



To: MAYOR AND COUNCIL

Agenda Item #: VIII. E.

From: Scott Neal
City Manager

Action
Discussion
Information

Date: February 5, 2013

Subject: CITY MANAGER EMPLOYMENT AGREEMENT

Action Requested:

Approve proposed employment agreement with City Manager Scott Neal.

Information / Background:

Attached is the proposed employment agreement that we discussed and tentatively agreed to at my 2012 performance review on January 29, 2013. If adopted by the Council at the February 5 Council meeting, the effective date of the agreement will be January 1, 2013.

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into effective this 5th day of February, 2013, by and between the **CITY OF EDINA**, a Minnesota municipal corporation ("Employer"), and **SCOTT H. NEAL** ("Employee").

The parties agree as follows:

1. POSITION. Employer agrees to employ Employee as its City Manager and as the Executive Director of its Housing and Redevelopment Authority. Employee agrees to serve in the positions in accordance with state statutes and City ordinances and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.

2. TERM AND TERMINATION. The term of this Agreement shall be two (2) years commencing on the effective date of this Agreement, which shall be January 1, 2013. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time during the term of this Agreement by giving notice and otherwise complying with the conditions set forth in this Agreement. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employer to terminate the services of the Employee at any time, at the sole discretion of the Employer, in accordance with the terms of this Agreement.

3. PENSION PLAN. Employer shall contribute to PERA as required by State law for Employee or an alternate pension plan, if selected by Employee, as authorized by State law.

4. PERFORMANCE EVALUATION. Employer agrees to conduct an annual performance review of the Employee during January of each year. The review shall be in accordance with specific criteria developed jointly by the Employer and the Employee. Such criteria may be added to or deleted as the Employer may from time to time determine in consultation with the Employee. The Employer shall provide the Employee with a written performance review and provide adequate opportunity for the Employee to discuss the review with the Employer in closed session, as allowed by Minnesota State Statutes. The failure of the Employer to conduct the annual review shall not affect the parties' respective rights to terminate this Agreement or any other rights in the Agreement.

5. SALARY. The annual salary of the Employee shall be determined by mutual agreement of the Employer and the Employee, and subject only to the terms of this Agreement, and the Minnesota local government employee salary cap (Minn. Stat. 43A.17). Subject to receiving satisfactory performance reviews by the Employer, the Employer and Employee mutually agree to following:

- A. Effective January 1, 2013, the Employee's annual salary shall be adjusted to \$156,043; and,
- B. Effective January 1, 2014, the Employee's annual salary shall be adjusted to 98% of the local government employee salary in effect on that date; provided that said adjustment shall not exceed the indexed salary cap adjustment factor computed by the Minnesota Department of Management

and Budget for the purpose of the annual adjustment to the local government salary cap (Minn. Stat. §43A.17) on January 1, 2014; and,

- C. Effective January 1, 2014, the difference between the Employee's 2014 annual salary and the local government salary cap shall be paid to the Employee in the form of deferred compensation through a lump-sum contribution to the Employee's ICMA-RC 457 deferred compensation account.

6. PAID LEAVE. Employee shall earn paid sick leave at the rate of 3.69 hours per payroll period and paid vacation leave at the rate of 6.15 hours per payroll period. The Employee shall accrue no more than 600 hours of paid sick leave and no more than 400 hours of paid vacation leave during the term of employment. 100% of Employee's accrued paid vacation time and no more than 50% of Employee's accrued paid sick leaves are compensable at severance, subject to the terms of section 15 of this agreement. Employee shall have the option to reduce hours of paid leave by converting it to cash compensation no more than twice each year at the Employee's then hourly rate of pay in increments of no less than hour 40 hours and no more than 120 hours.

Employee shall be entitled to paid holiday leave, bereavement leave, leave without pay on the same basis as the City's Department Director employees are receiving on January 1, 2013. Any future changes to the City's paid leave policies shall not change the level of benefit for the Employee, unless the parties so agree.

Employee shall be credited with having completed sixteen (16) years of employment with the City upon his first day of employment, November 8, 2010.

7. BENEFITS. Employer shall pay 100% of the cost to provide hospital, medical and dental insurance to Employee and his dependents under a plan offered to other employees. Employer will not fund other employee benefits for Employee or fund Employee's participation in the City's Cafeteria Plan. If Employee wishes to receive other benefits including life insurance and disability insurance Employee must pay 100% of the cost.

In the event the Federal 2012 Patient Protection and Affordable Care Act (PPACA) requires the Employer to change, modify or amend its current employee hospital, medical and dental insurance program, Employer shall not to reduce the cash value of this benefit to the Employee.

In support of the Employee's general health and wellness, Employer agrees to pay the Employee's costs for an annual membership at the Southdale YMCA.

8. DUES AND SUBSCRIPTIONS. Employer shall budget and pay the professional dues, subscriptions, and travel and subsistence expenses for Employee which are deemed reasonable and necessary for Employee's continued participation in national, regional, state and local associations necessary and desirable including: International City/County Management Association, Minnesota City/County Management Association, National League of Cities and the League of Minnesota Cities. Employee shall use good judgment in his outside activities so he will not neglect his primary duties to the Employer.

9. PROFESSIONAL DEVELOPMENT. After the completion of three years of employment, Employer agrees to provide the Employee the opportunity, at Employee's discretion, to attend the International City/County Management Association's Senior Executive Leadership Institute (ICMA-SEI) at the University of Virginia's Darden School of Business in Charlottesville, Virginia. Employer agrees to budget and pay for all expenses related to Employee's attendance at the ICMA-SEI, including tuition, books, materials, travel and lodging.

10. CIVIC CLUB MEMBERSHIP. Employer recognizes the desirability of representation in and before local civic and other organizations. Employee is authorized, at the Employer's expense, to become a member of such civic clubs or organizations as deemed appropriate by Employee and Employer, including, but not limited to, the Edina Chamber of Commerce and the Edina Noon Rotary Club.

11. AUTOMOBILE. Employee shall be reimbursed for the personal use of his automobile on City business on a per mile basis in accordance with IRS regulations.

12. WORK TOOLS. Employer agrees to provide Employee with contemporary technology devices such as a mobile telephone, computer and other devices which are, in the judgment of the parties, necessary to accomplish the work of the Employee. Employer acknowledges the Employee may make regular personal use of the devices. Employee recognizes that devices and tools provided to the Employee by the Employer under this section of the agreement are and remain property of the Employer. Employee agrees to return said property to the Employer no later than the Employee's final date of employment.

13. GENERAL EXPENSES. Employer shall reimburse Employee reasonable miscellaneous job related expenses which it is anticipated Employee will incur from time to time when provided appropriate documentation.

14. HOURS OF WORK. It is mutually understood the Employee is a FLSA-exempt employee without set hours of work, but is expected to be available at all times and to engage in those hours of work, subject only to illness, injury and scheduled annual vacations, that are necessary to fulfill the obligations of the City Manager's position. It is understood that the position of City Manager requires attendance at evening meetings and occasionally at weekend meetings. It is understood by Employee that additional compensation and compensatory time shall not be allowed for such additional expenditures of time. It is further understood that Employee may absent himself from the office to a reasonable extent in consideration of extraordinary time expenditures for evening and weekend meetings at other than normal working hours.

Employee may engage in teaching, consulting, speaking or perform other non-City connected activities for which he is compensated without consent of the Employer provided the activities do not diminish the Employee's ability to perform the essential duties of the City Manager position, as described in sections 1 and 14 herein, and provided the activities do not conflict with the interests of the Employer. Employee agrees to provide written notice to Employer of activities conducted under this paragraph.

15. TERMINATION BENEFITS. In the event that Employee is terminated by the Employer during such time that Employee is willing and able to perform the duties of City Manager, then in that event, Employer agrees to pay Employee at the time of receipt of his last pay check a lump sum cash payment equal to six (6) months aggregate salary and to continue to provide and pay for the benefits set forth in paragraph 9 for a period of six (6) months following termination. However, in the event Employee is terminated because of his malfeasance in office, gross misconduct, conviction for a felony, or conviction for an illegal act involving personal gain to Employee, then Employer shall have no obligation to pay the termination benefits.

If Employer at any time during the employment term reduces the salary or other financial benefits of Employee in a greater percentage than across-the-board reduction for all non-union employees, or if Employer refuses, following written notice, to comply with any other provisions of this Agreement benefiting Employee or Employee resigns following a formal suggestion by Employer that he resign, then Employee may, at his option, be deemed to be "terminated" on the effective date of Employee's resignation and the Employee shall also be entitled to receive the termination benefits set forth above.

If Employee voluntarily resigns his position with Employer, Employee agrees to give the Employer thirty (30) days advance notice. If Employee voluntarily resigns his position with Employer, there shall be no termination benefits, as provided in this paragraph, due to Employee.

16. INDEMNIFICATION. The Employer shall defend and indemnify the Employee against and for all losses sustained by the Employee in direct consequences of the discharge of the Employee's duties on the behalf of the Employer. In the event the Employee serves on boards of directors of City-related legal entities, the Employer shall extend the same

indemnification benefits and protections to Employee for the City-related entity as is provided for the Employee for actions taken on behalf of the Employer. Employer may compromise and settle, without the consent of Employee, any such claim or suit and pay the amount of the settlement or judgment rendered thereon. This covenant shall survive the termination of this agreement, but shall not obligate the Employer to pay punitive or exemplary damages which may be awarded but Employer may, in its sole discretion, elect to do so to the extent authorized by law.

17. OTHER CONDITIONS OF EMPLOYMENT. Subject to any amendments, the City's ordinances, City Employee policies, and State Statutes, are all incorporated herein except to the extent that they conflict with this Employment Agreement, wherein this Employment Agreement shall be controlling.

IN WITNESS WHEREOF, Employer has caused this Agreement to be signed and executed on its behalf by its Mayor and City Clerk, and Employee has signed this Agreement, in duplicate, the day and year first written above.

EMPLOYER:
CITY OF EDINA

EMPLOYEE:
SCOTT H. NEAL

BY: _____
Mayor

City Manager

AND

City Clerk