

CITY OF VANDALIA
MONTGOMERY COUNTY, OHIO
RESOLUTION 13-R-53

A RESOLUTION ACCEPTING THE RESIGNATION OF ROBERT L. ANDERSON AS CITY MANAGER AND AUTHORIZING THE MAYOR TO ENTER INTO A SEPARATION AGREEMENT WITH MR. ANDERSON

WHEREAS, City Council has received the resignation of current City Manager, Robert L. Anderson; and

WHEREAS, City Council and Robert L. Anderson desire to enter into a Separation Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VANDALIA, MONTGOMERY COUNTY, OHIO THAT:

Section 1. Council hereby accepts the resignation of the City Manager and waives the 30 day effective date required by section 5-6 of the Charter. The effective date of the termination shall be 1:00 pm November 8, 2013.

Section 2. Mayor Arlene Setzer is authorized on behalf of the City, to negotiate and execute a separation agreement with Robert Anderson substantially upon the terms and conditions contained in the Separation Agreement attached hereto as Exhibit A.

Section 3. Council authorizes the insurance coverage as set forth in the Separation Agreement.

Section 4. This resolution shall take effect upon its passage.

Passed this 6th day of November, 2013.

APPROVED:

Arlene J. Setzer, Mayor

ATTEST:

Robert L. Anderson
Clerk of Council

Exhibit A
SEPARATION AGREEMENT

This Separation Agreement and Release of Claims ("Agreement") is between Robert L. Anderson, II ("Anderson") and the City of Vandalia, Ohio ("City"). Anderson and City agree and promise as follows:

1. EMPLOYMENT TERMINATION. On November 5, 2013, Anderson submitted his written resignation as City Manager and provided 30 day notice, pursuant to Charter section 5.6. City Council has waived the 30 day notice requirement and the parties have agreed that the effective date of the resignation of employment shall be at 1:00 p.m. on Friday November 8, 2013.

2. CONSULTING AGREEMENT. Anderson shall provide consulting services to City for the 6 month period ending April 30, 2014. Anderson shall be available for consultation regarding matters of concern or interest of the services to City with the City's interim City Manager, (or new City Manager if hired during the term of this Agreement), Directors, Mayor and/or Council Members by telephone and email. Anderson shall not consult on any matter that may be deemed a conflict of interest between the City and any future employer of Anderson. Anderson shall not be required to provide consulting services to the City as its sole and exclusive function. It is understood and agreed that Anderson may and will have other business interests and engage in other activities in addition to those relating to the City.

3. PAY AND BENEFITS. The City will pay Anderson at his normal rate of pay for 3 months (through January 31, 2014), including any statutorily required City portion of PERS contributions. The City will continue to provide Anderson with City health insurance (family coverage, as eligible) through April 30, 2014 or at the option of Mr. Anderson pay the COBRA for such period. Anderson agrees to keep the City fully informed of any changes in family or marital status prior to January 31, 2014 that may affect such insurance. Anderson will receive as a lump sum payment as soon as practical after November 8, 2013, 100% of his unused vacation time and 50% of his accrued sick pay through November 8, 2014. All other benefits will cease as of November 8, 2013, including but not limited to PERS "pick-up" contributions, (as set forth in Anderson's contract), city cell phone, car allowance and passes to City facilities. At the next pay period after January 31, 2014, Anderson shall receive a lump sum payment equal to 3 months of his salary.

4. UNEMPLOYMENT BENEFITS. The City agrees that it will not dispute any application by Anderson for unemployment compensation benefits filed with the Ohio Department of Job and Family Services, other than provide information regarding the benefits provided in this Agreement.

5. OTHER BENEFITS. Anderson agrees that the payments and benefits provided by this Agreement are greater than any to which Anderson would be entitled under the City's policies and his contract; that the payments and benefits provided under this Agreement are all that Anderson will receive from the City; and that these payments and benefits are in lieu of, and replace, any payments and benefits which Anderson might have claimed eligibility for, or entitlement to, under any agreement or City policy or practice.

6. RELEASE OF CLAIMS. In consideration of the payments and benefits provided to Anderson under this Agreement, and other good and valuable consideration the receipt and sufficiency of which are expressly acknowledged, Anderson, on behalf of Anderson, Anderson's heirs, administrators, assigns and agents, fully settles, releases, and forever discharges the City from any and all claims, demands, liabilities, costs, attorneys' fees, damages, actions, and causes of action arising out of or related to Anderson's employment or termination from employment with the City. This includes, but is not limited to, any and all claims under the Employment Agreement between the City and Anderson; the First Amendment to Employment Agreement between the City and Anderson dated December 19, 2011; the Charter, City Ordinances and Resolutions of the City of Vandalia, Ohio; the Constitution and Laws of Ohio and the following federal statutes and like or similar state or local laws: Title VII of the Civil Rights Act of 1964, as amended; The Age Discrimination in Employment Act, as amended; The Americans with Disabilities Act; The Employee Retirement Income Security Act; and The Family and Medical Leave Act, as well as any other type of employment discrimination, wrongful discharge, retaliation, breach of express or implied contract, promissory estoppel, emotional distress, intentional tort, or personal injury claim. This release covers all claims as of the effective date of this Agreement whether known and unknown to Anderson.

7. NON DISPARAGEMENT. Anderson and City Council agrees that neither will make any statements or remarks which are disparaging to, or which have the potential of harming, the other party. Anderson understands that if he violates this paragraph he will have to repay all separation pay he received pursuant to this Agreement.

8. NON-ADMISSION OF LIABILITY. This Agreement does not constitute an admission by the City that it has violated any contract, law or regulation, or in any way infringed Anderson's rights or privileges. The City expressly denies that it has done anything unlawful or improper. The City makes this Agreement in order to end Anderson's employment on an amicable basis, and to avoid the costs of defending against any legal action which Anderson might otherwise initiate.

9. SEVERABILITY. The provisions of this Agreement are severable. If any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Agreement shall continue in full force and effect and the voided provision shall be amended, if permissible, to the extent necessary to render it valid and enforceable.

10. GOVERNING LAW. All matters relating to the interpretation, construction, and enforcement of this Agreement shall be governed by and construed according to the laws of the State of Ohio to the extent that those laws are not preempted by the laws of the United States of America.

11. ENTIRE AGREEMENT. The foregoing terms represent the entire agreement between Anderson and the City and the only consideration for signing this Agreement. No other promises or agreements of any kind have been made between the parties to cause them to sign this Agreement. Anderson states that Anderson has carefully read this Agreement, that Anderson fully understands its terms, that Anderson has had full opportunity to review it with Anderson's own legal counsel, if desired, that Anderson understands its legal and binding effect, and that Anderson signs this Agreement voluntarily.

Robert L. Anderson, II

Date: _____

Arlene Setzer, Mayor

Date: _____