

Daisy Mata

From: Katie Leininger
Sent: Wednesday, November 06, 2019 3:09 PM
To: Daisy Mata
Cc: Marceya Pineda
Subject: RE: Perry, Jason 2019-11-6

Good afternoon,

The documents you attached are approved for release.

Thanks,

Katie

Katie Leininger

Assistant City Attorney | Legal
City of Pearland | 3519 Liberty Drive | Pearland,
TX 77581
P: 281.652.1667
pearlandtx.gov



Get Connected:



From: Daisy Mata <DMata@pearlandtx.gov>
Sent: Wednesday, November 6, 2019 2:53 PM
To: Katie Leininger <KLeininger@pearlandtx.gov>
Cc: Marceya Pineda <mpineda@pearlandtx.gov>
Subject: FW: Perry, Jason 2019-11-6

Katie,

Please see the attached for your review.

Thank you.

Daisy Mata

Records & Info Coordinator | City
Secretary's Office
City of Pearland | 3519 Liberty Drive | Pearland,
TX 77581
P: 281.652.1653
pearlandtx.gov



Get Connected:



From: HR <hr@pearlandtx.gov>
Sent: Wednesday, November 06, 2019 2:50 PM
To: Marceya Pineda <mpineda@pearlandtx.gov>
Cc: Daisy Mata <DMata@pearlandtx.gov>
Subject: RE: Perry, Jason 2019-11-6

Hello,

See attached.

From: Marceya Pineda <mpineda@pearlandtx.gov>

Sent: Wednesday, November 06, 2019 8:34 AM

To: HR <hr@pearlandtx.gov>; Cynthia Pearson <capearson@pearlandtx.gov>; John McCarter <jmccarter@pearlandtx.gov>; Melanie Lawson <mlawson@pearlandtx.gov>; Rhonda Daugherty <rdaugherty@pearlandtx.gov>

Cc: Daisy Mata <DMata@pearlandtx.gov>

Subject: PIR: Perry, Jason 2019-11-6

Hello,

PIR is attached.

Thank you,

City: 03-10-14

FILE COPY

**AGREEMENT FOR PROFESSIONAL SERVICES
AND EMPLOYMENT AS CITY MANAGER**

This Agreement for Professional Services and Employment as City Manager (this "Agreement"), is made and entered into effective as of this 28th Day of January 2014, by and between the City of Pearland, Texas, a municipal corporation (the "City"), and Clay Pearson, (the "Manager"), to establish and set forth the terms and conditions of the employment as the City Manager of the City.

WITNESSETH:

WHEREAS, the City Council of the City (the "Council"), and the City Manager believe that employment agreements negotiated between City Councils and City Managers can be mutually beneficial to the city organization, the City Manager, and the community they serve;

WHEREAS, when appropriately structured, the City Council and City Manager believe employment agreements can strengthen the Council-Manager relationship by enhancing the excellence and continuity of the management of the city for the benefit of its citizens;

WHEREAS, the City Council and City Manager believe it is important to thoughtfully consider guidelines that will be consistent with both the letter and the spirit of State law, and to the extent applicable, the city's charter and personnel policies, that will uphold the principle of "serving at the pleasure of the Council," that will clearly define and incorporate the benefits to the community and organization, and that will address the protection of the Manager and family through provisions that are reasonable in nature and scope when compared to professional practices and local/regional market conditions and appropriately funded within the City's budget;

WHEREAS, the City desires to employ the services of the Manager as the City Manager of the City, pursuant to the terms, conditions and provisions of this Agreement;

WHEREAS, it is the desire of the Council, to provide compensation and benefits, establish conditions of employment for, and to set the working conditions of, the Manager as provided in this Agreement;

WHEREAS, the Council desires to secure and retain the services of the Manager, to provide inducements for the Manager to accept employment as the City Manager of the City and to remain in such employment, to encourage full work productivity by assuring the Manager's morale and peace of mind with respect to future security, and to provide a proper means for termination, resignation, or retirement of the Manager;

WHEREAS, except as otherwise specifically provided herein, the Manager shall have and be eligible for the same benefits as are provided to all non-Civil Service employees of the City; and

WHEREAS, the Manager has agreed to accept employment as the City Manager of the City, subject to and on the terms, conditions, and provisions agreed to and set forth in this Agreement;

NOW, THEREFORE, in consideration of Manager accepting employment with the City, and other good and valuable consideration, including the mutual covenants herein contained, the City and the Manager hereby contract, covenant, and agree as follows:

Section 1. Duties. The Council hereby employs the Manager as the chief administrative officer of the City to perform the duties and functions specified in the City Charter, city ordinances, this Agreement, and as the Council shall, from time to time, assign to the Manager consistent with the intent of this Agreement. The Manager shall report for work, and the duties and employment of the Manager shall commence on the 10th day of March, 2014 (the "Commencement Date").

Section 2. Term. The term of this Agreement shall be indefinite and this Agreement shall be and remain in full force and effect until terminated by the Manager or the Council as herein provided (the "Term"). The Manager shall serve at the pleasure of the Council and nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council, or the Manager, to terminate the services of the Manager at any time, subject only to applicable provisions of the city charter, city personnel policies, and the provisions set forth hereinafter in the section titled "Termination."

Section 3. Salary. City agrees to pay the Manager an annual base salary, which salary shall initially be \$200,000 payable in installments at the same time as other employees of the City are paid. City further agrees to review the base salary and other benefits of the manager at least annually.

Section 4. Deferred Compensation. City agrees to pay the Manager annual deferred compensation in an amount equal to the maximum allowed IRS allowed by law and IRS regulations for a 45-type plan. The deferred compensation shall be paid monthly to the qualified deferred compensation fund or funds designated by the Manager. Such amounts shall be 100% vested at the time of each contribution.

Section 5. Disability and Retirement Benefits. The Manager shall be covered and governed by the same retirement system as are all other employees. Retirement contributions shall be paid as

required by the retirement system's plan documents.

If the Manager retires pursuant to a qualified retirement plan or is permanently disabled during the Term, the Manager shall be compensated for all sick leave, vacation leave, and other benefits then accrued or credited to the Manager, and, at the Manager's option, shall be permitted to participate in the City's health insurance plan on the same basis as other retirees from the City are permitted to do so, or, if such other retirees are not permitted to do so, at the cost of the Manager.

Section 6. Insurance and Annual Physical.

1. **Health Insurance.** The Manager shall be covered by the same health, dental, and vision plans as all other administrative employees, or such plans that are available through City and selected by the Manager, except that the City shall pay the premiums for the Manager and the Manager's spouse. The coverage shall be in full force and effect immediately upon the Commencement Date, including no waiting period for pre-existing conditions. The City further agrees to co-ordinate its insurance plan with the Manager's current insurance plan and coverage, with the intent that no exclusion, hiatus or break in coverage in health, disability or life insurance coverage occurs for the manager and the Manager's dependents.
2. **Life Insurance.** The City agrees to purchase and pay the required premiums for a life insurance policy for the Manager, providing coverage in an amount equal to two (2) times the amount of the Manager's base salary. The type of policy and the terms will be pursuant to the same policies and conditions as are available to the other employees of the City. The Manager shall designate the beneficiary of such policy.
3. **Disability Insurance.** City agrees to provide disability insurance for Manager on the same basis as it provides coverage for all other employees.

Section 7. Vehicle . "Monthly Vehicle Allowance". The Manager's duties require exclusive and unrestricted use of a vehicle. The City agrees to pay the Manager, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of \$12,000 per year, payable monthly, as a vehicle allowance. The manager shall acquire and maintain a vehicle during the term of this Agreement, which shall be available for the Manager's exclusive and unrestricted use in the performance of his/her duties hereunder. The Manager shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses

attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Manager shall be entitled to mileage reimbursement, in accordance with IRS guidelines, for city business trips exceeding 200 miles round trip.

Section 8. Leave Benefits. All provisions of the rules and regulations of the City applicable to fringe benefits, leave and working conditions as they now exist or hereafter may be amended, shall also apply to the Manager as they apply to all other employees of the City, in addition to the benefits enumerated specifically for the benefit of the Manager herein; provided that the Manager shall receive 200 hours of vacation and 120 hours of sick leave annually with the initial vacation and sick leave immediately accruing on the Commencement Date. The Manager shall be entitled to sell a maximum of one-half of the annually accrued vacation back to the City each year.

Section 9. Professional and Civic Development. The City agrees to budget and pay for the civic and professional membership dues and subscriptions of manager necessary for the Manager's continuation and participation in national, regional, state, and local associations necessary and desirable for the manager's continued professional participation, growth, and advancement, and for the good of the City. Developing and maintaining professional association contacts and standing provide the City access to valuable resources, and the reasonable participation and related travel by Manager as provided for in the annual budget will be a part of the manager's duties.

Section 10. Business Expenses. Certain expenses of a non-personal and job-related nature will necessarily be incurred by the Manager in the performance of the manager's duties. The City will pay or reimburse such business expenses, and the Finance Director is authorized to disburse such monies upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits. The City will also pay the full cost of any bond, if any is required by the City to be made by the Manager.

Section 11. Relocation Expenses. The Manager will establish residence within the City's corporate boundaries within six (6) months of the Commencement Date, and will thereafter maintain a residence within the City during the term of this Agreement.

1. **Moving.** The City will reimburse, or pay directly, for the expenses of moving the Manager, the Manager's family, and the Manager's personal property from the Manager's current residence to the City. The moving expenses will include packing,

moving, storage costs, unpacking, and insurance charges. The Manager shall obtain three (3) written bids for the moving costs and provide a copy of the same to the City Council for approval.

2. **Interim Housing.** The City shall pay an interim housing supplement of \$1500 per month, beginning on the Commencement Date and continuing for a maximum of twelve (12) months or until 30 days after the closing on the sale of Manager's current home.
3. **Miscellaneous.** The City shall provide the Manager up to four (4) round trip air tickets; rental car and hotel expenses for travel related the Manager's search for new housing contemplated by this Section.

Section 12. Indemnification. To the fullest extent permitted by law, City shall defend, save harmless and indemnify Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of manager's duties, and shall obtain and keep in full force and effect liability insurance, or risk pool coverage, including errors and omissions coverage on a "per occurrence" basis, in sufficient amounts to assure accomplishment of such hold harmless and indemnification; provided that this section shall not be construed as creating any right, cause of action, or claim of waiver or estoppel for or on behalf of any third party, not shall it be construed as a waiver or modification of the availability of the defense of governmental immunity or any other legal defense available to either City or the Manager as to any third party; and provided further that City shall not indemnify and hold harmless the Manager from and with respect to any claim that is found by the courts, after a full and complete adjudication at which the Manager has competent legal counsel, to have been grossly negligent or engaged in intentional wrongful conduct not covered by the liability insurance or coverage referenced above. City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. This indemnification shall extend beyond and survive the termination of employment and the expiration of this Agreement.

Section 13. Hours of Work. It is recognized that the Manager is expected to engage in the hours of work that are necessary to fulfill the obligations of the position, must be available at all times, and must devote a great deal of time outside the normal office hours to the business of the City. The Manager acknowledges the proper performance of the duties of the City Manager of the City will require the Manager to generally observe normal business hours and will also often require the performance of necessary services outside of normal business hours.

The Manager agrees to devote such additional time as is necessary for the full and proper performance of the Manager's duties and that the compensation herein provided includes compensation for the performance of all such services.

However, the City intends that reasonable time off be permitted the manager, such as is customary for exempt employees so long as the time off does not interfere with the normal conduct of the office of the City Manager.

The Manager will devote full time and effort to the performance of the duties of the City Manager of the City, and shall remain in the exclusive employ of the City during the Term of this Agreement; provided that, with the prior consent of the Council, the Manager may accept temporary, outside professional employment which will not in anyway limit the performance of, or the Manager's availability for the performance of, the Manager's duties hereunder. The term "outside professional employment" shall be construed to include occasional teaching, writing or consulting performed on the Manager's time off.

Section 14. Termination and Severance Pay.

1. **Termination.** In the event Manager is terminated by the Council during the Term of this Agreement and Manager is then willing, and able to perform all the duties of the City Manager under this Agreement, then, in that event, the City agrees to pay the Manager a lump sum cash payment equal to twelve (12) months full salary and salary-related benefits, plus the value of all sick and vacation leave, and other benefits accrued by, or credited to, the Manager prior to the termination; provided that, if the Manager is terminated because of conviction of a misdemeanor involving moral turpitude or personal gain, or any felony, then, in that event, the City shall have no obligation to pay the severance payments designated in this Section.
2. **Reductions.** In the event the Council during the Term of this Agreement reduces the authority of the Manager, or reduces the salary or other financial benefits of Manager in a greater percentage than an applicable across-the-board reduction for all employees of the City, or in the event the City refuses, following written notice, comply with any other provision benefiting the manager herein, or the Manager resigns following a suggestion, whether formal or informal, by the Council that the Manager resign, in that event, the Manager may, at the manager's option, be deemed to have been terminated as of the date of such reduction, or as of the date the Manager resigns at the

Council's suggestions; provided that, notice having first been given, the suspension of the Manager with pay pending the resolution of any criminal charge filed against the Manager shall not constitute a termination, or a reduction under this section. The Council shall be deemed to have suggested the resignation of the Manager at any time when a majority of the members of the Council shall at a Council meeting, or in writing, suggest that the Manager resign.

3. **Resignation.** If the Manager terminates this Agreement by voluntary resignation of the position of City Manager, the Manager shall give 30 days' notice in advance unless the Council agrees otherwise.

Section 15. Notices. All notices, demands, and other writings may be delivered by either party hereto to the other by United States Mail, or by a reliable commercial courier at the following address:

(1) City: 3519 Liberty Drive, Pearland, Texas 77581

(2) Mayor:

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service, or three (3) days after the date the notice is deposited in the United States Mail or with a commercial courier.

Section 16. Conflict of Interest Prohibition. The Manager shall not, during the Term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City, except for stock ownership in a company whose capital stock is publicly held and regularly traded on any stock exchange, without the prior written approval of the Council. For and during the Term of the Agreement, the Manager shall, except for a personal residence or residential property acquired or held for future use as the Manager's personal residence, not invest in any other real estate or property improvements within the City, without the prior written consent of the Council.

Section 17. Appropriations. The Council has appropriated, set aside and encumbered, and does hereby appropriate, set aside, and encumber, available and unappropriated funds of the City in an amount sufficient to fund and pay all financial obligations of the City pursuant to this Agreement, including, but not limited to, the severance pay, salary and benefits set forth and described herein.

Section 18. General Provisions.

1. **Section headings.** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.
2. **Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of Texas. Venue shall lie exclusively in Brazoria County, Texas.
3. **Severability.** In the event any one or more of the sections, provisions or clauses contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.
4. **Entire Agreement.** This Agreement incorporates all the agreements, covenants and understanding between the City and the Manager concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No other prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
5. **Amendment.** This Agreement shall not be modified or amended except by a written instrument executed by the Manager and the duly authorized representative of the Council.
6. **Effective Date.** This Agreement shall be and become in full force and effect as of the date above first written upon the adoption and approval of the Council, and the execution and deliver hereof by the authorized officer of the City and the Manager.
7. **Counterparts.** This Agreement may be executed in duplicate original counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one in the same instrument.

IN WITNESS WHEREOF, the City and the Manager have executed this Agreement effective as of the date first written above.

CITY OF PEARLAND

Mayor

Tom Reid

ATTEST:

City Secretary

Young Larfing



APPROVED AS TO FORM:

Dan Gil
City Attorney

AGREED AND ACCEPTED this the 28th Day of January, 2014

City Manager

Clay J. Pearson
Clay J. Pearson

