

RESOLUTION NO. 2020-17
TO AUTHORIZE THE CONTRACT FOR EMPLOYMENT OF CITY
ADMINISTRATOR

WHEREAS, as a result of the resignation by B. Todd Glover, former City Administrator, the City has conducted an extensive search process related to the employment of a City Administrator; and,

WHEREAS, as a result of that search process, the Mayor with the authorization of Council has made a determination to employ James S. Clifford as City Administrator; and,

WHEREAS, an Employment Agreement has been negotiated related to such employment; and,

WHEREAS, the Mayor and City Council have determined that it is in the best interest of the City to move forward with the employment of Mr. Clifford and entering into a Contractual Employment Agreement with him.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of North Augusta, South Carolina, in meeting duly assembled and by the authority thereof, that:

1. James S. Clifford is to be employed by the City as City Administrator;
2. That the employment of Mr. Clifford, to include term of employment, salary, duties, compensation and other related matters are specifically covered by the Employment Agreement that is attached hereto marked Exhibit "A";
3. That the Mayor is specifically authorized to execute such agreement on behalf of the City.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS 18th DAY OF MAY, 2020.

SIGNED BY:



ROBERT A. PETTIT, MAYOR

ATTESTED BY:



SHARON LAMAR, CITY CLERK

EMPLOYMENT AGREEMENT

This Agreement, made and entered into, by and between the City of North Augusta, South Carolina, (the City) a municipal corporation, and Mr. James S. Clifford an individual who has the education, training and experience in local government management, both of whom agree as follows:

Section 1: TERM

This employment Agreement shall be effective beginning the first day of employment which is tentatively scheduled for August 17, 2020. Both parties recognize that Mr. Clifford's tentative start date is contingent upon him being able to retire from the U.S. Army, which may be delayed due to unforeseen circumstances. This employment Agreement shall terminate December 31, 2022, provided, that on December 31, 2022, and on each December 31 thereafter, the termination date shall be extended by two years unless the Mayor determines not later than September 30, 2022, or by September 30 in any subsequent year that this automatic extension provision shall no longer be effective. Such a decision by the Mayor terminates only the automatic extension provision, and neither such a decision nor the actual expiration of the term or extended term of this Agreement shall have the effect of or be implied as terminating Mr. Clifford's employment.

Section 2: DUTIES AND AUTHORITY

A. The City agrees to employ Mr. Clifford as City Administrator to perform the functions and duties as specified by the Mayor, and City Ordinance. All actions undertaken by Mr. Clifford in the execution of his duties, including requests from Mayor and Council, shall be consistent with the Code of Laws of South Carolina and the Municipal Code of the City.

B. Mr. Clifford shall not engage in any other professional or business activities that, in the sole determination of the Mayor, adversely affect or interfere with the performance of his services to the City. The foregoing does not preclude Mr. Clifford from making business investments if such investments are not inconsistent with and do not, in the Mayor's opinion, adversely affect the performance of his duties and responsibilities hereunder.

Section 3: COMPENSATION

The City agrees to pay Mr. Clifford an annual salary of \$142,755.25, payable in equal bi-weekly installments. Upon continued employment Mr. Clifford will receive a 5% increase in salary each year during the first full pay period in January for three (3) years, beginning January 2021. This increase will be in addition to any Merit or COLA salary increases approved by City Council.

The City may increase this salary at any time, with or without a performance review. The City may pay a lump sum bonus in lieu of a salary increase or may pay Mr. Clifford a

combination of a salary increase and a lump sum bonus. Any such increase and/or bonus will be paid only after a specific vote of City Council.

Section 4: RESIDENCE

Within the first three (3) years of Mr. Clifford's employ he shall establish residence within the City limits.

Section 5: HEALTH, DISABILITY, AND LIFE INSURANCE BENEFITS

A. Mr. Clifford shall receive not less than the full range of benefits provided or made available to the City's other regular full-time employees. Such benefits may be increased, modified, or decreased to the extent they are increased, modified, or decreased for other regular full-time employees.

B. At the time of the initial execution of the Agreement, such benefits include but are not limited to: retirement plan, health insurance benefits for employees and dependents, life insurance benefits, accidental death insurance benefits, and disability benefits.

Section 6: VACATION AND SICK LEAVE

A. Mr. Clifford will be credited with 25 days (200 hours) of vacation leave at the start of his employ.

B. Mr. Clifford is entitled to accrue, use, and be paid for sick and annual leave on the same basis as other City employees.

C. Mr. Clifford agrees to keep the Mayor reasonably informed of his absences. Mr. Clifford further agrees that if he becomes eligible for disability benefits under a plan funded by the City that the City may claim a credit for such benefits against any salary payments to which Mr. Clifford is entitled for the same period.

Section 7: AUTOMOBILE

A. The City agrees to pay \$650 per month, payable in equal bi-weekly installments as a vehicle allowance, to be used to purchase, lease, or own, operate and maintain a vehicle. Mr. Clifford is responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and is responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of the vehicle.

B. Mr. Clifford agrees to the terms of the City's Vehicle Allowance Policy and Procedures and any changes thereto.

Section 8: GENERAL BUSINESS EXPENSES

A. Communications. The City agrees to pay \$100 per month, payable in equal bi-weekly installments, as a cell phone allowance, to be used to purchase, lease, or own, operate and maintain a cell phone. The City will also provide any other electronic equipment deemed necessary by the parties.

B. Memberships. The City will pay Mr. Clifford's membership dues and assessments for appropriate professional associations as agreed by the parties and as provided in the annual budget.

C. Professional Development. The City agrees to pay Mr. Clifford's reasonable travel and subsistence expenses for professional and official travel, meetings, and occasions to adequately continue Mr. Clifford's professional development and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, Meetings of the Municipal Association of South Carolina, and such other national, regional, state, and local governmental groups and committees in which Mr. Clifford serves as a member. The City shall also pay for travel and subsistence expenses for short courses, institutes and seminars necessary for the good of the City, and shall pay for additional travel and subsistence expenses incurred by Mr. Clifford's spouse when her presence at work-related functions is expected or in the City's interest. Such payments or reimbursements will be in accordance with the City's standard practices and are subject to annual budgetary restrictions.

Section 9: LIABILITY INSURANCE COVERAGE

Mr. Clifford will be covered by a comprehensive tort liability policy issued by the South Carolina Municipal Insurance and Risk Financing Fund, by the insurance program sponsored by the Municipal Association of South Carolina, or by any similar program selected by the City.

Section 10: TERMINATION

A. Employee's employment under the Agreement may be terminated prior to the end of the term only as provided in this Section.

B. Death. This Agreement shall terminate automatically and without notice or further compensation upon Mr. Clifford's death. In this event, Mr. Clifford's estate will receive any sums due him as base salary and/or reimbursement of expenses through the end of the month during which death occurred.

C. Disability. This Agreement will terminate upon Mr. Clifford's having been continuously unable to perform the full range of his duties for ninety (90) consecutive calendar days or intermittently unable to perform the full range of his duties for ninety (90) calendar days in any 365 consecutive days. The termination of this Agreement due to Mr. Clifford's disability shall not immediately terminate his status as an employee of the City. In such a case, he will

remain an employee on leave of absence without pay until the Mayor takes action to change such status. While in such status, Mr. Clifford is entitled to such disability income payments as may be provided by one or more disability insurers in accordance with the terms of any applicable disability insurance plan(s). While in such status, Mr. Clifford is entitled to any other benefits provided by the City to employees on leave of absence without pay who have exhausted their rights under the Family and Medical Leave Act.

D. For Cause. The City has the right to terminate this Agreement with Cause and without notice or further compensation from the effective date of date of written notification. If Mr. Clifford is terminated for cause under this provision, he will receive only any sums due him as base salary and reimbursement of expenses through the date of termination. "Cause" includes but is not limited to:

- (i) Mr. Clifford's commission or omission of any act which, in the Mayor's reasonable opinion causes material or significant harm to the City including its reputation;
- (ii) The indictment of Mr. Clifford for the commission or perpetration of any crime involving dishonesty, moral turpitude, or fraud;
- (iii) Mr. Clifford's material breach of this Agreement;
- (iv) Mr. Clifford's material violation of City policies that cause or are reasonably likely harm to the city or its reputation.
- (v) The exhibition by Mr. Clifford of a standard of behavior that is disruptive to the orderly conduct of the City's business operations to a level which, in the Mayor's reasonable opinion, is materially detrimental to the City's best interest; or
- (vi) Mr. Clifford's failure to devote his full business time and attention to his employment unless covered under section 2.b.

E. Without Cause. The City may terminate this Agreement without cause upon ninety (90) days' payment of salary and fringe benefits in lieu of notice or a combination of notice and payment in lieu of notice totaling ninety (90) calendar days.

Section 11: RESIGNATION

Mr. Clifford may terminate this Agreement at any time by delivery of a Notice of Resignation to the City with a minimum of 90 days' notice. If Mr. Clifford resigns under this provision, he will receive any sums due him as base salary and reimbursement of expenses through his last day of work. If he fails to give and work at least 90 days' notice, he forfeits the right to payment of accrued and unpaid vacation time, unless the parties agree otherwise.

Mr. Clifford may terminate his employment under this Agreement for Good Reason, he shall receive as severance pay (in addition to accrued salary, benefits, reimbursements and any

unpaid amounts) the equivalent of 90 days base salary, less applicable withholdings payable in a lump sum within thirty (30) days of such resignation for Good Reason. For purposes of this Agreement, "Good Reason" shall be defined as: (a) a demotion or material reduction or alteration of Mr. Clifford's job title, authority, status or job duties and responsibilities inconsistent with his current position; (b) any reduction of Employee's then current base salary or benefits; or (c) a relocation of Employee's principal office by more than fifty (50) miles; (d) a material breach by the City of this Agreement.

Before terminating this Agreement for Good Reason, the Mr. Clifford must give the City prior written notice indicating his intent to terminate for Good Reason and stating the reasons why he believes there are grounds to terminate for Good Reason. The City will have thirty (30) days to correct the default. If corrective action is not taken and the default is not cured within the thirty (30), day period, he may terminate the Agreement for Good Reason.

Section 12: AMENDMENT

The parties may amend this Agreement at any time, but no amendment shall be effective unless in writing and executed with the same formality as this Agreement. The failure of either party to insist on any right under this Agreement shall not constitute an amendment of the Agreement or a waiver of that party's right to insist on compliance with the Agreement in the future.

Section 13: GENERAL PROVISIONS

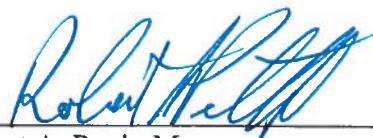
A. This Agreement sets forth and establishes the entire understanding between the parties relating to the employment of Mr. Clifford by the City. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

B. Binding Effect. This Agreement shall be binding on the parties as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement is effective on the first date of Mr. Clifford's employ which is tentatively scheduled for August 17, 2020. Both parties recognize that Mr. Clifford's tentative start date is contingent upon him being able to retire from the U.S. Army, which may be delayed due to unforeseen circumstances.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the parties have executed this Employment Agreement between the City of North Augusta, and James S. Clifford, this _____ day of _____, 20__.



Robert A. Pettit, Mayor

James S. Clifford

ATTEST:



Sharon Lamar, City Clerk