

City of Palm Coast, Florida Agenda Item

Agenda Date: April 2, 2024

Department CITY ADMINISTRATION Division	Amount Account #
Subject: DISCUSSION – INTERIM CITY MANAGER	
Presenter: Lauren Johnston, Assistant City Manager	
Attachments: 1. Draft Interim City Manager Employment Agreement	
Background: <p>At the March 19, 2024, City Council Business Meeting, Palm Coast Mayor David Alfin made a motion to terminate City Manager Denise Bevan without cause, to use the Florida League of Cities and other sources to employ an interim manager with proven experience, and afterwards, and to commence the process to find a highly qualified person to manage the City consistent with community goals, vision, and values. The motion was approved by a 3-2 vote.</p> <p>At the March 19, 2024, City Council Business Meeting, Council Member Pontieri made a motion to appoint Lauren Johnston as Acting City Manager while Council looks for a permanent hire. The motion passed unanimously.</p> <p>A draft agreement has been attached to this item for City Council’s consideration.</p> <p>City staff is also seeking direction for next steps on hiring a permanent City Manager.</p>	
Recommended Action: FOR COUNCIL DISCUSSION AND DIRECTION	

CITY OF PALM COAST

ACTING CITY MANAGER EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into this 2 day of April, 2024, by and between the **City of Palm Coast**, a municipal corporation of the State of Florida, hereinafter called "CITY," and **Lauren Johnston**, hereinafter called "EMPLOYEE."

WITNESSETH:

WHEREAS, the EMPLOYEE has served and continues to serve as the Assistant City Manager and has been employed by the City of Palm Coast since May 25, 2007; and

WHEREAS, the City Manager position for the CITY became vacant on March 19, 2024; and

WHEREAS, the City Council of the City of Palm Coast has appointed the EMPLOYEE to act and perform the duties of the Acting City Manager effective March 19, 2024; and

WHEREAS, it is the desire of the CITY and the EMPLOYEE to enter into an Employment Agreement ("Agreement") concerning compensation, benefits, terms and conditions of his employment as the Acting City Manager for the period specified herein; and

NOW, THEREFORE in consideration of the premises and other mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1. RECITALS. The above recitals are true and correct and constitute a part of this Agreement upon which the parties have relied.

SECTION 2. EMPLOYMENT AND DUTIES.

- (A) The CITY hereby employs the EMPLOYEE as the Acting City Manager and she hereby accepts employment as the Acting City Manager retroactive from March 19, 2024, when Council appointed her as the Acting City Manager.
- (B) The EMPLOYEE shall continue to serve as Acting City Manager until such time as a permanent City Manager is hired and commences his or her employment with the City; or such time as either EMPLOYEE, upon thirty (30) days written notice to the City Council, or the City Council shall deem appropriate. EMPLOYEE shall have the right to return to and resume her position as Assistant City Manager upon completion of her service as Acting City Manager.
- (C) The CITY hereby agrees to employ the EMPLOYEE as the Acting City Manager to perform the functions and duties specified in the City of Palm Coast Charter, City Code of Ordinances, applicable Florida law and sound and generally accepted practices relating to public administration, as well as to perform all other legally permissible and proper duties and functions as the City Council of the CITY may from time to time assign the EMPLOYEE. The EMPLOYEE agrees to fully and faithfully execute the duties and responsibilities of the office of City Manager of the City of Palm Coast under any and all applicable law.
- (D) EMPLOYEE acknowledges that her position as Acting City Manager is a temporary assignment and that the City Council is actively recruiting for the City Manager position. At such time as a permanent City Manager commences his or her employment or the City Council of the City of Palm Coast terminates the EMPLOYEE as Acting City Manager, the EMPLOYEE shall be entitled to return to and resume her previous position as Assistant City Manager

with all benefits available to all City employees, all EMPLOYEE's accrued benefits and leave balances, and her time of service earned shall not lapse during the temporary assignment. The EMPLOYEE'S salary for Acting City Manager shall be returned to the last salary amount prior to appointment as Acting City Manager with any salary adjustments that would have been afforded to all City employees during the term of this Agreement, including starting salary adjustments and the average merit increase provided.

- (E) The EMPLOYEE agrees that she will devote all of her full working time to the performance of the duties required hereunder, and the EMPLOYEE agrees not to engage in any other employment. The provision shall not include occasional teaching, writing, or consulting on EMPLOYEE's time off subject to prior approval of the City Council of the City of Palm Coast and to the extent such does not conflict or interfere with EMPLOYEE'S duties hereunder.
- (F) Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the CITY to terminate, at its will and without cause, the services of the EMPLOYEE as Acting City Manager, subject to EMPLOYEE's rights to continue as Acting City Manager for the CITY. Similarly, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the EMPLOYEE to resign, at any time, from her position as the Acting City Manager, subject to EMPLOYEE'S right to continue in her capacity as Assistant City Manager.

SECTION 4. COMPENSATION AND BENEFITS.

- (A) The CITY agrees to pay the EMPLOYEE for her services rendered as Acting City Manager pursuant to the terms and conditions of this Agreement, an annual salary of \$189,279.97, payable in installments at the same time as other employees of the City are paid.
- (B) The position of Acting City Manager is an exempt position under state and federal wage and hour laws. The EMPLOYEE shall not receive overtime.
- (C) Except as otherwise provided in this Agreement, the EMPLOYEE shall receive and shall continue to receive all benefit levels presently provided as Acting City Manager and/or available to department heads of the CITY as provided by the CITY's policies, Charter, ordinances, or personnel rules and regulations or other practices. Such benefits include but are not limited to, vacation, sick leave, holidays, bereavement leave, retirement, health insurance, dental insurance, long-term disability insurance, life insurance, and a City issued cell phone. The EMPLOYEE's time of service previously earned shall not lapse and shall continue to be accrued during the temporary appointment as Acting City Manager for purposes of determining the level of benefits.
- (D) The CITY agrees to pay to the EMPLOYEE the sum of \$500 per month as a vehicle allowance to reimburse the EMPLOYEE to purchase, lease, or own, operate and maintain a vehicle. The EMPLOYEE shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The CITY shall reimburse the EMPLOYEE at the IRS standard mileage rate for any business use of the vehicle beyond the greater Palm Coast area. For purposes of this Section, use of the car within the greater Palm Coast area is defined as travel to locations within one hundred (100) miles of 160 Lake Avenue, Palm Coast, FL.
- (E) The CITY agrees to make all required premium payments for the CITY'S Group Health Insurance Plan of her choosing for the EMPLOYEE, spouse, and dependents that is available to all employees.

SECTION 5. PROFESSIONAL ASSOCIATION AND DEVELOPMENT. The City hereby agrees to budget for and pay the travel and subsistence expenses of EMPLOYEE for professional and official travel, meetings, conferences, training, seminars, and occasions consistent with the CITY's Travel Policy applicable to all City employees.

SECTION 6. INDEMNIFICATION AND BONDING.

- (A) The CITY shall defend, save harmless and indemnify the EMPLOYEE against any tort, professional liability claim or demand or other legal claim or action, whether groundless or otherwise arising out of an alleged act or omission occurring in or arising out of the good faith performance of the EMPLOYEE'S duties as Acting City Manager of the City of Palm Coast. However, this covenant shall not apply to acts outside the scope of EMPLOYEE'S employment or services. The CITY shall have the authority to compromise and settle any such claim or suit within the scope of EMPLOYEE'S employment and pay the amount of any settlement or judgment rendered thereon.
- (B) To the maximum extent permitted by law, the CITY and the EMPLOYEE shall rely upon the doctrine of sovereign immunity and the provisions of Section 786.28, *Florida Statutes*, and other applicable law.
- (C) The indemnification shall survive the termination of this Agreement.
- (D) The CITY shall bear the full cost of any fidelity or other bonds required by the EMPLOYEE under any law or ordinance.

SECTION 7. OTHER TERMS AND CONDITIONS

- (A) The City Council, in consultation with the EMPLOYEE, shall fix any such other terms and conditions of employment as it may determine 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 and other applicable law.
- (B) Except as expressly provided herein, all provisions of law and rules and regulations of the CITY relating to vacation and sick leave, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended shall apply to the EMPLOYEE as they would to other employees of the CITY.

SECTION 8. NO REDUCTION OF BENEFITS. The CITY shall not at any time during the terms of her service as Acting City Manager reduce the salary, compensation, or other financial benefits of EMPLOYEE except to the degree of such reduction across-the-board for all employees of the CITY.

SECTION 9. DEATH DURING EMPLOYMENT. If EMPLOYEE dies during the term of this employment, the CITY shall pay to the estate of the EMPLOYEE the compensation which would otherwise be payable to the EMPLOYEE up to the end of the month in which her death occurs. In addition, the CITY shall pay to the estate of the EMPLOYEE, the sick and vacation leave accrued through the end of the month in which the EMPLOYEE dies.

SECTION 10. LEGAL REPRESENTATION.

- (A) The CITY agrees that it will, through the office of the City Attorney, provide EMPLOYEE with legal representation when EMPLOYEE is party to litigation based upon her position or employment with the City of Palm Coast, and in addition, litigation based upon alleged acts or omissions arising out of or in the course and scope of employment. Attorney's fees and courts costs shall be the expense of the CITY.
- (B) The CITY further agrees that such legal representation shall be provided where litigation has commenced during or after termination of employment, and shall continue after termination of employment, and shall so continue until such litigation has ended.
- (C) The CITY further agrees that, in the event of a conflict of interest within the office of the City Attorney, or the refusal of same to so represent the EMPLOYEE, pursuant to the provisions set forth in Paragraph A and B above, the CITY shall provide counsel to represent her. The selection of said counsel shall be made at the sole discretion of the CITY. Attorney's fees and costs shall be reimbursed by the CITY in accordance with law.

- (D) The CITY shall have the authority to compromise and settle any such claim or suit within the scope of EMPLOYEE’S employment and pay the amount of any settlement or judgement rendered thereon.
- (E) Provided, however, that the CITY will not be held responsible for any legal fees of the EMPLOYEE as result of litigation arising from her dismissal as City Manager from employment by the City Council.

SECTION 11. GENERAL PROVISIONS.

- (A) The text herein shall constitute the entire agreement between the parties.
- (B) This Agreement shall be binding upon and inure benefits of the successors, heirs, and personal representatives of the respective parties.
- (C) If any provisions or portion of a provision of this Agreement proves to be unconstitutional, invalid, unlawful, or unenforceable, it shall not held to invalidate or impair the validity, force, or effect of any other provisions or part of this Agreement.

IN WITNESS THEREOF, the CITY has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk and the EMPLOYEE has signed and executed this Agreement, in duplicate, the day and year first above written.

WITNESS:

CITY OF PALM COAST, FLORIDA

By: _____

David Alfin, Mayor

ATTEST: _____

Kaley Cook, City Clerk

WITNESS:

EMPLOYEE

Lauren Johnston