

EMPLOYMENT AGREEMENT

THIS AGREEMENT ("Agreement"), made and entered into effective the 1st day of October, 2019, by and between the **CITY OF MCKINNEY, TEXAS**, a municipal corporation (the "Employer"), and **ROGER V. DICKEY** ("Employee"), hereafter collectively referred to as "the parties," both of whom agree and understand as follows:

WITNESSETH:

WHEREAS, the Employer desires to retain the services of **ROGER V. DICKEY** as Presiding Municipal Court Judge of the Municipal Court of the City of McKinney as provided by the City Charter; and

WHEREAS, it is the desire of the Employer, acting through the City Council of the City of McKinney, Texas ("City Council"), to provide certain benefits, establish certain employment, and set working conditions of Employee; and

WHEREAS, it is the desire of the Employer (i) to secure and retain the services of Employee and to provide inducement for him to remain in such employment, (ii) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security, (iii) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Employee, and (iv) 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 Employer may desire to otherwise terminate his employment; and

WHEREAS, Employee desires to be employed as Presiding Municipal Court Judge of the Municipal Court of the City of McKinney, Texas;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Section 1. Duties

Employer hereby agrees to employ **ROGER V. DICKEY** as Presiding Municipal Court Judge of the Municipal Court of the City of McKinney, Texas, to perform the functions and duties specified in the applicable sections of the City Charter and the City Ordinances, and to perform such other legally permissible and proper duties and functions as the Employer shall assign from time to time, including, but not limited to, the duties set forth in Attachment A.

Section 2. Term

- a. Employee shall be, at all times and for all purposes, an “at-will” employee of the City, as that term is defined by Texas legal authority. Employee agrees that no property right shall be created by the execution of this Agreement.
- b. Employee shall serve as Presiding Municipal Court Judge beginning October 1, 2019, and continue thereafter until September 30, 2021; however, 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.
- c. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from his position with the Employer.
- d. Subject to the provisions of Section 2(e), Employee agrees to remain in the exclusive employ of the Employer, and neither to accept other employment, including but not limited to any independent contract for the rendering of legal services or judicial services, nor to become employed by any other employer until said termination date, unless said termination date is affected as hereinafter provided.
- e. The term “employ” shall not be construed to prohibit occasional teaching or writing performed on Employee’s time off, within the guidelines hereinafter set forth and following prior written notice to the City Council or its designee.

Section 3. Termination

- a. Employee is “at will” and serves at the pleasure of the City Council; he may be terminated at any time, with or without cause.
- b. In the event Employee voluntarily resigns his position with the Employer or accepts employment elsewhere, Employee shall provide Employer sixty (60) days written notice in advance, unless the parties otherwise agree. The actual termination date shall be established by mutual agreement between the Employer and Employee, but shall not be greater than sixty (60) days from the date of Employee’s resignation letter.

Section 4. Salary

Employer agrees to pay Employee for services rendered, an annual base salary of One Hundred Forty Thousand One Hundred Fifty and No/100 Dollars (\$140,150.00) from October 1, 2019 through the term of this Agreement, payable in installments at the same time as other employees of the Employer are paid and subject to the same applicable deductions for employee benefit contributions. The Employer shall make payment to Texas Municipal Retirement System (TMRS) for Employee in the

percentages paid for other City employees. In addition, the Employer may increase said base salary or other benefits of Employee in such amounts and to such an extent as the Employer may determine that it is desirable to do so on the basis of an annual salary review of Employee or at any other time the Employer determines proper. Specific Employer approval shall be required to receive cost-of-living adjustments or pay-for-performance adjustments granted to other employees.

Section 5. Performance Evaluation

- a. The City Council, through the City Manager as its designee, shall review and evaluate the performance of Employee annually. The City Manager shall prepare a summary report of Employee's performance to the City Council, and the City Council shall instruct the City Manager to give Employee any direction necessitated by such performance review. Said review and evaluation shall be in accordance with criteria developed by Employer (set forth in Attachment B). Further, the Mayor shall provide Employee with a summary written statement of the findings of the Employer and provide an adequate opportunity for Employee to discuss said performance review with the Employer. If requested by the Employer, Employee shall prepare and submit to the Employer, prior to the performance evaluation, a performance appraisal document formatted to facilitate the performance review and evaluation provided for herein. Such document shall accommodate both objective and subjective criteria and shall be based on a combination of responsibilities outlined in the City Charter, City Ordinances, Municipal Court policies, and Employer-established goals and objectives. If requested by the Employer or Employee, a conference shall be held to discuss Employee's performance.

- b. The Employer shall define such goals and performance objectives that it determines necessary for the proper operation of the Municipal Court of the City of McKinney, Texas, and for the attainment of the Employer's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. The goals and objectives shall generally be measurable and attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided. Employee acknowledges and agrees that the City Charter grants the City Manager the power to hire, terminate and direct all other City employees, and Employee shall only exercise supervisory authority over other employees or the Associate Municipal Judge when specifically directed in writing by the City Manager, with consent of the City Council.

Section 6. Dues and Subscriptions

The Employer agrees to budget and to pay professional or membership dues on behalf of Employee for the following organizations: State Bar of Texas, Collin County Bar, College of the State Bar, Texas Municipal Court Association, and McKinney Kiwanis Club. In addition, the Employer agrees to reimburse Employee for any attorney occupation tax assessed against Employee should Employee not be exempt therefrom.

Section 7. Professional Development

- a. The Employer agrees to budget and to pay the reasonable travel and subsistence expenses of Employee to enable Employee to meet Employee's minimum, annual educational or judicial training requirements to serve as the Presiding Municipal Court Judge; however, such expenditures shall be approved in advance by the Employer.
- b. If the educational and training courses described in Section 7(a) do not provide 15 hours toward meeting Employee's professional educational requirements as an attorney/judge, the Employer also agrees to budget and to pay for the travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary to achieve his annual 15-hour MCLE requirement. Seminars needed to meet Employee's 15-hour requirement shall be attended within the Dallas-Ft. Worth Metroplex. Employee shall remain in good standing as a licensed attorney in the State of Texas for the duration of this Agreement, and any suspension or disciplinary action shall result in immediate termination of this Agreement.

Section 8. Vacation and Sick Leave

Employee shall receive vacation leave annually according to standard Employer policy. Sick leave shall be provided according to standard Employer policy. Employee shall not accrue or be entitled to compensatory "comp" time for hours worked, unless approved in advance by the City Council. Employee shall be considered an exempt employee under applicable provisions of the Fair Labor Standards Act.

Section 9. Benefits

Employer agrees to provide Employee with benefits under Employer's retirement and medical plans as such are provided to other full-time employees. Employee shall pay all premiums not funded by Employer.

Section 10. Other Terms and Conditions of Employment

- a. The Employer shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of

Employee, provided such terms and conditions are not inconsistent with, or in conflict with, the provisions of this Agreement, the City Charter, or any other law.

- b. Unless expressly modified by this Agreement, all provisions, regulations, and rules of the Employer relating to vacation (save and except compensatory time), sick leave (including provisions governing accrual and payment therefor on termination), retirement and pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended shall apply to Employee as they would to other employees of the Employer.

Section 11. Indemnification

The Employer shall make such provisions in each annual budget to indemnify Employee from any claims or causes of action brought by third parties based on Employee's performance of his official or unofficial duties hereunder, but only in the case wherein Employee is acting in an "official capacity," as such is defined by Texas law. The Employer may choose to effectuate such indemnity in the form of an official municipal ordinance or through the purchase of public officials' insurance coverage. However, in any case, the Employer shall not be required to indemnify Employee for any intentional acts, acts outside the course and scope of Employee's employment, or in any amounts in excess of the Employer's statutory or constitutional limits, sovereign immunity limits, or tort claims limits.

Section 12. General Provisions

- a. The text herein, or as amended hereafter, in writing, by agreement of Employee and Employer, shall constitute the entire agreement between the parties.
- b. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- c. This Agreement shall be effective as of October 1, 2019.
- d. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected thereby, and shall remain in full force and effect.

IN WITNESS WHEREOF, the **CITY OF MCKINNEY, TEXAS** has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Secretary, and Employee has signed and executed this Agreement, both in duplicate, as of the dates written below.

EMPLOYEE:

EMPLOYER:

CITY OF MCKINNEY, TEXAS



ROGER V. DICKEY

By: 

GEORGE FULLER
Mayor

Date signed: Jan. 3, 2020


Date signed: JAN 7, 2020

ATTEST:



EMPRESS DRANE
City Secretary

APPROVED AS TO FORM:



MARK S. HOUSER
City Attorney

ATTACHMENT A

PRESIDING MUNICIPAL COURT JUDGE

DUTIES AND RESPONSIBILITIES

1. Administration.

- a. The Court Administrator and the Director of Administrative Services, or their designated representative(s), shall be the liaison between the respective departmental staff and the Judge.
- b. The Presiding Judge shall perform all services and duties customarily performed by a judge of a municipal court in the State of Texas.
- c. The Judge shall operate within the docket schedule prepared and coordinated by the Judge, the Court Administrator, the municipal prosecutor, and the City Attorney, and approved by the City Manager. The Judge shall timely perform all duties, including, but not limited to, the dockets set forth in the docket schedule agreement.
- d. The Judge shall perform his duties consistent with the policies and procedures of the City and the Municipal Court Department.
- e. The Judge is required to keep abreast of and be knowledgeable about state law and local ordinances, including state-mandated fees. When exercising his recognized judicial discretion, the Judge should endeavor to enforce the law consistently and within suggested state guidelines.

2. Judicial Policies and Procedures.

- a. The City Council desires uniformity and consistency in the implementation of judicial policy in accordance with State law and local ordinances. Therefore, the City Council requires the ongoing review of the manual entitled "Municipal Court Policies and Procedures" ("Manual"), which shall be continuously updated during the tenure of this Agreement as necessary.

The Judge shall revise judicial policies and procedures in the Manual, which address the judicial functions of the Municipal Court. The judicial policies and procedures shall include hearing and trial procedures, written Standing Orders for matters such as dismissals, installment payments, deferred adjudication, and continuances. An updated draft of these policies and procedures shall be made available to the Court Administrator and Director of Administrative Services for review and comment prior to any proposed changes in procedures. The judicial policies and procedures, including Standing Orders, shall be signed by each judge appointed by the City

Council. Any future changes to these policies and procedures shall be in writing and signed by all appointed judges prior to incorporation into the Manual. No policy may be implemented by the clerks of the Court prior to the same being in written form and executed by the judges. Court clerks shall not enforce oral policies.

- b. The Judge shall adhere to the judicial policies and procedures once implemented, as well as procedures relative to the operation of the Court.

3. *Municipal Court Docket.*

- a. A permanent docket schedule shall be developed in accordance with Paragraph 1(c) above, within thirty (30) days of the execution of this Agreement.
- b. The Judge is assigned a pager at the cost of the City to be used for conducting and responding to official court business. The Judge shall return calls within thirty (30) minutes of being paged.
- c. An annual written schedule shall be created by the Judge and provided to the Court and to the Police Department. The schedule shall set the Judge's and Associate Judge's duty report days, including "On Call" status, for the year beginning January 1 and ending December 31. Each day of the year shall have an assigned Judge on duty for juvenile arraignments and on duty for regular court sessions. Duty days for the assigned Judge or Associate Judge shall begin at 7:00 a.m. and continue for the next twenty-four hours.
- d. Court shall be in session on designated court dates from 9:00 a.m. to 5:00 p.m. Court shall convene and remain in session until each scheduled docket has been called, pursuant to the schedule established by this Agreement.
- e. The Presiding Judge shall preside over the permanent, regularly set court dockets (trials, hearings and pre-trials). The Judge may schedule the Associate Judge to preside over dockets on those occasions when the Judge is on vacation or otherwise unavailable due to illness or other cause.
- f. All court documents including, but not limited to disposition sheets, judgment forms, court orders, and bond forfeitures shall be promptly and properly completed. The Judge shall ensure that all documents are properly completed to ensure the enforceability of same.

4. ***On-Call Procedures***

- a. Changes to the "On Call" schedule as set by the Judge shall be made by agreement between the Judge and Associate Judge. Any modification to the schedule shall be submitted in writing to the Court Administrator, the Police Department and the Director of Administrative Services no fewer than seven days prior to any previously established schedule (excluding exigent circumstances), and shall include the effective date of the modification.
- b. It is the responsibility of the Judge to notify the Court Administrator, the Police Department and the Director of Administrative Services of current telephone numbers and locations where the "On Call" Judge may be reached while on duty if said number or locations are different from any such numbers or locations on file.
- c. The Judge shall be "On Call" for juvenile arraignments at times other than as scheduled or for times outside the normal business day hours of 8:00 a.m. to 5:00 p.m.
- d. The Judge shall be available, when "On Call," to sign warrants, probable cause affidavits (under exigent circumstances) or emergency arraignments (such as for medical emergencies) at times other than as scheduled or for times outside the normal business day hours of 8:00 a.m. to 5:00 p.m. The Police Department shall use all reasonable efforts to ensure that each situation receives immediate judicial attention.

5. ***Arraignments.***

All paperwork from arraignments must be promptly and properly completed. The Judge shall ensure that no information is omitted on judgments, warrants, and probable cause affidavits.

ATTACHMENT B

CRITERIA FOR PERFORMANCE REVIEW

- Respond timely to pretrial motions
- Be available to sign warrants
- Review City warrants in a timely manner
- Be available for juvenile magistration
- Handle the docket efficiently
- Be decisive
- Be considerate of the needs of jurors, attorneys and bailiffs
- Make clear to jurors the court proceedings and role of a juror
- Write orders and opinions of good quality
- Delegate judicial functions to the other court officers
- Be an active member of organizations or committees that are devoted to the improvement of the law
- Law license to be current and in good standing
- Meet continuing judicial education standards
- File appropriate tax returns as required by law
- Attend judges' meetings
- Offer ideas to improve the court
- Follow all procedural orders
- Treat everyone with the utmost respect