

ORDINANCE NO. 2009-51

AUTHORIZING A MANAGER EMPLOYMENT
AGREEMENT WITH DAVID M. WALTZ PER ARTICLE V
OF THE CHARTER OF THE CITY OF BLUE ASH; AND
DECLARING AN EMERGENCY

WHEREAS, the need exists to authorize a Manager Employment Agreement as outlined within Section 5.01 of Article V of the Charter of the City of Blue Ash, Ohio.

Be it ordained by the Council of the City of Blue Ash, Ohio, not less than five (5) members thereof concurring,

SECTION I.

The Manager Employment Agreement as attached to this ordinance is hereby enacted.

SECTION II.

The Treasurer and Deputy Treasurer are hereby authorized to expend the necessary funds therefor, which funds are hereby appropriated.

SECTION III.

This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City of Blue Ash, Ohio; the reason for the emergency being the need to provide for a City Manager as outlined in Article V of the City's Charter. Therefore, this ordinance shall take effect and be in force from and after its passage.

PASSED this 10th day of September, 2009.

Robert J. Buckman, Jr., Mayor

Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

Bryan Pacheco, Deputy Solicitor

CITY MANAGER EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into as of the 1st day of July, 2009, by and between the City of Blue Ash, State of Ohio, a municipal corporation, hereinafter called the "City," and David M. Waltz, hereinafter called "City Manager," both of whom understand as follows:

WITNESSETH:

WHEREAS, the City desires to employ the services of David M. Waltz as City Manager of the City of Blue Ash, as provided by Sec. 5.01 of the Charter of the City of Blue Ash, Ohio; and

WHEREAS, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of said City Manager; and

WHEREAS, it is the desire of the City Council: (1) to retain the services of City Manager and to provide inducement for him to remain in such employment; (2) to make possible full work productivity by assuring City Manager's morale and peace of mind with respect to future security; and (3) to provide a just means for terminating City Manager's services at such time as he may be unable fully to discharge his duties due to disability or when the City may desire to otherwise terminate his employment; and

WHEREAS, City Manager desires to accept and to retain employment as City Manager of said City.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. DUTIES

City hereby agrees to employ David M. Waltz as City Manager to perform the functions and duties specified in said Sec. 5.02 of the City Charter, and to perform other legally permissible and proper duties and functions as the City Council shall from time to time assign.

SECTION 2. TERM

A. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of City Manager at any time, subject only to the provisions set forth in Section 3, paragraphs A and B, of this agreement.

B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Manager to resign at any time from his position with the City, subject only to the provision set forth in Section 3, paragraph C, of this Agreement.

C. City Manager agrees to remain in the exclusive employ of the City during a 36-month period beginning July 1, 2009 through June 30, 2012 and thereafter so long as this Agreement is in force and effect and not to become employed by any other employer during this period, unless termination of employment is effected as hereinafter provided.

D. In the event that written notice to terminate this Agreement is not given by either party to the other (90 days notice prior to June 30, 2012 by the City and 30 days notice prior to June 30, 2012 by City Manager), this Agreement shall be extended on the same terms and conditions as herein provided for an additional period of one year. Said Agreement shall continue thereafter for one-year periods unless said written notice to terminate is given prior to time of expiration. If the Council wishes to terminate the City Manager, then it shall give the

City Manager 90 days prior written notice of termination and comply with Section 3, paragraph A, of this Agreement.

SECTION 3. TERMINATION AND SEVERANCE PAY

A. In the event City Manager is terminated by the City Council during such time that City Manager is willing and able to perform the duties of City Manager, then in that event, the City agrees to pay City Manager a lump sum cash payment equal to twelve months' aggregate salary and to continue those benefits contained in Sections 11 and 12 of this Agreement for twelve months; provided, however, that in the event City Manager is terminated because of his conviction of any illegal act involving personal gain to him, then in that event, City shall have no obligations to pay the aggregate severance sum or provide those benefits designated in this paragraph.

B. In the event the City, at any time during the employment term, reduces the salary or other financial benefits of City Manager, or in the event the City refuses, following written notice, to comply with any other provision benefiting City Manager herein, or the City Manager resigns following a written suggestion whether formal or informal, by the majority of the Council that he resign, then, in that event, City Manager may at his option, be deemed to be "terminated" at the date of such reduction or such refusal to comply within the meaning and context of the herein severance pay provision.

C. In the event City Manager voluntarily resigns his position with the City before expiration of the aforesaid term of employment, then City Manager shall give the City 30 days notice in advance.

SECTION 4. SALARY

City agrees to pay City Manager for his services rendered pursuant hereto an annual base salary of \$132,932.80 beginning July 1, 2009 through June 30, 2010. The parties may change City Manager's per annum salary after June 30, 2010 without affecting the rest of the terms and conditions of this Agreement or requiring the execution of a new Agreement.

SECTION 5. HOURS OF WORK

City Manager will devote his full energies and time required to exercise the responsibilities specified in Section 5.02 of the City Charter.

SECTION 6. AUTOMOBILE

City Manager's duties require access to, and utilization of, an automobile. The City shall financially compensate the City Manager, in the form of a monthly vehicle allowance, in the amount of \$500.00 per month.

SECTION 7. DUES AND SUBSCRIPTIONS

City agrees to budget and to pay the professional dues and subscriptions of City Manager necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the City.

SECTION 8. PROFESSIONAL DEVELOPMENT

A. City hereby agrees to budget and to pay the travel and subsistence expenses of City Manager for professional and official travel, meetings, and occasions adequate to continue the professional development of City Manager and to adequately pursue necessary official and other functions for the City, including but not limited to, the Annual Conference of the

International City Management Association, the Ohio City Management Association, the Ohio Municipal League, and such other national, regional, state and local governmental groups and committees thereof which City Manager serves as a member.

B. City also agrees to budget and to pay for the travel and subsistence expenses of City Manager for short courses, institutes, and seminars that are necessary for his professional development and for the good of the City.

SECTION 9. GENERAL EXPENSES

City recognizes that certain expenses of a nonpersonal and generally job-affiliated nature are incurred by City Manager, and hereby agrees to reimburse or to pay said general expenses, and the City Treasurer is hereby authorized to disburse such monies upon receipt of duly executed expense or petty cash vouchers, receipts, statements, or personal affidavits.

SECTION 10. VACATION AND SICK LEAVE

City Manager will be subject to the City's sick leave and vacation policies. In addition to the vacation time provided under the City's policy, City Manager will be entitled to five additional days of vacation per annum which, if not used, will not carry over into the next year.

SECTION 11. HEALTH AND TRAVEL INSURANCE

A. City agrees to provide dental, optical, hospitalization, surgical, and comprehensive medical insurance for City Manager and his dependents equal to that which is provided all other full-time City employees.

B. The City shall provide travel insurance for City Manager while he is traveling on City business, with City Manager to name beneficiary thereof, in the amount of \$100,000 coverage.

SECTION 12. RETIREMENT, DISABILITY INSURANCE AND LIFE INSURANCE

A. City agrees to make regular periodic payments to the State of Ohio Public Employees Retirement System in the amount required by law.

B. City agrees to provide group life insurance with the carrier and in the proportional amount as provided for other City employees.

C. City agrees to pay on a monthly basis a sum equivalent to ten percent (10%) of base salary of the City Manager into the City Manager's account with International City Management Association Retirement Corporation.

D. City agrees to provide disability income protection insurance with the carrier and in the amount and conditions prescribed by City Council.

SECTION 13. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

The City Council shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement.

SECTION 14. OTHER PROVISIONS

A. The text herein shall constitute the entire Agreement between the parties.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of City Manager.

C. This Agreement shall become effective commencing July 1, 2009.

D. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Blue Ash, Ohio has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by the Clerk of Council, and the City Manager has signed and executed this Agreement, both in duplicate, the day and year first above written.

ATTEST:

Susan K. Bennett
Deputy Clerk of Council

Robert J. Buckman, Jr.
Mayor of the City of Blue Ash
State of Ohio

Approved as to form:

Mark A. Vander Laan
City Solicitor

David M. Waltz

Reference: Ordinance No. 2009-51, September 10, 2009