

ORIGINAL

## EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is executed this 14 day of August, 2019 ("Effective Date"), by and between the Town of Whitestown ("Employer"), a municipal corporation, and Jason Lawson ("Employee") (collectively the "Parties").

In consideration of Employee's employment, and the promises and obligations contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**1. Term.** This Agreement shall be effective on the Effective Date and shall initially be effective until December 31, 2019 ("Initial Term"), and month to month thereafter until the Whitestown Town Council ratifies the Agreement in calendar year 2020 or thereafter. Upon ratification by the Whitestown Town Council after the Initial Term, this Agreement shall be effective until and terminate on December 31, 2023. In any event, this Agreement made be terminated sooner in accordance with Section 11, 12, 13, 14, or 15 of this Agreement.

**2. Employment.** Employer agrees to employ Employee as Town Manager and his duties shall be as described in the job description attached as Exhibit A, which is incorporated by reference into this Agreement. Employer and Employee understand and agree that Employee is employed at-will. This means that, subject to the termination provisions contained in Sections 11, 12, 13, 14, and 15 of this Agreement, Employer may terminate Employee with or without cause upon a majority vote of Employer's governing body, and Employee may terminate the employment relationship at any time for any or no reason.

**3. Best Efforts.** Except for periods of vacation, personal time off (as defined in Employer's Policy Manual), illness, or incapacity, Employee shall devote Employee's full time, best efforts, ability, skill, and attention, exclusively to the furtherance of the best business objectives and interests of Employer. Notwithstanding the foregoing, the Parties agree that Employee may accept limited teaching, consulting, or other business opportunities so long as they do not constitute a conflict of interest with Employee's duties and responsibilities as Town Manager and Employee obtains prior approval from the Employer's governing body. Employee shall maintain an appropriate work schedule in light of his duties to attend meetings and/or be available on nights and/or weekends.

**4. Compensation.** Employee's annual compensation for the services to be rendered under this Agreement will be Ninety Thousand Dollars (\$90,000) ("Base Salary"), payable according to Employer's customary payroll cycle and procedures, and subject to all applicable taxes and withholdings. Employer reserves the right to review and make adjustments to Employee's salary on an annual basis, typically at a rate of two percent (2%) to eight percent (8%).

**5. Leave and Other Benefits.** Employee shall accrue vacation time as outlined in the Employer's Employee Manual, as may be amended from time to time.

Employee shall also be entitled to participate in any other employee leave, benefit, or welfare plan Employer may offer from time to time on the same basis as other civilian management employees of Employer and subject to the participation qualifications of any such plan. Nothing in this Agreement requires Employer to offer any such plan or restricts Employer's ability to modify or terminate any such plan, except as provided by applicable law. Employer expressly reserves the right to develop and implement employment policies and work rules as it sees fit. Employee acknowledges that Employer has provided Employee with a copy of Employer's Employee Manual which contains information regarding Employer's leave and other benefits programs.

**6. Vehicle.** Employer agrees to provide Employee with a vehicle to perform the duties of Employee's position. The vehicle provided to Employee may be used solely within Boone County or any County contiguous to Boone County, unless Employee receives the approval of the President or Vice President of Employer's governing body to use the vehicle outside Boone County or a contiguous County, and the vehicle cannot be used to perform services as an employee for another person or entity or as an independent contractor unless specifically authorized by Employer's governing body. Employer shall secure comprehensive automobile liability insurance required under Indiana law, and Employer shall reimburse Employee for gas and expenses incurred for maintenance of such vehicle. Employee agrees to secure such vehicle against theft or property damage and to immediately notify Employer if the vehicle is stolen or damaged. Upon termination or expiration of this Agreement, Employee shall return the vehicle to the Employer in good exterior and interior and mechanically sound condition, ordinary wear and tear excepted

**7. Expenses.** Employer agrees to reimburse Employee for reasonable and customary business-related expenses incurred in performing his duties as Town Manager. Such expense reimbursement shall also include pre-approved, reasonable professional dues, memberships, and subscriptions, and expenses related to attendance at pre-approved conferences, seminars, and educational functions. Employee agrees to provide Employer with an expense report at the end of each month documenting the reasonable and customary business-related expenses he has incurred along with documentation, such as receipts, verifying those expenses.

**8. Business Equipment.** Employer shall provide Employee with a computer, software, internet access, fax/modem, and cell/smart phone ("Equipment") to facilitate performance of his duties as Town Manager. Employee acknowledges and agrees that such Equipment is the property of and belongs to Employer, is subject to inspection at any time by Employer, and must be immediately returned to Employer upon Employer's request or the termination or expiration of this Agreement.

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

**10. Indemnification.** Employer agrees to defend and indemnify Employee against any claims, demands, or legal actions arising out of an alleged act or omission occurring in the performance of Employee's duties and responsibilities as Town Manager or resulting from Employee's exercise of judgment and discretion in performing such duties or responsibilities,

unless the act or omission is outside the scope of Employee's employment or involves gross negligence or wanton or willful conduct on the part of Employee.

**11. Termination Due to Employee's Death.** If Employee dies during Employee's employment with Employer, Employer's obligations described in Sections 4, 5, 6, 7, and 8 of this Agreement shall immediately expire, except that Employer shall pay Employee's estate (or other lawful successor) for any incurred and unreimbursed expenses, and on the next regular payday following Employee's death Employer shall pay Employee's estate (or other lawful successor) that portion of Employee's Base Salary and unused vacation (subject to Section 5) which shall have been earned through the date of Employee's death. Aside from the payments set forth in this Section 11 of the Agreement, Employer shall have no further obligations to Employee and to Employee's estate, heirs, executors, administrators, and personal representatives under this Agreement.

**12. Voluntary Termination by Employee without Good Reason.** Employee may terminate his employment with Employer without Good Reason (as defined herein) by giving Employer written notice of intent to terminate, specifying in such notice a termination date of not less than thirty (30) calendar days after giving of the notice ("Notice Period"). Employer has the right to release Employee from performing the duties and obligations of his position at any time during the Notice Period and, should Employer exercise such right, Employer shall compensate Employee his Base Salary for the entire Notice Period, subject to applicable taxes and withholdings, and payable in accordance with Employer's customary pay cycles and procedures. At the end of Notice Period, Employer's obligations to pay Employee the elements of compensation described in Sections 4, 5, 6, 7, and 8 of this Agreement shall immediately expire, except that Employer shall pay Employee for any incurred and unreimbursed expenses, and on the next regular payday following the termination date Employer shall pay Employee that portion of his Base Salary and unused vacation (subject to Section 5) that shall have been earned through the termination date. Aside from the payments set forth in this Section 12 of the Agreement, Employer shall have no further obligations to Employee under this Agreement.

**13. Voluntary Termination by Employee for Good Reason.** (a) Employee may terminate Employee's employment with Employer for Good Reason (as defined herein) by giving Employer written notice of intent to terminate for Good Reason, specifying in such notice a termination date of not less than thirty (30) calendar days after giving the notice ("Notice Period") and the cause constituting "Good Reason" for such termination. Employer has the right to release Employee from performing the duties and obligations of his position at any time during the Notice Period and, should Employer exercise such right, Employer shall compensate Employee his Base Salary for the entire Notice Period, subject to applicable taxes and withholdings, and payable in accordance with Employer's customary pay cycles and procedures. At the end of Notice Period, Employer's obligations to pay Employee the elements of compensation described in Sections 4, 5, 6, 7, and 8 of this Agreement shall immediately expire, except that Employer shall pay Employee for any incurred and unreimbursed expenses and on the next regular payday following the termination date Employer shall pay Employee that portion of his Base Salary and unused vacation (subject to Section 5) that shall have been earned through the termination date. If Employee terminates employment for Good Reason, Employee shall also be entitled to receive the severance payment set forth, and subject to the conditions in, Section 16 of this Agreement. Aside from the payments set forth or referenced in this Section

13(a) of the Agreement, Employer shall have no further obligations to Employee under this Agreement.

(b) For purposes of this Agreement, the term “Good Reason” means: (i) Employer reduces Employee’s Base Salary by twenty percent (20%) or more; (ii) Employer changes or reduces Employee’s responsibilities in a manner materially inconsistent with his Town Manager position; (iii) Employer asks or requires Employee to perform or conceal any illegal activities; or (vi) Employer breaches any of its obligations under this Agreement and such breach remains uncured during the Notice Period defined in Section 13(a) above.

**14. Termination by Employer for Cause.** (a) Employer may terminate Employee’s employment with Employer for Cause (as defined herein) by providing written notice to Employee of Employer’s intent to terminate for cause. Employee’s employment shall terminate at the close of business on the date on which Employer provides written notice of termination for Cause to Employee. Upon termination of Employee’s employment with Employer for Cause, Employer’s obligation to pay Employee the compensation described in Sections 4, 5, 6, 7, and 8 of this Agreement shall immediately expire, except that Employer shall pay Employee for any incurred and unreimbursed expenses, and on the next regular payday following the termination date Employer shall pay Employee that portion of his Base Salary and unused vacation (subject to Section 5) that shall have been earned through the termination date. Aside from the payments set forth in this Section 14 of the Agreement, Employer shall have no further obligations to Employee under this Agreement.

(b) For purposes of this Agreement, the term “Cause” means termination of Employee, at Employer’s discretion, for: (1) Failure to work for Employer on a full-time basis, excluding any permitted vacations, personal time off (as defined in Employer’s Policy Manual), or short term absences due to sickness or injury; (2) Unlawful use, possession, or sale of illegal drugs in the workplace, or intoxication from alcohol or illegal controlled substances in the workplace; (3) Inability or failure to perform in any material respect Employee’s duties with the Employer or material breach of any provision of this Agreement that remains uncured after ten (10) days’ notice of same; (4) Failure or refusal to comply with lawful policies, rules, and regulations of Employer, whether now in force or hereafter adopted; (5) Being formally charged and/or convicted of a felony; (6) Misrepresentation or concealment of any fact for the purpose of securing this Agreement; (7) Engaging in any conduct Employer considers dishonest, immoral, unethical, fraudulent, or unprofessional, regardless of materiality; (8) Engaging in any illegal conduct or misconduct which is injurious to Employer; (9) Appropriating any opportunity of the Town of Whitestown for Employee’s personal benefit or the benefit of another, regardless of materiality or intent to defraud; or (19) Permanent disability (defined as Employee’s inability, because of mental or physical impairment, to perform the essential functions of the Employee’s position, with or without reasonable accommodation, for a period of more than ninety (90) days during any twelve (12) month period).

**15. Termination by Employer without Cause.** Employer may terminate Employee’s employment with Employer without Cause (as defined herein), by giving Employee written notice of intent to terminate without Cause, specifying in such notice a termination date of not less than thirty (30) calendar days after giving the notice (“Notice Period”). Employer has the right to release Employee from performing the duties and obligations of his position at any

time during the Notice Period and, should Employer exercise such right, Employer shall compensate Employee his Base Salary for the entire Notice Period, subject to applicable taxes and withholdings, and payable in accordance with Employer's customary pay cycles and procedures. At the end of Notice Period, Employer's obligations to pay Employee the elements of compensation described in Sections 4, 5, 6, 7, and 8 of this Agreement shall immediately expire, except that Employer shall pay Employee for any incurred and unreimbursed expenses, and on the next regular payday following the termination date Employer shall pay Employee that portion of his Base Salary and unused vacation (subject to Section 5) that shall have been earned through the termination date. If Employee terminates employment without Cause, Employee shall be entitled to receive the severance payment set forth, and subject to the conditions in, Section 16 of this Agreement. Aside from the payments set forth or referenced in this Section 15 of the Agreement, Employer shall have no further obligations to Employee under this Agreement.

**16. Severance Payment.** If Employee's employment with Employer terminates pursuant to Section 13 or 15 of this Agreement, then Employee shall be entitled to receive a severance payment equal to six (6) months of Employee's then current base salary ("Severance Payment"). The Severance Payment shall be paid out incrementally over the course of Employer's customary payroll cycles, subject to all applicable taxes and withholdings, and is contingent upon Employee tendering to Employer a document executed by Employee which unconditionally and effectively releases any and all claims Employee may have against Employer (other than salary and benefits accrued as of the date of termination), and which is in a form and substance acceptable to Employer.

The Employer shall also continue medical insurance for Employee through payment by the Employer of Employee's COBRA premiums to the insurance carrier during the six (6) month period of the Severance Payment, provided that Employee is eligible for and elects such COBRA continuation coverage under the Employer's existing medical insurance plan. Employee's eligibility for, and the Employer's obligation to pay, the COBRA Payments shall immediately cease upon Employee becoming eligible for medical coverage through new employment and Employee agrees to notify the Employer if and when Employee becomes eligible for such alternate coverage or otherwise discontinues coverage on the Employer's medical plan.

**17. Non-Disparagement.** Employee specifically understands and agrees that Employee shall not disparage, demean, or otherwise communicate any information damaging or potentially damaging to the business or reputation of the Employer to any third party, including, but not limited to, the media and business community and any past or present employees of the Employer, without the express written consent of Employer; except that nothing in this Section 17 shall be construed to prevent Employee from engaging in any constitutionally protected speech or communications.

**19. Severability.** Should any particular language or provision included in this Agreement be held to be unreasonable or unenforceable for any reason, then such language or provision shall be given effect and enforced to whatever extent would be reasonable and enforceable. All remaining language and provisions included in this Agreement shall remain in full force and effect in accordance with the terms thereof.

**20. Effect and Modification.** This Agreement comprises the entire agreement between the Parties and shall supersede any and all previous agreements and/or commitments, whether oral or written, concerning the subject matter contained herein. No statement or promise, except as herein set forth, has been made with respect to the subject matter of this Agreement. No modification or amendment hereof shall be effective unless in writing and signed by the Parties.

**21. Notices.** Any notice required or desired to be given under this Agreement shall be deemed validly given if in writing and personally delivered or sent by certified mail to Employee's residence or to the main office of Employer marked to the attention of the President of Employer's governing body.

**22. Assignment of Agreement.** The Parties acknowledge that the services to be rendered by Employee are unique and personal and, therefore, this Agreement may not be assigned by Employee without the prior written consent of Employer. Employer may assign this Agreement in its discretion.

**23. Waiver of Breach.** No act or omission by Employer shall be deemed a waiver by Employer of any of Employer's rights under this Agreement.

**24. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Employer and its successors and assigns.

**25. Counterparts.** This Agreement may be executed in several counterparts, including by facsimile, each of which when signed by Employer and Employee shall constitute a duplicate original.

**26. Governing Law.** This Agreement shall be governed by the laws of the State of Indiana without regard to its choice of law rules. The venue for any dispute arising out of, or in any way relating to, this Agreement or Employee's employment shall be in a state court located in Boone County, Indiana, or the federal district court responsible for Boone County, Indiana.


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IN WITNESS WHEREOF, the Parties have caused this Employment Agreement to be executed on the day in the year first above written.

  
\_\_\_\_\_  
Jason Lawson

“Employee”

3670140

  
\_\_\_\_\_  
Clinton Bohm  
President, Whitestown Town Council

“Employer”

## Exhibit A

# **The Town of Whitestown Town Manager Job Description**

The Town Manager is responsible for overseeing and managing the day-to-day operations of the Town. This person will be expected to project strong leadership qualities in an expanding community, and to contribute to the development of the Town towards an efficient, professional, and productive municipal organization. The Town Manager will act as liaison for the Town Council, advising the Council on proposals and planning, and coordinating the implementation of Council policies, initiatives, and decisions. The Town Manager will also be responsible for making recommendations regarding such issues as recruitment, training, education, and management of personnel, acquisition of property, and capital improvement needs. The individual will direct the internal operations of the Town, will identify goals and assist in developing and implementing new policies, and will be expected to provide strong leadership in assisting and advising department directors. This person must also be capable of interacting with various people of the community regarding the future growth and direction of the Town. Finally, the new manager will often serve as the spokesperson of the Town through promoting Town activities and, at the direction of the Council, providing interviews with the media and delivering presentations to neighborhood, civic, and professional organizations. The Town Manager will serve at the pleasure of the Whitestown Town Council.

### **STATUTORY DUTIES**

*The minimum statutory duties of the Town Manager position are as follows:*

- Attend the meetings of the Town Council and recommend actions that he or she considers advisable.
- Hire Town employees according to the pay schedules and standards fixed by the Town Council or by statute.
- Suspend, discharge, remove, or transfer Town employees, if necessary, for the welfare of the Town.
- Where appropriate, delegate powers of the Town Manager to an employee responsible to the Town Manager.
- Administer and enforce all ordinances, orders, and resolutions of the Town Council.
- See that all statutes that are required to be administered by the Town Council, or a Town officer subject to the control of the Town Council, are faithfully administered.
- Prepare budget estimates and submit them to the legislative body when required.
- Execute contracts on behalf of the Town for materials, supplies, services, or improvements, after the completion of the appropriations, notice, and competitive bidding required by statute.
- Receive service of summons on behalf of the Town.

### **EXAMPLES OF ESSENTIAL FUNCTIONS**

*The following functions have been determined to be a non-exhaustive list of the type of duties essential to the successful performance of this position:*



- **Administrative Head of the Town.**
  - Oversee Town projects and facilities.
  - Identify and, where feasible, implement new and more efficient methods of operations.
  - Organize departments and committees as needed and at the direction of the Town Council.
  - Chair and facilitate internal administrative meetings.
  - Assist in the development of special projects and provide oversight.
  - Coordinate major construction projects such as new buildings, planning projects, etc.
  - Coordinate the purchase of Town materials and supplies as applicable.
  - Oversee performance of Council approved contracts.
  - Review mail and oversees the development and dissemination of public information.
  - Conduct regular staff meetings to review progress, accomplishments, budgets, strategies, and plans for the community.
  - Develop status reports regarding pending issues or major projects, and convey written information to the Town Council, Town attorney, department directors, and governmental agencies, etc.
  - Engage in continuing professional education and keep current with trends in town management.
  
- **Liaison to Town Council, Boards, and Commissions.**
  - Attend regular and special meetings of the Town Council, Boards, and Commissions.
  - Develop agendas for Town Council Meetings and special commission meetings, as needed.
  - Serve as the facilitator of Council meetings.
  - Research and provide supporting data relative to Town affairs/concerns.
  - Develop plans to implement decisions.
  
- **Liaison with Regional, State, and Federal Government Agencies.**
  - Coordinate projects dealing with such issues as highways, roads, bicycle paths, economic development agreements, infrastructure-related projects, and policy coordination.
  - Represent the Town at policy meetings with Federal, State and Local officials.
  - Monitor pending legislation; secure policy direction from the Council and communicate same to legislators.
  
- **Liaison between the Town and Local Citizens and Community.**
  - Project a positive image of the Town.
  - Communicate with local groups such as Chambers of Commerce, neighborhood associations, civic groups and professional organizations.
  - Respond to and address citizen inquiries and complaints.
  - Answer public inquiries regarding geography, streets, roads, etc.
  - Maintain ongoing relationships with media personnel and assist in coordinating all media responses.
  - Respond to media requests where appropriate.
  
- **Financial Administrator.**
  - Compile and provide input into the preparation of the budgets for the departments of the Town.
  - Make budgetary recommendations to the Town Clerk and Town Council.
  - Approve budgeted capital expenditures pursuant to Town policies.
  - Ensure compliance with budget guidelines and adequate disbursement over fiscal year.
  - Coordinate proper review, negotiation, and approval of vendor and consultant contracts.
  - Assist with the negotiation of intergovernmental contracts with other municipalities, townships, counties, and state agencies.
  - Process invoices and complete claim forms for large capital projects.
  - Investigate and assist with grant application and administration.
  
- **Supervisor of Town Personnel.**

- Exercise supervisory control over Town personnel and contract employees, with the exception of elected officials, sworn-in police and fire personnel, and employees of the offices of the Clerk-Treasurer and Town Court.
  - Conduct employee performance evaluations and develop and implement performance improvement plans.
  - Maintain disciplinary control of personnel consistent with applicable policies and procedures, and in a fair and impartial manner.
  - Oversee the work schedule for administration.
  - Make recommendations regarding hiring and promotions. Delegate assignments and analyze staff requirements to determine the needs for additional/replacement personnel.
  - When authorized by council, conduct interviews and hire staff based on objective criteria.
- **Town Council Advisor.**
- Provide year-end detailed written estimate of the probable expenditures and revenues of the Town Government for the ensuing year.
  - Keep full and complete records of the affairs of his/her office and issues affecting the Town, reporting same to the Town Council on a regular and timely basis.
  - Keep detailed records concerning the receipts and disbursements of the Town. This information will be provided to the Town Council and the Budget Committee on at least a monthly basis. An annual summary of expenditures and revenues will also be prepared for publication by Town Manager and Accountant.
- **Representative of the Town on Incident Command Management Teams.**
- Required to take FEMA Emergency Preparedness and/or Management courses as directed. May include, but not be limited to, courses in Incident Command Management, National Incident Management System (NIMS), Emergency Planning, Emergency Management, Continuity of Operations Planning (COOP), Hazard Mitigation, Community Response Teams, Disaster Basics.
  - Responsible for implementation of any required Homeland Security Presidential Directives (HSPD) that may be applicable to the Town.