

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of September, 2023, by and between the City of Gainesville, Florida, hereinafter called the "City" and Zeria Folston, hereinafter also called "Equal Opportunity Director," both of whom understand as follows:

WITNESSETH:

WHEREAS, Zeria Folston has been continuously employed with the City of Gainesville since March 30, 2020;

WHEREAS, Zeria Folston currently holds the full-time regular position of Interim Equity and Inclusion Director with the City Equal Opportunity Office for the City of Gainesville;

WHEREAS, Zeria Folston is qualified and competent to serve as the Equal Opportunity Director, and is ready, willing and able to perform the duties of the Equal Opportunity 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 Equal Opportunity Director to accept such appointment with the City;
2. make possible full work productivity by assurances to the Equal Opportunity Director with respect to future security;
3. establish the basis, framework and context for the relationship which shall exist between the City and the Equal Opportunity Director; and
4. provide a just means of terminating the Equal Opportunity Director's services at such time as the City Commission or the Equal Opportunity Director may desire to terminate such appointment;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties.

The City Commission hereby agrees to appoint and employ Zeria Folston as the Equal Opportunity 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 Equal Opportunity Director.

Section 2. Term.

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

A. Zeria Folston shall hold office as the Equal Opportunity Director 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 his appointment as the Equal Opportunity 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 Zeria Folston to terminate the appointment as the Equal Opportunity Director or resign his underlying position with the City, subject only to the provisions set forth in Section 4 of this Agreement.

C. Zeria Folston has been acting as the Equal Opportunity Director for the City of Gainesville since February 6, 2023. Because Zeria Folston was employed with the City of Gainesville immediately preceding his appointment to Equal Opportunity Director, the date he first became employed by the City, or March 30, 2020 shall be the Equal Opportunity Director's leave progression date for the purposes of computing benefits, except as otherwise specified herein.

Section 3. Salary and Related Matters.

A. The City agrees to pay the Equal Opportunity Director for his services rendered pursuant hereto an annual base salary of \$188,748.00, payable in equal installments at the same time as other employees of the City are paid. The City agrees to increase said base salary and/or benefits of the Equal Opportunity Director in such amounts and to such extent as the City Commission and the Equal Opportunity Director may determine that it is desirable to do so. The Equal Opportunity Director'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 should be established at the beginning of the fiscal year for the next review period. Any salary increases will be based on the Equal Opportunity Director's performance 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 Equal Opportunity 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 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 Equal Opportunity Director as they would to other management employees of the City hired on March 30, 2020, except as herein provided.

D. The Equal Opportunity Director shall be entitled to the rights described in the City's Human Resource Policies, including L-3, except as modified as follows. Upon commencement of employment as the Equal Opportunity Director, the Equal Opportunity Director shall receive 82.25

hours of PTO. Beginning with the ninth (9th) pay period after commencement of employment as Equal Opportunity Director, the Equal Opportunity Director shall accrue PTO at the rate of 10 hours 47 minutes per pay period or the rate of accrual per pay period applicable to Equal Opportunity Director'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 Equal Opportunity Director is not eligible to earn administrative leave.

Upon termination of employment, earned and accrued PTO shall be paid to the Equal Opportunity Director, and earned and accrued PCLB shall be resolved as generally allowed for management employees of the City hired on the Equal Opportunity Director's leave progression date.

E. The Equal Opportunity Director 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, the Equal Opportunity 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 or pay for term life insurance, in an amount equal to approximately two (2) times the salary of the Equal Opportunity Director 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 Equal Opportunity Director.

Section 4. Termination and Severance Pay.

A. In the event Zeria Folston's appointment as the Equal Opportunity Director is terminated by virtue of his own initiative, 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 Equal Opportunity 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 Equal Opportunity Director 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 termination of appointment: gross negligence in the handling of City affairs; willful violation of the provisions of law; willfully disregarding a lawful direct order or demand of the City Commission or a policy of the City; conduct unbecoming a Equal Opportunity 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 the Equal Opportunity Director's employment is terminated under any other circumstances during such time as the Equal Opportunity Director is willing and able to

perform the duties of Equal Opportunity Director, then the Equal Opportunity Director shall be entitled to severance pay in the amount equal to 20 weeks' salary less appropriate deductions for federal withholding and other applicable taxes, in addition to payment for any earned and accrued annual, sick, or compensatory leave (PTO and PCLB).

D. If termination of employment occurs under any other circumstance, i.e., death or disability, or the Equal Opportunity Director 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 Equal Opportunity Director and pay the Equal Opportunity Director, 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 the Equal Opportunity Director is entitled.

E. Any severance pay provided to the Equal Opportunity Director by the City shall not exceed an amount greater than 20 weeks of salary, provided, however, the Equal Opportunity Director is prohibited from receiving any severance pay from the City if the Equal Opportunity Director's employment is terminated by the City Commission for misconduct, as defined in Section 443.036(29), Florida Statutes (2022).

Section 5. Dues and Subscriptions.

The City agrees to pay for the professional dues and subscriptions of the Equal Opportunity Director 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 Equal Opportunity Director under any law or ordinance.

Section 7. Retirement.

A. The City agrees to execute all necessary agreements provided by MissionSquare or similar City approved providers for participation in any such retirement plans sponsored by the City. The Equal Opportunity Director 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 Equal Opportunity Director's termination, if such is in accordance with the plan provisions and legal requirements in effect at that time.

Section 8. 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 February 6, 2023.

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 City Clerk, and the Equal Opportunity Director has signed and executed this Employment Agreement, both in duplicate on

the respective dates under each signature.

CITY OF GAINESVILLE

HARVEY WARD

MAYOR

DATED:_____

ATTEST:

BY:_____

KRISTEN BRYANT

CITY CLERK

DATED:_____

ZERIAH FOLSTON

EQUAL OPPORTUNITY DIRECTOR

DATED:_____