

EMPLOYMENT AGREEMENT

This Agreement is made and entered this 15th day of October, 2019, and shall become effective the second day of December, 2019 (“the Effective Date”), by and between the **Board of County Commissioners of Saline County, Kansas** (hereinafter referred to as EMPLOYER), and **Phillip D. Smith-Hanes** (hereinafter referred to as EMPLOYEE), an individual who, as a member of the International City/County Management Association (ICMA), is subject to the ICMA Code of Ethics. EMPLOYER and EMPLOYEE are sometimes referred to herein individually as a Party or collectively as the Parties.

RECITALS

WHEREAS, EMPLOYER desires to contract the services of EMPLOYEE as County Administrator; and

WHEREAS, EMPLOYEE has the necessary education, training and experience to serve effectively as County Administrator for EMPLOYER; and

WHEREAS, EMPLOYEE agrees to faithfully perform the duties of the office of County Administrator for EMPLOYER; and

WHEREAS, both Parties desire to create conditions which will contribute to the mutual success of this employment relationship;

NOW, THEREFORE, in consideration of these Recitals and the performance by the Parties of the promises, covenants and conditions contained in this Agreement, the Parties agree as follows:

SECTION 1. TERM

A. The initial term of this Agreement shall be for a period of 13 months beginning on the Effective Date and ending on December 31, 2020. EMPLOYER shall have the right to renew this Agreement for five additional one-year terms upon providing notice to EMPLOYEE not later than October 1 of each year, subject to the provisions of Section 5 below.

B. Notwithstanding this expected term, the Parties acknowledge that the mutual success of the employment relationship created herein will be enhanced by the ability of the Parties to terminate this Agreement should their respective needs change. Therefore, nothing in this Agreement shall be construed to prevent, limit or otherwise interfere with the right of either Party to terminate this Agreement at any time subject to the provisions of Section 6 below.

SECTION 2. DUTIES AND AUTHORITY

EMPLOYER agrees to employ EMPLOYEE as County Administrator of EMPLOYER. The Parties acknowledge that a clear delineation of the duties of EMPLOYEE will contribute to the mutual success of the employment relationship created herein. Therefore, EMPLOYEE shall have those powers and duties of the County Administrator as set forth in previous Resolutions and Job Descriptions as adopted by EMPLOYER as well as such other legally permissible and proper duties as may be from time to time directed or assigned by the Board of County Commissioners.

SECTION 3. EMPLOYEE COMMITMENTS

EMPLOYEE acknowledges that certain commitments are necessary on his part in order to assure the mutual success of the employment relationship created herein, and that these include but are not limited to the following:

A. Exclusive Employment

1. During the term of this Agreement, EMPLOYEE shall not undertake any paid employment other than as County Administrator for EMPLOYER without express written approval, in advance, from the Board of County Commissioners. This shall not be construed to limit the authority of the Board of County Commissioners to assign EMPLOYEE to act on a temporary basis as a department head of another Saline County department, should such need arise. If EMPLOYEE is to be assigned as department head on an ongoing basis, he shall be compensated for such assignment in addition to the amounts specified in Section 5 of this Agreement.

2. During the term of this Agreement, EMPLOYEE shall not undertake any volunteer activities which could reasonably be anticipated to conflict with employment as County Administrator for EMPLOYER.

B. Disability or Inability to Perform

In the event that EMPLOYEE becomes mentally or physically incapable of performing the functions and duties of the County Administrator with reasonable accommodation, and it reasonably appears such incapacity will last for more than six months, EMPLOYER may terminate EMPLOYEE. If EMPLOYER does elect to terminate EMPLOYEE due to incapacity, EMPLOYEE shall receive the Severance Payment described in Section 6 of this Agreement. EMPLOYEE shall provide verification of any mental or physical disability from a licensed medical provider.

C. Ethical Behavior

EMPLOYEE will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto as Exhibit A and incorporated herein. Specifically, he shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

SECTION 4. EMPLOYER COMMITMENTS

EMPLOYER acknowledges that certain commitments are necessary on its part in order to assure the mutual success of the employment relationship created herein, and that these include but are not limited to the following:

A. Reimbursement for Services

1. EMPLOYER shall provide EMPLOYEE with the compensation and benefits set forth in Section 5 below.

2. EMPLOYER shall pay for or provide EMPLOYEE reimbursement for all actual business expenses approved by the Board of County Commissioners in advance.

3. EMPLOYER agrees to pay professional membership dues on behalf of EMPLOYEE for such

organizations as may be agreed by EMPLOYEE and the Board of County Commissioners. Such memberships shall include, at a minimum, annual dues for ICMA and the Kansas Association of City/County Management.

4. EMPLOYER agrees to pay the travel and subsistence expenses of EMPLOYEE to pursue official and other functions for EMPLOYER and meetings and occasions to continue the professional development of EMPLOYEE including but not limited to national, regional, state and local conferences and governmental groups and committees upon which EMPLOYEE serves as a member subject to annual review and approval by the Board of County Commissioners.

B. Support for Administrator

1. The Board of County Commissioners agrees none of its individual members will order the appointment or removal of any person to any office or employment under the supervision and control of EMPLOYEE.

2. The Board of County Commissioners shall support EMPLOYEE in conducting himself according to the tenets of the ICMA Code of Ethics (Exhibit A). Specifically, neither the Board of County Commissioners nor any of its members will give EMPLOYEE any order, direction or request that would require EMPLOYEE to violate the Code of Ethics. Likewise, no member of the Board of County Commissioners shall request EMPLOYEE to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office.

C. Annual Performance Evaluation

The Board of County Commissioners shall conduct an evaluation of EMPLOYEE's performance at least once each year. EMPLOYER and EMPLOYEE agree that performance evaluations for the purpose of mid-course corrections may occur as frequently as may be required during any calendar year. The Board of County Commissioners and EMPLOYEE may define such goals and performance objectives during the annual evaluation as they mutually determine are necessary for the proper operation of the County for the attainment of the Board's policy objectives. The Board of County Commissioners and EMPLOYEE shall further establish a relative priority among those goals and performance objectives.

D. ICMA Evaluation

In order to maintain EMPLOYEE's professional Credential, EMPLOYER agrees, on or before November 1, 2025, to the participation of its County Commissioners, Appointed Department Heads and other applicable staff in a multi-rater assessment acceptable to ICMA. Such assessment may, upon approval by the Board of County Commissioners, substitute for one of the annual performance evaluations required by subsection C above.

SECTION 5. COMPENSATION

A. Salary

1. EMPLOYEE's Base Salary as of the Effective Date shall be Step 10 of pay grade 30 (approximately \$122,373.89 per annum). Such salary shall be paid bi-weekly in the manner set forth in EMPLOYER's resolutions and policies. It is acknowledged that this salary will increase by \$1,100 for calendar year 2020.

2. If EMPLOYER elects to exercise the renewal of this Agreement pursuant to Section 1 above, EMPLOYEE's Base Salary shall be increased by one percent (1%) for each such renewal term.

3. The Parties acknowledge that the dollar value of the above-referenced step may change during the term of this Agreement due to any generally applicable pay adjustments approved by the Board of County Commissioners. In addition to the compensation specified herein, EMPLOYEE shall be entitled to any pay adjustment provided by EMPLOYER to all Appointed Department Heads.

B. Retirement

1. EMPLOYEE participates in Social Security as an employee of EMPLOYER. EMPLOYEE and EMPLOYER shall each pay the applicable employee and employer contributions, respectively, as provided by law.

2. EMPLOYEE is covered by EMPLOYER's contract with the Kansas Public Employees Retirement System (KPERs) to provide a defined-benefit pension plan. EMPLOYEE and EMPLOYER shall each pay the applicable employee and employer contributions, respectively.

3. In addition to Social Security and KPERs retirement, EMPLOYER offers to employees a Deferred Compensation plan pursuant to Section 457 (b) of the Internal Revenue Code. EMPLOYEE may participate in this plan at his discretion, with no EMPLOYER contribution.

C. Leave

EMPLOYEE will be entitled to leave according to applicable provisions of Sections 30.07 through 30.12, inclusive, and Sections 40.06 through 40.10, inclusive, of the Saline County Personnel Policy, or any successor provisions thereto, subject to the termination provisions set forth in Section 6 below. He shall inform the Chair of the Board of County Commissioners in advance of any scheduled leave in excess of one business day.

D. Other Benefits

1. EMPLOYER, through KPERs, shall pay for the cost of a policy of life insurance, payable to EMPLOYEE's designated beneficiary/ies upon EMPLOYEE's death while employed by EMPLOYER, in an amount equivalent to 1.5 times EMPLOYEE's annual salary, as well as any supplemental life insurance policy provided to all other employees.

2. EMPLOYEE and his dependents shall be eligible to participate in EMPLOYER's program of medical, dental and vision insurance, under the same terms applicable to Appointed Department Heads.

SECTION 6. TERMINATION

While the Parties presently believe that their mutual success will be best achieved if this Agreement continues through the expiration of the term specified in Section 1 above, they acknowledge that circumstances may change during the term of this Agreement through no fault of either Party and they wish to make certain provisions that will ensure mutual success in the termination of the employment relationship created herein, should such become necessary or in the best interest of either Party.

A. End of Agreement

The Parties acknowledge that their respective needs are best served by a predictable transition at the end of the term specified in Section 1, or any renewal term. Therefore, not less than 90 days prior to the date of termination specified in Section 1 or any renewal term, either Party may provide written notice to the other Party of an intent to terminate the Agreement at its expiration. EMPLOYEE shall not be entitled to any Severance Payment if EMPLOYER elects not to renew this Agreement. In the event that EMPLOYER has not provided EMPLOYEE with notice of intent to either terminate or renew the Agreement within 90 days of the end of the Agreement term or any subsequent renewal term, EMPLOYEE's employment shall be extended for an additional 90 days.

B. Resignation During Agreement

EMPLOYEE may resign at any time and agrees to give EMPLOYER at least 45 days written notice of the effective date of any such resignation unless the Parties mutually agree to a shorter notice. EMPLOYEE shall not be entitled to any Severance Payment upon resignation.

C. Termination Without Cause During Agreement

1. EMPLOYEE is an at-will employee serving at the pleasure of EMPLOYER's Board of County Commissioners.

2. The Board of County Commissioners may terminate EMPLOYEE at any time without cause by a majority vote of its members.

3. In the event that the Board of County Commissioners terminates EMPLOYEE's employment without cause, EMPLOYER shall pay EMPLOYEE a Severance Payment equal to six months of his Base Salary on the effective date of termination.

4. In the event that EMPLOYER refuses, following written notice of noncompliance, to comply with any provision in this Agreement benefiting EMPLOYEE, or EMPLOYER imposes a substantial reduction in the powers and authority of the County Administrator, or EMPLOYEE resigns following a suggestion whether formal or informal by a majority of the Board of County Commissioners that EMPLOYEE resign, then in that event EMPLOYEE may at EMPLOYEE's option be deemed to be terminated as of the date of such refusal to comply or suggestion to resign and the above Severance Payment provision shall be actuated.

D. Termination for Cause

1. EMPLOYEE may be terminated for one or more of the following causes:
 - a. Conviction of a felony or of a misdemeanor involving moral turpitude
 - b. Abuse of non-prescription or prescription drugs, alcohol, or controlled substances that affect the performance of EMPLOYEE's duties
 - c. Repeated and extended absences from EMPLOYEE's office and duties which absences have not been approved by the Board of County Commissioners
 - d. Violation of Sections 40.17 or 40.29 of EMPLOYER's Personnel Policy or any other policies concerning discrimination, harassment or workplace violence
 - e. Material breach of the terms and conditions of this Agreement

2. In the event EMPLOYER terminates EMPLOYEE for cause, then EMPLOYER may terminate this Agreement immediately and EMPLOYEE shall be entitled to only the compensation accrued up to the date of termination and such other termination benefits and payments as may be required by law. EMPLOYEE shall not be entitled to any severance benefits.

3. In the event EMPLOYER terminates EMPLOYEE for cause, the Parties agree that neither EMPLOYEE nor any member of the Board of County Commissioners nor any representative of EMPLOYER shall make any written or oral statement to members of the public or the press concerning the EMPLOYEE's termination except in the form of a joint press release which is mutually agreeable to both Parties. The joint press release shall not contain any text or information that would be disparaging to either Party.

SECTION 7. GENERAL PROVISIONS

A. If any provision or portion of this Agreement is held to be unconstitutional, invalid or unenforceable, then the remainder of this Agreement or portions thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

B. This Agreement may be amended at any time by mutual written agreement of the Parties.

C. The text herein represents the entire agreement of the Parties and no representations have been made or relied upon except as set forth in this Agreement which may be amended or modified only by a written fully executed agreement of the Parties.

D. This Agreement shall be construed in accordance with the laws of the State of Kansas and the Parties agree that venue for legal action concerning any aspect of the Agreement in State Court shall be maintained in the Twenty-Eighth Judicial District Court, and for an action in Federal Court shall be in the United States District Court for the District of Kansas.

SECTION 8. NOTICE

Any notice under this Agreement shall be delivered in person or by first class mail, postage prepaid, and shall be addressed as follows:

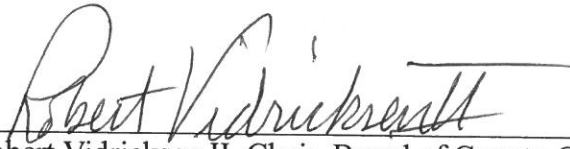
If to EMPLOYER,
County Clerk
Saline County
P.O. Box 5040
Salina, KS 67402

If to EMPLOYEE,

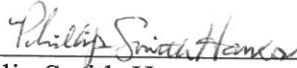
Phillip D. Smith-Hanes
P.O. Box 5040
Salina, KS 67402

IN WITNESS WHEREOF, EMPLOYER has caused this Agreement to be signed and executed

on its behalf by the Chairperson of its Board of County Commissioners and EMPLOYEE has signed and executed this Agreement, both in duplicate.



Robert Vidricksen II, Chair, Board of County Commissioners
Employer



Phillip Smith-Hanes
Employee

EXHIBIT A – ICMA CODE OF ETHICS

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

1. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.
2. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.
3. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.
4. Serve the best interests of the people.
5. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.
6. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.
7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.
8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.
9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.
11. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions pertaining to appointments, pay adjustments, promotions, and discipline.
12. Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

Adopted by the ICMA Executive Board in 1924, and most recently revised by the membership in June 2018.