

**EMPLOYMENT AGREEMENT
CITY MANAGER OF THE CITY OF FORT SCOTT, KANSAS**

This Agreement made and entered into this **19th day of January, 2021**, by and between the **City of Fort Scott, Kansas**, a first class city and municipal corporation of the State of Kansas (“City”), and **Jeremy L. Frazier** (“Employee”) (the City and Employee, individually “Party”, collectively “Parties”), is for the purpose of memorializing the understanding between the City and Employee with respect to City’s employment of Employee as its City Manager. Therefore, the Parties make the following representations:

WHEREAS, it is the desire of the City, to set forth its benefits, establish certain conditions of employment, and to set working conditions of its City Manager; and

WHEREAS, it is the desire of City to (1) secure and retain the services of Jeremy L. Frazier and to provide an inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Employee’s morale and peace of mind with respect to future job security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Employee, and (4) to provide a just means for terminating Employee’s services at such time as he may be unable fully to discharge his duties due to disability or when the City Commission may otherwise desire to terminate his employment; and

WHEREAS, Jeremy L. Frazier has the requisite education, training, and experience in the affairs of local government management, is a member of the International City Managers’ Association subject to its Code of Ethics, and desires to be employed as the City Manager of the City of Fort Scott, Kansas.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

Section 1. Employment.

The City hereby appoints Jeremy L. Frazier as the City Manager for the City of Fort Scott, Kansas, and the Employee hereby accepts such appointment in accordance with the terms and conditions of this Agreement.

Section 2. Duties and Responsibilities

- A. The City has adopted a Commission-Manager form of government as set out in K.S.A. 12-1039. The City Manager is appointed by the City Commission under the authority of K.S.A. 12-1040(c) to be responsible for the administration and affairs of the city and to perform other legally permissible and proper duties, functions, and responsibilities as allowed or required by law.

- B. City Rules and Regulations** - The Employee shall strictly adhere to all state statutes, city ordinances, and the internal rules and regulations of the City which are currently in force or which may be established hereafter with respect to the conduct of employees, the administration of the city, and the performance of his duties as City Manager. The Employee shall work with the City Commission with respect to the goals and objectives of the Commission that should guide and govern the Employee's performance under this Agreement in administration of the City and its functions. The Employee is responsible to uphold and maintain the City's standards. The City's practices and/or policy manuals, and other written publications are made part of this Agreement; provided, however, that if any portion of such a policy manual or personnel manual should contradict the provisions of this Agreement, the terms of this Agreement shall prevail. The City shall have the right to amend, revise, or discontinue the policies and procedures as the City deems necessary from time to time. Any such change in such policies or procedures will be effective upon the issuance of the same by the City unless the City declares otherwise.
- C.** During employment under this Agreement, Employee shall remain in the City's exclusive employ and shall not accept other employment, become employed by any other employer, nor undertake self-employment, without the prior consent and approval of the City Commission.

Section 3. Term of Employment

The initial term of this Agreement shall be for two (2) years commencing February 1, 2021 and remaining in effect until February 1, 2023 subject to the terms of this Agreement. The Agreement shall automatically be extended for successive one (1) year terms, unless the Commission provides written notice, no less than sixty (60) days prior to the end of the then-current term of non-renewal. Such non-renewal shall be Termination not-for-cause and not the fault of either Party. Either Party may also terminate this Agreement in accordance with the provisions of **Section 8. Termination, Suspension, Disability, Resignation, and Severance Compensation**, below.

Section 4. Compensation & Benefits

- A. Base Salary.** Employer agrees to pay Employee an annual base salary of one hundred fifteen thousand dollars (\$115,000), paid as other employees are compensated, in 26 bi-weekly installments.

On each anniversary of the effective date of this Agreement the Employee's then-current salary shall be increased by an amount equal to the greater of the highest percentage raise given to any other City employee, or a percentage mutually agreeable to the Parties.

- B. Benefits.** The Employer agrees to provide the Employee the same benefits of employment with the City, including, but not limited to, health, dental, vision, retirement, and other fringe benefit plans, as those available to all other City employees. The Employer agrees to pay the partial premiums for the Employee and his dependents, in the same manner as those are provided to the City's other employees.

The Employer participates in the Kansas Public Employees Retirement System (KPERS) and will enroll and continue the Employee's participation in that plan under its rules and governing agreements.

Section 5. Vacation & Sick Leave

- A.** Upon execution of this Agreement the Employee will be credited with four weeks (20 days) vacation leave and two weeks (10 days) of sick leave for use at any time. Beginning with the second year of the Agreement the Employee will, in addition to any remaining vacation or sick leave unused in the first term, accrue additional leave of 6.15 hours of vacation time and 3.08 hours of sick time per pay period on an annual basis.
- B.** Vacation and sick leave accrued, but unused, is vested and carries over from year to year during the Employee's time employed with the City, subject to any maximum allowable accrued leave limits as set out from time to time in the City's personnel policies and procedures.

Section 6. Vehicle Allowance

The Employer agrees to pay the Employee, during the term of this Agreement and in addition to all other salary and benefits provided, a vehicle allowance of six thousand five hundred dollars to be paid in equal installments along with his regular pay (\$6,500 per year or \$250 in each of the 26 pay periods per year). This allowance is intended to be used to defray the costs of the purchase, lease, ownership, operation, fueling, and/or maintenance of a personal vehicle. The Employer acquires no ownership in the vehicle and the Employee may keep the vehicle of his choice, so long as he has and maintains reliable transportation necessary to complete his job duties under this Agreement. Employee shall be required to insure and register the vehicle and shall be solely responsible for the costs associated with ownership and operation of the vehicle, including but not limited to insurance, registration, repairs, fuel, etc. The vehicle allowance paid will be in lieu of any mileage reimbursement for business travel with the vehicle, except that the Employer will reimburse the Employee for any business use of the vehicle outside of the vicinity of Fort Scott and/or Bourbon County, Kansas, at the then-applicable IRS standard mileage reimbursement rate for business travel.

Section 7. General Business Expenses

- A. Professional Associations. Employer agrees to budget for and pay for professional dues and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.
- B. Business and Professional Travel. Employer agrees to budget for and to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including, but not limited to, the ICMA Annual Conference, the Kansas League of Municipalities meetings and conferences, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.
- C. Professional Development. Employer also agrees to budget for and to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer.
- D. Civic Involvement. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs and/or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.
- E. Cell Phone. Employer agrees to provide Employee a Cell Phone for business purposes and to budget and pay for expenses related thereto. Such phone shall remain the property of the City of Fort Scott and shall be returned to Employer upon completion of employment.
- F. Technology. The City shall furnish the City Manager the laptop or other electronic device or devices and all necessary hardware and software to allow him access to City email, documents, and other technology used by the City necessary for performance of his duties. The Employee may select a compatible computer of his choice up to a value of three thousand five hundred dollars (\$3,500) to be his employer provided laptop. The laptop and all items of technology, both hardware (including all cable, wires, adaptors, dongles, and/or associated accessories) and software, shall remain the property of the City and shall be returned to the City upon the termination of this Agreement. The City will be responsible for all maintenance, service, and repair of the technology items provided for business use.

Section 8. Termination, Suspension, Disability, Resignation, and Severance Compensation

- A. Termination. The City Commission, by majority vote of the full number of Commissioners (3 votes in favor of termination), can terminate the employment of the Employee as City Manager at any time. In the event of termination under this subsection, the Employee shall be informed whether the discharge is Termination for cause or Termination not-for-cause.
- B. Employee may be Terminated for cause for any of the following reasons:
- (1) Refusal to perform the routine duties of the office for a period of 30 days out of any 90 day period, excepting sick leave and vacation taken according to City personnel policies;
 - (2) Adjudication of guilt (1) of a felony, or (2) of a misdemeanor involving a crime against persons or property for which one or more elements of the crime involve moral turpitude;
 - (3) Violation of the City drug and alcohol policy;
 - (4) Proven in evidence based falsification of employment application, or the altering or falsifying of City records;
 - (5) Intentional damage of City property;
 - (6) Failure to follow the specific lawful directive(s) of the City Commission, after written notice of such failure and an opportunity to correct the failure, and unless the City Manager reasonably concluded that the directive requires the City Manager to engage in illegal, unethical, or immoral conduct;
 - (7) Absence from duty, without leave, contrary to these rules, or failure to report after leave of absence has expired or after such leave of absence has been disapproved, revoked, or canceled;
 - (8) Unauthorized use of City vehicles, tools, equipment, manpower, or materials for personal benefit; or
 - (9) Sexual Harassment of a subordinate.
- C. Any termination of the Employee for a reason other than those set out in subsection (i), above, is deemed a Termination not-for-cause.
- D. Suspension. The Commission may, at its option, suspend the Employee, with or without pay, upon information and belief of any matter that would, in its judgment, constitute grounds for Termination, if proven. Upon a vote to suspend, the Employee shall be

advised of the general nature of the allegations, terms of the suspension (with pay or without), and timeframe until final determination.

E. Disability. If Employee is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity, or health for a period of eight successive weeks, or for forty working days over a sixty working day period, beyond any accrued leave, Employer shall have the option to terminate this agreement. If Employee is terminated under this section it shall be considered a Termination not-for-cause and City Employee shall be entitled to all benefits set forth in this Agreement applicable to Termination not-for-cause

F. Resignation. The Employee may terminate this Agreement at any time by providing sixty (60) days' written notice to the Employer. Resignation will be treated as a Termination for cause as it regards Severance Payments and other obligations and rights under this Agreement.

G. Severance Compensation.

- i) In the event Employee is Terminated not-for-cause under this Section prior to the expiration of the then-current term of the Agreement, the City agrees to pay Employee a minimum Severance Payment equal to six (6) months aggregate salary at the then-current rate of pay, plus such other severance benefits, including but not limited to payment of accrued and vested leave, as may be generally applicable to employees under the Personnel Policies of the City. The Severance Payment is not due the Employee when the Agreement is terminated at the end of a term (non renewal) under the provisions of **Section 3. Term of Employment.**
- ii) In the event that the Employee resigns or is Terminated for cause, he shall not be entitled to a Severance Payment. The City may, as part of an agreed resignation, agree to allow the employee to receive a Severance Payment set out above, or other terms as it may negotiate with Employee.
- iii) In the event the City, at any time during the term of this Agreement, reduces the salary or other financial benefits of Employee other than an across-the-board reduction of all such compensation or benefits of employees of City, Employer may, at his option, be deemed to be Terminated not-for-cause and the Severance Payment under Section 8(G)(i), above, shall apply.

Section 9. Normal Hours of Work

The City Manager shall make himself available at all times necessary to perform his duties (exclusive of official holidays, vacation or sick time). He will keep the Commission

advised of any planned vacation and sick leave used, and provide for the delegation of his job duties, as necessary, while he is on leave or away from the City for more than 48 hours.

Section 10. Annual Performance Evaluation

- A. Standard. The Criterion or rubric upon which the Employee is evaluated will be based on the Employee's official job description, attached hereto, and his statutory duties, the Criterion will be jointly developed by the Employee and the Commission; it will reflect the Commission's expectations and requirements of performance of the Employee's job duties for the review period. Such standards, and the documents used to reflect the review, must be agreed no later than September 30, 2021 and will be used each year for the purpose of recording the evaluation criterion, goals, and benchmarks upon which the Employee's job performance will be evaluated. Such standards and documents may be amended from time to time, but must be available to the Employee no later than sixty (60) days prior to any scheduled review.
- B. Procedure. The Commission shall review the Manager's job performance at least once annually. The first review will occur in January of 2022, prior to the end of the first year of the first term of the Agreement. Subsequent annual reviews shall occur at the first meeting of the month of January 2023 and of each term year thereafter unless the Parties agree otherwise. The annual performance reviews and evaluations shall be in writing, and completed by each of the Commissioners in accordance with criterion, standards, and documents agreed by the Parties. The Commission shall provide the Manager a summary of its reviews sufficiently prior to the executive session review to allow the Employee a reasonable and adequate opportunity to prepare to discuss the evaluation with the Commission. The performance reviews and evaluations shall be reasonably related to the Employee's written job description as set out above and shall be based, in whole or in part, on goals for the Manager's performance that are jointly developed and adopted by the Commission and the Manager hereunder.

The Parties are encouraged to openly communicate during the Agreement about expectations and performance. The Commissioners and Employee are each encouraged to engage individually, or by executive session to avoid violation of the Kansas Open Meetings Act, to discuss expectations and/or performance issues when they arise and not wait for the annual review.

Section 11. Residency, Moving & Relocation Expenses

Employee agrees to establish permanent residence within the corporate boundaries of the City of Fort Scott, Kansas, within three (3) months of employment (by May 1, 2021), and thereafter to maintain residence within the corporate boundaries during the term of this

Agreement. The Commission may temporarily extend this initial relocation period only with due cause and on the basis of hardship not caused by the Employee.

The Employer agrees to cover moving expenses of up to three thousand five hundred dollars (\$3,500), subject to the terms of this section. In order to be reimbursed the Employee agrees, prior to relocation, to secure three independent bids. Two of which must be bids from moving companies located within the corporate boundaries of the City of Fort Scott, Kansas and the remaining bid may be from any other company. The City will reimburse the cost of the lowest bid. However, there is a 10% local preference. If the lowest local bid is no more than 110% of the lowest non-local bid, the Employee must use the lowest of the local bids and the City will reimburse the full cost of the bid used. The Commission may waive this requirement if the services of the bids are not comparable or become unavailable.

Section 12. Binding Effect

This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives, and/or successors in interest.

Section 13. Indemnification and Bonding

The City shall budget for and maintain insurance, or approved self-insurance, for "Public Officials" and "Employees' Errors and Omissions" and "Comprehensive General Liability" coverages, or other comparable coverages, upon its employees including the Employee, for their official acts. The City is a covered entity under the Kansas Tort Claims Act, K.S.A. 75-6161, *et eq.* as amended (KTCA), and agrees, to the full extent allowed by the KTCA or other law, to defend the Employee from any suit arising out of his official duties and/or job description, regardless of whether the suit is brought during the Agreement or after its termination. The Parties specifically agree that this obligation will survive termination or expiration of the Agreement.

The Employer shall bear the full cost of any fidelity or bonds required by law, including but not limited to Title 2, Chapter 2.04 of the City Code of Fort Scott, Kansas and/or any Charter or other Ordinances, for faithful performance of his duties of employment.

Section 14. Confidentiality

The Employee may have access to proprietary, private, and/or otherwise confidential information (hereinafter, "Confidential Information") of the City and/or its employees and others. Confidential Information shall mean all *non*-public information. The nature of the information and the manner of disclosure are such that a reasonable person would understand it to be confidential and not subject to disclosure under State or Federal law. The Employee will not, at any time or in any manner, either directly or indirectly, use for his benefit, or divulge, disclose, or communicate in any manner any Confidential Information. The Employee will

protect such information and treat the Confidential Information as strictly confidential. This provision shall continue to be effective after the termination of this Agreement. Upon termination of this Agreement, the Employee will return to the City any and all Confidential Information, whether physical or electronic, and any other items that were used, created, or controlled by the Employee during the term of this Agreement. The information shall be returned within fifteen (15) days of the termination of the Agreement.

Section 15. Entire Agreement

This constitutes the entire agreement between the Parties. No prior or contemporaneous agreement shall bind either of them if it does not exist within the written provisions of this Agreement. Nor shall any amendment to this agreement be effective unless it has been reduced to writing and signed by the Employer and Employee.

Section 16. Jurisdiction and Venue

This Agreement is made at Fort Scott, Bourbon County, Kansas and will be construed and governed solely in accordance with the laws of the State of Kansas. The Jurisdiction and venue will be in the District Court of Bourbon County Kansas.

Section 17. Headings

Captions and headings of each part, section or subsection in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions.

Section 18. Authority

The undersigned represent that they each have the authority and capacity to execute this Agreement. This Agreement shall not be valid until executed by the Parties and approved by ordinance or resolution of the City.

Section 19. Severability

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provisions it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

IN WITNESS WHEREOF, the City of Fort Scott, Kansas has caused this Agreement to be signed and executed on its behalf by its duly elected Mayor and attested by its City Clerk, and the Employee has executed this agreement, on the date and year first written above.

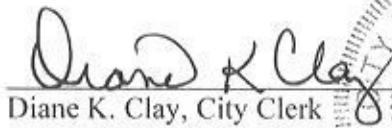
The City of Fort Scott, Kansas

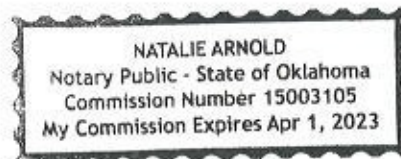

Joshua A. Jones, Mayor

Employee


Jeremy L. Frazier

ATTEST:


Diane K. Clay, City Clerk




1/20/21