

SPECIAL CITY COUNCIL MEETING

September 17, 2012

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Mayor Nelson called the meeting to order and asked the Clerk to call the roll:

PRESENT: Mayor Nelson, Councillors Ashley, Cilley,
Hosmer, Morley, Skamperle and Stevenson

ABSENT: None

ITEMS FOR COUNCIL ACTION

1. Mayor Nelson moved a resolution to appoint a City Manager and authorize the Mayor to execute an employment agreement on behalf of the City of Ogdensburg, and Councillor Skamperle seconded to wit:

RESOLUTION TO APPOINT A
CITY MANAGER FOR THE CITY OF OGDENSBURG

WHEREAS, the City of Ogdensburg has been actively recruiting for the position of City Manager, and

WHEREAS, the Mayor and City Council have reviewed applications and interviewed candidates since that time, and

WHEREAS, John M. Pinkerton is qualified to serve as City Manager and because of his past experience and background can best serve the City of Ogdensburg in meeting future goals and objectives, now therefore be it

RESOLVED, that John M. Pinkerton is appointed as City Manager to serve pursuant to the conditions of the employment contract, and be it further

RESOLVED, that the Mayor is authorized to execute said employment agreement on behalf of the City of Ogdensburg.

Mayor Nelson stated this is a three year contract and read the sections of the contract aloud for the audience. (A copy of the contract follows these minutes.)

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Mayor Nelson said the City Council and the citizens of Ogdensburg are ecstatic that a local resident has been chosen for the City Manager position.

The vote was:

CARRIED, AYES ALL

On a motion duly made and seconded, the meeting was adjourned.

**AGREEMENT BETWEEN
CITY OF OGDENSBURG
and
JOHN PINKERTON**

EMPLOYMENT AGREEMENT dated September 17, 2012 between The City of Ogdensburg, a municipal corporation, with offices at City Hall, 330 Ford St., Ogdensburg, New York, hereinafter referred to as "Employer", and John Pinkerton, residing at 506 Elizabeth St., Ogdensburg, New York, hereinafter referred to as "Employee"

RECITALS

WHEREAS, the Employer desires to retain the services of the Employee to fill the position of City Manager for the City of Ogdensburg, and

WHEREAS, the Employee is willing and able to be employed by the Employer upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, the parties hereto agree as follows:

1. The Employer employs the Employee and the Employee accepts employment by the Employer as City Manager as defined and empowered by Article IV, Section C-19 of the Charter of the City of Ogdensburg. The Employee agrees to perform those duties to which he may be lawfully assigned by the Mayor and City Council along with those duties set forth in Article IV, Section C-19 of the Charter of the City of Ogdensburg, as currently written or as subsequently hereto amended from time to time. The Employee shall work the number of hours required as are necessary to properly complete the foregoing duties regardless of the extent to which a 40 hour work week is exceeded by the Employee.

2. As compensation for services to be performed by the Employee under this Agreement, the Employee shall be paid as follows:

- a) October 15, 2012-June 30, 2013; at an annual salary of \$84,000 (pro-rated);
- b) July 1, 2013-June 30, 2014 at an annual salary of \$84,000;
- c) July 1, 2014-June 30, 2015 at an annual salary of \$84,000.

3. The term of this Agreement shall commence on October 15, 2012 and shall expire on

June 30, 2015 5pm EST (“expiration date”) unless terminated sooner pursuant to the provisions of paragraphs 9, 10 and 11 of this Agreement.

4. The Employee shall be entitled to 20 days of annual vacation leave and all other fringe benefits pursuant to Section AR-25 of the Administrative Regulation of the City of Ogdensburg as currently written or as subsequently hereto amended from time to time. However, the Employee shall not be entitled to either overtime or compensatory time off in lieu of overtime pay under any circumstances.

5. The Employee shall be entitled to reimbursement of mileage at the rate established by the Internal Revenue Service, for travel related to the performance of the duties of City Manager.

6. The Employee will:

a) Faithfully and diligently discharge those powers and perform those duties in connection with his/her employment hereunder as may be specified and required by the Mayor and City Council or as may be specified and required by Article IV, Section C-19 of the Charter of the City of Ogdensburg, as currently written or as subsequently hereto amended from time to time;

b) Engage solely and exclusively in the business and affairs of the Employer.

7. The Employer agrees to give the Employee One-Hundred and twenty (120) days notice prior to the expiration of this Agreement, of the Employer's intention to either terminate the Employee on the expiration date of this Agreement or extend the Employee's employment under the terms of a successor Agreement. If the Employer fails to give the Employee One-Hundred and twenty (120) days prior notice of its intention to terminate the Employee upon the expiration this Agreement and the Employer in fact does not offer to extend the Employees employment past the expiration date, the Employer agrees to pay the Employee, at his then current rate of compensation, for a period of One-Hundred and twenty (120) days from the date the aforesaid termination notice is given to the Employee. The Employee agrees to give the Employer sixty (60) days written notice, prior to the expiration of this Agreement, of the Employee's intention to terminate his employment with the Employer upon the expiration of this Agreement.

8. The Employee shall take and file an oath of office with the City Clerk, prior to entering upon his duties.

9. The Employer may terminate this Agreement according to Article IV, Section C-20 of the City of Ogdensburg City Charter as it is currently written or as subsequently hereto amended, where the Employee has failed to perform his duties pursuant to the terms of this Agreement and/or in a manner satisfactory to the Council of the City of Ogdensburg. Upon such termination, all rights of the Employee to compensation and any other benefit conferred by this Agreement shall immediately cease.

10. In the event that the Employee shall be prevented from properly rendering substantially all the services or properly performing substantially all his duties hereunder by reason of illness, injury, or incapacity (whether physical or mental) for a period of either: (i) three consecutive months; or (ii) 120 days during any 12 month period, the Employer shall have the right to terminate this Agreement by giving 30 days prior written notice to Employee. Until terminated in the manner set forth in this section (10), Employee shall be entitled to receive his full compensation and benefits provided hereunder through the date of termination, but no further.

11. In the event that the Employee shall die during the term of this Agreement, this Agreement shall be terminated effective as of the date of death with no compensation or benefits due or payable to the Employee or his estate following the date of death by the Employer. This clause shall not be interpreted or applied in any manner so as to impair to any extent or prohibit the Employee's qualification for any and all death benefits to which his estate may be entitled under the New York State Retirement System and its Plan.

12. This Agreement constitutes the entire understanding between the Employer and the Employee relating to the subject matter hereof and neither this Agreement nor any provision hereof can be modified, changed, discharged, or terminated except by an instrument in writing signed by the party against whom any waiver, change, discharge, or termination is sought.

13. The Employer's failure at any time to require performance by Employee of any of the provisions hereof shall not be deemed to be a waiver of any kind or in any way affect the rights of the Employer thereafter to enforce the provisions hereof. In the event that either party to this Agreement waives any provision of the Agreement or any rights concerning any breach or default of the other party hereto, such waiver shall not constitute a continuing waiver of any such provision or breach or default of the other party hereto.

14. This Agreement is not assignable by the Employee

15. If one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, but shall be deemed stricken and severed from this Agreement and the remaining terms of this Agreement shall continue in full force and effect.

16. This Agreement will be interpreted and enforced under the laws of the State of New York, and shall be binding on the heirs, successors and assigns of the parties hereto. Venue for any suit involving this Agreement shall lie exclusively in St. Lawrence County, New York.

17. This Agreement sets forth the entire understanding between the parties with respect to the employment of the Employee, and no other representations, warranties, or Agreements whatsoever have been made by the Employer to the Employee. Furthermore, this Agreement may not be modified or amended except by another instrument in writing executed by both of the parties.

IN WITNESS WHEREOF, the parties hereunto executed or caused this Agreement to be executed as of the day and year first above written.

CITY OF OGDENSBURG, NEW YORK

BY: _____
WILLIAM D. NELSON, MAYOR OF THE
CITY OF OGDENSBURG, NEW YORK

JOHN PINKERTON

STATE OF NEW YORK)
)S.S.:
COUNTY OF ST. LAWRENCE)

On the 17 day of September in the year 2012 before me, the undersigned, a Notary Public in and for said State, personally appeared **William D. Nelson**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, of the person upon behalf of which the individual acted, executed the instrument.

Notary Public

