

**DRAFT – 5/2/2016**

**EMPLOYMENT AGREEMENT**

**THIS AGREEMENT**, made and entered into this 5<sup>th</sup> day of May, 2016, by and between the City of Gainesville, Florida, hereinafter called the "City" and Anthony R. Lyons, hereinafter also called "City Manager", both of whom understand as follows:

**WITNESSETH:**

**WHEREAS**, Anthony R. Lyons has been continuously employed with the City of Gainesville since February 14, 2013 and currently holds the full-time, regular position of Interim City Manager for the City of Gainesville;

**WHEREAS**, Anthony R. Lyons is qualified and competent to serve as the City Manager, and is ready, willing and able to perform the duties of City Manager consistent with the following terms and conditions; and

**WHEREAS**, Anthony R. Lyons and the City of Gainesville feel it would be mutually beneficial to enter into a contract of employment setting forth agreements and understandings which:

1. provide inducement for the City Manager to accept such employment with the City;
2. make possible full work productivity by assurances to the City Manager with respect to future security;
3. establish the basis, framework and context for the relationship which shall exist between the City and the City Manager; and
4. provide a just means of terminating the City Manager's services at such time as the City Commission may desire to terminate such employment;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the

**DRAFT – 5/2/2016**

parties agree as follows:

**Section 1. Duties.**

The City Commission hereby agrees to employ Anthony R. Lyons as the City Manager of the City of Gainesville to perform duties and functions of said position as specified in the City Charter, Code of Ordinances, and job description, if any, and such other lawful duties as the City Commission may from time to time assign the City Manager.

**Section 2. Term.**

This Agreement shall be of a continuing nature, provided, however, that:

A. The City Manager shall hold office at the will of the City Commission, and nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Commission to terminate the services of the City Manager at any time, subject only to the provisions set forth in Section 4 of this Agreement.

B. Nothing in this Agreement shall prevent, limit, or interfere with the right of the City Manager to resign at any time from his position with the City, subject only to the provisions set forth in Section 4 of this Agreement.

C. The City Manager shall report for duty as City Manager for the City of Gainesville on May 9, 2016. Because Mr. Lyons was employed with the City of Gainesville immediately preceding his appointment to City Manager, the date he last became employed by the City, or February 14, 2013, shall be the City Manager's leave progression date for the purposes of computing benefits.

**Section 3. Salary and Related Matters.**

A. The City Agrees to pay the City Manager for his services rendered pursuant hereto an annual base salary of \$222,000.00, payable in equal installments at the same time as other

**DRAFT – 5/2/2016**

employees of the City are paid. The City agrees to increase said base salary and/or benefits of the City Manager in such amounts and to such extent as the City Commission and the City Manager may determine that it is desirable to do so. The City Manager's performance, salary, and benefits shall be reviewed after the conclusion of every fiscal year by the City Commission. The performance objectives and review procedures will be established by mutual agreement of the City Manager and City Commission at the beginning of the fiscal year for the next review period. Any salary increases, except for those provided in Section 9 below, will be based on the City Manager's performance of the established performance objectives and review procedures in the prior fiscal year and become effective on the first Monday of the first full pay period of the next calendar year.

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

C. All provisions of the City Charter and the Code, and regulations, policies, and rules of the City relating to fringe benefits and working conditions as they now exist or hereafter may be amended, including without limitation, health insurance and disability retirement benefits, also shall apply to the City Manager as they would to other management employees of the City hired on February 14, 2013, except as herein provided.

D. The City Manager shall be entitled to the rights described in said Human Resources Policy L-3 except as modified as follows. Upon commencement of employment as City Manager, the City Manager shall receive 82.25 hours of PTO. Beginning with the ninth (9<sup>th</sup>) pay period after commencement of employment as City Manager, the City Manager shall accrue

**DRAFT – 5/2/2016**

PTO at the rate of 10 hours 28 minutes per pay period or the rate of accrual per pay period applicable to City Manager's leave progression date, whichever is greater. The maximum number of PTO hours that can be accrued (carryover cap) is 560 hours, adjusted as otherwise provided in Policy L-3. The City Manager is not eligible to earn administrative leave.

Upon termination of employment, unused and accrued PCLB is forfeited and not compensable under any circumstances unless otherwise generally allowed for management employees of the City hired on City Manager's leave progression date.

E. The City Manager shall have the option of utilizing either the City's contractual medical provider or his personal physician for a yearly physical exam and EKG, provided that, in the latter case, the monetary exposure for the City shall not exceed \$250. If a personal physician is utilized, City Manager will be required to submit any bills for the services provided through any available insurance coverage before requesting reimbursement from the City for non-covered deductibles or co-insurance payments. The scope of the examination will be that of a "Type A" physical examination as described in the City's contract with Family Practice Medical Group or an examination of a similar scope with any successor provider. Services provided by a personal physician other than those listed under Type A above shall not be subject to reimbursement under this paragraph.

F. The City shall provide the City Manager term life insurance under the City's group plan, in an amount equal to approximately two (2) times the salary of the City Manager up to a maximum of \$250,000. The parties understand that, in accordance with law, a portion of the life insurance provided, and the amount of premium payments, may constitute a taxable benefit to the City Manager.

**Section 4. Termination and Severance Pay.**

**DRAFT – 5/2/2016**

A. In the event the City Manager's employment is terminated by virtue of his resignation, he shall inform the City Commission in writing and shall give the City Commission two (2) months written notice in advance, unless the parties otherwise agree.

B. In the event the City Manager is terminated for cause as so stated by at least four (4) members of the City Commission, at the time of termination, the City shall have no obligation to provide any severance pay, but accrued and unused PTO shall be paid for. It is understood and agreed that the City Commission will be the sole judge as to the effectiveness and efficiency with which the City Manager performs his employment, and whether cause exists for the termination of such. By way of illustration, but not limitation, the following are some examples of situations the parties agree could reasonably be deemed "cause" warranting denial of severance pay: gross negligence in the handling of City affairs; willful violation of the provisions of law; willfully disregarding a direct order or demand of the City Commission or a policy of the City; conduct unbecoming a City Manager; pleading guilty or *nolo contendere* to, or being found guilty by a jury or court of a misdemeanor involving physical violence, theft, driving under the influence of alcohol or drugs or possession or sale of drugs, or a felony, regardless of whether or not adjudication is withheld and probation imposed.

C. In the event the City Manager's employment is terminated under any other circumstances during such time as the City Manager is willing and able to perform the duties of City Manager, then the City Manager shall be entitled to severance pay in the amount equal to 20 weeks' salary less appropriate deductions for federal withholding and other applicable taxes.

D. If termination of employment occurs under any other circumstance, i.e., death or disability, or the City Manager is unable, or anticipated to be unable, to perform the duties of his position due to a physical or mental impairment for a period of 90 consecutive days, or 180 days

out of the next 365 days, then the parties may agree to terminate the City Manager and pay the City Manager, effective the last day of his employment, an amount, less appropriate deductions for federal withholding and other appropriate taxes up to a maximum of 12 weeks' salary at his current rate of pay, in addition to any accrued and unused PTO and any other benefits to which he is entitled.

E. Any severance pay provided to the City Manager by the City shall not exceed an amount greater than 20 weeks of salary, provided, however, the City Manager is prohibited from receiving any severance pay from the City if the City Manager's employment is terminated by the City Commission for misconduct, as defined in Florida Statute Section 443.036(30).

**Section 5. Dues and Subscriptions.**

The City agrees to pay for the professional dues and subscriptions of the 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. The total expenditure for dues and subscriptions may be limited by the amount specifically approved and appropriated in the City's Annual Financial and Operating Plan Budget.

**Section 6. Bonding.**

The City shall bear the full cost of any fidelity or other bonds required of the City Manager under any law or ordinance.

**Section 7. Vehicle.**

The City agrees to provide the City Manager the option of choosing either a City-provided vehicle for his use in performing the duties of his employment and for commuting and de minimus personal use or a \$450.00 monthly car allowance.

**Section 8. Retirement.**

The City agrees to execute all necessary agreements provided by the International City Management Association Retirement Corporation (ICMARC) or similar City approved providers for participation in any such retirement plans sponsored by the City. The City Manager will decide the percentage of his base salary that he desires to have contributed/deferred to such plans and the City will implement his decision to the extent allowed by law by, among other things, deducting appropriate equal proportionate amounts each pay period. The City agrees to transfer ownership of said funds to succeeding employers upon the City Manager's termination, if such is in accordance with the plan provisions and legal requirements in effect at that time.

**Section 9. Recruitment and Retention Increases.**

A. In consideration of the agreement by Mr. Lyons to become employed as the City Manager and to incent his continued employment as the City Manager for the City, and independent of any performance increases provided under Section 3 of this Agreement, the City agrees to increase Mr. Lyons' base rate of pay by \$6,500.00 upon his completion of one (1) year of service as the City Manager for the City (hereinafter, "Year One Recruitment and Retention Increase") and to subsequently increase Mr. Lyons' base rate of pay by \$10,000.00 upon his completion of three (3) years of service as the City Manager for the City (hereinafter, "Year Three Recruitment and Retention Increase").

B. Notwithstanding the foregoing, to qualify for the Year One Recruitment and Retention Increase, Mr. Lyons must remain in the employment of the City as the City Manager with the City for a period of not less than one (1) year. If said employment is terminated by Mr. Lyons for any reason, including his inability to perform the duties of his position due to disability or death, within one (1) year of May 9, 2016, Mr. Lyons will not receive the Year One Recruitment

**DRAFT – 5/2/2016**

and Retention Increase. If Mr. Lyons qualifies for the Year One Recruitment and Retention Increase as a result of remaining in the employment by the City as set forth above, such increase is effective on May 9, 2017.

C. Notwithstanding the foregoing, to qualify for the Year Three Recruitment and Retention Increase, Mr. Lyons must remain in the employment as the City Manager with the City for a period of not less than three (3) years. If said employment is terminated by Mr. Lyons for any reason, including his inability to perform the duties of his position due to disability or death, within three (3) years of May 9, 2016, Mr. Lyons will not receive the Year Three Recruitment and Retention Increase. If Mr. Lyons qualifies for the Year Three Recruitment and Retention Increase as a result of remaining in the employment by the City as set forth above, such increase is effective May 9, 2019.

D. Section 9 of this Agreement is not an agreement by or on behalf of the City to employ Mr. Lyons for any specific time period, nor does it modify or restrict the City's rights to terminate Mr. Lyons' employment with the City. Nothing contained in Section 9 shall be construed to restrict or otherwise limit in any way Mr. Lyons' right to terminate his employment with the City at any time and for any reason whatsoever.

**Section 10. General Provisions.**

- A. The text herein shall constitute the entire Agreement between the parties.
- B. If any provision, or any portion thereof, contained in this Agreement is held 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.
- C. Except as otherwise provided herein, the terms and conditions of employment described in this Agreement shall be effective May 9, 2016.



**DRAFT – 5/2/2016**

**IN WITNESS WHEREOF**, the City has caused this Employment Agreement to be signed and executed on its behalf by its Mayor, and duly attested to by its Clerk of the Commission, and the City Manager has signed and executed this Employment Agreement, both in duplicate on the respective dates under each signature.

CITY OF GAINESVILLE

\_\_\_\_\_

LAUREN POE

MAYOR

DATED: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_

KURT LANNON

CLERK OF THE COMMISSION

DATED: \_\_\_\_\_

\_\_\_\_\_

ANTHONY R. LYONS

CITY MANAGER

DATED: \_\_\_\_\_