

## EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (Agreement), made and entered into this 5th day of June, 2018, by and between THE BOARD OF COMMISSIONERS OF THE CITY OF GARDEN CITY, KANSAS, (City or Governing Body), and MATTHEW C. ALLEN (Employee).

WITNESSETH:

WHEREAS, the City desires to retain the services of the Employee as City Manager, as contemplated and provided by the Code of Ordinances of City (Code) and state statutes; and

WHEREAS, it is the desire of the City to provide certain benefits, establish certain conditions of employment and to set working conditions of the Employee; and

WHEREAS, the Employee desires to be employed as City Manager of the City.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, and the performance thereof by the parties, it is agreed as follows:

1. **Duties**. The City hereby agrees to employ the Employee as City Manager in charge of the administration of the City's business, to perform the functions and duties specified in state statutes and the Code, and to perform other legally permissible and proper duties and functions as the Governing Body shall from time to time assign.

2. **Term**. The term of this Agreement shall be one (1) year, commencing June 1, 2018, and ending May 31, 2019. The term of this Agreement shall automatically renew each year for a new one (1) year term, unless the parties mutually agree to a new Employment Agreement, or either party terminates this Agreement as provided in Paragraph 15. The Employee agrees to remain in the exclusive employment of the City and neither to accept other employment nor to become employed by any other employer until date of termination. The term "exclusive employment" shall not be construed to include occasional teaching, writing, consulting, or paid philanthropic work performed on the Employee's time off, provided that it does not interfere with the Employee's duties and responsibilities as City Manager. Regardless of the date of approval by the Governing Body and the Employee, the term of this Agreement shall commence June 1, 2018.

3. **Disability**. If the 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 thirty (30) successive days beyond any accrued sick leave, or for twenty (20) business days over a thirty (30) day period after exhaustion of accrued sick leave, the City shall have the option to terminate this Agreement, consistent with all applicable federal and state laws pertaining to required leave, disabilities and accommodations. Provided, in any such event the Employee shall be compensated for any accrued and compensable sick leave, vacation, holidays, and other accrued benefits, but Employee shall not be paid any severance pay or further compensation.

4. **Salary**. The City agrees to pay the Employee for his services rendered pursuant to this Agreement a gross salary of One Hundred Thirty-eight Thousand Seven Hundred Ninety-three Dollars (\$138,793.00).

The salary shall be paid in installments at the same time as other employees of the City are paid. If this Agreement is renewed for a new one (1) year term as provided in Paragraph 2, Employee's annual gross salary shall be adjusted by the same percentage increase the Governing Body grants to other City employees in the performance salary pool.



5. **Performance Evaluation.** The Governing Body shall review and evaluate the performance of the Employee at least once annually, in April, with the next evaluation to be in April 2019. The review and evaluation shall be in accordance with specific criteria developed by the City. The Mayor of the Governing Body shall provide the Employee with a summary written statement of the findings of the Governing Body and provide an adequate opportunity for the Employee to discuss his evaluation with the Governing Body.

6. **Hours of Work.** It is recognized that the Employee must devote a great deal of time outside the normal office hours of business of the City, and to that end, the Employee will be allowed to take compensatory time off as he shall deem appropriate during normal office hours.

7. **Vehicle and Communications Equipment.** The Employee shall be paid a vehicle and communications equipment (cell phone and house computer) allowance of Seven Thousand Eight Hundred Dollars (\$7,800.00). The allowance is for the Employee's use of his personal vehicle and communications equipment for City related business. The Employee shall be responsible for the liability, property damage, and comprehensive insurance for the vehicle, as well as the purchase, operation, maintenance, repair and regular replacement of the vehicle or communications equipment.

8. **Travel and Related Expenses.** The Employee shall receive a stipend for expenses related to out of town travel, including, but not limited to airfare, vehicle, lodging and food expenses, in the amount of Six Thousand Five Hundred Dollars (\$6,500.00).

The Employee shall be directly responsible for payment of such expenses. This stipend shall be in addition to, and exclusive of, the City's responsibilities for payment of registration expenses in Paragraph 14, **Professional Development – Registration Expenses.**

9. **Vacation and Sick Leave.** Per calendar year, the Employee shall accrue, and have credited to his personal account, vacation and sick leave at the same rate as other employees of the City, and in accordance with policies of the City. The Employee shall not utilize more than five (5) consecutive business days of vacation leave at any one time without prior consent of the Governing Body, and shall so plan the use of vacation leave as to insure his presence during the budget process. Should Employee voluntarily resign during the term of this Agreement, he shall be paid accrued vacation leave, up to a maximum of four hundred (400) hours.

The Employee may convert up to one hundred twenty (120) hours of accrued vacation per year to taxable income. The rate of conversion shall be the annual salary established in Paragraph 4 divided by two thousand eighty (2,080) times the number of hours of accrued vacation converted. Notwithstanding the Employee's right to convert accrued vacation hours to taxable income, the Employee's accrued vacation hours shall not be less than three hundred twenty (320) hours after any conversion.

10. **Personal Leave.** Per calendar year, the Employee shall receive seven (7) days of personal leave credited to his personal account at the beginning of each year. Annual personal leave must be used during the year granted and no personal leave will be paid upon termination of employment, whether voluntary or involuntary. As with the use of vacation leave, the Employee shall not utilize more than five (5) consecutive business days of personal leave, or the combination of personal leave and vacation leave, at any one time without prior consent of the Governing Body, and shall so plan the use of personal leave as to insure his presence during the budget process.

11. **Life and Health Insurance.** The City shall purchase and pay the required premiums on term life insurance policies equal in amount to two times the annual gross salary of the Employee, with the beneficiary named by the Employee to receive one-half of any benefits paid, and the City the other one-half. The City shall provide hospitalization, surgical, and comprehensive medical insurance for the Employee and his dependents and pay the premiums thereon equal to that which is provided to all other employees of the City, in accordance with policies of the City.

12. **Retirement.** The City agrees to execute all necessary agreements required by the qualified 457 retirement plan provider of the Employee's choice for participation in the selected plan and, in addition to the base salary paid by the City to the Employee, the City agrees to pay an amount equal to eleven and one half percent (11.5%) of the Employee's annual gross salary set forth in Paragraph 4, into the plan on the Employee's behalf, in equal proportionate amounts each pay period, as deferred compensation, and to transfer ownership to succeeding employers upon the Employee's resignation or termination.

13. **Dues and Subscriptions.** The City shall pay for the professional dues and subscriptions of the Employee for his participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the City. Such memberships shall be identified at the time the departmental budget is being determined by the Governing Body.

14. **Professional Development – Registration Expenses.** The City shall pay for the registration expenses of the Employee to afford the Employee opportunities to continue development of professional credentials (ICMA-CM) and to enable the Employee to adequately pursue necessary official and other functions for the City, including but not limited to the annual conference of the International City Management Association, the League of Kansas Municipalities and such other national, regional, state and local governmental groups and committees which the Employee serves as a member. The City also agrees to pay registration expenses of the Employee for short courses, institutes, and seminars that are necessary for his professional development and for the good of the City.

15. **Termination; Resignation; Severance Pay.**

(a) This Agreement may be terminated by the Governing Body, with or without cause, or as required by Paragraph 20. In the event the Employee is terminated by the Governing Body before expiration of the term set forth in Paragraph 2, or the Governing Body decides not to extend this Agreement for a subsequent annual term, and during such time the Employee is willing and able to perform his duties under this Agreement, then in that event the City agrees to pay the Employee a lump sum cash payment equal to nine (9) months' salary, as established in Paragraph 4; provided, however, that in the event the Employee is terminated for commission of a misdemeanor involving moral turpitude or veracity, or a felony, then, in that event, the City shall have no obligation to pay the aggregate severance sum designated in this paragraph.

(b) In the event the City at any time during the term of this Agreement reduces the salary or other financial benefits of the Employee in a greater percentage than an applicable across-the-board reduction for all employees of the City, or in the event the City refuses, following written notice, to comply with any other provision benefiting the Employee herein, or the Employee resigns following a suggestion, whether formal or informal, by the Governing Body that he resign, then, in that event, the Employee may at his option, be deemed to be terminated at the date of such reduction or such refusal to comply.



(c) In the event the Employee voluntarily resigns his position with the City before the expiration of the term of employment in Paragraph 2, the Employee shall give the City a minimum of two (2) months' notice in advance, unless the parties otherwise agree. If Employee voluntarily resigns, Employee shall not be entitled to severance pay or any further compensation under this Agreement, from and after date of resignation, with the exception of any accrued vacation leave allowed by Paragraph 9.

16. **Suspension.** The City may suspend the Employee at any time during the term of this Agreement. The Employee shall be given written notice setting forth the reasons for the suspension. Suspension without pay for more than five (5) days in any twelve (12) month term of this Agreement shall be considered a reduction in salary under Paragraph 15(b).

17. **Other Terms and Conditions of Employment.** The Governing Body shall have the authority to fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Code, or any other law.

18. **Insurance.** The City shall maintain public officials' liability insurance to cover all insurable acts or omissions of the Employee within the scope of the Employee's employment with the City.

19. **Bonding.** The City shall bear the full cost of any fidelity or other bonds required of the Employee under any applicable law or ordinance.

20. **Sufficiency of Funds.** In the event sufficient funds shall not be appropriated by the City for the payments and obligations required under the terms and conditions of this Agreement, the City may terminate this Agreement pursuant to the notice requirements set forth herein. This Agreement is subject to the terms and provisions of the Cash Basis Law, K.S.A. 10-1101 *et seq.*, and the Kansas Budget Law, K.S.A. 79-2925 *et seq.*

21. **General Provisions.**

(a) The text herein shall constitute the entire Agreement between the parties.

(b) If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

(c) There may be no modification or amendment of this Agreement (other than notice of change of address), except in writing and executed with the same formalities as this Agreement.

(d) This Agreement shall be construed in accordance with the laws of the state of Kansas.

(e) The paragraph headings appearing in this Agreement have been inserted for the purposes of convenience and ready reference, and do not purport to nor shall they be deemed to define, limit, or extend the scope or intent of the paragraph to which they pertain.

22. **Notices.** Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

CITY: City Clerk  
City of Garden City  
P. O. Box 998  
Garden City, Kansas 67846

EMPLOYEE: Matthew C. Allen  
1709 Pioneer Road  
Garden City, Kansas 67846

Alternatively, notices required pursuant to this Agreement may be personally served. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

23. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Employee, his heirs, executors, administrators, and legal representatives.

IN WITNESS WHEREOF, on the 5th day of June, 2018, this Agreement has been approved by the Governing Body of the City and signed by the parties.

CITY OF GARDEN CITY, KANSAS

Date: 6-5-2018

By   
ROY CESSNA, Mayor

ATTEST:

  
CELYN N. HURTADO, City Clerk

EMPLOYEE

Date: 6/12/18

  
MATTHEW C. ALLEN

APPROVED AS TO FORM:

  
RANDALL D. GRISELL, City Counselor