

RESOLUTION NO. 602-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, APPOINTING JAMIE CROTEAU AS CITY MANAGER AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF ORANGE CITY AND JAMIE CROTEAU FOR THE POSITION OF CITY MANAGER; REPEALING ALL RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, after conducting a nationwide search for a City Manager, the City Council of the City of Orange City voted to negotiate a contract for employment with Jamie Croteau to serve as City Manager for the City of Orange City consistent with Article III of the City's Charter and the Code of Ordinances.

WHEREAS, it is the desire of the City Council of the City of Orange City, Florida and Jamie Croteau to enter into an Employment Agreement for the position of City Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. An Employment Agreement is hereby attached hereto as Exhibit "A" and by reference incorporated herein with full force and effect as if fully set forth.

SECTION 2. The City Council of the City of Orange City appoints Jamie Croteau as City Manager, effective with the beginning of the term as provided in Exhibit "A".

SECTION 3. The City Council hereby authorizes the Mayor to execute said employment with Jamie Croteau on behalf of the City of Orange City.

SECTION 4. That all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 5. That this resolution shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

ROLL CALL VOTE AS FOLLOWS:

Gary A. Blair	<u>yes</u>	Jeff H. Allebach	<u>yes</u>
O. William Crippen	<u>yes</u>	Tom Abraham	<u>yes</u>
Anthony Pupello	<u>yes</u>	Tom Laputka, Vice Mayor	<u>yes</u>
Harley Strickland, Mayor	<u>yes</u>		

ADOPTED THIS 23rd DAY OF March, 2010.

ATTEST:

Deborah J. Renner
Deborah J. Renner, CMC, City Clerk

AUTHENTICATED:

Harley Strickland
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

W. E. Reischmann
W. E. Reischmann, City Attorney

**CITY MANAGER'S
EMPLOYMENT AGREEMENT**

THIS AGREEMENT, made this 7th day of April, 2010, between the **CITY OF ORANGE CITY, FLORIDA**, a Florida municipal corporation (hereinafter referred to as the "Employer" or "City") and **JAMIE CROTEAU** (hereinafter referred to as the "Employee").

WHEREAS, Employer is a Florida municipal corporation organized and existing under the laws of the State of Florida; and

WHEREAS, on March 23, 2010, the City Council formally selected Employee as the City Manager of Orange City subject to contract acceptance and Employee start date; and

WHEREAS, Employer and Employee are now desirous of establishing, in writing, the duties and responsibilities of the respective parties and memorializing the terms and conditions of employment in a written agreement to be executed by and between the parties; and

WHEREAS, the Employee has professional experience in the field of service required by this Agreement, is fully qualified to hold the position of City Manager and is desirous of becoming the City Manager; and

WHEREAS, the Employer has determined this Agreement to be in the best interest of the Employer.

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

1. **Employment and Duties.** Employer employs the Employee in the capacity of City Manager of Orange City, Florida. Employee shall serve at the pleasure of the City Council of Orange City ("City Council") and may be terminated with or without cause. The Employee agrees to perform such duties as set forth in the Charter and Ordinances of the City of Orange City, as said Ordinances and Charter may be amended from time to time, together with such other duties as may be properly and legally assigned to her from time to time by the City Council. Employee also agrees to fully and faithfully perform such duties prescribed by the laws of the State of Florida and United States of America, including regulations of other appropriate administrative agencies, relating to the City of Orange City and the position of City Manager. All such duties shall be performed within the time frames or deadlines imposed by law, applicable policy, rule, or established by the City Council. Absent a legally or City Council imposed deadline, the Employee shall perform her duties within a reasonable period of time and with due regard for promptness, diligence, and professionalism.

The Employee shall request of the City Council from time to time such decisions or actions of the City Council which the Employee may determine are reasonably necessary for the successful accomplishment of her duties as City Manager. And, the Employee shall assign or devote such resources and personnel in a manner which, in her judgment, best serves the interests of the City of Orange City, Florida, consistent with the policies and direction of the City Council.

2. **Performance.** The Employee agrees to devote her full working time and attention to the performance of the duties of the City Manager required hereunder. Employee shall not render any other services of a professional or business nature to any other person or organization without the Employer's prior written consent. This provision shall not include occasional teaching, presentations to professional organizations, writing, or performing functions on behalf of the Florida City and County Manager's Association and such other state and local government groups and committees thereof, provided such activities do not conflict or interfere with Employee's duties as City Manager under this Agreement.

3. **Term.** The term of this Agreement shall commence on April 26, 2010 and shall continue until terminated by either Employer or Employee as provided herein.

4. **Compensation.** For her services to the Employer, the Employee shall be compensated as follows:

(a) **Salary.** Commencing on the beginning of the term of this agreement (April 26, 2010), the Employee shall receive a starting salary of One Hundred Eighteen Thousand and No/100 Dollars (\$118,000.00), payable in installments at the same time as other employees of the Employer are paid, less appropriate deductions for employment taxes, income tax and other lawful withholdings. Employee shall not be entitled to overtime or compensatory benefits. The Employee's annual base salary may be adjusted based on the City Council's annual evaluation of Employee's performance as hereinafter provided, or after request of Employee and approval by the City Council.

(b) **Retirement Plan.** The Employer agrees to provide Employee the same retirement benefits provided to other City employees.

(c) **Automobile Allowance.** Employer agrees to provide Employee an automobile allowance equal to \$200 per month to reimburse the Employee for her automobile expenses. Said allowance shall be to reimburse the Employee for local travel only, defined as travel within a fifty-mile radius of Orange City Town Hall. All travel outside of the aforementioned area shall be reimbursed at a cents-per-mile rate equal to that provided by IRS business guidelines or the rate provided to regular City employees, subject to applicable statutory limitations. This does not include any travel from Employee's current residence to or from the City.

(d) **Life, Health, and Disability Insurance.** The Employer agrees to provide Employee term life insurance, health insurance coverage, and disability insurance coverage equal to that which is provided to other City employees.

(e) The City will provide Employee with a cell phone and a personal digital assistance (PDA), to be used exclusively for her employment uses. All records for this equipment are City records.

5. **Other Conditions of Employment.** The Employee, on condition of her employment by the Employer, agrees to the following:

(a) **Hours of Work.** The Employee agrees that, subject to Employee's inability to work due to sickness, injury or vacation, at all times during the term of this Agreement, she will arrange to be available to perform the duties of her employment not only during the regular business hours of the Employer, but also at such other times as the Employer shall from time to time reasonably request and that she shall not be entitled to any compensation in addition to that provided for herein for services rendered by her outside of the City's regular business hours, or on Saturdays, Sundays or holidays. The City's Mayor or designee shall authorize any periods of illness, vacation or absences of a day or more. The Employee shall coordinate all illness/vacation absences or extended periods away from the office with the Mayor or designee. Approval of time off shall not be unreasonably withheld.

Nothing herein will limit Employee's right, with the Employer's prior written consent, to make passive investments, to participate in charitable service and organizations, other community activities and trade and professional organizations or to undertake other activities which do not interfere with the performance of her duties hereunder. It being mutually agreed and understood that her participation in charitable service, other community activities, and trade and professional organizations is to the benefit of the City. Employee shall not otherwise be employed on a full time or part time basis without the written permission of the City Council.

(b) **Vacation, Sick Leave, Holidays and Other Benefits.** The Employee shall accrue and have credited to her personal account vacation at the rate of twenty (20) days per year and sick leave at the same rate as other City employees. No more than two hundred eighty (280) hours of unused vacation may be carried over from one (1) year to the next, but no limit shall be set forth for accrual of sick leave. Upon termination, the Employee shall be paid out a maximum of eighty (80) hours of unused vacation time and a maximum of eighty (80) hours of all unused sick time. Employee will be entitled to the same holidays as general City employees.

(c) **Professional Association Dues.** Subject to presentation of proper receipts or invoices and the appropriation of funds as part of the City's Annual Budget, Employer shall pay the dues for the International City/County Management Association (ICMA) and the Florida City and County Management Association (FCCMA) and

Employee's other reasonable professional associations and memberships as approved by the City Council in advance.

(d) **Professional Development.** Employer hereby agrees to budget for and pay for travel and subsistence expenses of Employee for professional and official travel to include ICMA, FCCMA and Florida League of Cities annual conferences and any other conferences or seminars approved by the City Council in advance. The payment of such expenses shall be in accordance with the City's travel policy, as amended from time to time, or as otherwise approved by the City Council in advance. The foregoing shall be subject to the needs of the City and budgetary appropriation by the City Council.

(e) **Relocation.** Employee agrees to continue to actively acquire housing within the corporate limits of the City. She shall keep Council members informed of her efforts to achieve this goal within 180 days. However, the Council may extend the timeframe on a month-to-month basis.

6. **Indemnification and Cooperation.** Employer shall defend, indemnify and hold Employee harmless against any and all civil claims, demands, actions, suits, expenses and losses, including reasonable attorney's fees, arising out of the action or omission of Employee within the scope of her duties as City Manager, except for acts or omissions exhibiting wanton or willful disregard of human rights, safety, or property or outside the scope of Employee's employment or willful misconduct of Employee ("Covered Loss"). Further, this covenant shall only apply to claims for punitive damages where such claims arose out of the good faith performance of the Employee's duties; otherwise, this covenant shall not apply to claims for punitive damages. The Employer may, at Employer's option, provide for legal representation of Employee through the City Attorney or outside counsel of its choice or may choose to reimburse the Employee for legal fees incurred as a result of a Covered Loss. The City will have the authority to compromise and settle any such claim or suit within the scope of the Employee's employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the City and Employee shall rely upon the doctrine of sovereign immunity and the provisions of section 768.28, Florida Statutes, and other applicable law.

In the event of actual or threatened litigation and/or administrative proceedings involving the City which arise out of the operation or actions which occurred or are alleged to have occurred while Employee was the City Manager of the City of Orange City, Florida, Employee will cooperate with the City and its Council in assisting the City in every legal manner to prevail in said action. The City shall pay Employee's reasonable travel expenses and subsistence expenses incurred away from her home incurred in preparation for an actual discovery, settlement, and travel of all said matters.

Employee further agrees that unless required by law, she will not cooperate with or assist any party, person, or entity who has, had or may have, or asserts that he has or may have any claim of any nature against the City, its agents, officers,

employees, City Council members or representatives, without the express written permission of the City Council or its designee.

Employee shall not disclose any confidential information involving the business of the City to any person or entity without the written permission of the City Council, or its designee, unless required to do so by law.

7. **Evaluation.**

(a) The City Council shall review and evaluate the performance of the Employee at least once annually. Said review and evaluation shall be in accordance with specific performance criteria that may be developed by the City Council and Employee. Once initially developed, the criteria may be modified by the City Council and Employee. The initial evaluation under this Agreement shall be due and completed in October, 2010, and subsequent reviews and evaluations shall occur each year thereafter on or about the anniversary date of initial employment.

(b) In furtherance of defining the performance criteria, the City Council and Employee shall annually define such goals and performance objectives that they deem necessary for the proper operation of the City and in the attainment of City Council's policy goals and objectives. The relative priority among the various goals and objectives shall be reduced to writing. They shall generally be handled within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

(c) The parties recognize that Employee's performance evaluation by the City Council may not occur exactly on the anniversary date, but it will likely coincide with the regular meeting schedule of the City Council.

8. **Termination and Severance Pay.**

(a) The Employee shall serve at the pleasure of the Employer. The City Council reserves the right at any time in its sole discretion and for any reason whatsoever, or for no reason, to terminate Employee's employment at a duly held public meeting. If the Employee is terminated at the pleasure of the City Council pursuant to this subparagraph (a), without cause, the Employee shall receive severance pay equal to six months current salary.

(b) Employee agrees that the City Council shall have the sole and absolute discretion to decide upon such termination under subparagraph 8 (a). In the event of such termination, the Employee waives all rights to contest or challenge the City Council's decision and will accept the payments provided in subparagraph 8 (a) in full satisfaction of the Employer's obligations under this Agreement and in full release of any and all claims that the Employee has, or may have, against the Employer, and its City Council, employees, and City Attorney, both individually and in their official capacity, under this Agreement.

(c) If the Employee is terminated by the City Council because of: (1) a formal felony charge filed against her by the State or U.S. attorney or conviction of a felony; (2) misfeasance, malfeasance, or neglect of duties under this Agreement or City Charter; (3) conviction of a violation of the Florida Ethics Laws or any illegal act involving personal gain to her; (4) abandonment of the Office of City Manager; (5) habitual drunkenness; or (6) permanent inability to perform her official duties as City Manager, then the Employee shall not be entitled to any severance pay. If City Council terminates Employee for cause pursuant to this subparagraph (c), the Employee's sole legal remedy is an action in the court of appropriate jurisdiction and venue. If said court determines that the City Council did not properly terminate Employee for cause under this Agreement, the parties agree that such termination from employment shall be deemed a termination without cause, and the provisions of paragraph 8(a) shall apply in their entirety.

(d) The Employee may terminate this Agreement at any time upon giving Employer at least ninety (90) days written notice in advance, unless the parties agree otherwise. The Employee shall only receive compensation consistent with paragraph 5 (b).

(e) In the event Employer, at any time during the term of this Agreement, reduces the salary or other financial benefits of Employee in a greater percentage than that applicable to an across-the-board reduction for all employees of the Employer, or in the event Employer refuses, following written notice to comply with any other written provision benefitting Employee herein, then in that event Employee may, at her option, resign and be deemed to have been "terminated without cause" for purposes of applying paragraph 8 (a).

(f) In the event of the death of the Employee during the term of the Agreement, this Agreement shall automatically terminate and the Employer shall pay to her surviving spouse, if any, or if the Employee does not have a surviving spouse, to the estate of the Employee, an amount equal to the portion of the Employee's salary to which she was entitled through the date of this death, plus accrued sick and vacation time and any other applicable death benefits provided to other employees of Employer.

9. General Provisions.

(a) The text herein constitutes the entire Agreement between the parties, and it may not be modified except by written Agreement signed by both parties.

(b) If any provision or portion of this Agreement is found to be unenforceable, then the remainder of this Agreement shall not be affected and shall remain in full force and effect.

(c) This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

(d) This Agreement shall be interpreted and governed by the laws of Florida. Venue for any action hereunder shall be in Volusia County, Florida, or if a federal action is commenced, in the Federal Court in Orlando, Florida.

(e) Each party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and it has the legal authority to enter into this Agreement and to undertake all obligations imposed on it.

(f) The language of the City Charter relating to the position and function of the City Manager of the City of Orange City, as may be amended from time to time, is incorporated herein by reference into this Agreement as though it were set forth in the text of this Agreement verbatim.

(g) Both parties have participated in drafting this Agreement. As such, this Agreement shall not be construed or interpreted more strictly against any one party than against any other party.

(h) The effective date of this Agreement shall be the date first written above.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

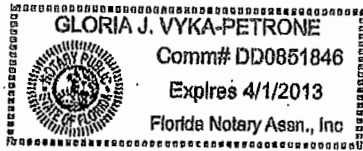
EMPLOYEE:

Jamie Croteau
JAMIE CROTEAU

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared JAMIE CROTEAU, to me personally known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 19 day of March, 2010.



Gloria J. Vyka-Petrone
NOTARY PUBLIC

EMPLOYER:

By: Harley Strickland
Harley Strickland, Mayor

ATTEST: Deborah Renner
Deborah Renner, CMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE CITY OF ORANGE CITY ONLY:

William E. Reischmann, Jr.
William E. Reischmann, Jr., City Attorney

Approved by the City Council on: March 23, 2010.