

CITY MANAGER CONTRACT

This City Manager's Contract ("Contract") is made and entered into as of the 1st day of June, 2020, by and between the **CITY OF CLAREMORE, OKLAHOMA, a municipal corporation** ("City"), and **JIM THOMAS** ("City Manager").

RECITALS:

A. The City desires to employ City Manager and City Manager desires to be employed by the City as the City Manager pursuant to this Contract.

B. The parties desire that all the terms and conditions of employment of City Manager by the City be reduced to writing.

WHEREFORE, in consideration of the mutual agreements, covenants and conditions contained herein, the parties agree as follows:

1. **The Term of the Contract.** The City agrees to employ City Manager as its City Manager for the period **July 1, 2020, through June 30, 2021**; and continuing thereafter indefinitely on a fiscal year basis, as set forth herein and as required by the City Charter, subject to the Oklahoma Constitutional prohibition on pledging future fiscal year revenues and Section 12 below. City Manager accepts such employment and agrees to serve as the City's City Manager for the Contract term. This Contract shall automatically renew for successive terms of **one (1) fiscal year (July 1 through June 30)** until a new contract is approved by the parties OR this Contract is terminated by the City or City Manager as provided by this Contract. If the City intends to non-renew the Contract for the succeeding fiscal year, City shall provide the notice referenced in Paragraph 12 (E) prior to May 1 or the Contract shall automatically renew for the next fiscal year.

2. **The Duties and Qualifications of City Manager.** City Manager agrees to perform all duties specified in the City Charter and by the Ordinances of the City and to perform other duties and functions reasonably assigned by the City Council. The parties agree that it is not feasible to state in detail all of the duties of City Manager; however, City Manager agrees to observe and be bound by all present and future laws, Ordinances, rules, policies, procedures and regulations of the City and all reasonable and lawful directions of the City Council and to prepare all reports required of City Manager or as directed by the City Council. The City Manager shall also have an affirmative obligation to notify the City Council of any potential conflict of interest, real or perceived, or any City-related matter in which the City Manager has a greater financial interest than the public at large.

3. **Base Salary Compensation.** For City Manager's services to be rendered for the Contract term, the City agrees to pay City Manager an annual base salary of **One Hundred Forty-Two Thousand, Forty-One Dollars and Twelve Cents (\$142,041.12)**. City Manager's salary shall be paid in monthly installments in the same manner as salary payments for the City's other 12-month employees and subject to all lawful withholding. Consideration shall be given on an annual basis to increase compensation based upon performance.

4. Mobile/Cell Phone Allowance. In recognition of the requirement that City Manager be available 24 hours per day regardless of his physical location, the City agrees to provide City Manager a **monthly allowance of One Hundred Fifty Dollars (\$150.00)** to cover mobile/cell phone expenses. This Mobile/Cell Phone Allowance is subject to federal and state tax laws and shall be reported on City Manager's W-2 Form.

5. Automobile Allowance. The City agrees to pay City Manager **Six Hundred Dollars (\$600.00) per month** for the Contract term to defray the cost of operating and insuring an automobile for use by City Manager in connection with the performance of City Manager's duties hereunder. The Automobile Allowance is subject to federal and state tax laws and shall be reported on City Manager's W-2 Form. The City Manager will continue to receive this Automobile Allowance until the City Manager gives the Mayor thirty (30) days' written notice that he wishes to stop receiving the automobile allowance and have the City provide him with a vehicle instead. The City will then furnish and annually pay, on a fiscal year basis, the cost of operating and insuring an automobile for use by the City Manager in connection with the performance of his duties hereunder. The year, make and model of such automobile shall be mutually agreed to by the City and City Manager. The City Manager will be responsible for any tax due for his personal use of the vehicle.

6. Vacation and Sick Leave. City Manager shall accrue vacation leave on an annual basis at the rate of 6.5 hours per 80 paid hours per pay period. Vacation leave accrued, but not used, will accrue to a maximum of not more than two hundred forty (240) hours. Unused leave in excess of two hundred forty (240) hours by the first pay period in February will be forfeited, except that City Manager will have the option to sell back two (2) weeks of vacation leave on an annual basis. In the event City Manager's employment is terminated, either voluntarily or involuntarily, City Manager shall be compensated for all accrued vacation time, not to exceed two hundred forty (240) hours. City Manager shall accrue sick leave at the rate of 4.5 hours per 80 paid hours per pay period. Sick leave shall have no cash value upon termination of employment.

7. Holidays. The City agrees that City Manager shall be paid for all holidays which are observed by other 12-month employees.

8. Evaluations. City Manager shall receive at least one (1) written evaluation of his performance on an annual basis. The evaluation shall be conducted by the entire City Council, and a written summary of the evaluation shared with City Manager during Executive Session with the City Council.

9. Medical, Health, and Life Insurance Benefits. City Manager has been offered health insurance in accordance with that offered other City employees and has elected to waive health insurance from the City. City Manager shall be eligible for dental benefits, life insurance benefits

and other voluntary benefits equal to that which is provided to all other employees of the City of Claremore.

10. Professional Dues and Civic Organizations. City believes it is in the City's interest for City Manager to participate actively in certain professional and community organizations, such as the ICMA, CMAO, and other local civic groups or organizations, including attendance at local and national conferences, and membership in such organizations and attendance at conferences shall be paid by City; PROVIDED, however, City Manager must remain in good standing with these organizations. In addition, City shall pay for a membership for City Manager to participate in Claremore Rotary Club, including all dues, fees and regular assessments required of Rotary members. Any further professional or organizational dues shall be paid as is mutually agreed to between the City and City Manager. Whenever possible, the membership shall be entered in the City's name, and City Manager shall serve as the City's representative.

11. Reimbursement of Expenses. City Manager shall be entitled to reimbursement for his reasonable and necessary travel expenses and other necessary and appropriate expenditures on behalf of the City pursuant to Oklahoma law and City policy. City Manager shall provide adequate and appropriate receipts and documentation of expenses for which City Manager seeks reimbursement.

12. Termination of Employment Contract. This Employment Contract may be terminated by:

A. Mutual Agreement of the Parties.

B. Resignation by City Manager. In the event City Manager resigns his employment with the City, the City shall only be liable for City Manager's compensation and benefits under the terms of this Contract up to and including the last day of City Manager's employment with the City. City Manager shall provide a minimum of 30 days' written notice of his resignation, unless the parties agree otherwise.

C. Amendment of the City Charter. If the provisions of the City Charter pertaining to the role, powers, duties, authority, and/or responsibilities of City Manager's position are amended to substantially change the form of government, City Manager shall have the right to resign his employment.

D. Reduction in Compensation. If the City reduces the base salary, compensation or any other financial benefit of City Manager, unless it is applied in no greater percentage than the average reduction of all department heads, City Manager shall have the right to resign his employment. The parties agree that this provision does not apply to the Defined Contribution Incentive Plan and a reduction of the City's contribution to the

plan or the elimination of the plan shall not be considered a reduction in City Manager's compensation.

- E. Removal. City Manager may be suspended at any time by a resolution approved by the majority of the total membership of the City Council, not including vacant positions, which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon City Manager. City Manager shall have fifteen (15) days in which to reply thereto in writing, and upon request, shall be afforded a hearing before the City Council, which shall occur not earlier than ten (10) days nor later than fifteen (15) days after such hearing is requested. After the hearing, if one be requested, and after full consideration, the City Council by a majority vote of its total membership, not including vacant positions, may adopt a final resolution of removal. If City Manager chooses to be represented by legal counsel at any such hearing, City Manager shall bear any costs therein involved and shall not be represented by the City Attorney.

13. Severance. Severance shall be paid to City Manager when City Manager resigns pursuant to Paragraphs (C) and (D) in Section 12 above. City Manager is also entitled to severance if removed pursuant to Paragraph (E) above, unless terminated for engaging in an act of misconduct, including, but not limited to, an act of dishonesty, theft or misappropriation of City property or an act of moral turpitude. Severance shall consist of a minimum severance payment equal to twelve (12) months' salary at the current rate of pay and for all accrued vacation time, not to exceed two hundred forty (240) hours. This severance shall be paid in a lump sum unless otherwise agreed to by the City and City Manager. The City agrees to continue to make the contributions to City Manager's deferred compensation account and/or retirement account on the value of this compensation calculated using the rate ordinarily contributed on regular compensation during the entire period of City Manager's severance payment.

14. Residence. City Manager agrees as part of this Contract to maintain a residence within the fence line of the City of Claremore.

15. Retirement. City will contribute 8% of City Manager's base salary to an eligible retirement plan, in addition to the City's required contribution to City's OMRP defined benefit plan provided to City employees entering employment after 2010.

16. Defined Contribution Incentive Plan. City agrees to immediately establish a defined contribution special incentive plan for the benefit of City Manager. Effective the 1st day of July, 2019, and on or before the same day of each year thereafter, for a period of five (5) years upon annual renewal of City Manager's contract-(i.e., defined contribution special incentive plan required length

of service), City shall cause to be accrued with the City, as a liability in favor of City Manager, the sum of **Fifteen Thousand And No/100 Dollars (\$15,000.00)** as a defined contribution special incentive plan for City Manager. City may consider an adjustment in the allocation in subsequent years, based on the job performance of City Manager. Said plan shall be placed in a tax-deferred account, subject to investment at the sole direction of City Manager, and payable subject to the terms and conditions of this Contract. In the event City Manager completes the entire five (5) year length of service as set forth in this Contract (**through June 30, 2024**), City Manager shall be entitled to receive the entire balance of the defined contribution special incentive plan, including all accrued interest. If City Manager voluntarily leaves the employment of City prior to completing the required five (5) year length of service term as set forth in this Contract, then said City Manager shall forfeit unto City any and all right, title or interest City Manager may have in and to said plan. If City Manager resigns his employment for one of the circumstances set forth in Section 12 (C) and (D), City Manager shall be entitled to receive the balance in the defined contribution special incentive plan which shall have accrued up to the date of City Manager's separation of service from City. If City removes City Manager pursuant to Section 12 (E), City Manager shall be entitled to receive the balance in the defined contribution special incentive plan which shall have accrued up to the date of City Manager's separation of service from the City, unless City Manager is removed for engaging in an act of misconduct, including, but not limited to, an act of dishonesty, theft, or misappropriation of City property or for an act of moral turpitude, in which event City Manager shall forfeit unto City any and all right, title or interest City Manager may have in and to said fund. The parties agree that nothing in this paragraph shall impose any future year fiscal obligation on City and shall be funded on an annual "pay as you go" basis.

17. Legal Defense. City agrees to maintain a policy of insurance in effect to defend and provide City Manager with legal representation in any action or legal proceeding resulting from the good faith performance of duties while City Manager was acting within the scope of his employment and City or its insurer shall be responsible for such legal defense.

18. Entire Contract. This Contract expresses the entire agreement of the parties concerning the subject matter hereof.

19. Amendment to Contract. This Contract may only be amended by a mutually executed written agreement which is properly approved by the City pursuant to a lawfully called and conducted meeting.

20. Severability. Should any provision or provisions of this Contract be declared to be unlawful by a court of competent jurisdiction, the remaining provisions of the Contract shall remain in full force and effect.

21. Obligations Beyond Term of Contract. Nothing in this Contract shall be interpreted to create any obligation of the City beyond the term of this Contract for future fiscal years.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date first above written.

City: CITY OF CLAREMORE, OKLAHOMA

By: Bill Flanagan
Bill Flanagan, Mayor

Attest: Sarah Sharp
Sarah Sharp, City Clerk

City Manager: James H. Lewis
James Thomas, City Manager

Approved as to Form and Legality:
Bryan K. Drummond
Bryan K. Drummond, City Attorney