

CONTRACT

2018-0622

	Routing Order	Date	Initials
Contract Administrator	BUFFEE SMITH	06/01/2018	BMS
Mayor	KEN MCCLURE	06/01/2018	KM
City Clerk	ANITA COTTER		

6/1/18 ASC

New Contract Contract Renewal Auto Renew Addendum Change Order Void

Type Of Contract: EMPLOYMENT

Contractor: GAGE, JASON A

Originating Dept: CITY COUNCIL/MAYOR

Contact Person: ANITA COTTER

Effective Date: 08/01/2018

Termination Date:

Amount: \$.00 Requisition: PO:

Additional Amt: \$.00

Notes:

Description: EMPLOYMENT AGREEMENT CITY MANAGER

Council Bill:

Ordinance No.

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is entered into as of the date first written below by and between the City of Springfield, Missouri (“the City” or “Employer”) and Jason A. Gage (“Gage” or “Employee”). The parties agree as follows:

1. **Employment.** Pursuant to the terms and provisions of this Agreement, the City shall employ Gage to serve as City Manager of the City as of August 1, 2018 (the “Effective Date”), and as of the Effective Date, Gage shall serve as City Manager and shall discharge the duties and responsibilities of such office in accordance with the City Charter, and also in accordance with the terms, conditions and provisions of this Agreement.

2. **Term.** This Agreement is for employment-at-will under Missouri law for a term commencing on the Effective Date and continuing thereafter for an indefinite term, until terminated in accordance with law, the City Charter, or the provisions of termination contained in this Agreement.

3. **The Position.** At all times during Employee's employment hereunder, Employee shall serve as City Manager at the purview and pleasure of City Council in accordance with and as required by the City Charter which, among other things, requires Employee to perform the duties of City Manager as set forth in the City Charter, requires Employee to devote his entire time to the duties of his office, and requires Employee to live within the city limits of the City during his tenure. At all times, Employee shall report to and be subject to the direction of City Council, and in addition to the functions, duties, and responsibilities of the City Manager as set forth in the City Charter, Employee shall oversee, discharge and coordinate such additional and further responsibilities as City Council may deem necessary.

4. **Performance.** City Council shall annually review the performance of Employee, establishing specific performance goals for Employee, and shall make a reasonable effort to share with Employee the City's desired performance review format, the City's approach for successful performance, and the desired performance goals for Employee and how said goals relate to the overall success of the City.

Throughout Employee's employment pursuant to this Agreement, Employee agrees to and shall devote 100% of his professional and business hours and his undivided attention to the business and affairs of the City, except as otherwise provided in this Agreement. Provided that Employee timely discloses to City Council, and receives City Council's approval to engage in the activity, nothing in this Agreement shall preclude Employee from devoting reasonable periods as may be required for outside activities and engagements that will not reflect adversely on the City, and that are not inconsistent with the City Charter, or the mission or purposes of the City, including, but not limited to, such activities as the following: (a) fulfilling speaking engagements; or (b) engaging in charitable and community activities that are not inconsistent with the City Charter or the mission and purposes of the City.

5. **Compensation.** For all services provided to the City by Employee during Employee's employment hereunder, Employee shall be paid the following compensation: Beginning the Effective Date, Two Hundred Twenty Thousand Dollars (\$220,000.00) annually,

payable in equal installments not less often than biweekly. Beginning the Effective Date, Employee's performance shall be evaluated by City Council annually, and increases in annual Base Compensation, if any, shall be based on Employee's performance, budgetary guidelines, market comparability, or for other reasons as desired by City Council. The compensation provided in this paragraph shall be in addition to the benefits and other remunerations that are set forth in this Agreement.

6. **Fringe and Welfare Benefits.**

(a) **Automobile Allowance.** Throughout Employee's employment under this Agreement, Employee shall receive a car allowance of \$430.00 per month (\$5,160.00 annually), in accordance with the car allowance available to other similarly-situated unclassified active employees of the City. Employee shall also be eligible for reimbursement for mileage for approved out-of-state travel in accordance with the reimbursement allowed for other similarly-situated unclassified active employees of the City. Should Employee travel outside of Greene County, Missouri for the purposes of necessary travel approved by the City, Employee shall have the option of using, from time-to-time, a vehicle owned by the City pursuant to the City's normal processes and practices available to other similarly-situated unclassified active employees of the City.

(b) **Leave Benefits.** In addition to leave authorized and allowed by law, including military leave and Family and Medical Leave, Employee shall receive the following leave benefits:

- (i) Per Agreement annual term for the twelve (12) months following the Effective Date, twelve (12) days of sick leave. Employee may carry over unused sick leave with a maximum accrual of 180 days, or 1,440 hours per Agreement annual term.
- (ii) Per Agreement annual term for the twelve (12) months following the Effective Date, ten (10) days of vacation. Employee may accumulate a maximum of two (2) times the annual vacation accrual rate per Agreement annual term.
- (iii) Per calendar year, four (4) floating holidays, nine (9) city holidays, ten (10) days of executive leave, and five (5) days of exempt leave (exempt leave is prorated to three (3) days during calendar year 2018). All calendar year annual leave must be used in said calendar year and may not be carried over.

(c) **Health Insurance and Dental Insurance.** Employee is eligible to receive health insurance benefits and dental insurance benefits under the terms and conditions of the City's insurance plans under the same terms and conditions as

other similarly-situated unclassified active employees of the City, and subject also to the City's right to amend or terminate any such plans at any time.

(d) **Retirement Benefits.** The parties agree and understand that the City participates in the Missouri Local Government Employees Retirement System ("LAGERS"). Upon Employee's qualification for participation under LAGERS, the City agrees to 100% of the required contributions on behalf of Employee with a two percent (2%) defined benefit multiplier. In addition to LAGERS, the parties agree and understand that the City participates in a supplementary Section 457 retirement plan ("457 Plan"). The City agrees to contribute the maximum allowed by the Internal Revenue Service annually into Employee's 457 Plan account during May of each calendar year. Currently, the IRS maximum allowable amount is \$18,500.00.

(e) **Life Insurance.** The City shall pay life insurance premiums to Employee, not to exceed \$1,000.00 per year, and Employee agrees to retain and maintain his current term life insurance policy in the total benefit amount of \$1,000,000.00 (the "Term Policy").

(f) **Other Benefits.** In addition to the fringe and welfare benefits set forth herein, throughout the period of Employee's employment by the City under this Agreement, Employee may participate in all fringe and welfare benefit plans offered by the City, including disability benefits or life insurance benefits, subject to and in accordance with the provisions and eligibility requirements of each such plan, and subject also to the City's right to amend or terminate any such plan at any time. Any benefits to be provided are subject to change and will be offered to the extent, and on the terms, made available to other similarly-situated unclassified active employees.

7. **Professional Development and Job-Related Expenses.** With prior approval by the City, and subject to annual budget appropriation and constraints, the City agrees to pay for professional dues, professional subscriptions, civic club dues, and seminar attendance of Employee, as well as reasonable associated travel expenses, necessary for continuation and participation in national, regional, state, and local associations, and organizations necessary and desirable for Employee's continued professional participation, growth, and advancement, including, but not limited to the ICMA Annual Conference, Missouri Municipal League (MML) activities, Missouri City/County Management Association (MCMA) annual conference and activities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member. In addition, the City recognizes that certain expenses of a job-related nature may be incurred by Employee while performing official duties and agrees to reimburse or to pay such general expenses in accordance with City policy and practice.

8. **Moving Reimbursement.** Employee understands that he shall establish and maintain residence within the corporate boundaries of the City during Employee's tenure. The City shall reimburse Employee for the actual expenses of moving Employee and his family and personal property from Salina, Kansas, to Springfield, Missouri in an amount not to exceed \$7,000.00. Said moving expenses must be pre-approved by the City, and Employee must submit three (3) bids to

the City for consideration. The City shall also reimburse Employee for the costs and expenses associated with up to three (3) trips from Salina, Kansas to Springfield, Missouri for the purposes of identifying a family residence in an amount up to \$500.00 per trip for lodging, fuel and meal expenses incurred by Employee.

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

10. **Termination.** Notwithstanding anything contrary regarding Employee's employment as City Manager as may be contained within the City Charter, this Agreement may be terminated by the City (by majority vote of City Council), or by Employee, as follows:

(a) **Without Cause.** Notwithstanding any other provision of this Agreement or anything contained herein to the contrary, this Agreement may be terminated without Cause (as defined below) by City, or by Employee without Good Reason (as defined below), upon sixty (60) days' prior written notice. In the event of an involuntary termination without Cause by either party, the City reserves the right, at its sole option, at any time within the 60-day notice period, to assign Employee transitional duties in addition to or in lieu of Employee's regular duties; provided, however, that the City will not diminish Employee's Base Compensation or benefits before the involuntary termination without cause becomes effective as of the expiration of the 60-day notice period.

If the City terminates this Agreement without Cause, then conditioned on Employee executing a full release of any claims relating to Employee's employment with the City, including the termination of that employment, the City shall pay Employee for six (6) months after the effective date of notice of termination an amount equal to Employee's Base Compensation in effect at the date of the notice of termination, to be paid in installments in accordance with the City's customary pay schedule. In addition to salary continuation, Employee will continue to receive for said six (6) month period any benefits Employee was receiving as of the date of notice. Other than as stated herein, all obligations of the City to pay salary or benefits to Employee shall terminate six (6) months after the effective date of notice of termination.

In the event Employee voluntarily resigns or terminates his employment without providing the notice required pursuant to this paragraph ten (10)(a) and without Good Reason (as defined below), all obligations of the City to Employee hereunder shall cease effective upon the date of notice by Employee of resignation or termination.

(b) **Effect of Death.** In the event of Employee's death during the period of his employment pursuant to this Agreement, this Agreement shall terminate and Employee's legal representative shall be entitled to the unpaid Base Compensation earned by Employee through the date of death.

(c) **Effect of Disability.** In the event of Employee's disability during the period of Employee's employment pursuant to this Agreement, the City may terminate this Agreement by giving Employee written notice of termination, which termination shall be effective upon the City providing Employee (or Employee's agent) written notice of its election to terminate. For purposes of this Agreement, the term "disability" shall mean Employee's mental or physical impairment occurring during the period of Employee's employment pursuant to this Employment Agreement which, as determined by the City, renders Employee unable, with or without reasonable accommodation, to safely and effectively perform the essential duties and responsibilities of his position for a period of six (6) consecutive months.

In the event this Agreement is terminated in accordance with paragraph ten (10)(c) of this Agreement, then Employee shall be entitled to the unpaid Base Compensation earned by Employee through the date of termination.

(d) **For Cause.** The City may terminate this Agreement at any time for Cause (as defined below), which termination shall be effective upon the City's written notice to Employee of its election to terminate. For purposes of this Agreement, termination of Employee's employment by the City would be "for Cause" in the event Employee: (i) commits an act of dishonesty, deceit, malfeasance, or breach of fiduciary duty in the performance of Employee's duties as an employee of the City; (ii) neglects or fails to perform substantially to City Council's satisfaction Employee's job duties and responsibilities (provided that if there exists a performance event or condition that constitutes for Cause, Employee shall have thirty (30) days from the date notice of such performance deficiency is given to cure such event or condition and, if Employee does so, such event or condition shall not constitute for Cause hereunder); (iii) substantially violates any policy or reasonable expectation of City Council regarding appropriate employee behavior or conduct (provided that if there exists a behavior or conduct issue that constitutes for Cause, Employee shall have thirty (30) days from the date notice of such issue is given to cure such issue and, if Employee does so, such issue shall not constitute for Cause hereunder); (iv) acts or fails to act in any way that reflects materially and adversely upon the City, including but not limited to a violation of any policy of the City or the City Charter by Employee; (v) is convicted of, or pleads *nolo contendere* to any felony, or any misdemeanor involving moral turpitude, or any crime or offense involving dishonesty with respect to the City, or any illegal act involving personal gain to Employee; (vi) terminates his employment without cause; or (vii) materially breaches any provision of this Agreement. Should Employee be terminated for Cause by the City, the City is not obligated nor required to pay severance under this Agreement. In the event the City terminates this Agreement for Cause, all obligations of the City to Employee hereunder shall cease effective upon the date of termination.

(e) **For Good Reason.** Employee may terminate this Agreement at any time for Good Reason (as defined below), which termination shall be effective upon Employee's written notice to the City of Employee's election to terminate. For

purposes of this Agreement, termination of this Agreement would be “for Good Reason” in the event the City: (i) acts to amend (or the citizens or legislature act to amend) any provisions of the City Charter, city ordinances, or Missouri law pertaining to the role, powers, duties, authority, responsibilities of Employee's position that substantially changes the form of government; (ii) imposes on Employee an involuntary material reduction in Base Compensation of more than 20%; or (iii) materially breaches any provision of this Agreement. Notwithstanding the foregoing, Good Reason shall not be deemed to exist unless written notice of termination on account thereof (specifying a termination date of sixty (60) days from the date of such notice) is given by Employee to the City no later than sixty (60) days after the time at which the event or condition purportedly giving rise to Good Reason first occurs or arises; and, provided that if there exists an event or condition that constitutes Good Reason, the City shall have thirty (30) days from the date notice of such a termination is given to cure such event or condition and, if the City does so, such event or condition shall not constitute Good Reason hereunder.

If Employee terminates this Agreement for Good Reason, then conditioned on Employee executing a full release of any claims relating to Employee's employment with the City, including the termination of that employment, the City shall pay Employee for six (6) months after the effective date of notice an amount equal to Employee's Base Compensation in effect at the date of the notice of termination, to be paid in installments in accordance with the City's customary pay schedule. In addition to salary continuation, Employee will continue to receive for said six (6) month period any benefits Employee was receiving as of the date of notice. Other than as stated herein, all obligations of the City to pay salary or benefits to Employee shall terminate six (6) months after the effective date of notice of termination.

11. **Compliance with Applicable Laws and Regulations.** This Agreement is to be construed, and the compensation provided hereunder is to be paid, in such manner and at such times as shall comply with all applicable laws and regulations.

12. **Governing Law.** This Agreement is made and entered into in the State of Missouri and shall be interpreted, construed, enforced and applied pursuant to and in accordance with the laws of Missouri.

13. **Amendment and Waiver.** This Agreement shall not be modified or amended except upon the prior mutual written agreement of the parties. No term or provision of this Agreement shall be deemed to have been waived nor shall any estoppel operate against the enforcement of any provision of this Agreement except by written instrument of the party charged with such waiver or estoppel. No written waiver shall be a continuing waiver unless expressly so stated therein, and each waiver shall be effective only as to the specific term or condition waived, and shall not constitute a continuing waiver of any term or condition.

14. **Severability.** In the event that any provision of this Agreement is held or determined to be invalid or unenforceable for any reason, such invalidity shall not affect any other provision of this Agreement which shall at all times remain in full force and effect.

15. **Notices.** All notices required or permitted hereunder shall be immediately effective upon hand-delivery to the other party, or by electronic mail to the other party with a delivery and read receipt request, or by mail, postage prepaid, to the other party's last known address.

16. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties respecting Employee's employment with the City on and after the Effective Date superseding all prior agreements and negotiations with respect to the subject matter hereof. This Agreement may be executed and delivered in one or more counterparts, all of which together shall constitute a single agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written below.

June 1, 2018
Date

Jason A. Gage
Jason A. Gage

"Gage" or "Employee"

The City of Springfield, Missouri

By: Ken McClure
Ken McClure, Mayor

"the City" or "Employer"