

## **TOWN MANAGER EMPLOYMENT AGREEMENT**

**THIS EMPLOYMENT AGREEMENT** (“Agreement”), is made and entered into this 15th day of February, 2023, by and between the TOWN OF FRASER, a Colorado municipal corporation, hereinafter known as “Town” and MICHAEL C BRACK, whose address is Post Office Box 900, Fraser, CO 80442, hereinafter known as “Town Manager” or “Employee.”

**WHEREAS**, the Town is a municipal corporation of the State of Colorado that provides various municipal services to the residents, taxpayers and inhabitants of the Town of Fraser.

**WHEREAS**, the Town seeks to provide for the services of a Town Manager to successfully and competently perform the functions of such office, and State law authorizes the Town to contract with persons to provide services for the good of the Town.

**WHEREAS**, the Town desires to employ the services of Employee for the office of Town Manager of the Town of Fraser, Colorado; and,

**WHEREAS**, the Town and Employee desire to set forth certain specifics concerning the employment of Employee by the Town, and to establish conditions of employment and working conditions; and,

**WHEREAS**, the Employee desires to accept employment as the Town Manager of the Town of Fraser under the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the following mutual covenants and conditions the parties agree as follows:

### **I. INCORPORATIONS**

- A. The foregoing recitals are incorporated into and made a part of this Agreement.
- B. The Employee Handbook, as adopted by the Town Board of Trustees and as such Handbook may be amended from time to time, is incorporated into and made a part of this Agreement. In the event of any inconsistency or any conflict between the Handbook and this Agreement, the provisions of this Agreement shall control. By executing this Agreement, Employee confirms receipt of a copy of the current Employee Handbook and understands and agrees to all provisions included in the Handbook.

### **II. EMPLOYMENT AND JOB DUTIES**

- A. The Town agrees to employ Employee as the Town Manager to perform the functions and duties specified by (1) Colorado State Statutes; (2) the Municipal Code of the Town of Fraser; (3) the functions and duties set forth in the job description attached as Exhibit A and incorporated into this Agreement; (4) any other applicable laws, ordinances, or regulations of the Town of Fraser. In addition, the Town Manager agrees to perform any other legally permissible and proper duties and functions as the Mayor or Board of Trustees of the Town shall from time-to-time assign to the Town Manager. The Town Manager is under the supervision of the Mayor and Board of Trustees.
- B. The Town Manager is a full-time position and Employee will devote appropriate time, attention and energy to fulfilling the responsibilities of the position. Employee shall not

undertake outside employment, consulting work or other professional obligations without the prior approval of the Board of Trustees.

- C. The parties understand and agree that the unique nature of the municipal management function and the position as chief executive officer of the Town requires that the Town Manager will have to expend additional work time beyond the regular office hours of the Town offices. Accordingly, the Town Manager shall work minimum hours that coincide with the regular office hours of the Town offices. In addition, Town Manager shall work all hours as are needed to effectively perform the duties and functions of the position, including but not limited to attendance at meetings of the Board of Trustees and any of its subcommittees and at meetings of other governmental bodies at which matters under the Town Manager's authority are the subject of discussion or deliberation. Employee understands and agrees that the position may require (1) more than 40 hours per week; and (2) that services be performed during evenings, weekends, and holidays.
- D. The parties agree the position of Town Manager is an exempt administrative or executive non-covered position under the provisions of the Fair Labor Standards Act. As such, the Town Manager shall not be bound by the recordkeeping or overtime provisions of the Act and shall not be entitled to overtime pay for any work in excess of 40 hours per week.
- E. Performance Review. Town Manager shall receive a performance review after six (6) months in the position and, thereafter, on an annual basis if employment is continued or as otherwise needed or requested. It is the duty of Town Manager to arrange a performance review with the Board of Trustees.

### **III. TERM OF AGREEMENT**

- A. Subject to paragraphs III(B) and (C) below, Employee shall serve as Town Manager from March 6, 2023 to December 31, 2023 (the "Termination Date"), unless sooner terminated in accordance with this Agreement. If Town Manager wishes to extend the term of this Agreement, then no earlier than October 1, 2023 and no later than November 1, 2023, Town Manager shall request a renewal or extension of this Agreement. If this Agreement is not affirmatively renewed or extended by the Board of Trustees in writing within thirty (30) days of the request, then it shall terminate on the Termination Date.
- B. The Board of Trustees may terminate the Town Manager's employment at any time, with or without cause. The parties agree that termination for cause shall include, but not be limited to, termination because the Board of Trustees is dissatisfied with Town Manager's job performance, insubordination or conduct unbecoming an employee, or because of Town Manager's conviction of any illegal act involving personal gain to the Town Manager, any felony conviction or due to any act of moral turpitude or dishonesty.
- C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Town Manager to resign at any time upon sixty (60) days prior written notice. In the event Town Manager resigns, or announces an intent to resign, with an effective date more than 60 days from the date of resignation or announcement, the Town, at the sole discretion of the Board of Trustees, may make the resignation effective 60 days after Town Manager submits the resignation or announces an intent to resign. Exercise of such discretion shall not be construed as termination without cause and Town Manager shall not be entitled to severance pay.

#### IV. COMPENSATION AND BENEFITS

- A. Salary. The Town agrees to pay to the Town Manager for services rendered pursuant this Agreement an annual salary of One Hundred Fifty-Five Thousand Dollars (\$155,000.00), payable in installments in accordance with the Town's payroll policies and subject to withholding for state and federal taxes and other deductions. This salary shall remain in effect until modified by the Board of Trustees.
- B. Paid Leave. Town Manager shall accrue paid leave in accordance with the provisions of the Employee Handbook and other applicable Town personnel policies.
- C. Town Vehicle. The Town Manager is always on-call and the duties require substantial travel throughout the Town, County and State. Town Manager shall comply with all applicable Town policies and procedures with respect to the use of a Town vehicle, except that Town Manager may use the vehicle for reasonable personal use as well as business use. Town Manager shall keep adequate records of any personal use and shall be responsible for all income tax liability arising out of or in any way related to personal use of the vehicle.
- D. Health Insurance and Retirement Benefits. Town Manager shall be entitled to participate in the Town's health insurance and retirement plan programs in accordance with the provisions of the Employee Handbook and other applicable Town personnel policies.
- E. Severance Pay.
  - 1. In the event Town Manager's employment is terminated without cause, Town Manager shall be entitled to six months of severance pay at the monthly salary provided above, plus continuation of health insurance benefits received by Town Manager at the time of termination for a period of three months. Provided, however, if Town Manager becomes employed by an employer who offers health insurance benefits, then continuation of health benefits under this Agreement shall cease at the time Town Manager becomes eligible for health insurance benefits from the new employer. Town Manager shall have a duty to notify the Town immediately upon accepting employment with health benefits available. Payment of severance and continuation of benefits shall be payable in installments in accordance with the Town's payroll policies and subject to withholding for state and federal taxes and other deductions. Town Manager shall not be entitled to continuation of any benefits other than health insurance during the severance period.
  - 2. If Town Manager's employment is terminated (a) for cause; (b) because the Town Manager fails to timely request renewal or extension as required in paragraph III(A); or (c) because Town Manager resigns, then Town Manager shall not be entitled to any severance pay or to continuation of health insurance benefits. In such circumstances, Town Manager shall only be entitled to (a) wages earned as of the date of termination; and to (b) accrued, unused vacation time as of the date of termination. If Town Manager timely requests extension or renewal of this Agreement under paragraph III(A) and the Town Board does not extend or renew, this will constitute termination without cause, unless the non-renewal was due to any of the following and was so stated as the reason for non-renewal: (1) the Board of Trustees was dissatisfied with Town Manager's job performance; (2) the Town Manager was insubordinate or participated in conduct unbecoming an

employee; (3) because of the Town Manager's conviction of any illegal act involving personal gain to the Town Manager, any felony conviction or due to any act of moral turpitude or dishonesty; or (4) because the Town and Town Manager cannot agree on the terms of renewal or extension by the Termination Date.

3. Acceptance of severance pay by the Town Manager shall constitute a full release of any and all claims against the Town, the Town Board and its members, and the employees and agents of the Town, which claims arise from or are in any way related to Town Manager's employment or the termination of such employment.

- F. Professional Development. The Town agrees to budget and pay for reasonable professional dues and subscriptions of the Town Manager necessary for participation in national, regional, state, and local associations and organizations necessary and desirable for continued professional participation, growth, and advancement, and which are for the good of the Town. The Town also agrees to budget and pay for necessary travel expenses for the Town Manager to adequately pursue official and other functions for the Town. The benefits provided in this paragraph IV(F) are subject to budget limitations and to the Town's travel policies and procedures.

## **V. CONSTITUTIONALITY AND FUNDING**

- A. Subject to Annual Appropriation. The parties agree that this Employment Agreement shall be administered consistently with Article X, Section 20 of the Colorado Constitution, which requires that any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

## **VI. TRADEMARKS AND RIGHTS OF PRIVACY**

- A. Town Manager agrees that all names, trade names, trademarks, advertising, photographs (whether of Town Manager taken in the course of employment or whether taken by Town Manager in the course of employment), written materials or other ideas that Town Manager used, made or created during the term of this Agreement and within the scope of employment, whether then or later used by Town, the foregoing shall be the sole and exclusive property of the Town without additional payment or remuneration to Town Manager, nor shall use of the same ever be considered an invasion of privacy. By entering into this Agreement, Employee gives consent to the Town to use any photographs or information of or by the Town Manager, supplied to the Town by the Town Manager, for any purpose. To the extent any such matters are registered with an appropriate agency, the same shall be done in the name of the Town. Any use or registration shall not require any additional releases, assignments or consents from Town Manager.

## **VII. RESIDENCY**

- A. Town Manager shall not be required to reside within the Town's boundaries.

## **VIII. ASSIGNMENT**

- A. This is an agreement for personal services as Town Manager. Employee shall not sell or assign any interest in this Agreement, in whole or in part, and any such assignment shall be null, void and not binding upon the Town.

## **IX. INDEMNIFICATION**

- A. Town Manager shall be defended and indemnified in actions undertaken in official capacity pursuant to all insurance coverages maintained by the Town and pursuant to the terms of the Colorado Governmental Immunity Act. The Town Manager shall, however, not be indemnified for any act or omission that is willful and wanton as those terms are defined in the Colorado Governmental Immunity Act. The Town, its officers and employees do not waive or intend to waive by any provision of this Agreement the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, or otherwise available to the Town, its officers and employees.

## **X. ENTIRE AGREEMENT**

- A. This Agreement contains the entire agreement of the parties, no other agreements exist and all prior contracts, agreements, discussions, memoranda communications or terms are superseded by this Agreement. This Agreement may be amended, waived, changed, modified, extended or rescinded only by a writing signed by the party alleged to be bound by any such amendment, waiver, change, modification, extension or rescission. Provided, however, the Town may adopt, modify, amend, or revoke any and all separate resolutions, rules, regulations or policies concerning employment relations between the Town and its employees generally without consent of the Town Manager. Such separate rules, regulations, resolutions and policies include but are not limited to the Employee Handbook, employee leave and personnel policies and the Town's health insurance plan for employees.

## **XI. MISCELLANEOUS PROVISIONS**

- A. Mandatory Financial Disclosure. Town Manager shall report to the Mayor and Board of Trustees in writing any ownership interest Town Manager has in real property located within the Town of Fraser, except Town Manager's personal residence. Town Manager shall also report to the Mayor and Board of Trustees in writing any ownership interest Town Manager has in any firm doing work for the Town or from whom the Town intends to make a purchase. Town Manager shall make any report required under this paragraph no later than 30 days after the acquisition of the reportable interest or at such time as it becomes apparent the Town may be purchasing from or otherwise contracting with such firm, whichever is earlier.
- B. Agreement Severable. If any provision or portion of this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Employment Agreement shall be deemed severable and shall remain in full force and effect.
- C. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. For the resolution of any dispute arising hereunder, venue shall be in the Courts of the County of Grand, State of Colorado.
- D. No Waiver. Any delay in enforcement or the waiver of any one or more defaults or

breaches of this Agreement by the Town shall not constitute a waiver of any other terms of this Agreement.

E. Third Parties. There are no intended third-party beneficiaries of this Agreement.

F. Counterparts and Electronic Signatures. This Agreement may be executed in any number of counterparts, and each of such counterparts shall, for all purposes, be deemed to be an original, and all such counterparts shall together constitute one and the same agreement. Electronic signatures shall constitute original signatures for all purposes of this Agreement

G. Notices. Any notice pursuant to this Agreement shall be sent by email to:

1. Town of Fraser, amcveigh@town.fraser.co.us

2. Michael Brack, Post Office Box 900, Fraser, CO 80442, michael.brack@hotmail.com

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on the day and year first above written.

**TOWN OF FRASER,**  
a Colorado municipal corporation

**TOWN MANAGER**

By: \_\_\_\_\_  
Philip Vandernail, Mayor

By: \_\_\_\_\_  
Michael C. Brack

ATTEST:

By: \_\_\_\_\_  
Antoinette McVeigh  
Town Clerk

## EXHIBIT A

### TOWN OF FRASER JOB DESCRIPTION: TOWN MANAGER

#### NATURE OF WORK

Perform the duties necessary to insure efficient and effective provision of all Town services.

#### ESSENTIAL DUTIES

##### Administrative Responsibilities

- **Financial Management:** The Manager shall be responsible for supervising the operations of the Finance Department, including but not limited to; accounts payable / receivable, payroll, budget preparation, etc.
- **Public Works:** The Manager shall be responsible for supervising the operations of the Public Works Department, including but not limited to; the operation, repair and improvement of the street, drainage, and park systems; managing Town buildings and other properties.
- **Water & Wastewater:** The Manager shall be responsible for supervising the operations of water production, treatment, storage, and distribution, and wastewater collections, including meeting all State and Federal water quality standards and regulatory requirements.
- **Community Development:** The Manager shall be responsible for supervising the operations of the Community Development Department, including both short term and long-range planning, zoning, building administration and code enforcement.
- **Economic Development:** The Manager shall be responsible for supervising all economic development programs and initiatives.
- **Wastewater Treatment Plant:** The Manager shall be responsible for supervising the operations of the Upper Fraser Valley Wastewater Treatment Plant and administering the Joint Facility Agreement.
- **Personnel:** The Manager shall have the responsibility for hiring and termination all employees, except those appointed as Town Officers. The Manager shall act in a supervisory capacity over all Department Heads and employees. The Manager will have the responsibility to ensure that all employees are performing their job tasks, to review all time cards and to prepare annual employee contracts. The Town Manager will hear any employee complaint and work to resolve the complaint to the employee and Town's satisfaction.
- The Town Manager shall perform the functions and duties as specified for the Town Manager within Colorado Statutes and Town of Fraser Code and to perform other legally permissible and proper duties and functions. The Manager will be under the supervision of the Mayor and Board of Trustees.

## **Operations Responsibilities**

### **The Manager shall:**

- Submit a proposed annual budget to the Town Board of Trustees for consideration and act as the Town's budget officer.
- Communicate issues affecting Fraser residents and businesses to these constituents.
- Be responsible for submitting, acquiring and monitoring all grants for the Town.
- Be responsible for all purchasing and bidding of services and goods.
- Act as the Town's representative to various organizations and corporations under contract with the Town to provide certain services.
- Prepare and present all reports required by the United States Government, the State of Colorado and the Town of Fraser. The Town Manager shall submit written reports to the Board of Trustees outlining the work accomplished by the Manager.
- Be responsible for ensuring the compliance of all franchises with Town Ordinances or Regulations.
- Be responsible in the coordination and implementation of public improvement projects.
- Be the safety coordinator for the Town. The Manager shall develop, implement, and administer a safety program that promotes safety in the work place as the first priority.
- Provide administrative review of contracts held by the Town.
- Attend all Town Board meetings and perform tasks required by the Town Board.

## **OTHER DUTIES AND RESPONSIBILITIES**

- The Town Manager shall perform whatever additional tasks required by the Town Board.

## **KNOWLEDGE, SKILLS AND ABILITIES**

- The Town Manager shall possess an extensive knowledge of the affairs of local government including but not limited to; budgeting, land use planning, employee relations, public relations, financing, utility management, capital improvements planning, principles of supervision, training and evaluations, and the use of computers.
- Manager should have the ability to analyze problems, interpret policies, laws, regulations and procedures, prepare clear reports and develop appropriate recommendations, communicate clearly both orally and in writing and maintain an effective working relationship with the Board and employees.

## **MATERIAL AND EQUIPMENT DIRECTLY USED**

- All standard office equipment.



## **WORKING ENVIRONMENT/PHYSICAL ACTIVITIES**

- This position requires mostly working indoors, sitting most of the time; exerting up to 20 pounds of force occasionally, or 10 pounds to lift, carry, push, pull or move objects.
- During times of emergencies and some other times, exposure to environment and extreme weather conditions may occur.

## **EDUCATION, EXPERIENCE AND FORMAL TRAINING**

- Bachelor's degree from accredited college or university with major course work in public administration or related field.
- A minimum of five years experience in the field of public administration or similar industry is required.