

**CITY OF PHOENIX  
CITY COUNCIL MEETING  
PUBLIC WORKS OFFICE  
1000 SOUTH "B" ST  
THURSDAY, SEPTEMBER 1, 2016  
6:30 P.M.**

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- 1) Call to order/Roll call.....6:30 PM**
- 2) Initial Review of City Manager Applicants**
- 3) Approval of Personnel Agreement with Public Works Director**
- 4) Adjournment**

**NOTE: At special meetings only the items listed on the agenda may be discussed. Discussion on any other issue is not allowed and testimony will not be taken.**

\*In accordance with state law, copies of the complete record of this meeting will be available at City Hall. If you are hearing impaired and need accommodation, please give 48 hours notice to City Hall prior to the meeting.

**Agreement for Employment  
as  
Public Works Director, City of Phoenix, Oregon**

This Agreement for Employment as Public Works Director for the City of Phoenix, Oregon ("Agreement") is made and entered into on the last day written below, by and between the City of Phoenix, Oregon, an Oregon municipal corporation (the "City") and Raymond J. DiPasquale.

**Recitals**

- A.** City is in need of a Public Works Director to oversee and administer the duties and functions described herein and in Exhibit A attached hereto.
- B.** City desires to employ a Public Works Director for this position, and Raymond J. DiPasquale desires to accept such employment subject to the terms and conditions of this Agreement.

**Agreement**

**Section 1. Employment, Cash Compensation and Benefits**

**1.1 Employment**

**1.1.1 General.** Raymond J. DiPasquale is (hereinafter, "Employee") employed by City for the position of Public Works Director of City of Phoenix, Oregon. Any change in his position at the City shall not affect the enforcement of this Agreement unless agreed to by the parties by addendum to this Agreement.

**1.1.2 Hours.** Employee is expected to work a regular work week of forty (40) hours, distributed evenly over the work week to the extent practicable. However, Employee is expected to work additional hours as necessary or advisable to perform the Public Works Director duties satisfactorily. Employee understands that he is an at-will and professional employee exempt from the payment of overtime under the federal Fair Labor Standards Act and Oregon law. No compensatory time shall be granted for hours worked in excess of forty (40) hours per week unless allowed by law and approved in advance by the City.

Excepting vacations and leave, the Director shall be physically available at all times for the City as circumstances dictate, and should live within thirty minutes of the City, or otherwise be able to respond in such time to the satisfaction of the City Council. Distances that exceed thirty minutes in time for a response may be otherwise approved by the City Council.

**1.1.3 General Duties and Standards.** Under the general supervision of the City Manager or other officials designated by the City Manager, and subject to City ordinances and policies, Employee shall perform the duties and assume the responsibilities described herein and in Exhibit A. In addition to the duties and obligations stated herein, Employee shall comply and be subject to all ordinances, laws and policies applicable to non-union employees of the City.

Employee shall at all times perform his duties and obligations in accordance with the highest professional and ethical standards.

**1.1.4 Compliance with City Policies.** Employee shall at all times comply with all instructions, rules and standards of the City, including any policies set forth in any employee handbook, policy manual or other personnel policy, which may from time to time be adopted or amended by City, provided that nothing contained in any employee handbook, policy manual or other personnel policy otherwise concerning Employee shall supersede the provisions of this Agreement. Where in conflict, the terms and conditions of this Agreement supersede those of any other policy document.

**1.1.5 Employment at Will.** Employee's employment with City is terminable at will, either by Employee himself, or by the City, regardless of the length or nature of the employment, the actual or perceived performance of Employee, the granting of benefits of any kind, the adoption or modification of any employee handbook, policy manual or other personnel policy, any oral promise, or the establishment of any policy (whether written or unwritten) of progressive discipline. No relationship of employment other than on a strictly "at will" basis has been expressed or implied, and no circumstances arising out of employment will alter Employee's "at will" employment relationship unless unambiguously expressed in writing, with the understanding specifically set forth and signed by Employee and City.

**1.2 Cash Compensation.** Planning Director's initial compensation shall be in the gross amount of \$90,000.00 for the first year of employment, before withholding for taxes, FICA and any other deductions. Salary shall be paid on the same schedule as full-time regular City employees.

After the completion of the first year of employment, Employee shall thereafter receive an annual cost of living adjustment in the same amount as other department directors/employees received on July 1, 2017. Thereafter, Employee shall receive an annual cost of living adjustment in the same amount as other department directors/employees may receive each fiscal year.

### **1.3 Other Benefits**

**1.3.1 General.** Except as state herein, during his employment with the City, Employee is entitled to the benefits provided in this Agreement in addition to

the benefits provided to other non-union City employees, unless express reference is made herein to specific benefits described in documents applicable to said employees, including, without limitations, any agreement with any employee collective bargaining unit, the City of Phoenix Personnel Manual, and any employee handbook, policy manual or other personnel policy, any oral promise, or the establishment of any policy (whether written or unwritten).

**1.3.2 Health and Dental Plan.** City shall provide Employee health and dental benefits consistent with those provided for full-time regular City public works department employees as described in Section 15.1, 15.2, and 15.3 of the 'City of Phoenix Public Works Department And Teamsters Local 223 Collective Bargaining Agreement January 2014 to December 2016. Consistent with the status of the City Public Works Department employees, Employee shall be responsible for applicable deductible payments, co-payments, optional services and other payments not considered part of the applicable health plan. The parties recognize that Employee is not a member of the Teamsters Local 223 or any other union, but have agreed to use the Collective Bargaining Agreement as a reference point solely as a matter of convenience to establish Employee benefits.

**1.3.3 Medical Savings Account:** The City agrees to contribute into VEBA (Voluntary Employee Beneficiary Association) an amount equal to that of other employees.

**1.3.4 Paid Time Off.** Except as provided below, Employee is entitled to four weeks of paid vacation per year. After the completion of one year, he shall be entitled to an additional week for a total of five weeks per year.

Nothing in this Section shall be construed to modify the at will status of Public Works Director pursuant to Section 1 above. In the event of conflict, the provisions of those section 1 provisions of this Agreement shall prevail. If and upon material breach of this Agreement by Employee, including the provisions requiring advanced notice of termination to the City by Employee, any pay out of accrued vacation benefits as of that date shall be reduced by 8 (eight) hours for each work (not calendar) day for which advanced notice was not timely, to be capped at eighty (80) hours. Employee expressly recognizes that such forfeiture of accrued vacation time upon termination of employment by Employee may be inconsistent with City personnel policies and hereby otherwise agrees to same.

**1.3.5 Retirement Plan.** Employee shall participate in the Oregon Public Employees Retirement System (PERS) according to the rules and regulations of PERS.

Employee has option to contribute, at his expense, to ICMA 457 Deferred Compensation Plan.

**1.3.6 Reimbursement of Expenses.** City shall reimburse Employee for reasonable travel, lodging, meals and incidental expenses incurred while attending events and educational opportunities approved in advance by City, subject to any limitations set forth in City policies. Employee shall provide appropriate documentation of claimed expenses consistent with IRS requirements. In addition, all expenses shall be documented on a form approved by City. Any air travel shall be coach class booked as far in advance as practicable to take advantage of discounted ticket sales. Travel by automobile shall be compensated at the standard IRS mileage rate in effect at the time of travel for business deductions for self-employed individuals.

**1.3.7 Relocation/moving expenses.** Employee shall receive up to \$2,000 for reimbursable moving expenses, which shall be paid upon Employee's submission of documented expenses/costs and the approval of the same by the City Manager.

**1.3.8 Performance/Incentive compensation.** After the completion of one year, and after the completion of a second year, Employee shall receive a one time performance bonus in the amount of two thousand five hundred dollars (\$2,500), on both the first and second years, upon the discretion and approval of the City Manager and provided the Employee has met the benchmarks directed by the City Manager. Following the second year, any performance bonuses or otherwise shall be approved by the City Council.

**1.3.9 Additional Benefits Not Generally Provided to other City Employees.** This Agreement may provide benefits to Employee that are not provided to other City employees. Any such benefits must be expressly identified in this Agreement or they are not valid.

## **Section 2. Term**

**2.1 General.** The term of this Agreement (the "Term") commences on the date the City signs this Agreement, (the "Commencement Date") and is continuous until notified by either party of a separation or termination date.

### **2.2 Termination for Convenience**

**2.2.1 General.** In addition and subject to Employee's at-will status, the City may terminate this Agreement at any time prior to the completion of thirteen months of employment, for any reason at its convenience without cause upon written notice to Employee. In the event of such termination, Employee shall receive a severance payment in the amount of thirty (30) calendar days pay. Employee may terminate this Agreement at any time for any reason at his convenience without cause upon thirty calendar (30)(or more) days' prior written notice to the City.

If and upon material breach of this Agreement by Employee, including the foregoing provisions requiring advanced notice of termination to the City by Employee, any pay out of accrued vacation benefits as of that date shall be reduced by 8 (eight) hours for each work (not calendar) day for which advanced notice was not timely, to be capped at eighty (80) hours. Employee expressly recognizes that such forfeiture of accrued vacation time upon termination of employment by Employee may be inconsistent with City personnel policies and hereby otherwise agrees to same.

**2.3 Termination for Cause.** Employee shall also be terminable for cause. Nothing in this section or agreement, including, without limitation, shall prevent the City from exercising its rights to place the employee on administrative leave for any purpose whatsoever, including, but not limited to the circumstances delineated in sections one through eight below. In any event, cause for termination shall consist of a good-faith determination by City of a sufficient cause for termination based on facts reasonably believed by City to be true and not for any arbitrary, capricious, or illegal reason.

- (i) Any revocation or suspension of Employee's license to practice Professional Engineering license, loss of ability to practice or function as Employee hereunder by any governmental or regulatory authority.
- (ii) Willful failure of Employee to comply with any applicable law, regulation or ruling of any governmental agency or court of competent jurisdiction.
- (iii) Arrest, conviction of, or confession by Employee to embezzlement, theft, fraud, any other tort or crime involving moral turpitude, or any felony.
- (iv) Mental or physical incapacity or other disability that substantially impairs or prevents Public Works Director from actively and competently performing Public Works Director's duties hereunder. No court order shall be necessary to establish incapacity or other disability under this section.
- (v) Basic inability of Public Works Director to perform his duties as Public Works Director effectively for any reason whatsoever.
- (vi) Material breach of this Agreement of any kind by Public Works Director.
- (vii) Breach of or inability to adhere to any requirement set forth in Section 4 below.

(viii) Other events reasonably constituting cause for termination.

**2.4 City Prerogative for Employee to Be Placed on Paid Administrative Leave.** Nothing in this Agreement, including, without limitation, in this Section 2, shall prevent the City from exercising its rights to place Employee on paid administrative leave for any purpose whatsoever, including, but not limited to placement on such leave during any period of notice set forth herein. City may require Employee not to perform any employment duties for or on behalf of the City, or to have access to City facilities (barring bona fide emergencies or required personal business) during any period of paid or unpaid administrative leave.

**2.5 Termination after completion of first year/probationary period.** The City may terminate this Agreement after the completion of thirteen months of employment, for convenience, upon written notice by the City. In the event of such termination, Employee shall receive a severance payment in the amount of ninety-days (90) pay. Any other termination for convenience prior to the expiration of thirteen months shall be pursuant Section 2.2.1.

### **Section 3. Performance Evaluations**

City shall provide a performance evaluation of Employee (6) months and twelve (12) months after the Commencement Date of this agreement, and thereafter shall provide a performance evaluation at least once per year on the anniversary of this agreement. The City may provide more frequent evaluations at its discretion. Performance evaluations shall be designed, among other things, to measure Employee's general job performance and the achievement of specific goals and objectives set by the City. Performance evaluations may be used at the sole discretion of the City Manager for purposes of reviewing and/or considering increases in Employee's rate of pay.

No performance evaluation shall be construed to change the "employment at will" relationship of the parties described in this Agreement.

### **Section 4. Public Works Director's Additional Obligations**

In addition to, and not in limitation of, any other obligation of Public Works Director. Employee shall ensure and perform the following:

**4.1 Professional Standards.** Employee agrees to do all things reasonably necessary to maintain and improve his professional skills.

**4.2 Compliance with Laws, Regulations and Standards.** Employee shall comply with:

- (i) all rules and regulations of any federal, state or local agency governing or applicable to Employee's performance of services pursuant to this Agreement,
- (ii) the standards of any applicable nationally-recognized credentialing board or body, and
- (iii) unless exemptions therefrom are approved in writing by the City, all ethical requirements applicable to Employee's performance of services under this Agreement.

**4.3 Notification of Certain Events.** Employee shall notify City in writing within twenty-four (24) hours or as soon as he is reasonably able after Employee becomes aware of the occurrence of one or more of the following events:

- (i) Employee becomes the subject of or materially involved in an investigation by any law enforcement agency or any agency charged with law enforcement oversight.
- (ii) Material certifications or privileges of Employee are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto.
- (iii) Any act of nature occurs which has, or may reasonably have a material adverse effect on Employee's ability to perform the services described in this Agreement or otherwise adhere to the terms and conditions of this Agreement.
- (iv) Suspension or revocation of Employee's license to practice engineering with the State of Oregon.

## **Section 5. Miscellaneous Provisions**

**5.1 Assignment.** This Agreement is personal in nature and shall not be assigned or delegated by Employee, either voluntarily or involuntarily.

**5.2 Modification.** No modification of this Agreement shall be valid unless it is in writing and is signed by all of the parties.

**5.3 Waiver.** Waiver by any party of strict performance of any provision of this Agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.

**5.4 Binding Effect.** Subject to restrictions in this Agreement upon assignment, this Agreement shall be binding on and inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

**5.5 Survival of Terms.** Termination or expiration of this Agreement for any reason shall not release any party from any liabilities or obligations set forth in this Agreement that:

- (i) The parties have expressly agreed shall survive any such termination or expiration; or
- (ii) Remain to be performed or by their nature would be intended to be applicable following such termination or expiration, including, without limitation, the exercise of any remedies available under this Agreement or at law.

**5.6 Attorney Disclosure.** This Agreement has been prepared by the City Attorney for the City of Phoenix. The City Attorney cannot provide Employee with legal advice pertaining to this Agreement. Employee is therefore advised to retain independent counsel for the review and interpretation of this Agreement.

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**Public Works Director**

\_\_\_\_\_ Date \_\_\_\_\_  
Raymond J. DiPasquale

**City of Phoenix, Oregon**

By \_\_\_\_\_ Date \_\_\_\_\_  
Jeff Bellah, Mayor

By \_\_\_\_\_ Date \_\_\_\_\_  
Matt Brinkley, Acting City Manager

## Exhibit A

### **PUBLIC WORKS DIRECTOR POSITION DESCRIPTION**

Working under the supervision of the City Manager, manage all phases of assigned Public Works projects from inception to completion. Plan, organize, manage and participate in the work of staff engaged in developing, implementing and administering Public Works projects. Plan and monitor performance against project goals and objectives and ensure project results. Lead and participate in efforts to build project support. Participate with internal and external project stakeholders, including city personnel, elected and appointed officials, property owners, colleagues, co-workers, consultants, developers, business owners/managers, other governmental agencies and the general public.

Of considerable importance is the need for the Public Works Director to develop positive working relationships with staff. It is important for staff to know that their input is valuable and that it will be listened to and considered. The promotion of teamwork, accountability and responsibility within the Public Works Department is vital to future success.

The Public Works Director is expected to demonstrate outstanding customer service in all interactions with the City Council, other city employees, other agencies, businesses and the public at large.

#### **ESSENTIAL DUTIES AND RESPONSIBILITIES:**

*The duties and responsibilities are not to be construed as all-inclusive. The essential duties will include other responsibilities as assigned or required.*

1. Manages all aspects of assigned Public Works programs and projects, including, but not limited to consultant selection and management, budget development and management, project schedules and work activities, staff oversight, and contract document development and management.
2. Develops and implements policies, procedures, plans and ordinances related to assigned programs and projects.
3. Researches and writes grant applications in support of current and future programs and projects. Administers grant funds received and meets all reporting requirements.
4. Researches and reviews records, regulations and laws pertaining to projects assigned, and applies them as appropriate to achieve project objectives. Ensures proper maintenance of public records pertaining to programs and projects assigned.
5. Supervises and works with the Lead Utility Worker to plan and review the work plans for maintenance and staff; assigns work activities, projects and programs; reviews and evaluates work products, methods and procedures; meets with staff to identify and resolve problems.
6. Prepares, monitors, reviews and evaluates water reports, records, logs and graphs to confirm proper water system operations. Assures compliance with federal, state and city regulations and policies. Manages the City's' cross-connection and pavement management programs.

7. Provides direct supervision to employees implementing operations and maintenance programs. Prepares written evaluations, recommendations for promotion or demotion, and employee discipline in accordance with City policies and procedures. Participates in Interviews and hiring decisions for division staff and arranges required and elective training.
8. Submits budget needs annually and manages budget for water, streets, parks and equipment maintenance. Participates in long-range financial planning, developing fees and charges and renewal and replacement programs.
9. Develops and maintains Capital Improvement Plans for equipment, buildings and other tangible assets.
10. Develops and maintains Plans and Priorities for improving and maintaining city streets. Water systems and parks. Includes rating the condition of streets and presenting improvement recommendations and priorities to the City Manager and City Council.
11. Reviews difficult or sensitive customer relations issues and implements corrective actions.
12. Establishes and maintains a positive customer service orientation within the divisions.
13. Oversees safety of division employees by instructing employees in proper safety procedures and monitoring work in progress.
14. Informs and advises the City Manager, Department Heads and the City Council on key technical and policy issues related to assigned programs and projects. Provides briefings; prepares technical project reports; letters; memorandums and other documentation; and gives presentations on key project issues.

**EDUCATION AND EXPERIENCE:**

Bachelor's degree in Project Management, Civil Engineering, Construction Management, Public Administration, Engineering or a closely related field. An equivalent combination of education, experience, and training providing the knowledge, skills and abilities necessary to perform the essential functions of the position may be substituted on a case by case basis.

Two years' experience in the various facets of project management, public infrastructure construction and planning. Experience in Public Works project management, or administration is desired.

Two years of supervisory experience.

**SKILLS AND KNOWLEDGE:**

***Ability to:***

1. Read and interpret Engineering and Architectural Drawings.
2. Prepare, understand and interpret REQUESTS FOR PROPOSALS (RFPs) and contracts.
3. Conduct technical research and solve problems.

4. Prepare reports and recommendations for a wide variety of audiences including staff, the City Manager, City Council and external organizations.
5. Communicate effectively both orally and in writing. To speak effectively in public and make presentations to groups while to audience questions.
6. Review, monitor and inspect work completed in the city by staff and contractors for completeness, quality and timeliness. Ensures work is completed within desired specifications.
7. Organize complex projects while working under time constraints.
8. Multi-task, independently make sound decisions and maximize organizational effectiveness.
9. Provide effective leadership, supervision and motivation to staff.
10. Work effectively with technical experts from a variety of specialties such as engineering, street and water systems design, Parks design, etc.
11. Fully utilize common software packages for communication used in the city such as Word, Excel and PowerPoint.

***Knowledge of:***

1. Applicable federal, state and local laws, regulations and policies. Laws and rules associated with transportation systems.
2. Materials, methods, techniques and regulatory guidelines used in construction, operation, and maintenance of water systems and streets.
3. Principles and practices of program development and administration.
4. Methods and techniques of public works system design and construction.
5. Basic engineering principles as they relate to water, parks and streets.
6. Principles and practices of budget preparation and budget management.
7. Principles of supervision, training and performance evaluation. Knowledge of conflict resolution methods and practices.

**PHYSICAL DEMANDS OF POSITION:**

In the performance of duties, the employee may be required to sit for long periods of time, with occasional bending, stooping or kneeling. Required to frequently lift light to moderate loads of up to 25 pounds. Position requires extensive reading and close-up work and the frequent use of a computer keyboard. The employee in this position is regularly required to use hands to finger, handle, feel or operate objects, tools, or controls and reach with hands and arms. The employee frequently is required to stand and talk or hear. The employee is occasionally required to walk, sit, climb or balance, stoop, kneel, crouch/crawl and smell. Physical demands for this position exceed what is typically found in an office environment due to performing occasional field duties.

**TOOLS AND EQUIPMENT USED:**

In the performance of duties, the incumbent may use the following tools and/or equipment; multi-line phone systems; personal computer; data base software; copy and fax machines; calculator; measurement systems for street and water systems; automobile or truck; and other related tools and equipment.

**WORKING CONDITIONS:**

Work is performed in a wide variety of environments including office, work sites, confined spaces, outside weather conditions, and employee may be exposed to fumes, oils, chemicals, construction hazards, etc.

**SUPERVISION RECEIVED:**

Works under the general supervision of the City Manager with significant latitude to complete assignments and program responsibilities independently.