

EMPLOYMENT AGREEMENT

THIS AGREEMENT ("Agreement"), made and entered into on this ____ day of _____, 2021, by and between the CITY OF DELRAY BEACH, a Florida municipal corporation, hereinafter referred to as the "City" and TERRENCE R. MOORE, hereinafter referred to as "Employee", both of whom understand as follows:

WHEREAS, the City desires to employ the services of Terrence R. Moore as the City Manager of the City of Delray Beach, Florida, as provided for in Article IV of the City Charter of the City of Delray Beach, Florida; and

WHEREAS, it is the desire of the City, through the City Commission, to provide for certain benefits, and to establish certain conditions of employment and to set certain working conditions of said employee; and

WHEREAS, Employee desires to accept employment as City Manager of the City of Delray Beach, Florida under the terms and conditions set forth herein.

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

Section 1. Duties.

The City hereby agrees to employ said Employee as the City Manager of the City of Delray Beach, Florida to perform the functions and duties specified in the City Charter and Code of Ordinances of the City of Delray Beach, Florida, and to perform other such legally permissible and proper duties and functions, consistent with the office of the City Manager, as the City Commission of the City shall from time to time assign.

Section 2. Term.

A. This Agreement shall become effective and the term of employment shall commence on Monday, August 2, 2021. The term of this Agreement shall be from the effective date of the Agreement and until termination by either party in accordance with the provisions set forth herein. During the term of this Agreement, the Employee shall be a full-time City Manager. The City Manager shall not undertake or agree to any outside employment without first obtaining the consent of the City Commission, which consent shall be in the sole discretion of the City Commission.

B. Nothing in this Employment Agreement shall prevent, limit, interfere with, or otherwise restrict the rights of the City and the City Commission to terminate the services of the

Employee at any time, with or without cause, subject only to the provisions set forth in Section 12, Paragraphs A, B and C of this Agreement, and those contained in the City Charter of the City of Delray Beach, Florida.

C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with the City, subject only to the requirements and provisions set forth in Section 12, Paragraph D, of this Employment Agreement.

Section 3. Salary.

City agrees to pay Employee for services rendered commencing upon the date of the first day Employee starts work for the City at an annual salary of Two Hundred Thirty Thousand Dollars (\$230,000.00) payable in installments at the same time as other general employees of the City are paid. The City Commission shall engage in an annual performance evaluation and salary review of said Employee made not later than in August 1st of each year being in advance of the final adoption of the annual operating budget of the City so that appropriate funding may be provided.

It is further understood that merit salary increases based on the annual performance evaluations and salary reviews are exclusive of any general cost-of-living/economy increases afforded to other employees. The Employee shall be entitled to all of the cost-of-living/economy increases which the City may grant to its upper management level employees not covered by any collective bargaining agreement, if any, when such increases are authorized and commenced by the City Commission.

Section 4. Deferred Compensation/Retirement.

At Employee's direction, the City shall make contributions on Employee's behalf, totaling 14% of Employee's base salary, into a 401a retirement or a 457 deferred compensation plan of Employee's choosing. The Employee will not be required to make a contribution to either plan. In the event such contributions to the ICMA-RC Retirement Plan exceed the maximum amount permitted by Federal law or Internal Revenue Service regulations to accrue to Employee's benefit on a tax deferred basis, said excess amount shall be paid as direct compensation to the Employee.

If the Employee elects to not participate in the ICMA retirement plan, referenced in the previous paragraph, and wishes to join the City's General Employee's Pension plan, the City agrees to enroll the Employee into the General Employee's Pension Plan and to make at least the

same level of contributions for the Employee or on the Employee's behalf as the City does for its other administrative employees consistent with all Applicable Laws and Authorities.

Section 5. Vacation and Sick Leave.

A. Upon commencing employment, the Employee shall begin to accrue sick and vacation leave on an annual basis equal to the highest annual accrual provided to all other employees, not covered by any collective bargaining agreement. Employee shall be entitled to one personal day on annual basis and in accordance with City Policies.

B. The Employee shall be entitled to military reserve leave time pursuant to state law and City policy.

C. Notwithstanding City policy to the contrary however, Employee shall be advanced the use of up to ten (10) vacation and ten (10) sick leave days from the effective date of this Agreement as a credit against his actual accrual of said leave.

Section 6. Disability, Health and Life Insurance.

The Employer agrees to provide disability insurance, health insurance, and life insurance to the Employee under the same terms and conditions as same may be provided from time to time to the general employees of the City of Delray Beach not otherwise covered by any collective bargaining agreement at no cost to Employee.

The City agrees to provide Employee with a term life insurance policy in an amount equal to two times Employee's Initial Salary with a minimum term of 30 years. The Life Insurance Policy shall provide that, upon the termination of Employee's City employment, ownership of the Life Insurance Policy may be transferred to Employee, provided Employee pays the premiums for such Policy accruing after the termination of his City employment. The Employee shall be responsible for all applicable taxes associated with the Life Insurance Policy in accordance with applicable law.

The City shall provide Employee with a long-term disability policy as provided to other non-union civilian employees of the City at no cost to Employee.

Section 7. Automobile.

The Employee's duties require that he have the use of an automobile during his employment by the City. To that end, the City shall pay Employee a car allowance of Six Hundred Dollars (\$600.00) per month.

Section 8. Moving Expenses.

The Employee shall be reimbursed, or, at the option of the City, the City may pay directly, for the expenses of packing and moving himself, his family, and his personal property from College Park, Georgia to Delray Beach, Florida with said payment or reimbursement to be limited to such reasonable and actual moving expenses, to include unpacking, storage costs, and insurance charges. The Employee agrees that he shall seek at least two (2) bids for such services, and he shall utilize the lowest competent bidder to provide such services. The total amount for reimbursement or payment of all moving expenses shall not exceed Seven Thousand Five Hundred Dollars (\$7,500).

Furthermore, the City agrees to provide the Employee assistance with temporary living quarters, for a period of time up to six (6) months following the first day of work by the Employee under this Agreement. In no event shall the total value of such assistance with temporary living quarters or the expense to the City for such temporary living quarters exceed the sum of Two Thousand Dollars (\$2,000.00) per month.

Section 9. Hours of Work.

Notwithstanding City policies and procedures to the contrary, it is recognized that the Employee must devote a great deal of time outside the normal office hours to business of the City, and to that end, the Employee will be allowed to take reasonable compensatory time off not to exceed five (5) days each year as Employee deems appropriate during said normal office hours.

Section 10. Cellular Phone.

The City shall provide to the Employee a smart phone device with full phone and e-mail capabilities. The City shall be solely responsible for the cost of the device and all monthly charges associated with Employee's regular business use of same.

Section 11. Civic Club Membership.

The City recognizes the desirability of representation in and before local civic and other organizations, and to that end the Employee is authorized to become a member of one such civic club for which the City shall pay the Employee's dues. In addition, the Employee is encouraged to take an active part in organizations such as the Delray Beach Chamber of Commerce and the like.

Section 12. Professional Development.

A. The City agrees to budget and to pay for the professional dues and subscriptions of the Employee reasonably 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 annual amount of professional dues and subscriptions shall not exceed Fifteen Hundred Dollars (\$1,500).

B. The City hereby agrees to budget for and pay the reasonable and necessary travel and subsistence expenses of the Employee for professional and official travel, meetings and occasions adequate to continue the professional development of the Employee and to adequately pursue necessary official and other functions for the City, including but not limited to the Annual Conference of the International City Management Association, the Florida League of Cities, the Government Finance Officers Association and such other national, regional, state and local governmental groups and committees thereof which the Employee serves as a member. Any office travel, meetings or conferences expenses incurred pursuant to this section which exceed a cost of \$1,000 shall require advance approval by the City Commission. Employee may not attend educational classes or conferences in excess of seven (7) business days each calendar year without first obtaining City Commission approval.

C. The City also agrees to budget and to pay for the reasonable and necessary travel and subsistence expense of the Employee for short courses, institutes, and seminars that are necessary for this professional development and for the good of the City. Any travel and education expenses incurred pursuant to this section which exceed a cost of \$1,000 shall require advance approval by the City Commission.

Section 13. Termination and Severance Pay.

A. Employee shall serve at the pleasure of the City Commission, and the City Commission may terminate the employment of Employee under this Agreement at any time, for any reason or for no reason, in accordance with the requirements and provisions of the City Charter.

B. Should the City Commission terminate the services of Employee "without cause", Employee shall be entitled twenty weeks' severance pay as defined in section 215.425, Florida Statutes. In consideration of payment of severance, Employee shall execute a general release in favor of the City, its successors and assigns. If termination of employment is for misconduct, as defined in section 443.036(29), Florida Statutes, then such severance pay to Employee is prohibited pursuant to section 215.425(4)(a)2, Florida Statutes. Employee will receive payment for any accrued vacation or sick leave prior to the effective date of the

termination by the City Commission to be paid to Employee under the same terms and policies as provided to all other employees, not covered by any collective bargaining agreement. The lump sum cash payment shall be made within thirty (30) calendar days of termination. After the payment described above, the City shall have no further financial obligation to Employee pursuant to this Agreement. This subsection shall not prevent Employee from collecting any money earned as a result of his participation in a City sponsored retirement plan (i.e., 401(a) program or 457 deferred compensation program).

C. In the event Employee is terminated for just cause, the City shall have no obligation to pay the amounts outlined in Section 12, paragraph B of this Agreement. For the purposes of this Agreement, just cause is defined and limited to, for the purposes of this Agreement, any of the following:

- (1) Misfeasance, malfeasance and/or nonfeasance in performance of his City duties and responsibilities.
- (2) Conviction of a misdemeanor or felony crime, whether or not adjudication is withheld.
- (3) Neglect of duty, including the inability or unwillingness to properly discharge the responsibilities of the office.
- (4) Violation of any substantive City policy, rule, or regulation, which would subject any other City employee to termination.
- (5) Conduct unbecoming the Employee which is defined to mean any conduct by Employee, which in the opinion of the City Commission, is inappropriate or unsuitable and which has a tendency to adversely affect, lower, or destroy City Commission respect or confidence in the ability of the Employee to perform his or her duties as City Manager or conduct which brings disrepute or discredit to the City.
- (6) Misconduct, as defined in section 443.036(29), Florida Statutes.
- (7) The commission of any fraudulent act against the interest of the City.
- (8) The commission of any act which involves moral turpitude, or which causes the City disrepute.
- (9) Violation of state or local ethics laws and codes, including, but not limited to, the Florida Code of Ethics for Public Officers and Employees, the Sunshine Amendment to the Florida Constitution, the Palm Beach County Code of Ethics, or violation of the International City/County Management Association Code of Ethics.
- (10) Any other act of similar nature of the same or greater seriousness.

If the Employee's employment is terminated pursuant to this subsection, then the City shall pay to Employee any accrued compensation due the Employee up to the Employee's final day of employment, including any accrued vacation pursuant to the same terms and policies as provided to all other employees, not covered by any collective bargaining agreement. The City shall have no further financial obligation to the Employee pursuant to this Agreement. This subsection shall not prevent Employee from collecting any money earned as a result of his participation in a City sponsored retirement plan (i.e.; 401(a) program or 457 deferred compensation program).

D. In the event the Employee voluntarily resigns his position with the City, then the Employee shall give the City at least thirty (30) calendar days' notice in advance, unless the parties otherwise agree, and in such case of voluntary resignation, the Employee shall not be eligible for payment of the severance pay set forth in this subsection B. The City shall pay the Employee for any accrued unused vacation and sick leave (if applicable) calculated at the Employee's rate of pay in effect upon the date of resignation in accordance with City policy for non-union civilian employees.

Section 14. Indemnification.

The City shall provide a legal defense, and indemnification, under the same terms and conditions as provided to the other employees of the City of Delray Beach in accordance with the requirements and provisions of the City Charter and Chapter 31 of the Delray Beach Code of Ordinances of the City of Delray Beach, Florida. The Employee may provide input with respect to any legal defense required by this subsection or any proposed settlement, however, the City shall have the right to compromise and settle any such claim or suit and pay the amount of any such settlement or judgment rendered thereon, in its sole discretion. This indemnification provision shall survive the termination of this Agreement.

Section 15. Physicals.

This Agreement is contingent upon a satisfactory medical evaluation of the Employee following a full physical examination and drug test by a medical provider of the City's choice. Determination of what constitutes a satisfactory medical evaluation is solely within the discretion and determination of the City. Such physical exam and drug testing shall be concluded prior to the Employee's employment.

Section 16. Other Terms and Conditions of Employment.

A. The City Commission, 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 direct conflict with the provisions of this Agreement, the City Charter, the City Code of Ordinances, or any other applicable law.

B. All other provisions of the City Charter, City Code of Ordinances, and rules and regulations of the City relating to vacation and sick leave, retirement and pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended from time to time, shall also apply to the Employee as it would be to other general employees of the City not covered by a collective bargaining agreement, in addition to said benefits and numerated specifically for the benefit of the Employee herein, except as may be otherwise provided for herein.

C. The Employer shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of the Employee, except to the degree of such a reduction across-the-board for all general employees of the City.

D. The Employee must reside within the City limits of Delray Beach within nine (9) months of beginning employment.

Section 17. Notices.

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

City:	Mayor City of Delray Beach, Florida 100 N.W. 1 st Avenue Delray Beach, FL 33444
Employee:	Terrence R. Moore <i>Confidential per Florida Statute 119</i>
With a copy:	City Attorney City of Delray Beach 200 N.W. 1 st Avenue Delray Beach, FL 33444

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. 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 18. General Provisions.

- A. The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Employee.
- C. If any provision, or any portion thereof, contained in this Employment 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.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City of Delray Beach, Florida, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested to by its City Clerk, and approved as to form by the City Attorney, and the Employee has signed and executed this Agreement, both in duplicate, on the day and year first above written.

CITY OF DELRAY BEACH

EMPLOYEE

Shelly Petrolia, Mayor

Terrence R. Moore

Attest:

Katerri Johnson, City Clerk

Approved as to form and legal sufficiency

Lynn Gelin, City Attorney