

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as "Agreement"), is by and between the City of Hallandale Beach, Florida, a Florida municipal corporation (hereinafter referred to as "City"), and ~~Mark Antonio~~V. Lynn Whitfield (hereinafter referred to by name or as "~~City Manager~~City Attorney").

W I T N E S S E T H:

WHEREAS, the City desires to employ ~~Mark Antonio~~V. Lynn Whitfield as ~~City Manager~~City Attorney of the City of Hallandale Beach, Florida, as provided for in the City Charter of the City of Hallandale Beach; and

WHEREAS, the City, through its City Commission, desires to provide for certain benefits and compensation for the ~~City Manager~~City Attorney and to establish conditions of employment applicable to the ~~City Manager~~City Attorney; and

WHEREAS, ~~Mark Antonio~~V. Lynn Whitfield desires to accept employment as ~~City Manager~~City Attorney of the City of Hallandale Beach under the terms and conditions set forth herein.

WHEREAS, the City hereby agrees to employ ~~Mark Antonio~~V. Lynn Whitfield as ~~City Manager~~City Attorney to perform the functions and duties specified in Section 6.013 of the City Charter and by the City of Hallandale Beach Code of Ordinances, and to perform other legally permissible and proper duties and functions as the City Commission periodically assigns.

NOW, THEREFORE, in consideration of the mutual promises as set forth in this Agreement, the parties agree as follows:

Section 1. Employment.

A. The City of Hallandale Beach hereby hires and appoints ~~Mark Antonio~~V. Lynn Whitfield as its ~~City Manager~~City Attorney, under the terms established herein, to perform the duties and functions specified in the City Charter and the City Code of Ordinances and to perform such other legally permissible and proper duties and functions as the City Commission shall from time to time assign.

B. The City's employment of ~~Mark Antonio~~V. Lynn Whitfield as ~~City Manager~~City Attorney shall be effective ~~December 5, 2011~~October 1, 2010. This Agreement shall remain in effect until terminated by the City or by the ~~City Manager~~City Attorney as provided herein. Unless terminated, this Agreement shall remain in full effect until ~~City Manager~~City Attorney's next review before the City Commission, and thereafter, the agreement shall be automatically extended until the ~~City Manager~~City Attorney's next review unless terminated by either party.

Section 2. Salary and Evaluation.

A. For the performance of services pursuant to this Agreement, the City agrees to pay the ~~City Manager~~City Attorney an annual base salary of ~~\$180,000.00~~\$165,000.00 payable in installments at the same time as other City employees are paid.

B. The City agrees to increase said base salary and/or other benefits of the ~~City Manager~~City Attorney in such amounts and to such an extent as the City Commission may determine desirable on the basis of a performance evaluation of the ~~City Manager~~City Attorney. However, base salary shall not exceed \$200,000.00. The first such evaluation shall take place six months after appointment ~~in June 2012~~(in March or April 2011) and then be conducted annually thereafter. It shall be in such form as the Commission deems appropriate.

C. Nothing in this Section shall require the City to increase the base salary or other benefits of the ~~City Manager~~City Attorney.

Section 3. Duties and Obligations.

A. The ~~City Manager~~City Attorney shall have the duties, responsibilities and powers of said office under the Charter and Ordinances of the City of Hallandale Beach. The ~~City Manager~~City Attorney agrees to perform all duties and responsibilities faithfully, industriously, and to the best of ~~his~~ her ability and in a professional and competent manner.

B. The ~~City Manager~~City Attorney shall remain in the exclusive employment of the City and shall devote all such time, attention, knowledge and skills necessary to faithfully perform ~~his~~ her duties under this Agreement. The ~~City Manager~~City Attorney may, however, engage in educational and professional activities.

C. In the event the ~~City Manager~~City Attorney is temporarily unable to perform ~~his~~ her duties, ~~he~~ she shall designate an Acting ~~City Manager~~City Attorney in accordance with the City Charter.

Section 4. Automobile Allowance and Communications Equipment

The ~~City Manager~~City Attorney is required to be on call for twenty-four hour service. In recognition thereof:

A. The City shall grant to the ~~City Manager~~City Attorney an automobile allowance of \$500.00 per month, and the ~~City Manager~~City Attorney shall purchase, maintain, and insure said vehicle. The City agrees to reimburse the ~~City Manager~~City Attorney for mileage for travel outside of Broward and Miami-Dade Counties associated with business of the City at the same rate as other City employees are reimbursed.

B. The City shall provide the ~~City Manager~~City Attorney with a Blackberry or similar devices to provide for ~~his~~ her need to conduct City business while serving as ~~City Manager~~City Attorney.

Section 5. Dues and Subscriptions

The City agrees to pay the ~~City Manager~~City Attorney's professional dues for membership in ~~the Florida Bar and the International Municipal Lawyer Association—the International City/County Management Association, and the Florida City and County Management Association~~. The City shall pay other dues and subscriptions on behalf of the ~~City Manager~~City Attorney as are approved in the City's annual budget or as authorized separately by the City Commission.

Section 6. Professional Development

The City agrees to pay reasonable and customary travel and subsistence expenses for the ~~City Manager~~City Attorney's travel to and attendance at the ~~National Bar Association conference, the Florida Bar State and Local Annual conference and the Florida Municipal Attorney Association conference. International City/County Management Association's annual conference or the Florida City and County Management Association's annual conference and that of the Florida League of Cities~~. The City may choose to pay for the ~~City Manager~~City Attorney's attendance at other seminars, conferences, and committee meetings as it deems appropriate and as approved by Commission action.

Section 7. Vacation ~~(22)~~, Sick Leave ~~(12)~~ and Holidays ~~(10)~~

~~City Manager~~City Attorney shall be entitled yearly to Personal Time Off, the "PTO" account, consisting of forty ~~four~~ (40) days a year in lieu of sick, vacation and holidays, which at the end of each year does not accrue into the next. PTO shall not accrue or be paid to employee upon separation of service.

Section 8. Health, Dental, Vision and Life Insurance

The City shall ~~continue to~~ provide the ~~City Manager~~City Attorney with the same health insurance, dental insurance, disability insurance, health savings account, vision insurance and life insurance that ~~is afforded the Professional Management classification of employee. he currently has~~.

Section 9. Retirement.

The City agrees ~~to continue to~~ provide the ~~Manager with~~ City ManagerCity Attorney with a 401(a) Defferred Compensation pension Plan with a 10% City contribution rate and immediate vesting. ~~pension benefits that he currently has. The City Manager is currently a participant in the Professional Management DROP Plan, and must sever employment with the City by June 29, 2012.~~

Section 10. Job-Related Expenses

The City recognizes that certain expenses of a non-personal but job related nature are incurred by Employee, and agrees to reimburse or to pay said general expenses. The Finance Director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits. The ~~City Manager~~City Attorney shall report such expenditure quarterly to the City Commission.

Section 11. Termination by the City and Severance Pay

A. The ~~City Manager~~City Attorney shall serve at the pleasure of the City Commission and the City Commission may terminate this Agreement and the ~~City Manager~~City Attorney's employment with the City at any time, by a majority vote of three Commissioners.

B. Should a majority of the entire Commission (three members) vote to terminate the services of the ~~City Manager~~City Attorney "without cause," that is, the ~~City Manager~~City Attorney's services are no longer needed as determined in the discretion of the majority of the Commission, and unless terminated "for cause" under paragraph C below, then within ten (10) business days following such vote, the Commission shall cause the ~~City Manager~~City Attorney to be paid any accrued unpaid salary and benefits earned (but excluding such items and allowances as are used in conducting City business such as, but not limited to, the use of the City computer and the automobile and cell phone allowance) prior to the date of termination based on ~~City Manager~~City Attorney's current rate of pay and a forty (40) hour work week. Within fifteen (15) calendar days following the vote to terminate the ~~City Manager~~City Attorney's employment, the Commission shall cause the ~~City Manager~~City Attorney to be paid a lump sum severance pay equal to ~~twenty (20) weeks of -six (6) months of his her~~ base salary as full and complete payment and satisfaction of any claims of the ~~City Manager~~City Attorney of whatsoever nature arising out of this Agreement or otherwise. The City shall continue to provide and pay for medical coverage for the ~~City Manager~~City Attorney and his spouse for the nine (9) months following the date of such termination, in the same manner as the ~~City Attorney Manager~~ is receiving at the time of termination, and after that, the ~~City Manager~~City Attorney shall have the right to ~~COBRA coverage in accordance with applicable regulations, pay for and maintain the City medical insurance in this same manner as for other retired employees.~~ As consideration for such payment, the ~~City Manager~~City Attorney shall, prior to receipt thereof, execute and deliver to the City a general release of the City and its Commission members and its officers, agents, and employees for all acts and actions (whether accrued or subsequently accruing) from the beginning of time until the date of release, said release to be prepared ~~by by an attorney of the City Commissions choosing. the City Attorney.~~

C. In the event the ~~City Manager~~City Attorney is terminated because of Employee's conviction of any illegal act involving personal gain to Employee, then, in that event, the City shall have no obligation to pay the severance designated in this section.

D. In the event the Commission, at any time during the employment term, reduces the salary or other benefits of the ~~City Manager~~City Attorney, as identified herein, in a greater percentage than an equivalent across-the-board reduction for all full-time City employees, or in the event the City allegedly refuses to comply with any other material provision of this Agreement benefiting the ~~City Manager~~City Attorney, or the ~~City Manager~~City Attorney resigns following a suggestion whether formal or informal, by the City that ~~he~~ she resign, then, in that event, the ~~City Manager~~City Attorney may, at ~~his~~ her option, be deemed to be “terminated” within the meaning and context of the severance pay provision in Section 11, paragraph B of this Agreement. The ~~City Manager~~City Attorney shall notify the Commission in writing of the alleged violation. The Commission shall have forty-five (45) days from such notice within which to cure the violation, otherwise, the ~~City Manager~~City Attorney may at ~~his~~ her option, consider such violation as termination “without cause” as of the date of such alleged reduction or refusal, and the severance pay provision and other termination provisions contained herein shall become applicable at the annual base salary and benefit level in effect prior to the reduction or refusal.

Section 12. Termination by the ~~City Manager~~City Attorney

The ~~City Manager~~City Attorney may terminate this Agreement at any time by delivering to the City Commission a written notice of termination not later than sixty (60) days prior to the effective date of the termination. If the ~~City Manager~~City Attorney terminates this Agreement, then the provisions of Section 11, Paragraph B above, shall not apply. If the ~~City Manager~~City Attorney voluntarily resigns pursuant to this Section, the City shall pay to the ~~City Manager~~City Attorney all accrued compensation due the ~~City Manager~~City Attorney up to the ~~City Manager~~City Attorney's final day of employment, including any benefits earned. ~~City Manager shall have the right to pay for and maintain the City health insurance in the same manner as allowed for its other retired employees.~~ The City shall have no further financial obligation to the ~~City Manager~~City Attorney pursuant to this Agreement. This subsection shall not prevent the ~~City Manager~~City Attorney from collecting any money accrued and earned as a result of participation in the City's retirement programs.

Section 13. Disability

If the ~~City Manager~~City Attorney becomes permanently disabled or is otherwise unable to perform ~~his~~ her duties because of, including but not limited to, sickness, accident, injury, mental incapacity or health for a period of four consecutive weeks beyond personal time off balance, the City shall have the option to terminate this Agreement, subject to the severance pay provision outlined in Section 11, Paragraph B of this Agreement.

Section 14. Indemnification.

A. City shall defend, save harmless, and indemnify the ~~City Manager~~City Attorney against any action for any injury or damage suffered as a result of any act, event, or omission of

action that the ~~City Manager~~City Attorney reasonably believes to be in the scope of ~~his~~ her duties or function, unless ~~he~~ she acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. The City shall not be liable for the acts or omissions of the ~~City Manager~~City Attorney committed while acting outside the course and scope of ~~his~~ her agreed duties or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. In such instance, the ~~City Manager~~City Attorney shall reimburse the City for any legal fees and expenses the City has incurred or otherwise paid, for or on ~~his~~ her behalf, in connection with the charged conduct.

B. Said indemnification shall extend beyond the termination of employment and the expiration of this Agreement to provide protection for any such acts undertaken or committed in ~~his~~ her capacity as ~~City Manager~~City Attorney, regardless of whether the notice of claim or filing of a lawsuit occurs during or following employment with the City.

Section 15. Bonding

The City agrees to bear the full cost of any fidelity or other bonds required of the ~~City Manager~~City Attorney under any policy, regulation, ordinance or law.

Section 16. Attorney's Fees

If any litigation is commenced between the parties concerning any provision of this Agreement or the rights and duties of any person in relation thereto, in addition to such other relief as may be granted, each party shall bear their own reasonable attorney's fees and expenses incurred in connection therewith, including appellate fees and expenses.

Section 17. General Terms and Conditions

A. If any provision, or any portion thereof, contained in this Agreement is held by a court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

B. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

C. This Agreement shall be binding upon and inure to the benefit of the heirs at law or personal representative of the ~~City Manager~~City Attorney.

D. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties.

E. Florida law shall govern this Agreement and any litigation that may arise from this Agreement, shall be filed and litigated in Broward County, Florida.

F. Upon ~~City Manager~~City Attorney's death, the City's obligations under this Agreement shall terminate except for:

1. Transfer of ownership of retirement funds, if any, to ~~his~~ her designated beneficiaries;

~~2. Payment of accrued leave balances in accordance with this Agreement;~~

23. Payment of all outstanding hospitalization, medical and dental bills in accordance with City's insurance policies or plans; and

34. Payment of all life insurance benefits in accordance with the City's insurance policies or plans.

G. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

H. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

I. The effective date of this Agreement shall be December 5, 2011~~October 1, 2010~~.

Executed by the CITY this _____ day of _____, 20110.

CITY OF Hallandale Beach

By: _____
Mayor - Commissioner

ATTEST:

City Clerk

Executed by the ~~CITY MANAGER~~CITY ATTORNEY this _____ day of _____, 20110

Witnesses:

Print Name: ManagerCity Attorney

~~Mark Antonio V. Lynn Whitfield, City~~

Print Name:

**VOTE
AYE/NAY**

Mayor Cooper _____ / _____

Vice-Mayor ~~Sanders~~Julian

_____ / _____

Comm. London _____ / _____

Comm. Ross _____ / _____

Comm. Lewy~~Sanders~~ _____ / _____