

EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF ANN ARBOR
AND ATLEEN KAUR

THIS AGREEMENT is made and entered in this ___ day of December 2021, between the City of Ann Arbor, a Michigan municipal corporation, hereinafter called the “City,” and Atleen Kaur, hereinafter called “Employee.”

Section 1 --- Duties

Effective April 11, 2022, the City agrees to employ Atleen Kaur as Ann Arbor City Attorney pursuant to Section 5.2 of the Charter of the City of Ann Arbor, Michigan, to perform in a competent and professional manner the duties and responsibilities of City Attorney for the City of Ann Arbor as set forth in the Charter and City Code of the City of Ann Arbor and in applicable laws, regulations, policies, and otherwise as assigned by City Council. These duties include the staffing and supervision of the attorneys and staff in the Office of the City Attorney. In accordance with Section 5.2 the Charter, the City Attorney is responsible solely to the City Council.

Section 2 --- General Conditions and Terms of Employment

This employment agreement is contingent upon the Employee’s acceptance of the appointment, the Employee’s approval and acceptance of this employment agreement, approval by City Council of the Employee’s appointment to City Attorney and this employment agreement, and satisfactory completion of all pre-employment verifications deemed necessary by City Council.

A. EMPLOYMENT-AT-WILL: Subject to the terms and conditions of this employment agreement, and notwithstanding any City personnel rules and policies or representation to the contrary, the Employee shall be an “employee-at-will” and nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the employment of the Employee at any time except as such right to terminate employment is limited within this document.

B. TERMINATION/RESIGNATION:

(1) At any time during the term of this employment agreement, the Employee may voluntarily resign from the City Attorney position upon providing to the City Council a written notice of forty five (45) or more days prior to the date of resignation. In the event of such voluntary resignation, the Employee will not be entitled to any severance pay. The City will pay Employee the accrued leave time, if any, to which the Employee is entitled in accordance with the City's personnel rules, policies and procedures in effect on the date of her resignation.

- (2) If City Council decides to terminate the Employee's employment as City Attorney for any reason other than pursuant to sub-section (3) below, the Employee will receive a lump sum severance payment equivalent to twelve (12) months of her salary, calculated on the basis of the annual salary she was receiving on the date of termination as stated in Section 4 or as subsequently changed by agreement of the parties. The City also will pay Employee the accrued leave time, if any, to which the Employee is entitled in accordance with the City's personnel rules, policies and procedures in effect on the date of her termination. Both the severance pay and the payment of accrued leave time will be paid within thirty (30) days after the date of termination or at such other time as is mutually agreed to between the City and the Employee. Any material breach of this contract by the City that is not remediated by the City within thirty (30) days of Employee's written notice, including but not limited to, any reduction in Employee's compensation below then-current amounts, shall entitle Employee to voluntarily leave employment and receive accrued retirement benefits in accordance with City Code and governing plan documents and severance pay as provided in Section 2B(2).
- (3) If the City Council terminates the Employee's employment agreement with the City for "just cause", the Employee will not be entitled to any severance pay. For this Agreement, "just cause" shall include, but not be limited to: neglect in the performance by the Employee of her duties and responsibilities under this Agreement (as specified in Section 1 above and the applicable rules and regulations of the City include the Charter, ordinances, and other City policies), willful misrepresentation to the City, either in connection with signing this Agreement or the performance by the Employee of her duties under this Agreement, an act of moral turpitude, willful misconduct, fraud, charge of a felony or conviction of a misdemeanor that would reflect negatively on the City, (such as, but not limited to, an offense involving drug/alcohol abuse or sexual misconduct), Willful Insubordination, or any breach of the terms and conditions of this agreement. Such termination would be effective thirty (30) days after the date of the written notice of termination. Written notice will state the reasons for the termination. If requested by the Employee within seven (7) days after the notice of termination, a hearing regarding the termination shall be held before City Council. Following the hearing, the City Council, at its sole discretion, may modify, reverse, or uphold the termination and the grounds for the termination. "Willful Insubordination" is the Employee's willful or intentional failure to obey a lawful and reasonable directive from City Council as a body through an explicit statement of refusal or non-performance, where such written directive cites this Section 2(B)(3). A determination of neglect in the performance of her duties and/or Willful Insubordination will require the vote of eight Councilmembers.
- (4) Mutual Non-disparagement. In the event of Employee's termination from employment, whether voluntarily or involuntarily, the Employee and the City Council agree that they shall refrain from making any false statements, implied or expressed, concerning the other, including management style, governance, quality of services, or role in the community. For the avoidance of doubt, this provision does not prevent

either party from truthfully stating the reasons for termination and related facts. For the purpose of this Section 2(B)(4) only, the statements of individual members of City Council shall be attributed to the City Council.

- (5) The role of City Attorney is considered a "key employee" under the Family Medical Leave Act (FMLA). The City Council may terminate the Employee's employment with the City in the event the Employee is unable to perform substantially all City Administrator duties/responsibilities for a period of sixty (60) consecutive days or more because of a medically established mental or physical disability, provided that a determination has been made that such medically established mental or physical disability will continue for at least ninety (90) additional days. Such termination will be effective sixty (60) days after written notice of termination from City Council, and such notice will also state the reasons for the termination. If requested by the Employee within seven (7) days after the notice of termination, a hearing regarding the termination shall be held before City Council. Following the hearing, the Council, at its discretion, may modify, reverse, or uphold the termination. The Employee's severance pay, as provided for in sub-section (2) above, will be reduced by the amount of disability benefits payments, or Worker's Compensation benefits, if any, paid by the City. The City reserves the right to have the Employee examined by a City selected physician, at the City's expense, in order to verify the mental or physical disability.

C. EXCLUSIVE EMPLOYMENT

During the term of this employment agreement, the Employee agrees to be employed exclusively by the City. However, Employee may serve as a mediator, arbitrator or case evaluator if desired on her own personal time. Further, with approval of City Council, the Employee may perform services such as teaching, lecturing, and assisting other governmental agencies and other professional obligations so long as such activities do not unreasonably interfere with the Employee's City duties/responsibilities, including current volunteer activities as 1) Co-chair of the ABA Antitrust Section's Task Force on Antitrust, Consumer Protection and Diverse Consumers, and 2) Advisory Board Member of Alterity ADR, a national alternative dispute resolution firm committed to enhancing ADR through diversity.

D. EMPLOYMENT AGREEMENT TERM

The Employee agrees to begin employment as City Attorney for the City of Ann Arbor on April 11, 2022. The Employee's employment will continue unless the Employee resigns or is terminated as provided for in sub-section 2.B.

E. LOCATION OF EMPLOYEE'S RESIDENCE

The City desires that the Employee reside within the City of Ann Arbor.

Section 3 --- Job Performance Evaluation

City Council will evaluate Employee's job performance at least annually. City Council will complete the Employee's first annual job performance evaluation (to cover the period through June 30, 2023) by August 30, 2023. Council shall make any salary adjustment, if any, associated with the performance review retroactive to July 1, 2023.

In consultation with the Employee, the Council will develop the job performance evaluation process and criteria it will use each year. The results of the evaluation shall be in writing and shall be discussed with the Employee in closed session, if requested by Employee, as allowed under the Open Meetings Act.

Section 4 --- Compensation

The City agrees to compensate the Employee initially at an annual base salary of \$210,000, payable in biweekly installments at the same time as other employees of the City are paid. The Council may adjust Employee's salary as it deems appropriate following an evaluation of Employee by Council in accordance with Section 3 of this Agreement. Compensation is a material term of this agreement.

Section 5 --- Applicable City Benefit Plans and Programs

- A. INSURANCE PLANS: The City will offer Employee all insurance coverage provided to Non-Union employees, under the terms and agreements of such individual insurance plans. This coverage shall be effective upon the first day of employment.
- B. The Employee may participate in all other City benefit programs (such as FSA, HRA, educational assistance, etc.) on the same terms as Non-Union employees in accordance with applicable laws, regulations, policies and guidelines governing these programs.
- C. The City reserves the right to alter, modify, or terminate any or all of its insurance plans and other benefits provided to Non-Union employees during the course of this contract and Employee may not rely on any specific coverage or term of such plans or benefits being maintained by the City solely for Employee's benefit.
- D. PAID SICK LEAVE DAYS: The Employee will accrue days at a rate consistent with the policies for City Non-Union employees, earned on a pro rata basis each pay period. Except as otherwise explicitly stated in this sub-section, the Employee shall comply with the City's personnel rules, policies and procedures which govern the use of sick leave by Non- Union employees.
- E. PAID VACATION: The Employee will begin her employment with eighty (80) hours of vacation time in her vacation bank, and will begin accruing vacation at the rate of twenty (20) days or 160 hours annually, earned and credited on a pro rata basis each pay period. All other aspects of vacation usage and procedure shall be in accordance with City personnel rules, policies and procedures applicable to Non-Union City employees.
- F. PAID LEAVE: The Employee shall be entitled to four (4) personal leave days per year in accordance with City personnel rules, policies and procedures applicable to Non-Union City employees.

- G. CELL PHONE: The Employee may elect to receive the monthly voice and data cellular phone stipends on the same terms as Non-Union employees in accordance with applicable laws, regulations, policies and guidelines governing these programs.
- H. VEHICLE USE/REIMBURSEMENT: The Employee shall reasonably have available a City vehicle for official use in accordance with the City policy related to City fleet/pool vehicles or shall be reimbursed for use of her private vehicle for City business as proscribed by City policies and procedures.
- I. PARKING: The Employee shall receive a parking place at no charge in the City Hall parking garage.

Section 7 --- Pension Plan and Retiree Healthcare

Employee will have the option of participating in the City's Hybrid Pension Plan or the Executive 401A Plan.

The City will contribute a sum of money into a Retirement Health Reimbursement Account for the Employee. The amount of the retirement benefit is based on total years of service multiplied by \$3,500 (though the amount is subject to change).

Section 8 --- Professional Development

The City agrees to budget for and to pay the professional dues and license fees, subscriptions, travel and expenses of Employee for professional meetings, training, and occasions adequate to continue her professional development. Participation in professional organizations can include, but is not be limited to, the Michigan Association of Municipal Attorney Association, International Municipal Lawyers Association. Participation in professional organizations will enhance her ability to perform her duties and benefit the City.

Section 9 --- Indemnification

The City shall defend, save harmless and indemnify the Employee against any tort, professional liability claims, defamation, or other legal actions, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties/responsibilities as City Administrator, provided the Employee acted both in good faith and within the scope of her duties/responsibilities as City Attorney, and further provided the Employee fully cooperates with the City in its defense of the claim, demand or other legal action. The City may, in its discretion, compromise and settle any claim or suit and pay the amount of any settlement or judgment rendered. Indemnification shall not be provided to the Employee by the City if the claim, demand or other legal action results from the willful misconduct of Willful Insubordination of the Employee or if the claim, demand or legal action involves any proceeding where the Employee is the plaintiff or an adverse party to the City.

Section 10 --- Conflict of Interest Prohibitions

It is further understood and agreed that because of the duties of the Employee within and on behalf of the City of Ann Arbor and its citizenry, the Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in

any for-profit business venture conducting business in the corporate limits of the City of Ann Arbor, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without prior approval of the City Council. For and during the term of her employment, Employee further agrees, except for a personal residence or residential property acquired or held for future use as her personal residence, not to invest in any other real estate or property improvements within the corporate limits of the City of Ann Arbor without the prior disclosure to the City Council.

Section 11 --- General Provisions

This Agreement constitutes the entire understanding between the City and the Employee. There are no oral understandings, terms or conditions and no party has relied on any representation, express or implied, not contained in this Agreement. This Agreement may be changed by a written amendment signed by both parties. Michigan law shall govern this Agreement and any disputes arising from or related to this agreement shall be subject to the exclusive jurisdiction of a court of competent jurisdiction in Washtenaw County.

If any provision, or any portion thereof, contained in this employment agreement is held to be invalid or unenforceable, the remainder of this employment agreement, or portion thereof, shall be deemed enforceable, shall not be affected, and shall remain in full force and effect and such provision automatically reformed so as to be valid and enforceable and to nearly as possible reflect the intent of the parties.

IN WITNESS WHEREOF, the City of Ann Arbor, Michigan, by its Mayor and its City Clerk, and the Employee have signed this employment agreement the day and year stated in the first paragraph.

EMPLOYER:

EMPLOYEE:

CITY OF ANN ARBOR,
a Michigan municipal corporation

By _____
Christopher Taylor, Its Mayor

Atleen Kaur

Jacqueline Beaudry, Its City Clerk

Approved as to form

By _____
Stephen K. Postema, City Attorney