

**SPECIAL MEETING
DESTIN CITY COUNCIL
OCTOBER 25, 2018
ANNEX COUNCIL CHAMBERS
5:15 PM**

*****Core Value of the Month - Integrity*****

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

NEW BUSINESS

A. Consider, or approve employee related agreement

ADJOURNMENT

All items listed under Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and may be considered separately.

****To be placed on the Agenda under scheduled presentations, citizens must contact the City Manager or City Clerk's office one (1) week prior to the scheduled City Council Meeting by completing a Speakers Request Form and providing any accompanying documentation as requested in the form's instructions.**

****** Any invocation that is offered before the official start of the City Council meeting shall be the voluntary offering of a private person, to and for the benefit of the City Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council, or the City staff, and the City is not allowed by law to endorse the religious beliefs or views of this, or any other speaker. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered. A person may exit the City Council Chambers and return upon completion of the opening invocation if a person does not wish to participate in or witness the opening invocation.***

If a person decides to appeal any decision made by the Council with respect to any matter considered at this meeting, he/she may need a record of the proceedings, and for such purpose, he/she may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. FS 286.0105.

Persons with disabilities who require assistance to participate in City meetings are requested to notify the City Clerk's Office at (850) 837-4242 in advance. Hearing Impaired: TTY: 711. Assistance also available through Human Resources, Title VI Coordinator, at (850) 837-4242.

Personas con discapacidades que necesitan asistencia o personas que necesiten ayuda con un idioma para participar en las reuniones de la ciudad, deberán notificar la oficina de la Secretaria Municipal al (850) 837-4242 antes de la reunión. Discapacidad auditiva: TTY: 711 (Solicitar Espanol CA). La ayuda tambien está disponible por Recursos Humanos, Coordinador del Título VI, al (850) 837-4242.

Note: Persons who wish to provide public comments on agenda items are requested to fill out a blue speaker card and submit it to the City Clerk at the start of the meeting.

Persons who wish to provide public comments on any other matters not on the agenda are requested to fill out a yellow speaker card and submit it to the City Clerk at the start of the meeting.

All regularly scheduled city council meetings will be streamed live via the city's YouTube channel, www.youtube.com/CityofDestin. Past council meetings can also be viewed here.

Please visit our agenda center on the city website at www.cityofdestin.com/agendas

**SEPARATION AGREEMENT
AND MUTUAL GENERAL RELEASES**

THIS SEPARATION AGREEMENT AND MUTUAL GENERAL RELEASES (hereinafter "Agreement") is made and entered into by and between David O. Campbell (hereinafter referred to as "Employee") and the City of Destin, Florida, its elected officials, administrators, and employees (hereinafter collectively referred to as "Employer"). This Agreement is strictly conditioned upon approval of this Agreement by the City Council of the City of Destin, Florida, and will not be in force and effect until the date of the City Council's approval (hereinafter "Separation Date"). Employee and Employer will be referred to collectively as "Parties" where appropriate in this Agreement.

WHEREAS, Employee has been employed by Employer since 2010 ("Employment");

WHEREAS, Employer and Employee have decided and mutually agreed to terminate the Employment under the terms and condition of this Agreement; and

WHEREAS, Employee and Employer desire to mutually settle fully and finally all outstanding matters between them, including, but in no way limited to, any outstanding or future civil or administrative matters that exist or may arise out of (1) Employee's Employment with Employer or (2) the termination of that Employment;

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, it is agreed as follows:

1. This Agreement shall not in any way be construed as an admission by either of the Parties that a Party has acted wrongfully with respect to the other Party in connection with Employee's Employment, or the termination thereof.

2. Upon expiration of the 7-day revocation period without any revocation of this Agreement by Employee as set forth under Section 11(d) of this Agreement, Employee's Employment shall be deemed terminated as of the Separation Date, which shall be the date that the City Council affirmatively votes on a motion directing the execution of this Agreement by the Mayor and City Manager. Employee and Employer agree that the Employee will not perform any duties for Employer or use Employer's offices after the Separation Date.

3. Mutual Releases:

Employer, for this entire Agreement, is defined to include but is not limited to, Employer's current and former: employees, agents, administrators, attorneys, representatives, City Council members, Mayors, or any of the aforementioned individual's successors and assigns.

(a) Employee's Release:

(1) Employee hereby knowingly and voluntarily releases, waives, and forever discharges any and all claims, rights, demands, actions, or causes of actions, of any kind whatsoever, known or unknown, foreseen or unforeseen, foreseeable, or unforeseeable, and any consequences thereof, which he has or may have against the Employer from the beginning of the world until the date of this Agreement becomes effective, including, but not limited to, any claim(s) under or related to:

- Title VII of the Civil Rights Act of 1964;
- The Civil Rights Act of 1991;
- The Florida Civil Rights Act of 1992;
- Sections 1981-1988 of Title 42, United States Code;
- The Constitutions of the United States and the State of Florida;
- Florida wage and hour laws;
- The Age Discrimination in Employment Act;
- Florida and federal whistle-blower laws, including § 112.3187, Florida Statutes;
- The Internal Revenue Code, to the extent permitted by law;
- The Rehabilitation Act;
- The Immigration Reform and Control Act of 1986;
- The Americans with Disabilities Act of 1990;
- The Equal Pay Act of 1963;
- The City's employment policies, manuals, or memorandums;
- Any and all claims for hostile work environment;
- The Family and Medical Leave Act of 1993;
- Any provision found in any other federal, state, or local civil or human rights law or any other federal, state statute, or local law, regulation, or ordinance; or
- Any contract theory.
- Any cause of action based in common law, including but not limited to, actions in contract or tort, negligent or intentional; and any claim based on or related to any instrument, agreement, or document entered into by or between the Parties or their successors and assigns.

Nothing in this Section 3(a)(1) of this Agreement is intended to release, discharge, or waive and expressly does not release, discharge, or waive: (A) Employee's COBRA continuation rights as provided by law; and (B) Employee's vested interest in pension benefit accounts under Employer's ICMA 457 Investment Plan, as may be applicable to him.

(2) Employee also acknowledges and agrees that this release and waiver bars any claim or demand for damages, costs, fees, or other expenses, including attorneys' fees, incurred in connection with his Employment with Employer. Employee understands that this release and the foregoing list of causes of action that have been waived is meant to be illustrative rather than exhaustive, and understands and acknowledges that he is waiving and releasing Employer from any and all causes of action of any nature whatsoever. It is Employee's intention to fully, finally, and forever resolve and release any and all disputes he may have or believe

himself to have against Employer with respect to any alleged acts occurring before the effective date of this Agreement, whether those disputes presently are known or unknown, suspected or unsuspected.

(3) Employee represents and agrees that he will not hereinafter pursue, initiate, assign, or cause to be instituted any dispute released herein against Employer, nor shall he be allowed to assign or have anyone institute any dispute released herein against Employer, and furthermore Employee represents that he has not heretofore assigned or transferred, or purported to have assigned or transferred, to any entity or person, any dispute released by him herein.

(b) Employer's Release:

(1) Employer does hereby unconditionally, fully, and finally release and discharge Employee and his heirs, representatives, attorneys, and agents from any and all duties, claims, rights, complaints, charges, damages, costs, expenses, attorney's fees, debts, demands, actions, obligations, liabilities, and causes of action of any and every kind, nature, and character whatsoever, whether known or unknown; whether foreseen or unforeseen; whether arising out of contract tort, statute, constitutional provision, settlement, equity or otherwise; whether fixed, liquidated, or contingent that Employer has, had, or may have against Employee and his heirs, representatives, attorneys, and agents, based on any act or omission concerning any matter, cause, or thing arising prior to the date of this Agreement and up through the time of this Agreement's execution. The aforementioned claims shall collectively be referred to as "Employer's Released Claims" throughout the remainder of this Agreement.

(2) Employer's Released Claims also include any cause of action based in common law, including but not limited to, actions in contract or tort, negligent or intentional; and any claim based on or related to any instrument, agreement, or document entered into by or between the Parties.

(3) Employer also acknowledges and agrees that this release and waiver bars any claim or demand for damages, costs, fees, or other expenses, including attorneys' fees, incurred in connection with Employee's Employment with Employer. Employer understands that this release is meant to be illustrative rather than exhaustive, and understands and acknowledges that Employer is waiving and releasing Employee from any and all causes of action of any nature whatsoever. It is Employer's intention to fully, finally, and forever resolve and release any and all disputes Employer may have or believes to have against Employee with respect to any alleged acts occurring before the effective date of this Agreement, whether those disputes presently are known or unknown, suspected or unsuspected.

(4) Employer represents and agrees that Employer will not hereinafter pursue, initiate, or cause to be instituted any dispute released herein against Employee or have anyone institute any dispute released herein against Employee, and represents that Employer has not heretofore assigned or transferred, or purported to have assigned or transferred, to any entity or person, any dispute released by Employer herein.

4. As consideration for the release of claims by Employee in this Agreement , and upon expiration of the 7-day revocation period set forth in Section 11(d) of this Agreement, Employer will undertake and accomplish the following actions:

(a) Employer will pay Employee the balance of his current salary up to the Separation Date, less applicable legal withholding and tax deductions.

(b) Employer will pay to Employee a severance benefit equal to sixteen (16) weeks of pay at the rate of Employee's now current salary, less applicable legal withholding and tax deductions. The sixteen (16) weeks of severance pay are also consideration for the Employee's agreement not to accept any employment, or contract for services, or contract for any engineering advice or consulting, for any project, job, or work that is to be performed within the City of Destin city limits and on which Employee worked while employed by Employer, for a period lasting for six (6) months from the Separation Date of Employee's Employment with Employer.

(c) To the extent permitted under the law, or by Employer's health insurer, for the period up to and including December 31, 2018, Employee shall remain on the Employer's health, dental, and vision insurance plans and policies, with Employer and Employee paying their same respective premiums and HSA contributions that they currently have been paying during Employee's Employment with Employer immediately preceding the Separation Date.

(d) Employee will retain his vested interests and rights in the Employer's ICMA 457 Investment Plan, and Employer will provide Employee any assistance needed for, among other things, the Employee's retention, management, and transfers, applicable, of his pension plan accounts.

(e) Pay to Employee the value of his paid vacation leave hours balance that has accrued, but is unused as of the Separation Date, with all such amounts being subject to applicable legal withholding and tax deductions.

5. The Parties: shall not undertake any disparaging conduct directed at each other; shall refrain from making or publishing any negative, derogatory, or defamatory statements or communications concerning each other; and shall not make any comments that unlawfully defame or disparage each or that will interfere with the existing or prospective business, operations, employment, or other relationships of each other.

6. If any part of any provision of this Agreement or any other agreement, document, or writing given pursuant to or in connection with this Agreement shall be determined to be invalid or unenforceable under applicable law by a court of competent jurisdiction, that part shall be ineffective to the extent of such invalidity or unenforceable only, without in any way affecting the remaining provisions of this Agreement.

7. The laws of the State of Florida shall govern the contractual effect, intent, and construction of this Settlement Agreement and Mutual General Releases.

8. Any lawsuit brought to construe this subsection shall be brought in Okaloosa County, Florida, and shall be construed under the laws of the State of Florida.

9. JURY TRIAL WAIVER: THE PARTIES HEREBY AGREE TO WAIVE THEIR RIGHT TO A JURY REGARDING ANY LAWSUIT BROUGHT IN RELATION TO THIS AGREEMENT, OR ALSO IN RELATION TO ANY ACTION OR FAILURE TO ACT BY EITHER OF THE PARTIES FOR ANYTHING THAT OCCURRED DURING THE EMPLOYEE'S EMPLOYMENT WITH EMPLOYER. THE PARTIES AGREE THAT ANY LAWSUIT BETWEEN THEM SHALL BE TRIED BY A JUDGE (BENCH TRIAL).

10. Confidential Information.

(a) "Confidential Information" for purposes of this Section 10 shall be defined as any information, in any format, that Employee learned of, generated, received, or collaborated on while employed by Employer. However, any information that has been disclosed to the general public, in any format, either at a public meeting or in response to a public records request, shall be deemed to be excepted from this definition of "Confidential Information."

(b) Employee shall not disclose any Confidential Information he has learned via his official position if the Confidential Information pertains to any work Employee performed on any task that was completed within two (2) years of execution of this Agreement. To the extent that the Confidential Information relates to any items on which Employee has worked for Employer and that, as of the Separation Date, is not fully completed, is not completely funded, is being redesigned, or will require future votes of the City Council to complete, then Employee shall keep confidential and not disclose any such Confidential Information he has learned via his official position for a period of two (2) years after execution of this Agreement. This non-disclosure restriction on Confidential Information shall not apply to any Confidential Information that is required to be produced or disclosed pursuant to a subpoena or a court order. A breach of this section by Employee shall entitle the Employer to seek full recovery for any moneys paid to Employee pursuant to this Agreement.

11. Employee, by his signature below represents and acknowledges that:

(a) Employee agrees to return to Employer all documents, information, data, keys, credit cards, computer discs and files, and any other property of Employer issued to or otherwise in Employee's possession on or before the Separation Date; however, Employee will be allowed to keep and transfer to his personal cell phone the cell phone number he has been using on the business cell phone issued by Employer, which business cell phone Employee is returning to Employer.

(b) Employee has been advised to discuss this Agreement with an attorney and that Employee may take twenty-one (21) days to review this Agreement and that if Employee does not advise Employer of acceptance or rejection of the terms contained herein by signing this Agreement by the end of that period, this Agreement will become null and void and Employee will not be entitled to any of the consideration offered under this Agreement;

(c) Employee has carefully read and fully understands all of the provisions of this Agreement, has discussed the Agreement with his attorney, and is now voluntarily entering into this Agreement;

(d) After carefully considering this matter, Employee has freely, knowingly, and voluntarily decided to sign this Agreement in order to get the consideration being offered by Employer. Employee also understands that he has seven (7) days after this Agreement has been approved by the City Council of the City of Destin, Florida, and has been signed by Employee and Employer to change his mind and revoke this Agreement. Employee understands that this Agreement is not effective and that he will not receive any of the consideration offered by Employer until after this seven-day revocation period expires. Employee also understands that if he changes his mind and revokes this Agreement, he will not be entitled to the consideration that he would not otherwise receive but for the terms of this Agreement. Employee understands that if he desires to cancel or revoke this Agreement, he must provide written notice to the Interim City Manager of the City of Destin, Florida, at Employer's place of business on or before the close of business on the seventh day of the revocation period. Further, Employee understands that by accepting the consideration made available to him under the terms of this Agreement, he will be further demonstrating that he does not want to cancel or revoke this Agreement.

David O. Campbell

Date: _____

Lance Johnson
Interim City Manager

Date: _____

Approved As to Form:

Jeffery L. Burns, Esquire
City Attorney

Adopted and Approved by the City Council of the City of Destin on this _____ day of October, 2018.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk