

**RESOLUTION NO. R19-03**

**RESOLUTION AUTHORIZING AND APPROVING AN EMPLOYMENT CONTRACT  
BETWEEN THE CITY OF LAUREL AND NICHOLAS ALTONAGA WHO SHALL SERVE  
AS THE CITY PLANNER II FOR THE CITY OF LAUREL.**

WHEREAS, the City conducted a nationwide search for applicants qualified for the position of City Planner II; and

WHEREAS, the Mayor created a search and selection committee to review and screen applications submitted for the position and to interview applicants on the City's behalf; and

WHEREAS, the committee recommends Nicholas Altonaga as the most qualified for the position; and

WHEREAS, the City of Laurel negotiated the attached employment contract for the City Planner II position, and it is currently in the best interest of the City of Laurel to approve the attached Employment Contract.

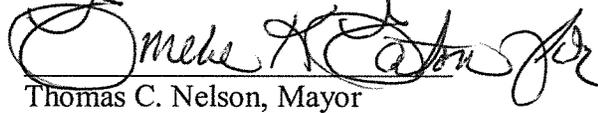
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Laurel, Montana, that the attached Employment Contract is hereby approved and the Mayor is authorized to execute the Employment Contract on the City's behalf.

Introduced at a regular meeting of the City Council on February 5, 2019, by Council Member Klose.

PASSED and APPROVED by the City Council of the City of Laurel this 5<sup>th</sup> day of February 2019.

APPROVED by the Mayor this 5<sup>th</sup> day of February 2019.

CITY OF LAUREL

  
Thomas C. Nelson, Mayor

ATTEST:

  
\_\_\_\_\_  
Bethany Langve, Clerk-Treasurer

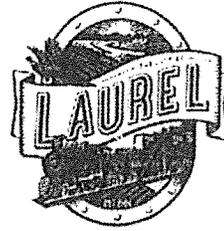
Approved as to form:

  
\_\_\_\_\_  
Sam S. Painter, Civil City Attorney

CITY HALL  
115 W. 1<sup>ST</sup> ST.  
MAYOR OFC.: 628-8456  
PUB. WORKS: 628-4796  
WATER OFC.: 628-7431  
COURT: 628-1964  
FAX: 628-224

# City Of Laurel

P.O. Box 10  
Laurel, Montana 59044



Office of the Mayor

January 14, 2019

Nicholas Altonaga  
57 Main Street, Apt. 1  
Littleton, NH 03561

Dear Nicholas Altonaga,

Congratulations! You have been selected for the City Planner II position with the City of Laurel. The following information is pertinent to your employment with the City of Laurel:

- Start date: February 6<sup>th</sup>, 2019
- Starting salary: \$48,131.20 annually
- FLSA Status: Exempt
- Work schedule: Monday-Friday from 8am-5pm, dependent on operational needs.
- Report to: Chief Administrative Officer
- Probationary period: Six months (180 calendar days)

Please review, sign, and return this document as soon as possible (electronically). The City Council is scheduled to review this offer of employment on February 5<sup>th</sup>, 2019. It is my desire to present you to the City Council at that time.

When reporting for your first day, present this signed conditional offer letter and your driver's license at City Hall. Your direct supervisor, the Chief Administrative Officer, will take care of you from there. We look forward to working together with you to help build Laurel's future. Thank you for your perseverance through our hiring process.

Sincerely,

**Thomas C. Nelson**  
Mayor

I, Nicholas Altonaga, hereby accept the position of City Planner II, and accept the conditions set forth in the attached employment agreement.

Nicholas Altonaga

# EMPLOYMENT AGREEMENT

## City Planner II

This employment agreement is made and effective this February 6<sup>th</sup>, 2019 by and between the City of Laurel, Montana, hereinafter referred to as "City" and Nicholas Altonaga, hereinafter referred to as the "Employee." When the term "parties" is utilized in this agreement, the term means the "City and Employee," jointly. In consideration of their mutual promises set forth herein, the parties hereby agree as follows:

1. **Employment.** City hereby employs Employee in accordance with Article III, Section 3 of the City's Charter and Employee hereby accepts such employment, upon the terms and conditions set forth in this written agreement of employment. The parties intend to create a written agreement of employment in accordance with MCA §39-2-912(2) and therefore agree that this agreement and the City's Job Description attached hereto constitutes the entire agreement between the parties and that no oral promises, representations or warranties have been made or are an enforceable part of this agreement.
  - 1.1. Employee shall serve as the City's Planning Director. The City has classified the position as an Exempt/Non-Union Position as contained in the Job Description attached hereto and incorporated herein. Employee shall commence employment under this Agreement upon approval by the City Council.
  - 1.2. Employee shall perform the essential duties and responsibilities contained in the attached Job Description and shall report directly to the City's Chief Administrative Officer.
  - 1.3. The Employee shall not be reassigned from the position of City Planner II to another position without the Employee's prior express written consent.
  - 1.4. The Employee shall be subject to passing a pre-employment drug test.
2. **Salary.** City shall compensate Employee, as an Exempt, Non-Union, Salary Employee as follows:
  - 2.1. City shall pay Employee for services rendered pursuant hereto an annual salary in the sum of \$48,131.20 payable in equal installments at the same time as other employees of the City are paid. Employee shall serve a six-month (180 calendar day) probationary period. Employee thereafter is eligible for an annual increase on the anniversary of the Employee's start date of this Agreement. Employee's annual increase shall be calculated at the same percentage equal to other non-union employees, of the then current salary of the Employee.
  - 2.2. Expenses: City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by Employee (i.e. official travel, etc.), and hereby agrees to reimburse or to pay reasonable expenses and the City Treasurer, upon approval by the Mayor, is hereby authorized to disburse such monies upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

2.3. **Taxes:** All payments made to and on behalf of Employee under this agreement are subject to withholding of any required federal, state or local income and employment taxes.

3. **Term.**

- 3.1. The term of this agreement shall be for four (4) years commencing the start date above, pending the City Council approves the agreement. The City Council may extend or renew the agreement as desired.
- 3.2. The Employee shall serve a six-month (180 calendar day) probationary period that shall commence on the first day the employee reports for work.
- 3.3. The Employee's regular schedule shall conform to normal City business hours, Monday through Friday from 8:00am to 5:00 pm. The Employee understands that in some occasions, the Employee may work outside of these normal business hours to attend meetings, conferences, training, or other duties.
- 3.4. Nothing in this agreement shall prevent, limit or otherwise interfere with the authority of the Mayor to terminate the services of the Employee at any time, subject only to the provisions set forth in Section 7, Paragraphs 7.1 through 7.6, of this agreement.
- 3.5. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from the position with City, subject only to the provision set forth in Section 7, Paragraphs 7.5 and 7.7 of this agreement.
- 3.6. Employee agrees to remain in the exclusive employ of the City and to not accept any other employment, or to become employed, by any other employer unless termination is affected as hereinafter provided. The term "employ and/or employed" shall not be construed to include occasional teaching, writing, consulting or military (Reserve, National Guard, or Auxiliary) service performed on Employee's time off or while under official orders.

4. **Suspension.** The Mayor may suspend the Employee in accordance with the City's Personnel Policy Manual at any time during the term of this agreement. Notice of suspension shall be made by the Mayor, in writing, identifying the start and end dates of suspension and reason for suspension.

5. **Benefits.** The City shall provide Employee the following benefits:

- 5.1. The City shall provide Employee with a one-time reimbursement for moving expenses up to \$2,000.00. Reimbursement shall be made after the agreed upon start date and with required documentation pursuant to City policy.
- 5.2. The City shall provide Employee the same benefits provided its other non-union exempt employees under the City's Personnel Policy Manual, as amended, and as required by applicable state and federal law.

6. **Representations and Warranties.** Employee represents that he/she shall attain and maintain the standard of personal and professional conduct required by the City; the résumé and/or employment application furnished to the City are true and accurate in all respects, are not misleading, and do not omit the provision of any material information;

that the education and experience of Employee is as stated in the resume and/or application; that Employee is in good health; that the Employee knows of no present condition which now or in the future may adversely affect his/her health or his/her ability to perform his/her job; and that the Employee has fully disclosed to the City all facts which are material to the City's decision to employ the Employee.

**7. Termination of Employment.**

- 7.1. This agreement and Employee's employment immediately terminate upon Employee's death or finding or determination of a disability that prevents the Employee from performing the essential duties and responsibilities of the assigned position.
- 7.2. If the Mayor terminates Employee without cause and Employee is willing and able to perform his/her duties under this agreement, then the City shall pay the Employee a severance payment equivalent to four (4) calendar months of the Employee's then current salary. Employee shall also be compensated for all accrued and remaining vacation leave, computed on an hourly basis determined by dividing the Employee's then current annual salary by 2080 hours, and in accordance with the City's Personnel Policy Manual. The City shall comply with all IRS rules and regulations governing severance pay and tax withholding requirements.
- 7.3. If the Employee is terminated "for cause" or voluntarily resigns his/her employment, the City has no obligation to pay the severance payment provided in this paragraph. Employee shall receive payment for any remaining vacation balance as described in this paragraph. For cause means any legitimate business reason, or as otherwise defined by Montana law.
- 7.4. During the effective date of this agreement, if the City involuntarily reduces the Employee's salary or otherwise refuses to comply with any provision of this agreement that benefits Employee, he/she, at his/her option, may elect to be considered terminated without cause entitling him/her to the severance payment provision contained in paragraph 7.2.
- 7.5. If the Employee resigns following a formal suggestion by the Mayor that the Employee resign for no cause, the Employee, may at his/her option, elect to be considered terminated at the date of such suggestion entitling him/her to the severance payment provision contained in paragraph 7.2.
- 7.6. If the City's Mayor terminates the Employee without cause at any time during the six (6) calendar months subsequent to the seating and swearing-in of a newly elected Mayor while the Employee is willing and able to perform his duties under this agreement, the City shall pay the severance sum provided in paragraph 7.2 above.
- 7.7. If the Employee voluntarily resigns his/her position with the City, he/she must provide the City with thirty (30) calendar days advance notice, unless the parties otherwise agree in writing.
- 7.8. If Employee's termination results from death or disability, the City's final compensation to the Employee is limited to payment for services rendered to date and payment for any accrued and remaining vacation leave in accordance with the City's Personnel Policy Manual.

- 7.9. If the Employee's termination results from cause, the City's final compensation to Employee is limited to payment for services rendered to date in accordance with the City's Personnel Policy Manual, and payment for any accrued and remaining vacation leave calculated at the then current salary.
- 7.10. Conditioned upon the City fulfilling its obligations to pay the Severance Amount, the Severance Benefits and the Current Obligations, upon a Unilateral Severance, the Employee waives and releases the Employee's rights to continued employment with the City and the parties waive and release the right to a hearing on the issue of good cause. In the event of a Unilateral Severance, the parties agree not to make disparaging comments or statements about each other.
8. **Confidentiality.** Employee acknowledges that during his/her course of employment he/she might obtain and gather confidential information regarding the City's operations or employees. Employee further acknowledges that all confidential information is the City's property and in no event shall the Employee disclose such information to any person or entity unless disclosure is requested by the City or required by law.
9. **Performance Evaluation.** The City's Chief Administrative Officer (herein after "CAO") shall review and evaluate the performance of the Employee at least once annually. The review shall occur on or about the Employee's anniversary date of hire. The review and evaluation shall be in accordance with specific criteria which may be modified as the CAO may, from time to time, determine necessary and proper, in consultation with the Employee. The Employee shall provide the CAO a self-evaluation at least two weeks prior the annual joint evaluation. The CAO shall personally review the evaluation with the Employee and provide the Employee an adequate opportunity to discuss the evaluation.
- 9.1. In the event the CAO determines that the evaluation instrument, format and/or procedure are to be modified, and such modifications would require new or different performance expectations, then the Employee shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.
- 9.2. Unless the Employee expressly requests otherwise in writing, except to the extent prohibited by or in material conflict with Applicable Laws and Authorities, the evaluation of the Employee shall at all times be conducted in a meeting with the CAO and shall be considered private to the maximum and full extent permitted by law. Nothing herein shall prohibit the CAO or the Employee from sharing the content of the Employee's evaluation with their respective legal counsel.
10. **Professional Development.** City shall budget and pay for the travel and subsistence expenses of Employee for short courses, institutes, certifications, and seminars that are necessary for his/her professional development for the good of the City, pending available funding. The City desires the Employee join and participate in professional organizations including, but not limited to, the Montana Association of Planners, Association of Montana Floodplain Managers, and American Planning Association. The City shall pay Employee's membership dues and annual conference fees to encourage such membership and attendance.

11. **Bonding.** City shall bear the full cost of any fidelity or other bonds required of the Employee under its Charter or any applicable law or ordinance.
12. **Other Terms and Conditions of Employment.** The CAO, in consultation with the Employee, shall fix other terms and conditions of employment, as they may determine necessary from time to time, relating to the performance of the Employee provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, the City's Charter, Ordinances or any other applicable law.
13. **Indemnification.** City shall defend, save harmless and indemnify the Employee against any tort, professional liability claim or demand or other legal action, costs and attorney's fees incurred in any legal proceedings, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties. The City may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon. The obligations of the City under this section shall not apply if:
- The conduct of the Employee complained of constitutes oppression, fraud or malice, or for any reason does not arise out of the course and scope of the Employee's employment; or,
  - The conduct of the Employee complained of constitutes a criminal offense as defined under Montana law; or,
  - The Employee compromised or settled the claim without the consent of City; or,
  - The Employee fails or refuses to cooperate reasonably in the defense of the case.
14. **Availability.** Employee acknowledges that they must be available by either cellphone or telephone after work hours in cases of emergency. Employee shall provide the CAO and appropriate department heads his/her contact information for after hour emergency notifications. The City does not require the Employee to be on-call, simply available by telephone if an emergency should arise for purposes of notification.
15. **Miscellaneous.** This agreement contains the entire agreement and supersedes all prior letters, agreements, and understandings, oral or written, with respect to the subject matter hereof. This agreement may be changed only by an agreement in writing signed by the party against whom any waiver, change, amendment or modification is sought. This agreement shall be construed and enforced in accordance with the City's Charter, Ordinances and applicable laws of the State of Montana.
16. **Personal Agreement.** The obligations and duties of the Employee hereunder shall be personal and not assignable to any person or entity, although the agreement is binding and shall inure to the benefit of Employee's heirs and executors at law.
17. **Notices.** Notices pursuant to this agreement shall be given in writing by deposit in the custody of the United States Postal Services, certified postage prepaid, addressed as follows:

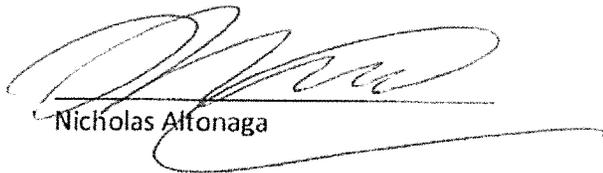
- If to the City: Office of the Mayor, P.O. Box 10, Laurel, MT 59044; and
- If to the Employee: Nicholas Altonaga, 57 Main Street, Apt. 1, Littleton, NH 03561

Notice shall be deemed delivered and received as of three business days after the date of deposit of such written notice in the course of transmission in the United States Postal Service. Either party may, from time to time by written notice to the other party, designate a different address for notice purposes. The Employee shall provide the City a current mailing address when relocation is complete.

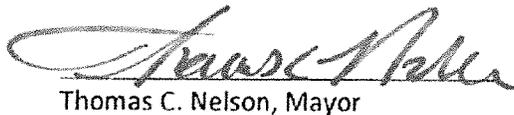
18. Renegotiation. The Parties may commence negotiation of a subsequent employment agreement six (6) months prior to the expiration of this employment agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on February 6<sup>th</sup>, 2019. This agreement is contingent upon its approval via Resolution of the City Council.

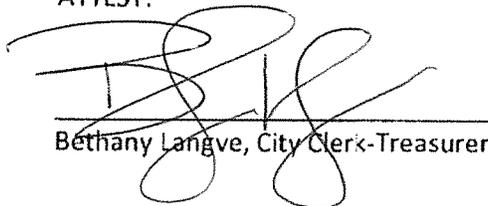
EMPLOYEE

  
Nicholas Altonaga

CITY OF LAUREL

  
Thomas C. Nelson, Mayor

ATTEST:

  
Bethany Langve, City Clerk-Treasurer