

Mayor

Clay Koplin

Council Members

James Burton

Tim Joyce

Tom Bailer

Robert Beedle

Josh Hallquist

David Allison

James Wiese

Interim City Manager

Mike Hicks

City Clerk

Susan Bourgeois

Deputy Clerk

Tina Hammer

Student Council

Corinne Pegau

Special City Council Meeting
September 27, 2016 @ 7:00 pm
Cordova Center Community Room B
Agenda

A. Call to order

B. Roll call

Mayor Clay Koplin, Council members James Burton, Tim Joyce, Tom Bailer, Robert Beedle, Josh Hallquist, David Allison and James Wiese

C. Approval of agenda..... (voice vote)

D. Disclosures of conflicts of interest

E. Communications by and petitions from visitors

1. Audience Comments regarding agenda items

F. New Business

2. Approval of City Manager Employment Agreement with Alan Lanning..... (roll call vote)(page 1)

G. Audience participation

H. Council comments

I. Executive Session

3. City Manager Employment Agreement – per reason (1) for executive sessions below

J. Adjournment

Executive Sessions: Subjects which may be discussed are: (1) Matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the government; (2) Subjects that tend to prejudice the reputation and character of any person; provided that the person may request a public discussion; (3) Matters which by law, municipal charter or code are required to be confidential; (4) Matters involving consideration of governmental records that by law are not subject to public disclosure.

If you have a disability that makes it difficult to attend city-sponsored functions, you may contact 424-6200 for assistance.

Full City Council agendas and packets available online at www.cityofcordova.net

A MEMO FROM SUSAN BOURGEOIS, CMC, CITY CLERK

DATE: September 26, 2016

TO: Mayor and City Council, Public

SUBJECT: City Manager Employment Agreement

Mayor Koplin and Council member Joyce took direction from the City Council and successfully negotiated the attached employment agreement. Mr. Lanning has signed expressing his agreement as well. Effective date is the date he will begin work for the City which is Monday, October 17, 2016.

Cordova Municipal Code 3.12.080 is attached here. A City Manager can be appointed only by majority of all council and therefore a roll call vote is appropriate.

RECOMMENDED MOTION: Move to approve the City Manager employment agreement between the City of Cordova and Alan D. Lanning.

REQUIRED ACTION: Majority roll call vote.

CITY MANAGER EMPLOYMENT AGREEMENT



This Employment Agreement ("Agreement") is made and entered into effective October 17, 2016, by and between the City of Cordova ("CITY") and Alan D. Lanning, P.O. Box 882204, Steamboat Springs, CO, 80488, ("EMPLOYEE").

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the CITY of Cordova agrees to hire EMPLOYEE as its City Manager under the terms and conditions set forth below:

1. Duties and Nature of Employment. CITY agrees to employ EMPLOYEE, and the EMPLOYEE agrees to be employed by the CITY in the position of City Manager. EMPLOYEE is an at-will EMPLOYEE who serves at the pleasure of the City Council. EMPLOYEE shall perform all duties and discharge all responsibilities of that position as prescribed by the laws of the State of Alaska, the Charter of the CITY of Cordova, the Cordova Municipal Code, all as may be amended from time to time, and as established by the Council, from time to time. EMPLOYEE shall maintain residency in the CITY of Cordova during the entire term of this Agreement.
2. Compensation. The CITY agrees to pay EMPLOYEE for his services an annual salary of one hundred twenty thousand dollars (\$120,000) payable in the same installments as other employees of the CITY. All compensation paid to EMPLOYEE shall be subject to required employment deductions, taxes, and contributions. EMPLOYEE shall receive COLA adjustments given to all other exempt employees of the CITY providing that any adjustments shall commence after the completion of the first year of service. This salary amount shall be effective for the term of the Agreement, subject to annual review by the City Council. Salary increases may be granted at the discretion of the City Council if consistent with the needs of Cordova and available funds.
3. Exempt Position. EMPLOYEE acknowledges that the position of City Manager is exempt from the overtime requirements of state and federal minimum wage and overtime laws, and as such EMPLOYEE is expected to work whatever hours are necessary to accomplish the goals and requirements of the position. The customary work week at Cordova for full time, exempt employees is Monday through Friday from 8:00 a.m. to 5:00 p.m. However, EMPLOYEE acknowledges that the specified work hours and work week may differ depending on the needs of the CITY, and that EMPLOYEE may frequently be required to work beyond the confines of the regular work week and work hours. Time sheets shall be submitted to the Mayor or his designee for signature in accordance with the schedule utilized for other non-elected, non-collectively bargained employees.
4. Term. This agreement shall commence October 17, 2016 and shall expire on October 16, 2019, unless terminated earlier in accordance with Paragraph 5. The term may be extended upon mutual written agreement of the parties.
5. Termination of Agreement
 - (a) EMPLOYEE'S employment under this Agreement is terminable at will and at any time by CITY, without any notice of any kind whatsoever, with or without cause, it

being expressly and explicitly understood and agreed by EMPLOYEE that he holds the position of City Manager and serves as City Manager at the will of the Council. Dismissal and grievance procedures applicable to other City employees as provided in the Cordova Municipal Code, if any, shall not apply to the termination of EMPLOYEE'S employment by the City Council.

- (b) EMPLOYEE shall provide CITY with written notice of his resignation no less than sixty (60) days prior to the effective date of his resignation or prior to termination of this Agreement. EMPLOYEE will remain on site and in service for the notice period. At its option, CITY may pay Salary in lieu of service through the effective resignation date, but on no account shall EMPLOYEE receive compensation in lieu of service for a period longer than sixty (60) days regardless to the length of notice provided by EMPLOYEE. If EMPLOYEE resigns without providing such notice, then EMPLOYEE shall forfeit all benefits which EMPLOYEE otherwise would have been entitled to receive upon resignation under this Agreement, including payment of unused accrued annual or sick leave. If the EMPLOYEE resigns prior to the expiration of this Agreement under its initial term, EMPLOYEE shall be responsible for his return transportation and shall reimburse the CITY sums paid under Paragraph 14(g) for moving expenses; provided, however, that one-third of the amount of such moving expenses shall be deemed repaid as of each of the first, second and third anniversaries of this Agreement. EMPLOYEE hereby consents to the deduction of such moving expense reimbursement from his final paycheck, and to the payment of any outstanding balance from his personal funds.
- (c) This Agreement shall terminate automatically and immediately upon EMPLOYEE's death. CITY shall pay any unused accrued annual and sick leave, and Salary earned to the personal representative of EMPLOYEE's estate.
- (d) If physical or mental condition renders EMPLOYEE unable to perform the essential functions of EMPLOYEE's position for a period of 12 weeks in any 12-month period, CITY may terminate this Agreement by providing not less than sixty (60) days' notice, or Salary in lieu of notice. Such termination shall be without prejudice to any disability benefits otherwise payable under CITY plans or policies then applicable. Nothing in this paragraph shall be construed to preclude CITY from filling EMPLOYEE's position with a non-temporary employee under the "key employee" concept articulated in the Family and Medical Leave Act, whether or not the Act applies.

6. Severance

- (a) In the event that CITY terminates EMPLOYEE'S employment under this Agreement without cause, CITY shall pay EMPLOYEE a lump sum as severance pay equal to six (6) months' salary, minus applicable deductions and withholding. EMPLOYEE shall be required to execute and not revoke a general waiver and release of employment-related claims as a pre-condition of receiving such severance payment.
- (b) In the event CITY terminates EMPLOYEE's employment for cause, or if EMPLOYEE resigns his employment, regardless of cause, then EMPLOYEE

shall receive no severance pay from CITY. Any of the following shall constitute "cause" for termination: (i) EMPLOYEE's failure to satisfactorily perform his duties in accordance with the provisions of this Agreement, or maintain his Cordova residency as required by this Agreement, (ii) EMPLOYEE's intentional failure to obey any lawful directive of the Council, (iii) EMPLOYEE's intentional failure to comply with the Charter of the City of Cordova or with the Cordova Municipal Code, (iv) Intentional and willful misconduct which the Council reasonably believes reflects adversely on EMPLOYEE's position as City Manager, including but not limited to, dishonesty, fraud, embezzlement, substance abuse, and criminal misconduct, or (v) any other acts or omissions of EMPLOYEE which constitute "cause" under Alaska law.

7. Benefits. EMPLOYEE shall be entitled to participate in State of Alaska PERS retirement benefit plan, or if allowed by the State of Alaska and at EMPLOYEE's request an alternative retirement plan in which the CITY will match the EMPLOYEE's contribution 1:1 up to a city matched contribution of 8% of the base salary to the alternative retirement plan. EMPLOYEE shall be entitled to participate in the City-sponsored health and life insurance benefits on the same basis as other full-time regular employees of the City of Cordova, subject to CITY's right to amend or terminate such benefits at any time.
8. Paid Time Off.
 - (a) Holidays – EMPLOYEE shall receive regular pay for recognized holidays specified in the Cordova Municipal Code.
 - (b) Annual Leave – EMPLOYEE shall commence employment with an accrued annual leave bank of forty (40) hours of annual leave for use as of the Effective Date. EMPLOYEE shall accrue annual leave at a rate of 10 hours per month. Annual leave may be carried over from year to year. Annual leave accumulated in excess of 240 hours shall be forfeited on December 31 of each year. Annual leave in excess of three (3) days must be requested two weeks in advance. Requests for annual leave shall be submitted to the City Council at any of its regularly scheduled twice-monthly meetings, OR to the Mayor.
 - (c) Medical Leave – EMPLOYEE shall accrue medical leave at a rate of 8 hours per month. Medical leave may be carried over from year to year. Fifty percent (50%) of EMPLOYEE's accrued medical leave will be cashed out upon separation on favorable terms up to a maximum of 150 hours, subject to the limitations of Paragraph 5(b) hereof. For an absence due to sudden illness or other unanticipated events, EMPLOYEE shall telephone the Mayor or the designated City Council representative as soon as possible prior to the time EMPLOYEE is scheduled to report for work.
 - (d) Miscellaneous - Annual and sick leave both accrue during the period of time EMPLOYEE is on a paid leave, but not during leave without pay. Neither annual leave nor sick leave may be advanced.
9. Confidentiality. EMPLOYEE recognizes that the City Manager will receive and have access to information of a confidential nature. EMPLOYEE agrees any confidential

information obtained as a result of the City Manager position will be maintained as confidential to the extent authorized by law.

10. Indemnification. CITY shall indemnify, hold harmless and defend EMPLOYEE against all claims and liability which may result from any claim, action or suit by any person based upon alleged injury to or death of a person or alleged loss of or damage to property that may occur or that may be alleged to have been caused by EMPLOYEE acting in the course and scope of performing his official duties during the duration of his employment with CITY under this Agreement, provided, however, that CITY shall not be obliged to indemnify, hold harmless or defend EMPLOYEE against any such claim or liability arising out of or resulting from acts or omissions which, in the sole judgment of CITY, constitute dishonesty, fraud, or criminal misconduct. It is the intention of the parties that EMPLOYEE shall be covered under the applicable CITY public officials' liability policy. The provisions of this Paragraph 10 shall survive the termination, expiration or other end of this Agreement and/or the EMPLOYEE's employment with the CITY.
11. Conflict of Interest. EMPLOYEE will be fair and impartial in all dealings and will avoid any actions which create a conflict of interest or might reasonably be interpreted as affecting the impartiality of his position as City Manager. EMPLOYEE shall not use his position for the primary purpose of obtaining personal financial gain or financial gain for a spouse, child, mother, father, or business with which the EMPLOYEE is associated. EMPLOYEE shall not solicit or receive money for advice or assistance given in the course of his public employment. EMPLOYEE may not represent a client for a fee before City Council.
12. Other Employment. EMPLOYEE acknowledges that he must devote a great deal of time outside normal City office hours to the business of Cordova. EMPLOYEE shall not undertake employment with any person or entity other than Cordova without prior approval of the City Council.
13. Performance Evaluation. The City Council shall evaluate the performance of EMPLOYEE no less frequently than annually during the term of this Agreement. The evaluation shall be completed in accordance with written guidelines of expected standards of performance and personal conduct and a written performance evaluation procedure approved by the City Council prior to each evaluation and provided in advance to EMPLOYEE.
14. Expenses.
 - (a) CITY will provide EMPLOYEE with a cell phone for ease of contact of EMPLOYEE during non-traditional work hours and particularly for use where the work of CITY requires travel outside of CITY.
 - (b) CITY will provide EMPLOYEE with a laptop or other portable computing device. All such devices shall be used by EMPLOYEE for the sole and exclusive purpose of conducting official business and maintaining the operations of CITY. Use of all such devices is subject to CITY's policies regarding computer and internet use.

- (c) CITY shall provide EMPLOYEE with a shared automobile for travel to destinations within the City limits for city business and to commute to and from work. The automobile may be used by other CITY employees from time to time when not being used by the EMPLOYEE. EMPLOYEE will be reimbursed by CITY on a per mile basis for business travel in EMPLOYEE's personal automobile to destinations outside the City limits at the IRS standard mileage rate for business, as the same may be amended on an annual basis, subject further to CITY's expense documentation and expense practices. EMPLOYEE shall be reimbursed for travel to out of town meetings or professional development as authorized by the City Council in the budget for each fiscal year or as approved in advance by the City Council, subject to City's expense documentation and reimbursement practices.
- (d) EMPLOYEE is encouraged to participate in community and civic affairs. The budgeted expenses for participation in such activities shall be borne by CITY, subject to CITY's expense documentation and reimbursement practices.
- (e) CITY shall provide EMPLOYEE with a business expense allowance in the sum of \$500 per year, for discretionary business expenses related CITY business that may be incurred by EMPLOYEE but that are not directly reimbursed by the City (e.g., meal and event expenses for gatherings with Council members, staff members, business contacts and/or other individuals with whom CITY has a relationship). Such expense reimbursements shall be subject to CITY's expense documentation and reimbursement practices.
- (f) CITY shall pay to EMPLOYEE housing payments of up to one thousand, five hundred dollars (\$1,500) per month for six (6) months and approximate to the Effective Date to obtain housing, subject to CITY's expense documentation and reimbursement practices.
- (g) CITY shall pay as a moving and relocation expense allowance up to fifteen thousand Dollars (\$15,000). The moving and relocation expense allowance is paid in lieu of any other compensation or reimbursement for EMPLOYEE's cost and expense of moving EMPLOYEE's family and belongings. EMPLOYEE shall present all receipts, invoices or other proof of moving costs to the Human Resources Department within ninety (90) days of reporting to work at CITY.
- (h) CITY agrees to budget for and to pay for professional dues, subscriptions and reasonable travel and education expenses of EMPLOYEE necessary for continuation and full participation in national, regional, state and local associations, including but not limited to Alaska Municipal League and the International City/County Management Association, for EMPLOYEE's continued professional growth and advancement. CITY will also pay or reimburse reasonable travel expenses of EMPLOYEE's spouse when the spouse accompanies EMPLOYEE to the annual conference for the International City/County Management Association and the Alaska Municipal League with prior notification to the Council; provided, however that such conferences and meetings must have a program or session(s) for the benefit of the spouse, and

the spouse will be required to attend such session(s) and/or program(s) in order for EMPLOYEE to receive reimbursement of the travel expenses of his spouse.

15. Choice of Law; Exclusive Venue. Any controversy or claim arising out of or related to this Agreement or the breach thereof shall be governed by the laws of the State of Alaska, and the City of Cordova, Alaska, and the exclusive forum for any legal proceedings regarding such dispute shall be the Superior Court for the State of Alaska, Third Judicial District at Cordova.
16. Assignment. This Agreement shall not be assignable, in whole or in part, by either Party without the written consent of the other Party.
17. Integration and Modification. Except as otherwise provided herein, this instrument is the entire Agreement and supersedes any previous employment agreement or arrangements. It may be modified only in writing signed by each of the parties.
18. Severability. In the event any provision of this Agreement is deemed to be void, invalid, or unenforceable, that provision shall be severed from the remainder of this Agreement so as not to cause the invalidity or unenforceability of the remainder of this Agreement. All remaining provisions of this Agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.
19. Waiver. The waiver by either Party of a breach of any of the provisions of this Agreement by the other Party shall not operate or be construed as a waiver of any subsequent breach by a Party.
20. Amendment. This Agreement may be amended in writing by mutual agreement of the Parties.
21. Applicability of City Personnel Regulations. The Cordova Municipal Code and any Personnel Regulations as they may exist from time to time shall govern this Agreement; provided, however, that the provisions of this Agreement shall take precedence in any area specifically addressed by this Agreement when there is a conflict between the Code, Regulations and this Agreement.
22. Employee's Certification. EMPLOYEE hereby certifies that he has received a copy of this Agreement and the Cordova Municipal Code and any applicable employment policies and procedures. EMPLOYEE further certifies that he has had the opportunity to be represented by independent counsel in the negotiation of this Agreement, has read the full Agreement, and understands the meaning and legal consequences of this Agreement.

IN WITNESS WHEREOF, the City Council of the City of Cordova has caused this Agreement to be signed and executed on the City Council's behalf by its Major and duly attested by its City Clerk, and Alan D. Lanning has executed this Agreement for and on behalf of himself, on the day and year first written above.

CITY OF CORDOVA

EMPLOYEE

BY: _____
Clay Koplin, Mayor

BY:  _____
Alan D. Lanning

ATTEST:

BY: _____
Susan Bourgeois, City Clerk

3.12.080 - Meetings—Passage of proposals.

A majority of the members of the council shall constitute a quorum. Any action the council is authorized or required to take under the Charter or this code may be taken by favorable vote of a majority of the quorum except as follows:

- A. A majority of all members of the council shall be required for final passage of an ordinance, in accordance with Article II, § 2-13 of the Charter;
- B. A majority of all the members of the council shall be required to adopt a budget and make appropriations for the next fiscal year in accordance with Article V, § 5-4 of the Charter;
- C. A majority of all the members of the council shall be required for the transfer of unencumbered appropriations in accordance with Article V, § 5-6 of the Charter;
- D. An appropriation from the city general reserve fund must be in accordance with Section 5.44.060;
- E. Concurring vote of four members shall be necessary when the council sits as a board of adjustment in accordance with Section 3.40.100;
- F. Vacancies in the office of mayor and council membership shall be filled by majority vote of the council's remaining members in accordance with Article II § 2-10 of the Charter;
- G. The city manager shall be appointed or removed by a vote of a majority of all council members, in accordance with Article III, § 3-1 of the Charter;**
- H. A majority of all the members of the council shall be required to create an office or position of employment or to incur an expenditure of funds for purposes not specifically included in an approved budget.

The council shall vote on a roll call vote where a majority of all members is required, or upon request of any council member. The results of all votes shall be entered into the minutes of the meeting.

(Ord. 665, 1989).