



## MAYOR AND COUNCIL COMMUNICATION

DATE: 03/02/2016

**REGULAR**

ITEM #: 21

**MOTION**

**AGENDA ITEM:** City Administrator Contract  
**SUBMITTED BY:** Sarah Sonsalla, City Attorney  
**THROUGH:** Julie Johnson, City Clerk  
**REVIEWED BY:** Sarah Sonsalla/Julie Johnson

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### SUGGESTED ORDER OF BUSINESS:

- Introduction of Item.....Staff
- Report/Presentation .....Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

### PUBLIC POLICY STATEMENT (IF APPLICABLE)

### SUMMARY AND ACTION REQUESTED:

Discussion on the finalization of the City Administrator contract.

### BACKGROUND AND STAFF REPORT:

At its meeting on February 16<sup>th</sup>, the Council directed me to offer the City Administrator position to Kristina Handt and to negotiate a contract. I contacted Ms. Handt and told her that the Council would like to offer her the position. I provided her with the attached draft contract. Ms. Handt reviewed the contract. She has requested some substantive changes to the contract, which can be provided to the Council at the meeting. Ms. Handt has indicated to me that she intends to be at the meeting. City staff is seeking Council direction with regard to finalization of the contract.

### RECOMMENDATION:

Council to direct City staff on the finalization of the contract.

### ATTACHMENT(S):

City Administrator Contract (as provided to Ms. Handt).

## **EMPLOYMENT AGREEMENT**

**THIS AGREEMENT**, made and entered into as of \_\_\_\_\_, 2016, by and between the City of Lake Elmo, State of Minnesota, a municipal corporation, (“Employer”), and Kristina Handt, (“Employee”).

### **WITNESSETH:**

**WHEREAS**, Employer desires to employ the services of Employee as City Administrator of the City of Lake Elmo; and

**WHEREAS**, it is the desire of the City Council (the “Council”), to provide certain benefits, establish certain conditions of employment and to set working conditions of the Employee; and

**WHEREAS**, it is the desire of the Council to: (1) secure and retain the services of Employee and to provide inducement for Employee to remain in such employment; (2) to make possible full work productivity to assuring Employee’s morale and peace of mind with respect to future security; (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee; and (4) to provide a just means for terminating Employee’s services at such time as she may be unable to fully discharge her duties or when Employer may otherwise desire to terminate her employment; and

**WHEREAS**, Employee desires to accept employment as City Administrator of the City:

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, Employer and Employee agree as follows:

### **Section 1. Duties.**

Employer agrees to employ Employee as City Administrator to perform the functions and duties specified in the City Code, and Minnesota Statutes Chapter 412, as amended, and to perform other legally permissible and proper duties and functions as the Council may from time to time assign to Employee.

### **Section 2. Term.**

A. The term of this Agreement is from March \_\_\_\_, 2016 to March \_\_\_\_, 2019 (the “Term”). For the convenience of Employer, Employee may hold over Employee’s employment subsequent to the expiration of the Term until this Agreement is modified or superseded by a new employment agreement approved by Employee and the Council. During any holdover period, any such holding over shall also be subject to all other terms of this Agreement.

B. Employee will serve at the will of the Council. Nothing in this Agreement prevents, limits or otherwise interferes with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 3, paragraph A of this Agreement.

C. Nothing in this Agreement prevents, limits or otherwise interferes with the right of the Employee to resign at any time, subject only to the provisions of Section 3, paragraph B, of this Agreement.

D. Employee agrees to remain in the exclusive employ of Employer and neither to accept other employment nor to become employed by any other employer during the term of Employee's employment.

The term "employed" is not to be construed to include occasional teaching, writing, consulting or military reserve service performed on Employee's time off.

### **Section 3. Termination and Severance Pay.**

A. To the extent permitted by law, during the term of this Agreement, if the Employee is terminated by the Council and at that time Employee is willing and able to perform Employee's duties under this Agreement, then Employer agrees to pay Employee a lump sum cash payment equal to one month's regular salary for each year of service performed ("Cash Payment"), and in addition, Employee shall receive the cash equivalent of Employee's accumulated PTO pursuant to the City's Personnel Policy and Employee Handbook (collectively "Severance Pay"). In the event that Employee has performed a partial year of service, a percentage of the Cash Payment for the partial year that has been served by Employee shall be paid in addition to any full years of service that have been performed. If Employee is convicted of a crime involving theft or fraud as defined in Minnesota Statutes Chapter 169, as amended, or terminated for other conduct involving malfeasance or nonfeasance in office, gross misconduct, Employee's breach of any material obligations under this Agreement or any other agreement with Employer, Employee's willful or repeated failure or refusal to perform or observe Employee's duties, responsibilities and obligations to Employer, Employee's use of alcohol or drugs in a manner which affects the performance of the Employee's duties, responsibilities and obligations to Employer, or commission by Employee of any willful or intentional act which could reasonably be expected to injure the reputation of Employer or Employee, Employer shall have no obligation to pay Severance Pay. The lump sum cash payment included in Severance Pay shall be paid in accordance with Minnesota Statutes Section 465.722, if applicable.

B. Employee will give Employer 45 days' notice in advance of resignation, unless the parties agree to waive this notice. In the event that Employee resigns, Employer shall have no obligation to pay Severance Pay.

C. In the event of the death of Employee, this Agreement shall terminate. Employee's heirs shall be only paid Employee's earned salary and accrued PTO not paid; any unpaid expense reimbursements; and any benefits payable under any life insurance policy maintained by Employer for the benefit of Employee, subject to the terms and conditions of such policy.

#### **Section 4. Availability for Duties.**

Employer and Employee acknowledge that it is critical for Employee to be available to perform Employee's duties on behalf of Employer at Employer's principal place of business and other City job sites as necessary.

#### **Section 5. Salary.**

Employer agrees to pay Employee for Employee's services rendered pursuant hereto an annual salary of \$105,000 payable in installments at the same time as other employees of the Employer are paid, effective as of March \_\_\_\_, 2016.

Employer agrees to increase the salary and other benefits of Employee in such amounts and to such extent as the Council may determine that it is desirable to do so on the basis of an annual performance evaluation of Employee.

#### **Section 6. Performance Evaluation.**

A. The Council will strive to review and evaluate the performance of Employee annually. The review and evaluation will be in accordance with specific criteria developed jointly by Employer and Employee. The criteria may be modified as the Council may from time to time determine in consultation with the Employee.

B. The Council and Employee will annually define in writing the goals and performance objectives they jointly determine necessary for the proper operation of the City and the attainment of the Council's policy objectives and will further establish a relative priority among those various goals and objectives. The goals and objectives will generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

C. In carrying out the provisions of this Section, Council and Employee mutually agree to abide by the provisions of applicable state and federal law.

## **Section 7. Outside Activities.**

Employee must not spend more than 10 hours per week in teaching, counseling or other non-Employer, non-military reserve connected business without prior approval of the Council.

## **Section 8. PTO and Military Leave.**

A. Employee will accrue, and have credited to Employee's personal account, paid time off ("PTO") at the same rate and under the same conditions as other general employees of the Employer.

B. Employee shall be entitled to military reserve leave time pursuant to federal and state law and City policy.

C. Employee's PTO account shall begin with a balance of 10 days at the time of hire.

## **Section 9. Dental, Health and Life Insurance.**

Employer agrees to provide a benefits package that includes health, dental and life insurance along with other benefits as outlined in the City's Personnel Policy and Employee Handbook. Employee may use accumulated PTO for leave for Employee's self, and for any member of Employee's household regardless of marital status, for any of the events and circumstances stated in the Family and Medical Leave Act of 1993 (29 C.F.R. Part 825). Such leave shall be administered pursuant to the applicable language of the City's Personnel Policy and Employee Handbook.

## **Section 10. Dues, Subscriptions and Professional Development.**

Employer will pay for Employee's dues and related membership costs to the MCMA and ICMA and one local service club, provided that routine attendance is made. Any out of state travel must be approved in advance by the City Council. Other dues and subscriptions deemed desirable for Employee's professional participation, growth and development may be paid if preapproved by the Council.

## **Section 11. Indemnification.**

Employer will defend, hold harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action arising out of an alleged act or omission occurring in the performance of Employee's duties as City Administrator. Employer will compromise and settle any claim or suit and pay the amount of any settlement, judgment or reasonable attorneys' fees rendered thereon consistent with Minnesota Statutes Section 466.07, as amended. Employer shall pay any costs and reasonable attorneys' fees incurred by the Employee to defend charges of a criminal nature brought against Employee that arose out of the reasonable and lawful performance of duties for the City as provided in Minnesota Statutes Section 465.76, as amended.

## **Section 12. Bonding.**

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

## **Section 13. Other Terms and Conditions of Employment.**

A. The Council, in consultation with Employee, may fix such other terms and conditions of employment as it may determine from time to time relating to the performance of Employee, provided those terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Code or any other law.

B. Except as otherwise provided in this Agreement, all provisions of the City Code, and regulations and rules of the Employer relating to PTO, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended, apply to Employee as they would to other employees of Employer.

## **Section 14. Notices**

Notices pursuant to the agreement are given by deposit in the custody of the United States mail, postage prepaid, addressed as follows:

- |               |                                                                                        |
|---------------|----------------------------------------------------------------------------------------|
| (1) EMPLOYER: | City of Lake Elmo<br>Attn: City Clerk<br>3800 Laverne Avenue N.<br>Lake Elmo, MN 55042 |
| (2) EMPLOYEE: | Kristina Handt<br>1314 Island Drive<br>Forest Lake, MN 55025                           |

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to process in a civil action. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the United States mail.

## **Section 15. General Provisions.**

A. This Agreement constitutes the entire agreement between the parties and supersedes all prior written and oral agreements 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 may be amended at any time by mutual consent of Employer and Employee.

D. This Agreement may be executed in any number of counterparts.

E. This Agreement shall be interpreted pursuant to Minnesota law.

F. The rights of Employee hereunder are personal and may not be assigned or transferred unless consented thereto in writing by Employer.

G. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provisions.

H. The failure of either party to complain of any default by the other party or to enforce any of such party's rights, no matter how long such failure may continue, will not constitute a waiver of the party's rights under this Agreement. No waiver of any provision of this Agreement shall constitute a waiver of any other provision or a waiver of the same provision at any later time.

**IN WITNESS WHEREOF**, the City of Lake Elmo by its City Council has caused this Agreement to be executed and delivered in its behalf by its Mayor and duly attested by its City Clerk, and Employee has executed this Agreement as of the day and year first above written.

THE CITY OF LAKE ELMO, MINNESOTA  
EMPLOYER

By \_\_\_\_\_  
Mike Pearson  
Its: Mayor

Attest:

\_\_\_\_\_  
Julie Johnson, City Clerk

EMPLOYEE

\_\_\_\_\_  
Kristina Handt