

**EMPLOYMENT AGREEMENT for CITY PUBLIC WORKS DIRECTOR of the CITY of HAWK COVE
BETWEEN the CITY of HAWK COVE, TEXAS and JAMES MULLIS**

This Agreement ("Agreement") entered into on the 25th day of May, 2023 by and between the City of Hawk Cove, Texas, a municipal corporation ("City"), by unanimous vote of all five (5) voting members of the City of Hawk Cove City Council ("Council"), and James Mullis ("Employee").

WITNESSETH:

WHEREAS the City desires to continue to employ the services of Employee as an officer of the City in the position and performing the duties of City Public Works Director of the City of Hawk Cove, Texas ("Public Works Director"); and

WHEREAS Employee is willing to continue and perform the duties of Public Works Director;

NOW, THEREFORE, for mutual consideration, the parties agree as follows:

1. COUNCIL ACTION REQUIREMENTS

1.1 All actions taken by or on behalf of City by Council on, or relating to, this Agreement and/or Employee's position of Public Works Director shall be by unanimous vote of all five (5) voting members of the Council sitting in Regular or Special Session.

2. DUTIES

2.1 Upon the Council's vote accepting this Agreement, this Agreement supersedes and replaces all previous employment agreements ("Employment Agreement/s") between the City and Employee for the position of Public Works Director.

2.2 The City agrees to continue to employ Employee as Public Works Director for the period from the date of this Agreement until the anniversary of this Agreement in the year 2033 or any extension of this Agreement, to perform the legally permissible and proper duties and functions of Public Works Director.

2.3 The legally permissible and proper duties and functions of Public Works Director are guided by: the past and current actions, responsibilities and course of dealing of the Public Works Director; presently-applicable City ordinances, resolutions and policies; applicable provisions in the Texas Constitution; Texas Government Code; Texas Local Government Code; Texas Occupations Code; Texas Administrative Code; and any and all applicable United States Constitution and validly enacted statutes, codes and laws. Employee agrees to act during Employee's employment in accordance with these guidelines.

3. TERM

3.1 Employee agrees to remain Public Works Director during the term of this Agreement and any extensions of this Agreement. Employee may accept other additional or other employment or become employed by any other employer, so long as the same does not conflict with Employee's duties, Employment Agreement for City Public Works Director of the City of Hawk Cove between the City of Hawk Cove, Texas, and James Mullis

obligations and responsibilities under this Agreement, until and unless Employee's termination occurs under the provisions of this Agreement. The term "employed" shall not be construed to include occasional teaching, writing, consulting or off-duty assignments performed on Employee's time off. Nothing in this paragraph shall limit, restrict or be construed to prevent Employee's work for or employment by the City in any other lawful position or employment within or by the City.

3.2 If, by actions of City as required herein, this Agreement will not be renewed upon its expiration, the City shall provide one hundred and eighty (180) calendar days advance written notice by certified mail, return receipt requested, and the same will be effective only upon proof of receipt by Employee. If such advance notice is not given, then this Agreement and the Public Works Director's term of appointment shall automatically renew for a six (6) year term to begin from and after the year 2033 anniversary of this Agreement or as determined by any extensions of this Agreement.

3.3 "Employment Year" throughout this Agreement shall be from the date, or the applicable anniversary, of this Agreement or the latest extension hereof in any given year, to the next anniversary of this Agreement or latest extension hereof in the following year.

4. HOURS OF WORK

4.1 Employee's weekly hours of employment shall consist of such time as is reasonable and necessary for Employee to conduct the business and properly respond to the demands of the position, including City hours of operation, City meetings and meetings related to City's business, and such other activities at which Employee's attendance is required and/or would support or otherwise be beneficial to the orderly conduct of the City's business and operations.

5. SALARY

5.1 Employee's position as Public Works Director shall be as an exempt executive employee for the purposes of the Federal Fair Labor Standards Act, 20 U.S.C. Section 201, et seq.

5.2 City shall continue to pay Employee an averaged gross monthly salary of at least Three Thousand, Four Hundred Sixty-Six Dollars and 67/100 (\$3,466.67). Employee's salary shall be payable in installments at the same time, on the same bases and in the same manner as other City employees are paid.

5.3 Commencing on the date City accepts this Agreement, Employee may, annually on or before the anniversary of this Agreement or the latest of any extension of this Agreement, request that the Council reopen this Agreement solely for the purpose of discussion of this Section 5. Salary, and such reopening shall be in the sole and absolute discretion of Employee.

6. VACATION, SICK AND/OR OTHER LEAVE TIME

6.1 The parties recognize that Employee may have accrued vacation time prior to the date of this Agreement. This Agreement does not terminate or invalidate any time accrued before the date of this Agreement. Employee shall continue to receive vacation time credit as appropriate for each year of this Agreement. Employee shall be permitted to utilize, and take, any vacation time accrued under this

Agreement at Employee's sole discretion, so long as Employee gives the City Administrator, or the City Secretary advance notice of the same appropriate to the situation.

6.2 Beginning with the year that this Agreement commences as dated herein, Employee will continue to accrue vacation, sick or other leave time in accordance with and/or pursuant to the City's accepted practices for other City employees every year, plus an additional 1 day for each year of service from the first date Employee began employment as City Public Works Director.

6.3 Upon resignation, retirement or termination, any and all unused and/or previously accumulated vacation days shall be paid to Employee on the basis of Employee's final salary and shall be prorated for the portion of any year actually worked under this Agreement.

6.4 Employee shall be eligible for all applicable leave benefits in accordance with the City's past, present and/or future accepted practices for other City employees and/or as provided by or under Texas or Federal law.

7. HEALTH INSURANCE AND OTHER BENEFITS

7.1 Employee shall enjoy all retirement, insurance or any other benefits generally available to, and under the same terms and/or conditions, as full-time, non-union employees of the City, in accordance with the City's past, present and/or future accepted practices for other City employees and/or as provided by or under Texas or Federal law. City agrees to pay for any and all other expenses of Employee as Public Works Director, as have continuously been provided by the City for Employee prior to the execution of this Agreement.

8. EQUIPMENT ALLOWANCE

8.1 City and Employee understand and agree that the position of Public Works Director requires the Public Works Director to be available to City administrative officers outside of the City's business hours. In recognition of the same and approval of City's Administrator, the City may provide to Employee, and pay for all maintenance and other expenses associated with: transportation; communications; such other equipment that the City's Administrator deems reasonable and necessary to the position of Court Clerk, and insurance thereon of the City's Administrator's choosing ("Equipment Allowance"). Employee shall reimburse the City for any cost of repair or replacement of any items of Equipment Allowance that are lost or damaged after issuance to Employee.

8.2 For any Equipment Allowance issued to Employee by City, City authorizes Employee's unrestricted use of the same, including in the reasonable and necessary scope of Employee's duties as Public Works Director, as well as for or during Employee's personal, leisure and/or off-duty activities. In the event that Employee is unable to discharge the duties of Public Works Director for a period longer than 180 continuous calendar days, Employee shall retain the unrestricted use of any such Equipment Allowance.

8.3 Any Equipment Allowance issued to Public Works Director by the City is a business use and expense of the City, and therefore is tax-exempt to Employee.

9. GENERAL EXPENSES

Employment Agreement for City Public Works Director of the City of Hawk Cove between the City of Hawk Cove, Texas, and James Mullis

9.1 The City recognizes that certain expenses of a non-personal and generally job-affiliated nature must be, have been and will be incurred by Employee, and, upon approval of City's Administrator, City hereby agrees to reimburse Employee or directly to pay said general expenses according to past and present accepted City practices. City shall pay for any bond required for this position. All such expenses are business use and expenses of the City, and therefore are tax-exempt to Employee.

10. PROFESSIONAL DEVELOPMENT

10.1 The City recognizes its obligation to encourage Employee's professional development and agrees that Employee shall be given adequate opportunity to develop, maintain and continue to develop, Employee's skills and abilities as Public Works Director. Accordingly, if approved by the City's Administrator, the City shall allow and pay for Employee to attend such courses and seminars as Employee deems reasonable and necessary during this Agreement, and without the Employee's loss of vacation or other leave under this Agreement. Any such expenses, if paid by City, are business use and expenses of the City, and therefore are tax-exempt to Employee.

10.2 The City shall allow and pay for such of Employee's professional dues and subscriptions as City's Administrator approves and that Employee deems are reasonable and necessary for Employee's continuation and full participation in job-related and/or professionally required or recommended national, regional, state, and local associations and organizations. If paid by City, such expenses are a business use and expense of the City, and therefore are tax-exempt to Employee.

11. PERFORMANCE EVALUATION

11.1 In addition to Section 22.042(b), Local Government Code, City hereby continues the City Administrator of the City of Hawk Cove ("Administrator")'s exclusive appointment to oversee Employee's performance, including Employee's job-related day-to-day activities. The Administrator may, no more than annually and no sooner than May 1 of each year of Employee's employment under this Agreement, evaluate Employee's performance, and may report the result of any such evaluation to the Council. Failure of the Administrator to evaluate Employee's performance shall in no way prejudice any of either, the City's or Employee's, other rights, including under this Agreement.

11.2 Employee's job performance review and evaluation is limited to: determining any remedies related to improving that job performance, including education and/or training; determining whether City should consider Council actions to further, promote, support and foster the position of Public Works Director; and, to the extent possible, determining mutually-agreeable goals by and between the Mayor of the City of Hawk Cove and/or the Administrator, and the Public Works Director.

11.3 Upon any favorable evaluation of Employee, the Council may, in Executive Session from a subsequent Regular or Special Session, and by vote of the Council in immediately subsequent Regular or Special Session, extend this Agreement to an expiration date later, but not sooner, than that stated in this Agreement. Such a vote to extend this Agreement will extend the most recent expiration date, as previously determined by either this Agreement, or by any extension vote of the Council occurring after the date of this Agreement.

12. INDEMNIFICATION

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12.1 To the extent allowed by law, the City shall defend, save harmless and indemnify Employee against any tort, professional liability claim, demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as Public Works Director.

12.2 The City shall not be required to indemnify Employee for any claims arising out of conduct determined by a court of competent jurisdiction to be outside the scope of Employee's duties or to be the result of gross negligence or willful, criminal, or malicious misconduct.

12.3 The City shall obtain Employee's written consent to settle any indemnified claim, and Employee shall not unreasonably withhold such consent. Upon receipt of Employee's written consent, the City may compromise and settle any claim or suit for which Employee is indemnified and shall pay the amount of any settlement or judgment rendered thereon.

12.4 The City shall not indemnify Employee for any costs associated with any claims or actions resulting from Involuntary Termination as is provided under Section 13 of this Agreement. If, however, any judicial proceeding undertaken by City to cause Employee's Involuntary Termination results in any final judgment favoring Employee, within fourteen (14) calendar days of City's receipt of any invoice or statement for applicable fees, costs and expenses incurred by or on behalf of Employee, City shall pay Employee or Employee's attorney, as applicable, the entirety of the same.

13. TERMINATION AND SEVERANCE

13.1 Nothing in this Agreement shall prevent, limit, or otherwise interfere with Employee's right to resign at any time from the position of Public Works Director, subject only to the provisions set forth in this Agreement.

13.2 Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate Employee's services, subject only to the provisions set forth in this Agreement.

13.3 The Council may terminate Employee only as follows:

13.3.1 If City and Employee jointly and voluntarily agree to such termination ("Voluntary Termination"); or

13.3.2 The Council may terminate Employee without voluntary agreement ("Involuntary Termination") pursuant to this Agreement, including Chapter 21, Subchapter B, Texas Local Government Code by this reference.

13.4 If City terminates Employee by Voluntary Termination pursuant to this Agreement before the expiration of this Agreement and any extensions hereunder, City agrees to pay Employee, in City's sole discretion, either:

13.4.1 a lump sum cash payment equal to 12 months' aggregate salary or any balance remaining on this Agreement, whichever is less, and the same shall be paid by City to Employee on or before ten (10) calendar days following Involuntary Termination.

13.4.2 the amount reflected in 13.4.1 shall be paid by City to Employee in no more than four (4) installments following the date of Voluntary Termination, to be paid at the same time, on the same bases and in the same manner as City employees are paid, except that City, in Employee's sole discretion, shall make such payments to Employee in any manner that Employee designates in writing upon such termination, or as Employee may thereafter designate in writing from time to time.

13.5 If Employee voluntarily resigns the position of Public Works Director before the expiration of this Agreement or any extensions hereunder, then Employee shall give City at least thirty (30) calendar days advance written notice, unless the parties agree otherwise. If Employee voluntarily resigns the position of Public Works Director, the terms of Voluntary Termination in Section 13.4 of this Agreement apply in the same manner and with equal force and effect unless the parties agree otherwise.

13.6 If the Council votes to eliminate or disband the position of City Public Works Director, the terms of Voluntary Termination in Section 13.4 of this Agreement apply in the same manner and with equal force and effect.

13.7 Any action by City relating to Involuntary Termination shall be preceded by City's advance notice to Employee of the Executive Session in which the Council will consider taking action/s for such termination. Such notice shall be by certified mail, return receipt requested, and the same shall be effective only on the date of proof of Employee's receipt of the same. Such notice shall contain certified copies of any materials, including all complaints, statements and/or affidavits, and full summaries of any oral or verbal conversations, on which City bases such Executive Session and/or such Involuntary Termination.

13.8 Any Executive Session relating to Involuntary Termination of Employee shall be held not less than ten (10) calendar days after Employee receives actual notice of the date of Executive Session and the materials on which the Council bases such Involuntary Termination.

13.9 Employee shall be afforded all rights provided by and under Texas Law for and at any Executive Session convened to consider Involuntary Termination. Employee shall have the sole option of attending and requiring Employee's attorney and the City Attorney to be present at that Executive Session, and all, Employee, Employee's attorney and the City Attorney, shall be fully heard at that Executive Session.

13.10 If City terminates Employee by Involuntary Termination before the expiration of this Agreement and any extensions hereunder, City agrees to pay Employee a lump sum cash payment equal to the amount which would have been due and payable had the Agreement, and any extensions, not been terminated, such amount to be paid by the City to Employee within thirty (30) calendar days of the effective date of the termination.

13.11 Upon Employee's termination under any process, or Employee's resignation, in this Section 13, the City shall provide Employee, or, in Employee's sole discretion, Employee's designated representative, with a complete copy of Employee's personnel file within three (3) calendar days of any such termination or resignation. In addition, within such time as is reasonably necessary but not longer than thirty (30) calendar days, the City shall permit Employee, or, in Employee's sole discretion

Employee's designated representative, to remove all personal property and effects belonging to Employee from the City offices, any and all City departments, and/or all City and City department vehicles.

13.12 If Employee dies during the term of this Agreement, the employment relationship created by this Agreement will terminate, and Employee's salary shall continue to be paid, through the end of the Employment Year in which Employee's death occurs, to Employee's designated beneficiary or, if none is designated by Employee by written direction, Will or other document, or as is determined by Texas statutes relating to intestate succession, then to Employee's estate representative.

14. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

14.1 City, by agreement with Employee, may determine any other and additional terms and conditions of employment as the parties may determine by agreement/s from time to time, including but not limited to that which may relate to Employee's performance, provided such terms and conditions are not inconsistent or in conflict with any provisions of this Agreement, or any other law.

15. NO REDUCTION OF BENEFITS

15.1 City shall not at any time during the term of this Agreement reduce any portion of Employee's compensation or other financial benefits, except by mutual consent and agreement of the parties. This Agreement may be amended at any time by mutual consent and agreement of the parties, except as specifically provided in this Agreement and/or by any written additional agreements, amendments or extensions entered into by agreement of the parties from time to time.

16. NOTICES

16.1 Any and all notices required or permitted to be given under this Agreement or any extensions hereof will be sufficient if furnished in writing, sent by certified or registered mail, return receipt requested, to Employee's last known address, in the case of Employee; and to the City's address at 1585 Maria Street, Hawk Cove, TX 75474 (or such other official address for the City, should it change in the future), in the case of the City. No notice shall be effective without the sender's proof of receipt by the recipient, and no expiration times shall begin until the date shown on the proof of receipt, including proof of receipt provided from records of the United States Postal Service.

17. GENERAL PROVISIONS

17.1 The text of this Agreement, and/or any written additional agreements or amendments entered into by agreement of the parties from time to time, shall constitute the entire agreement between the parties. If any provision, or portion thereof, contained in this Agreement and/or any written additional agreements, amendments or extensions entered into by agreement of the parties from time to time, is held by a court of competent jurisdiction to be unconstitutional, invalid, or unenforceable, then that provision or portion shall be deemed severable from this Agreement and/or any written additional agreements, amendments or extensions entered into by agreement of the parties from time to time, and the remainder of this Agreement and/or any written additional agreements, amendments or extensions entered into by agreement of the parties from time to time shall remain valid and enforceable, and in full force and effect.

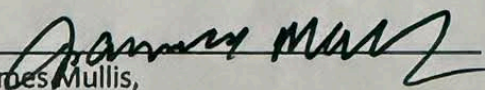
17.2 This Agreement may be amended or extended at any time only by mutual written consent of the parties, except as is otherwise provided herein.

17.3 Employee understands and agrees that all compensation and benefits provided under this Agreement are subject to appropriation by budget from year to year by the Council. City agrees that it shall fund the monetary provisions of this Agreement in every budget adopted by the Council.

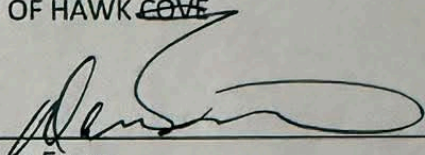
17.4 This Agreement supersedes all previous contracts and agreements which the parties hereto by their signatures declare are rendered null and void upon the effective date of this Agreement.

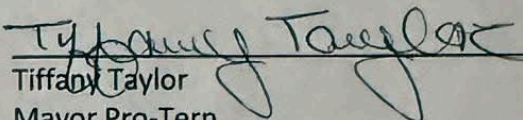
IN WITNESS THEREOF, the City of Hawk Cove has caused this Agreement to be executed in its corporate name by its City Council, by and through the hands and signatures of its Mayor and Mayor Pro-Tem, and KAREN FRONTERHOUS has set her hand and signature, as of the day and year first written above.

JAMES MULLIS


James Mullis,
Public Works Director

CITY OF HAWK COVE


Darren Evans
Mayor


Tiffany Taylor
Mayor Pro-Tem