

REQUEST FOR COUNCIL ACTION

Date: February 24, 2014
Item No.:

Department Approval

City Manager Approval



Item Description: Approve Contract for City Manager Position

BACKGROUND

At the January 13, 2014 meeting, the City Council authorized negotiations to begin with Interim City Manager Patrick Trudgeon to become the City Manager of Roseville. The City Council directed the City Manager Performance Review subcommittee, comprised of Councilmembers Willmus and Etten, with assistance from the City Attorney, to negotiate and draft a contract for employment for Mr. Trudgeon to serve as City Manager. The City Council further directed the subcommittee to bring forward the agreement for City Council consideration.

All parties have met several times and have agreed to the draft Employee Agreement as shown in Attachment A.

POLICY OBJECTIVE

Roseville is a statutory Optional Plan B city. Under Minnesota Statutes section 412.641, subd. 1, the City Council must appoint a City Manager.

BUDGET IMPLICATIONS

According to City staff, costs for salary and benefits for the City Manager are allocated as part of the 2014 Budget.

STAFF RECOMMENDATION

The City Council should review and consider the proposed City Manager Employment Agreement. State law requires that both the Mayor and City Manager execute contracts on behalf of the City. In this instance, however, it would be inappropriate for now-Interim City Manager Trudgeon to execute the document on behalf of both the City and himself. Therefore, our office suggests that the City Council follow a series of actions to provide proper execution of the agreement, should the Council as a whole find the document to be agreeable.

REQUESTED COUNCIL ACTION

The Council, if it wishes to appoint Mr. Trudgeon as City Manager, should undertake the following series of motions:

1. Move to remove Mr. Trudgeon from the position of Interim City Manager.
2. Move to appoint Chris Miller as Acting City Manager for the sole purpose of executing a City Manager Agreement as attached in Exhibit A.

29 3. Move to approve the appointment of Mr. Trudgeon as City Manager and
30 authorize the Mayor and Acting City Manager to execute a City Manager
31 Agreement on behalf of the City as attached in Exhibit A.

Prepared by: Mark Gaughan, City Attorney (651) 223-4999

Attachments: A: Draft City Manager Employment Agreement

City Manager Employment Agreement

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into by and between the City of Roseville, a municipal corporation (hereinafter referred to as the "City") and Patrick J. Trudgeon (hereinafter referred to as the "Manager") as of the effective date set forth herein.

WHEREAS, the City wishes to engage the services of the Manager as a professional employee; and

WHEREAS, the parties wish to memorialize in writing the terms and conditions of their relationship.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this agreement, the City and Manager agree as follows:

Section 1. Employment. Manager shall be employed by the City as the City Manager effective as of the 24th day of February, 2014.

Section 2. Duties. The duties of the Manager's position shall be set forth in the job description, as amended by the City from time to time, and in accordance with state statutes and City ordinances.

Section 3. Discharge of Duties. Manager shall be paid a salary as a FLSA exempt professional employee and shall not be paid overtime for hours in excess of 40 hours per week and similarly shall be able to be absent in consideration of extraordinary time expenditures. The discharge of Manager's duties requires work outside the normal work day for meetings and projects. To that end, the Manager will work flexible hours as is necessary to discharge the duties of his position and may be absent from the office to a reasonable extent during normal work hours in consideration of extraordinary time expenditures as other than normal working hours.

Section 4. Participation in Employee Benefits.

A) Health Insurance. The City shall provide health insurance for the Manager in the same fashion as it provides health insurance for fulltime non-union employees.

B) Life Insurance. The City shall provide life insurance coverage for the Manager in the same fashion as it provides life insurance for fulltime non-union employees.

C) Paid Time Off (PTO). Manager shall accrue PTO bi-weekly in accordance with the provision of the City's PTO policy from the first day of employment equal to 8.6 hours per two (2) week pay period. Manager shall be credited with all previously accrued and unused PTO hours existing at the beginning of employment. All other policy guidelines will remain as stated in City policy.

- D) Holidays.** Manager shall also have the same paid holidays off from work as the City's fulltime non-union employees.
- E) Pension Plan.** Employer shall contribute to PERA as required by State law for the Manager or an alternate pension plan, if selected by Employee, as authorized by State law.
- F) All Other Benefits.** Except as otherwise specified within this Agreement, the Manager shall receive or be eligible to participate in other benefits as provided to all fulltime non-union employees.

Section 5. Compensation.

- A) Initial Salary.** The Manager's initial salary at the commencement of this Agreement shall be \$62.13 per hour/\$129,230.00 per annum in accordance with Exempt Pay Plan Grade 21. This position is a full-time, executive, FLSA-exempt position. In addition, during the course of this Agreement, the Manager will receive the same cost-of-living increases the City approves for all full-time, FLSA-exempt City employees.
- B) Evaluation and Salary Increases.** The City Council shall evaluate the performance of the Manager after six months, one year, and annually thereafter and will measure the Manager's performance against previously determined goals and expected outcomes, which will be reduced to writing within the Manager's first two months of tenure with the City. The City shall provide the Manager with a written summary of findings and provide an opportunity for the Manager to discuss his evaluation with the City Council. Annually, the City Council shall define the Manager's goals and objectives, which they determine are necessary for the proper operation of the City, and establish appropriate priority to be attached to such goals and objectives given time and budgetary limitations. These goals, objectives, and priorities shall be provided to Manager in writing.

The Manager's salary shall be increased in accordance with City policy if performance is deemed to be satisfactory. In addition, the Employer shall consider the Manager for Merit Pay in accordance with City policy.

- C) Professional Development.** The City will pay for membership and activities related to participation in the International City/County Management Association (ICMA), the Minnesota City/County Management Association (MCMA), the League of Minnesota Cities (LMC), and City Council-approved civic organizations, as well as subscriptions to professional journals and publications. The City will also pay the travel expenses of the Manager for professional and official travel, conferences, meetings and occasions in accordance with the City's adopted policies.
- D) Participation in Professional Training/Development.** The City will pay for professional training in accordance with the existing City policies.

- E) Expenses Incurred in Performing Duties.** In accordance with applicable City policy, the City will reimburse Manager for actual expenses reasonably incurred by Manager that are directly related to performing Manager's duties. The City, however, will not reimburse Manager for any personal technological hardware or software used by Manager while performing Manager's duties.

Section 6. Discontinuance of Employment Relationship. At all times, Manager's employment with the City is "at-will" and the City may remove Manager from employment at any time and for any reason, subject to applicable limitations provided in City Code or State or Federal law.

A) Discontinuance By City.

- (1) For Cause. The City may immediately terminate this Agreement and remove Manager from employment without any further remuneration or benefit of any form, as permitted by law, in the event Manager commits employment misconduct.

Employment misconduct means any intentional, negligent, or indifferent conduct, on or off the job, that displays clearly: (a) a serious violation of the standards of behavior the City has the right to reasonably expect of Manager; or (b) a substantial lack of concern for the employment on the part of the Manager.

Employment misconduct does not mean: conduct that was a consequence of the Manager's inefficiency or inadvertence; simple unsatisfactory performance; conduct an average reasonable employee in the same employment position would have engaged in under the circumstances; or good faith errors in judgment.

- (2) Without Cause. In all other cases, the City may terminate this Agreement and remove Manager from employment upon 14 days' advance written notice to Manager and subject to the following remuneration and conditions:
- (a) If said employment termination is noticed to Manager on or before February 24, 2016, Manager shall receive upon expiration of the notice period: (i) a lump-sum payment equal to six (6) months' wages at Manager's then-existing wage level; (ii) a lump-sum payment for all accrued and unused PTO at Manager's then-existing wage level; and (iii) six (6) months' continuation of all employee benefits under Section 4 of this Agreement being provided to Manager at the time of the termination notice, at the then-existing rates of employer/employee contribution, except for PTO accrual and holiday pay.
- (b) If said employment termination is noticed to Manager after February 24, 2016, but on or before February 24, 2017, Manager shall receive upon expiration of the notice period: (i) a lump-sum payment equal to three (3)

months' wages at Manager's then-existing wage level; (ii) a lump-sum payment for all accrued and unused PTO at Manager's then-existing wage level; and (iii) six (6) months' continuation of all employee benefits under Section 4 of this Agreement being provided to Manager at the time of the termination notice, at the then-existing rates of employer/employee contribution, except for PTO accrual and holiday pay.

- (c) If said employment termination is noticed to Manager after February 24, 2017, but on or before February 24, 2018, Manager shall receive upon expiration of the notice period: (i) a lump-sum payment equal to three (3) months' wages at Manager's then-existing wage level; (ii) a lump-sum payment for all accrued and unused PTO at Manager's then-existing wage level; and (iii) three (3) months' continuation of all employee benefits under Section 4 of this Agreement being provided to Manager at the time of the termination notice, at the then-existing rates of employer/employee contribution, except for PTO accrual and holiday pay.

B) Discontinuance by Manager. The Manager may terminate this Agreement and resign from employment upon 60 days' advance written notice to the City Council. In such cases, Manager shall not be entitled to any additional remuneration or benefits of any form, except for payment of accrued and unused PTO pursuant to Section 4(C) of this Agreement. Payment of such accrued and unused PTO, together with all wages earned since the last payroll period prior to separation, shall be made at the first pay period immediately following separation.

Section 7. Term. Unless previously terminated in accordance with Section 6 above, this Agreement will expire and terminate on February 24, 2018.

Section 8. Indemnification. The City shall defend and indemnify the Manager pursuant to and according to the terms and conditions of Minnesota Statutes 466.07 and 465.76.

Section 9. Merger. This Agreement supersedes all prior oral or written communications between the parties.

Section 10. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the employment relationship between the City and the Manager and the parties agree that there were no inducements or representations leading to the execution of this Agreement except as herein contained.

Section 11. Severability. In case any one or more of the provisions of this Agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

Section 12. Governing Law. This Agreement will be construed and interpreted in accordance with the laws of the State of Minnesota.

Section 13. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which are deemed an original, but all of which together will constitute one and the same instruments.

Section 14. Amendments. This Agreement may not be amended except upon mutual written consent of the parties. Nothing in this Agreement prohibits the parties from mutually agreeing in writing to extend, modify, or renegotiate any term or condition contained herein.

Section 15. Assignment. This Agreement may not be assigned by either party except upon mutual written consent of the parties.

EMPLOYEE

Dated: _____

Patrick J. Trudgeon

**EMPLOYER
CITY OF ROSEVILLE**

Dated: _____

Dan Roe
Mayor

Dated: _____

Christopher Miller
Acting City Manager

Approved as to form:

Dated: _____

Mark F. Gaughan
City Attorney