

## EMPLOYMENT AGREEMENT

**THIS AGREEMENT**, made and entered into this 6 day of Sept, 2021, by and between the City of Gainesville, Florida, hereinafter called the "City" and Zeria Folston, hereinafter also called "Interim Equity and Inclusion Director", both of whom understand as follows:

### **WITNESSETH:**

**WHEREAS**, Zeria Folston is qualified and competent to serve as the Interim Equity and Inclusion Director, and is ready, willing and able to perform the duties of the Equity and Inclusion Director consistent with the following terms and conditions; and

**WHEREAS**, Zeria Folston 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 Interim Equity and Inclusion Director to accept such employment with the City;
2. make possible full work productivity by assurances to the Interim Equity and Inclusion Director with respect to future security;
3. establish the basis, framework and context for the relationship which shall exist between the City and the Interim Equity and Inclusion Director; and
4. provide a just means of terminating the Interim Equity and Inclusion Director 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 parties agree as follows:

### **Section 1. Duties.**

The City Commission hereby agrees to employ Zeria Folston as the Interim Equity and Inclusion Director 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 Interim Equity and Inclusion

Director.

**Section 2. Term.**

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

A. The Interim Equity and Inclusion Director 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 Interim Equity and Inclusion Director 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 Interim Equity and Inclusion Director to resign at any time from their position with the City, subject only to the provisions set forth in Section 4 of this Agreement.

C. The Interim Equity and Inclusion Director shall report for duty as Interim Equity and Inclusion Director for the City of Gainesville on September 6, 2021, which date shall be the Interim Equity and Inclusion Director's leave progression date for the purposes of computing benefits.

D. This Agreement and the position of the Interim Equity and Inclusion Director will terminate upon the commencement of employment of an Equity and Inclusion Director. Upon the termination of this Agreement and the position, the City will return Zeria Folston to the position of Policy Oversight Administrator or an equivalent position, if possible.

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

A. The City Agrees to pay the Interim Equity and Inclusion Director for their services rendered pursuant hereto an annual base salary of \$142,158.00, payable in equal installments at the same time as other employees of the City are paid. Included in the annual base salary is an amount equal to the City's cost for individual health coverage in consideration of the value of a health

insurance election. The Interim Equity and Inclusion Director agrees, that in the event that they elect employer provided health insurance, the base annual salary above will be reduced by the amount of \$6,708, which represents the annual employer cost of individual coverage as of the date of this agreement. The City agrees to increase said base salary and/or benefits of the Interim Equity and Inclusion Director in such amounts and to such extent as the City Commission and the Interim Equity and Inclusion Director may determine that it is desirable to do so. The Interim Equity and Inclusion Director's performance, salary, and benefits shall be reviewed not less than annually. The performance objectives and review procedures will be established by mutual agreement of the Interim Equity and Inclusion Director and City Commission at the beginning of the fiscal year for the next review period. Any salary increases will be based on the Interim Equity and Inclusion Director'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 Interim Equity and Inclusion Director, 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 Interim Equity and Inclusion Director as they would to other management employees of the City hired on September 6, 2021, except as herein provided.

D. The Interim Equity and Inclusion Director shall be entitled to the rights described in

said Human Resources Policy L-3 except as modified as follows. Upon commencement of employment as Interim Equity and Inclusion Director, the Interim Equity and Inclusion Director shall receive 82.25 hours of PTO upon employment. Beginning with the ninth (9<sup>th</sup>) pay period after commencement of employment as Interim Equity and Inclusion Director, the Interim Equity and Inclusion Director shall accrue PTO at the rate of 10 hours 28 minutes per pay period or the rate of accrual per pay period applicable to Interim Equity and Inclusion Director's March 3, 2020, 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 Interim Equity and Inclusion Director 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 Interim Equity and Inclusion Director's leave progression date.

E. The Interim Equity and Inclusion Director shall have the option of utilizing either the City's contractual medical provider or their personal physician for a yearly physical exam and EKG, provided that, in the latter case, the monetary exposure for the City shall not exceed \$250.00. If a personal physician is utilized, Interim Equity and Inclusion Director 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 Interim Equity and Inclusion Director term life insurance

under the City's group plan, in an amount equal to approximately two (2) times the salary of the Interim Equity and Inclusion Director up to a maximum of \$250,000.00. 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 Interim Equity and Inclusion Director.

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

A. In the event the Interim Equity and Inclusion Director's employment is terminated by virtue of their resignation, they 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 Interim Equity and Inclusion Director 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 Interim Equity and Inclusion Director performs their 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 of an Interim Equity and Inclusion Director; 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 that this Agreement and the position of Interim Equity and Inclusion

Director is terminated under Section 2.D. but the City is unable to return Zeria Folston to his former position of Policy Oversight Administrator or an equivalent position, and during such time as Zeria Folston is willing and able to perform the duties of Interim Equity and Inclusion Director, then the Interim Equity and Inclusion Director shall be entitled to severance pay in the following amounts, less appropriate deductions for federal withholding and other applicable taxes. If such termination occurs during the first year of employment as Interim Equity and Inclusion Director, the City agrees to pay employee an amount equal to 15 weeks' salary; if such termination occurs during the second year of such employment, the City agrees to pay employee an amount equal to 17 weeks' salary; if such termination occurs during the third year and thereafter of such employment, the City agrees to pay employee an amount equal to 20 weeks' salary. Any severance pay due under this Agreement shall be paid to the Interim Equity and Inclusion Director in a lump sum payment during the next regular payroll period following their termination of employment.

D. If termination of employment occurs under any other circumstance, i.e., death or disability, or the Interim Equity and Inclusion Director is unable, or anticipated to be unable, to perform the duties of their 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 Interim Equity and Inclusion Director and pay the Interim Equity and Inclusion Director, effective the last day of their employment, an amount, less appropriate deductions for federal withholding and other appropriate taxes up to a maximum of 12 weeks' salary at their current rate of pay, in addition to any accrued and unused PTO and any other benefits to which they are entitled.

E. Any severance pay provided to the Interim Equity and Inclusion Director by the City shall not exceed an amount greater than 20 weeks of salary, provided, however, the Interim Equity and Inclusion Director is prohibited from receiving any severance pay from the City if the

Interim Equity and Inclusion Director's employment is terminated by the City Commission for misconduct, as defined in Florida Statute Section 443.036(29) (Fla. Stat. 2021).

**Section 5. Dues and Subscriptions.**

The City agrees to pay for the professional dues and subscriptions of the Interim Equity and Inclusion Director necessary for their continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for their 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 Interim Equity and Inclusion Director under any law or ordinance.

**Section 7. Vehicle.**

The City agrees to provide the Interim Equity and Inclusion Director the option of choosing either a City-provided vehicle for their use in performing the duties of their 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 Interim Equity and Inclusion Director will decide the percentage of their base salary that they desire to have contributed/deferred to such plans and the City will implement their 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 Interim Equity and Inclusion Director's termination, if such is in accordance with the plan provisions and legal requirements in effect at that time.

**Section 9. 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 September 6, 2021.


**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 Interim Equity and Inclusion Director has signed and executed this Employment Agreement, both in duplicate on the respective dates under each signature.




CITY OF GAINESVILLE

  
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LAUREN POE  
MAYOR  
DATED: 9/6/21

ATTEST:

BY:  Marie P. Kessler  
\_\_\_\_\_  
OMICHELE D. GAINES  
CLERK OF THE COMMISSION  
DATED: \_\_\_\_\_  
Deputy Clerk

  
\_\_\_\_\_  
ZERIAH FOLSTON  
INTERIM EQUITY AND INCLUSION  
DIRECTOR  
DATED: 9/6/21

