll practices and subject to any authorized withholdings. Thereafter, on an annual basis, the County Board shall review the Employee's salary. The Employee shall receive the increase given to salaried employees; this amount may be increased at the discretion of the County Board.
- b. **PENSION.** The County shall contribute to Employee's Minnesota Public Employees Retirement Association ("PERA") account in the amount prescribed by law. Employee shall contribute to PERA as required by Minnesota law.
- c. **MILEAGE REIMBURSEMENT.** Employee shall be reimbursed for mileage as provided for in the County's Personnel Policy.
- d. **CELL PHONE and TABLET.** Employee shall be provided and shall be authorized to use a County-issued cell phone and tablet for work purposes.

7. PROFESSIONAL DEVELOPMENT.

The County shall pay membership fees for Employee to participate and attend meetings of the Minnesota Association of Counties (AMC), Minnesota Association of County Administrators (MACA), the International City/County Management Association (ICMA). All other training, conferences, subscriptions, meetings and professional dues will be provided in the same manner as for other County employees.

8. PERFORMANCE REVIEWS.

- a. **FREQUENCY OF PERFORMANCE REVIEWS.** The County Board shall review and evaluate the performance of Employee thereafter at least once annually. The review and evaluation shall be done in accordance with specific criteria developed jointly by the County and Employee, and as may be thereafter modified by the County Board in consultation with Employee. Failure by either party to complete the matters described in this paragraph shall not constitute a breach of this Agreement.
- b. **PERFORMANCE GOALS AND OBJECTIVES.** The County Board and Employee shall jointly define in writing the goals and performance objectives for the proper operation of the County and the attainment of the Board's policy objectives and shall further establish a relative priority among those various goals and objectives. The goals and objectives should generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided. The written statement of goals and performance objectives shall be reviewed annually.

9. TERMINATION AND RESIGNATION.

- a. **TERMINATION.** Both parties agree that the County Administrator position is unclassified and that this is an at-will employment relationship: The County Administrator serves at the will of the County Board. This employment agreement can be terminated at any time by either party for any reason without the need to indicate or prove a specific reason or cause.
 - i. **TERMINATION WITHOUT CAUSE.** In the event that Employee is terminated by the County without cause during a time when Employee is willing and able to perform the duties of Aitkin County Administrator, then the County agrees to pay Employee, at the time of receipt of last paycheck, a lump sum cash payment equal to two (2) months' salary. The two-month lump sum payment shall not include any pension contributions, insurance contributions, or other compensation of any kind other than Employee's salary. Employee will also receive payment of paid time off leave in the amounts accrued at the time of the termination date.

ii. **TERMINATION WITH CAUSE.** In the event that Employee is terminated by the County for cause under any one of the following circumstances, the County shall have no obligation to pay termination benefits:

1. Conviction of a felony or other crime which renders Employee incapable of satisfactorily performing the duties of the position, or impairs the safe, efficient, or effective operation of the office of County Administrator;
2. Performance of any job-related acts that endanger the property or personal safety of themselves or another person;
3. Violation of any lawful official order of, or failure to obey any lawful direction made and given by, the County Board, where such violation or failure to obey amounts to an act of insubordination or a serious breach of proper discipline, or has resulted or reasonably might be expected to result in a loss or injury to the County or to the public;
4. Disgraceful conduct, whether occurring during the performance of Employee's official duties or off-duty;
5. Unreasonable amount of absence from duty without making suitable arrangements for the care of the County Administrator's duties.

b. **RESIGNATION.** Employee may voluntarily terminate this Agreement at any time upon sixty (60) days prior notice by tendering written resignation to the County. Employee shall cooperate with the County in effecting the transfer of duties during the sixty (60) day notice period. If Employee voluntarily terminates this Agreement, there shall be no termination benefits due, except for payment of paid time off leave in the amounts accrued at the time of the termination date. The County shall pay Employee accrued and unused paid time off leave as part of Employee's last paycheck from the County.

c. **GENERAL PROVISIONS REGARDING TERMINATION.** Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the County to terminate the services of Employee at any time, for any reason, subject only to the provisions of this Agreement. Furthermore, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from the position with the County, subject only to the provisions of this Agreement.

10. NON-CIVIL SERVICE STATUS.

It is expressly understood and agreed that Employee is not being appointed or employed as Aitkin County Administrator under any state or local civil service laws, procedures, or regulations, and neither state nor local civil service laws, procedures or regulations apply to Employee's employment and tenure as Aitkin County Administrator. Employee expressly waives any coverage under any such laws or procedures or regulations.

11. INDEMNIFICATION AND BONDING.

- a. **INDEMNIFICATION.** The County shall defend and indemnify Employee in their capacity as Aitkin County Administrator pursuant to Minn. Stat. Section 466.07 and Section 465.76. In addition, the County shall defend, hold harmless, and indemnify Employee in their capacity as Aitkin County Administrator from all claims based on tort, civil damages, penalties, fines, and claims based on violation of statutes, ordinances and rules, provided that Employee was acting in good faith in the performance of duties as Aitkin County Administrator at the time in question.
- b. **BONDING.** The County shall pay the cost of any fidelity or other bonds required of Employee under any law or circumstance.

12. PERSONNEL POLICY.

Except where specifically abridged or modified by this Agreement, the County's personnel policies as set forth in the County's Personnel Policy Manual, as amended by the Board from time-to-time, shall apply to Employee.

13. NOTICES.

- a. Notices by either party required to be given under this Agreement shall be in writing and hand-delivered or sent by certified mail addressed to the other party as herein provided. Notice to the County shall be hand-delivered or mailed to the Board Chair, at the offices of the County, Aitkin County Courthouse, 217 2nd St. NW, Aitkin, Minnesota 56431. Notice to Employee shall be hand-delivered or mailed to Employee at their last known home address as indicated on the County's records.
- b. If notice is mailed, it shall be deemed "received" three (3) days after the postmarked date of mailing, provided such notice was sent postage prepaid and addressed as required by Paragraph 13(a) above.

14. MISCELLANEOUS.

- a. This Agreement shall be governed and construed in accordance with the substantive and procedural laws of the State of Minnesota.
- b. This Agreement sets forth the entire agreement of the parties and supersedes and renders null and void any and all prior or contemporaneous oral or written understandings, statements, representations or promises. There are no other oral or written agreements between the parties.
- c. Any breach or dispute arising out of, or regarding the interpretation of this Agreement, including the issue of whether “cause” exists to terminate the contract for cause as referenced in Paragraph 9 hereof, shall be submitted to an independent arbitrator for binding arbitration of said dispute.
- d. If any provision of this Agreement is later deemed unenforceable, the remaining provisions will continue to be binding, and the arbitrator(s) making such a determination shall also have the limited authority to modify any clause solely in order to render the provision valid under applicable law.
- e. The parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.

WHEREFORE, THE PARTIES HAVE EXECUTED THIS AGREEMENT IN TRIPLICATE CONSISTING OF SEVEN (7) PAGES INCLUDING THE SIGNATURE PAGE, ON THE DATES SET FORTH BELOW.

Employee

Date

Anne Marcotte, Board Chair
Aitkin County Board of Commissioners

Date

Attest:

Date

Approved as to form:

Kristi A. Hastings
Pemberton Law

Date