

# Council Business Meeting

July 21, 2020

<b>Agenda Item</b>	Mayoral Appointment of Adam Hanks as City Administrator	
<b>From</b>	Tina Gray Dave Lohman	Human Resource Director City Attorney
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## **SUMMARY**

The City Council is being asked to confirm the Mayoral appointment of Adam Hanks as City Administrator. The confirmation will approve an employment agreement between the City of Ashland and Adam Hanks to serve as City Administrator.

## **POLICIES, PLANS & GOALS SUPPORTED**

Comply with Ashland Municipal Code Section 2.28.110 and 2.28.120.

## **PREVIOUS COUNCIL ACTION**

At the [April 7, 2020 Regular Business Meeting](#), Council approved the appointment of Adam Hanks to serve as Interim City Administrator. Hanks also served as Interim City Administrator for four months in 2018.

## **BACKGROUND AND ADDITIONAL INFORMATION**

When Kelly Madding was appointed as City Administrator, she formalized Hanks' role as Assistant City Administrator. Hanks was asked to serve a second time as Interim City Administrator when Madding left the City in early April 2020. Hanks took the lead just as the COVID-19 pandemic, along with mounting budgetary constraints, was forcing transformations of City services. Hanks has demonstrated solid leadership through the operational and fiscal challenges presented by COVID-19. During his 28-year history with the City, Hanks has worked in multiple City Departments. His unique institutional knowledge from that tenure helps assist Council evaluate the merits and consequences of proposed actions to address the unprecedented issues ahead.

## **FISCAL IMPACTS**

When Kelly Madding left the City, she was paid at the top step of the City Administrator salary range. Hanks was placed into the salary range as Interim at Step 1 and is currently in Step 2, which represents an incremental salary savings. Under the current financial constraints from COVID-19-related revenue shortfalls, the Assistant City Administrator position will remain vacant – at least for the near term – which will further reduce personnel costs in the Administration Department. Funds have been allocated for City Administrator in the adopted FY19-21 City Budget.

## **STAFF RECOMMENDATION**

Staff recommends confirming the Mayor's appointment of Adam Hanks as City Administrator and authorizing the Mayor to sign the employment agreement to effectuate appointment.

## **ACTIONS, OPTIONS & POTENTIAL MOTIONS**

1. I move to confirm the Mayor's appointment of Adam Hanks as City Administrator and authorize the Mayor to sign the related employment agreement.
2. I move to confirm the Mayor's appointment of Adam Hanks as City Administrator and authorize the Mayor to sign the related employment agreement amended as follows: ....

## **REFERENCES & ATTACHMENTS**

Attachment 1: Employment agreement between the City of Ashland and Adam Hanks

**CITY OF ASHLAND  
Employment Agreement**

**City Administrator**

THIS AGREEMENT made and entered into this \_\_\_ day of July 2020, by and between the City of Ashland ("City") and Adam Hanks ("Employee").

**R E C I T A L S:**

- A. Employee is currently Interim City Administrator of the City of Ashland.
- B. City desires to employ the services of Employee as City Administrator or City Manager of the City of Ashland for a term of three years; and
- C. It is the desire of the Mayor and City Council to establish certain conditions of employment for Employee; and
- D. It is the desire of the City (1) to secure and retain the services of Employee and to provide inducement for Employee to remain in such employment; (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to financial security during the term of this Agreement; (3) to provide deterrence against malfeasance or dishonesty for personal gain on the part of Employee; and (4) to provide a just means for terminating Employee's services at such time as Employee may be unable fully to discharge Employee's duties due to disability or when City may otherwise desire to terminate Employee's services; and,
- E. Employee desires to accept employment as City Administrator or City Manager of Ashland for a term of three years commencing July 22, 2020.

**City and Employee agree as follows:**

**Section 1. Duties**

The City hereby agrees to employ Adam Hanks as the City Administrator or City Manager to perform the functions and duties specified in the job description for the position, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign. Employee shall devote full time to the performance of the duties of City Administrator or City Manager.

**Section 2. Term**

- A. The term of this Agreement shall be for an initial period of three (3) years from July 22, 2020 to July 22, 2023. This Agreement shall automatically be renewed on its anniversary date for successive three-year terms on the same terms and conditions provided herein unless either party gives written notice at least ninety (90) days prior to the expiration date of the initial term, or of any renewal term, of the party's intent not to renew the Agreement. In the event the Agreement is not renewed, all compensation,

benefits and requirements of the Agreement shall remain in effect until the expiration of the applicable term of the Agreement unless Employee voluntarily resigns before then.

- B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Mayor, with the consent of the City Council in accordance with the City Charter, to terminate the services of the City Administrator or City Manager at any time, subject only to the provisions set forth in the section titled "Severance Pay" of this Agreement. Except as specifically provided in this Agreement, Employee shall serve at the will of the City, without any requirement to demonstrate cause for dismissal.
- C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from his position with the City, subject only to the provisions of this Agreement.
- D. Employee agrees to remain in the employ of the City and neither to accept other employment nor to become employed by any other employer until termination of this Agreement as provided herein., This provision shall not restrict Employee from using vacation or personal leave for teaching, consulting or other activities provided these activities do not conflict with the regular duties of Employee and are approved in writing by the Mayor, with the consent of the City Council.
- E. In the event Employee wishes to voluntarily resign the position during the term of this Agreement, Employee shall be required to give the City sixty (60) days written notice of such intention, unless such notice is waived by the Mayor, with consent of the City Council. Employee will cooperate in every way with the smooth and normal transfer to the newly appointed successor.

### **Section 3. Salary**

Beginning July 22, 2020, City will pay Employee a monthly salary at Step Two of the City's approved salary schedule for this position (\$152,639 per year). Employee will advance to the Third Step (\$160,271 per year) after one year of successful performance as determined by the Mayor and City Council. The City agrees to annually increase the monthly salary and/or benefits in the same percentage as may be accorded other department heads. In addition, the Mayor and City Council agree to review the base salary and other benefits of Employee at Employee's annual performance reviews, and to make such adjustments, if any, which they deem appropriate.

### **Section 4. Performance Evaluation**

The Mayor and City Council shall review and evaluate the performance of Employee at least once annually. Said review and evaluation shall be in accordance with specific criteria developed jointly by City and Employee. Further, Employee shall receive a written copy of the findings of the evaluation process and be provided an adequate opportunity to discuss the details of the evaluation with the Council or its designees

### **Section 5. Hours of Work**

It is recognized that Employee must devote a great deal of time outside the normal office hours to the business of the City. Accordingly, Employee will be allowed to take compensatory time off

as Employee shall deem appropriate during normal office hours, so long as the business of the City is not adversely affected. Work in excess of forty (40) hours per week is deemed part of the professional responsibility for which the Employee shall not be paid overtime. In recognition of the extra hours required of the City Administrator or City Manager, Employee shall receive eighty (80) hours of paid administrative leave each year to be used before June 30<sup>th</sup> or deemed forfeited. Employee will receive additional administrative leave if granted by the City Council in the Management Resolution adopted each year.

#### **Section 6. Automobile**

Employee's duties require that Employee shall have the use of a motor vehicle at all times during employment with the City. The City shall provide an automobile allowance of \$400.00/month for the use of said automobile for travel. Employee shall be responsible for paying for insurance, operation, maintenance and repairs of the vehicle.

#### **Section 7. Health, Welfare and Retirement**

In addition to any allowances expressly set forth in this Agreement for Employee, , Employee shall be entitled to receive the same retirement, vacation, sick leave benefits, holidays, and other fringe benefits and working conditions, as they now exist or may be amended in the future, available to any other department head, as spelled out in the City's Management Resolution.

#### **Section 8. Dues and Subscriptions**

City agrees to budget and to pay for the professional dues and subscriptions of Employee necessary for Employee's continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for Employee's continued professional, growth and advancement, and for the good of the City.

#### **Section 9. Professional Development**

The City hereby agrees to annually budget and allocate sufficient funds to pay necessary travel and living expenses of Employee while he represents the City at conferences, trainings, official business meetings or professional organizations that serve the City's interest and/or are reasonably necessary to provide for the professional advancement of Employee. Membership on any national or state commission or committee shall be subject to the approval of the Mayor and City Council.

#### **Section 10. Professional Liability**

The City agrees that it shall defend, hold harmless, and indemnify Employee from all demands, claims, suits, actions, errors, or other omissions in legal proceedings brought against Employee in his individual capacity or in his official capacity, provided the incident arose while he was acting within the scope of his employment as City Administrator or City Manager. If, in Employee's good faith opinion, a conflict exists between Employee's legal position in such legal proceedings and the legal position of the City, employee shall be entitled to be represented in the matter by well-qualified outside counsel the City selects and pays or, at Employee's discretion, by counsel of Employee's choosing at his sole expense.

#### **Section 11. Severance Pay**

A. In the event Employee is dismissed during the term of this Agreement, and Employee is not being dismissed for any reason set forth in paragraphs B or C of this section, the City shall offer Employee the following severance payment. Except as provided in 11D below, for the first two years of this employment contract, the total severance pay will be equal to Employee's monthly salary at the time of dismissal multiplied by 24. Severance payments will be made in equal installments every other week for the next 24 months. For any successive year of this contract, the total severance pay will be equal to the employee's total salary over the previous 6 months of employment from the date of dismissal. Following dismissal without cause during such successive years of the contract, severance payments will be made in equal installments every other week for the next 6 months.

In addition, the severance compensation provided to Employee will include City's payment of the employer portion of the premium for Employee's medical and dental insurance coverage through the end of the month the Employee's severance pay is intended to cover or until the last day of the month in which Employee obtains employment with alternative insurance, whichever occurs earlier.

As a condition of the severance offer, the Employee will be required to release the City, its officers, representatives, insurers, and employees from claims arising from employment with the City and separation of employment.

B. Employee will not be eligible to receive the severance offer described in Paragraph A of this section if this Agreement is not renewed by the City, as provided in Section 2, above. Employee also will not be eligible to receive the severance payment if Employee voluntarily resigns from the position of City Administrator or City Manager or if Employee breaches any provision of this Agreement or engages in any act of misconduct in the performance of duties on behalf of the City. The term "misconduct" includes misappropriation, dishonesty, breach of trust, insubordination, neglect of duty, failure to perform duties in a manner that is consistent with applicable law, failure to correct performance deficiencies identified in writing by the City Council after a reasonable opportunity, as determined by the City, to correct the deficiencies; committing any violation of City policies or standards that the City deems a serious violation; or engaging in other action demonstrating a disregard for the interest of the City. The term "misconduct" also includes engaging in criminal acts or other off-duty behavior that the City views as impairing Employee's ability to effectively perform Employee's duties or jeopardize the reputation of the City.

C. Employee will not be eligible to receive the severance pay described in Paragraph A of this Section if Employee, in accordance with applicable law, is dismissed due to a disability that prevents Employee from performing the duties of the position.

D. If Employee is employed by any employers other than the City during the time Employee is receiving severance pay, Employee's total severance pay from the City will be reduced by the total amount of his earnings from such employment during time Employee receives severance pay. Employee will promptly notify the City in writing of the amount of such additional earnings from employment. The fortnightly severance installment payments will be adjusted as appropriate to account for any resulting reduction in total severance pay.

**Section 12. Other Terms and Conditions of Employment.** Employee is subject to all personnel policies of the City and the City's Management Resolution except to the extent they

are inconsistent with an express term of this agreement. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate Employee for cause during the term of this agreement.

**Section 13. Severability.**

In any part, term, or provision of this Agreement is held by final determination of a court or a mutually chosen arbitrator to be illegal or in conflict with the laws of the State of Oregon, the validity of the remaining portions of the Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular excised part, term, or provision.

**Section 15. PERS Pick-Up**

Employee contributions to the Public Employees' Retirement system (PERS) shall be "picked up" by the City. Employee shall not have the option of receiving money designated for retirement contributions and directly making the contribution to PERS. Employee's reported salary for tax purposes shall be reduced by the amount of Employee's contribution to PERS.

**Section 16. Complete Agreement**

This Agreement shall constitute the entire agreement between the City and Employee and supersedes all prior agreements, representations and understandings between them. No supplement, modification or amendment of this Agreement shall be binding on the City unless it is set forth in a writing that is signed by Employee and the Mayor after approval by the City Council. Likewise, no waiver or any provision of this Agreement shall be valid unless set forth in writing that is signed by Employee and the Mayor after approval by the City Council.

Dated this \_\_\_\_ of \_\_\_\_\_, 2020.

Approved as to form by \_\_\_\_\_

David Lohman, City Attorney

\_\_\_\_\_  
Melissa Huhtala, City Recorder

\_\_\_\_\_  
John Stromberg, Mayor

Accepted this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Adam Hanks