

CITY OF CRAIG MEMORANDUM

To: Craig City Council
From: Jon Bolling, City Administrator
Date: November 1, 2021
RE: Consider Approval of City Administrator Employment Contract

Mayor O'Connor recently worked with a committee on the recruitment of the soon-to-be-vacant City Administrator position. The mayor and committee are in agreement that the position be offered to Mr. Brian Templin.

Attached is a draft employment contract between the city and Brian Templin. The contract is based on a review by the city attorney, Mayor O'Connor, and Brian. The contract term is for one year, ending October 31, 2022. At that point, or sometime sooner, the parties to the employment contract are free to negotiate a renewal or other terms.

Along with three public members, Councilmembers Julie McDonald, Millie Schoonover, and Jim See served with Mayor O'Connor on the recruitment committee. The recruitment process resulted in eight applications; three of those applicants were interviewed, in person, by the committee.

Recommendation

That the council approve, by motion, an employment contract with Brian Templin for the position of City Administrator.

EMPLOYMENT AGREEMENT

CRAIG CITY ADMINISTRATOR

THIS AGREEMENT, made and entered into on November ____, 2021 by and between the City of Craig, Alaska, a municipal corporation, hereinafter called "City," and Brian Templin, hereinafter "Templin" in consideration of the mutual covenants herein contained, the City and Templin agree and understand as follows:

Section 1. Employment, Duties and Authority:

A. The City has agreed to employ Templin as City Administrator. Templin agrees to accept employment as the City Administrator consistent with the terms of this Agreement.

B. Templin shall, consistent with State law and in full compliance with City code, and the degree to which the Mayor (as Chief Executive Officer) has delegated any of the Mayor's CEO functions pursuant to Craig Municipal Code Sec. 2.04.040(D), shall include, but not be limited to the following: the overall management, administration and direction of City operations; the hiring, disciplining and terminating of City employees; the negotiation, execution and administration of City contracts within budget appropriations pursuant to City policy and code; policy advice to elected officials and open communication with the community so as to foster responsive and courteous public service.

C. Templin shall conscientiously, diligently, in good faith, and to the best of Templin's ability, experience, and talents perform all the duties and responsibilities required of the City Administrator pursuant to the express terms in this Agreement, and as to the responsibilities of the City Administrator in the City Code. Templin further agrees to faithfully observe the terms of this Agreement.

Section 2. Term:

A. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council or Mayor with Council approval to terminate the services of Templin at any time, subject only to the provisions set forth in Section 4.

B. Templin shall not terminate this Agreement except upon providing ninety (90) days written notice to the Mayor. Termination by Templin with less than ninety days written notice to the Mayor shall constitute a material breach of this Agreement.

C. The term of this agreement begins November 5, 2021 and ends October 31, 2022. Templin agrees to remain in the exclusive employ of the City from November 1, 2021 to October 31, 2022, and agrees that he will not accept other employment nor to become employed by any other employer during the term of this Agreement, without prior written approval of the City.

D. This Agreement shall terminate automatically at the end of the contract term unless the parties agree in writing to extend the Agreement for one or more additional terms or otherwise enter a new agreement or extend this agreement with amendments. Notwithstanding this provision, this Agreement may be terminated as provided in Section 4 of this Agreement.

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Section 3. Suspension:

The City may suspend Templin with full pay and benefits at any time during the term of this Agreement, by decision of the Mayor with confirmation from the Council.

Section 4. Termination:

A. Templin's employment is strictly at will employment. The City, at its sole discretion, may terminate this employment at any time without cause and without notice. If the City terminates Templin employment with cause, then Templin shall receive no severance pay, unless otherwise approved by the Council. If Templin terminates the employment, Templin is not entitled to any severance pay. If the City terminates the Agreement other than for cause, the City shall pay Templin severance pay in a lump sum equal to 3 months' pay at Templin's highest rate of pay during his term of City employment plus all accrued vacation benefits. The severance pay shall not include pay for any unused sick leave or accrued sick leave.

B. Either party may terminate this Agreement upon providing ninety (90) days written notice to the other party. Templin shall not be entitled to any severance pay upon termination under this provision, unless otherwise approved by the Council.

Section 5. Disability:

If Templin is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, or for twenty working days over a thirty (30) working day period, the City shall have the option to terminate this Agreement, subject to the severance pay requirements of Section 4.

Section 6. Salary and Benefits:

A. Templin's salary shall be \$75,000 annually. The City may, but is not required, to conduct a performance evaluation of Templin, and may choose to do so at intervals in the sole discretion of the Mayor. Templin shall be entitled to the benefits of other full-time Municipal employees, except as inconsistent with this Agreement and except as specifically exempted pursuant to Section 11 of this Agreement.

B. Vacation Time. Templin's previously accrued annual leave with the City shall carry over to this contract.

Section 7. Annual Goal-Setting and Performance Evaluation:

A. The Mayor and individual members of the Council may but are not required to periodically identify their concerns to Templin by either informal discussions with Templin or by more formal means during Council meetings. The Mayor shall meet with Templin at least annually for the purpose of setting Council goals and priorities. The Mayor may but is not required to meet with Templin annually to evaluate and assess the performance of Templin in meeting or progressing toward the goals of the Council. If the Mayor or Council chooses to

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evaluate Templin, Templin is required to fully cooperate with the Mayor and Council in completing that evaluation process.

B. In the event the Mayor or Council determines that the performance of Templin is unsatisfactory in any respect or needs significant improvement in an area, the Mayor may describe these concerns in writing.

Section 8. Hours of Work:

Templin understands and agrees that he is exempt under the Fair Labor Standards Act (FLSA) and that he is not entitled to any overtime in such circumstances. The provisions of the Alaska Wage and Hour Act, 23.10.010 et seq., do not apply to the employment of this position [AS 23.10.060(d)(12)]. Templin understands he is not a beneficiary of the City's personnel rules as adopted from time to time, except as provided under Section 11 of this Agreement. Templin may be expected to and should expect to on occasion work in excess of 40 hours per week and more than 8 hours in a day.

Section 9. Indemnification:

The City shall defend, save harmless and indemnify Templin against any tort claim, professional liability claim or demand, or other legal action brought by any third party, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Templin's duties as City Administrator. The City's obligation to defend and indemnify Templin shall not, however, extend to any acts or omissions of Templin of malfeasance or which are beyond the scope of Templin's employment with the City. The City or its insurer shall have the authority to settle and pay any such claims or suit. The City may utilize, to the extent it is available, any applicable insurance coverage, which the City has procured. To the extent not inconsistent with the above, nothing contained in this provision shall be interpreted as limiting or diminishing the City's legal right against Templin.

Section 10. Bonding:

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

Section 11. Other Terms and Conditions of Employment:

A. All provisions of the City Code and regulations and rules of the City relating to retirement and pension contributions, holidays, and other fringe benefits as they now exist or hereafter may be amended, shall also apply to Templin as they would to other employees of the City, except to the extent such general Code, rules, and regulations are inconsistent with specific terms of this Agreement. In the event of any inconsistency between the terms of this Agreement and any City Codes, rules, or regulations, this Agreement governs.

B. Templin shall comply with Sections 103-105, 109-110, 112, 202-204, 501-504, 506, 508-512 and 701-706 as set out in the City of Craig Employee Handbook.

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C. Templin understands and acknowledges that he is specifically not entitled to any of the benefits or procedures contained in Section 710, Progressive Disciplines and Section 711, Problem Resolutions of the City of Craig Employee Handbook.

Section 12. Notices:

Notices pursuant to this Agreement shall be given by personal delivery or by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- (1) City: City of Craig
P.O. Box 725
Craig, AK 99921

- (2) Employee: Brian L. Templin
PO Box 443
Craig, AK 99921

Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 13. General Provisions:

A. This Agreement contains the final and entire agreement between the City and Templin. The City and Templin shall not be bound by any terms, conditions, statements or representations, oral or written, not contained in this Agreement or not contained in a written amendment of this Agreement signed by the City and Templin. This Agreement may be amended only by written agreement signed by the parties. This Agreement supersedes any and all previous and existing agreements, and all previous discussions, whether oral or written.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Templin.

C. This Agreement shall become effective when signed by both City and Templin.

D. 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, and shall not be affected and shall remain in full force and effect.

E. This Agreement has been negotiated and executed in the State of Alaska, and the laws of Alaska shall govern its construction and interpretation.

F. The Superior Court for the State of Alaska, First Judicial District at Klawock, Alaska, shall be the exclusive jurisdiction and venue for any action of any kind and any nature arising out of or related to this Agreement or arising out of or related to the performance or non-performance of this Agreement.

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G. Upon termination of this Agreement for any reason whatsoever, Templin shall return to the City all books, records, lists, and other written, typed or printed materials, whether furnished by the City or prepared by Templin, which contains any information related to the City. Templin shall neither make nor retain any copies of such materials after termination of this Agreement without the prior written consent of the city council. Templin shall immediately turn over to the Mayor all keys, and any laptop, iPad, cell phone, or any other similar electronic device provided to him for use in his employment, and shall not delete or remove any content from any such electronic device before returning it to the Mayor.

H. Templin acknowledges that his employment does not confer upon him any ownership interest in or personal claim to any laptop, iPad, cell phone, or any other similar electronic device. Templin expressly agrees that the compensation and benefits received or payable to Templin is all the compensation due the Templin with respect to Templin's services.

I. There are no other agreements, either oral or written between Templin and the City and specifically, Templin does not have any rights or benefits that may be available to any other employees of the City by virtue of any employee manuals or handbooks, other than as specified in this Agreement.

J. No waiver of any breach shall be valid or binding unless approved in writing by the nonbreaching party. Forbearance or indulgence by the nonbreaching party shall not constitute a waiver of the covenant or condition to be performed by the breaching party or of any remedy available to the nonbreaching party. No waiver of any breach of this Agreement shall constitute or be deemed a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative to every other remedy provided hereby or at law

Section 14: Mediation:

As a condition precedent to filing any action in court with respect to any dispute arising out of or relating to this Agreement or arising out of or relating to Templin's employment with the City, Templin agrees to submit that dispute to mediation with a professional mediator mutually agreed to by Templin and the City, and Templin agrees to make a good faith effort to resolve the dispute in mediation, including agreement of a mediator.

Section 15: Modifications:

No modification of this Agreement shall be valid unless in writing and approved by the Mayor and confirmed by the Council. Templin understands that no Council member, City employee, or consultant has any actual or apparent authority or authorization to make any oral promises or guarantees to Templin, nor any actual or apparent authority or authorization to modify this agreement in any respect, nor any actual or apparent authority to extend this agreement orally. Templin acknowledges and understands that only the Mayor with confirmation of the Council is authorized to approve this agreement or to authorize any extension of this Agreement or to approve any modification or change to the Agreement.

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Section 16: Acknowledgement of Representation:

Templin acknowledges that he has had a full opportunity to consult with attorneys of his choice before signing this Agreement. Templin acknowledges that he is not relying on any statements or representations made by any employees, representatives, officers, consultants, the Mayor, or Council members of the City in entering this Agreement, and he further acknowledges that he has not received and is not relying on any legal advice or representations by the City's attorneys.

IN WITNESS WHEREOF, the CITY OF CRAIG, ALASKA, has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested by its Clerk, and Templin has signed and executed this Agreement, both in duplicate, the day and year first above written.

Tim O'Connor, Mayor

Brian Templin

Date

Date

ATTEST:

City Clerk