

AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, APPOINTING THOMAS J. LEE TO THE OFFICE OF CITY ADMINISTRATOR; ESTABLISHING THE COMPENSATION OF THE CITY ADMINISTRATOR; AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT.

WHEREAS, on March 24, 2023, the office of the City Administrator for the City of Wildwood, Missouri, became vacant; and

WHEREAS, on March 27, 2023, pursuant to Ordinance #2782, Thomas J. Lee was appointed as the Interim City Administrator; and

WHEREAS, pursuant to Section 5.1(a) of the Charter of the City of Wildwood, Missouri (the "Charter"), "A majority of the members of the City Council with the advice and consent of the Mayor shall appoint a City Administrator for an indefinite term and shall fix the conditions of his or her employment;" and

WHEREAS, pursuant to Section 5.1(b) of the Charter, "The City Administrator shall be appointed solely on the basis of his or her executive and administrative qualifications;" and

WHEREAS, the powers, duties and authority of the City Administrator are set forth in Article V of the Charter and Article II of Chapter 115 of the Code of Ordinances of the City of Wildwood (the "City Code"); and

WHEREAS, the City Council finds and determines that Thomas J. Lee possesses the necessary qualifications and experience to serve as the City Administrator for the City of Wildwood.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILDWOOD, MISSOURI AS FOLLOWS:

Section One. In accordance with Section 5.1(a) of the Charter of the City of Wildwood, Missouri, the City Council does hereby appoint Thomas J. Lee to serve as City Administrator of the City of Wildwood, Missouri, and shall serve at the pleasure of the City Council for an indefinite term beginning at 12:01 a.m. on July 11, 2023. Upon the commencement of his term, Thomas J. Lee is hereby authorized to perform all duties required of the City Administrator by Missouri Law, the City Charter and the Code of Ordinances of the City of Wildwood.

Section Two. For serving as City Administrator, Thomas J. Lee shall be paid compensation as set forth in the Employment Agreement attached hereto as Exhibit A and incorporated by reference herein.

Section Three. The form, terms, and provisions of the Employment Agreement, attached hereto, marked as Exhibit A, and incorporated by reference herein, be and they hereby are in all respects approved, and that the Mayor is hereby authorized, empowered and directed to further negotiate,

execute, acknowledge, deliver and administer for and on behalf of the City said Employment Agreement in substantially the form attached hereto. The City Clerk is hereby authorized to attest the Employment Agreement, and other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of the Employment Agreement and this Ordinance.

Section Four. Savings. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

Section Five. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section Six. This Ordinance shall be in full force and effect from and after being signed by the Mayor. The Mayor's signature hereon shall constitute the advice and consent of the Mayor to the appointment of Thomas J. Lee as the City Administrator.

This Bill was passed and approved this ____ day of _____, 2023, by the Council of the City of Wildwood, Missouri, after having been read by title or in full two (2) times prior to its passage.

Presiding Officer

James R. Bowlin, Mayor

ATTEST:

ATTEST:

City Clerk

City Clerk

EXHIBIT A
Employment Agreement

This Employment Agreement (the "Agreement") is made and entered into as of 12:01 a.m., on July 11, 2023 by and between the City of Wildwood, Missouri, a municipal corporation, hereinafter referred to as "City," and Thomas J. Lee, hereinafter referred to as "Employee."

WHEREAS, pursuant to Section 5.1(a) of the Charter of the City of Wildwood, Missouri (the "Charter"), "A majority of the members of the City Council with the advice and consent of the Mayor shall appoint a City Administrator for an indefinite term and shall fix the conditions of his or her employment;" and

WHEREAS, pursuant to Section 5.1(b) of the Charter, "The City Administrator shall be appointed solely on the basis of his or her executive and administrative qualifications. The Administrator need not be a resident of the City or State at the time of his or her appointment, but must reside inside the City within six months of appointment unless an extension is granted by the Council;" and

WHEREAS, the powers, duties and authority of the City Administrator are set forth in Article V of the Charter and Article II of Chapter 115 of the Code of Ordinances of the City of Wildwood (the "City Code"); and

WHEREAS, it is the desire of City to define certain benefits, establish conditions of employment, and set certain working conditions of Employee; and

WHEREAS, it is the desire of City to secure and retain the future services of Employee, to provide compensation for services performed, and to provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties or when the City may desire to otherwise terminate his employment; and

WHEREAS, pursuant to Section 115.190 of the City Code, "The City of Wildwood may, acting through the Mayor with the consent of a majority of the members elected to the City Council or by a two-thirds (2/3) vote of all the members elected to the City Council independently of the Mayor's approval or recommendation, enter into an employment contract with a person meeting the qualifications set forth in this Article;" and

WHEREAS, Employee desires to define the terms of Employee's employment as City Administrator of the City of Wildwood, Missouri;

NOW THEREFORE, for and in consideration of the sum of One Dollar (\$1.00), the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1: Duties and Authority

- A. City hereby employs Employee as its City Administrator to perform the functions and duties specified in Article V of the Charter and Article II of Chapter 115 of the City Code, including particularly Sec. 115.100, and to perform such other legally permissible and proper duties and functions as the Mayor and City Council shall assign to him from time to time.
- B. Employee agrees to remain in the exclusive employ of City until such employment is terminated by Employee or the City ("Termination Date"), and to neither accept nor become employed by any other person or entity until said Termination Date.

Section 2: Term

- A. Notwithstanding any provision of this Agreement to the contrary, the parties agree that Employee is an employee at will, and as such, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of Employee at any time, subject only to the provisions set forth herein and those of the Charter and the City Code.
- A. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with City, subject only to the provisions set forth herein.

Section 3: Compensation

City agrees to pay Employee for his services rendered pursuant hereto an annual base salary of One Hundred Thirty Thousand Dollars (\$130,000.00), such base salary to be paid in the same manner as other employees of the City are paid.

Section 4: Health, Disability and Life Insurance Benefits

Employee shall be covered under the same health, dental, life, workers compensation, accidental death, long-term and short-term disability and other employee benefit plans, if any, provided to all other employees from time to time.

Section 5: Vacation, Sick, and Military Leave

- A. Upon commencing employment, the Employee shall be covered under the same vacation, holiday and sick leave plans provided to all other Department Heads of the City from time to time.
- B. The Employee shall be entitled to military reserve leave time pursuant to state and federal law and City policy as may be in effect from time to time.

Section 6: Vehicle Reimbursement

If use of an Employee's personal vehicle is required for business purposes, City will reimburse employees at the mileage rate set by the Internal Revenue Service (IRS), and consistent with existing City policy as may be in effect from time to time. Tolls and parking fees are also reimbursable. However, City will not reimburse employees for expenses not necessary for business purposes, such as:

- (1) Parking tickets;
- (2) Vehicle repairs and maintenance;
- (3) Fines for moving violations; or
- (4) Vehicle towing charges.

Section 7: Retirement

Employee shall be covered under the same retirement and other employee benefit plans provided to all other employees from time to time.

Section 8: General Business Expenses

- A. City agrees to budget and pay for professional dues and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the City as deemed necessary by the Mayor or City Council, including, but not necessarily limited to, the International City/County Management Association, the Missouri City/County Management Association and the St. Louis Area City Management Association.
- B. City agrees to budget and pay for travel, lodging and subsistence expenses of Employee for professional and official travel, meetings, and occasions necessary to the pursuit of official and other functions of the City as deemed necessary by the Mayor or City Council, which may include, but not be limited to, the International City/County Management Association Annual Conference, the Missouri City/County Management Association Annual Conference, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.
- C. City also agrees to budget for and to pay for travel, lodging and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the City as deemed necessary by the Mayor or City Council.
- D. City acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, City shall pay for the

reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations for the good of City as deemed necessary by the Mayor or City Council. Examples of such local civic clubs or organizations include, but are not necessarily limited to, Rotary International, local chambers of commerce, Lions Club or Kiwanis.

Section 9: Termination and Severance

- B. In the event Employee is terminated without cause by the City during such time that Employee is willing and able to perform his duties as City Administrator, then City agrees to pay Employee, in addition to all other benefits set forth herein and payable to all other employees of City upon termination of their employment, a lump sum cash payment equal to one month's then current base salary for every full year of service with City, subject to a maximum of six (6) months, together with the payment of all health and dental insurance premiums for coverage then in force for such Employee and his dependents, for a period of six (6) months from and after the termination date of his employment; provided, however, that in the event Employee is terminated because of his conviction of a crime involving moral turpitude or other felonious criminal action or a finding by the City Council that Employee has violated a provision of the City Charter, the penalty for which includes termination or forfeiture of office, or for cause, then in that event City shall have no obligation to pay the termination benefits and severance pay provided above. For purposes of this Section, "cause" shall mean a determination by the City Council, in its discretion, that Employee has failed to perform the responsibilities of his position as set forth herein.
- C. Such severance pay shall be paid in a lump sum on the last day of employment of Employee.
- D. Any severance benefits payable to Employee pursuant to this Section will not be counted as compensation for purposes of determining benefits under any other benefit policies or plans of City, except to the extent expressly provided herein.
- E. In the event Employee voluntarily resigns his position with City, Employee shall give City Sixty (60) days' advance written notice, unless a shorter period is mutually agreed to, and in such event, Employee shall not be entitled to receive the severance set forth in this Section.

Section 10: Performance Evaluation

Consistent with Section 5.1(c) of the Charter, City shall annually review the performance of the Employee in August of each year following the Effective Date subject to a process, form, criteria, and format as may be established by City from time to time in its discretion. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation with the Mayor, City Council, or designated members thereof, and (3) present a written summary of the evaluation results.

Section 11: Hours of Work

It is recognized and agreed by Employee that Employee must devote a great deal of time outside the normal office hours on business for City, and to that end Employee shall be allowed to establish an appropriate work schedule, provided that Employee shall also maintain a regular presence at City Hall during normal business hours.

Section 12: Bonding

City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 13: Indemnification

City shall indemnify Employee consistent with Section 115.435 of the City Code. Employee recognizes that City shall have the right to compromise or settle any claim or suit involving Employee directly or indirectly; provided, however, if Employee is a party to the suit, Employee shall have the right to decline to agree to settlement, in which case Employee agrees he will bear all costs of suit, including payment of attorney's fees and any judgment that may be rendered following refusal to settle.

Section 14: Notices

Any notice provided for or permitted pursuant to the terms of this Agreement shall be served by delivering same to the party to receive notice either by one or more of the following methods: hand delivery, facsimile transmission or certified or registered United States mail, return receipt requested. All notices shall be delivered, transmitted by facsimile or mailed pursuant to the following instructions:

- (1) If to CITY: City of Wildwood
 Attn: Mayor
 16860 Main Street
 Wildwood, MO 63040

- (2) If to EMPLOYEE: Thomas J. Lee
 16860 Main Street
 Wildwood, MO 63040

Notice served by facsimile or personal delivery shall be deemed delivered and received upon actual receipt which in the case of service by facsimile transmission may be proved by reference to the sender's printed facsimile transmission report, verified by affidavit of the operator, and in the case of personal delivery by the affidavit of the person or representative of the company effecting delivery. Notice of service by mail shall be deemed delivered on the date reflected on the certified or registered mail receipt.

Section 15: General Provisions

- A. **Integration.** This Agreement sets forth and establishes the entire understanding between the City and the Employee relating to the employment of the Employee by the City. Any prior discussions, agreements or representations by or between the parties are merged into and rendered null and void by this Agreement. This Agreement cannot be modified or amended except by written agreement of the parties hereto.
- B. **Binding Effect.** This Agreement shall be binding on City and Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.
- C. **Effective Date.** This Agreement shall become effective as of 12:01 a.m. July 11, 2023 (the "Effective Date").
- D. **Severability.** The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid by a court of competent jurisdiction, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision and shall be construed to effectuate the intent of the parties.
- E. **Captions.** Captions and headings of the sections and paragraphs of this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the caption or heading of any section or paragraph.
- F. **Counterparts.** This Agreement may be executed in separate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- G. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri excluding its principles of conflicts of laws and the parties hereto irrevocably commit to the jurisdiction and venue of the courts of St. Louis County to resolve any disputes arising hereunder or related hereto.
- H. **Attorney's Fees.** In the event that either party hereto brings an action or proceeding for a declaration of the rights of the parties under this Agreement or for any alleged breach or default thereof, or for any other acts arising out of this Agreement, the prevailing party to such action shall be entitled to an award from the non-prevailing party of all its costs, including reasonable attorney's fees, and any court costs incurred in said action or proceeding in addition to other damages or relief awarded, regardless of whether final judgment is entered in such action or proceeding.

I. Acknowledgement and Full Understanding. EMPLOYEE ACKNOWLEDGES AND AGREES THAT HE HAS FULLY READ, UNDERSTANDS AND VOLUNTARILY ENTERS INTO THIS AGREEMENT. EMPLOYEE ACKNOWLEDGES AND AGREES THAT HE HAS HAD AN OPPORTUNITY TO ASK QUESTIONS AND CONSULT WITH AN ATTORNEY OF HIS CHOICE BEFORE SIGNING THIS AGREEMENT

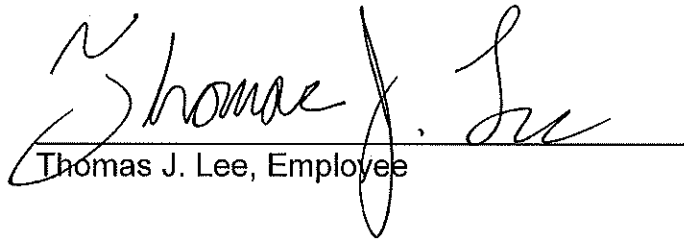
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in duplicate, as of the ____ day of _____, 2023.

CITY OF WILDWOOD, MISSOURI

By _____
Mayor

ATTEST:

City Clerk



Thomas J. Lee, Employee

WITNESS:

City Clerk