

Document A

FIRST AMENDMENT TO
EMPLOYMENT CONTRACT
BETWEEN
DAVID W. MONTGOMERY
AND
CITY OF DULUTH

This First Amendment, effective as of the date of attestation by the City Clerk (“Effective Date”) is by and between the CITY OF DULUTH, (the “City”) and DAVID W. MONTGOMERY, an individual person (the “Employee”); and.

WHEREAS, the City and the Employee entered into an Employment Agreement (“Agreement”) on or about January 19, 2024 (City Contract No. 24701) attached as Exhibit A; and

WHEREAS, the term of the Agreement expires on December 31, 2024; and

WHEREAS, the City and Employee wish to extend the term of the contract to February 15, 2025.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties agree as follows:

In this First Amendment, deleted terms will be ~~struck out~~ and added terms will be underlined.

I. Section 1 is amended as follows:

1 Employee agrees to accept and competently perform the duties and responsibilities of the office of City Administrator as set forth in the Duluth City Charter and ordinances and resolutions adopted by the City Council, as an employee at will. Ther term of the contract shall commence upon City Council approval and run through ~~December 31, 2024~~February 15, 2025, unless terminated earlier by either party, as set out in this contract and the City Charter, or superseded by a successor, duly authorized written employment contract.

II. Section 2 is amended as follows:

2. This contract creates an employment at will except as modified herein. Employee agrees to give the City at least ~~thirty (30)~~ ten (10) calendar days’ notice of resignation and acknowledges the right of the Mayor, with City Council approval, to remove him from the position of City Administrator. In case of such removal, the Mayor will provide Employee with at least three (3) calendar days’ notice in writing of such removal. The Parties understand and agree, in case of such removal, Employee will receive no severance pay. City shall continue to provide and pay for Employee’s health care fringe benefits set forth in paragraph 3(c) for the period ending one (1) calendar month following the end of the month in which such termination occurs.

III. Except as specifically amended pursuant to this First Amendment, the agreement remains in full force and effect. In the event of a conflict between the provisions of this First Amendment and the provisions of the Agreement, provisions of this First Amendment shall govern.

IN WITNESS WHEREOF, the parties have set their hands the day and date first shown below.

CITY OF DULUTH

EMPLOYEE

By _____
Mayor

By _____
David W. Montgomery

Attest:

City Clerk
Date Attested: _____

Countersigned:

City Auditor

As to form:

City Attorney

EXHIBIT A

EMPLOYMENT CONTRACT

PARTIES TO THIS CONTRACT, dated this 8th day of January, 2024, are DAVID W. MONTGOMERY, an individual person, hereinafter referred to as "Employee," and the CITY OF DULUTH, MINNESOTA, a Minnesota municipal corporation, hereinafter referred to as "City," together referred to as the "Parties".

THE PARTIES ACKNOWLEDGE THE FOLLOWING:

1. The Mayor has appointed Employee to the position of City Administrator effective January 8, 2024 ("Effective Date"). He recommends that the City Council approve the salary and fringe benefits for such position as set forth in this contract.

2. Employee has accepted such appointment.

3. Each party wants Employee to perform the work of City Administrator for the City, pursuant to this contract.

NOW THEREFORE, in consideration of their mutual promises, the Parties hereto agree as follows:

1. Employee agrees to accept and competently perform the duties and responsibilities of the office of City Administrator as set forth in the Duluth City Charter and ordinances and resolutions adopted by the City Council, as an employee at will. The term of this contract shall commence upon City Council approval and run through December 31, 2024, unless terminated earlier by either party, as set out in this contract and the City Charter, or superseded by a successor, duly authorized written employment contract.
2. This contract creates an employment at will except as modified herein. Employee agrees to give the City at least thirty (30) calendar days' notice of resignation and acknowledges the right of the Mayor, with City Council approval, to remove him from the position of City Administrator. In case of such removal, the Mayor will provide Employee with at least three (3) calendar days' notice in writing of such removal. The Parties understand and agree, in case of such removal, Employee will receive no severance pay. City shall continue to provide and pay for Employee's health care fringe benefits set forth in paragraph 3(c) for the period ending one (1) calendar month following the end of the month in which such termination occurs.
3. City agrees to provide Employee with the following salary and fringe benefits:
 - (a) Salary at an annual rate of \$173,979.00 paid in bi-weekly installments that coincide with the City's standard pay periods.

- (b) On the first day of this agreement employee will receive and have accrued for his use twenty-three (23) days paid vacation. Any unused vacation days will expire without compensation at the end of this contract.
 - (c) Employee is entitled to fringe benefits provided for in the 2022-2024 collective bargaining agreement (CBA) between the City and its City of Duluth Supervisory Association unit (CDSA), and its successor CBA, other than Severance Pay as described in Article 18, Paid Leave as described in Article 20 and Resignations as described in Article 28.
4. Any change in salary or benefits will be implemented by a duly authorized written amendment or new contract. Any amendment to this contract must be in writing, dated and executed by the Parties and approved in the manner as required by the City Charter.
 5. City shall budget and pay the travel and subsistence expenses for Employee which are deemed reasonable and necessary in carrying out his duties as City Administrator for the City.
 6. During the term of this contract, Employee shall not perform any paid work for another employer without approval from the Mayor, nor do any act which conflicts with his interest, or the City's interest, in his performance of this contract.

[Remainder of page intentionally left blank; signature page to follow.]

IN WITNESS WHEREOF, the Parties hereto have executed this contract on January __, 2024, and deemed effective January 8, 2024.

CITY OF DULUTH

EMPLOYEE

DocuSigned by:
By Roger J Reinert
A1D488341A6B484...
Mayor

DocuSigned by:
By David Montgomery
504CB89B59D9475...

DocuSigned by: David W. Montgomery

DocuSigned by:
Attest: Ian B. Johnson
EE9D2CA1AA9732B...
City Clerk
1/19/2024



Countersigned:

DocuSigned by:
John Bailey
5DCC8A8A9CCFE4D1...
City Auditor

Approved as to form:

DocuSigned by:
Jessica J. Fratlich
1962970E6A55489...
City Attorney



City of Duluth

411 West First Street
Duluth, Minnesota
55802

Certified Copy

Resolution: 24-0012R

File Number: 24-0012R

RESOLUTION CONFIRMING THE APPOINTMENT OF DAVID W. MONTGOMERY AS CITY ADMINISTRATOR FOR THE CITY OF DULUTH, TERMINATING THE APPOINTMENT OF NOAH SCHUCHMAN AND AUTHORIZING THE EXECUTION OF AN EMPLOYMENT CONTRACT WITH DAVID W. MONTGOMERY.

CITY PROPOSAL:

RESOLVED, that pursuant to Chapter IV, Section 19 of the Duluth Home Rule Charter, the mayor shall appoint the city administrator, subject to confirmation by the city council by simple majority vote.

RESOLVED FURTHER, that the appointment of David W. Montgomery to the position of city administrator effective January 8, 2024 is hereby confirmed and that the proper city officials are authorized to execute and implement an employment contract substantially in the form of that attached hereto as Exhibit A, to compensate the appointed city administrator David W. Montgomery with an annual salary of \$173,979.00, and including all other pay and benefits, but excluding Severance Pay as described in Article 18, Paid Leave as described in Article 20 and Resignations as described in Article 28, of the 2022-2024 collective bargaining agreement between the city and the City of Duluth Supervisory Association, and any successor collective bargaining agreement between the city and the City of Duluth Supervisory Association, payable from fund number 110-110 -1103-5100 (General, Legislative and Executive, Chief Administrative Officer).

RESOLVED FURTHER, that the appointment of David W. Montgomery to the position of city administrator shall expire at the end of the day on December 31, 2024.

RESOLVED FURTHER, that pursuant to Chapter IV, Section 19 of the Duluth Home Rule Charter, an appointed city administrator may be removed by the mayor with the consent of the city council by simple majority vote.

RESOLVED FURTHER, that the appointment of Noah Schuchman as city administrator is hereby terminated effective January 8, 2024.

File Number: 24-0012R

This Resolution was adopted unanimously.

I, Ian B. Johnson, City Clerk of the City of Duluth, Minnesota, do hereby certify that I have compared the foregoing passed by the city council on 1/8/2024, with the original approved and that the same is a true and correct transcript therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said city of Duluth.

Date Certified