



EXECUTIVE DIRECTOR SEARCH COMMITTEE MEETING

THURSDAY, JULY 11, 2024

8:30 AM

**WILLIAM M. LEHMAN BUILDING
3790 NW 21ST STREET
MIAMI, FLORIDA 33142**

AGENDA

I. CALL TO ORDER

II. ROLL CALL

III. ACTION ITEM

- **Approval of Amended Employment Agreement for Torey Alston,
Executive Director**

IV. ADJOURNMENT

EXECUTIVE DIRECTOR SEARCH COMMITTEE MEMBERS
RICHARD BLANCO, JR.
RODOLFO L. PAGES
FATIMA PEREZ

GREATER MIAMI EXPRESSWAY AGENCY
EXECUTIVE SEARCH COMMITTEE MEETING
07/11/2024

AGENDA ITEM REPORT

[x] Consent [] Regular [] Public Hearing

EXECUTIVE DIRECTOR'S CONTRACT

REQUESTED ACTION:

Approve Amended Employment Agreement for Torey Alston

SUMMARY EXPLANATION AND BACKGROUND:

Pursuant to Florida Statutes 348 Part 1, and the law requires, "In the hiring of an Executive Director of the agency, the governing body of the agency shall conduct a nationwide search in order to identify the most qualified candidate".

The Governing Board approved the Executive Director search on September 27, 2023, and approved the creation of the Executive Director Search Committee on November 17, 2023.

The Executive Search Committee, on March 28, 2024, approved the job description, authorized the Human Resource Manager to post the Executive Director Job for 30 calendar days and was instructed to present all qualified candidates to the Committee.

The Executive Search Committee, on May 9, approved the scheduling of a Special Board Meeting to conduct on-site interviews with candidates recommended by the Search Committee.

The Board of Directors, on May 30, 2024, selected Torey Alston as the Executive Director of GMX.

EXHIBITS ATTACHED:

Attachment A: Amended Employment Agreement for Torey Alston

AMENDED EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (“Agreement”) has been entered into on this ____ day of _____, 2024, between the Greater Miami Expressway Agency, an agency of the State of Florida whose mailing address is 3790 NW 21 Street, Miami, Florida 33142 (hereinafter referred to as the “Agency”), and Torey Alston (“Executive”) (collectively referred to as “Parties”).

RECITALS

WHEREAS, on May 30, 2024, the Executive was selected by the Agency Board of Directors for the position of Executive Director following a national search and interview process in accordance with applicable law.

WHEREAS, the Agency desires to employ Executive as Executive Director at-will upon the terms and conditions set forth herein, and Executive is willing to continue employment and enter into this Agreement under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement and for such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and Executive agree as follows:

Section 1. RECITALS. The Recitals set forth above are incorporated fully herein are true and correct and form a material part of this Agreement.

Section 2. NATURE OF EMPLOYMENT AND DUTIES OF EXECUTIVE. In accordance with the terms of the Greater Miami Expressway Agency Bylaws (“GMX”), Executive is designated by the Agency’s governing board (the “Board”) to serve as Executive Director. Executive acknowledges that he meets the requirements to serve as the Executive Director. Executive will report to the Board. As Executive Director, Executive will serve as the Chief Executive Officer and be responsible for performing all duties pursuant to the GMX Bylaws, the Agency’s policies, and as otherwise assigned by the Board. In the performance of his duties, Executive shall at all times comply with Agency customs, practices, policies, personnel and governance policies, and nondisclosure agreements, whether currently in existence or as may come into existence and whether or not in written form. Examples of such Agency practices and policies include, but are not limited to, its Code of Ethics and Nondiscrimination Policies. In addition, Executive agrees to perform such other or additional powers and duties as the Board may deem appropriate, or as may be delegated to him by the Board.

Section 3. EFFECTIVE DATE OF AGREEMENT. The effective date of this Agreement will be May 30, 2024 (GMX Board Meeting) (“Effective Date”), and the Agreement shall remain effective and continue in force and effect as provided hereafter during Executive’s employment and for the periods of time thereafter as set forth in this Agreement.

Section 4. TERMINATION OF EMPLOYMENT.

Section 4.1 Termination by the Agency upon Dissolution. It is specifically agreed and understood that Executive's employment and this Agreement may be terminated by the Agency at any time in the event the Agency ceases to exist by way of legislation or final disposition of litigation. In that event, Executive's employment and this Agreement will terminate immediately upon delivery of written notice to Executive. In that event, the Agency shall have no further obligations to Executive, except that any salary which has been earned but not paid as of the date of the termination shall be paid to Executive by the Agency in accordance with the Agency's regular payroll practices and policies. No other monies, compensation, bonuses, benefits, or incentives will be due or owing to Executive with respect to services performed.

Notwithstanding anything in the preceding paragraph of this subsection 4.1, where a termination occurs pursuant to this Section 4.1, provided Executive signs (and does not revoke) a separation, waiver and release agreement (to be prepared by the Agency) of all claims (known or unknown) against the Agency arising out of or relating to his employment with the Agency or termination thereof, as well as any other terms and conditions required by the Agency, and provided Executive fully complies with any restrictive covenants that survive termination of his employment, Executive shall be entitled to receive as severance an amount equal to twenty (20) weeks of base compensation (calculated based on the salary in effect at the time of termination and minus applicable withholdings and deductions) to be paid in a lump sum payment consistent with the terms of the above-referenced waiver and release agreement. There shall be no set-off of the severance if Executive obtains alternate employment prior to the end of the twenty (20) week severance period.

Section 4.2 Termination by the Agency with Reason. At any time, the Agency may immediately, upon written notice to Executive, terminate Executive's employment and this Agreement "with reason" at the sole discretion and judgment of the Board. Executive has no right to challenge the Board's determination of the "with reason" termination, or the reasons provided in support of such termination. For purposes of this Agreement, Executive's employment shall be considered terminated "with reason" if Executive's employment is terminated by the Agency on account of the occurrence of one or more of the following, or similar, events:

- Executive's: (i) failure or refusal to comply with the policies and procedures of the Agency, as established from time to time by the Board and communicated to Executive or by the Executive himself and/or his designees; (ii) failure to adequately perform his duties whether under this Agreement or as otherwise determined by the Board; or, (iii) engagement in behavior unbecoming to an officer of the Agency (as determined in the sole discretion of the Board).
- Executive's commission of any act of dishonesty, fraud, violation of law or any act which subjects the Agency, its officers, directors, or employees, to ridicule, humiliation or disrepute, including without limitation Executive engaging in a transaction in which he received an improper personal benefit.
- Executive's engagement in conduct deemed a crime under Florida or federal law, whether or not it results in a conviction.
- Executive's violation and final adverse determination of Florida's Code of Ethics, Chapter 112, Part III of Florida Statutes.

- Executive's engagement in misconduct as defined by Florida Statute 443.036(29).

Upon any termination "with reason," after the termination date is communicated to Executive, the Agency shall have no further obligations to Executive under this Agreement, except that any salary that is earned and unpaid through the date of termination shall be paid to Executive by the Agency in accordance with the Agency's regular payroll practices. Executive will continue to receive any health insurance benefits through the date of termination. No other monies, compensation, bonuses, benefits, or incentives will be due or owing to Executive. No severance will be provided to Executive.

Section 4.3 Termination by the Agency without Reason. The Agency may terminate Executives employment and this Agreement "without reason" by giving Executive forty-five (45) days' written notice of such termination ("Section 4.3 Notice Period") with termination to occur on the 30th day or later as specified in the written termination notice ("Separation Date"). Executive must continue to report to work each day and fully perform his duties during this notice period and is not permitted to take vacation or other time off during this Section 4.3 Notice Period, unless permitted by the Board. The Agency shall have the option of accelerating the Section 4.3 Notice Period and relieving Executive of his duties immediately, or at any time during the Section 4.3 Notice Period, but Executive shall be paid any earned salary through the Separation Date in accordance with the Agency's regular payroll practices and policies. No other monies, compensation, bonuses, benefits, or incentives will be due or owing to Executive with respect to services performed. Executive will continue to receive any health insurance benefits through this Section 4.3 Notice Period.

Notwithstanding anything in the preceding paragraph of this subsection 4.3, where a termination occurs pursuant to this Section 4.3, provided Executive signs (and does not revoke) a separation, waiver and release agreement (to be prepared by the Agency) of all claims (known or unknown) against the Agency arising out of or relating to his employment with the Agency or termination thereof, as well as any other terms and conditions required by the Agency, and provided Executive fully complies with any restrictive covenants that survive termination of his employment, Executive shall be entitled to receive as severance an amount equal to twenty (20) weeks of base compensation (calculated based on the salary in effect at the time of termination and minus applicable withholdings and deductions) to be paid in a lump sum payment consistent with the terms of the above-referenced waiver and release agreement. There shall be no set-off of the severance if Executive obtains alternate employment prior to the end of the twenty (20) week severance period.

Section 4.4 Resignation upon Notice by Executive. Executive may resign his employment and terminate this Agreement at any time by providing the Agency with thirty (30) days' written notice of such resignation ("Section 4.4 Notice Period") with resignation to occur on the 30th day or later as specified in the written termination notice ("Resignation Separation Date"). Executive must continue to report to work each day and fully perform his duties during this Section 4.4 Notice Period and is not permitted to take vacation or other time off during this Section 4.4 Notice Period, unless permitted by the Board. Upon Executive providing notice of resignation to the Agency, the Agency shall have the option of accelerating the Section 4.4 Notice Period and relieving Executive of his duties immediately, or at any time during the Section 4.4 Notice Period, but Executive shall be paid any earned salary through the Resignation Separation Date, provided the Section 4.4 Notice Period is not longer than thirty (30) days, in accordance with the Agency's regular payroll practices and policies. Executive will continue to receive any health insurance

benefits through this Section 4.4 Notice Period. No other monies, compensation, bonuses, benefits, or incentives will be due or owing to Executive with respect to services performed. If Executive is selected by the Board as the permanent Executive Director of the Agency, Executive will be deemed to have resigned from the position of Executive Director pursuant to the terms of this Section 4.4, with the Resignation Separation Date deemed to occur upon the effective date of Executive's term as the permanent Executive Director.

Executive acknowledges and agrees that during the Section 4.4 Notice Period his employment will still be governed by the terms of this Agreement as well as this Section. Accordingly, while Executive's employment shall not be terminated pursuant to Section 4.3 of this Agreement (termination without cause) during the Section 4.4 Notice Period, Executive's employment may still be terminated in accordance with the terms of the Section 4.1 and 4.2 should Executive engage in conduct warranting termination "with reason" and/or should the Agency cease to exist. In that case, the provisions of the applicable section of this Agreement, Section 4.1 or Section 4.2, would apply to and govern the terms of Executive's termination.

Section 5. SALARY AND BENEFITS.

Section 5.1 Salary. The Agency shall pay to Executive and Executive shall accept from the Agency for the services described hereunder, an annual salary of \$ _____, less applicable taxes and other legal withholdings, payable only as earned on a bi-weekly basis, or as otherwise provided for pursuant to the Agency's normal and customary payroll practices, during the Agreement's Term. The role is for Senior Management Class (SMS) as defined by the Florida Retirement System. It is specifically agreed and understood that Executive's salary shall be increased by 3% annually unless otherwise determined by the Board; however, Executive shall receive no less of an increase of his yearly base salary than any percentage increase approved by the Board for non-bargaining unit employees. The Board shall endeavor to conduct a performance evaluation for Executive on an annual basis.

Section 5.2 Benefits. As of the Effective Date, Executive and his eligible dependents, as defined by applicable benefits plans, shall be eligible to participate in the Agency's employee health benefit plans, and any retirement and other benefits plans, which are provided to other employees in similar positions. Executive understands that he must meet any and all eligibility requirements of the particular benefit plan(s) as a condition of Executive's participation in any such plan. The Agency may, in its sole discretion, change, modify, amend or terminate any of the benefits provided to its employees, including Executive, at any time in a manner which does not discriminate between Executive and other employees of the Agency who are eligible to participate in such benefits and as otherwise permitted by law.

Section 5.3 Vacation, Sick, and Holidays. Executive shall accrue and be eligible to use vacation, sick, and holiday time in accordance with the Agency's personnel policies as applied to executive level employees of the Agency (Director and above). Carryover and/or payout of accrued unused vacation and/or sick and/or holiday time will be determined in accordance with applicable Agency policies which may be amended from time to time and at the Agency's sole discretion with or without notice or reason.

Section 5.4 Use of Government Purchasing Card. Executive may be provided use of an Agency purchasing card solely for business expenses incurred pursuant to Agency policy, practices, and customs. Executive may only use this purchasing card for business (not personal) expenses pursuant to Agency

policy, practices, and customs. Expenses charged must relate to Agency business and expenses will be reimbursed consistent with Agency policies, practices, and customs. Executive's purchasing card must be immediately returned by Executive to the Agency at the sole discretion and demand of the Agency and may be cancelled at any time by the Agency for any reason.

Section 5.5 Place of Residence. Executive must at all times reside in Florida.

Section 6. AGENCY PROPERTY AND EQUIPMENT. Executive acknowledges that he may be provided a mobile phone, laptop computer, wireless card, tablet, government, credit card, and/or other Agency-owned property for his use as an Agency employee. Executive agrees to use and operate these Agency-owned devices in accordance with Agency policy and for the purpose of fulfilling Executive's duties under this Agreement. Executive understands and agrees that personal communications using electronic devices provided by the Agency (cell phone, tablet, laptop), including, but not limited to emails, text messaging, instant messaging, telephone calls, etc., are to be limited and at all times professional, and that communications via such devices are subject to disclosure in compliance with Florida's Public Records Law. Executive agrees to return all property and all documents and/or electronic media related to the Agency (and including all copies thereof) upon termination of employment and/or upon request by the Board or its designee at any time. Such property includes, but is not limited to, contracts, financing, research and development, business development plans, education programs, training materials and manuals, policy manuals, personnel manuals, keys, equipment, files, documents, copies of documents, computer printouts or software, electronic media, unpublished advertisements, brochures, business plans, records, drawings, materials, papers and copies thereof. It is specifically agreed that any documents, card files, notebooks, Rolodex, electronic media, etc. containing Agency Information are the property of the Agency regardless of by whom they were compiled.

Section 7. EXCLUSIVITY OF SERVICES; CONFLICT OF INTERESTS & SELF-DEALING RESTRICTIONS.

Section 7.1 Exclusive Services. Executive shall perform all duties under this Agreement on a full-time basis and Executive agrees to devote his full efforts and attention to his duties and responsibilities at the Agency. During his employment, Executive shall not participate in, render services to, become employed by, or otherwise receive remuneration for any services rendered from any business or entity, unless specifically approved in writing by the Board Chair. This Section is not intended to limit Executive's participation in or service on any Board of Directors (generally referred to hereinafter as "BOD"), even if he is compensated separately, on which Executive is currently serving and/or intends to serve or any business Executive has an ownership interest in as of the Effective Date. Any and all income or other compensation earned by Executive from outside activities shall be paid to and retained by him, and such income or other compensation shall have no effect on the amount of salary, compensation, and benefits he is otherwise entitled to receive hereunder. However, Executive agrees that he will disclose, in writing, to the Board Chair & entire Board each current BOD position held by Executive and the name of any business Executive has an ownership interest in. (See Attachment I, Alston Self-Disclosure of Board Service and Business Ownership).

Section 7.2 Conflicts of Interest. Executive must report any real, potential or perceived conflict of interest to the Board Chair immediately upon learning of such conflict of interest, whether involving

himself or others. Executive and the Agency agree that Executive will be permitted to serve on any BOD of his choosing provided a non-waivable conflict does not exist between the Agency and/or the Agency's Board members and the BOD on which Executive is serving/intends to serve. In the event a waivable conflict exists with respect to any BOD where Executive is serving/intends to serve, the Agency will willingly provide the waiver necessary on its behalf to permit Executive to continue his BOD service.

Section 8. REPRESENTATIONS AND WARRANTIES. The Agency and Executive mutually represent and warrant that each party has the full right and power to enter into and fully perform this Agreement. Furthermore, the Agency and Executive mutually represent and warrant that they have not made (nor will they make) any contractual or other commitments which would conflict with the performance of their obligations under this Agreement or the full enjoyment by the other party of the rights granted by the Agreement.

Section 9. MISCELLANEOUS.

Section 9.1 Applicable Law. This Agreement is made in the State of Florida and shall be governed, construed, and regulated under and exclusively by the laws of the State of Florida (without giving regard to its choice of law provisions). Jurisdiction for any suit, action or legal proceeding arising out of or related to this Agreement shall be brought in the courts of the State of Florida, in Miami-Dade County.

Section 9.2 Modification, Change and Waiver. No modifications or change shall be made to the terms and conditions of this Agreement, except as mutually agreed upon in writing by the parties. Any agreement on the part of a party to any waiver of any provision of this Agreement will be valid only if set forth in an instrument in writing signed on behalf of such party. A waiver by a party of the performance of any covenant, agreement, obligation, condition, representation or warranty will not be construed as a waiver of any other covenant, agreement, obligation, condition, representation or warranty. A waiver by any party of the performance of any act will not constitute a waiver of the performance of any other act or an identical act required to be performed at a later time.

Section 9.3 Entire Understanding. This Agreement represents the entire understanding of the parties regarding the subject matter of this Agreement and neither party is relying upon any representation not contained in the Agreement. This Agreement supersedes and replaces any and all prior agreements or understandings between the Parties arising out of or relating to the employment or contractual relationship between Executive and the Agency.

Section 9.4 Severability. In the event that any provision of this Agreement shall be deemed invalid, unreasonable or unenforceable by a court of competent jurisdiction, such provision shall be stricken from the Agreement or modified so as to render it reasonable, and the remaining provisions of this Agreement or the modified provision shall continue in full force and effect and be binding upon the parties so long as such remaining or modified provisions reflect the interest of the parties at the date of this Agreement.

Section 9.5 Headings. The headings at the beginning of each paragraph and subparagraph of this Agreement are for convenience only and shall not in any way affect the interpretation of any paragraph of this Agreement or the entire Agreement.

Section 9.6 Execution in Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

Section 9.7 Remedies, Attorney Fees and Costs. In the event of one party's breach of this Agreement, the other party shall be entitled to any remedies and damages available in law or equity. In the event of any action brought under this Agreement, the prevailing party shall be entitled to recover attorney's fees, including any appellate proceedings. The remedies provided for herein or otherwise available to the parties shall be cumulative, and no one such remedy shall be exclusive of any other and the exercise of any one shall not preclude the exercise or be deemed a waiver of any other remedy nor shall the specification of any remedy exclude or be deemed to be a waiver at law or in equity which may be available to a party, including any rights to damages or injunctive relief.

Section 9.8 Additional Documents. The parties shall execute and deliver any and all additional papers, documents and other instruments and shall do any and all further acts and things reasonable and necessary in connection with performance of their obligations hereunder to carry out the intent of this Agreement.

Section 9.9 Notice. All notices, demands and other communications required or permitted to be given or made under this Agreement shall be in writing and will be deemed to have been given: (a) on the date of personal delivery; or (b) (i) three (3) business days after the date of deposit in the United States Mail, postage prepaid, by registered or certified mail, return receipt requested, (ii) on the date of transmission by facsimile or electronic transmission, or (iii) the day following the date of delivery to a nationally recognized overnight courier service, in each case addressed as follows, or to such other address or person or entity as the parties may designate by notice to each party in accordance with this subsection 9.9:

To the Agency:

Greater Miami Expressway Agency
Attention: Board Chair
3790 NW 21st Street
Miami, Florida 33142

To Alston:

Torey Alston
Via Email - ToreyAlston@yahoo.com

Section 9.10 Assignment and Successors. The rights and obligations of Executive under this Agreement are not assignable. The rights and obligations of the Agency under this Agreement inure to the benefit and, to the extent permitted by law, shall be binding upon the successors and assigns of the Agency.

Section 9.11 Set Off. The Agency shall be entitled to set off against any amounts it owes to Executive, any amounts Executive owes to the Agency, consistent with applicable law, including all such costs, damages, or liability against any payments otherwise owed to the Agency by Executive.

Section 9.12 Jury Trial. THE PARTIES HEREBY KNOWINGLY, WILLINGLY AND VOLUNTARILY WAIVE IRREVOCABLY ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY IN CONNECTION WITH THIS AGREEMENT AND EXECUTIVE’S EMPLOYMENT WITH THE AGENCY.

Section 9.13 Certificate of Understanding. Executive represents and agrees that he received a copy of this Agreement for review and study before being asked to sign it; read this Agreement carefully; had sufficient opportunity before the Agreement was signed to ask questions about the provisions of the Agreement; understands his rights and obligations under the Agreement and voluntarily signed this Agreement.

IN WITNESS WHEREOF, the parties have executed this eight (8) page Employment Agreement (and Attachment I) on the dates indicated below and to be effective on the day and year specified in the agreement.

Signatures

Torey Alston

Date:

Mariana “Marili” Cancio, Board Chair

Date:

Jason B. Gonzalez, General Counsel

Date:

Attachment I: Alston Self-Disclosure of Board Service

- HCA Woodmont Hospital, Board of Directors, On-Going
- Florida Gubernatorial Fellows Board of Directors, Vice-Chair, November 2024
- School Board of Broward County, Florida, Board Member, November 2024
- Florida Department of Education African-American History Task Force, Board Member, On-Going
- Broward Metropolitan Planning Organization, On-Going
- Broward County Value Adjustment Board

I attest to serving on the boards above and will advise the Chair & Board when or if, a conflict ever arises.

Torey Alston

Date:
