

A G E N D A
CITY OF AZTEC
SPECIAL CITY COMMISSION MEETING
September 22, 2017
201 W. Chaco, City Hall
5:15 p.m.

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. ROLL CALL**
- V. Closed Session: Pursuant to State Law, Section 10-15-1H (2) Limited Personnel Matters**
- VI. AGENDA APPROVAL**
- VII. BUSINESS ITEMS**
 - A. City Manager Interim Recruitment Process
 - B. Amendment to City Manager Contract
- VIII. ADJOURNMENT**

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

Staff Summary Report

MEETING DATE: September 22, 2017
AGENDA ITEM: VII. BUSINESS ITEM (B)
AGENDA TITLE: CITY MANAGER CONTRACT AMENDMENT

ACTION REQUESTED BY: CITY MANAGER
ACTION REQUESTED: APPROVAL OF CITY MANAGER CONTRACT AMENDMENT
SUMMARY BY: JOSHUA RAY

PROJECT DESCRIPTION / FACTS

Based on City administration regulation 2012-033 sick leave may be paid to the employee based on years of service and 2/3 of the total number of hours available.

SUPPORT DOCUMENTS: City Manager Contract
Administrative Regulation 2012-033

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve City Manager Contract Amendment With Sick Leave Payout Of 2/3 Of The Total Number Of Hours Available

EMPLOYMENT AGREEMENT

THIS INDENTURE made and entered into this 1st day of July, 2017 by and between the **City of Aztec**, Aztec New Mexico, a municipal corporation, hereinafter referred to as "Employer" and **Joshua W. Ray**, hereinafter referred to as "Employee"

WITNESSETH:

WHEREAS, it is the desire of the City Commission of the City of Aztec, hereinafter referred to as "The Commission to retain the services of the Employee to serve as the City Manager of the City of Aztec.

WHEREAS, it is the desire of the Commission to provide certain benefits, establish certain conditions of employment and to set the working conditions and compensation of the Employee.

WHEREAS, the employee is a member of the International City and County Management Association (ICMA) and the employee is subject to the ICMA Code of Ethics.

WHEREAS, the employee desires to accept employment as City Manager of the City of Aztec under the terms and conditions provided in this agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained, **IT IS AGREED**, as follows:

Section 1. Duties.

The Employer does hereby hire the Employee as City Manager, who shall manage the affairs of the Municipality, supervise the employees, assist with policy making decisions, advise the Commission, and to perform any and all duties normally delegated by a municipality to its Chief Administrative Officer, as said duties may be detailed, delineated, or amplified by the Commission, and as specified by job description or ordinance.

Section 2. Term.

- A. The effective date of employment shall be **July 1, 2017**. Employee agrees to remain in the exclusive employ of the City of Aztec until **June 30, 2019**, and neither to accept other employment nor to become employed by any other employer without prior Commission approval. Duties of City Manager shall take precedence over any other employment until said termination date, unless said termination date is affected as hereinafter provided.
- B. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Commission to terminate the services of the Employee at any time, with or without cause, subject only to the provisions set forth in Section 4, paragraphs A, B and C, of this agreement.
- C. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position, subject only to the provision set forth in Section 4, paragraph E, of this agreement.

Section 3. Compensation.

- A. The Employer agrees to pay the Employee an annual base salary of One Hundred ten thousand six hundred sixty nine dollars(\$110,669) plus those benefits as provided for in this agreement.
- B. The Employer agrees to pay the Employee an annual vehicle allowance of eight thousand two hundred ninety six dollars (\$8,296) for the period of July 1, 2017 thru June 30, 2019 plus any mileage reimbursement as provided in this agreement.

Section 4. Termination and Severance Pay.

- A. In the event the Employee is terminated by the Commission before expiration of the aforesaid term of employment, the Employer agrees to pay the Employee severance pay in an amount equal to six months basic pay.
- B. In addition the Employee shall also be compensated for all accrued annual leave (vacation, administrative and personal day) as well as accrued sick leave ~~at a ratio of 3:1~~ **at 2/3 payout.**
- C. In the event the Commission requests the resignation of the Employee, then in that event, the Employee shall be deemed to be "terminated" at the date of such request, and the herein severance pay provisions shall be in full force and effect. Severance pay and accrued annual leave shall be paid in full within 5 days following such termination OR upon request shall be paid out over a period of time.
- D. Salary shall not include additional benefits provided for in this agreement, except that the Employee shall have the option, at his expense, of remaining a member of the City's health insurance plan pursuant to any COBRA regulations.
- E. In the event the Employee voluntarily resigns his position with the Employer before the expiration of the aforesaid term of agreement, then the Employee shall give the Municipality two months notice in advance, unless the parties agree otherwise.
- F. If the Employee is terminated because of a conviction of a felony, the Employer is not obligated to pay severance under this section.

Section 5. Professional Membership.

Employer agrees to budget for and to pay for professional membership dues and subscriptions of the Employee for participation in ICMA, the Municipal League, and in the New Mexico City Management Association.

To the extent that the City budget allows, the Employer agrees to allow the Employee to attend the annual conferences of the above named professional associations as part of his professional development.

Section 6. Performance Evaluation.

- A. The Commission agrees to review and evaluate the performance of the Employee annually and to provide feedback on how to improve performance and help

the Commission achieve goals for the Municipality. The review and evaluation shall be in accordance with specific criteria agreed to by the Commission and the Employee. The Employee shall be given the opportunity to meet with the Commission during the performance evaluation.

- B. Twice a year or more, the Personnel Committee, and the Employee shall meet to discuss progress made in meeting the goals and performance objectives as agreed to with the City Commission.

Section 7. Hours of Work.

The Employer recognizes that the Employee must devote a great deal of time beyond the normal office hours to tend to the business of the Municipality, and related duties of the Office of the City Manager. To that end, the Employee may periodically take time off during the workweek as administrative leave. However, the Employee is expected to maintain a minimum of a forty-hour workweek.

Section 8. Vehicle Allowance

The Employee is required to be on call for twenty-four hour service, therefore the Employer agrees to pay the Employee an annual vehicle allowance of eight thousand two hundred ninety six dollars (\$8,296) for the period of July 1, 2017 thru June 30, 2019.

The Employee shall be responsible for paying for liability, property damage and comprehensive insurance, and for the purchase, operation, maintenance, repair, and gasoline purchases.

The vehicle allowance will cover all travel within San Juan County, New Mexico. Any business related travel outside of San Juan County, New Mexico will be reimbursed by the Employer at the rate established by the New Mexico Mileage and Per Diem Act.

Employee shall be responsible for any and all liabilities for personal injury, property damage, and for operation, maintenance and repair of said automobile arising out of Employee's use of said automobile. In addition, Employee shall be solely responsible for payment of all income tax liability arising out of Employee's personal, non business related usage of said automobile.

Section 9. Fringe Benefits and other Expenses.

- A. The Employee shall be entitled to all fringe benefits provided by the Employer for all its regular employees. This includes participation in the employers' health, dental, and life insurance plans. Employee shall be subject to, and governed by, the general policy of the City regarding vacation, sick and other leave.
- B. The Employee will receive a maximum of 60 hours of Administrative Leave per calendar year which cannot accumulate into the following year.
- C. The Employee is required by law to participate in the State of New Mexico Public Employees Retirement Association (PERA) retirement plan. The required contributions to PERA will be at the same rate as afforded all other employees of the City.

- D. The Employee will be reimbursed for travel expenses related to the performance of his duties and responsibilities at the rates prescribed by the New Mexico Mileage and Per Diem Act.
- E. The Employer shall provide Employee with a laptop computer, software, fax/modem, data access and cell phone allowance (city will pay an allowance of \$120.00 a month of the cost of the plan and a maximum of \$100.00 once a year for cell phone accessories or cell phones that need to be replaced) to assist him in the performance of his job and to maintain communication.

Section 10. Residency.

The Employee is required to live within the City limits of the City of Aztec, unless otherwise approved by Commission, during the term of his employment.

Section 11. Indemnification.

The Employer agrees to defend, save harmless, and indemnify the Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the duties of the Employee, or any claim resulting from the exercise of judgment or discretion in connection with the performance of duties or responsibilities of City Manager. The Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments, including travel expenses shall continue beyond Employee's service to the Employer as long as litigation is pending.

Section 12: Bonding

In the event that the Employer requires the Employee to be bonded as part of his duties and responsibilities, the Employer shall bear the full cost of any fidelity or other bonds required of the Employee.

Section 13. General Provisions.

- A. The text herein shall constitute the entire agreement between the parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs and executors of the parties.
- C. If any provision or any portion thereof, contained in this agreement is held unconstitutional, invalid, or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the Employer has caused this agreement to be signed and executed on behalf of the City Commission by the Mayor, and duly attested by the City Clerk. Further the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

CITY OF AZTEC

By _____
Sally Burbridge, Mayor

By _____
Joshua W. Ray, Employee

ATTESTED

By _____
Karla Sayler, City Clerk

APPROVED AS TO FORM

By _____
Larry T. Thrower, City Attorney

ADMINISTRATIVE REGULATION

Vacation/Sick Leave Payout

Number: 2012-033

Eff. Date: Sept. 6, 2012

Supersedes:

Date: Sept. 6, 2012

City Manager Approval:



SECTION 1. PURPOSE & POLICY

The purpose of vacation and sick leave payout is to reduce the long term liability to the City and taxpayers associated with employee accrued leaves. It is the policy of the City to recognize employee service through the availability of vacation based on years of continuous employment to regular employees who are eligible for city benefits (as defined in City of Aztec Personnel Policy, Section 3.2 Categories of Employment).

SECTION 2. PROCEDURE

Vacation and sick leave payout is available to all regular employees at the discretion of the City Manager. Each case will be determined on an individual basis weighing in the impact that each will have to the City.

Vacation may be paid to the employee based on the total number of hours available at the last completed pay period from the request date.

Sick leave may be paid to the employee based on years of service and 2/3 of the total number of hours available at the last completed pay period from the request date.

Employees requesting vacation and/or sick leave payment shall schedule a meeting with the City Manager and present their request in writing at the time of the meeting.

If the request is approved, the Finance Department will reduce the total number of hours approved for pay out from the employee's totals. It is the responsibility of the employee to consider future vacation and planned sick leave prior to the request to avoid insufficient time available for such plans.

SECTION 3. ACTION NECESSARY

The attached acknowledgement shall be signed by the employee and returned to the employee's immediate supervisor. Unless otherwise instructed by Department Head, the supervisor will return signed documents to the Human Resource Department within ten (10) days of distribution date of administrative regulation.

The City of Aztec Personnel Policy and all current administrative regulations are available to employees on KIVA and from the Human Resource Department.

SECTION 5. EMPLOYEE ACKNOWLEDGEMENT

Administrative Regulation Effective Date: 09/06/12

I _____ am in receipt of the Administrative Regulation
(Employee name, PRINTED)

Entitled ***Vacation and Sick Leave Payout*** and understand that I am required to read and become familiar with this regulation. If I have questions or need further clarification I will contact my Supervisor/Department Head, City Manager or the Human Resources Department.

Employee Signature

Date

Personnel Administrator Signature

Date